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Thursday
March 13, 1980

Highlights

Briefings on How To Use the Federal Register—For details on briefings in Washington, D.C., Memphis, Tenn., and Los Angeles, Calif., see announcement in the Reader Aids Section at the end of this issue.

16159 **Pan American Day and Pan American Week** Presidential proclamation

16161 **Law Day, U.S.A.** Presidential proclamation

16163 **Loyalty Day** Presidential proclamation

16234 **Anti-Poverty Research and Demonstration Projects** CSA gives dates during which unsolicited proposals will be reviewed; applications accepted by 10-1-80 and 3-31-81

16412 **"Campus-Based" Federal Programs of Student Financial Aid** HEW/OE issues regulations to assure that each institution receives a fair share of funds available for each program (Part II of this issue)

16362 **Crime Prevention Activities in Neighborhoods** Justice/NIJ is planning to fund a major study; apply by 4-30-80

16350 **Adolescent Pregnancy Prevention and Services** HEW/PHS extends application submission date to 4-15-80

Highlights

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16338 **Sudden Infant Death Syndrome** HEW/HSA announces correction in closing date for competitive application; corrected to 6-20-80

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16177 **Income Tax** Treasury/IRS provides final employment tax regulations relating to wage withholding on remuneration

16214 **Community Food and Nutrition Program** CSA clarifies dates for submission

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Presidential Documents

Title 3—

The President

Proclamation 4732 of March 10, 1980

Pan American Day and Pan American Week, 1980

By the President of the United States of America

A Proclamation

During the past years, the peoples of the Americas have asserted with renewed determination their ideals of peace with freedom, cooperation with mutual respect, and unity with individual dignity. The people of the United States of America reaffirm their belief in this spirit each year on Pan American Day.

As the nations of the Americas enter the decade of the 1980's, their peoples confidently seek a future of economic growth and social change that will surpass past achievements. This goal will be realized if the fruits of that growth are shared fairly and if tranquility among nations of the area is preserved.

We look to the Organization of American States, whose anniversary we will observe on April 14, to continue to produce an environment of understanding, mutual respect, and dedication to the common goals that have inspired the true leaders of the hemisphere throughout its history. The stewardship of the Organization of American States in the past year has helped democracy reassert itself when threatened and has revitalized concern for human rights and needs.

Thus, on this Pan American Day of 1980, the United States of America salutes the countries of the hemisphere, and reaffirms its solidarity to the ideals and principles that underlie their cooperative efforts.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim Monday, April 14, 1980, as Pan American Day and the week beginning April 13, 1980, as Pan American Week; and I call upon the Governors of the fifty States, the Governor of the Commonwealth of Puerto Rico, and appropriate officials of the other areas under the flag of the United States to issue similar proclamations.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of March, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

[FR Doc. 80-7989
Filed 3-11-80; 3:22 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 4733 of March 11, 1980

Law Day, U.S.A., 1980

By the President of the United States of America

A Proclamation

The United States of America—more than any other country—is founded upon law.

The law is a human institution, reflecting the moods, customs and modes of conduct of our people. The law is our own creation.

The law affects all of us from the cradle to the grave. It touches upon both the tangible and intangible aspects of our lives. The guardians of the law are our courts and those who serve them.

Our free and self-governing republic owes much to the efforts of the judges and lawyers of our Nation. It is from this body that America has drawn many of its leaders and statesmen.

This year will mark the 23rd annual observance of Law Day. May 1 has been set aside by joint resolution of the Congress to foster a deeper respect for the law "and understanding of its essential place in the life of every citizen of the United States."

The theme selected in recognition of Law Day '80 is: "Law and Lawyers — Working for You."

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, invite the American people to observe Thursday, May 1, 1980, as Law Day, U.S.A., and to reflect upon their individual and collective responsibilities for the effective administration of the law.

I call upon the legal profession, the courts, educators, the media, clergymen, and all interested individuals and organizations to mark the 23rd annual nationwide observance of Law Day, U.S.A., with programs and events appropriate for the occasion. I direct the appropriate officials of the Government to display the flag of the United States on all Government buildings on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of March, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

[FR Doc. 80-8023
Filed 3-12-80; 8:45 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 4734 of March 11, 1980

Loyalty Day, 1980

By the President of the United States of America

A Proclamation

Our Nation was founded to secure and protect the basic human rights of life, liberty, and the pursuit of happiness for all our citizens. Today the United States is a leader in the world-wide struggle for basic human rights. In these times it is important that we never forget our historic commitment to freedom and justice for all people—because our first principles are the basis of our continuing loyalty to our Nation.

America was not created to promote a single race or religion or ideology, but to build a safe and sure home for the deepest values of humankind. The symbols of our loyalty, such as the flag, are the outward signs of our faith in these ideals.

In order to encourage the people of the United States to reflect on our democratic heritage, the Congress, by a joint resolution approved July 18, 1958 (72 Stat. 369), has designated May 1 of every year as Loyalty Day, and has requested the President to issue a proclamation inviting the American people to acknowledge that day with appropriate observances.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, call upon all Americans to observe Thursday, May 1, 1980, as Loyalty Day. I also ask the appropriate officials of the Government and all citizens to display the flag of the United States on all Government buildings on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of March, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

[FR Doc. 80-8024
Filed 3-12-80; 8:46 am]
Billing code 3195-01-M

Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 484; Navel Orange Regulation 483, Amendment 1]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period March 14–20, 1980, and increases the quantity of such oranges that may be so shipped during the period March 7–13, 1980. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective March 14, 1980, and the amendment is effective for the period March 7–13, 1980.

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

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel 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 Navel Orange 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 action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on October 30, 1979. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on March 11, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is very active on all sizes and grades.

It is further found that there is insufficient time between the date when information became available upon which this regulation and amendment are based and when the actions must be taken to warrant a 60 day comment period as recommended in EO 12044, and 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), and the amendment relieves restrictions on the handling of navel oranges. 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.

§ 907.784 Navel Orange Regulation 484.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period March 14, 1980, through March 20, 1980, are established as follows:

(1) District 1: 1,410,000 cartons;
(2) District 2: 140,000 cartons;
(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

(b) As used in this section, "handle," "District 1," "District 2," "District 3," "District 4" and "carton" mean the same as defined in the marketing order.

Paragraph (a) in § 907.783 Navel Orange Regulation 483 (45 FR 14531), is hereby amended to read:

§ 907.783 Navel Orange Regulation 483.

(a) * * *

(1) District 1: 1,530,000 cartons;
(2) District 2: 170,000 cartons;
(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

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

Dated: March 12, 1980

D. S. Kuryloski,

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

[FR Doc. 80-8057 Filed 3-12-80; 11:59 am]
BILLING CODE 3410-02-M

7 CFR Part 908

[Valencia Orange Regulation 636]

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 March 14–20, 1980. 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: March 14, 1980.

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 action is consistent with the marketing policy for 1979–80 which was

designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on January 22, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

The committee met again publicly on March 11, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges is improving.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60-day comment period as recommended in EO 12044, and 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). 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.

§ 908.936 Valencia Orange Regulation 636.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period March 14, 1980 through March 20, 1980, are established as follows:

(1) District 1: Unlimited;
(2) District 2: Unlimited;
(3) District 3: 150,000 cartons.

(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: March 12, 1980

D. S. Kuryloski,

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

[FR Doc. 80-8056 Filed 3-12-80; 11:59 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1941

Operating Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulations to change the number and title of an FmHA Form. The intended effect of this action is to eliminate the use of this form for Emergency (EM) loans and to collect data on Limited Resource (LR) operating loan borrowers. This action is taken as a result of an Adminstrative decision.

EFFECTIVE DATE: March 13, 1980.

FOR FURTHER INFORMATION CONTACT: Leroy Jones, USDA, FmHA Rm. 5317, South Agriculture Bldg., 14th and Independence Ave., SW., Washington, D.C. 20250. Phone (202) 447-4669.

SUPPLEMENTARY INFORMATION: The Farmers Home Adminstration amends Exhibit A to Subpart A of Part 1941, and Subpart B of Part 1941, § 1941.96(b), Chapter XVIII, Title 7 in the Code of Federal Regulations to change the number and title of Form FmHA 447-1, "OL-EM and Other Credit Analysis". The letters "EM" will be deleted from the title and the new number will be 1941-7.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This change is not published for proposed rulemaking since the purpose of the change is to delete "EM" from the form title and change the form number and is strictly an administrative function and publication for comment is therefore unnecessary. Therefore, Exhibit A of Subpart A of Part 1941, and Subpart B of Part 1941, § 1941.96(b) are amended as follows:

PART 1941—OPERATING LOANS

Subpart A—Operating Loan Policies, Procedures, and Authorizations

1. In Exhibit A, in the listing of forms under the heading "Docket Preparation" Form FmHA 441-7 is changed to 1941-7 and the letters "EM" are deleted as follows:

Exhibit A—Processing Guide

* * * * *

C. Eligibility Determination.

* * * * *

Form No. and Name

441-7—(Deleted)
1941-7—OL and Other Credit Analysis

Subpart B—Closing Loans Secured by Chattels

2. In § 1941.96, paragraph (b) is amended to change the reference from Form FmHA 441-7, "OL-EM and Other Credit Analysis," to Form FmHA 1941-7, "OL and Other Credit Analysis" as follows:

§ 1941.96 Changes in use of loan funds.

* * * * *

(b) *Recording changes.* When changes are made in the use of loan funds, the installments on Form FmHA 1940-17, "Promissory Note," will not be revised nor will a corrected Form FmHA 1941-7, "OL and other Credit Analysis," be prepared. When funds loaned for the purchase of capital goods are to be used for annual recurring production expenses, the funds will be repaid in accordance with the terms for such uses in Subpart A of this Part. Appropriate changes with respect to the repayments will be made in Table K of Form FmHA 431-2, "Farm and Home Plan," and initialed by the borrower. Appropriate notations will be made in the "Supervisory and Servicing Actions" section of the Management System Card.

* * * * *

This document has been reviewed in accordance with FmHA Instruction 1901-G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required. This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from the Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6346, Washington, D.C. 20250.

(7 U.S.C. 1989; 5 U.S.C. 301; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the

Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: February 11, 1980.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 80-7871 Filed 3-12-80; 8:45 am]

BILLING CODE 3410-07-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 344

Recordkeeping and Confirmation Requirements for Securities Transactions

Correction

In FR Doc. 80-6008, appearing at page 12775 in the issue for Wednesday, February 27, 1980 make the following changes:

1. On page 12777, in the first column, in § 344.5, paragraph (c)(1), in line 3 "intemized" should be "itemized".

2. Also, in the same section, paragraph (c)(2), in the third line, "witing" should read "within".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 17947, Amdt. 39-3714]

Airworthiness Directives; Agusta Model A109A Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that would require replacement of the engine failure indicator, and a related flight manual change, on Costruzioni Aeronautiche Giovanni Agusta Model A109A helicopters. The design of the currently installed indicators is such that they can, under certain circumstances, provide an unreliable indication of engine operation that could, if relied upon by the pilot, result in insufficient power to maintain safe flight.

DATES: Effective March 27, 1980. Compliance schedule—As prescribed in body of AD.

ADDRESSES: The applicable service bulletin may be obtained from: Costruzioni Aeronautiche Giovanni Agusta, Cascina Costa (Gallarate), Italy.

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

FOR FURTHER INFORMATION CONTACT: D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone: 513.38.30, or C. Christie, Chief, Technical Analysis Branch, AWS-110, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D. C. 20591, Telephone: 202-426-8374.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of the engine failure indicator, and a related flight manual change, on Costruzioni Aeronautiche Giovanni Agusta Model A109A helicopters, was published in the Federal Register at 43 FR 25831. The proposal was prompted by an FAA determination that the engine failure indicators, P/N 109-0729-22-3, on Agusta Model A109A helicopters, under certain circumstances, provided ambiguous or incorrect indications of engine power. When relied upon by a pilot, these indications could result in insufficient power to maintain safe flight.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received. However, upon further review, the FAA has determined that the AD should also contain a requirement to ensure that the flight manual change also be made in the case of those helicopters with the new engine failure indicator already installed. The flight manual change required by the AD is a temporary one. A flight manual may already contain a permanent revision which incorporates the material in the temporary revision. Thus, a provision is added to the AD stating that if this is the case the temporary revision need not be made. Provision has also been made for an FAA-approved equivalent to the manufacturer's service bulletin.

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

Adoption of the Amendment

PART 39—AIRWORTHINESS DIRECTIVES

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

Costruzioni Aeronautiche Giovanni Agusta. Applies to Model A109A helicopters, certificated in all categories.

Compliance is required within the next 100 hours time in service after the effective date of this AD, unless already accomplished.

To prevent ambiguous or incorrect indication of engine operating condition, accomplish the following:

(a) For those helicopters that have engine failure indicator, P/N 109-0729-22-3, installed, replace the engine failure indicator, P/N 109-0729-22-3, with a new indicator, P/N 109-0729-22-5, and incorporate temporary pages in the Rotorcraft Flight Manual, in accordance with Agusta Bollettino Tecnico No. 109-9, dated February 23, 1978 or an equivalent approved by the Chief, Aircraft Certification Staff, AEU-100, FAA, Europe, Africa, and Middle East Region.

(b) For those helicopters that have engine failure indicator, P/N 109-0729-22-5, installed, unless already accomplished, incorporate temporary pages in the Rotorcraft Flight Manual, in accordance with Agusta Bollettino Tecnico No. 109-9, dated February 23, 1978 or an equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region.

(c) If a Rotorcraft Flight Manual includes permanent pages which incorporate the material on temporary page 3-5 required by paragraphs (a) and (b) of this AD, the temporary pages need not be incorporated.

This amendment becomes effective March 27, 1980.

(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 significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by writing to C. Christie, Chief, Technical Analysis Branch, AWS-110, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591.

Issued in Washington, D.C., on March 5, 1980.

Jerold M. Chavkin,

Acting Director of Airworthiness.

[FR Doc. 80-7721 Filed 3-12-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-GL-4-AD, Amdt. 39—3712]

Airworthiness Directives; Bellanca (Aeronca) Model 7AC, 7BCM, and 11AC Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing Airworthiness Directive (AD) applicable to Bellanca (Aeronca) Model 7AC, 7BCM, and 11AC aircraft by increasing the repetitive inspection interval specified in AD 47-20-1 when a gascolator incorporating a quick-drain arrangement is installed in the aircraft.

DATES: Effective—March 18, 1980. Compliance schedule—As prescribed in body of AD.

ADDRESSES: The referenced Bellanca (Champion) (Aeronca) "Service Helps and Hints" may be obtained from Bellanca Aircraft Corporation, Municipal Airport, Osceola, Wisconsin 54020.

A copy of each of the referenced "Service Helps and Hints" is contained in the Rules Docket, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Cornelius Biemond, Engineering and Manufacturing Branch, AGL-217, Flight Standards Division, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone number (312) 694-4500, extension 460.

SUPPLEMENTARY INFORMATION: This amendment amends AD 47-20-1, which currently requires a recurring inspection of the metal gascolator bowls at 25 hour intervals on Bellanca (Aeronca) Model 7AC, 7BCM, and 11AC aircraft.

The FAA has determined that, if a metal gascolator bowl with a built in quick-drain arrangement is installed in these aircraft, a greater interval can be established for the repetitive inspection.

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, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending AD 47-20-1 by revising the AD to read:

Bellanca (Aeronca). Applies to Bellanca (Aeronca) Model 7AC, 7BCM, and 11AC aircraft, equipped with metal gascolator bowls, certificated in all categories.

Compliance required as indicated below.

1. If the aircraft is equipped with a metal gascolator bowl that *does not* have a built in quick-drain arrangement, accomplish the following each 25 hours of engine operation:

(a) Slowly rock the wings of the aircraft in accordance with Champion (Aeronca) supplement to "Service Helps and Hints", Nos. 15 and 18, reissued July 1, 1964, so that water lying in the fuel tank can settle into the gascolator bowl.

(b) Remove the gascolator bowl and completely clean the bowl and the strainer screen to remove accumulations of water and foreign matter.

Note.—If operating conditions are such that large quantities of water are found during these inspections, the gascolator bowl should be removed more frequently and the carburetor bowl should also be drained periodically.

2. If the aircraft is equipped with a metal gascolator bowl that *does* have a built in quick-drain arrangement, at each annual inspection remove the gascolator bowl and completely clean the bowl and the strainer screen to remove accumulations of water and foreign matter.

Note.—Quick-drain shall be used during each pre-flight inspection.

Bellanca (Champion) (Aeronca) "Service Helps and Hints", No. 15, reissued July 1, 1964; No. 18, reissued March 15, 1962; and the supplement to these bulletins, reissued July 1, 1964, also pertain to this subject.

This amendment becomes effective March 18, 1980.

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

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Des Plaines, Ill., on February 25, 1980.

William S. Dalton,

Acting Director, Great Lakes Region.

[FR Doc. 80-7573 Filed 3-12-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-SO-86]

Alteration of Control Zone, Myrtle Beach Air Force Base, Myrtle Beach, S.C.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will alter the Myrtle Beach Air Force Base, South Carolina, control zone by designating additional controlled airspace and revoking an unnecessary portion. New instrument approach procedures have been developed for Myrtle Beach Air Force Base. These changes are necessary to provide required airspace protection for instrument flight operations.

EFFECTIVE DATE: 0901 G.m.t., May 15, 1980.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Carl F. Stokoe, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the Federal Register on Thursday, January 10, 1980 (45 FR 2048), outlining the details of the proposal to designate a control zone extension which is required to protect aircraft executing the new ILS 1, ILS 2, and TACAN Runway 35 instrument procedures. Reduction of the existing control zone extension is necessary because the HI ILS and HI TACAN Runway 17 instrument procedures have been realigned. These changes are necessary to provide required airspace protection for instrument flight operations. No objections to the proposal were received in response to this publication.

Adoption of the Amendment

Accordingly, Subpart F, § 71.171 (45 FR 356) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., May 15, 1980, as follows:

Myrtle Beach Air Force Base, South Carolina

"* * * within one mile each side of the Myrtle Beach TACAN 348° radial, extending from the 5-mile radius zone to 6.5 miles north of the TACAN * * *" is deleted and "* * * within 1.5 miles each side of the Myrtle Beach TACAN 165° radial, extending from the 5-mile radius zone to 6.5 miles south of the TACAN * * *." is substituted therefor.

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

Note.—The Federal Aviation Administration has determined that this document 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 East Point, Ga., on February 28, 1980.

Louis J. Cardinali,

Director, Southern Region.

[FR Doc. 80-7576 Filed 3-12-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-SO-89]

Alteration of Transition Area, Hazlehurst, Ga.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates an extension in the Hazlehurst, Georgia, transition area. This action provides controlled airspace required to protect instrument flight operations at the Hazlehurst Airport.

EFFECTIVE DATE: 0901, GMT, April 3, 1980.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

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

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the Federal Register on Thursday, January 17, 1980, (45 FR 3325), which proposed the alteration of the Hazlehurst, Georgia, transition area. No objections were received from this notice. This action provides controlled airspace protection for aircraft executing a new standard instrument approach procedure (NDB Runway 14) at the Hazlehurst Airport. The Hazlehurst (nonfederal) nondirectional radio beacon, which will support the approach procedure, is proposed for establishment in conjunction with the alteration of the transition area.

The final approach course of the VOR/DME Runway 32 instrument approach procedure has been changed two (2) degrees. It is necessary to redesignate the extension south of the airport to provide the required airspace protection.

Adoption of the Amendment

Accordingly, Subpart G, § 71.181 (45 FR 445) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., April 3, 1980, as follows:

Hazlehurst, Georgia

"* * * 342° radial * * *" is deleted and "* * * 340° radial * * *" is substituted and "* * * within 3 miles each side of the 330° bearing from the Hazlehurst RBN (Lat. 31°52'48"N.; Long. 82°38'51"W.), extending from the 6-mile radius area to 8.5 miles northwest of the RBN * * *" is added.

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

Note.—The Federal Aviation Administration has determined that this document 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 East Point, Ga., on February 29, 1980.

W. B. Rucker,

Acting Director, Southern Region.

[FR Doc. 80-7577 Filed 3-12-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-ASW-64]

Alteration of Transition Area: Natchitoches, La.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to alter the transition area at Natchitoches, La. The intended effect of the action is to provide additional controlled airspace for aircraft executing instrument approach procedures to the Natchitoches Municipal Airport. The circumstance which created a need for the action is that a review of the current transition area revealed the controlled airspace is not properly described and inadequate for the protection of aircraft executing instrument approach procedures. In addition, higher performance aircraft are utilizing the airport which requires additional controlled airspace.

EFFECTIVE DATE: May 15, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, 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 January 17, 1980, a notice of proposed rule making was published in the Federal Register (45 FR 3327) stating that the Federal Aviation Administration proposed to alter the Natchitoches, La., 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 Natchitoches, La., transition area. This action provides controlled airspace for the protection of aircraft executing instrument approach procedures to the Natchitoches 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 (45 FR 445) is amended, effective 0901 G.m.t. May 15, 1980, as follows.

In Subpart G, § 71.181 (45 FR 445), the Natchitoches, La., transition area is amended by deleting the present description and substituting the following:

Natchitoches, La.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Natchitoches Municipal Airport (latitude 31°44'15"N., longitude 93°05'45"W.) and within 3 miles each side of the 176° bearing from the NDB (latitude 31°44'05"N., longitude 93°05'41"N.) extending from the 6.5-mile radius area to 8.5 miles south of the NDB.

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

Note.—The 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, Tex., on February 28, 1980.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 80-7393 Filed 3-12-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-SO-88]

Alteration of Transition Area, Barnwell, S.C.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will add an extension to the Barnwell, South Carolina, transition area. A new public use instrument approach procedure has been developed for Barnwell County Airport. This action will provide controlled airspace required to protect aircraft executing the new instrument approach procedure.

EFFECTIVE DATE: 0901 G.m.t., April 3, 1980.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Carl F. Stokoe, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the Federal Register on Thursday, January 10, 1980 (45 FR 2048), which proposed the alteration of the Barnwell, South Carolina, transition area. No objections were received as a result of this publication. A new instrument approach (NDB RWY 4) has been developed for Barnwell County Airport. This change is necessary to provide the required controlled airspace to protect aircraft executing the approach procedure. The bearing of the extension from the RBN was erroneously stated in the NPRM as 240°. This rule corrects the bearing to read 237°. Since the amendments to the airport coordinates and the bearing of the extension are minor in nature and create no burden on the public, further notice and public procedures are unnecessary.

Adoption of the Amendment

Accordingly, Subpart G, § 71.181 (45 FR 445) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., April 3, 1980, as follows:

Barnwell, South Carolina

"* * * (Lat. 33°15'26"N., Long. 81°23'06"W.) * * *" is deleted and "* * * (Lat. 33°15'27"N., Long. 81°23'24"W.) * * *" is substituted therefor and "* * * within 3 miles each side of the 237° bearing from Barnwell RBN extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN * * *" is added.

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

Note.—The Federal Aviation Administration has determined that this document 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 East Point, Ga., on February 28, 1980.

Louis J. Cardinali,

Director, Southern Region.

[FR Doc. 80-7394 Filed 3-12-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-NW-10]

Alteration of Controlled Airspace, Transition Area; Klamath Falls, Oreg.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to alter the transition area at Klamath Falls, Oregon. The intended effect of the action is to provide controlled airspace for aircraft holding at a fix and to lower minimum vector altitudes (MVA) for more efficient Air Traffic handling.

EFFECTIVE DATE: 0901 GMT May 15, 1980.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace Specialist (ANW-534), Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108; telephone (206) 767-2610.

SUPPLEMENTARY INFORMATION:

History

On January 9, 1980, a Notice of Proposed Rule Making was published in the Federal Register (45 2051) stating that the Federal Aviation Administration proposed to alter transition area at Klamath Falls, Oregon. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the Federal Aviation Administration. No comments were received objecting to the proposal.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) alters transition areas at Klamath Falls, Oregon. This action provides controlled airspace from 7,700 feet above the ground for the protection of aircraft holding in a pattern being established at the Klamath Falls VORTAC 313° radial 13 NM DME fix.

Adoption of the Amendment

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

Accordingly, pursuant to the authority delegated to me by the Adminstrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) is amended, effective 0901 GMT May 15, 1980, as follows:

In Subpart G, § 71.181 (45 FR 445), the following transition area is altered by adding the following:

§ 71.181 Klamath Falls, Oregon.

Is amended as follows: on line 8, insert after "to the 295° radials;":

"that airspace extending upward from 7,700 feet MSL within the area bounded by the arcs of 25 and 32 mile radius circles centered on the Klamath Falls VORTAC, extending clockwise from the VORTAC 332° radial to a line 9 miles northeast of and parallel to the VORTAC 332° radial;"

(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).)

Note.—The Federal Aviation Administration 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 Seattle, Washington, March 1, 1980.

C. B. Walk, Jr.,

Director.

[FR Doc. 80-7720 Filed 3-12-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM80-19; Order No. 64]

Ceiling Prices; Natural Gas Committed or Dedicated to Interstate Commerce; Order Denying Applications for Rehearing and Stay and Amending Regulations

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Denying Rehearing and Stay and Amending Regulations.

SUMMARY: On January 3, 1980, the Commission issued Order No. 64, 45 FR 5685 (Jan. 24, 1980), which promulgated final regulations implementing the pricing provisions of sections 104 and 106(a) of the Natural Gas Policy Act of 1978 (NGPA). Sections 104 and 106(a) address first sales of natural gas committed or dedicated to interstate commerce on November 8, 1978.

Five applications for rehearing of Order No. 64 were filed. This order denies rehearing on all issues raised in these applications. It also amends Subpart D of Part 271 to provide for pricing of production from reservoirs penetrated for the first time through deeper drilling in an existing well, and to provide that a seller of interstate rollover contract gas may receive the higher of the maximum lawful price applicable to the expiring contract or the 54 cent rollover rate established in section 106(a)(2) of the NGPA.

EFFECTIVE DATE: February 27, 1980.

FOR FURTHER INFORMATION CONTACT: Carol Lane, Federal Energy Regulatory Commission, Office of the General Counsel, Room 8100-k, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-9124.

February 27, 1980.

On January 3, 1980, the Federal Energy Regulatory Commission (Commission) issued Order No. 64.[1] By that order, the Commission established final regulations implementing sections 104 and 106(a) of the Natural Gas Policy Act of 1978 (NGPA).[2] Those sections prescribe ceiling prices for first sales of natural gas committed or dedicated to interstate commerce on November 8, 1978 and for which a just and reasonable rate under the Natural Gas Act (NGA)[3] was in effect on that date.

The Commission received five applications for the rehearing of Order No. 64. Applications were timely filed on behalf of the Columbia Gas Development Corporation, Energy Ventures, Inc. Coleve, and the Forest Oil Corporation (Columbia) (filed January 29, 1980); Pennzoil Oil and Gas Inc. and the Pogo Producing Company (POGI) (filed February 1, 1980); Undersigned Producers (Undersigned)[4] (filed February 1, 1980); the Amoco Producing Company (Amoco) (filed February 1, 1980); and the Texas Gas Exploration Corporation (TGEC) (filed February 4, 1980). TGEC also filed an application for stay of Order No. 64. These applications, taken collectively, contend that the Commission erred in Order No. 64 by: (1) Failing to apply the NGPA monthly inflation adjustment factor to rates prescribed by the Commission under the optional procedure of § 2.75 of its regulations; (2) prescribing a nationwide or areawide rate ceiling for natural gas sales made during the pendency of Commission review of an application under optional procedure; and (3) by its definition of the application of a minimum rate for natural gas sales.

By this Order, the Commission responds to these contentions and, for reasons given below, rejects them and applicants' prayers for reconsideration of Order No. 64. In addition, we take this opportunity to clarify and amend the regulations of Subpart D of Part 271 to provide for production from reservoirs penetrated for the first time through deeper drilling in an existing well; and to make it clear that, as prescribed by section 106(a) of the NGPA, a seller may receive the higher of the ceiling rate applicable on the date of rollover or the 54 cent rate of section 106(a)(2).

A. Applications for Rehearing

1. *Optional Certificate Ceiling Rate.* Under the final regulations of Subpart D, those who sell natural gas subject to a certificate issued under the Commission's optional procedure of § 2.75 may not collect a price which is increased by the inflation adjustment of the NGPA.[5] Applications submitted by Columbia, POGI, Undersigned, and TGEC argue that to deny the addition of the NGPA monthly inflation adjustment to the price of optionally certificated gas is error. We disagree.

Taken together, applicants argue as follows. First, in that a rate established under the optional procedure is a just and reasonable rate established under the NGA, it falls squarely within the provisions of section 104 of the NGPA to the extent that it was in effect on November 8, 1978. Second, section 104 makes no distinction as to how a rate was set under the NGA; instead it states that its pricing provisions "shall apply to any first sale" of natural gas committed or dedicated to interstate commerce on November 8, 1978, for which a just and reasonable rate under the NGA was in effect on that date. Third, the waiver of the right to seek future rate increases under section 4 of the NGA made by those accepting a certificate under the optional procedure can be given no effect under the Commission's rate-setting authority under the NGPA; the waiver was only to seek future NGA rate increases and cannot be made to reach to rate increases statutorily-mandated by the NGPA. Finally, the certificate pricing provisions issued under the NGA were statutorily revised to give effect to the NGPA ceiling prices; that is, the NGPA supersedes inconsistent provisions of the NGA and Commission regulations issued thereunder.[6]

The arguments of applicants miss the point. The question is not whether the ceiling price of section 104 applies to sales of natural gas made under optional pricing certificates. Quite clearly, it does. Nor is the question one of the Commission's rate-setting authority under the NGA as opposed to (or superseded by) its rate-setting authority under the NGPA. The question is the scope of the waiver made by those who accepted certificates issued under the optional rate procedure and its continued applicability.

Section 4(d) of the NGA provides, *inter alia*, that before one may change a rate schedule, notice and filing of that

[1] Order No. 64, "Order Reissuing Part 271, Subpart D of the Commission's Regulations as Final Regulations", Docket No. RM80-19 (issued Jan. 3, 1980) 45 FR 1862 (Jan. 9, 1980), *as corrected*, Erratum Notice (issued Jan. 17, 1980) 45 FR 5685 (Jan. 24, 1980).

[2] 15 U.S.C. 3314, 3316.

[3] 15 U.S.C. 717 *et seq.*

[4] This application was made on behalf of the Tenneco Oil Co., the Pennzoil Co., the Pogo Producing Co., the Pennzoil Producing Co., Pennzoil Oil and Gas, Inc., the Texaco Oil Co., the Texas Production Co., Pinto, Inc., Ecee, Inc.

[5] Order No. 64, note 1 *supra* at 15-26; *see also* 18 CFR 271.402(c).

[6] In support of this last argument, several of the applicants cited to issuances of this Commission (for example, to Appalachian Exploration and Development Inc. *et al.*, Docket Nos. CI76-590 *et al.* (issued Dec. 1, 1978); Pennzoil Co., Gas Rate Schedule No. 10 (issued Nov. 19, 1978); Natural Gas Policy Act of 1978: Interim Regulations, Docket No. RM79-3 at 9 (issued Dec. 1, 1978); and Order 23, "Order Adopting Final Regulations Amending and Clarifying Regulations Under the Natural Gas Policy Act and the Natural Gas Act," Docket No. RM79-22, issued March 13, 1979, for the proposition that we have recognized that all certificate pricing provisions issued under the NGA were statutorily revised to give effect to the provisions of the NGPA. The citations were to discussions of the Commission that the NGPA had superseded the NGA and the rules and regulations issued under that Act. As discussed more fully in the body of this order these citations are inapposite.

change must be made to the Commission. Thus, any seller must seek rate increases under that section. What optional procedure sellers have waived is the right to file for rate increases. Absent such a filing, the new rate cannot be charged. Therefore, arguments that the waiver of the optional procedure goes only to NGA rate increases and not to NGPA rate increases, or that the waiver is a regulation going to the rate-setting authority of the Commission are incorrect. The waiver goes to the right to file for any future rate increase.

In determining whether the provisions of section 4(d) of the NGA applies, the Commission is guided by section 601 of the NGPA. That section rather specifically sets forth the jurisdiction of the Commission under the NGA given the NGPA. It does so by exception. Section 601(a)(1)(B) of the NGPA exempts certain gas (that determined to qualify under sections 102(c), 103(c) and 107(c) (1) to (4)) from Commission regulation under the NGA. Committed or dedicated gas which does not fall within those provisions remains subject to the Commission's non-price regulatory requirements of the NGA and the Commission's rules and regulations issued thereunder. Therefore, the requirement of section 4(d) of the NGA respecting the condition that one must file for a rate increase applies to sales of natural gas made under a certificate granted through the optional procedure, unless the gas is exempted from Commission regulation under section 601(a)(1)(B).

It is incorrect to contend, as do some of the applicants, that the NGPA worked a revision to all certificates issued under the NGA so as to give effect to NGPA prices. The NGPA revised the price-setting mechanisms of the NGA and Commission regulations issued thereunder. This is the substance of the Commission's issuances cited by applicants.[7] However, it did not amend the non-price regulatory requirements of the NGA save as specifically described under section 601. Therefore, arguments that the Commission misused its authority under section 601 of the NGPA or that it has voiced inconsistent views respecting the impact of the NGPA on the NGA are misplaced.

Arguments that the Commission's failure to permit optional certificate holders to increase their sales price by the monthly inflation factor of the NGPA runs counter to public policy and legislative intent must likewise be rejected. Given the provisions of section 601 of the NGPA, we believe that the Congress intended the filing provisions of section 4(c) to remain in effect for this type of gas sale.[8] In that holders of certificates granted under an optional proceeding have waived the right to file for a rate increase, to permit them to collect the higher rate applicable under the NGPA (higher by virtue of the monthly inflation adjustment), would be to disregard the law.

An argument was made that the Commission's failure to permit the inflation increase to optional certificate sales while permitting it to other sellers was arbitrary because it results in the NGPA overriding some certificate conditions and not others. In support of this argument it was claimed that certificates covering sales of gas from post-January 1, 1975, wells precluded sellers from applying for higher prices (except special relief) than the § 2.56a [9] prices until such time as the Commission established higher prices pursuant to its 1977–78 biennial rate review. It was further pointed out that, although a 1977–78 rate was never established, the Commission nevertheless permitted those certificate holders to file for and collect the section 104 price increases.

A distinction may be made between different types of certificate conditions, and we believe it is entirely proper to make such a distinction here. The general prohibition against applying for higher prices than those specified in § 2.56a was conditioned upon future rate-setting proceedings. Once higher prices had been established by the NGPA (which supplanted the 1977–78 biennial rate review) the condition was removed. In contrast, the prohibition against applying for higher prices under optional procedure certificates was not conditional; it was final. No future establishment of higher prices would permit certificate holders to apply for those prices.

In Order No. 64, we stated that where section 601(a)(1)(B) of the NGPA does not act to exempt optional procedure gas from NGA regulation, we will entertain petitions from certificate holders to amend the certificate so as to remove the waiver conditions. One applicant asserts that, given the views expressed in Order No. 64 that holders of optional certificates should not be given the advantage of first, a higher NGA rate and then the NGPA rate, we have prejudged such petitions and will not grant them. This is not so. Petitions will be considered, and they will be considered on their merits.

Some applicants point out that the effect of Order No. 64 to bar optional certificate holders from collecting an inflation-adjusted rate is to disallow collection of the "new natural gas" ceiling price prescribed by section 102(d) for gas produced from a new reservoir on the Outer Continental Shelf when such reservoir is in a block covered by an optional procedure certificate. (This result properly follows because section 102(d) is not exempted from NGA regulation under the provisions of section 601 of the NGPA.)[10] They contend that sellers of such gas are in fact entitled to collect the section 102(d) price by operation of section 101(b)(5) of the NGPA. Section 101(b)(5) provides that if gas qualifies under more than one NGPA pricing provision, the provision which could result in the highest price is applicable.

The proper response to this argument is the same as that given to those seeking an increase of rates under section 104 of the NGPA for optionally-certificated sales. The point is not whether the gas qualifies for the higher NGPA price, but whether one may collect that higher price. As with natural gas priced under section 104, a holder of an optional certificate whose gas sales qualify for the section 102(d) price is precluded under the terms of his certificate from filing under section 4(d) of the NGA to collect the higher price.

Applicants also contend that we erred in providing that the proper ceiling price for sales of natural gas made under the provisions of § 2.75(o) respecting collections during the pendency of optional certificate determinations should be the applicable nationwide or areawide rates set under the NGA. (Order No. 64, note 1 *supra* at 26.) They object to references in Order No. 64 to an order issued on December 1, 1978,[11] in which the Commission stipulated that sellers awaiting action on their optional procedure applications were limited to collection of the applicable NGPA maximum lawful prices. This issue has been raised in petitions for rehearing of that order, and that rehearing was

[7] *See* note 6 *supra*.

[8] *See* Order Nos. 15 and 15–A, "Amendments to the Commission's Regulations Relating to Independent Producer Filing Requirements," Docket No. RM79–4, issued Nov. 17, 1978, and Dec. 28, 1978, respectively; Order No. 25, "Amendments to the Commission's Regulations Relating to Independent Producer Filing Requirements," Docket No. RM79–31, issued March 27, 1979.

[9] The prices codified in § 2.56a reflect rates set by the Commission in its 1975–1976 biennial rate review.

[10] In addition, optional procedure gas which qualifies under section 108(b) or section 107(c)(5) remains subject to the conditions of the NGA certificate.

[11] "Order with Respect to Pending Optional Procedure Cases" (Docket No. CI76–590, *et al.*) (issued December 1, 1978).

granted.[12] The Commission expects to issue the order on rehearing shortly after rules governing special relief are promulgated in Docket No. RM79-67. Accordingly, we will not address this aspect of optional procedure pricing in the context of Order No. 64.

Finally, in their application for rehearing of Order No. 64, POGI raised arguments pertaining to the interpretation of particular waiver conditions contained in optional certificates granted their predecessor under an optional proceeding. That case is now pending before the Commission;[13] and we will address those arguments in the context of that case.

2. *Minimum Rate Gas.* Amoco asserts that the Commission erred in promulgating § 271.402(b)(9), because that section permits the minimum rate to be collected only for gas from wells spudded prior to January 1, 1973. Amoco contends that under Opinion No. 749,[14] which established the most recent minimum rate, gas qualified for the minimum rate on a contract basis, not a well vintage basis. Accordingly, they assert, *all* gas sold under low-rate contracts is entitled to the minimum rate under Opinion No. 749, even if it is produced from a well spudded after January 1, 1973. Furthermore, Amoco suggests that this policy should be carried over into the NGPA regulations.

We believe that Amoco has misunderstood Opinion No. 749. That opinion, as its title indicates, established "Just and Reasonable Rates for Sales of Natural Gas From Wells Commenced Prior to January 1, 1973." The regulations promulgated in that order added a new § 2.56b to our existing rules entitled "National Rates for Sales of Natural Gas From *Wells Commenced Prior to January 1, 1973* (emphasis added). Under § 2.56b(b), a minimum rate of 18 cents was established. When the Commission later established national rates for gas from wells commenced *after* January 1, 1973 (Opinion Nos. 699-H and 770-A), it did not establish a minimum rate for gas from such wells. Accordingly, our NGA regulations on minimum rate gas apply only to gas from wells commenced prior to January 1, 1973. Order No. 64 simply carried forward these NGA regulations, adding an NGPA inflation adjustment to the minimum rate. Accordingly, our policy on minimum rate gas has not changed. Amoco has simply misinterpreted the existing NGA regulations.[15]

B. Regulatory Changes

1. *Deeper Drilling.* The Commission has received several inquiries on the FERC Hot Line pertaining to our definition of "Post-1974 Gas." Section 271.402(b)(2) defines such gas as that "produced from a well the surface drilling of which commenced on or after January 1, 1975." Callers have asked whether gas from a well spudded before January 1, 1975, would qualify as "Post-1974" gas if the well were drilled deeper into a new reservoir after January 1, 1975. These callers have pointed out that in Opinion No. 770-A,[16] the Commission stated:

> Production from reservoirs penetrated for the first time through deeper drilling [17] in an existing well is eligible for the same rate as if the deeper drilling constituted the commencement of such well.

In that the policies set forth in our area and national rate opinions are carried over into our regulations under the NGPA, gas from a reservoir penetrated for the first time through deeper drilling after January 1, 1975, in a well spudded prior to January 1, 1975, does qualify as "Post-1974" gas. Similarly, gas from a reservoir penentrated for the first time through deeper drilling after January 1, 1973, and before January 1, 1975, in a well spudded prior to January 1, 1973, qualifies as "1973-74 biennium gas." We are amending § 271.402(c) to set forth this policy as part of our regulations.

2. *Rollover ceiling rate.* Order No. 64 did not expressly provide that, when a contract rolls over under section 106(a) of the NGPA, the seller may receive the higher of the price applicable on the date of rollover or the 54 cent rate prescribed under section 106(a). This rollover pricing option is specified in both the statute and the Statement of Managers, which explains that "* * * if the just and reasonable rate applicable to the expiring contract was greater than the price that represents 54 cents per million Btu's escalated with inflation until the time of rollover, the new ceiling price is based upon the just and reasonable rate applicable to the expiring contract." S. Rep. No. 95-1126, 95th Cong., 2d Sess. 85 (1978).

The regulations are amended in §§ 271.101 and 271.402(c) to provide for this statutory alternative.

The Commission orders

For the reasons given above, the applications for rehearing and stay of Order No. 64 filed by the parties listed on pages 1 and 2 of this order are denied, and Order No. 64 is amended as set forth below.

Because the amendments give effect to statutory mandates and because they respond to issues raised during the pending of this rulemaking, we find that no further public procedure is necessary prior to their implementation. We further find, and for the same reasons, that the amendments should be made effective immediately.

By the Commission. Commissioner Sheldon voted present.

Kenneth F. Plumb,
Secretary.

§ 271.101 [Amended]

1. Section 271.101 is amended in Table II to add the numeral "[2]" following the words "Interstate Rollover Gas" in the column entitled "Category of Natural Gas," and by adding at the end of the table a footnote [2] to read as follows:

[2] The price for interstate rollover gas is the higher of the price listed in this table or the just and reasonable price under the expired contract as adjusted for inflation. (See § 271.402(c)(3).)

2. Section 271.402(c) is amended by redesignating subparagraphs (3) and (4) as subparagraphs (5) and (6) respectively, and by inserting new subparagraphs (3) and (4) to read as follows:

§ 271.402 Maximum lawful prices.

* * * * *

(c) *Applicable higher rates.* * * *

(3) In the case of any first sale under any rollover contract to which this subpart applies, the maximum lawful price for month in which the effective

[12] Order Granting Rehearing for Purposes of Further Consideration, Docket No. CI76-590, et al. (issued Feb. 1, 1979).

[13] Docket No. CI73-477 and Docket No. CI78-81.

[14] Opinion No. 749, "Just and Reasonable National Rates for Sales of Natural Gas From Wells Commenced Prior to January 1, 1973", Docket No. R-478 (issued Dec. 31, 1975).

[15] In Opinion No. 749, the Federal Power Commission was concerned with pricing for wells commenced prior to January 1, 1973. It may not have contemplated a situation such as that described by Amoco, where all wells on a lease dedicated before January 1, 1973, are subject to a low fixed-rate contract, regardless of when they were drilled. As a result, wells drilled on this lease before January 1, 1973, are eligible for the minimum rate, but those drilled after January 1, 1973, are limited to a contract rate lower than the minimum rate. This Commission is not aware of this question being raised before. Amoco, and others who may be similarly situated, may file a petition asking the Commission to undertake a hearing under Section 5 of the NGA to determine whether the rate for gas from these wells is unjust, unreasonable, unduly discriminatory or preferential.

[16] Opinion No. 770-A, "National Rates for Jurisdictional Sales of Natural Gas Dedicated to Interstate Commerce on or after January 1, 1973, for the Period January 1, 1973, to December 31, 1976", Docket No. RM75-14 at 162 (issued Nov. 5, 1976).

[17] Deeper drilling is defined as drilling after the first completion and production in a well bore has been performed (*see* Opinion No. 770-A, note 16 *supra* at 162), or drilling below an uncompleted, nonproductive horizon where the initial well bore was plugged and abandoned (*see Imperial Oil Company, et al.*, Docket No. RI77-47, issued April 28, 1977).

date of such rollover contract occurs shall be higher of: (i) The maximum lawful price applicable to the expiring contract on the date the rollover occurs or (ii) the maximum lawful price specified in Table II of § 271.101(a) for interstate rollover gas.

(4) For purposes of §§ 271.402(b)(1) and (2), production from reservoirs penetrated for the first time through deeper drilling in an existing well is eligible for the same rate as if the deeper drilling constituted the commencement of surface drilling of such well. Deeper drilling means drilling after the first completion and production in a well bore have been accomplished, or drilling below an uncompleted nonproductive horizon where the initial well bore was plugged and abandoned.

[FR Doc. 80-7777 Filed 3-12-80; 8:45 am]
BILLING CODE 6450-85-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7673]

Elections Relating to the Puerto Rico and Possession Tax Credit

Correction

In FR Doc. 80-4208, appearing at page 8588 in the issue for Friday, February 8, 1980, make the following correction:

On page 8588, in the third column, in § 1.936-1, in the third line of paragraph (b), the date "April 8, 1980" should be corrected to read "February 8, 1980".

Note.—This document was previously corrected on Thursday, February 28, 1980 (See 45 FR 13070). However, item 3 of that correction was in error. Please disregard item 3 of the correction at 45 FR 13070, February 28, 1980.

BILLING CODE 1505-01-M

26 CFR Parts 1, 31

[T.D. 7683]

Earned Income Credit

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the earned income credit but not, in general, to advance payment of the earned income credit. Changes to the applicable tax law were made by the Revenue Act of 1978. The regulations provide necessary guidance to the public for compliance with the new law.

DATE: The regulations are effective for taxable years beginning after December 31, 1978, with the exception of the amendment to section 6051 (a) which relates to reporting of advance payments of the earned income credit on Forms W-2 with respect to remuneration paid after June 30, 1979.

FOR FURTHER INFORMATION CONTACT: Barbara B. Coughlin of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-6618).

SUPPLEMENTARY INFORMATION:

Background

On July 6, 1979, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 43 and 6012 of the Internal Revenue Code of 1954 and to the Employment Tax Regulations (26 CFR Part 31) under section 6051 of the Code (44 FR 39477). The amendments were proposed to conform the regulations to sections 103, 104 and 105 (a), (c), and (d) of the Revenue Act of 1978 (92 Stat. 2771). Several comments were received with respect to the proposed amendments and taken into account in this Treasury decision. No public hearing was requested or held. A number of comments received with respect to this notice of proposed rulemaking which in fact relate to a separate notice of proposed rulemaking, published in the Federal Register on May 9, 1979 (44 FR 27089), involving the advance payment of the earned income credit under section 3507 of the Internal Revenue Code of 1954 have not been taken into account by this Treasury decision since they were not relevant to this Treasury decision. Those comments will be taken into account in the context of the regulation project involving advance payment of the earned income credit. This proposed Treasury decision adopts the rules contained in the notice of proposed rulemaking with three minor changes. One change is to clarify the rule that earned income includes compensation excluded from gross income and to state that earned income does not include unemployment compensation.

Allowance of Credit

The regulations adopted by this Treasury decision provide rules reflecting the changes in the earned income credit as allowed by section 43. In the case of an individual eligible for the earned income credit, the credit is 10 percent of the first $5,000 of the individual's earned income for the taxable year. Prior to January 1, 1979, the credit allowed by section 43 was 10 percent of the first $4,000 of the individual's earned income for the taxable year.

Limitation on Amount of Credit

The regulations adopted by this Treasury decision reflect the new rules for the limitation on the amount of the earned income credit. The amount of credit must not exceed the excess, if any, of $500 over 12.5 percent of that amount of adjusted gross income or, if greater, that amount of earned income of the taxpayer as exceeds $6,000 for the taxable year. Prior to January 1, 1979, the amount of credit allowed a taxpayer for a taxable year was reduced by an amount equal to 10 percent of so much of adjusted gross income or, if greater, earned income of the taxpayer for the taxable year as exceeded $4,000.

Eligible Individual

The regulations adopted by this Treasury decision provide rules reflecting the change in definition of the term "eligible individual." An eligible individual is either (1) an individual who is married, who is entitled to an exemption deduction for a child (within the meaning of section 151(e)(3)), and who has the same principal place of abode as the child which place of abode is in the United States; (2) an individual who is a surviving spouse (as determined under section 2(a) of the Code) whose principal place of abode is in the United States; or (3) an individual who is a head of household (as determined under section 2(b) of the Code without regard to paragraphs (b)(1)(A)(ii) and (B)) whose principal place of abode is in the United States. This Treasury decision provides that the term "principal place of abode" is defined by reference to § 1.2-2(c). To qualify as an eligible individual, the individual must not have been entitled to exclude any gross income under sections 911 or 931.

Earned Income

The regulations adopted by this Treasury decision provide rules reflecting the change in definition of the term "earned income." Earned income means wages, salaries, tips, other employee compensation, and net earnings from self-employment (within the meaning of section 1402(a)). The determination of earned income is subject to certain special rules. This Treasury decision provides that unemployment compensation is not earned income.

Miscellaneous

The regulations adopted by this Treasury decision provide rules for the coordination of the earned income credit with the advance payment of the earned income credit by employers under section 3507 of the Internal Revenue Code of 1954. This Treasury decision clarifies that the amount of any advance payment of the earned income credit is treated as an additional amount of tax imposed by chapter 1 of the Code. This Treasury decision also amends § 1.6012-1(a)(2) to conform to section 6012 of the Code, as amended, which requires individuals who receive advance payments of earned income credit to make a return of income. This Treasury decision also amends § 31.6051-1 to conform to section 6051, as amended, which requires employers to furnish on a written statement (Form W-2) to employees the total amount of advance payments of earned income credit paid to the employee under section 3507 of the Code for the calendar year.

The regulations adopted by this Treasury decision impose no new reporting burdens or recordkeeping requirements not already imposed by statute. The principal effect of the final regulations is to conform existing regulations under sections 43, 6012 and 6051 of the Code to changes made by the Revenue Act of 1978. The Treasury Department will review these regulations from time to time based upon comments received from offices within the Treasury, the Internal Revenue Service, and other governmental agencies, and comments received from the public.

Drafting Information

The principal author of these regulations is Barbara B. Coughlin of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, the amendments to 26 CFR Part 1 and 26 CFR Part 31 published as a notice of proposed rulemaking in the Federal Register for July 6, 1979 (44 FR 39477) are hereby adopted as proposed subject to the following changes:

Paragraph 1. The second sentence of § 1.43-2(c)(1)(i)(A) is amended by inserting "(as defined in § 1.2-2(c))" immediately after "The child must have the same principal place of abode".

Par. 2. Section 1.43-2(c)(2) is amended to read as follows:

§ 1.43-2 Earned income credit for taxable years beginning after December 31, 1978.

* * * * *

(c) *Definitions.* * * *

(2) *Earned income.* For purposes of this section, earned income means—

(i) Wages, salaries, tips, other employee compensation, and

(ii) Net earnings from self-employment (within the meaning of section 1402(a) and the regulations thereunder).

Earned income includes compensation excluded from gross income, such as disability income excluded under section 105(d), the rental value of a parsonage excluded under section 107, and the value of meals and lodging furnished for the convenience of the employer excluded under section 119. Earned income is computed without regard to any community property laws which may otherwise be applicable. Earned income is reduced by any net loss in earnings from self-employment. Earned income does not include amounts received as a pension, an annuity, unemployment compensation, or workmen's compensation, or an amount to which section 871(a) and the regulations thereunder apply (relating to income of nonresident alien individuals not connected with United States business).

* * * * *

Par. 3. Section 1.43-2(e)(1) is amended by inserting "(by chapter 1 of the Code)" immediately after "is treated as an additional amount of tax imposed".

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: March 5, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

Income Tax Regulations

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. Section 1.43-1 is amended by revising the heading and paragraphs (a) and (e). These revised provisions read as follows:

§ 1.43-1 Earned income credit for taxable years beginning before January 1, 1979.

(a) *Allowance of credit.* For taxable years beginning before January 1, 1979 (and after December 31, 1974), subject to the limitations of paragraph (b) of this section, an eligible individual (as defined in paragraphs (c)(1) and (2) of this section) is allowed as a credit against the tax imposed by chapter 1 for the taxable year, and amount equal to 10 percent of the first $4,000 of earned income (as defined in paragraph (c)(3) of this section) for the taxable year. For later taxable years beginning after December 31, 1978, see § 1.43-2.

* * * * *

(e) *Effective dates.* The rules of this section apply only for taxable years beginning both after December 31, 1974, and before January 1, 1979. For later taxable years beginning after December 31, 1978, see § 1.43-2.

Par. 2. A new § 1.43-2 is added immediately after § 1.43-1. This new section reads as follows:

§ 1.43-2 Earned income credit for taxable years beginning after December 31, 1978.

(a) *Allowance of credit.* For taxable years beginning after December 31, 1978, subject to the limitations of paragraph (b) of this section, an eligible individual (as defined in paragraph (c)(1) of this section) is allowed as a credit against the tax imposed by subtitle A of the Code for the taxable year, an amount equal to 10 percent of the first $5,000 of earned income (as defined in paragraph (c)(2) of this section) for the taxable year. For earlier taxable years beginning before January 1, 1979, see § 1.43-1.

(b) *Limitations*—(1) *Amount of credit.* The amount of the credit allowed by section 43 and paragraph (a) of this section for the taxable year must not exceed the excess, if any, of $500 over 12.5 percent of that amount of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year which exceeds $6,000. For the meaning of the term "earned income," see paragraph (c)(2) of this section. Adjusted gross income is determined under section 62 and the regulations thereunder. If an individual has adjusted gross income or earned income of $10,000 or more, the individual is not entitled to the credit.

(2) *Married individuals.* No credit is allowed by section 43 and paragraph (a) of this section in the case of an eligible individual who is married (within the meaning of section 143 and the regulations thereunder) unless the individual and spouse file a single return jointly (a joint return) for the taxable year (see section 6013 and the regulations thereunder relating to joint

returns of income tax by husband and wife). The requirements of the preceding sentence do not apply to an eligible individual who is not considered as married under section 143(b) and the regulations thereunder (relating to certain married individuals living apart).

(3) *Length of taxable year.* No credit is allowed by section 43 and paragraph (a) of this section in the case of a taxable year covering a period of less than 12 months. However, the rule of the preceding sentence does not apply to a taxable year closed by reason of the death of the eligible individual.

(c) *Definitions*—(1) *Eligible individual.* For purposes of this section, an eligible individual is an individual who meets the following requirements of this paragraph (c)(1).

(i) For the taxable year the individual must meet any one of the following three requirements set forth, respectively, in (A), (B), and (C) of this subdivision (i).

(A) The individual must be married (within the meaning of section 143 and the regulations thereunder) and be entitled to a deduction under section 151 for a child (within the meaning of section 151(e)(3) and the regulations thereunder). The child must have the same principal place of abode (as defined in § 1.2-2(c)) as the individual and that principal place of abode must be in the United States for the entire taxable year.

(B) The individual must qualify as a surviving spouse (as determined under section 2(a) and the regulations thereunder). Thus, the spouse of the individual must have died within the period of the 2 taxable years immediately preceding the individual's taxable year. Also, the individual must have furnished over half the cost of maintaining as the individual's home a household in the United States for the entire taxable year which is the principal place of abode of a child of the individual who qualifies as a dependent for whom the individual is entitled to a deduction under section 151.

(C) The individual must qualify as a head of household (as determined under section 2(b) and the regulations thereunder but without regard to section 2(b)(1)(A)(ii) and (B) and the regulations, thereunder). Thus, the individual cannot be married as of the close of the taxable year and also cannot qualify as a surviving spouse under section 2(a). Also, the individual must have furnished over half the cost of maintaining as the individual's home a household in the United States for the entire taxable year which is the principal place of abode of a child or descendant of the individual who is unmarried or who qualifies as a dependent for whom the individual is entitled to a deduction under section 151.

(ii) For the entire taxable year, the individual must not be entitled to exclude any amount from gross income under section 911 (relating to earned income by individuals in certain camps outside the United States) or section 931 and the regulations thereunder (relating to income from sources within the possessions of the United States).

(iii) The rules of this paragraph (c)(1) are illustrated by the following examples:

Example (1). A, who is married and a member of the United States Armed Forces, maintains his household outside the United States for part of the taxable year. A is not an eligible individual. However, if A maintains his household inside the United States for the entire taxable year and is only temporarily absent therefrom by reason of military service and if the household is his principal place of abode and the principal place of abode of his child who receives over half of his support from the taxpayer for the calendar year in which the taxable year of the taxpayer begins and who either has less than $1,000 of gross income for the calendar year in which the individual's taxable year begins or who has not attained the age of 19 at the close of the calendar year in which the individual's taxable year begins or is a student, then the individual is an eligible individual if he meets the requirements of subdivision (ii) of this paragraph.

Example (2) B's wife died in 1975 and B has not remarried. For his entire taxable year beginning January 1, 1979, B maintains his household inside the United States. The household is, for the entire taxable year, B's principal place of abode and the principal place of abode of B's unmarried grandchild whose natural parents are deceased. Thus B qualifies as a head of household (as determined under section 2(b) without regard to subparagraphs (A)(ii) and (B) of section 2(b)(1)). In these circumstances, regardless of whether B provides sufficient support to claim the grandchild as a dependent, B is an eligible individual if he meets the requirements of subdivision (ii) of this paragraph.

Example (3). C is married and maintains his household inside the United States for the entire taxable year. The household is his principal place of abode and, for the entire year, is also the principal place of abode of a 12 year old child whose natural parents are deceased and who is placed with C by a State agency to provide the child with foster care. C receives compensation from the State agency to cover all of the cost of maintaining the child in his home. The child is in C's care and is cared for as C's own child. In these circumstances, the child is C's foster child, but C is not able to claim the child as a dependent since C did not provide half the child's support for the year. C is not eligible for the earned income credit.

Example (4). Assume the same facts as in exampe *(3)* except that C receives no compensation from the State agency, and C provides over half the child's support and is able to claim the child as a dependent. C is an eligible individual if he meets the requirements of subdivision (ii) of this paragraph.

Example (5). D's husband died in 1974 and D has not remarried. For the entire taxable year beginning January 1, 1979, D maintains her household inside the United States. The household is D's principal place of abode and, for the entire taxable year, is also the principal place of abode of D's unmarried son. D cares for her son in all respects except that her parents provide over half of the son's support. D qualifies as a head of household (as determined under section 2(b) without regard to subparagraph (A)(ii) and (B) of section 2(b)(1)). D is an eligible individual if D meets the requirements of subdivision (ii) of this paragraph.

Example (6). Assume the same facts as in example *(5)* except that D is married. Since D cannot qualify as a head of household, and D's son cannot be claimed as D's dependent, D is not an eligible individual.

(2) *Earned income.* For purposes of this section, earned income means—

(i) Wages, salaries, tips, other employee compensation, and

(iii) Net earnings from self-employment (within the meaning of section 1402(a) and the regulations thereunder).

Earned income includes compensation excluded from gross income, such as disability income excluded under section 105(d), the rental value of a parsonage excluded under section 107, and the value of meals and lodging furnished for the convenience of the employer excluded under section 119. Earned income is computed without regard to any community property laws which may otherwise be applicable. Earned income is reduced by any net loss in earnings from self-employment. Earned income does not include amounts received as a pension, an annuity, unemployment compensation, or workmen's compensation, or an amount to which section 871(a) and the regulations thereunder apply (relating to income of nonresident alien individuals not connected with United States business).

(d) *Examples.* The application of this section is illustrated by the following examples. For purposes of these examples, assume that the eligible individual does not receive a pension, an annuity, or an amount to which section 871(a), 911, or 931 applies.

Example (1). A and B (married individuals) maintain a household inside the United States which is their principal place of abode and the principal place of abode of their two children who are 12 and 14 years old. A and B are calendar year taxpayers and, for 1979, they file a joint return. A and B have a total earned income of $7,600 (computed without regard to any

community property laws) and have adjusted gross income of less than $7,600. The earned income credit of $300 is determined as follows:

Basic credit (10 percent of $5,000 under paragraph (a) of this Section)			$500
Initial limitation amount		$500	
Less: Reduction under paragraph (b)(1) of this section:			
Earned income for taxable year	$7,600		
Less	6,000		
Excess over $6,000	1,600		
12½ percent of excess ($1,600)		200	
Maximum credit (if less than basic credit)			300

Example (2). Assume the same facts as in example (1) except that A and B have earned income of $4,000 and adjusted gross income of $7,000. The earned income credit of $375 is determined as follows:

Basic credit (10 percent of $4,000 under paragraph (a) of this section)			$400
Initial limitation amount		$500	
Less: Reduction under paragraph (b)(1) of this section:			
Adjusted gross income for taxable year	$7,000		
Less	6,000		
Excess over $6,000	1,000		
12½ percent of excess ($1,000)		125	
Maximum credit (if less than basic credit)			375

(e) *Coordination of credit with advance payments*—(1) *Recapture of excess advance payments.* If any advance payment of earned income credit under section 3507 is made to an individual by an employer during any calendar year, then the total amount of these advance payments to the individual in that calendar year is treated as an additional amount of tax imposed (by chapter 1 of the Code) upon the individual on the tax return for the individual's last taxable year beginning in that calendar year.

(2) *Reconciliation of payments advanced and credit allowed.* Any additional amount of tax under paragraph (e)(1) of this section is not treated as a tax imposed by chapter 1 of the Code for purposes of determining the amount of any credit (other than the earned income credit) allowable under subpart A, part IV, subchapter A, chapter 1 of the Code.

Par. 3. Paragraph (a)(2) of § 1.6012-1 is amended by adding a new subdivision (vii) immediately after subdivision (vi). This new subdivision reads as follows:

§ 1.6012-1 Individuals required to make returns of income.

(a) *Individual citizen or resident.* * * *

(2) * * *

(vii) For taxable years beginning after December 31, 1978, an individual who receives payments during the calendar year in which the taxable year begins under section 3507 (relating to advance payment of earned income credit) must file an income tax return.

* * * * *

PART 31—EMPLOYMENT TAXES; APPLICABLE ON AND AFTER JANUARY 1, 1955

Employment Tax Regulations

§ 31.6051-1 [Amended]

Par. 4. Section 31.6051-1 is amended as follows:

1. Paragraph (a)(1)(i) is amended by striking out "and" at the end of inferior subdivision (*f*), by striking out the period at the end of inferior subdivision (*g*) and inserting in its place ", and" and by adding a new inferior subdivision (*h*) immediately after inferior subdivision (*g*). This new inferior subdivision (*h*) reads as set forth below.

2. Paragraph (b)(1) is amended by striking out "and" at the end of subdivision (iv), by striking out the period at the end of subdivision (v) and inserting in its place ", and" and by adding a new subdivision (vi) immediately after subdivision (v). This new subdivision (vi) reads as set forth below.

§ 31.6051-1 Statement for employees.

(a) *Requirement if wages are subject to withholding of income tax*—(1) *General rule.* * * *

(i) * * *

(*h*) The total amount paid to the employee under section 3507 (relating to advance payment of earned income credit).

* * * * *

(b) *Requirement if wages are not subject to withholding of income tax*—(1) *General rule.* * * *

(vi) The total amount paid to the employee under section 3507 (relating to advance payment of earned income credit).

* * * * *

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26 CFR Parts 31, 37

[T.D. 7684]

Wage Withholding on Remuneration for Which a Corresponding Deduction Is Allowable Under Section 913

AGENCY: Internal Revenue Service, Treasury.

ACTION: Adoption of final regulations and deletion of temporary regulations.

SUMMARY: This document provides final Employment Tax Regulations and deletes temporary regulations, relating to wage withholding on remuneration for which a corresponding deduction is allowable under section 913 of the Internal Revenue Code of 1954. Changes to the applicable tax law were made by the Foreign Earned Income Act of 1978. These regulations provide necessary guidance to employers of persons living abroad for compliance with the law.

DATE: This Treasury decision is effective on April 14, 1980. However, if an employer has determined wages of employees and withheld on a basis consistent with the rules contained in this Treasury decision for some period between January 1, 1979 and this effective date, that practice for that period will not be questioned by the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Mary E. Dean of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On January 4, 1979, the Federal Register published proposed amendments to the Employment Tax Regulations (26 CFR Part 31) under section 3401(a)(18) of the Internal Revenue Code of 1954 (44 FR 1110). The amendments were proposed to conform the regulations to section 207(a) of the Foreign Earned Income Act of 1978 (92 Stat. 3097, 3108). A public hearing was held on August 28, 1979. After consideration of all comments regarding the proposed amendments, this Treasury decision adopts amendments, as set forth in full below, to the Employment Tax Regulations.

In addition, on January 4, 1979, the Federal Register published Temporary Employment Tax Regulations under the Foreign Earned Income Act of 1978 (26 CFR Part 37) relating to section 3401(a)(18) of the Internal Revenue Code of 1954 (44 FR 1110). These temporary regulations, which contained the same

rules as the proposed amendments to the Employment Tax Regulations, are deleted by this Treasury decision.

Explanation of Provision

Section 3401(a)(18) of the Code provides, for purposes of income tax withholding, that the term "wages" does not include remuneration paid to, or on behalf of, an employee if at the time of the payment it is reasonable to believe that a corresponding deduction is allowable under section 913 of the Code (relating to deduction for certain expenses of living abroad).

Several comments received from employers requested that the manner and timing of payments of certain forms of remuneration be considered in the further development of the regulation. Specifically, it was requested that payments of remuneration not regularly made with respect to payroll periods be exempted from the proration requirement of § 31.3401(a)(18)-1(a)(2). That provision has been accordingly revised to provide that these payments (for which a corresponding deduction must be allowable under section 913) do not constitute wages and are not subject to (or included in) the application of the proration requirement. With respect to other payments, however, the proration formula of § 31.3401(a)(18)-1(a)(2) applies in determining the portion of each payment which does not constitute wages. Section 31.3401(a)(18)-1(b) provides acceptable forms for written statements which employees may furnish to employers and upon which employers may rely in determining whether the employee will meet the bona fide foreign residency or physical presence tests of section 913. Finally, § 31.3401(a)(18)-1(c) provides an acceptable form for a written statement by the employee relating to the anticipated amount of the employee's deduction under section 913 for the year.

Drafting Information

The principal author of these regulations is Mary E. Dean of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of amendments to the regulations. Accordingly, 27 CFR Part 31 is amended by adding immediately after § 31.3401(a)(16)-1 a new § 31.3401(a)(18)-1 to read as follows and 26 CFR Part 37 is deleted.

PART 31—EMPLOYMENT TAXES APPLICABLE ON AND AFTER JANUARY 1, 1955

§ 31.3401(a)(18)-1 Remuneration for which a corresponding deduction is allowable under section 913.

(a) *General rule*—(1) *In general.* Remuneration paid for services performed outside the United States for an employer (other than the United States or any agency thereof) by a citizen or resident of the United States does not constitute wages and hence is not subject to withholding to the extent that, at the time of the payment, it is reasonable to believe that a corresponding deduction is allowable under section 913, relating to the deduction for certain expenses of living abroad. The part of a payment of remuneration which does not constitute wages subject to withholding under this section is determined under paragraph (a)(2) of this section. The reasonable belief may be based upon information derived from the employee or from other sources which is reasonably sufficient to induce this belief, even though the information may ultimately be insufficient to establish that a corresponding deduction is allowable under section 913. For rules relating to reasonable belief of an employer as to the availability to an employee of a section 913 deduction, see paragraph (b) of this section. For rules relating to reasonable belief of an employer as to the anticipated amount of section 913 deduction allowable to an employee, see paragraph (c) of this section.

(2) *Amount of reduction in wages subject to withholding*—(i) *Irregular payments.* Any portion of a payment of remuneration to or on the behalf of an employee which is not regularly made with respect to payroll periods does not constitute wages to the extent that, at the time of the payment, it is reasonable to believe that a corresponding deduction is allowable to the employee under section 913. Examples of payments of remuneration which may be subject to this paragraph (a)(2)(i) include lump sum payments to a school for qualified schooling expenses and reimbursement in a lump sum to the employee of amounts paid by the employee for qualified home leave travel expenses.

(ii) *Other payments.* In addition to any reduction in wages determined under paragraph (a)(2)(i) of this section, a payment of remuneration made in a period during which the employee is expected to qualify for the section 913 deduction is further reduced by the following amount:

Amount of sec. 913 deduction (anticipated for the taxable year and not subject to paragraph (a)(2)(i)) divided by:
Total payment of remuneration (anticipated for the portion of the year during which the taxpayer is expected to qualify for the section 913 deduction and not excluded from wages under paragraph (a)(2)(i)) multiplied by:
The subject payment of remuneration (after reduction in wages provided in paragraph (a)(2)(i)).

The remaining part of the payment of remuneration is wages and hence is subject to withholding, unless excluded under another provision of section 3401(a). For the purpose of applying this proration under this paragraph (a)(2)(ii), an employer is not required to ascertain or take account of information with respect to amounts of remuneration received by the employee from any other source. The proration provided by this paragraph (a)(2)(ii) may be illustrated by the following examples:

Example (1). Employee A, a calendar year taxpayer, reasonably expects to receive remuneration of $48,000 from employer B during 1980. A expects to qualify for the section 913 deduction for the entire year. No reduction in wages is allowed pursuant to paragraph (a)(2)(i). A anticipates that A's section 913 deduction for 1980 will be $12,000. A's remuneration for January 1980 is $4,000. The amount of this payment of remuneration which does not constitute wages is $1,000, *i.e.,* ($12,000/$48,000×$4,000). The remaining part of the remuneration, $3,000, is wages and is subject to withholding, unless excluded under another provision of section 3401(a).

Example (2). Employee A, a calendar year taxpayer, reasonably expected on January 1, 1980, to receive remuneration of $48,000 from employer B during 1980. A anticipated that A's section 913 deduction for 1980 would amount to $12,000. No reduction in wages is allowed pursuant to paragraph (a)(2)(i). For each of the first 6 months of 1980, A's remuneration was $4,000, and $1,000 of this remuneration did not constitute wages. On July 1, 1980, A first realizes that the anticipation of a $12,000 deduction under section 913 for 1980 was incorrect, and that instead A may reasonably expect that the section 913 deduction for 1980 will be $6,000. A's remuneration for July, 1980, is $4,000. The amount of this payment of remuneration which does not constitute wages is $500, *i.e.,* ($6,000/$48,000×$4,000). The remaining part of the remuneration, $3,500, is wages and is subject to withholding, unless excluded under another provision of section 3401(a).

Example (3). Assume the same facts as in Example (1) except that on July 1, 1980, A's employer first decides to reimburse employee A for one-half of A's deduction anticipated under section 913 for 1980. The employer immediately makes an irregular payment of $6,000 to A which represents one-half of A's $12,000 of deduction anticipated under section 913 for 1980. Pursuant to paragraph (a)(2)(i) the full amount ($6,000) of the irregular payment by the employer does not constitute wages. A's other remuneration for

July, 1980, of $4,000 consists of $500 which do not constitute wages and $3,500 which do constitute wages. This determination is made in the manner set forth in example (2).

(b) *Availability of section 913 deduction*—(1) *In general.* A deduction is allowable under section 913 only if an employee satisfies the requirements of section 913(a) (1) or (2), relating, respectively, to bona fide residence of a United States citizen in a foreign country and to physical presence of a United States citizen or resident in a foreign country. All or a portion of a payment of remuneration may be excluded from wages under this section only if the employer reasonably believes that the employee-recipient of the payment will meet the residence requirement of section 913(a)(1) or the presence requirement of section 913(a)(2).

(2) *Statement of residence in a foreign country.* (i) In the absence of cause for a reasonable belief to the contrary, the employer may presume that an employee will satisfy the residence requirement of section 913(a)(1) during the taxable year, or applicable portion thereof, for which the employee properly furnishes the employer the following statement or a statement with substantially the same information:

Statement for claiming benefits of section 913(a)(1) for calendar year ——— or fiscal year beginning ——— and ending ———.

I am a citizen of the United States. I have been a bona fide resident of the following foreign country or countries namely, ———, for an uninterrupted period which began on ———, 19—. I expect to remain a bona fide resident of a foreign country until the end of the taxable year 19—— or, if not until the end of the taxable year, until ———, 19—.

On the basis of the facts in my case, I have good reason to believe that, with respect to the above period of foreign residence falling within the taxable year, I will satisfy the bona fide foreign residence requirement prescribed by section 913(a)(1) of the Internal Revenue Code of 1954 and qualify for the deduction allowed by section 913.

In the event I become disqualified for the deduction provided by section 913(a) for all or part of the above period of foreign residence falling within the taxable year, I will immediately notify my employer, and indicate the portion of the taxable year for which I qualify for the deduction under section 913.

I declare under the penalties of perjury that this statment has been examined by me and to the best of my knowledge and belief is true and correct.

(Signature of taxpayer)
Date: ———, 19—.

(ii) If the employer was entitled to presume for the taxable year immediately preceding an employee's current taxable year that the employee was a bona fide resident of a foreign country or countries during the entire preceding taxable year and the employee is residing in a foreign country on the first day of the current taxable year, in the absence of cause for a reasonable belief to the contrary and without obtaining from the employee the statement prescribed in paragraph (b)(2)(i), the employer may presume that the employee will be a bona fide resident of a foreign country or countries in the current taxable year.

(3) *Statement of presence in a foreign country.* In the absence of cause for a reasonable belief to the contrary, the employer may presume that an employee will satisfy the presence requirement of section 913(a)(2) with respect to the taxable year, or applicable portion thereof, for which the employee furnishes the following statement or a statement with substantially the same information:

Statement for claiming benefits of section 913(a)(2) for calendar year ——— or fiscal year beginning ——— and ending ———.

I am a citizen or resident of the United States.

Except for occasional absences not disqualifying me for the benefit of section 913(a)(2), I expect to be present in the following foreign countries, namely, ——— for an 18 month period which includes the entire taxable year ——— or, if not the entire year, the portion of the taxable year beginning on ———, 19—, and ending on ———, 19—.

On the basis of the facts in my case I have good reason to believe that, during the above period of presence in a foreign country falling within the taxable year, I will satisfy the 510 full-day requirement prescribed by section 913(a)(2).

In the event I become disqualified for the deduction provided by section 913(a)(2) for all or part of the above period of presence in a foreign country or countries falling within the taxable year, I will immediately notify my employer, indicating the portion, if any, of the taxable year for which I qualify for the deduction under section 913.

I declare under the penalties of perjury that this statement has been examined by me and to the best of my knowledge and belief is true and correct.

(Signature of taxpayer)
Date: ———, 19—.

(c) *Amount of section 913 deduction*—(1) *In general.* Section 913(a) allows a deduction for certain expenses of living abroad which is the sum of the amounts qualifying under section 913(b). Remuneration will be excluded from wages under this section only if the employer has reasonable evidence that the amount excluded does not exceed the anticipated amount of the employee's deduction allowable under section 913 for the taxable year.

(2) *Statement of amount of section 913 deduction.* In the absence of cause for a reasonable belief to the contrary, the employer may presume that the anticipated deduction allowable under section 913 for a taxable year is correctly determined when the employee furnishes his employer a statement, prepared by the employee or on behalf of the employee by the employer or another person, in substantially the following form:

Statement of anticipated deduction under section 913 for calendar year ——— or fiscal year beginning ——— and ending ———.

I anticipate that I will qualify for a deduction under section 913 of the following amounts:

(1) Qualified cost-of-living differential	———
(2) Qualified housing expenses	———
(3) Qualified schooling expenses	———
(4) Qualified home leave travel expenses	———
(5) Qualified hardship area deduction	———
Total section 913 deduction anticipated	———

I understand that the total entered above plus the total reported on any other statements outstanding with other employers shold not exceed my anticipated deduction under section 913 for the year.

I understand that the deduction allowed by section 913 shall not exceed my earned income from sources outside the United States for the portion of the taxable year in which my tax home is in a foreign country, reduced by the sum of—

(a) Any portion of that earned income which is excluded as compensation for meals and lodging under section 119, and

(b) Deductions properly allocable to that earned income other than the deduction allowed by section 913.

I declare under the penalties of perjury that this statement has been examined by me and to the best of my knowledge and belief is true and correct.

(Signature of taxpayer)
Date: ———, 19—.

(3) *New statement.* The employee may furnish a new statement at any time during the taxable year when the employee reasonably anticipates that the amount of the deduction which will be allowable under section 913 has changed from the previous statement.

PART 37—TEMPORARY EMPLOYMENT TAX REGULATIONS UNDER THE FOREIGN EARNED INCOME ACT OF 1978 [DELETED]

This Treasury decision is issued under the authority contained in section 7805

of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: March 5, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 80-7784 Filed 3-12-80; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

28 CFR Part 32

Public Safety Officers' Death Benefits; Benefit Payments to Certain Survivors

AGENCY: Department of Justice/Law Enforcement Assistance Administration (LEAA).

ACTION: Final rule.

SUMMARY: LEAA is making technical amendments to the regulation governing claimants' requests for reconsideration of benefit denials under the Public Safety Officers' Benefits (PSOB) Act, 42 U.S.C. 3796, et seq. The agency is also publishing an appendix to the PSOB regulations, describing the hearing and appeal procedures in more detail.

EFFECTIVE DATE: March 13, 1980.

FOR FURTHER INFORMATION CONTACT: David I. Tevelin, Attorney-Advisor, Office of Justice Assistance, Research, and Statistics (OJARS) Office of General Counsel, (202) 724-6235.

SUPPLEMENTARY INFORMATION: The only section of the PSOB Regulations being amended is 28 CFR 32.24, the hearing and appeal provisions of the regulations. Section 32.24 is being amended as follows:

1. The Law Enforcement Assistance Administration was reorganized by the Justice System Improvement Act of 1979, Pub. L. 96-157 (JSIA). Pursuant to that reorganization, the PSOB Office was moved out of the LEAA Office of the Comptroller. Accordingly, the reference to the "Office of the Comptroller" in the address previously given in § 32.24(a) of the regulations has been deleted.

In addition, the statutory source of the hearing officers' authority has been changed from 42 U.S.C. 3754 to 42 U.S.C. 3787. Section 32.24(d) has been amended to reflect that change. Subsection (d) has also been amended to reflect the slight change made by the JSIA in the nature of the hearing officers' authority.

2. The term "Administration representative" has been replaced by the term "hearing officer" throughout § 32.24. The latter term has been the name actually used by LEAA officials to describe the person conducting the hearings. This change, therefore, merely conforms the regulations to actual agency practice.

3. Section 32.24(b) previously required that the hearing be conducted in the "LEAA Regional Office most convenient to the claimant, or other mutually agreeable location." Because the Regional Offices were closed by Attorney General Bell on September 30, 1977, § 32.24(b) has been amended to require that the hearings be conducted "in any location agreeable to the claimant and the hearing officer."

4. The time in which the Hearing Officer must make his or her decision has been clarified. Section 32.24(g) previously required the Hearing Officer to make a determination within 30 days "after the hearing." Often, however, the "hearing" would stay open for the receipt of new evidence well after the conclusion of the oral hearing. In order to eliminate any confusion, and to conform the regulations to actual practice, amended subsection (g) now directs that the decision be made within thirty days "after receipt of the last piece of evidence relevant to the proceeding."

5. In those cases where the Administrator chooses to review the Hearing Officer's decision, § 32.24(h) has been amended to require that the Administrator expressly inform the claimant that he or she has the opportunity to "comment on the record and offer new evidence or argument" for 30 days before the Administrator makes the final agency decision. Section 32.24(i) of the regulations has also been changed to permit claimants the identical opportunity in those cases where they are appealing a hearing officer's denial to the Administrator. Here again, the regulations are being amended to conform to the agency's actual practice.

6. The hearing and appeal procedures developed by the Administration over three years ago to implement § 32.24 are also being published as an appendix to the regulations for the convenience of claimants and their representatives. These procedures had previously been sent to denied claimants (or their counsel) at the time they informed the Administration of their desire to appeal the denial. The Administration will continue this practice in the future. The procedures have been amended in the same manner as the regulations.

Accordingly, 28 CFR Part 32 is amended as follows:

1. Section 32.24 is revised to read as set forth below.

2. The Appendix to Part 32 is added to read as set forth below.

§ 32.24 Request for a hearing.

(a) A claimant may, within thirty (30) days after notification of ineligibility by the Administration, request the Administration to reconsider its finding of ineligibility. The Administration shall provide the claimant the opportunity for an oral hearing which shall be held within sixty (60) days after the request for reconsideration. The claimant may waive the oral hearing, and present written evidence to the Administration within sixty (60) days after the request. The request for hearing shall be made to the Director, Public Safety Officers' Benefits Program, Law Enforcement Assistance Administration, Washington, D.C. 20531.

(b) If requested, the oral hearing shall be conducted before a hearing officer authorized by the Administration to conduct the hearing, in any location agreeable to the claimant and the hearing officer.

(c) In conducting the hearing, the hearing officer shall not be bound by common law or statutory rules of evidence, by technical or formal rules of procedure, or by Chapter 5 of the Administrative Procedures Act, but must conduct the hearing in such manner as to best ascertain the rights of the claimant. For this purpose the hearing officer shall receive such relevant evidence as may be introduced by the claimant and shall, in addition, receive such other evidence as the hearing officer may determine to be necessary or useul in evaluating the claim. Evidence may be presented orally or in the form of written statements and exhibits. The hearing shall be recorded, and the original of the complete transcript shall be made a part of the claims record.

(d) Pursuant to 42 U.S.C. 3787, the hearing officer may, whenever necessary: (1) Issue subpoenas; (2) Administer oaths; (3) Examine witnesses; and (4) Receive evidence at any place in the United States.

(e) If the hearing officer believes that there is relevant and material evidence available which has not been presented at the hearing, he may adjourn the hearing and, at any time prior to mailing the decision, reopen the hearing for the receipt of such evidence.

(f) A claimant may withdraw his or her request for a hearing at any time prior to the mailing of the decision by written notice to the hearing officer so stating, or by orally so stating at the hearing. A claimant shall be deemed to have abandoned his or her request for a hearing if he or she fails to appear at the

time and place set for the hearing, and does not, within 10 days after the time set for the hearing, show good cause for such failure to appear.

(g) The hearing officer shall, within thirty (30) days after receipt of the last piece of evidence relevant to the proceeding, make a determination of eligibility. The determination shall set forth the findings of fact and conclusions of law supporting the determination. The hearing officer's determination shall be the final agency decision, except when it is reviewed by the Administrator under paragraph (h) or (i).

(h) The Administrator may, on his own motion, review a determination made by a hearing officer. If he decides to review the determination, he shall:

(1) Inform the claimant of the hearing officer's determination and his decision to review that determination; and

(2) Give the claimant 30 days to comment on the record and offer new evidence or argument on the issues in controversy.

The Administrator, in accordance with the facts found on review, may affirm or reverse the hearing officer's determination. The Administrator's determination shall set forth the findings of fact and conclusions of law supporting the determination. The Administrator's determination shall be the final agency decision.

(i) A claimant determined ineligible by a hearing officer under paragraph (g) may, within thirty (30) days after notification of the hearing officer's determination:

(1) Request the Administrator to review the record and the hearing officer's determination; and

(2) Comment on the record, and offer new evidence or argument on the issues in controversy.

The Administrator shall make the final agency determination of eligibility within thirty (30) days after expiration of the comment period. The notice of final determination shall set forth the findings of fact and conclusions of law supporting the determination. The Administrator's determination shall be the final agency decision.

(j) No payment of any portion of a death benefit, except interim benefits payable under § 32.16, shall be made until all hearings and reviews which may affect that payment have been completed.

Appendix to Part 32—PSOB Hearing and Appeal Procedures

1. *Notification to Claimant of Denial.* These appeal procedures apply to a claimant's [1] request for reconsideration of a denial made by the Public Safety Officers' Benefits (PSOB) Office. The denial letter will advise the claimant of the findings of fact and conclusions of law supporting the PSOB Office's determination, and of the appeal procedures available under § 32.24 of the PSOB regulations. A copy of every document in the case file that (1) contributed to the determination; and (2) was not provided by the claimant shall also be attached to the denial letter, except where disclosure of the material would result in a clearly unwarranted invasion of a third party's privacy. The attached material might typically include medical opinions offered by the Armed Forces Institute of Pathology, legal memoranda from the Office of General Counsel of the Office of Justice Assistance, Research, and Statistics (OJARS), or memoranda to the file prepared by PSOB staff. A copy of the PSOB regulations shall also be enclosed.

2. *Receipt of Appeal.* A. When an appeal has been received, PSOB will assign the case, and transmit the complete case file to a hearing officer. Assignments will be made in turn, from a standing roster, except in those cases where a case is particularly suitable to a specific hearing officer's experience.

B. PSOB will inform the claimant of the name of the hearing officer, request submission of all evidence to the hearing officer, and send a copy of this appeals procedure. If an oral hearing is requested, PSOB will be responsible for scheduling the hearing and making the required travel arrangements.

C. PSOB will be responsible for providing all administrative support to the hearing officer. An attorney from the Office of General Counsel who has not participated in the consideration of the claim will provide legal advice to the hearing officer. The hearing officer is encouraged to solicit the advice of the assigned OGC attorney on all questions of law.

D. Prior to the hearing, the hearing officer shall request the claimant to provide a list of expected witnesses, and a brief summary of their anticipated testimony.

3. *Designation of Hearing Officers.* A. In LEAA Instruction I 1310.57A (December 26, 1979) the Administrator designated a roster of hearing officers to hear PSOB appeals.

B. The hearing officers are specifically delegated the Administrator's authority under 42 U.S.C. section 3787 to:

(1) Issue subpoenas;

(2) Administer oaths;

(3) Examine witnesses; and

(4) Receive evidence at any place in the United States the officer may designate.

4. *Conduct of the Oral Hearing.* A. If requested, an oral hearing shall be conducted before the hearing officer in any location agreeable to the officer and the claimant.

B. The hearing officer shall call the hearing to order and advise the claimant of (1) the findings of fact and conclusions of law supporting the initial determination; (2) the nature of the hearing officer's authority; and (3) the manner in which the hearing will be conducted and a determination reached.

C. In conducting the hearing, the hearing officer shall not be bound by common law or statutory rules of evidence, by technical or formal rules or procedures, or by Chapter 5 of the Administrative Procedure Act, but must conduct the hearing in such a manner as to best ascertain the rights of the claimant.

D. The hearing officer shall receive such relevant evidence as may be introduced by the claimant and shall, in addition, receive such other evidence as the hearing officer may determine to be necessary or useful in evaluating the claim.

E. Evidence may be presented orally or in the form of written statements and exhibits. All witnesses shall be sworn by oath or affirmation.

F. If the hearing officer believes that there is relevant and material evidence available which has not been presented at the hearing, the hearing may be adjourned and, at any time prior to the mailing of notice of the decision, reopened for the receipt of such evidence. The officer should, in any event, seek to conclude the hearing within 30 days from the first day of the hearing.

G. All hearings shall be attended by the claimant and his or her representative, and such other persons as the hearing officer deems necessary and proper. The wishes of the claimant should always be solicited before any other persons are admitted to the hearing.

H. The hearing shall be recorded, and the original of the complete transcript shall be made a part of the claims record.

I. The hearing will be deemed closed on the day the hearing officer receives the last piece of evidence relevant to the proceeding.

J. If the claimant waives the oral hearing, the hearing officer shall receive all relevant written evidence the claimant wishes to submit. The hearing

[1] As used in this procedure, the word "claimant" means a claimant for benefits or, where appropriate, the claimant's designated representative.

officer may ask the claimant to clarify, or explain the evidence submitted, when appropriate. The hearing officer should seek to close the record no later than 60 days after the claimant's request for reconsideration.

5. *Determination.* A. A copy of the transcript shall be provided to the claimant, to PSOB, and OGC after the conclusion of the hearing.

B. The hearing officer shall make his, or her, determination no later than the 30th day after the last piece of evidence has been received. Copies of the determination shall be made available to PSOB and OGC for their review.

C. If either PSOB or OGC disagrees with the hearing officer's final determination, that office may request the Administrator to review the record. If the Administrator agrees to review the record, he will send the hearing officer's determination, all comments received from PSOB, OGC, or other sources (except where disclosure of the material would result in an unwarranted invasion of privacy), and notice of his intent to review the record, to the claimant. He will also advise the claimant of his or her opportunity to offer comments, new evidence, and argument to the Administrator within 30 days after the receipt of notification. The Administrator shall seek to advise all parties of the final agency decision within 30 days after the expiration of the comment period.

D. If PSOB and OGC agree with the hearing officer's determination, or the Administrator declines to review the record, the hearing officer's determination will be the final agency decision, and will be sent to the claimant by PSOB immediately.

E. If the hearing officer's determination is a denial, all material that (1) contributed to the determination and (2) was not provided by the claimant shall be attached to the denial letter, except where disclosure of the material would result in a clearly unwarranted invasion of a third party's privacy. The claimant will be given an opportunity to request the Administrator to review the record and the hearing officer's decision, and to offer comments, new evidence, or argument to the Administrator within 30 days. The Administrator shall advise all parties of the final agency decision within 30 days after the expiration of the comment period.

F. PSOB will provide administrative support to the hearing officer and the Administrator throughout the appeal process.

Homer F. Broome, Jr.,

Acting Administrator, Law Enforcement Assistance Administration.

[FR Doc. 80-7891 Filed 3-12-80; 8:45 am]
BILLING CODE 4410-18-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[FRL 1429-4]

National Pollutant Discharge Elimination System; Suspension of Deadlines for Revision to Approved State Permit Programs

AGENCY: Environmental Protection Agency.

ACTION: Suspension of regulation.

SUMMARY: The United States Environmental Protection Agency (EPA) today is suspending 40 CFR 123.62(b) as it applies to deadlines for compliance by approved State National Pollutant Discharge Elimination System (NPDES) programs with the revised NPDES regulations published on June 7, 1979. The time periods for compliance by approved State NPDES programs specified in § 123.62(b) will be incorporated in the consolidated permits regulations upon their promulgation later this year. This suspension will enable NPDES States to await promulgation of the consolidated regulations before modifying their programs, thus avoiding the possibility that two sets of modifications will be required.

EFFECTIVE DATE: March 13, 1980.

FOR FURTHER INFORMATION CONTACT: Edward A. Kramer, Office of Water Enforcement (EN-336), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-0750.

SUPPLEMENTARY INFORMATION: On June 7, 1979, EPA published a final rule revising the NPDES permit program (44 FR 32854). Section 123.62(b) of this rule required that all approved State NPDES permit programs be modified as necessary to conform to the revised regulations within one year of the date of promulgation of the regulations, or within two years if modification required statutory change, and that new permit forms be sent to EPA within six months for approval. On June 14, 1979, EPA proposed a consolidated application form package, consisting of regulations establishing minimum requirements for NPDES applications (44 FR 34393), several parts of a consolidated application form (44 FR 34346), and consolidated permit program requirements (44 FR 34244). Some of the many comments EPA has received on the consolidated permit proposals may result in changes in the NPDES portion of the regulations when the final consolidated rules are promulgated later this year. The Agency therefore believes it a more efficient use of State and EPA resources to suspend the compliance deadlines for modification of existing State NPDES permit programs and permit forms. These deadlines will be incorporated in the consolidated permit regulations, with the time periods beginning as of the date the consolidated regulations are promulgated. This suspension will enable NPDES States to await promulgation of the consolidated regulations before modifying their programs, thus avoiding the possibility that two sets of modifications will be required. All new State NPDES programs must continue to comply with the June 7 regulations upon approval.

Statement of Suspension

Accordingly, 40 CFR Part 123, State Permit Program Requirements, is amended by suspending the following paragraph as it applies to compliance deadlines for approved State NPDES permit programs: Subpart G, Revisions to Approved Programs, § 123.62(b).

Douglas M. Costle,

Administrator.

February 20, 1980.

[FR Doc. 80-7799 Filed 3-12-80; 8:45 am]
BILLING CODE 6560-01-M

VETERANS ADMINISTRATION

41 CFR Parts 8-3 and 8-4

Procurement by Negotiation; Special Types and Methods of Procurement

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: The Veterans Administration is revising its procurement regulations to codify interim policies concerning controls over the procurement of consulting, management, administrative, and professional services. The revision incorporates the definition of consulting services and policy provisions prescribed by the Office of Management and Budget. New Subpart 8-4.52 is added to cover the procurement of consulting services, and new Subpart 8-4.53 is added to cover the procurement of management, administrative, and professional services.

EFFECTIVE DATE: This rule is effective March 13, 1980.

FOR FURTHER INFORMATION CONTACT: A. G. Vetter, Supply Service, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202-389-2334).

It is the general policy of the Veterans Administration to allow time for interested parties to participate in the regulatory process (§ 1.12, Title 38 CFR). The amendments herein, however, implement an Office of Management and Budget directive and affect only the administrative practices of the agency. Accordingly, the public regulatory process is deemed unnecessary in this instance.

Approved: March 4, 1980.

Max Cleland,

Administrator.

PART 8-3—PROCUREMENT BY NEGOTIATION

1. In § 8-3.203, a new paragraph (c) is added to read as follows:

§ 8-3.203 Purchases not in excess of $10,000.

* * * * *

(c) Procurements of consulting, management, administrative and professional services costing less than $10,000 and made under the authority of 38 U.S.C. 213 are subject to the controls set forth in Subparts 8-4.52 and 8-4.53.

2. Section 8-3.204 is amended by substituting the words "appropriate Regional Medical Director (13C)" for the words "Associate Chief Medical Director for Operations (10C4A)" where they appear in the introductory portion of paragraph (e) and in paragraph (e)(5); by substituting the word "facility" for the word "hospital" where it appears in paragraph (f)(2); and by revising paragraph (g) to read as follows:

§ 8-3.204 Personal or professional services.

* * * * *

(g) Contracts for professional or technical services with private or public agencies not specifically authorized in any other section of title 38, United States Code, may be acquired under 38 U.S.C. 213 and negotiated under FPR 1-3.204 when the cost of such services will exceed $10,000. Controls over the procurement of consulting, management, administrative and professional services are set forth in Subparts 8-4.52 and 8-4.53.

* * * * *

PART 8-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

3. A new Subpart 8-4.52 is added to read as follows:

Subpart 8-4.52—Consulting Services

Sec.
8-4.5200 Scope of subpart.
8-4.5201 Definition.
8-4.5202 Basic policy.
8-4.5203 Guidelines for use of consulting services.
8-4.5204 Approval of procurement of consulting services.
8-4.5205 Administration of consulting services contracts.

Authority: 38 U.S.C. 210(c); 40 U.S.C. 486(c).

Subpart 8-4.52—Consulting Services

§ 8-4.5200 Scope of subpart.

This subpart applies to the procurement of consulting services for which procurement authority derives from 38 U.S.C. 213 rather than some other more specific portion of Title 38, U.S.C. or 5 U.S.C. 3109.

§ 8-4.5201 Definition.

As used for administrative direction in this subpart, consulting services means those services of a purely advisory nature relating to the Governmental functions of agency administration and management and agency program management. (See Appendix A for examples of the type of services to which this subpart does and does not apply.) These services are normally provided by persons and/or organizations who are generally considered to have knowledge and special abilities that are not generally available within the agency. The form of compensation is irrelevant to the definition. Such services involve selection of the contractor on the basis of qualifications, rather than price along, and are therefore normally procured by negotiation.

§ 8-4.5202 Basic policy.

(a) Consulting services will not be used in performing work of a policy or decision-making or managerial nature which is the direct responsibility of agency officials.

(b) Consulting services will normally be obtained only on an intermittent or temporary basis; repeated or extended arrangements are not to be entered into except under extraordinary circumstances.

(c) Consulting services will not be used to bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures.

(d) Former Government employees per se will not be given preference in consulting service arrangements.

(e) Consulting services will not be used under any circumstances to specifically aid in influencing or enacting legislation.

(f) Grants and cooperative agreements will not be used as legal instruments for consulting service arrangements.

§ 8-4.5203 Guidelines for use of consulting services.

Consulting service arrangements may be used, when essential to the mission of the agency, to:

(a) Obtain specialized opinions or professional or technical advice which does not exist or is not available within the agency or another agency.

(b) Obtain outside points of view to avoid too limited judgment on critical issues.

(c) Obtain advice regarding developments in industry, university, or foundation research.

(d) Obtain the opinion of noted experts whose national or international prestige can contribute to the success of important projects.

(e) Secure citizen advisory participation in developing or implementing Government programs that by their nature or by statutory provision call for such participation.

§ 8-4.5204 Approval of procurement of consulting services.

(a) Contracts for consulting services will be approved by the Administrator regardless of amount.

(b) The approval of the Administrator will be requested by means of a notification of intent prepared by the contacting officer in the form of a letter or memorandum, and submitted through channels to the Director, Supply Service. The Director, Supply Service, will review the submission for consistency of application of agency policy, and will be responsible for maintaining a consolidated record of requests submitted to the Administrator, and the results of those submissions. Subsequent to that review, the notices will be forwarded for the approval of the department head or designee, and then routed to the General Counsel and the Controller for their concurrences prior to submission to the Administrator.

(c) The notification of intent will cite the pertinent authority warranting negotiation and, in addition to any required Determination and Findings, will contain the information indicated in Appendix B to this part as applicable to the proposed procurement. Where a specific individual or concern is proposed, the notification of intent will also include a statement as to any previous or current contracts with that individual or concern, and as to the

consideration given to organizational conflicts of interest.

(d) The approval of the Administrator is in addition to and does not replace technical and legal reviews of contract documents prior to award prescribed elsewhere in these regulations.

§ 8-4.5205 Administration of consulting services contracts.

Contracting officers will assure that contract performance is properly monitored by appropriately designated technical representatives, and that evidence of satisfactory performance is contained in the contract file.

4. A new Subpart 8-4.53 is added to read as follows:

Subpart 8-4.53—Management, Administrative and Professional Services

Sec.
8-4.5300 Scope.
8-4.5301 Definition.
8-4.5302 Guidelines for use of contracts for management, administrative and professional services.
8-4.5303 Approval for use of contractual services.

Authority: 38 U.S.C. 210(c); 40 U.S.C. 486(c).

Subpart 8-4.53—Management, Administrative and Professional Services

§ 8-4.5300 Scope.

Except as provided hereafter, this subpart applies to the procurement of management, administrative, and professional services for which procurement authority derives from 38 U.S.C. 213 rather than some other more specific portion of Title 38, U.S.C., or other laws related to a particular program, e.g., 5 U.S.C. 4105. This subpart does not apply to contracts for the medical, dental and ancillary care of beneficiaries; or to contracts for the provision directly to beneficiaries of other services, such as educational services.

§ 8-4.5301 Definition.

The term "management, administrative and professional services" means those services related to the performance of operating functions of an agency, involving knowledge of an advanced type, and requiring the use of discretion and judgment. Management, administrative and professional services differ from consulting services (see § 8-4.5200) in that the latter term refers to services of a purely advisory nature. Both categories of services involve selection of the contractor on the basis of qualifications, rather than price alone, and are therefore normally procured by negotiation.

§ 8-4.5302 Guidelines for use of contracts for management, administrative and professional services.

(a) Contracts are appropriate when:

(1) Unusual or peak workloads occur that cannot be accomplished by Government personnel.

(2) Work involved is of an intermittent, occasional, or one-time nature for which the hiring of Government personnel is not feasible.

(3) They result in a more economical method of performing the work. (See OMB Circular A-76, revised.)

(b) Contracts are inappropriate (improper or illegal) when:

(1) The service involves exercising a Governmental judgment, i.e., managing programs requiring value judgments; selection of priorities; direction of Federal employees; and all regulatory responsibilities.

(2) An employer-employee relationship would be established or involved.

(3) They circumvent personnel salary or ceiling limitations.

§ 8-4.5303 Approval for use of contractual services.

(a) Proposed contracts will be approved by the Administrator regardless of cost. The procedure to use in obtaining approval is the same as that required for approval of consulting services (see Subpart 8-4.52). The data to support the request for approval will be that required by the appropriate elements of those contained in Appendix B.

(b) The approval of the Administrator as required by paragraph (a) of this section, is in addition to and does not replace the technical and legal reviews of contract documents prior to award prescribed elsewhere in these regulations.

5. New Appendixes A and B are added at the end of Part 8-4 to read as follows:

Appendix A—Consulting Services—Services Included and Excluded

This appendix contains some, but not all, examples of the types of services to which Subpart 8-4.52 does and does not apply.

Services Included

1. Advice on discriminatory practices in labor.
2. Advice on organizational structure and management methods.
3. Advice on artistic and cultural matters.
4. Advice on and analysis of electric power projects.
5. Evaluation of the effectiveness of agency publications.
6. Advice on mail handling procedures.
7. Advice on plans for conducting census enumerations.
8. Analysis of the impact of a program.
9. Advice on legal and technological problems in patent and trademark examinations.
10. Policy and program analysis, evaluation, and advice.
11. Services of grant peer review panelists.

Services Excluded

1. Commercial and industrial products and services (see OMB Circular No. A-76).
2. Conduct of research (see OMB Circular No. A-11).
3. Performance of operating functions and supervision of those functions.
4. Automatic data processing (time sharing and batch processing), and keypunching. (These services are also excluded from the category of professional services as defined in Subpart 8-4.53.)
5. Information system development.
6. Audits made by certified public accountants.
7. Architect and engineering services and other associated services directly related to a particular structure.
8. Purchase of real or personal property.
9. Stenographic services.
10. Direct operation and management of Government-owned facilities.
11. Installation or testing of equipment.
12. Services performed by technicians or nonprofessional persons to meet unusual or peak work demands.
13. Consultant-type services provided by one Federal entity for another Federal entity under a Memorandum of Understanding or similar arrangement.
14. Physicians, dentists, nurses, and other health care professionals providing medical services.
15. Employee training and executive development.
16. Legal research services that do not include advice or recommendations.
17. Editing and proofreading services.
18. Educational-vocational guidance counseling for veterans.
19. Court reporting.
20. Translation services.
21. Advisory services provided directly to the public or foreign governments as part of an agency's programs of assistance.
22. Geological, archeological, and cadastral surveys.

Appendix B—Information To Be Included in Requests for Contractual Services

Requests for approval to procure contractual services, whether with individuals or firms, must contain statements on the following items where applicable. Items other than those listed may be added to clarify or justify the request.

Problem or Project

1. Description of the problem or project.
2. Length of time this problem or condition has existed.
3. Effect on the mission should the problem continue to exist.
4. Specific examples of losses or excessive costs caused by the problem.
5. Whether the proposed study or project is a small segment of a much greater project. If so, elaborate on the complete study or project and state what action will be taken

concerning the overall project when this segment is completed.

6. Alternative approaches available to perform this work, and reasons for eliminating each approach.

7. Previous attempts to solve the problem or perform the work and their results, with an explanation why they were unsuccessful if that was the case.

8. Results or end products sought. End products can be as simple as a report containing recommendations, or as lengthy and detailed as a completely installed system for management.

Equipment and Skills

9. Whether a lack of equipment has a bearing on this problem. If so, what attempts were made to remedy the situation?

10. Type of skills required to solve problem or accomplish the project.

Personnel

11. Whether a shortage of qualified personnel has a bearing on the problem. If so, what attempts were made to remedy the situation?

12. Number of in-service personnel by descriptive title to be made available to work with the contractor.

13. If the services of a specific individual are requested, specific reasons why this individual or another equally competent individual cannot be temporarily employed as authorized in personnel regulations.

14. If a request is for a specific individual, reasons for selecting that person over other suitable persons. List of other suitable persons, or explanation if there are none.

Firms

15. If a specific firm is recommended, reasons for selecting it over other suitable firms, or explanation if there are none.

Cost of Contract and Funds

16. Estimated cost of contract.

17. Identification of funds to be used to pay for contract.

Attachments

18. Copies of staff studies and papers bearing on the problem.

19. Copy of proposed contract work statement.

Automated Data Processing

20. If the request includes a requirement for services related to ADP, a copy of a completed and approved GSA Form 2068, Request for ADP Services (FPMR 101-36.2).

(38 U.S.C. 210(c); 40 U.S.C. 486(c))

[FR Doc. 80-7754 Filed 3-12-80; 8:45 am]

BILLING CODE 3126-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 5789]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

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 DATE: 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, 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. 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 acquistion of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elasped 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 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.

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	Special flood hazard area identified	Date [1]
Alaska		Kenai Peninsula Borough	020012	June 19, 1970, emergency, Mar. 18, 1980, suspended.	Mar. 18, 1980	Mar. 18, 1980.
California	Los Angeles	Montebello, city of	060141B	July 25, 1975, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	June 28, 1974 Dec. 19, 1975	Do.
Colorado	Eagle	Basalt, town of	080052B	May 1, 1975, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	June 28, 1974 Apr. 23, 1976	Do.
Do	do	Eagle, town of	080238B	Aug. 20, 1976, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Aug. 15, 1975 Feb. 18, 1977	Do.
Do	Boulder	LaFayette, city of	080026B	Aug. 7; 1975, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	May 24, 1974 Jan. 16, 1976	Do.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Connecticut	New London	Groton Long Point Association	090167A	Aug. 20, 1974, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Apr. 11, 1975	Do.
Do	New Haven	Orange, town of	090087B	May 25, 1973, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Sept. 14, 1973 Dec. 10, 1976	Do.
Florida	Seminole	Lake Mary, city of	120416A	Sept. 10, 1976, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	July 8, 1977	Do.
Do	do	Longwood, city of	120292B	Mar. 12, 1975, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Jan. 23, 1974 Sept. 17, 1976	Do.
Do	Clay	Orange Park, town of	120066B	June 6, 1975, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	May 31, 1974 May 28, 1976	Do.
Do	Brevard	West Melbourne, city of	120335B	Jan. 31, 1975, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Mar. 8, 1974 Aug. 1, 1975	Do.
Idaho	Canyon	Notus, city of	160147A	Oct. 4, 1976, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Sept. 26, 1975	Do.
Illinois	Madison	East Alton, village of	170440B	Apr. 4, 1974, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	May 17, 1974 Apr. 9, 1976	Do.
Do	Rock Island	Milan, village of	170590C	Apr. 3, 1975, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	May 10, 1974 Sept. 24, 1976	Do.
Indiana	Lake	Crown Point, city of	180128B	Jan. 31, 1975, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Nov. 23, 1973 Mar. 26, 1976	Do.
Maine	York	Cornish, town of	230147B	Aug. 5, 1975, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	June 28, 1974 July 30, 1976	Do.
Maryland	Cecil	Elkton, city of	240022B	Nov. 7, 1973, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Feb. 15, 1974 Dec. 19, 1975	Do.
Michigan	Berrien	New Buffalo, township of	260039B	Apr. 22, 1975, emergency, Dec. 4, 1979, regular, Mar. 18, 1980, suspended.	July 26, 1974 Sept. 24, 1976	Do.
Nebraska	Dodge	North Bend, city of	310239B	Jan. 15, 1974, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	July 26, 1974 Jan. 16, 1976	Do.
Do	Douglas	Valley, city of	310078B	May 1, 1975, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	May 17, 1974 Dec. 26, 1975	Do.
New York	Chautauqua	Celoron, village of	360135B	Aug. 21, 1975, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Feb. 15, 1974 July 9, 1976	Do.
Do	Rensselaer	East Greenbush, town of	361133A	June 13, 1975, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Dec. 13, 1974	Do.
Do	Chautauqua	Ellery, town of	361072B	Oct. 2, 1975, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Feb. 10, 1978	Do.
Do	Monroe	Greece, town of	360417B	Mar. 9, 1973, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Jan. 23, 1974 Sept. 2, 1977	Do.
Do	Albany	Menands, village of	360012B	July 25, 1974, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Feb. 1, 1974 Aug. 6, 1976	Do.
Do	Rensselaer	Rensselaer, city of	361032B	Sept. 15, 1975, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	July 26, 1974 Aug. 6, 1976	Do.
Do	Suffolk	Southold, town of	360813A	Oct. 20, 1972, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Nov. 29, 1974	Do.
Do	Rensselaer	Troy, city of	360677B	Feb. 26, 1975, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Apr. 5, 1974 July 9, 1976	Do.
Pennsylvania	Washington	Carroll, township of	422142A	Oct. 29, 1974, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Nov. 15, 1974	Do.
Do	York	Conewago, township of	420918B	July 5, 1973, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Dec. 28, 1973 Apr. 15, 1977	Do.
Do	Erie	Fairview, borough of	421238B	Apr. 2, 1976, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	July 26, 1974	Do.
Do	Allegheny	Glenfield, borough of	420039B	July 9, 1975, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Mar. 29, 1974 May 7, 1976	Do.
Do	do	Haysville, borough of	420042B	July 3, 1974, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Aug. 9, 1974 Aug. 6, 1976	Do.
Do	York	Hellam, township of	420927C	June 27, 1973, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Mar. 29, 1974 June 24, 1977	Do.
Do	Dauphin	Londonderry, township of	420383C	Mar. 30, 1973, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Oct. 12, 1973 Aug. 20, 1976	Do.
Do	Lancaster	Manor, township of	420557B	Apr. 19, 1973, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	May 3, 1974 July 16, 1976	Do.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Pennsylvania	Cumberland	Mount Holly Springs, borough of	420365B	Feb. 25, 1972, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Feb. 9, 1973 Sept. 17, 1976	Do.
Do	Washington	New Eagle, borough of	420657B	Dec. 5, 1974, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Jan. 23, 1974 June 4, 1976	Do.
Do	Dauphin	Paxtang, borough of	420390A	Feb. 2, 1973, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	July 30, 1976	Do.
Do	Delaware	Prospect Park, borough of	420427B	Sept. 19, 1974, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	July 26, 1974 May 7, 1976	Do.
Do	do	Rutledge, borough of	420432B	Dec. 4, 1974, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	July 19, 1974	Do.
Do	Luzerne	Salem, township of	420625B	May 23, 1973, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Nov. 30, 1973 Jan. 7, 1977	Do.
Do	Allegheny	Shaler, township of	421101B	Apr. 22, 1974, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	May 31, 1974 July 16, 1976	Do.
Do	Dauphin	West Hanover, township of	421600A	Sept. 20, 1974, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Jan. 24, 1975	Do.
South Carolina	Lexington	Pine Ridge, town of	450136B	Nov. 28, 1975, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	June 21, 1974 Aug. 6, 1976	Do.
Tennessee	Bradley	Charleston, city of	470014A	Aug. 8, 1975, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Feb. 1, 1974	Do.
Texas	Harris	Houston, city of	480296B	Sept. 14, 1973, emergency, Dec. 11, 1979, regular, Mar. 18, 1980, suspended.	Dec. 27, 1974 Apr. 8, 1977	Do.
Virginia	Fauquier	Remington, town of	510056B	Dec. 13, 1974, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Nov. 15, 1974 May 21, 1976	Do.
West Virginia	Jefferson	Shepherdstown, town of	540089C	Feb. 14, 1975, emergency, Mar. 18, 1980, regular, Mar. 18, 1980, suspended.	Feb. 1, 1974 Oct. 31, 1975 Apr. 16, 1976	Do.

[1] Date 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 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: March 3, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-7621 Filed 3-12-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA 5783]

List of Communities With Special Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program. The identification of such areas is to provide guidance to communities on the reduction of property losses by the adoption of appropriate flood plain management or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

EFFECTIVE DATES: The effective date shown at the top right of the table or April 14, 1980, whichever is later.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or toll-free line 800–424–8872, Room 5150, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition however, does not apply in respect to conventional mortgage loans by federally regulated, insured, supervised, or approved lending institutions.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the Federal Register or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the Federal Register or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 65 of Title 44 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001–4128).

Section 65.3 is amended by adding in alphabetical sequence a new entry to the table:

§ 65.3 List of communities with special hazard areas (FHBMs in effect).

State, county, community name, and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Arkansas, Cross, city of Parkin, 0001B	050059B	E-11, 12	I	F	June 14, 1974, Jan. 16, 1976.	Mar. 4, 1980	Mr. Lonnie C. Pennington, Community Development Director, Parkin Community Development Agency, P.O. Box 436, Parkin, AR 72373, (501) 755-5488.
Missouri, Cole, city of Taos, 0001A	290876A	N-5, 15	I	F	Mar. 4, 1980	Mar. 4, 1980	Mr. Joseph W. Rackers, Mayor, City of Taos, Office of Mayor, Route 3, Jefferson, MO 65101, (314) 636-7137.
Texas, Unincorporated area, Zavala County, 0001A-0016A.	481191A	E-5	I	F	Mar. 4, 1980	Mar. 4, 1980	Honorable Jose A. Gutierrez, County Judge, Zavala County Courthouse, Crystal City, TX 78839, (512) 374-3810.
Utah, Kane, town of Orderville, 0001B	490086B	E-11, 12	I	F	Feb. 4, 1977	Mar. 4, 1980	Mr. John Nelson, City Engineer, 20 North Main Street, P.O. Box 339, Kanab, UT 84741, (801) 644-5462.
Mississippi, Calhoun, town of Derma, 01	280217A	N-11	I	F	July 30, 1976	Mar. 7, 1980	Mrs. Hazle Vaughn, Town Clerk, Town Hall, Town of Derma, Derma, MS 38839, (601) 628-6635.
Mississippi, Tallahatchie, town of Sumner 01	280194B	E-11	I	F	June 14, 1974, June 25, 1976.	Mar. 7, 1980	Mr. James R. Bryant, Mayor, Town Hall, Town of Sumner, Sumner, MS 38957, (601) 375-8831.
Mississippi, DeSoto, city of Horn Lake 01	280051C	E-11	I	F	Mar. 19, 1976, May 28, 1976.	Mar. 7, 1980	Sam Dye, Mayor, 2285 Goodman Road, Horn Lake, MS 38637, (601) 393-6178.
Maine, Lincoln, town of Booth Bay, 0001-0006.	230212A	E-8, 11, 12	I	F	Feb. 7, 1975	Mar. 7, 1980	John D. Bubier, Town Manager, Town of Booth Bay, Booth Bay, Maine 04537, (207) 633-2051.
Georgia, Hall, city of Gainesville, 0001, 0002	130263B	E-8, 11, 12	I	F	Aug. 22, 1975, Jan. 16, 1976.	Mar. 7, 1980	Douglas Gazaway, Planning Official, City Hall, City of Gainesville, Gainesville, GA 30501, (404) 534-7321.
North Carolina, Hertford, village of Cofield, 0001.	370409A	E-5	I	F	Mar. 7, 1980	Mar. 7, 1980	James Boone, Mayor, P.O. Box 99, Cofield, N.C. 27922, (919) 358-8611.
Pennsylvania, Erie, township of Amity, 0001A-0002A.	421360	E-11, 12, 14	I	F	Jan. 31, 1975	Mar. 7, 1980	Harry E. Nye, Chairman, R.D. #1, Union City, PA 16438, Phone: (814) 438-3496.
Pennsylvania, Forest, township of Barnett, 0001A-0002A.	421643	E-11, 12, 14	I	F	Dec. 27, 1974	Mar. 7, 1980	O'Neil C. Cook, Chairman, Township Building, Clarington, PA 15828, Phone: (814) 752-2530.
Pennsylvania, Dauphin, township of Jefferson, 0001A-0002A only.	421594	E-11, 12, 14	I	F	Jan. 31, 1975	Mar. 7, 1980	Oswald R. Bordner, Chairman, R.D. #2, Box 398, Halifax, PA 17032, Phone: (717) 362-8302.
Pennsylvania, Perry, township of Tyrone, 0001A-0002A only.	421961	E-11, 12, 14	I	F	Jan. 31, 1975	Mar. 7, 1980	Edward Kennedy, Chairman, Green Park, PA 17031, Phone: (717) 789-3641.
Arizona, Yavapai, town of Prescott Valley, 0001A.	040121A	N-5	I	F	Mar. 11, 1980	Mar. 11, 1980	Honorable Richard L. Addis, Mayor, Town Hall, 2221 Main Street, Prescott Valley, AZ 86312, (602) 772-9207.
Idaho, Caribou, city of Soda Springs, 0001A	160193A	E-8, 11, 12	I	F	June 27, 1975	Mar. 11, 1980	Mr. John Darrington, City Administrator, 109 South Main Street, Soda Springs, ID 83276, (208) 547-2151.
Texas, Houston, town of Kennard 0001A	481552A	N-5	I	F	Mar. 11, 1980	Mar. 11, 1980	Honorable Wesley Brent, Mayor, Kennard Town Hall, Kennard, TX 75847, (713) 655-2633.
Massachusetts, Worcester, town of Grafton, 0001, 0003, 0004, 0005.	250306B	E-11, 12	I	F	Apr. 5, 1974, Oct. 15, 1976.	Mar. 14, 1980	John Connor, Town Engineer, Town of Grafton, Town House, Grafton, MA 01519, (617) 839-4742.
North Carolina, Craven, town of Vanceboro, 01.	370075B	E-12	I	F	Mar. 1, 1974, July 2, 1976.	Mar. 14, 1980	Jimmie L. Morris, Mayor, Town of Vanceboro, P.O. Box 306, Vanceboro, N.C. 28586, (919) 244-0919.
New Jersey, Ocean, township of Barnegat, 01-12.	340396B	E-9	C	F	May 31, 1974, June 4, 1976.	Mar. 14, 1980	Steven Jentis, Mayor, Twp of Barnegat, 900 West Bay Avenue, Barnegat, NJ 08005, (609) 698-7832.
Pennsylvania, Tioga, township of Charleston, 0001A-0003A.	421172	E-11, 12, 14	I	F	Mar. 28, 1975	Mar. 14, 1980	Walter E. Vandergrift, R.D #2, Wellsboro, PA 16901, Phone: (717) 724-5353.
Pennsylvania, Snyder, township of Spring, 0002A-0004A only.	422039	E-11, 12, 14	I	F	Jan. 17, 1975	Mar. 14, 1980	Douglas Garrison, Chairman, Beaver Springs, PA 17812, Phone: (717) 658-2782.
Pennsylvania, Fayette, township of Stewart, 0002A-0004A only.	421640	E-11, 12, 14	I	F	Dec. 13, 1974	Mar. 14, 1980	Louis Collins, Chairman, R.D. #1, Ohiopyle, PA 15470, Phone: (412) 329-4475.
Pennsylvania, Dauphin, township of Wayne, 0001A-0002A.	421599	N-11, 12, 14	I	F	Jan. 17, 1975	Mar. 14, 1980	James Rettinger, Chairman, R.D. #2, Box 486, Halifax, PA 17032, Phone: (717) 362-9055.
New Mexico, McKinley and Valencia, Pueblo of Zuni, 0001A-0008A.	350143A	E-5	I	F	Mar. 18, 1980	Mar. 18, 1980	Honorable Robert E. Lewis, Governor, Pueblo of Zuni, P.O. Box 339, Zuni, NM 87327, (505) 782-4481.
Texas, Milam, city of Buckholts, 0001A	481549A	N-5	I	F	Mar. 18, 1980	Mar. 18, 1980	Honorable Richard C. Crowe, Mayor, c/o Buckholts City Clerk, Buckholts State Bank, Buckholts, TX 76518, (817) 593-3661.
Pennsylvania, Clinton, township of Beech Creek, 0001A-0003A, 0006A-0008A.	420321	E-11, 12, 14	I	F	Feb. 14, 1975	Mar. 21, 1980	Gary Packer, Chairman, R.D. #1, P.O. Box 206, Beech Creek, PA 16822, Phone: (717) 962-2907.

State, county, community name, and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Pennsylvania, Luzerne, township of Fairmount, 0001A-0003A.	421827	E-11, 12, 14	I	F	Jan. 17, 1975	Mar. 21, 1980	Stanley Keller, Chairman, R.D. #1, Benton, PA 17814, Phone: (717) 864-3348.
Pennsylvania, Erie, township of Springfield, 0001B-0004B.	421369	E-11, 12, 14	I	F	Nov. 1, 1974, June 25, 1976.	Mar. 21, 1980	Howard Weldon, Chairman, R.D. #1, West Springfield, PA 16443, Phone: (814) 922-3255.
Alabama, Conecuh, town of Castleberry, 01	010050A	E-11, 12	I	F	Apr. 4, 1975	Mar. 21, 1980	Christine Cobb, Clerk, Town of Castleberry, P.O. Box 97, Castleberry, AL 36432, (205) 966-2141.
Mississippi, LeFlore, town of Schlater, 01	280105B	E-8, 11	I	F	Aug. 23, 1974, July 23, 1976.	Mar. 21, 1980	William B. Crump III, Mayor, Town Hall, Schlater, MS 38952, (601) 658-4637.
Tennessee, Chester, city of Henderson, 01, 02.	470029B	E-11, 12	I	F	Jan. 14, 1977	Mar. 21, 1980	City Clerk, City Hall, City of Henderson, Henderson, TN 38340.
Alabama, Escambia, town of Pollard, 01	010075A	N-11	I	F	Jan. 31, 1975	Mar. 21, 1980	Curtis Finley, Mayor, Town of Pollard, Flomaton, AL 36441, (205) 867-3273.
Kentucky, Ohio, Town of Rockport, 01	210245B	N-8, 11	I	F	Feb. 1, 1974, July 9, 1976.	Mar. 21, 1980	Venie Curtis, Chairman of the Board of Trustees, P.O. Box 128, Rockport, KY 42369, (502) 274-4181.
Texas, Unincorporated area, Montgomery County, 0001B-0015B.	480483B	E-8, 11, 12	I	F	Apr. 25, 1978	Mar. 25, 1980	Mr. Bruce E. Berryhill, Federal Grant Administrator, Montgomery County Courthouse, Room 119, Conroe, TX 77301, (713) 756-0571.
Texas, Hopkins, city of Sulphur Springs, 0001C-0004C.	480358C	E-8, 11, 12	I	F	Feb. 1, 1974, July 30, 1976, May 31, 1977.	Mar. 25, 1980	Honorable J. D. Franklin, Mayor, Sulphur Springs City Hall, 125 South Davis, Sulphur Springs, TX 75482, (214) 885-7541.
Pennsylvania, Northampton, township of Lower Nazareth, 0001A.	422253	E-11, 12, 14	I	F	Nov. 15, 1974	Mar. 28, 1980	David Shultz, Secretary-Treasurer, R.D. #1, Box 272, Nazareth, PA 18064, Phone: (215) 837-6015.
Pennsylvania, Armstrong, township of Manor, 0001B-0002B.	421309	E-11, 12, 14	I	F	Sept. 13, 1974, June 25, 1976.	Mar. 28, 1980	Ludwick Miller, Chairman, Box 43, McGrann, PA 16236, Phone: (412) 763-8474.

(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: February 22, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-7622 Filed 3-12-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA 5790]

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

AGENCY: Federal Insurance Administration, FEMA.

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.

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 managment 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.

§ 64.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
California	Orange	Irvine, city of	060222B	Feb. 15, 1980, suspension withdrawn.	June 21, 1974, Sept. 19, 1975, and July 12, 1977.
Do	do	LaHabra, city of	060224B	do	May 3, 1974 and Apr. 9, 1976.
Do	Sonoma	Petaluma, city of	060379B	do	Mar. 8, 1974 and Nov. 28, 1975.
Connecticut	Hartford	Granby, town of	090125B	do	July 19, 1974 and Nov. 26, 1976.
Illinois	Peoria	Unincorporated areas	170533A	do	Jan. 17, 1975.
Maine	Androscoggin	Sabattus, town of	230011B	do	May 31, 1974 and June 16, 1976.
Minnesota	Steams	Sartell, city of	270460C	do	Nov. 2, 1973, Mar. 19, 1976, and Jan. 7, 1977.
Do	Washington	Stillwater, city of	275249A	do	Mar. 16, 1973.
New Jersey	Camden	Bellmawr, borough of	340124B	do	June 21, 1974 and Nov. 7, 1975.
Do	Morris	Montville, township of	340349B	do	Dec. 28, 1973 and Aug. 13, 1976.
Do	Essex	Verona, borough of	340195B	do	June 22, 1973.
Do	Burlington	Westamton, township of	340118B	do	June 28, 1974 and July 16, 1976.
New York	Allegany	Alfred, village of	360018B	do	Aug. 2, 1974 and June 18, 1976.
Do	do	Almond, village of	360021B	do	Jan. 9, 1974 and July 9, 1976.
Do	Chautauqua	North Harmony, town of	361076B	do	Mar. 3, 1976.
North Dakota	Pembina	Bathgate, city of	380080A	do	Nov. 22, 1974.
Ohio	Ashtabula	Conneaut, city of	390012B	do	May 3, 1974 and Apr. 11, 1975.
Oregon	Clackamas	Oregon City, city of	410021B	do	Dec. 28, 1973 and June 4, 1976.
Pennsylvania	York	Goldsboro, borough of	420925C	do	Dec. 28, 1973 and June 11, 1976.
Do	do	Hallam, borough of	420926B	do	Nov. 30, 1973 and Mar. 25, 1977.
Do	Berks	Hamburg, borough of	420134B	do	Oct. 5, 1973 and May 7, 1976.
Do	Wyoming	Meshoppen, township of	421009B	do	May 3, 1974 and Oct. 8, 1976.
Do	Bucks	Northampton, township of	420988B	do	May 17, 1974 and Mar. 5, 1976.
Do	Washington	North Strabane, township of	422151B	do	Dec. 13, 1974.
Do	Elk	Ridgway, borough of	420444B	do	Mar. 30, 1973 and July 16, 1976.
Do	Cumberland	Upper Allen, township of	420372C	do	May 11, 1973 and Mar. 29, 1974.
Do	Allegheny	West Mifflin, borough of	420085B	do	Mar. 22, 1974 and July 16, 1976.
Wisconsin	Kewaunee	Kewaunee, city of	550215B	do	Feb. 8, 1974 and Apr. 16, 1976.
Pennsylvania	Potter	East Fork District of Eulalia	421975	Feb. 19, 1980, emergency	
North Dakota	Traill	Roseville, township of	380641 New	Feb. 21, 1980, emergency	
Pennsylvania	Crawford	Greenwood, township of	422390	do	Jan. 17, 1975.
South Dakota	Roberts	Unincorporated areas	460286-A	do	Sept. 12, 1976.
New York	Albany	Watervliet, city of	360016A	Nov. 29, 1974, emergency, Jan. 2, 1980, regular, Jan. 2, 1980, suspended, Feb. 20, 1980, reinstated.	Feb. 1, 1974 and Aug. 13, 1976.
Oregon	Jackson	Talent, city of	410100B	Apr. 7, 1975, emergency Feb. 1, 1980, regular, Feb. 1, 1980, suspended, Feb. 21, 1980, reinstated.	May 31, 1974 and June 27, 1975.
Georgia	Montgomery	Uvalda, city of	130361	Feb. 28, 1980, emergency	Apr. 25, 1975.
Tennessee	Haywood	Unincorporated areas	470227	do	Dec. 30, 1977.
North Dakota	Traill	Stavanger, township of	380642 New	Feb. 29, 1980, emergency	
Texas	Colorado	Unincorporated areas	480144A	do	Oct. 25, 1974 and Apr. 8, 1977.
Pennsylvania	Westmoreland	Salem, township of	422192A	do	Sept. 20, 1974 and June 25, 1976.
California	Orange	Placentia, city of	060229B	Jan. 22, 1975, emergency, Feb. 15, 1980, regular, Feb. 15, 1980, suspended, Feb. 28, 1980, reinstated.	June 14, 1974.
Minnesota	Hennepin	Rockford, city of	270182	Feb. 5, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended, Feb. 28, 1980, reinstated.	Nov. 9, 1973.

(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: March 3, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-7630 Filed 3-12-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 536, 552

[General Order 13, Amdt. 2 and General Order 43; Docket No. 79-65]

Filing of Tariffs by Common Carriers and Certification of Company Policies and Efforts To Combat Rebating in the Foreign Commerce of the United States; Correction

AGENCY: Federal Maritime Commission.

ACTION: Correction of final rules.

SUMMARY: The final rule in this proceeding published February 27, 1980 (45 FR 12792) incorrectly indicated in the preamble and in paragraph (a) of § 552.5 *Reporting Requirements* that certifications are to be submitted on or before "March 31" of each year. The correct date should read "May 15."

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Room 11101, Washington, D.C. 20573 (202) 523-5725.

SUPPLEMENTARY INFORMATION: In FR Doc. 80-5933 appearing at page 12792 in the Federal Register of February 27, 1980 the following corrections are made:

1. On page 12794, right column, the third paragraph is corrected by changing "March 31" to "May 15."

2. On page 12795, middle column, § 552.5(a) is corrected by changing "March 31" to "May 15."

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-7886 Filed 3-12-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 80-118]

Change in the Office of General Counsel

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This amendment changes the Commission's Rules to incorporate a change in the organization of the Office of General Counsel. The creation of a Legislation Staff in the Immediate Office of the General Counsel was necessary to enable the Office to respond effectively to the increasing workload in communications-related legislation.

EFFECTIVE DATE: March 21, 1980.

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

FOR FURTHER INFORMATION CONTACT: Charles Marietta, Jr., Office of Executive Director, 632-7513.

SUPPLEMENTARY INFORMATION: In the matter of amendment of Part 0 of the Commission's rules to reflect a change in the Office of General Counsel.

Order

Adopted: February 26, 1980.

Released: March 6, 1980.

1. The Commission has before it for consideration a proposed change in the organization of the Office of General Counsel. Implementation of the proposed change would require an amendment to § 0.42 of the Commission's rules and regulations.

2. In order to promote efficiency and to allow the appropriate dedication of resources to legislation-related items, the Commission is hereby approving the separation of the Legislation element from the present Administrative Law and Legislation Division within the Office of General Counsel. The renamed Administrative Law Division will retain the functions of the current division except those relating to legislation which will be assumed by the new Legislation Staff, and adjunct to the Immediate Office of the General Counsel. These changes are necessary to provide the specialized, intense effort required by the increasing workload in communications legislation. Part 0 of the rules and regulations, which describes the organization of the Commission, is being amended to reflect these changes.

3. The amendment adopted herein pertains to agency organization. The prior notice, procedure, and effective date provisions of Section 4 of the Administrative Procedure Act, 5 U.S.C. 553, are therefore inapplicable. Authority for the amendment adopted herein is contained in Sections 4(i) and 5(b) of the Communications Act of 1934, as amended.

4. In view of the foregoing it is ordered, effective March 21, 1980, that Part 0 of the rules and regulations is amended as set forth in the Appendix below.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is hereby amended as indicated below.

1. Section 0.42 is amended to read:

§ 0.42 Units in the Office.

The Office of the General Counsel is structured into the following units:

(a) Immediate Office of General Counsel.

(b) Litigation Division.

(c) Administrative Law Division.

[FR Doc. 80-7740 Filed 3-12-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 0

[FCC 79-882]

Commission Organization; Reorganization of the Common Carrier Bureau

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Common Carrier Bureau was reorganized on December 10, 1979. This amendment changes the Commission's rules to reflect the reorganization.

EFFECTIVE DATE: March 17, 1980.

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

FOR FURTHER INFORMATION CONTACT: Joseph Hall, Office of the Executive Director, 632-7513.

SUPPLEMENTARY INFORMATION: In the matter of amendment of Part 0 of the Commission's rules to reflect a reorganization of the Common Carrier Bureau.

Order

Adopted: October 10, 1979.

Released: March 7, 1980.

1. Effective December 10, 1979, the Common Carrier Bureau was reorganized. This reorganization requires amendments to §§ 0.91 and 0.92 of the Commission's rules and regulations and deletion of §§ 0.93, 0.94, 0.95, 0.96, 0.97, 0.98, 0.99. 0.100, 0.101 and 0.102.

2. To promote operational efficiency, the Commission approved the restructuring of the Deputy Chief's position into two positions, a Deputy Chief for Policy and a Deputy Chief for Operations. The Domestic Facilities Division replaced the Facilities and Services Division while the international facilities planning, consultation and authorization responsibilities were consolidtated under an Assistant Chief for International. The Compliance and Litigation Task Force was reorganized into the Enforcement Division. The Tariff Division was restructured internally. The division's Complaints and Service Standards Branch was abolished and its staff serves as the nucleus of the new Consumer Affairs Division. The function of the Policy and Rules Division was reoriented and the division redesignated as the Policy and Program Planning Division. Part 0 of the rules and regulations is being amended to reflect these changes.

3. The amendments adopted herein pertain to agency organization. The prior notice procedure and effective date provisions of Section 4 of the Administrative Procedure Act, 5 U.S.C. 553, are, therefore, inapplicable. Authority for the amendments adopted herein is contained in Section 4(i) and 5(b) of the Communications Act of 1934, as amended.

4. In view of the foregoing, it is ordered, effective March 17, 1980, that Part 0 of the rules and regulations is

amended as set forth in the Appendix below.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is hereby amended as indicated below.

1. Section 0.91 is amended to read:

§ 0.91 Functions of the Bureau.

The Common Carrier Bureau develops, recommends and administers policies and programs for the regulation of services, facilities, rates and practices of entities which furnish interstate or foreign communication service for hire—whether by wire, radio, cable or satellite facilities—and of ancillary operations related to the provision or use of such services. The Bureau also regulates the rates, terms and conditions for cable television pole attachments, where such attachments are not regulated by a state and not provided by railroads or governmentally- or cooperatively-owned utilities.

2. Section 0.92 is amended to read:

§ 0.92 Units of the Bureau.

(a) Office of the Bureau Chief

(b) Deputy Bureau Chief for Operations

(c) Deputy Bureau Chief for Policy

(d) Assistant Bureau Chief/Management

(e) Assistant Bureau Chief/International

(f) International Facilities Planning Division

(g) International Facilities Authorization and Licensing Division

(h) Enforcement Division

(i) Domestic Facilities Division

(j) Hearing Division

(k) Mobile Services Division

(l) Tariff Division

(m) Accounting and Audits Division

(n) Consumer Affairs Division

(o) Economics Division

(p) Policy and Program Planning Division

§ 0.93 through 0.102 [Deleted]

3. Sections 0.93, 0.94, 0.95, 0.96, 0.97, 0.98, 0.99, 0.100, 0.101 and 0.102 are deleted.

[FR Doc. 80-7747 Filed 3-12-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 78-92; RM-2979; RM-3086]

FM Broadcast Station in Washburn, Wis.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (First Report and Order).

SUMMARY: This action, assigning Channel 290 to Washburn, Wisconsin, as a first FM Assignment, is in response to a petition from Silver Birch Broadcasting Company. The channel can provide for first and second aural services to significant areas. In a separate document we are proposing a different channel for Rhinelander, Wisconsin, to avoid a conflict which previously existed with the Washburn request.

EFFECTIVE DATE: April 14, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Rhinelander, Tomahawk,[1] *Washburn* and Wausau, Wisconsin), BC Docket No. 78-92, RM-2979, *RM-3086.*

First Report and Order

Adopted: February 26, 1980.

Released: March 6, 1980.

1. The Commission has before it the *Notice of Proposed Rule Making and Order to Show Cause,* 43 FR 10944, released March 14, 1978, and the *Order to Show Cause,* 44 FR 31029, released May 17, 1979. The *Notice* proposed to reassign Class C FM Channel 300 from Rhinelander, Wisconsin, to Wausau, Wisconsin, and to assign Class C FM Channel 291 to Rhinelander. The license for Station WRHN (FM) on Channel 300 would be modified to specify Channel 248 also available at Rhinelander. A counterproposal was subsequently accepted to assign Class C FM Channel 290 to Washburn, Wisconsin.[2] As will be discussed herein, we have proposed, in a separate *Further Notice,* an additional plan which will supersede previous proposals, with the purpose of assigning a third Class C channel to Wausau. These proposals do not conflict with the pending request to assign Channel 290 to Washburn, Wisconsin. Therefore, we have severed this request rather than await the outcome of the entire proceeding. The only comments of concern here were received from Silver Birch Broadcasting Company ("Silver Birch"), petitioner for the Washburn assignment.

2. To summarize the background, we have, on two separate occasions, suggested two channels (248 and 291), as substitute assignments for Channel 300 at Rhinelander in order to reassign that channel to Wausau. Unfortunately, the modification of the license for Station WRHN (FM) could not be accommodated on either occasion. Therefore, we have undertaken additional engineering studies which have determined that still another Class C FM channel (262) can be substituted at Rhinelander to free Channel 300 for use at Wausau.[3] Since the Channel 291 proposal is now superseded for consideration, Channel 290 is available for Washburn without a conflict.

3. As to the desirability of assigning Channel 290 to Washburn, Silver Birch has shown that its proposal could bring a first local aural service to Washburn (pop. 1,957),[4] and to Bayfield County (pop. 11,683). Washburn is the largest city in and the seat of Bayfield County. A detailed profile of the social, business and cultural activities in Washburn is provided by Silver Birch which adequately supports the need for a local FM station. As for a Class C assignment to this small community, Silver Birch asserts that Washburn is far removed from any significant population centers and receives most of its broadcast coverage from distant cities. In addition, we have determined from information provided by Silver Birch's engineering consultant that a Class C station operating with reasonable facilities (75 kW at 500 feet) would provide a first aural service to 3,922 persons in an area of 1,820 square kilometers (700 square miles) and a second aural service to 3,244 persons in an area of 1,380 square kilometers (500 square miles). The preclusion study shows that 12 communities with populations exceeding 2,000 would be affected. However, other FM channels are shown to be available for assignment should an interest arise.

4. Canadian concurrence in this assignment has been obtained.

5. In view of the proposed first and second aural services and first local service to Washburn and Bayfield

[1] This community has been added to the caption.

[2] The Channel 290 proposal for Washburn conflicts with the Channel 291 proposal for Rhinelander since the communities are located approximately 100 miles apart as opposed to the required 150 miles.

[3] It will be necessary to delete Channel 261A from Tomahawk, Wisconsin, on which a translator is operating. Another channel is available as a substitute there. In addition, Canadian concurrence is required.

County, we believe it is in the public interest to assign Channel 290 to Washburn, Wisconsin.

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

7. In view of the foregoing, it is ordered, That effective April 14, 1980, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended to read as follows for the community listed below:

City	Channel No.
Washburn, Wisconsin	290

8. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))
Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-7744 Filed 3-12-80; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 90

Business Radio Service Licensees

AGENCY: Federal Communications Commission.

ACTION: Editorial amendment of the rules.

SUMMARY: The FCC amends § 90.75 of its Business Radio Service rules to clarify that Business Radio Service licensees may only use 12.5 kHz offset frequencies in the 450-470 MHz band which are adjacent to frequencies in this band assigned to the Business Radio Service. Through inadvertance the phrase specifying this was omitted when this rule was clarified earlier.

EFFECTIVE DATE: March 17, 1980.

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

FOR FURTHER INFORMATION CONTACT: Eugene C. Bowler, Private Radio Bureau, Rules Division, (202) 632-6497.

In the matter of Amendment of § 90.75(d) of the Commission's rules and regulations.

Order

Adopted: February 28, 1980.

Released: March 7, 1980.

1. On February 9, 1968, the Commission adopted a *Second Report and Order* in Docket No. 13847 [1] which, *inter alia*, permitted Business Radio Service licensees to operate on 12.5 kHz offset frequencies adjacent to frequencies in the 450-470 MHz band available to the Business Radio Service.[2]

2. In its action in Docket No. 19478 [3] the Commission further expanded the permissible uses which could be made of these offsets by Business Radio Service licensees. As part of this proceeding, the Commission adopted the following language:

Section 91.554 Business Radio Service

* * * * *

(c) Except for frequencies separated by 12.5 kHz from regularly assigned frequencies in the band 460.650-460.875 MHz * * * mobile stations of two watts output power * * * may be assigned any frequency separated by 12.5 kHz from a regularly assigned frequency in the 450-470 MHz band *listed in paragraph (a) of this section* * * *

56 FCC 2d 1004 at p. 1009 (emphasis supplied)

3. Petitions for partial reconsideration of aspects of the Commission's decision in this proceeding were filed, and on May 9, 1977, the Commission released its Memorandum Opinion and Order disposing of these petitions.[4] Through inadvertance when the new language was adopted, the phrase, "listed in paragraph (a) of this section" was omitted. This was not contemplated by the Commission in its action in this matter.[5] [6]

4. This oversight has now been brought to our attention. Accordingly we are adopting this Order to correct this oversight. Since the matter involves only an editorial correction, compliance with the requirement of Section 553 of the Administrative Procedure and Judicial Review Act is not required.

5. Accordingly, it is ordered, pursuant to the authority contained in § 0.231(d) of the rules, that part 90 is amended as set forth in the attached Appendix, effective March 17, 1980.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; (47 U.S.C. 154, 303))
Federal Communications Commission.

R. D. Lichwardt,

Executive Director.

Appendix

Part 90 of the Commission's rules and regulations is amended to read as follows.

Section 90.75(d)(4) is amended by the insertion of a new phrase to read as follows:

§ 90.75 Business radio service

* * * * *

(d) ***

(4) Frequencies separated by 12.5 kHz from regularly assigned frequencies in the 457.525-460.650, 460.875-464.975, and 465.875-469.975 MHz bands listed in paragraph (b) of this section may be assigned for use by mobile stations of two watts or less output power which may also serve the function of a base, fixed, or mobile relay station. All operation shall be on a secondary, non-interference basis to regularly assigned adjacent frequency operations and shall be entitled to no protection from such stations. Wide area operations will not be authorized. The area of normal day-to-day operation shall be described in the application in terms of a maximum geographic center (latitude and longitude). Mobile stations, when used as fixed stations, shall be exempt from the limitations of § 90.75(e). Antennas of mobile stations used as fixed stations communicating with one or more associated stations located within 45 degrees of azimuth shall be directional and have a front to back ratio of at least 15 dB. Except as provided below, the height of the antenna used at any mobile station serving as a base, fixed or mobile relay station may not exceed 7 m. (20 ft.) above the ground.

(i) No limit shall be placed on the length or height above ground of any commercially manufactured radiating transmission line when the transmission line is terminated in a nonradiating load and is routed at least 7 m. (20 ft.) interior to the edge of any structure or is routed below ground level.

(ii) Sea-Based stations may utilize antennas mounted not more than 7 m. (20 ft.) above the man-made supporting structure, excluding antenna structures.

* * * * *

[FR Doc. 80-7748 Filed 3-12-80; 8:45 am]
BILLING CODE 6712-01-M

[1] *Frequency Allocation—450-470 MHz Band, Second Report and Order*, Docket No. 13847, 11 FCC 2d 648 (1968).

[2] *Ibidem* at p. 652.

[3] *Second Report and Order*, Docket No. 19478, 56 FCC 2d 1004 (1975).

[4] *Memorandum Opinion and Order*, Docket No. 19478, 64 FCC 2d 663 (1977).

[5] See generally, *Memorandum Opinion and Order*, Docket No. 19478, 64 FCC 2d 663 (1977).

[6] When the Commission consolidated Parts 89, 91, and 93 into a single Part 90 this rule section became § 90.75(d)(4).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1-153]

Delegation to the Administrator of the Research and Special Programs Administration

Correction

In FR Doc. 80-7151, appearing in the issue of Thursday, March 6, 1980, on page 14576, in the last column, under Part 1, in amendatory paragraph "3", in the second line, correct "§ 31.53" to read "§ 1.53".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 26

Public Entry and Use; National Wildlife Refuge in Iowa, and Nebraska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to public entry and use of DeSoto 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 opportunities to the public. These special regulations describe the condition under which public entry and use will be permitted.

DATES: See below.

FOR FURTHER INFORMATION CONTACT:

Tom A. Saunders, Area Manager, U.S. Fish and Wildlife Service, 2701 Rockcreek Parkway, Suite 106, North Kansas City, Missouri 64116, Telephone: 816-374-6166.

George E. Gage, Refuge Manager, DeSoto National Wildlife Refuge, RR 1, Box 114, Missouri Valley, Iowa 51555, Telephone: 712-642-4121.

SUPPLEMENTARY INFORMATION: Lee R. Fulton is the primary author of these special regulations.

General

Public entry and use on portions of DeSoto National Wildlife Refuge shall be in accordance with applicable State and Federal regulations subject to additional special regulations and conditions as indicated. Areas open to public entry and use are designated by signs and/or delineated on maps. Copies of special conditions and maps are available at refuge headquarters or from the Office of the Area Manager (addresses listed above).

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 refuge was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose 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 this 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.

§ 26.33 Special regulations concerning public access, use and recreation for individual wildlife refuges.

Public recreational activities on DeSoto National Wildlife Refuge, Missouri Valley, Iowa, are permitted from April 15 through September 30, 1979, inclusive. In addition, the refuge may be open for self-guided auto tours from March 15 through March 23, 1980, inclusive, and from October 18 through November 9, 1980, inclusive. Groups may be permitted on the refuge for wildlife observation throughout the year upon written permission from the Refuge Manager. Use of the refuge shall be in accordance with all applicable state regulations and are subject to the following special conditions:

(1) *Authorized Activities.* Public recreational activities are limited to fishing, picnicking, swimming, boating, water skiing, nature observation, photography, mushroom, blackberry and grape picking.

(2) *Open Season and Hours.* The open season for general public recreational use is from April 15, 1980, through September 30, 1980. During this period, the area is open daily form 6:00 a.m. through 10:00 p.m. Admittance onto the refuge is prohibited after 9:00 p.m. The hours for the special spring and fall auto tours will be published in area newspapers. Between the dates of September 16 and September 30, 1980, all water oriented recreational activities, except boat and bank fishing, are prohibited. Boat motors are limited to 25 horsepower or less during this period. Swimming will be permitted from May 24 through September 1, 1980, during the hours posted, and only in the designated beach area. Two separate mushroom picking areas are open daily to the public from April 15 through May 31, 1980, hours of use are the same as for the general use area.

(3) *Open Area.* The area open for general public use including blackberry and grape picking comprises approximately 2,400 acres, and the special mushroom picking areas comprise approximately 1,100 acres. These areas are delineated on a map available at the refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, Suite 106, Rockcreek Office Building, 2701 Rockcreek Parkway, North Kansas City, Missouri 64116. Maps of the open areas are also posted or available for handout at entrance points.

(4) *Access.* Entry onto the open area is permitted only at gates or points of entry specifically posted for this purpose.

(5) *Other provisions.* (a) The use of air mattresses, innertubes, beach balls and all other flotation devices, other than life preservers, is prohibited on refuge waters.

(b) The possession of bottles or cans is prohibited on the designated swimming beach.

(c) The use of fire is permitted, but only in grills.

(d) Access to refuge waters with air boats or house boats is prohibited.

(e) During weekends and holidays boats with motors larger than 25 horsepower are prohibited from launching at the ramps south of the Bertrand site.

(f) Boats with toilets that flush directly into the water are not allowed on refuge waters unless such toilets are sealed from use.

(g) The maximum number of power boats greater than 25 horsepower that will be permitted on refuge waters at any one time is 125.

(h) Open alcoholic beverages are prohibited on any mechanically powered boat while the boat is in operation.

(i) Since DeSoto Lake is long and narrow, all boaters must keep to the right and maintain a highway type traffic pattern.

(j) A portion of the refuge lake is posted as a "No Ski Zone". No water skiing is allowed in this area.

(k) All boats are prohibited from loading or unloading passengers from the swimming area.

(l) Operation of boats, excluding sailboats, with persons on deck or gunwales is prohibited.

(m) All boat and bank fishermen will be permitted to use the entire lake.

(n) Domestic animals, including dogs, cats, horses, and cattle are not permitted on the refuge.

(o) Removal of all plant life, including down timber, is prohibited. This restriction does not apply to mushrooms, blackberries, and grapes.

(p) During the special self-guided auto tours, visitors are required to remain in their cars.

(q) Violators of refuge regulations may be required to remove themselves from the area.

The provisions of this special regulation supplement the regulations which govern public access, use, and recreation on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 26. The public is invited to offer suggestions and comments at any time.

Dated: March 6, 1980.

Lee R. Fulton,

Acting Refuge Manager.

[FR Doc. 80-7704 Filed 3-12-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 33

Sport Fishing; National Wildlife Refuges in Alabama, Arkansas, Louisiana, and Mississippi

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to sport fishing of certain National Wildlife Refuges is compatible with the objectives for which these areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. These special regulations describe the conditions under which sport fishing will be permitted on portions of certain National Wildlife Refuges in Alabama, Arkansas, Louisiana, and Mississippi.

DATES: March 1, 1980 through February 28, 1981.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate refuge manager at the address or telephone number listed below:

Area Manager, U.S. Fish and Wildlife Service, 200 East Pascagoula Street, Suite 300, Jackson, Mississippi 39201, Telephone (601) 969-4900.

Refuge Manager, Choctaw National Wildlife Refuge, P.O. Box 608, 2704 Westside College Avenue, Jackson, Alabama 36545, Telephone (205) 246-3583.

Refuge Manager, Wheeler National Wildlife Refuge, Box 1643, Decatur, Alabama 35602, Telephone (205) 353-7243.

Refuge Manager, Big Lake National Wildlife Refuge, Box 67, Manila, Arkansas 72442, Telephone (501) 564-2429.

Refuge Manager, Felsenthal National Wildlife Refuge, P.O. Box 279, Crossett, Arkansas 71635, Telephone (501) 364-2429.

Refuge Manager, Holla Bend National Wildlife Refuge, Box 1043, Russellville, Arkansas 72384, Telephone (501) 968-2800.

Refuge Manager, Wapanocca National Wildlife Refuge, P.O. Box 279, Turrell, Arkansas 72042, Telephone (501) 343-2595.

Refuge Manager, White River National Wildlife Refuge, Box 308, DeWitt, Arkansas 72042, Telephone (501) 946-1468.

Refuge Manager, Catahoula National Wildlife Refuge, P.O. Drawer LL, Jena, Louisiana 71342, Telephone (318) 992-5261.

Refuge Manager, D'Arbonne National Wildlife Refuge, P.O. Box 3065, Monroe, Louisiana 71201, Telephone (318) 325-1735.

Refuge Manager, Delta-Breton National Wildlife Refuge, Venice, Louisiana 70091, Telephone (504) 3-3232.

Refuge Manager, Lacassine National Wildlife Refuge, Route 1, Box 186, Lake Arthur, Louisiana 70549, Telephone (318) 774-2750.

Refuge Manager, Sabine National Wildlife Refuge, MRH Box 107, Hackberry, Louisiana 70645, Telephone (318) 762-5135.

Refuge Manager, Hillside National Wildlife Refuge, P.O. Box 107, Yazoo City, Mississippi 39194, Telephone (601) 746-8511.

Refuge Manager, Noxubee National Wildlife Refuge, Route 1, Box 84, Brooksville, Mississippi 39739, Telephone (601) 323-5548.

SUPPLEMENTAL INFORMATION: The primary author of this document is Alton Dunaway.

General

Sport fishing on portions of the following refuges shall be in accordance with applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Portions of refuges which are open to sport fishing are designated by signs and/or delineated on maps. Special conditions applying to individual refuges and maps are available at refuge headquarters or from the Office of the Area Manager (addresses listed above).

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: (a) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (b) 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 these refuges were 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.

PART 33—SPORT FISHING

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

Alabama

Choctaw National Wildlife Refuge

(1) Sport fishing is permitted year-round in all refuge waters (2,000 acres) not closed by signs.

(2) Fishing permitted in daylight hours only.

(3) Boats and motors are permitted.

(4) Trotlines are not permitted in refuge waters.

(5) Equipment (boats, trailers, vehicles, etc.) not permitted overnight.

(6) Boat launching is permitted at the refuge's north end boat ramp.

Wheeler National Wildlife Refuge

(1) Sport fishing is permitted year-round in all refuge waters (18,000 acres) with the exception of the display pool adjoining the observation building, the area immediately north of its dike, and along the headquarters shoreline.

Arkansas

Big Lake National Wildlife Refuge

(1) Sport fishing is permitted in all refuge waters (5,500 acres) from March 1, 1980, through October 31, 1980, during daylight hours only. The area around Floodway Dam south of the Highway 18 bridge is open to bank fishing year-round, 24 hours a day.

(2) Limb lines and bow fishing are not permitted.

(3) A length of cotton line of at least 24 inches must be attached to each end of a trotline and must be extended from the point of attachment into the water.

(4) Boats may only be launched in areas designated for that use. Airboats are prohibited.

Felsenthal National Wildlife Refuge

(1) Sport fishing is permitted on approximately 36,000 acres. The sport fishing season will run year-round and

refugewide, except closed in the designated waterfowl sanctuary area during the waterfowl hunting season. Certain areas may be signed as closed for fish management purposes. The main channel of the Ouachita River crossing the sanctuary area and borrow pits adjacent to U.S. Highway 82 will remain open year-round.

(2) Frogging is open for State season in the same areas as for sport fishing.

(3) Camping is allowed only adjacent to readily identifiable fishing access roads and river channels within the areas open to fishing.

Holla Bend National Wildlife Refuge

(1) Sport fishing is permitted in all waters from March 1, 1980, through October 31, 1980, except the goose pen which is closed.

(2) Visitors may enter the refuge when the entrance gate unlocks each morning and must leave the refuge by the time posted at the entrance gate.

Wapanocca National Wildlife Refuge

The 1980 sport fishing season will be closed due to the fish management program in Wapanocca Lake.

White River National Wildlife Refuge

(1) Sport fishing is permitted refuge wide from March 1, 1980, through October 31, 1980 except on farm unit ponds.

(2) The taking of frogs is permitted from April 15, 1980, through October 31, 1980, on waters open to sport fishing.

(3) Boats left on refuge overnight must have owners name affixed in a conspicuous manner. All boats must be removed from the refuge by October 31, 1980.

(4) Persons fishing trotlines for sport purposes are required to tend them every 24 hours. Lines must be reset when exposed due to receding water and must be removed when unattended.

Louisiana

Catahoula National Wildlife Refuge

(1) Sport fishing is permitted from 30 minutes before sunrise to 30 minutes after sunset during the period of March 1, 1980, through October 31, 1980.

(2) Gasoline powered outboard motors are not allowed in Cowpen Bayou. Electric trolling motors only may be used. Outboard motors may be used in Duck Lake Marsh.

(3) Boats may not be left in the refuge overnight.

(4) No camping or campfires permitted.

(5) No yo-yo's, trotlines, or nets permitted.

D'Arbonne National Wildlife Refuge

(1) Sport fishing is permitted year-round on all refuge waters in accordance with State regulations.

Delta-Breton National Wildlife Refuge

(1) Sport fishing, sport shrimping, and sport crabbing are permitted in all refuge waters (48,000 acres) during daylight hours only throughout the year except during the waterfowl hunting season when the refuge is closed.

(2) Sport shrimping trawls are restricted to a maximum of 25 feet.

(3) Air thrust boats are prohibited.

Lacassine National Wildlife Refuge

(1) Sport fishing is permitted on approximately 28,000 acres from one hour before sunrise until one hour after sunset during the period March 1, 1980, through October 15, 1980.

(2) Entry into Lacassine Pool is restricted to the four rollerway sites.

(3) Boats may not be left inside the refuge overnight.

(4) Boats with outboard motors totaling not more than 25 hp. are permitted in Lacassine Pool. There are no size restrictions on boats and motors used in canals and streams. Airboats of any size may not be used on the refuge.

Sabine National Wildlife Refuge

(1) Sport fishing and sport crabbing are permitted on approximately 40,000 acres from March 1, 1980, through October 15, 1980. The Highway 27 Road Canal will be open to bank fishing year-round. Parking lots are reserved for waterfowl hunters during the waterfowl season.

(2) Fishermen must not enter refuge waters earlier than 1 hour before sunrise and shall leave refuge waters by 1 hour after sunset.

(3) Boats may be moored only at designated areas on Pool 1-b or Pool 3. Boats left at these mooring sites must bear owner's name and address. Boats found moored outside designated areas or without required identification will be removed from the refuge prior to the close of the fishing season.

(4) Boats may not be dragged across levees for access to pool areas. Travel over the refuge is restricted to waterways. Fishermen are not to walk canal banks or levees. Boat access into Pool 1-b is restricted to bridge sites on Road Canal.

(5) Boats with not more than 25 hp. are permitted on refuge lakes and impoundments. No size restrictions on boats and motors in the canals and bayous.

Mississippi

Hillside National Wildlife Refuge

(1) Sport fishing is permitted in all refuge waters from March 1, 1980, through October 31, 1980. The borrow pit ponds located long the Corps of Engineers' Hillside Floodway levee north of the Thornton-Tolersville Road are open year-round except for those signed as closed for fish management purposes.

(2) Trotlines, yo-yo's and nets are prohibited in the borrow pit ponds only.

(3) Fishing from bridges is prohibited.

Noxubee National Wildlife Refuge

(1) Sport fishing is permitted refuge wide during daylight hours only from March 1, 1980, through October 31, 1980 except for those areas signed as closed for fish management purposes.

(2) No permit is required.

(3) No limb lines or limb hooks are permitted in Bluff or Loakfoma lakes.

(4) All trotlines will be removed from the refuge by the close of the refuge fishing season.

(5) Private boats may not be left overnight on the refuge.

(6) No snag lines permitted.

The provisions of these special regulations supplement the general regulations which govern fishing on wildlife refuge areas which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

Dated: March 6, 1980.

James H. Stewart,

Acting Area Manager.

[FR Doc. 80-7749 Filed 3-12-80; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 45, No. 51
Thursday, March 13, 1980

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.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Revision to Method of Establishing Size Standards and Definitions of Small Business

Correction

In FR Doc. 80-7111 appearing on page 15442 in the issue of Monday, March 10, 1980, made the following corrections to the table in § 121.2:

(1) On page 15446, at the top of the first column, the designation "Major Group 27—Printing, Publishing, and Allied Industries" should have read "Major Group 20—Food and Kindred Products".

(2) At the top of the third column of page 15446, the designation "Major Group 24—Lumber and Wood Products, Except Furniture" should have read "Major Group 23—Apparel and other Finished Products Made from Fabrics and Similar Materials".

(3) On page 15447, at the top of the first column, the designation "Major group 35—Machinery, Except Electrical" should have read "Major Group 27—Printing, Publishing, and Allied Industries".

(4) At the top of the second column of page 15447, the designation "Major Group 31—Leather and Leather Products" should have read "Major Group 30—Rubber and Miscellaneous Plastics Products".

(5) On page 15448, at the top of the first column, the designation "Major Group 44—Water Transportation" should have read "Major Group 35—Machinery, Except Electrical".

(6) On page 15449, at the top of the first column, the designation "Major Group 59—Miscellaneous Retail" should have read "Major Group 42—Motor Freight Transportation and Warehousing".

(7) On page 15449, at the top of the third column, the designation "Major group 53—General Merchandise Stores" should have read "Major Group 52—Building Materials, Hardware, Garden Supply, and Mobile Home Dealers".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 80-ASW-4]

Proposed Designation of Transition Area; Medford, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The nature of the action being taken is to propose designation of a transition area at Medford, Okla. The intended effect of the proposed action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Medford Municipal Airport. The circumstance which created the need for the action is the proposed establishment of a nondirectional radio beacon (NDB) on the airport. Coincident with this action the airport is changed from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR).

DATES: Comments must be received on or before April 14, 1980.

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

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

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

FOR FURTHER INFORMATION CONTACT: Manuel R. Hugonnett, Airspace and Procedures Branch, ASW-536, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G § 71.181 (45 FR 445) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting Instrument Flight Rules (IFR) activity. Designation of a transition area at Medford, Okla., will necessitate an amendment of this subpart.

Comments Invited

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before April 14, 1980, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. 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 Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area at Medford, Okla. The FAA believes this action will enhance IFR operations at the Medford Municipal Airport by providing controlled airspace for aircraft executing proposed instrument approach procedures using the proposed NDB on the airport.

Subpart G of Part 71 was republished in the Federal Register on January 2, 1980 (45 FR 445).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) by adding the Medford, Okla. transition area as follows:

Medford, Okla.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Medford Municipal Airport (latitude 36°47'26"N., longitude 97°44'56"W.), and within 4 miles each side of the 347° bearing from the NDB (latitude 36°47'35"N., longitude 97°44'46"W.) extending from the 5-mile radius area to 8.5 miles north of the NDB.

(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)))

Note.—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 Fort Worth, Tex., on February 28, 1980.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 80-7571 filed 3-12-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-ASW-5]

Proposed Designation of Transition Area: Antlers, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The nature of the action being taken is to propose designation of a transition area at Antlers, Okla. The intended effect of the proposed action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Antlers Municipal Airport. The circumstance which created the need for the action is the proposed establishment of a nondirectional radio beacon (NDB) located on the airport.

DATES: Comments must be received on or before April 14, 1980.

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

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Forth Worth, Texas.

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

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, Texas 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G § 71.181 (45 FR 445) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting Instrument Flight Rules (IFR) activity. Designation of a transition area at Antlers, Okla., will necessitate an amendment to this subpart.

Comments Invited

Interested persons may submit such written data, views, or arguments as they may desire. Communication should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before April 14, 1980, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administation officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. 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 Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area at Antlers, Okla. The FAA believes this action will enhance IFR operations at the Antlers Municipal Airport by providing controlled airspace for aircraft executing proposed instrument approach procedures using the proposed NDB located on the airport. Supart G of Part 71 was republished in the Federal Register on January 2, 1980 (45 FR 445).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) by adding the Antlers, Okla., transition area as follows:

Antlers, Okla.

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Antlers Municipal Airport (latitude 34°11'34"N., longitude 95°38'59"W.) and within 3.5 miles each side of the 172° bearing of the NDB (latitude 34°11'30"N., longitude 95°39'06"W.) extending from the 6.5 mile radius area to 8.5 miles south of the NDB.

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

Note.—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 comment period of less than 45 days is appropriate.

Issued in Fort Worth, Tex., on February 28, 1980.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 80-7572 Filed 3-12-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-GL-10]

Proposed Alteration 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 additional controlled airspace near Kokomo, Indiana to accommodate a new instrument Landing System Runway 23 (ILS Runway 23) instrument approach procedure into the Kokomo Municipal Airport, established on the basis of a request from the Kokomo Airport officials to provide that airport with an additional instrument approach procedure. The intended effect of this action is to insure segregation of the aircraft using approach procedure in instrument weather conditions and other aircraft operating under visual weather conditions.

DATES: Comments must be received on or before April 14, 1980.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 80-GL-10, 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.

SUPPLEMENTAL INFORMATION: The floor of the controlled airspace will be lowered from 1200 feet above surface to 700 feet above surface for a distance of approximately 4 miles northeast of that now depicted. The development of the proposed procedure necessitates the FAA to alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitudes 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. 80-GL-10, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before April 14, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NRPMs 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 alter the transition area airspace near Kokomo, Indiana. Subpart G of Part 71 was republished in the Federal Register on January 2, 1980 (45 FR 445).

The Proposed Amendment

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

In § 71.181 (45 FR 445) the following transition area is amended to read:

Kokomo, Ind.

That airspace extending upward from 700 feet above the surface within an 8½-mile radius of Grissom AFB (latitude 40°38'55"N; longitude 86°09'10"W); within a 6½-mile radius of Kokomo Municipal Airport, (latitude 40°31'45"N; longitude 86°03'30"W); within a 5-mile radius of Logansport, Indiana, Municipal Airport (latitude 40°42'35"N., longitude 86°22'45"W.); within 4½-mile each side of the Grissom AFB ILS localizer southwest course, extending from the 8½-mile and 6½-mile radii areas to 4½-mile southwest of the OM; within 3 mile each side of the Kokomo VORTAC 045° radial, extending from the 6½-mile radius to 12 miles northeast of the VORTAC; and within 3 miles each side of the Kokomo VORTAC 129° radial, extending from 6½-mile radius area to 8 miles southeast of the VORTAC.

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

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the 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. 80-GL-10, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Moines, Ill., on February 28, 1980.

Wm. S. Dalton,

Acting Director, Great Lakes Region.

[FR Doc. 80-7574 Filed 3-12-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-GL-12]

Proposed Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The nature of this federal action is to alter existing controlled airspace near Wilmar, Minnesota to accommodate a revised instrument approach procedure into the Willmar Municipal Airport. 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 weather conditions.

DATE: Comments must be received on or before April 14, 1980.

ADDRESS: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 80-GL-12, 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 Plains, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace will be lowered from 1200 feet above surface to 700 feet above surface for a distance of approximately 1 mile southest of that now depicted. Inaddition, the floor of controlled airspace south and west will be raised from 700 feet above the surface to 1200 feet, since it is no longer needed to accomplish instrument operation. The minimum descent altitude for this revised 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. 80-GL-12, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before April 14, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NRPMs 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 alter the transition area airspace near Willmar, Minnesota. Subpart G of Part 71 was republished in the Federal Register on January 2, 1980 (45 FR 445).

The Proposed Amendment

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

§ 71.181 (45 FR 445) the following transition area is amended to read:

Willmar, Minn.

That airspace extending upward from 700 feet above the surface within a 6.5 statute mile radius of the Willmar Municipal Airport, Willmar, Minnesota (latitude 45°06'45"N; longitude 95°05'15"W) and within 3.0 miles either side of the 091° true bearing and the 270° true bearing from the Willmar, Minnesota (ILL) VOR (latitude 45°06'50"N; longitude 95°05'12"W) extending from the 6.5 statute mile radius zone to 8.5 statute miles.

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

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the 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. 80-GL-12, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Ill., on February 28, 1980.

Wm. S. Dalton,

Acting Director, Great Lakes Region.

[FR Doc. 80-7575 Filed 3-12-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-SO-3]

Proposed Designation of Transition Area Albemarle, N.C.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule will designate the Albemarle, North Carolina, transition area, and will lower the base of controlled airspace in the vicinity of the Stanly County Airport from 1200 to 700 feet AGL. A public use standard instrument approach procedure has been developed to the airport and additional controlled airspace is required to protect aircraft Instrument Flight Rule (IFR) operations.

DATE: Comments must be received on or before: April 14, 1980.

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before April 14, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

Availability of NPRM

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

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Albermarle, North Carolina, 700-foot transition area. This action will provide controlled airspace protection for aircraft executing the NDB RWY 4

standard instrument approach procedure at the Stanly County Airport. The Stanly County (nonfederal) nondirectional radio beacon, which will support the approach procedure, is proposed for establishment in conjunction with designation of the transition area.

The proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 (45 FR 445), of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by adding the following:

Albemarle, N.C.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Stanly County Airport (Lat. 35°24'51"N., Long. 80°09'08"W.); within 3 miles each side of 208° bearing from the Stanly County RBN (Lat. 35°24'42"N., Long. 80°09'23"W.), extending from the 7-mile radius area to 8.5 miles southwest of the RBN.

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

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

Issued in East Point, Ga., on February 28, 1980.

Louis J. Cardinali,

Director, Southern Region.

[FR Doc. 80-7395 Filed 3-12-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

20 CFR Parts 404, 410

Federal Old-Age, Survivors, and Disability Insurance, and Federal Coal Mine Health and Safety Act of 1969, Black Lung Benefits; Opportunity for Oral Hearing Before Overpayment Recovery

AGENCY: Social Security Administration, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Social Security Administration (SSA) plans to publish proposed regulations to implement the Supreme Court decision in *Califano* v. *Yamasaki*. The proposed regulations will provide that SSA will give an overpaid individual an opportunity for a prerecovery oral hearing if he or she requests waiver of recovery and waiver is denied. Benefits will not be withheld and refund need not be made until after an overpaid individual has been given an opportunity for a prerecovery oral hearing to discuss SSA's denial of a request for waiver of recovery. The regulations will also codify some procedural rights which SSA has been giving to overpaid individuals as a result of earlier court decisions.

The proposed regulations will amend 20 CFR Part 404, Subpart J and 20 CFR Part 410, Subpart F. The Department of Health, Education, and Welfare has classified the proposed amendments as policy significant.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret Smilow, Social Security Administration, 1-G-4 West High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235—Telephone (301) 594-6824.

DATED: February 19, 1980.

William J. Driver,

Commissioner of Social Security Administration.

[FR Doc. 80-7866 Filed 3-12-80; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 1710, 1715, 1720, 1730

[Docket No. R-80-778]

Interstate Land Sales Registration, Disclosure and Exemptions; Purchaser's Revocation Rights, Sales Practices and Standards; Formal Procedures and Rules of Practices; Transmittal of Proposed Rule to Congress

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 proposed 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 following rulemaking document:

24 CFR Parts 1710, 1715, 1720 and 1730—Office of Interstate Land Sales Registration—Disclosure and Exemptions; Purchaser's Revocation Rights, Sales Practices and Standards; Formal Procedures and Rules of Practice; Establishment of New Part

This proposed rule would implement amendments to the Interstate Land Sales Full Disclosure Act pursuant to the Housing and Community Development Amendments of 1979. This rule pertains to new exemptions from the Act's registration requirements, the anti-fraud provisions, consumer protections and remedies, and relationships between states and the Federal government in land sales.

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

Issued at Washington, D.C., March 7, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-7800 Filed 3-12-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 5

[Notice No. 336; RE: Notice No. 332]

Grape Brandy; Extension of Comment Period to the Advance Notice of Proposed Rulemaking

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Extension of comment period.

SUMMARY: This notice extends the comment period for Notice No. 332 (45 FR 50), an advance notice of proposed rulemaking seeking advise and analytical data from the alcoholic beverage industry and consumers' views as to whether standards of identity (types) should be established for "varietal grape brandy," "vintage grape brandy," and "vintage-varietal brandy". According to Notice No. 332, the comment period is to end on April 1, 1980. The comment period is being extended an additional 60 days at the

request of a trade association representing grape brandy producers.

DATE: Comments must be received on or before June 2, 1980. (The comment period is extended from April 1 to June 2, 1980.)

ADDRESS: Send comments on Notice No. 332 to: Director, Bureau of Alcohol, Tobacco and Firearms, Post Office Box 385, Washington, D.C. 20044. Attn: Chief, Regulations and Procedures Division.

FOR FURTHER INFORMATION CONTACT: A. N. Stickney (202-566-7626).

Signed: March 7, 1980.

G. R. Dickerson,

Director.

[FR Doc. 80-7739 Filed 3-12-80; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF COMMERCE

International Trade Administration

32A CFR Parts 651, 663

Titanium (DPS Order 3); Proposed Rulemaking

AGENCY: Office of Industrial Mobilization, Department of Commerce.

ACTION: Proposed Rulemaking and Request for Comments.

SUMMARY: In the interest of creating a more orderly and equitable environment for the titanium industry, OIM is proposing to issue DPS Order 3—Titanium—to provide for titanium ingot and titanium mill products set-asides and to add titanium sponge to the exclusion list by amending Schedule II to DPS Reg. 1—Materials and Services Not Subject to BDC (now OIM) Rating Authority.

The salient feature of the proposed titanium set-aside is that a producer or seller of titanium ingot or titanium mill products may refuse a rated order, unless specifically directed otherwise by OIM, when the rated order: 1. Calls for delivery in a quarter in which the set-aside quantity has been committed to rated orders; 2. calls for delivery in less than a minimum lead time; or 3. calls for delivery in less than an established minimum order quantity.

The amendment to Schedule II to DPS Reg. 1 would exclude titanium sponge from being subject to priority ratings, although orders for titanium sponge would remain subject to directives issued by OIM.

DATE: Comments by April 11, 1980.

ADDRESS: Iain S. Baird, Director, Priorities and Allocations Division, Office of Industrial Mobilization, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Iain S. Baird, Director, Priorities and Allocations Division, Office of Industrial Mobilization, U.S. Department of Commerce, Washington, D.C. 20230, (202) 377-2233.

SUPPLEMENTARY INFORMATION: The Office of Industrial Mobilization (OIM) is responsible for the administration of the Defense Materials System (DMS) and the Defense Priorities System (DPS). These regulatory systems are implemented by DMS Regulation 1 and DPS Regulation 1 and related regulations and orders. Basically, these regulations provide that rated contracts and purchase orders for approved programs must be given preference over other contracts or orders.

The current high level of military and commercial activity in the aerospace industry has resulted in lengthening lead times and strains on the titanium industry's ability to supply the current requirements of military and atomic energy programs.

DPS Regulation 1 requires the mandatory acceptance and performance of *all* rated orders received (with specified exceptions). This mandatory acceptance requirement does not provide automatically for an equitable distribution of the defense "burden" among the several producers but relies on normal market patterns.

The titanium ingot and titanium mill products set-asides would establish limits on a company's mandatory acceptance obligation during a given calendar quarter. Production beyond the set-asides may then be devoted to commercial sales, unless specifically directed otherwise by OIM. Collectively, the overall set-asides for the entire titanium industry would be sufficient to meet all defense rated requirements.

The promulgation of DMS/DPS regulations is exempt from the rulemaking procedures of the Administrative Procedures Act by Section 709 of the Defense Production Act. Nevertheless, in the interest of involving the public in the rulemaking process, OIM is inviting comments. Because of the need for a timely resolution of this issue, OIM is setting April 11, 1980, as the date by which comments must be submitted.

Comments may take the form of proposed regulatory language, narrative discussion, hypothetical case situations, or any other appropriate format.

Written public comments accompanied by a request that part or all of the material submitted be treated confidentially will not be accepted. Such comments and materials will be returned to the submitter and will not be considered.

Written comments (three copies) should be addressed to: Office of Industrial Mobilization, Room 4104, U.S. Department of Commerce, Washington, D.C. 20230.

The public record concerning these proposals will be maintained in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 3012, U.S. Department of Commerce, 14th and Constitution Avenue N.W., Washington, D.C. 20230. Records in this facility may be inspected and copied in accordance with regulations published in part 4 of Title 15 of the Code of Federal Regulations. Information pertaining to the inspection and copying of records at the facility may be obtained from Ms. Patricia L. Mann, the International Trade Administration's Freedom of Information Officer, at the above address or by calling (202) 377-3031. This procedure shall not, however, apply to communications from agencies of the United States or foreign governments.

It has been determined that this regulatory revison is "not significant" within the meaning of Department of Commerce Administrative Order 218-7 (44 FR 2082 et seq., January 9, 1979) and Industry and Trade Administration Administrative Instructions 1-6 (44 FR 2093 et seq., January 9, 1979), which implement Executive Order 12044 (43 FR 12661 et seq., March 23, 1978), "Improving Government Regulations."

The proposed actions have also been reviewed in accordance with Department of Commerce Administrative Order 216.6 (40 F.R. 5175) and the National Environmental Policy Act of 1969 and have been determined not to be of a nature that requires the preparation of an environmental impact statement.

In consideration of the foregoing, Part 651—Amendment 7 and a new Part 663, Chapter VI of Title 32A, Code of Federal Regulations, are proposed as set forth below.

[Amdt. 7]

PART 651—BASIC RULES OF THE DEFENSE PRIORITIES SYSTEM (DPS REG. 1)

Schedule II to DPS Reg. 1—Materials and Services Not Subject to BDC Rating Authority

Part A [Amended]

In Part A insert "titanium sponge" between "steam heat, central" and "waste paper".

(Defense Production Act of 1950, as amended, (64 Stat. 816; 50 U.S.C. App. 2061 et seq.); Executive Order 10480, as amended, 3 CFR p. 919, (1949–1953 Comp.), 50 U.S.C. App. 2153 "NT (1976)"; Executive Order 12148 (44 FR 43239); DMO 3, 32A CFR 103)

PART 663—TITANIUM (DPS ORDER 3)

Sec.
1 Acceptance and Rejection of Rated Orders.
2 Titanium Sponge.
3 Reports.
4 Relationship to DPS Reg. 1.

Authority: Defense Production Act of 1950, as amended, (64 Stat. 816; 50 U.S.C. App. 2061 et seq.); Executive Order 10480, as amended, 3 CFR p. 919, (1949–1953 Comp.), 50 U.S.C. App. 2153 "NT (1976)"; Executive Order 12148 (44 FR 43239); DMO 3, 32A CFR 103.

Sec. 1 Acceptance and rejection of rated orders.

(a) Each domestic producer or seller of titanium ingot or titanium mill products must accept all rated orders received for titanium ingot or titanium mill products as required by DPS Reg. 1, except that a producer or seller may reject a rated order in any one of the following situations:

(1) Any rated order received after the producer or seller has accepted rated orders for delivery in a calendar quarter totaling the appropriate set-aside quantity. The set-aside quantity is the applicable set-aside percentage of the producer's or seller's average quarterly (one fourth of the annual) total shipments of the product or ingot in calendar year 1979 (against rated and unrated orders), including intracompany transfers. The set-aside percentages and the base year may be revised from time to time by the Office of Industrial Mobilization by means of written notice to each producer or seller. The applicable set-aside percentages are:

Ingot	45
Sheet and strip	65
Plate	65
Forging and extrusion billet	50
Rod and bar	50
Fastener stock and wire	50
Extrusions (other than tubing)	80
Pipe and tubing	15
Other	45

(2) Any rated order calling for delivery of less than the usual minimum commercial procurable quantity.

(3) Any rated order calling for delivery of mill products in less than the normal *production* lead time for that product. However, the producer or seller must not reject a rated order solely because the order calls for delivery in less than currently quoted *commercial* lead times.

(4) Any rated order calling for delivery of titanium ingot in less than 90 days prior to the first day of the quarter in which delivery is requested.

(5) Any of the cases provided for in Sec. 18 of DPS Reg. 1.

(b) If the inability to obtain titanium ingot or titanium mill products when needed would result in the failure by a person to fill a rated order, that person may apply to OIM for special priorities assistance, using Form ITA-999, through the appropriate defense agency.

Sec. 2 Titanium sponge.

Titanium sponge is not subject to priority ratings under DPS Reg. 1 (see Schedule II to DPS Reg. 1) and is not subject to the provisions of this order. However, this does not limit OIM's authority to direct shipments, if necessary. In this regard, application for special priorities assistance should be made to OIM for its consideration, using Form ITA-999, through the appropriate defense agency.

Sec. 3 Reports.

(a) Each producer or seller covered by this Order must notify the Office of Industrial Mobilization in writing within five working days after the producer's or seller's set-aside for a given quarter is filled.

(b) Each producer or seller of titanium ingot covered by this Order must report by the 15th day of each month to the Office of Industrial Mobilization in writing the total quantity of rated orders for titanium ingot (thousands of pounds) accepted during the previous month for delivery in future quarters, by quarter of scheduled delivery.

Sec. 4 Relation to DPS Reg. 1.

Except as provided for in this Order, all provisions of DPS Reg. 1 remain in effect. The Office of Industrial Mobilization retains the authority to issue "directives" which can take precedence over the provisions of this order.

Dated: March 7, 1980.

Stanley J. Marcuss,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 80-7724 Filed 3-12-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 78-173]

Newark Bay, Passaic River, and Hackensack River, N.J., Drawbridge Operation Regulations

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rule and invitation for comments, data, and alternative suggestions on recommended options.

SUMMARY: The Coast Guard is proposing to amend the regulations for the Newark Bay, Passaic River, and Hackensack River drawbridges to set definite times during peak commuter hours when certain railroad drawbridges will not open for the passage of vessels. An amendment is necessary because of the growing importance and frequency of rail passenger service during rush hours, mariners' complaints of long delays before a drawbridge is opened both during and outside of rush hours, and a need to update the existing regulations. Before deciding on specific times when the drawbridges will be closed to navigation, the Coast Guard is soliciting the views of all interested persons on the options available in an effort to accommodate the reasonable needs or both rail and marine interests. Two of the options discussed in this document are:

Portal Bridge, Hackensack River

Option 1: 7:22 to 8:46 a.m. and 4:23 to 5:57 p.m.

Option 2: 7:22 to 10 a.m. and 4:30 to 7:25 p.m.

Dock Bridge, Passaic River

Option 1: 7:18 to 8:40 a.m. and 4:23 to 6:12 p.m.

Option 2: 7:18 to 9:52 a.m. and 4:35 to 7:30 p.m.

The Coast Guard will consider other options suggested by the public, including a scheduled expansion from shorter closed periods to longer ones.

DATES: 1. Comments must be received on or before May 12, 1980.

2. The Coast Guard will hold two public hearings on April 23, 1980.

ADDRESSES: 1. Comments and requests to speak at the public hearing should be submitted to and comments are available for examination at the office of the Commander (oan-br), Third Coast Guard District, Governors Island, New York, N.Y. 10004. (212) 668-7165 or 7994.

2. The public hearings will be held on April 23, 1980 as follows: a. Beginning at 1:30 p.m., at City Council Chambers, City Hall, 920 Broad Street, Newark, N.J. 07102.

b. Beginning at 7:30 p.m., at City Council Chambers, City Hall, 176 Park Ave., Rutherford, N.J. 07070.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/14), Room 1414, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593 ((202) 426-0924).

SUPPLEMENTARY INFORMATION: Interested persons are invited to

participate in this proposed rulemaking by submitting written comments, data, arguments or alternative suggestions. Persons submitting comments should include their name and address, identify this notice (CGD 78-173), and give reasons for their views. Persons desiring acknowledgement that their comment has been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Third Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal.

A public meeting was held in New York City on November 17, 1977, to discuss the problems of rail and marine traffic on these waterways and possible solutions to these problems. Public hearings are now planned to receive oral comments on this rulemaking. Interested persons are invited to attend these hearings and present oral or written statements. It is requested that anyone desiring to make comments at the public hearings notify the Commander (oan-br), Third Coast Guard District, at the address listed above, at least 10 days before the scheduled date of the public hearings and specify which hearing they plan to attend and the approximate length of time needed for the presentation. Comments at each public hearing will normally be heard in the order the request to comment is received. It is urged that a written summary or copy of the oral presentation be included with the request. The final regulatory scheme will be determined after review of the comments received and review of the record of both the public meeting and the public hearings and other relevant data.

This document has been prepared and reviewed under the Department of Transportation's "Regulatory Policies and Procedures" (44 FR 11034, February 26, 1979). This rulemaking is considered significant because of the substantial public interest anticipated and because it involves coordination with other agencies within the Department. However, it does not meet the criteria requiring a regulatory analysis. A draft evaluation has been prepared and is included in the public docket. As discussed later in this document, sufficient information and data on which to base an estimate or analysis of the economic and other consequences of this rulemaking is not presently available. This information is solicited in this document. The draft evaluation discusses alternatives, such as enforcing the present regulations or building high-level fixed bridges, neither of which is considered a viable alternative at this time. A copy of the draft evaluation may be obtained from: Commander (oan-br), Third Coast Guard District, Governors Island, New York, N.Y. 10004.

Drafting Information

The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

Discussion of the Proposed Regulations

The Hackensack and Passaic River area is heavily industrialized and populated and the industries and persons in this area depend on water, rail, and highways to transport the raw materials, the finished products, and the people who work and live in this area. Both the Hackensack and Passaic Rivers have oil barges and other commercial vessels transiting them as well as pleasure vessels during the height of the boating season. Delays in opening drawbridges along these rivers can result in danger to life and property when heavily loaded vessels are forced to maneuver in strong currents and, at times, in adverse weather conditions. These problems for mariners are compounded by the close proximity of a number of the bridges, limited visibility both up and downstream, the lack of holding areas, and the particularly strong currents on flood tides characteristic of this area.

However, frequent openings of certain railroad drawbridges to accommodate marine traffic cause conflicts with the needs of rail traffic. The drawbridges that cross these rivers carry thousands of commuters each day to and from Newark and New York City in addition to travelers along the Northeast Corridor between Boston and Washington, D.C. A delay of one train during peak traffic periods can cause other trains following it to be delayed, resulting in disruptive back-ups when trains are scheduled to follow within several minutes of each other.

In drafting this notice, the Coast Guard has analyzed tidal charts and train schedules and has consulted with the Federal Railroad Administration (FRA) and the Urban Mass Transportation Administration (UMTA) in an effort to arrive at a compromise between the needs of rail and marine traffic. The consultations with FRA and UMTA focused primarily on the problems of the Portal and Dock Bridges which are between Newark, N.J. and New York City on the Northeast Corridor. FRA expressed concern that the proposed regulations not conflict with the Congressional mandate contained in Title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 *et seq.*) to improve intercity rail passenger service along the Northeast Corridor and to meet the trip-time goal of two hours and 40 minutes between Washington and New York. UMTA was concerned that changes in the regulations not conflict with the need to provide dependable rail commuter service to the northern New Jersey area. The Federal government is spending over two billion dollars to improve rail service along the Northeast Corridor and the public is being encouraged to use trains and other forms of mass transportation to reduce energy consumption and improve the environment.

The Coast Guard has received numerous complaints from mariners over the years concerning failure of the drawbridges to open after proper signal has been given. Numerous meetings have been held between the bridge owners, the mariners, and representatives of the Office of the Secretary of the Department of Transportation, the Coast Guard, FRA, and UMTA to attempt to resolve these difficulties. As a result of the meetings, the mariners have made an effort to avoid requesting any openings at these drawbridges during the rush hours even though present regulations require the bridges to open on signal with two exceptions: between 7:30 and 10 a.m. and between 5 and 7:30 p.m. a 10-minute delay in opening is permitted and, when a train is expected at the bridge within five minutes, an opening may be delayed until the train passes. The bridge owners have been making recent efforts to operate the bridges in a reliable manner; for instance, mechanical and electrical bridge equipment that caused some of the delays has been repaired. However, an equitable balancing of the conflicting needs of the two modes of transportation is still extremely difficult because of the far-reaching impact even slight changes in scheduling can have.

The ability to operate with reasonable certainty is a primary concern of the mariners. Amending the regulations is one part of an effort to provide reliable drawbridge openings for mariners. The regulations, when finally issued, will provide notice to all allected parties as

to the operation of the drawbridges including exact times of the closed periods.

The Coast Guard is aware that regulatory action alone is not the complete answer to this very complex and longstanding problem. Cooperation of all parties is important for the successful implementation of any regulatory changes. The mariners have indicated a willingness to try to schedule their vessel transits at times other than the rush hours provided they can be assured of reliable openings when they approach a bridge outside of the rush hours. In a meeting with representatives of Amtrak, the owner of the Dock and Portal Bridges, the Coast Guard received assurances of their willingness and ability to provide the personnel necessary to open the bridges promptly outside the rush hour periods. In addition, radiotelephones have been installed on several of the bridges, including Dock and Portal, to make it easier for the vessel and the drawtender to communicate and arrange precise times for bridge openings.

Under its statutory authority, the Coast Guard is responsible for issuing drawbridge regulations that are in the public interest. In this case, carrying out that responsibility has been particularly difficult because of the vital but competing transportation interests and the wide-ranging impact that disruptions in either mode can have. The rule that the Coast Guard eventually issues will attempt to balance the marine and the rail interests. The Coast Guard recommends the following closed periods for the Portal and Dock bridges, Monday through Friday:

Portal: 7:22 to 8:46 a.m. and 4:23 to 5:57 p.m.
Dock: 7:18 to 8:40 a.m. and 4:23 to 6:12 p.m.

However, in discussions with FRA and UMTA, these agencies recommended the following closed periods, Monday through Friday:

Portal: 7:22 to 10 a.m. and 4:30 to 7:25 p.m.
Dock: 7:18 to 9:52 a.m. and 4:35 to 7:30 p.m.

The Coast Guard solicits comments on these two alternatives before setting the closed periods in the final rule. The Coast Guard also welcomes other alternative suggestions that might provide a workable solution to the problems discussed above.

The Coast Guard particularly solicits precise, detailed data and information on the economic impact of this rulemaking. Because of the wide-ranging impact that changes affecting rail and marine transportation in this area might have, determination of the cost of any change in this regulation at the initial stage was not possible. A final evaluation including discussion of economic impacts must accompany the final rule. To the extent that there are economic impacts, any information that could make the discussion of these impacts in the final evaluation more complete is requested, including specific costs and derivation of these costs. This information will assist the Coast Guard in making a fully informed decision.

In this regard, answers to the following questions will assist the Coast Guard in formulating a realistic, workable regulatory scheme governing the opening of these bridges. In answering each of these questions, please provide detailed information and explanations, including any assumptions upon which answers are based.

1. Under the bridge closure period recommended by FRA/UMTA, could all delivery requirements of the facilities along these rivers be met?

2. Under the bridge closure periods recommended by the Coast Guard, could current rail traffic be maintained and projected rail traffic be scheduled without disruption?

3. Can you suggest other alternatives to the closed periods recommended by FRA/UMTA or the Coast Guard?

4. Would a phased-in scheme beginning with a shorter closed period and eventually expanding to a longer closed period be feasible? Please suggest a schedule for this phase-in.

5. What would be the effect on the costs of providing transportation service on these rivers under any recommended closed periods? Include in your considerations costs of alternative modes of transportation as well as costs of possible alterations to facilities to accommodate the closed periods.

In addition to the options discussed above, this proposal amends the signals for requesting an opening of the bridges and makes other minor proposed changes to simplify, clarify, and generally update the regulations. The regulations for certain bridges over the Passaic and Hackensack Rivers formerly located in § 117.225 have been consolidated in § 117.200 with no substantive changes. Comment is solicited on these proposed changes as well as on the options for closed periods.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended as follows:

1. By revising § 117.200 to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.200 Newark Bay, Passaic and Hackensack Rivers, N.J., and their navigable tributaries; bridges.

(a) The draws of each bridge shall open promptly on signal except that:

(1) The following bridges need not open during the hours specified, Monday through Friday, excluding Federal holidays:

(i) Amtrak's Dock bridge, at mile 5.0 on the Passaic River;

Option 1: from 7:18 to 8:40 a.m. and from 4:23 to 6:12 p.m.
Option 2: from 7:18 to 9:52 a.m. and from 4:35 to 7:30 p.m. (See preamble for discussion of options.)

(ii) Conrail's Morristown Line bridge, at mile 5.8 on the Passaic River; from 7:17 to 8:55 a.m. and from 4:23 to 5:54 p.m.

(iii) Amtrak's Portal bridge, Snake Hill, at mile 5.0 on the Hackensack River;

Option 1: from 7:22 to 8:46 a.m. and from 4:23 to 5:57 p.m.
Option 2: from 7:22 to 10 a.m. and from 4:30 to 7:25 p.m. (See preamble for discussion of options.)

(2) In addition to the closed periods permitted under paragraph (a)(1) of this section, an opening of Amtrak's Portal and Dock bridges may be delayed no more than 10 minutes unless the drawtender and the vessel, communicating by radiotelephone, agree to a longer delay.

(3) The opening of the draws of the following bridges may be delayed as specified:

(i) Route 280 (Stickel Memorial) bridge, at mile 5.8 on the Passaic River. The draw shall open on signal if at least 8 hours notice is given. In an emrgency the draw shall open as soon as possible but not more than 2 hours after the opening request.

(ii) Conrail bridge (West Arlington), at mile 8.0 on the Passaic River. From 7 a.m. to 11 p.m., the draw shall open on signal if at least 8 hours notice is given. From 11 p.m. to 7 a.m., the draw need not open.

(iii) Conrail bridge (Lyndhurst), at mile 11.7 on the Passaic River. From 8 a.m. to midnight, the draw shall open on signal. From midnight to 8 a.m., the draw shall open on signal if at least 6 hours notice is given.

(iv) Route 3 bridge, Rutherford, at mile 11.8 on the Passaic River. The draws shall open on signal if at least 6 hours notice is given.

(v) State Route 46 bridge, Little Ferry, at mile 14.0 on the Hackensack River. The draw shall open on signal if at least 6 hours notice is given.

(vi) Court Street bridge, Hackensack, at mile 16.2 on the Hackensack River. From 8 a.m. to midnight, the draw shall open on signal if at least 2 hours notice is given. From midnight to 8 a.m., the draw shall open on signal if at least 8 hours notice is given.

(vii) Conrail and New York, Susquehanna and Western Railroad Company drawbridges, at mile 0.0 on Overpeck Creek. The draws of each bridge shall open on signal if at least 24 hours notice is given.

(4) The draws of the following bridges need not open for the passage of vessels:

(i) Gregory Avenue bridge, Passaic, at mile 14.0 on the Passaic River.

(ii) Second Street bridge, Passaic, at mile 14.7 on the Passaic River.

(iii) West Eighth Street bridge, Passaic, at mile 15.3 on the Passaic River.

(iv) New York, Susquehanna and Western Railroad Company bridge (Bogota), Hackensack, at mile 16.3 on the Hackensack River.

(v) Midtown bridge, Hackensack, at mile 16.5 on the Hackensack River.

(b) Public vessels of the United States and vessels owned or operated by State, county or local governments when being used for public safety purposes and vessels in distress shall be passed through the draw without delay. The opening signal from these vessels is four or more short blasts of a whistle or horn or a radio request.

(c) Vehicles, trains and locomotives shall not be stopped on the drawspan, nor shall trains or locomotives be stopped in the bridge blocks of bridges in a way that delays the opening of the drawspan. Vessels shall not be maneuvered so as to hinder or delay the closure of the drawspan. All passages over, through or under the bridges shall be accomplished as rapidly as practicable to minimize delays to both land and water traffic. Except as provided in paragraph (a)(2) of this section, trains and locomotives shall be controlled so that any delay in opening the drawspan shall not exceed five minutes. However, if a train moving toward the bridge has crossed the home signal of the bridge before the signal requesting opening of the bridge is given, the train may continue across the bridge and must clear the bridge before stopping.

(d) Bridges that have radiotelephone installations shall monitor and communicate with vessels on the radiotelephone frequency of 156.650 megahertz VHF-FM (Channel 13) or such other channels as the FCC may designate. Each radiotelephone shall be operated from the bridge or in close proximity to it. Sound signals to request a bridge opening may be omitted when radiotelephones are used and communications between the approaching vessel and the drawtender have been made and acknowledged. If radiotelephone communications are used to request an opening, radiotelephone communications shall be maintained until the vessel has complete passage through the draw. If radiotelephone communications cannot be maintained, sound signals shall be used. Early coordination by radiotelephone is encouraged to minimize delays to vessels, trains, and other vehicles.

(e) The opening signal is one long blast of four to six seconds followed immediately by one short blast of one to two seconds. The draw tender shall immediately acknowledge the opening singal by one long and one short blast if the drawspan is to open immediately, and four or more short blasts if the drawspan will not open or is open and must close for an emergency. As soon as the drawspan can be opened, the draw tender shall sound the opening signal and open the drawspan for any vessel waiting to pass.

(f) The owner of or agency controlling each bridge shall provide and keep in good, legible condition clearance gauges consisting of at least two board gauges painted white with black figures not less than 12 inches high, indicating the vertical clearance under the closed span at all stages of the tide. The gauges shall be illuminated at night and during fog, rain and snow. These gauges shall be plainly visible to a vessel approaching the bridge from either direction.

(g) The drawbridges shall not be required to open to provide clearance for a vessel carrying appurtenances unessential to navigation or appurtenances essential to navigation which may be lowered by hinging, telescoping, collapsing, or by some other means, so that the vessel requires clearances only for its highest fixed and essentially unalterable point. Appurtenances unessential to navigation include, but are not limited to, canvas tops, fishing outriggers, radio or television antennae, false stacks, cargo handling booms and masts purely for ornamental purposes; they do not include radar antennae, flying bridges, sailboat masts, piledriver leads, spud frames or hydraulic dredges, drilling derricks, derrick substructures, cranes on drilling or construction vessels, or other items of permanent and fixed equipment clearly necessary to the intended use of the vessel. Before a drawtender may refuse to open, the following procedures must be followed:

(1) The owner of or agency controlling the drawbridge shall report to the District Commander the names of any vessels habitually requesting bridge openings to clear appurtenances unessential to navigation or ones that could be lowered.

(2) The District Commander may inspect a vessel so reported to decide whether or not the appurtenances are essential to navigation or are ones that could be lowered. If the District Commander decides that a vessel has appurtenances unessential to navigation or that essential appurtenances could be lowered, the District Commander notifies the vessel owner of the decision, specifying a reasonable time for making the necessary alteration.

(3) The vessel owner may, within 30 days after receipt of the request to perform alterations, appeal the decision in writing to the Commandant, U.S. Coast Guard, Washington, D.C. 20593. If the Commandant rules that the appurtenances are unessential to navigation or could be lowered, the District Commander again specifies to the vessel owner a reasonable time for making the alternations.

(4) If the alterations have not been made after the expiration of the time specified, the owner of or agency controlling the drawbridge is advised by the District Commander that the bridge need not open for the passage of the vessel unless it is in distress, has in tow a vessel unable to pass under the closed draw, or by reason of stress of weather it is unsafe to lower the appurtenances.

(h) The owners of or agencies controlling these bridges shall provide the necessary tenders and mechanical, electrical, and signal equipment for the safe, prompt, and efficient opening of the draws.

(i) The District Commander may require that signs giving notice of specified provisions of this section be posted on both the upstream and downstream sides of a bridge so that they can be easily read at any time.

§ 117.225 [Amended]

2. by deleting § 117.225(f)(1), (1-b), (1-c), (1-d), (1-3), (2), (2-a), (2-b), and (2-c).

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5))

Dated: March 6, 1980.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 80-7885 Filed 3-12-80; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1434-5]

Proposed Revision of the Pennsyvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Commonwealth of Pennsylvania has submitted a proposed revision of its State Implementation Plan (SIP) consisting of an amendment to modify Pennsylvania Air Resources Regulations, Chapter 129, Standards for Sources, which relates to an open burning. The amendment would allow sources to use, on a temporary basis, an air curtain destructor for open burning both inside and outside of an air basin. Use of an air curtain destructor, which is a transportable incineration-type device, is optional if used outside of an air basin. The air curtain destructor must operate in such a manner that there are very little or no emissions and no odor problems. If subsequent to approval by the Department of Environmental Resources (DER) the operation should cause particulate, visible, or malodorous emissions, DER can rescind the approval. Since there are very little or no emissions, there is not expected to be a significant impact to ambient air quality due to the temporary nature of the burning.

DATE: Comments must be submitted on or before April 14, 1980.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, 6th & Walnut Streets, Philadelphia, PA 19106, ATTN: Patricia Sheridan.

Pennsylvania Bureau of Air Pollution Control, Fulton Building, 18th Floor, 200 North Third Street, Harrisburg, PA 17120, ATTN: Mr. James K. Hambright.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W. (Waterside Mall), Washington, D.C. 20460.

All comments on the proposed revision submitted within 30 days of publication of this notice will be considered and should be directed to: Mr. Howard Heim, Chief, Air Programs Branch (3AH10), Air, Toxics & Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, ATTN: AH013aPA.

FOR FURTHER INFORMATION CONTACT: Patricia Sheridan (3AH10), U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, PA 19106, telephone number (215) 597-8176.

SUPPLEMENTARY INFORMATION: The Secretary of the Department of Environmental Resources of the Commonwealth of Pennsylvania submitted for the Governor a proposed revision of the Pennsylvania SIP consisting of a number of amendments to modify Pennsylvania Air Resources Regulations. This proposed revision submitted on August 11, 1976 pertains to chapter 129, Standards for Sources, and relates to open burning operations. This modification would give the Department of Environmental Resources the authority to allow sources to use an air curtain destructor, a transportable incineration-type device, for clearing and grubbing wastes such as trees, shrubs, and other native vegetation which are cleared from land during or prior to the process of construction.

The air curtain destructor will be used at one site on a temporary basis, not to exceed three months, both inside and outside of an air basin, for open burning. The use of an air curtain destructor is optional if used outside of an air basin. An extension may be approved by the Department of Environmental Resources after three months for additional limited periods not to exceed six months. The air curtain destructor, once installed, must operate in such a manner that there are very little or no emissions and no odor problems. Although the Commonwealth of Pennsylvania has not stated in its regulations, DER notified EPA in a letter dated December 9, 1976 that if any visible emissions do occur, they would have less than 20% opacity. If, subsequent to approval by DER, the operation should cause particulate, visible or malodorous emissions; i.e., an air pollution problem, the Department of Environmental Resources can rescind the approval. Since there are very little or no emissions, there is not expected to be a significant impact to ambient air quality due to the temporary nature of the burning.

The public is invited to submit to the address stated above comments on whether the above should be approved as a revision of the Commonwealth of Pennsylvania's State Implementation Plan. The Commonwealth of Pennsylvania has certified that public hearings were held on June 6, 7, and 8, 1976 in Norristown, Pittsburgh, and Harrisburg, Pennsylvania, respectively, in accordance with the requirements of 40 CFR 51.4.

The Administrator's decision to approve or disapprove this proposed SIP revision will be further based on a final determination as to whether it meets the requirements of section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Authority: 42 U.S.C. 7401-7642.

Dated: March 6, 1980.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 80-7758 Filed 3-12-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1434-3]

Approval and Promulgation of Implementation Plans; Tennessee: Revised SO_2 Limits

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Proposed rule.

SUMMARY: On February 25, 1977, the Administrator approved revised sulfur dioxide emission limits for the Tennessee implementation plan. The revised plan established a new county classification system with corresponding allowable emission limits for each of the six county classes. EPA is today proposing to approve the State submittal which adds a new Class VII county to the county classification system and the emission limits for the sources in the class VII county.

DATES: To be considered, comments must be submitted on or before April 14, 1980.

ADDRESSES: Written comments should be addressed to Ray Gregory of EPA Region IV's Air Programs Branch (see EPA Region IV address below). Copies of the materials submitted by Tennessee may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Library, Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308.
Tennessee Air Pollution Control Division, 256 Capitol Hill Building, Nashville, Tennessee 37219.

FOR FURTHER INFORMATION CONTACT: Raymond Gregory, EPA Region IV, Air Programs Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30308, Telephone: 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION:

Background

On February 25, 1977, EPA approved revisions to the sulfur dioxide emission limits in the Tennessee implementation plan. A county classification system was established which divided the State into six classes of counties with emission limits for sources in each class county. On July 1, 1979, the State of Tennessee submitted a SIP revision which would add a class VII to the classification system, with emission limits of 2.8 lbs. per MMBTU heat input for sources greater than 1,000 MMBTU per hour, and 5.0 lbs. per MMBTU heat input for smaller sources. At the present, only Roane County has been identified in the new class VII. This revision represents a relaxation from 1.2 to 2.8 lbs. per MMBTU for large sources. The emission limit for smaller sources was not changed.

The major source of sulfur dioxide emissions in Roane County is the TVA Kingston Power Plant. This plant has been out of compliance with the State emission limits for a period of time and until the recent tie-in of tall stacks has caused violations of the sulfur dioxide ambient standards in the area. EPA and TVA developed a compliance schedule leading to the compliance of all TVA power plants including the Kingston plant. Because of terrain impact and influence on the dispersion of pollutants, TVA constructed two tall stacks to avoid downwash of the emissions from the plant. In the analysis to determine what emission limit would be necessary to achieve the ambient standards in the area, TVA was credited with "good engineering practice (GEP)" stack height for the stacks constructed. The GEP determination was made using EPA's latest guidance on the Stack Height Policy. The emission limit submitted by Tennessee to revise the allowable emissions from 1.2 lb to 2.8 lb per MMBTU for large fuel burners is consistent with the results of EPA's and TVA's analysis.

Proposed Action

EPA is proposing to approve the sulfur dioxide emission limits for the newly established class VII county.

(Section 110 of the Clean Air Act (42. U.S.C. 7410))

Dated: February 15, 1980.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 80-7759 Filed 3-12-80; 8:45 am]
BILLING CODE 6560-01-M

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40 CFR Part 447

[FRL 1434-4]

Ink Formulating Point Source Category Effluent Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period and notice of availability of additional supporting information.

SUMMARY: On January 3, 1980, EPA proposed regulations under the Clean Water Act to limit the discharge of effluents to waters of the United States and the introduction of pollutants into publicly owned treatment works from facilities that manufacture printing inks. See 45 FR 928-939. EPA is extending the period for comment on the proposed regulations from March 3, 1980, until March 31, 1980. EPA is also giving notice of the availability of additional information supporting the proposed regulations.

DATES: Comments on the proposed regulations for the ink formulating industry must be submitted to EPA by March 31, 1980.

ADDRESS: Send comments to: Mr. Ben J. Honaker, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M St., SW., Washington, DC. 20460, Attention: EGD Docket Clerk, Ink Formulating.

The supporting information and all comments on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) PM-213. The EPA information regulation (40 CFR part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Ben J. Honaker, Effluent Guidelines Division (WH-522) EPA Tel 202-426-2554.

SUPPLEMENTARY INFORMATION: On January 3, 1980, EPA proposed regulations to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from facilities that produce printing inks. See 45 FR 928-939. The proposal provides effluent limitations guidelines for "best available technology," and establishes new source performance standards and pretreatment standards under the Clean Water Act. The January 3 notice stated that the period for public comments would expire on March 3, 1980.

On February 6 and again on February 19, 1980 the National Association of Printing Ink Manufacturers (NAPIM), a trade association representing 61 manufacturers which produce 90% of the nation's printing ink products, sent to EPA a letter requesting that the comment period be extended for 60 days, until May 2, 1980. Subsequently, Valentine Consolidated Printing and Ink Company requested a similar extension of the comment period.

In support of these requests for extension, a commenter pointed out that EPA's Development Document for Ink Formulating and Economic Impact Analysis of the proposed regulations were not available for review until February 4, 1980. This commenter also noted that additional supporting data were not available until after the beginning of the comment period. In addition, the commenters suggested a variety of other factors (time needed to evaluate methodology and rule making, logistics, and the pendency of a NAPIM's consultant's study) in support of their requests for a 60 day extension of the comment period.

EPA desires and encourages maximum public participation in its rulemakings, and regrets the delay in NAPIM's access to data supporting the proposed regulations. In the Agency's opinion, however, neither these delays nor any of the other factors relied on by the requestors justify a 60 day extension of the comment period. Nonetheless, while EPA believes it is not required to do so, because of the delays in the availability of supporting data the Agency is extending the comment period until March 31, 1980. EPA believes that this extension should provide ample time for all interested persons to provide meaningful comments on the proposed regulations.

Interested persons should be aware that subsequent to January 3, 1980, the Agency placed additional supporting data in the EPA Public Information Reference Unit, Room 2404 (EPA Library, rear) PM-213, 401 M Street, SW., Washington, D.C. 20460. These data and the dates they were made available are listed below:

(1) General Information—Reference List, January 29, 1980
(2) 308 Portfolio Development, January 29, 1980
(3) Sampling Program, January 29, 1980
(4) Documentation and Final Report, January 29, 1980

(5) Plant Information, January 29, 1980
(6) Correspondence, January 29, 1980
(7) Computer Printouts, February 29, 1980
(8) Miscellaneous Notes and Calculations. February 29, 1980
(9) 308 Questionnaires, February 29, 1980
(10) Sources of Information for Development Document Tables, February 29, 1980

Dated: March 7, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

[FR Doc. 80-7757 Filed 3-12-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 716

[OTS-084003; FRL 1434-6]

Health and Safety Data Reporting; Submission of Lists and Copies of Health and Safety Studies; Extension of Comment Period

AGENCY: Office of Pesticides and Toxic Substances, Environmental Protection Agency [EPA, or the Agency].

ACTION: Extension of comment period for Proposed Rule

SUMMARY: EPA extends the comment period on the proposed Health and Safety Data Reporting Rule published on December 31, 1979 (44 FR 77470) for 30 days. This comment period will extend to April [insert date 30 days after publication], 1980. The extension of the comment period is made because (i) a number of very late requests for an extension of the comment period were received and (ii) a comment received from the Chemical Manufacturers Association (CMA) indicated that some records were not to be found in the public file during the comment period. On examination of the public file, we discovered that it had become accidentally mixed with another rulemaking records and that some materials were missing or otherwise misfiled.

We have corrected the situation and have supplied materials that were originally on the docket as well as supplementary materials that became available during the comment period.

DATE: All comments should be postmarked by April 14, 1980.

ADDRESS: All comments should be sent to Deborah Williams, Record Clerk, Office of Pesticides and Toxic Substances (TS-793), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Comments should include the docket number OPTS-084003. Comments received on this Notice will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, in Room 447 East Tower, EPA Headquarters, 401 M Street, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Industry Assistance Office, Office of Pesticides and Toxic Substances (TS-799), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Phone: 800-424-9065 (In Washington, DC, call 554-1404).

Dated: March 10, 1980.

Steven D. Jellinek,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 80-7853 Filed 3-12-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute for Occupational Safety and Health

42 CFR Parts 55, 86, and 87

Revision of Grant Regulations To Conform to 45 CFR Part 74 and Operation Common Sense Format

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control, Public Health Service, HEW.

ACTION: Proposed rule.

SUMMARY: This rule proposes to (1) revise the training grant and research and demonstration grant regulations of NIOSH to conform them to HEW's general grants administration regulation (45 CFR Part 74), and (2) implement NIOSH's authority to award grants for health research in all types of mining. Editorial changes have been made to delete duplicative administrative provisions and to consolidate NIOSH research and demonstration project grant regulations into a single regulation. This proposal is part of HEW's commitment to reduce the size of its program grant regulations and to bring about greater uniformity in the rules that govern the rights and obligations of the HEW granting agencies and their grantees.

DATES: Comments on the proposed rule due April 28, 1980.

ADDRESSES: Comments may be submitted to: Ms. Mary L. Flint, Regulations Specialist, National Institute for Occupational Safety and Health, 5600 Fishers Lane, Room 8-11, Rockville, MD 20857.

Comments will be available for public inspection at this address during regular business hours.

FOR FURTHER INFORMATION CONTACT: Mr. Roger A. Nelson, Grants Administration and Review Branch, NIOSH, Rockville, MD 20857. Phone: (301) 443-4493.

SUPPLEMENTARY INFORMATION: On August 2, 1978 (43 FR 34076), HEW revised its general grants administration regulation (45 CFR Part 74) to provide uniform basic administrative provisions for virtually all HEW grants. Since that time, the Department has been systematically purging its program grant regulations of provisions that duplicate or conflict with 45 CFR Part 74. As part of this project, NIOSH proposes to revise the grant regulations affecting its programs as follows:

1. 42 CFR Part 55, Grants for Advancement of Health in Coal Mining—On December 5, 1978 (43 FR 56918), the Department proposed to amend Part 55 to include grants for health research in all types of mining as authorized by the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.). No public comments were received on that proposal. Subsequent to that proposal, the Department began its program to conform all grant regulations to 45 CFR Part 74. Because of this imminent change, the proposed amendments to Part 55 were not promulgated in final form. During the course of developing the revisions necessary to conform all NIOSH grant regulations to 45 CFR Part 74, NIOSH decided to consolidate the NIOSH research and demonstration project grant regulations into a single regulation. Therefore, NIOSH proposes to revoke Part 55 and combine the provisions pertaining to grants for health research in mining with the provisions of 42 CFR Part 87 (see below). The amendments to Part 55 proposed on December 5, 1978, have been incorporated into the language of Part 87 where necessary for the award of grants for health research in all types of mining. The portion of the December 5, 1978, proposal dealing with amendments to Part 55 is withdrawn.

2. 42 CFR Part 86, Grants for Education Programs in Occupational Safety and Health—All provisions that duplicate or conflict with 45 CFR Part 74 have been deleted. The provisions pertaining to grantee eligibility, applications, program requirements, evaluation criteria, restrictions on use of grant funds, and applicable regulations have been rewritten in a standardized format to comply with "Operation Common Sense", a comprehensive program to simplify HEW regulations.

3. 42 CFR Part 87, Grants for Research and Demonstrations Relating to Occupational Safety and Health—The

provisions in Part 87 pertaining to grantee eligibility, applications, program requirements, evaluation criteria, restrictions on use of grant funds, and applicable regulations have been combined with those similar provisions from Part 55. The new proposed Part 87 entitled "National Institute for Occupational Safety and Health Research and Demonstration Grants" has been rewritten in the standardized format. All provisions that duplicate or conflict with 45 CFR Part 74 have been deleted.

With the exception of the provisions to include grants for health research in all types of mining, all of the revisions contained in this proposed rule are technical administrative changes pertaining to agency management of its grants program. The revisions merely state in a different format the requirements and provisions of grant regulations that have been in existence for several years. The portions that have been deleted are covered in 45 CFR Part 74 which was promulgated using public rulemaking procedures. The revisions do not impose any burden on the public, change existing procedures, nor reduce the availability of grantee assistance.

It is, therefore, proposed to revoke 42 CFR Part 55, revise 42 CFR Part 86, and retitle and revise 42 CFR Part 87 as set forth below:

Dated: February 7, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: March 7, 1980.

Nathan J. Stark,

Acting Secretary.

PART 55—[REVOKED]

PART 86—GRANTS FOR EDUCATIONAL PROGRAMS IN OCCUPATIONAL SAFETY AND HEALTH

Subpart A—General

Sec.
86.1 To which programs does this regulation apply?
86.2 Definitions.
86.3 Which other HEW regulations apply?

Subpart B—Occupational Safety and Health Training Grants

86.21 What types of training grants are available?
86.22 Who is eligible for a grant under this subpart?
86.23 What information must be included in the application for a grant under this subpart?
86.24 How will grant applications be evaluated and grants awarded?
86.24 For what period of time will grants be awarded?
86.26 How may a grantee use grant funds?

Subpart C—Occupational Safety and Health Direct Traineeships

Sec.
86.30 What is a direct traineeship grant?
86.31 Who is eligible for a grant under this subpart?
86.32 What information must be included in the application for a grant under this subpart?
86.33 How will grant applications be evaluated and direct traineeships be awarded?
86.34 For what period of time will direct traineeships be awarded?
86.35 How may a grantee use grant funds?

Authority: Sec. 8(g), 84 Stat. 1600; 29 U.S.C. 657(g), Sec. 21(a), 84 Stat. 1612; 29 U.S.C. 670(a).

Subpart A—General

§ 86.1 To which programs does this regulation apply?

This regulation applies to the award of training grants and direct traineeships authorized by section 21(a)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 670(a)(1)).

§ 86.2 Definitions.

As used in this regulation—

"Act" means the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

"Nonprofit agency or institution" means an agency, corporation, or association where no part of the net earnings of the organization benefits, or may lawfully benefit, any private shareholder or individual.

"Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

§ 86.3 Which other HEW regulations apply?

Several other regulations apply to grants under this part. These include, but are not limited to:

42 CFR Part 50..	Subpart D—PHS grant appeals procedure.
45 CFR Part 16..	Department grant appeals process.
45 CFR Part 46..	Protection of human subjects.
45 CFR Part 74..	Administration of grants (applicable to subpart B only).
45 CFR Part 75..	Informal grant appeals procedures (indirect cost rates and other cost allocations).
45 CFR Part 80..	Nondiscrimination under programs receiving Federal assistance through the Department of Health, Education, and Welfare—Effectuation of Title VI of the Civil Rights Act of 1964.
45 CFR Part 81..	Practice and procedure for hearings under Part 80.
45 CFR Part 83..	Regulation for the Administration and Enforcement of Section 704 and 855 of the PHS Act.
45 CFR Part 84..	Nondiscrimination on the basis of handicap in federally assisted programs.
45 CFR Part 90..	Nondiscrimination on the basis of age in program or activities receiving Federal financial assistance.

Subpart B—Occupational Safety and Health Training Grants

§ 86.21 What types of training grants are available?

(a) *Long-term training project grant* is an award of funds to an eligible institution to support training programs of 1 year or longer duration in the field of occupational safety and health. The purpose of a long-term training project grant is to establish, strengthen, or expand graduate, undergraduate, or special training programs, as well as the training of technicians and paraprofessionals in subjects such as occupational medicine and nursing, industrial hygiene, occupational safety engineering, and other related areas.

(b) *Short-term training project grant* is an award of funds to an eligible institution to support training programs of less than 1 year in duration in the field of occupational safety and health. The purposes of short-term training project grants are to: (1) Provide specialized instruction to increase the competence of occupational safety and health professional or career personnel; (2) Prepare or expand the capabilities of occupational safety and health professional or career personnel for leadership roles as administrators or supervisors; and (3) Prepare or expand the teaching capabilities of occupational safety and health professionals and career personnel.

(c) *Educational resource center grant* is an award of funds to an eligible institution to pay part or all of the costs of organized identifiable activities that are undertaken to provide for the combination of long-term and short-term training activities as described in § 86.23.

§ 86.22 Who is eligible for a grant under this subpart?

Any public or nonprofit educational or training agency or institution located in a State is eligible to apply for a grant under this subpart. However, no applicant is eligible for assistance for a short-term or long-term training project grant in any project period in which the applicant receives an educational resource center grant. Existing short-term or long-term training grants may be incorporated into an educational resource center grant.

§ 86.23 What information must be included in the application for a grant under this subpart?

(a) The application must contain a complete description of the proposed project and the manner in which the applicant intends to conduct the project, a budget and justification of the amount

of grant funds requested, and other information required by the Secretary.

(b) *Long-term training project*—In addition to the information required in paragraph (a), the application must also describe the methods to be used for: (1) Developing the training curriculum, materials, and resources, (2) Implementing the needed training, (3) Evaluating the training program, and (4) Selecting trainees..

(c) *Short-term training project*—An application for short-term training project grant must include all of the information specified in paragraphs (a) and (b). In addition, the application must provide: (1) A method to assess the particular skills or knowledge that prospective trainees need to develop, and (2) A description of at least 18 hours of formal instruction for a period of not less than 2½ days and not more than 1 academic year.

(d) *Eduational resource center*—In addition to the information required in paragraphs (a) and (b), the application must contain each of the following:

(1) A description, supported by appropriate documents, of cooperative arrangements to conduct an educational resource center among a medical school (with an established program in preventive or occupational medicine), a school of nursing, a school of public health or its equivalent, and a school of engineering or its equivalent. Other schools or departments with relevant disciplines and resources may be represented and contribute as appropriate to the conduct of the total program. Examples of these disciplines are toxicology, biostatistics, environmental health, law, education, and business administration.

(2) The identification of an educational resource center Director who possesses a demonstrated capacity for sustained productivity and leadership in occupational safety and health training who shall oversee the general operation of educational resource center programs and shall, to the extent possible, directly participate in training activities.

(3) A description of the full-time professional staff qualified in the various disciplines relevant to occupational safety and health and capable of planning, establishing, and carrying out or administering training projects undertaken by the educational resource center.

(4) A description of the training and research expertise, appropriate facilities, and ongoing training and research activities in occupational safety and health areas.

(5) A description of the program for conducting education and training of occupational health physicians, occupational health nurses, industrial hygienists/engineers, and safety personnel. There shall be full-time students in each of these core disciplines, with a goal of a minimum total of 30 full-time students. Training may also be conducted in other occupational safety and health career categories, for example, industrial toxicology, biostatistics, epidemiology, and ergonomics. Training programs shall include appropriate field experience including experience with public health and safety agencies and labor-management health and safety activities.

(6) A specific plan for influencing the curriculum of other relevant medical specialities, such as radiology, orthopedics, dermatology, internal medicine, neurology, perinatal medicine, and pathology, toward an appreciation for occupational medicine.

(7) A description of the program to assist other institutions or agencies located within the applicant's region including schools of medicine, nursing and engineering, among others, by providing curriculum materials and consultation for curriculum/course development in occupational safety and health, and by providing training opportunities for faculty members.

(8) A specific plan for preparing, distributing, and conducting continuing education courses, seminars, and workshops to be held in the geographical region in which the educational resource center is located. The content and orientation of the curriculum/courses shall be in the core areas of industrial hygiene, safety, occupational medicine, and occupational health nursing, and shall address problems relevant to the geographic region served. The goal shall be to provide training opportunities to a minimum of 200–250 trainees each year in all of the core areas, with priority given to providing occupational safety and health training to physicians in family practice, as well as in industrial practice, and to industrial nurses.

(9) A specific plan and demonstrated capability for implementing the continuing education training directly and through other institutions or agencies in the region including cooperative efforts with labor unions and industry trade associations where appropriate.

(10) A method to assess the particular skills or knowledge that prospective trainees need to develop.

§ 86.24 How will grant applications be evaluated and grants awarded?

The Secretary may award grants to those applicants whose approved projects will best promote the purposes of section 21(a)(1) of the Act. In making this determination the Secretary will evaluate grant proposals on the following criteria:

(a) *Long-term training grants:* (1) Need for training in the area or areas of study outlined in the application;

(2) Degree to which the proposal represents a strengthening or expansion of the applicant's program in the areas of study;

(3) Record of the applicant's effectiveness in training in the study areas in indicated by the placement of the applicant's graduates;

(4) Competence of the project staff in relation to the service to be provided;

(5) Appropriateness of the budget in relation to the proposed project;

(6) Applicant's resources, including equipment, facilities, and funds available for the project;

(7) Current and potential availability of students in the area of study to be offered and their prospects for employment as a result of the proposed training;

(8) Extent to which the applicant expects to absorb faculty positions initiated as a result of the grant; and

(9) Degree to which the project adequately provides for the long-term training requirements described in § 86.23(b).

(b) *Short-term training grant:* (1) Relationship of the contents of the course to the current and emergency training needs to carry out the purposes of the Act;

(2) Qualifications of the instructional staff;

(3) Speed with which the training can be put to use by the persons proposed to be trained;

(4) Appropriateness of the budget in relation to the proposed project;

(5) Success of previous offerings of the proposed course or related courses;

(6) Evidence of ability to recruit trainees and the estimated number to be enrolled during each course offering; and

(7) Degree to which the proposed project adequately provides for the short-term training requirements described in § 86.23(c).

(c) *Educational resource center grant:* An educational resource center grant application will be evaluated on the same criteria as long-term and short-term training project applications (paragraphs (a) and (b) of this section). NIOSH will place special emphasis on the degree to which the proposed project

provides for the requirements described in § 86.23(d).

§ 86.25 For what period of time will grants be awarded?

(a) The notice of grant award specifies how long HEW intends to support the project without requiring the project to recompete for funds. This period, called the project period, will usually be for 3–5 years. Generally, the grant will initially be for 1 year and subsequent continuation awards will also be for 1 year at a time.

(b) A grantee must submit a separate application to have the support continued for each subsequent year. Decisions regarding continuation awards and the funding level of awards will be made after consideration of factors such as the grantee's progress and management practices, and the availability of funds. In all cases, continuation awards require a determination by HEW that continued funding is in the best interest of the Government.

(c) Neither the approval of any application nor the award of any grant commits or obligates the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved application or portion of an approved application.

§ 86.26 How may a grantee use grant funds?

Any funds granted pursuant to this subpart shall be expended solely for the purposes for which the funds were granted in accordance with the approved application and budget, the applicable regulations of this part, the terms and conditions of the award, and the applicable cost principles prescribed in Subpart Q of 45 CFR Part 74.

Subpart C—Occupational Safety and Health Direct Traineeships

§ 86.30 What is a direct traineeship grant?

A "direct traineeship" is an award of funds directly to an individual for the individual's subsistence and other expenses during the period of training.

§ 86.31 Who is eligible for a grant under this subpart?

Any U.S. citizen, or alien lawfully admitted to the United States for permanent residence, is eligible to apply for a direct traineeship grant. The applicant must have been accepted by a public or nonprofit institution for the purpose of acquiring doctoral or post-doctoral training in any of the following fields: (a) The occupational safety and health professions, (b) Research relating to occupational safety and health, or (c) Teaching in occupational safety and health.

§ 86.32 What information must be included in the application for a grant under this subpart?

The application must contain a statement of the objective of furthering the applicant's training, the degree or level of training sought, proof of acceptance at an accredited institution of higher learning, a transcript of previous college work, and a description of the proposed course of study.

§ 86.33 How will grant applications be evaluated and direct traineeships be awarded?

The Secretary may award direct traineeships to those qualified applicants who are, in the Secretary's judgment, best able to carry out the purpose of the traineeship.

All direct traineeships will be evaluated on the basis of:

(a) Need for training in the proposed area of study.

(b) Degree to which the proposed training represents an expansion or strengthening of the applicant's knowledge in the field of occupational safety and health.

(c) Competence of the teaching staff of the proposed training institution.

(d) Speed with which the training can be put to use by the applicant.

(e) Applicant's degree of commitment to the field of occupational safety and health taking into consideration previous training, experience, and recognized contribution in the field.

(f) Past academic and research records of the applicant.

§ 86.34 For what period of time will direct traineeships be awarded?

(a) The notice of grant award specifies how long HEW intends to support the traineeship without requiring the trainee to recompete for funds. This period, called the project period, will not exceed 3 years for direct traineeship grants. Generally, the grant will initially be for 1 year and subsequent continuation awards will also be for 1 year at a time.

(b) A grantee must submit a separate application to have the support continued for each subsequent year. Decisions regarding continuation awards and the funding level of such awards will be made after consideration of factors such as the grantee's progress and availability of funds. In all cases, continuation awards require a determination by HEW that continued funding is in the best interest of the Government.

(c) Neither the approval of any application, nor the award of any grant, commits or obligates the United States in any way to make any additional, supplemental continuation, or other award with respect to any approved application or portion of an approved application.

86.35 How may a grantee use grant funds?

A grantee may use grant funds for stipends (to be determined on an individual basis at the time of award based on previous training and experience and other factors such as current salary and expected concurrent sabbatical salary), tuition and fees to the training institution, and for other expenses such as research supplies, equipment, appropriate medical insurance, and travel for domestic scientific meetings.

PART 87—NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH RESEARCH AND DEMONSTRATION GRANTS

Sec.
87.1 To which programs does this regulation apply?
87.2 Definitions.
87.3 Who is eligible to apply for a grant under this part?
87.4 For what purposes may grants be awarded?
87.5 What information must be included in the grant application?
87.6 How will grant applications be evaluated and the grants awarded?
87.7 For what period of time will grants be awarded?
87.8 How may a grantee use grant funds?
87.9 Which other HEW regulations apply?

Authority: Sec. 8(g), 84 Stat. 1600; 29 U.S.C. 657(g), Sec. 508, 83 Stat. 803; 30 U.S.C. 957.

§ 87.1 To which programs does this regulation apply?

This regulation applies to research and demonstration project grants under: (1) Section 20(a)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669(a)(1) for the support of studies related to occupational safety and health, and (2) Section 501 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 951) for the support of health research in mining. These grants are awarded and administered by the National Institute for Occupational Safety and Health, Center for Disease Control, of the Public Health Service.

§ 87.2 Definitions.

As used in this regulation:

"Demonstration project grant" means an award of funds to an eligible applicant to assist in meeting the cost of conducting a demonstration, either on a pilot or full-scale basis, of the technical or economic feasibility or application of a new or improved procedure, method, technique, or approach that will further

the research purposes described in § 87.4.

"Nonprofit agency or institution" means an agency, corporation, or association where no part of the net earnings of the organization benefits, or may lawfully benefit, any private shareholder or individual.

"Principal investigator" for a research project, or "project director" for a demonstration project, means a single individual who is responsible for the scientific and technical direction of the project.

"Research project grant" means an award of funds to an eligible applicant to assist in meeting the costs of conducting an identified research activity or program, study, or experiment that will further the research purposes described in § 87.4.

"Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

§ 87.3 Who is eligible to apply for a grant under this part?

Any public or private nonprofit agency or institution is eligible to apply for a grant under this part, except Federal agencies or institutions not specifically authorized by law to receive such a grant.

§ 87.4 For what purposes may grants be awarded?

(a) The Occupational Safety and Health Act authorizes grants for research, experiments, and demonstrations relating to occupational safety and health, including studies of the psychological factors involved. This authority includes projects to develop innovative methods, techniques, and approaches for dealing with occupational safety and health problems.

(b) The Federal Mine Safety and Health Act authorizes grants for research projects designed to:

(1) Improve working conditions and practices affecting health in coal or other mines and to prevent occupational diseases originating in the mining industry.

(2) Develop epidemiological information to (a) identify and define positive factors involved in occupational diseases of miners, (b) provide information on the incidence and prevalence of pneumoconiosis and other respiratory ailments of miners, and (c) improve health standards.

(3) Develop techniques for the prevention and control of occupational diseases of miners, including tests for hypersusceptibility and early detection.

(4) Evaluate the effect on bodily impairment and occupational disability of miners afflicted with an occupational disease.

(5) Study the relationship between coal or other mine environments and occupational diseases of miners.

(6) Study matters involving the protection of life and the prevention of diseases in connection with persons who, although not miners, work with or around the products of coal or other mines in areas outside of such mines and under conditions which may adversely affect the health and well-being of such persons.

(7) Develop effective respiratory equipment.

§ 87.5 What information must be included in the grant application?

The application must contain a complete description of the objective of the project and the plan for carrying out the research or demonstration, the name and qualifications of the principal investigator or project director and principal staff members, the total resources and facilities that will be available and a justification of the amount of grant funds requested.

§ 87.6 How will grant applications be evaluated and the grants awarded?

(a) The Secretary may award grants to those applicants whose approved projects will best promote the purposes of either the Occupational Safety and Health Act or the Federal Mine Safety and Health Act on the basis of an evaluation conducted by experts or consultants engaged for this purpose.

(b) This evaluation will take into account the scientific merit and significance of the project, the competency of the proposed staff in relation to the type of research of demonstration involved, the feasibility of the project, the likelihood of its producing meaningful results, the proposed project period, the adequacy of the applicant's resources available for the project, the amount of grant funds necessary for completion, and for mining grant applications, the recommendations of the Mine Health Research Advisory Committee.

(c) The Secretary may evaluate and approve two or more concurrent applications, each dealing with one or more specified aspects of the project, and make two or more concurrent grant awards for the project. This may be necessary when a project involves a number of different but related problems, activities, or disciplines which would require evaluation by different groups, or when support for a project could be more effectively administered by separate handling of various aspects of the project.

§ 87.7 For what period of time will grants be awarded?

(a) For approved projects, the grant award specified how long HEW intends to support the project without requiring the project to recompete for funds. This period, called the project period, will usually be for 3–5 years. Generally, the grant will initially be for 1 year and subsequent continuation awards will also be for 1 year at a time.

(b) A grantee must submit a separation application to have the support continued for each subsequent year. Decisions regarding continuation awards and the funding level of these awards will be made after consideration of factors such as the grantee's progress and management practices, and the availability of funds. In all cases, continuation awards require a determination by HEW that continued funding is in the best interest of the Government.

(c) Neither the approval of any application, not the award of any grant commits or obligates the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved application or portion of an approved application.

§ 87.8 How may a grantee use grant funds?

Any funds granted pursuant to this part shall be expended solely for the purposes for which the funds were granted in accordance with the approved application and budget, the regulations of this part, the terms and conditions of the award, and the applicable cost principles prescribed in Subpart Q of 45 CFR Part 74.

§ 87.9 Which other HEW regulations apply.

Several other regulations apply to grants under this part. These include, but are not limited to:

42 CFR Part 50 Subpart D—PHS grant appeals procedure.
45 CFR Part 16 Department grant appeals process.
45 CFR Part 46 Protection of human subjects.
45 CFR Part 74 Administration of grants.
45 CFR Part 75 Informal grant appeals procedures (indirect cost rates and other cost allocations).
45 CFR Part 80 Nondiscrimination under programs receiving Federal assistance through the Department of Health, Education, and Welfare—Effectuation of Title VI of the Civil Rights Act of 1964.

45 CFR Part 81 Practice and procedure for hearings under Part 80.
45 CFR Part 84 Nonbdiscrimination on the basis of handicap in federaly assisted programs.
45 CFR Part 90 Nondiscrimination on the basis of age in programs or activities receiving federal financial assistance.

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COMMUNITY SERVICES ADMINISTRATION

45 CFR Part 1061

[CSA Instruction 6132-2c]

Character and Scope of Specific Programs; Community Food and Nutrition Program (CFNP)

AGENCY: Community Services Administration (CSA).

ACTION: Amendment to proposed rule.

SUMMARY: The Community Services Administration is filing an amendment to the proposed rule for the Community Food and Nutrition Program, published in the Federal Register February 19, 1980 (45 FR 11082). The purpose of the amendment is to clarify dates for the submission of notifications of intent to clearinghouses and the deadline for the submission of applications to CSA and to give applicants more time to prepare their proposals. The proposed date for submitting notifications of intent to state and area-wide clearinghouses is changed from March 1, 1980 to April 15, 1980, and the proposed deadline for the submission of applications to CSA has been changed as follows: Regional applicants (General Community, Special Support, and T&TA) must submit their applications by June 30, 1980; Headquarters applicants who are operating on a calendar year basis and are applying for FY '81 funds, must submit their applications by August 31, 1980; and Migrant Conduits must submit their applications by May 31, 1980. In addition, applicants are requested to submit information copies of their notifications of intent (Form 424) to the appropriate CSA funding office in order for CSA to send them application packets.

DATE: The deadline for the submission of comments remains the same as that published in the proposed rule: March 20, 1980.

ADDRESS: Please address comments and inquiries to: Harold L. Gore, Community Services Administration, Office of Program Development, 1200 19th Street, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Harold L. Gore, Telephone: (202) 632-6694, Teletypewriter: (202) 254-6218.

(Sec. 602, 78 Stat. 530; 42 U.S.C. 2942)

Graciela (Grace) Olivarez,

Director.

The following amendments are being made to a proposed rule published in the Federal Register on February 19, 1980, pp. 11082-11105.

§ 1061.50-11 [Amended]

1. § *1061.50-11 Application procedures.* On page 11088, column 2, at the end of paragraph (a)(1) the following sentence is added:

Note.—Applicants are requested to submit information copies of their notifications of intent to the appropriate CSA funding office at the time the clearinghouses are notified. Compliance with this request will enable CSA to send application packets containing the necessary application forms to applicants.

2. § *1061.50-11 Application Procedures.* On page 11089, column 1, paragraph (b)(1) is amended by striking the last sentence, which begins: "In order to give clearinghouses * * *" and inserting the following sentence: "Applicants are urged to submit their notifications of intent to appropriate clearinghouses on or before April 15, 1980."

§ 1061.50-13 [Amended]

3. § *1061.50-13 Current fiscal year application and review information.* On page 11089, column 3, § 1061.50-13 is amended by striking paragraph (a) and inserting the following:

"(a) *Timetable for accepting applications.* Applications will be accepted from the effective date of the final rule through the following dates for various classes of applicants: For Regional applicants (General Community, Special Support, and T&TA) the deadline for accepting applications is June 30, 1980; for Migrant Conduits the deadline is May 31, 1980; and for Headquarters applicants whose program year coincides with the calendar year and who are applying for FY '81 funds, the deadline is August 31, 1980. Applications which are not post marked on or before the above appropriate dates will not be accepted."

[FR Doc. 80-7944 Filed 3-12-80; 8:45 am]

BILLING CODE 6315-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 61

[CC Docket No. 29-246]

American Telephone and Telegraph Co.; Private Line Rate Structure and Volume Discount Practices; Extension of Time

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: In response to a motion submitted by the Trial Staff of the Common Carrier Bureau, the Chief, Common Carrier Bureau has today granted an extension from March 7, 1980 until April 7, 1980 in which to file counterproposals in the above-captioned proceeding. Replies to counter-proposals may be submitted by April 23, 1980. However, responsive comments to the initial filings in this proceeding remain due on March 7, 1980 and replies to the responsive comments on April 7, 1980.

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

FOR FURTHER INFORMATION CONTACT: Patrick J. Donovan, Tariff Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, (202) 632-6312.

In Re: American Telephone & Telegraph Company, Private Line Rate Structure and Volume Discount Practices, CC Docket 79-246. See (45 FR 13139, February 28, 1980.)

Order

Adopted: March 5, 1980.

Released: March 6, 1980.

1. Before the Chief, Common Carrier Bureau is a "Motion for Modification of Comments Schedule" filed by the Trial Staff of the Common Carrier Bureau. Specifically, the Trial Staff asks for an extension from March 7, 1980 until June 2, 1980 in which to file counterproposals to the American Telephone and Telegraph Company's (AT&T's) original proposal for restructuring its private line rates. Further, it requests that the parties be given a suitable amount of time to comment on any counterproposals which may be filed.

2. In support, the Trial Staff explains that it is in a position to adequately address AT&T's initial filing in this proceedings, and stands prepared to do so on March 7, 1980, the date now scheduled for filing both responsive comments and counterproposals. Nevertheless, it contends that it requires extensive information before it can file a

meaningful counterproposal. Simply put, the current due date of March 7, 1980 is said to allow insufficient time for this purpose. In this regard, the Trial Staff notes that it has already filed one information request with AT&T and that another will be required to obtain all the information needed for the development of a counterproposal.

3. We are not persuaded that an extension of time until June 2, 1980 is warranted. Taken as a whole the *Notice of Inquiry and Proposed Rule Making*, FCC 79-565, released October 17, 1979 initiating this proceeding envisioned a restructuring of AT&T's private line tariffs. In particular, the three rounds of commentary were intended to focus primarily upon issues and policies rather than detailed and extensive information requests such as those submitted by the Trial Staff. Hence, AT&T was required to submit an outline of its proposed restructuring in the first comment round. This outline was required to fully comport with the guidelines proposed in the *Notice*. If AT&T took any exception to the guidelines, the Commission anticipated that AT&T would submit an alternate restructuring proposal in addition to one which followed the guidelines. In short, the Commission expected that any failure on AT&T's part to comply with this general requirement would elicit comments or counterproposals from the parties providing remedial guidance or direction to AT&T.[1]

4. In light of the above, then, we conclude that the Commission's allocation of six weeks between the filing of AT&T's initial proposal and the filing of counterproposals by other parties could not have contemplated that the Trial Staff—or any other party for that matter—would be required to propose an extremely detailed counterproposal requiring extensive discovery from AT&T. Rather, it seems apparent from the overall framework that the counterproposals would be equivalent to general outlines embodying principles which AT&T should be required to use in restructuring its rates.

5. There is thus no basis to grant the extensive request sought by the Trial Staff. We find, however, that some modification is warranted to allow for the filing of counterproposals. Accordingly, such counterproposals may be filed on or before April 7, 1980 by the Trial Staff as well as all other parties (including AT&T). We expect this limited relief will afford parties additional opportunity to make any necessary adjustments to conform with the principles set forth here without unnecessarily delaying the proceeding. In addition, parties may submit replies to any such counterproposals on or before April 23, 1980.[2]

6. Accordingly, it is ordered, pursuant to authority delegated in § 0.291 of the Commission's rules, 47 CFR 0.291 that the "Motion for Modification of Comments Schedule" filed by the Trial Staff of the Common Carrier Bureau is granted to the extent indicated above and is otherwise denied.

7. It is further ordered, that the Secretary shall cause this Order to be published in the Federal Register.

Federal Communications Commission.

Philip L. Verveer,

Chief, Common Carrier Bureau.

[FR. Doc. 80-7738 Filed 3-12-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Thus, for example, if AT&T failed to abide by the guideline which required that rate elements by consistently employed and defined, the *Notice* envisioned that this would be pointed out along with some specific illustration of how this should be done in a structural sense. If AT&T failed to define elements in a manner consistently related to underlying service functions, the *Notice* similarly expected that this would be clearly pointed out by the parties.

[2] As before, however, responsive comments to AT&T's initial filing remain due March 7, 1980, with replies due April 7, 1980.

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47 CFR PART 73

[Docket No. 20735]

Changes in the Rules Relating to Noncommercial Educational FM Broadcast Stations; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Reply comments; order extending time.

SUMMARY: Action taken here extends time for filing reply comments in a proceeding involving changes in the rules relating to noncommercial educational FM broadcast stations.

DATE: Reply comments must be filed on or before May 2, 1980.

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

FOR FURTHER INFORMATION CONTACT: Jonathan David, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of changes in the rules Relating to Noncommercial Educational FM Broadcast Stations, Docket No. 20735, 44 FR 59580, October 16, 1980.

Adopted: February 29, 1980.

Released: March 3, 1980.

1. On June 7, 1978, the Commission adopted a *Further Notice of Proposed Rule Making*, 43 FR 27682, in the above-captioned proceeding. Later the dates for filing comments and reply comments were extended, in an *Order* released April 27, 1979, to October 15, and November 15, 1979, respectively, to provide an opportunity for parties to comment on a Report being prepared by the Office of Chief Scientist pertaining to television Channel 6 interference considerations.

2. On August 20, 1979, the Commission, on its own motion, issued another *Order* extending the filing dates indefinitely because of a delay in the issuance of the Report of the Office of the Chief Scientist. On October 4, 1979, the Report having been issued, the Commission, on its own motion, adopted an *Order* setting new dates for filing comments and reply comments of January 15, and March 3, 1980, respectively, 44 FR 59580, October 16, 1979.

3. Before the Commission are requests for further extension of the date for filing reply comments made by National Public Radio ("NPR") and the Corporation for Public Broadcasting ("CPB"). NPR states that in reviewing the comments of other parties it has found considerable divergence of opinion on some issues accompanied by substantial engineering data. This is particularly the case, NPR states, as to the matter of assignment of noncommercial channels in Channel 6 areas. Additionally, NPR states that additional time is needed for regional and local licensees to review the new CPB-proposed Table. Therefore, NPR requests extension to April 11, 1980. CPB, for similar reasons, requests extension to a May date.

4. We are of the view that the public interest would be served by extending the period for filing reply comments so that CPB, NPR, and the various licensees may complete their analyses and provide information which may be helpful to the Commission in reaching a decision in this proceeding.

5. Accordingly, it is ordered, that the date for filing reply comments in Docket No. 20735 is extended to and including May 2, 1980.

6. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-7743 Filed 3-12-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 78-92; RM-2979; RM-3086]

FM Broadcast Stations in Rhinelander, Tomahawk, Washburn and Wausau, Wisc.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Further Notice of Proposed Rule Making and Order to Show Cause.

SUMMARY: This action proposes to assign a different Class C FM channel than that suggested previously as a substitute for an existing Class C assignment at Rhinelander, Wisconsin, in order to assign a new channel to Wausau, Wisconsin. The proceeding was initiated by Seehafer & Johnson, which seeks a third FM assignment to Wausau. This proposal also involves a substitution of Class A channels at Tomahawk, Wisconsin. In a separate document we are assigning a channel to Washburn, Wisconsin, since there is no longer a conflict in the request for an assignment there.

DATES: Comments must be filed on or before April 28, 1980, and reply comments on or before May 19, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments*, Fm Broadcast Stations. (*Rhinelander, Tomahawk,*[1] Washburn and *Wausau, Wisconsin). BC Docket No. 78-92, RM-2979, RM-3086.*

Further Notice of Proposed Rule Making and Order To Show Cause

Adopted: February 26, 1980

Released: March 6, 1980.

1. The Commission has before it the *Notice of Proposed Rule Making*, 43 FR 10944, released March 14, 1978, and the *Order to Show Cause*, 44 FR 31029, released May 17, 1979. The *Notice* proposed to reassign Class C FM Channel 300 from Rhinelander, Wisconsin, to Wausau, Wisconsin, and to assign Channel 291 to Rhinelander. A counterproposal to assign Channel 290 to Washbun, Wisconsin, was subsequently filed. That proposal is considered separately in a *First Report and Order*, adopted today, as will be discussed herein. The comments of concern here were submitted by WYYS, Inc., Licensee of Station WJJQ(AM), Tomahawk, Wisconsin; by Rhinelander Broadcasting Corp., applicant for Channel 248 at Rhinelander; by Oneida Broadcasting Co., licensee of Station WRHN(FM), Rhinelander; and by Seehafer & Johnson, petitioner for the Wausau assignment.

2. First, we shall provide some background leading up to our new proposal which is set forth herein. The *Notice* proposed to assign Channel 300 to Wausau as a third FM assignment by deleting it from Rhinelander. The license for Station WRHN(FM) on Channel 300 was proposed to be modified to specify Channel 248 which was already assigned at Rhinelander and unoccupied. In addition, to accommodate other expressions of interest in another FM station at Rhinelander, the Commission proposed to assign Channel 291 at Rhinelander as a second FM assignment (assuming channel 300 could be deleted). However, after the *Notice* was issued, Rhinelander Broadcasting Corp. applied for Channel 248 and a cutoff date of January 17, 1979, was announced. At this point, we looked into the possibility of having Rhinelander Broadcasting Corp. amend its application to specify Channel 291 instead of Channel 248. However, its specified transmitter site would not comply with site restrictions (10 miles west-northwest of Rhinelander). Therefore, we decided to pursue another option—to modify the license of Station WRHN(FM) on Channel 300 to specify Channel 291 and an *Order to Show Cause* was issued to effectuate that proposal. However, Oneida Broadcasting Co., the licensee, informed us that its station would also have to move from its existing transmitter site location to avoid a short-spacing and that approach would involve substantial reimbursement expenses. Since we do not, as a matter of course, require existing stations to relocate their transmitters in order to assign a new channel, we have dismissed this option. This brings us to our new proposal which we have found through further engineering analysis. We have determined that Channel 262 could be substituted for Channel 300 at Rhinelander which could then be reassigned to Wausau, if channel 261A is deleted from Tomahawk, Wisconsin. This channel is occupied by a translator which could continue to operate on Channel 224A which we shall also proposed to add. This option has three advantages: (1) It would free the Washburn proposal from comparative analysis since we no longer consider Channel 291 as a possible assignment at Rhinelander; (2) Station WRHN(FM) could remain at its present site despite switching frequencies to Channel 262; and (3) the Channel 248 application would be left unaffected. Finally, Wausau could be assigned Channel 300 as originally requested. The transmitter must be located 11.5 miles east-northeast of Wausau for Channel 300. This plan is intended to supersede previous proposals in this proceeding.

3. There are a couple of other matters that were raised in comments and which can be disposed of at this stage. WYYS, Inc. argued that the sites available for Channel 300 at Wausau (11.5 miles) are located closer to the nearby cities of Merrill and Antigo, and therefore we should consider assigning the channel to either of these communities. However, our measurements locate such a site at 15 miles from either city, which is further than the Wausau distance. Nevertheless, there has been no interest expressed at Merrill or Antigo and WYYS, Inc., itself, indicates a desire to apply for Channel 300, if assigned to Wausau.

4. Seehafer & Johnson was requested to demonstrate that appropriate transmitter sites providing line-of-sight signal propagation paths were available at Wausau. It submitted terrain profile graphs over a number of radials from two possible sites which indicate that most of Wausau would be provided shadow free service if the antenna were constructed at least 1,000 feet above ground at either site.

5. Canadian concurrence in the Rhinelander Channel 262 and Tomahawk Channel 224A assignments will be necessary.

6. Accordingly, it is proposed to amend § 73.202(b), the FM Table of Assignments, with respect to the communities listed below:

City	Channel No.	
	Present	Proposed
Rhinelander, Wisconsin	248, 300	248, 262
Tomahawk, Wisconsin	261A	224A
Wausau, Wisconsin	238, 270	239, 270, 300

7. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before April 28, 1980, and reply comments on or before May 19, 1980.

9. Further, it is ordered, that pursuant to Section 316(a) of the Communications

[1] This community has been added to the caption.

Act of 1934, as amended, the licensee of Station WRHN(FM), Rhinelander, Wisconsin, shall show cause why its license should not be modified to specify operation on Channel 262 if the Commission determines that the public interest would best be served by adopting the proposed assignment.

10. Pursuant to § 1.87 of the Commission's rules and regulations, the licensee of Station WRHN(FM), Rhinelander, Wisconsin, may, not later than April 28, 1980, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, WRHN(FM) may, not later than April 28, 1980, file a written statement, showing with particularity why its license should not be modified as proposed in the *Order to Show Cause*. In this case, the Commission may call on WRHN(FM) to furnish additional information, designate the matter for hearing, or issue, without further proceedings, an Order modifying the license as provided in the *Order to Show Cause*. If the right to request a hearing is waived and no written statement is filed by the date referred to above, WRHN(FM) will be deemed to consent to modification as proposed in the *Order to Show Cause* and a final Order will be issued by the Commission, if the channel changes mentioned above are found to be in the public interest.

11. It is further ordered, That the Secretary of the Commission send a copy of this order by certified mail, return receipt requested to Oneida Broadcasting Company, Box 738, Rhinelander, Wisconsin 54501, the party to whom the Order to Show Cause is directed.

12. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 78-92, RM-2979]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 80-7745 Filed 3-12-80; 8:45 am]

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47 CFR Part 73

[BC Docket No. 80-91; RM-3296; RM-3415]

FM Broadcast Stations in Carson City, Gardnerville-Minden and Sparks, Nev.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes, in the alternative, the assignment of a Class A and a Class C channel to Gardnerville-Minden, Nevada, a Class C channel to Carson City, Nevada, or two Class A channels to Gardnerville-Minden, in response to petitions filed by Listeners' Network and Carson Valley Broadcasters. The proposed channels could bring a first and second local aural broadcast service to Gardnerville-Minden.

DATES: Comments must be filed on or before April 28, 1980, and reply comments must be filed on or before May 19, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Carson City, Gardnerville-Minden and Sparks, Nevada), BC Docket No. 80-91, RM-3296, RM-3415.

Adopted: February 26, 1980.

Released: March 7, 1980.

1. The Commission has before it two petitions for rule making. The first was filed by Listeners' Network ("Listeners"),[1] requesting the assignment of FM Channel 257A to Gardnerville-Minden, Nevada, on a hyphenated basis, as its first FM assignment; the second was filed by Carson Valley Broadcasters ("Carson"),[2] requesting the assignment of Class C FM Channel 251 to Gardnerville-Minden, Nevada, also

[1] Public Notice of the petition was given on January 3, 1979, Rept. No. 1157.

[2] Public Notice of the petition was given on August 3, 1979, Rept. No. 1187.

on a hyphenated basis, and the substitution of unoccupied FM Channel 272A for Channel 252A at Sparks, Nevada.[3] Comments and an alternative proposal to the second petition were filed by Emerald Broadcasting Co. ("Emerald"), licensee of Station KTHO-FM, South Lake Tahoe, California. Carson filed reply comments.

2. Minden (pop. 400),[4] seat of Douglas County (pop. 6,882) is located approximately 68 kilometers (40 miles) south of Reno, Nevada. Gardnerville (pop. 900) is located about 3 kilometers (2 miles) east of Minden. Gardnerville and Minden have no local aural broadcast service.

3. Both petitioners have submitted community profiles of the Gardnerville-Minden area which adequately support a need for a first local aural service. The Carson Valley Chamber of Commerce estimates the present population of this area to be 9,600. As to the request to assign each of the channels on a hyphenated basis, petitioners describe the towns as twin communities with Gardnerville located approximately 3 kilometers (2 miles) from Minden. While Carson acknowledges that the communities have historically been considered separate, recent developments have led to a recognition that for many purposes the towns are grouped together. In this regard, we are told that many local government functions are shared by the communities. We generally require a showing that one community would be unable to support a station before a hyphenated assignment is made. However, it appears that the two designated places, Gardnerville and Minden may be considered as one community for our purposes. At least the Census Bureau lists these places as one community (with a population of 1,300 persons). On that basis, we are willing to consider and refer to Gardnerville-Minden as one community.

4. A preclusion study was submitted for Channel 251 (with the assumption that Channel 252A would be deleted from Sparks, Nevada) with a proposed transmitter site located approximately 13 kilometers (8 miles) north of Gardnerville-Minden. The study shows that eleven communities with populations greater than 1,000 will be affected. Of these, five[5] have no FM assignments or AM stations. Carson has indicated that other channels are available for assignment to these communities.

5. Emerald submitted an alternative proposed for Sparks replacing the existing assignment with Channel 265A instead of 272A. The purpose of this proposal is to avoid short-spacing with regard to a desired change in its South Lake Tahoe, California, station from Channel 276A to Channel 275. Our calculations, however, indicate that the distance from Emerald's current transmitter site to the sparks reference site is 71 kilometers (44 miles) as against the 40 miles required.

6. In support of its Class C request, Carson argues that a Class A station will not serve the needs of Douglas County. It states that the assignment of a Class C station would provide a first FM and nighttime aural service to 87 people in a 249 square kilometer (94 square miles) area and a second FM and nighttime aural service to 173 people in a 495 square kilometer (192 square miles) area. Furthermore, it states that a higher powered station is needed to reach the Washoe Indian Tribe's three colonies in the area.

7. Although we are proposing the Class C assignment as requested, we have doubts about its merit. First, the city in question is not of sufficient size to warrant a Class C channel. See § 73.206(b)(4) of the Commission's Rules. We have made exceptions where a significant first and second FM or aural service would be provided. We consider the proposed services here to be small. Carson may wish to supplement its showing to reflect the service offered from its proposed site which it states is different from the one used in its engineering study. It appears to us that the service area of a Class C station from the proposed site would be severely restricted by mountains to the east and west. In these directions the coverage may be no more than that which could be offered by a Class A station. Also, since the proposed site is close enough to a much larger and more important city, Carson City, we suspect that the station may be designed to serve that community instead of Garnerville-Minden. If that is what Carson desires, it should say so and provide a showing of need for a third Carson City channel. We shall propose Channel 251 for Carson City in the alternative so that that option may be considered.[6] A 1.6 kilometer (1 mile) site restriction would be necessary in this case to meet the spacing with regard to Channel 251, Redding, California. Finally, the Class C request for Gardnerville-Minden, if the Class A request were also granted, would create intermixture, a situation which we allow where the class A proponent is aware of this circumstance and nevertheless wishes to compete. Listeners should indicate its position on this matter. Should it eventually be determined that a Class C assignment is not warranted, we have also set forth for comment the additional possibility of assigning two Class A channels to Gardnerville-Minden.

8. In light of the foregoing information, the commission believes consideration of the above-mentioned proposals would be in the public interest.

9. Accordingly, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to the communities listed below:

City	Channel No.	
	Present	Proposed
Plan I		
Gardnerville-Minden, Nevada		251, 257A
Sparks, Nevada	252A	272A
or Plan II		
Gardnerville-Minden, Nevada		224A, 257A
or Plan III		
Carson City, Nevada	234, 247	234, 247, 251
Gardnerville-Minden, Nevada		257A
Sparks, Nevada	252A	272A

10. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

11. Interested parties may file comments on or before April 28, 1980, and reply comments on or before May, 19, 1980.

12. It is ordered, that the Secretary of the Commission shall send by certified mail, return receipt requested, a copy of this *Notice* to E. H. Schultz, 527 10th Street, Sparks, Nevada 89431, and Beck Enterprises, Inc., 2300 Budrow, Reno, Nevada 89502, the applicants affected by this proposal.

13. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

[3] Two applications are pending for the Sparks channel from E. H. Schultz (BPH-8897) and Beck Enterprises, Inc. (BPH-9242).

[4] Population data is provided by petitioner.

[5] *Nevada*: Lovelock (pop. 1,571) (Channels 250, 251); Yerington (2,010) (Channels 251, 252A); Hawthorne (3,539) (Channels 251, 252A); Truckee (1,392) (Channel 252A); *California*: Portola (1,625) (Channel 252A).

[6] This assignment would not be available at Gardnerville-Minden, although located within 15 miles, should Channel 257A be assigned at Gardnerville-Minden. (Section 73.203(b) of the Commission's rules.)

However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-91, RM-3296, Rm-3415]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g), and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examinaiton by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-7746 Filed 3-12-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 79-269; RM-3392; RM-3398; FCC 79-667]

Television Broadcast Stations in Dover and Seaford, Del.; Asbury Park, Atlantic City, New Brunswick, Newton, Vineland, West Milford and Wildwood, N.J.; Kingston and Syracuse, N.Y.; and Bethlehem, Lebanon and State College, Pa.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes to assign one new noncommercial educational and five new commercial UHF televisions channels to six communities in New Jersey. The proposals were primarily initiated by the Commission. Petitions for rule making filed by North Jersey Television Corp. and by the New Jersey Public Broadcasting Authority were also taken into account. Assignments could provide new television service to the residents of several regions in New Jersey.

DATES: Comments must be filed on or before May 8, 1980 and reply comments on or before June 9, 1980.

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

FOR FUTHER INFORMATION CONTACT: Gordon W. Godfrey, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.60-6(b), Table of Assignments, Television Broadcast Stations. (Dover and Seaford, Deleware; Ashbury Park, Atlantic City, New Brunswick, Newton, Vineland, West Milford and Wildwood, New Jersey; Kingston and Syracuse, New York; and Bethlehem, Lebanon and State College, Pennsylvania), BC Docket No. 79-269, RM-3392, Rm-3398.

Adopted: October 18, 1979.

Released: March 5, 1980.

By the Commission: Chairman Ferris issuing a separate statement.

1. In an effort to provide the State of New Jersey with an opportunity to acquire additional television service, the Commission has examined a number of alternatives to accomplish this goal. A staff reported entitled "Investigation of New Television Service for New Jersey" (FCC/OST RS-03) will be placed in the Docket file of this proceeding. It wil be available for public inspection and comments are invited on all aspects of the Report. * However, this Notice will concentrate on the possible addition of UHF assignments in New Jersey because that appears from the Report to be the option most likely to increase the television service available to the people of New Jersey. The Report indicates that substantial amounts of interference are unavoidable if a New Jersey VHF service is to reach most of the State. That interference would mean that some people in New Jersey would lose two or more New York or Philadelphia VHF services in order to get the one New Jersey VHF service; some people in New Jersey could lose as many as eight existing VHF services without being able to receive the New Jersey VHF service; and some people in surrounding states would lose the ability to receiving existing VHF stations without any new service becoming available to them. The studies made in connection with the staff report have revealed the availability of six new UHF television channel assignments at communities within the State of New Jersey. We are also considering herein two petitions, one filed by North Jersey Television Corporation (RM-3392), and the other by the New Jersey Public Broadcasting Authority (RM-3398).[1] Although interest has not yet been expressed in the use of four of the six channels they are being proposed in order to preserve the opportunity to use them to bring New Jersey originated and oriented television service to the people of New Jersey.

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* This Report was released by the Commission in November, 1979, and a copy has been placed in the official record. Interested parties may obtain copies of the Report by contacting the Research and Standards Division of the Office of Science and Technology.

[1] Public Notice of the North Jersey Television Corporation and New Jersey Public Broadcasting Authority petitions was given on July 11, 1979, Report No. 1183.

2. *RM-3392.* North Jersey Television Corporation ("NJTV") proposed the assignment of UHF Channel 60 to Netcong, New Jersey (pop. 2,858)[2], and the substitution of Channel 26 for Channel 60 at Bethlehem, Pennsylvania. Netcong is located in the northwest portion of the State, approximately 65 kilometers (40 miles) west of New York City. NJTV contends that there is inadequate service in northern New Jersey and that the proposed assignment to Netcong is needed to provide the first commercial outlet for the community and for Morris County (pop. 383,454). At the same time, it also would provide regional service to eleven other counties. NJTV states that it will concentrate its resources to serve Netcong and other New Jersey communities, not New York.

3. An opposition to NJTV's petition was filed by NEP Communications, Inc. ("NEP"), licensee of television Station WNEP-TV, Scranton, Pennsylvania. NEP states it has an application (BPTT-3133) pending for a UHF translator at Allentown, Pennsylvania, which would rebroadcast the signal of Station WNEP-TV. It contends that new station on the proposed Channel 26 assignment at Bethlehem would prevent operation of its proposed Channel 26 translator. We point out that since translator use of a broadcast frequency is a secondary one it would have to yield to a full-time television operation should the channel be assigned and an application for its use granted. (See § 74.702(c)(3) and (d) of the Commission's rules.)

4. A greater problem is presented at Bethlehem where an application is already on file for Channel 60. Under our proposal, the application would need to be amended to specify Channel 26. The difficulty arises because the Bethlehem, Pennsylvania, Channel 60 application (BPCT-4802) specifies a site which would not meet the spacing requirements for a Channel 26 station. The assignment of channel 26 would require use of a site approximately 13 miles north of Bethlehem. It is not clear that a suitable site in the required area would be available. Because of this situation, oppositions were filed by the Greater Washington Educational Television Association, licensee of the Washington, D.C. Channel 26, by the Association of Maximum Service Telecasters and by WBRE-TV, Inc. (the Bethlehem Channel 60 applicant). While the Channel 26 site availability is uncertain, the possible assignment of Channel 60 in New Jersey is important to the provision of a new service to most parts of the State (see the attached map). Because of its importance, we will propose the assignment of Channel 60 to Asbury Park and the substitution of Channel 26 for Channel 60 at Bethlehem, Pennsylvania. we recognize the possibility that no suitable Channel 26 site can be found and request additional comments addressing this question (with consideration given to our proposal herein to delete the unavailable television Channel *19 assignment at New Brunswick, New Jersey).

5. *RM-3398.* New Jersey Public Broadcasting Authority ("NJPBA") proposed channel *66 for Sussex, New Jersey (pop. 2,038), to be used for noncommercial educational use. NJPBA states if the channel is assigned, it plans to apply for a high power translator or satellite station to operate on Channel *66. It claims the proposed channel would provide a first educational television service to residents and school districts of northern Sussex County and northwestern Passaic and Morris Counties. NJPBA asserts that there is a pressing need to improve State network coverage of northern New Jersey.

6. Both NJTV and NJPBA expressed an interest in providing television service to the northwest area of New Jersey rather than to the specific small community mentioned. If the channels were assigned in this fashion, they would have to be used at sites well removed from both communities. While this might be acceptable by itself, it serves no purpose in this context. For this reason the channel assignments are proposed for nearby communities where there would be minimal site restrictions, rather than proposing Netcong and Sussex assignments with substantial site restrictions. In the other four cases, proposed on our own motion, the communities specified are those selected by the Commission because of their location in the area where each channel could be used.

7. In order to accomplish the assignment of these six additional channels, assignments from other communities in several other states will have to be deleted. The proposed deleted channels are unoccupied and unapplied for with the exception of one (Channel 60, Bethlehem, Pennsylvania) on which there is an application pending (see paragraph 4, *supra*). Where channels have been deleted, replacements have been found. However, it is to be noted that site restrictions will need to be placed on several of the proposed new assignments, generally ranging from one to seven miles from the community of assignment reference coordinates.

8. The action we are proposing would make a UHF channel assignment available in each of the following New Jersey communities: *Asbury Park* (pop. 16,533) is located in Monmouth County in east central New Jersey, approximately 60 kilometers (37 miles) south of New York City. Channel 58 is currently assigned to Asbury Park but there is a footnote indicating that it is not available for commercial use there until it is determined by the Commission that Channel *58 is needed for educational use at New Brunswick, New Jersey. This restriction is a consequence of Docket 18261, where Channels 19 and 20 were made available for land mobile use in Philadelphia. The Channel *19 New Brunswick assignment was frozen and Channel *58 was assigned as a replacement. Since no replacement was found for the Asbury Park channel, it was not deleted, but the footnote was added. The action proposed herein can resolve this situation by substituting Channel 60 for Channel 58 at Asbury Park, thus providing the first opportunity for commercial television applications there since 1970. With the removal of the question about the Channel *58 assignment in New Brunswick, the deletion of the Channel *19 New Brunswick assignment appears to be in order. That assignment has not been available since the land mobile sharing of Docket 18261 was implemented. Also, since the Channel *19 New Brunswick assignment restricts the choice of transmitter site at the proposed Channel 26 Bethlehem, Pennsylvania, assignment to the point where no practical site may be available, it is appropriate to consider deletion of this unavailable channel assignment for this reason as well.

Atlantic City (pop. 47,859) is located in Atlantic County in southeast New Jersey, approximately 95 kilometers (60 miles) east southeast of Philadelphia. Channels *18, *36 and 53 are currently assigned to Atlantic City. Channel *18 is not available for television use because of Docket 18261. Channel *36 is reserved for noncommercial educational use and is unoccupied and unapplied for. Channel 53 is vacant but two applications have been filed for its use (BPCT-5109 and BPCT-5157).

Newton (pop. 7,297) is located in Sussex County, in northwest New Jersey, approximately 75 kilometers (45 miles) west of New York City. There are currently no television channels assigned to Newton.

Vineland (pop. 47,399) is located in Cumberland County, in south central New Jersey, approximately 60

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

kilometers (37 miles) southeast of Philadelphia. Channel 65 is currently assigned in Vineland and a construction permit has been granted to Renaissance Broadcasting Corporation to build a commercial television station there.

West Milford (pop. 17,304) is located in north central New Jersey, in Passaic County, approximately 55 kilometers (35 miles) northwest of New York City. There are currently no television channel assignments at West Milford.

Wildwood (pop. 4,110) is located in Cape May County, near the southern tip of New Jersey, approximately 115 kilometers (70 miles) southeast of Philadelphia. Channel 40 is currently assigned to Wildwood and used by Station WCMC-TV, which has an application pending for a substantial increase in its power and antenna height.

9. Canadian concurrence is required for some of the proposed assignments which are for communities located within 250 miles of the Canadian border.

10. *Site Restrictions.* The assignment of Channel 63 to Newton, New Jersey, would require a site at least 1.0 mile north of Newton. The site necessary for use of the Channel 59 assignment to Vineland, New Jersey, would be at least 2.3 miles south of Vineland. The Channel 64 assignment to Dover, Delaware, would require a site at least 1.5 miles southwest of Dover. The site necessary for the Channel 62 assignment to Kingston, New York, would be at least 4.3 miles north of Kingston, unless the application (BPCT-790118LD) for Channel 54 at Poughkeepsie, New York (or another application at a similar site) is granted. Channel 55 must be used at least 6.8 miles southwest of Lebanon, Pennsylvania, if it is assigned. Depending upon the disposition of RM-3460, a petition to assign Channel 68 to Hagerstown, Maryland, a site 10 miles east of Seaford, Delaware, may be required if we make the proposed Channel 68 assignment there.

11. In order to assign Channel *66 to West Milford, New Jersey, it is necessary to restrict the permissible site for a Channel 66 Worcester, Massachusetts, assignment to an area east of Worcester. If the Worcester assignment reference coordinates are changed to a site 4.8 miles east of Worcester, then some flexibility will be allowed for the West Milford Channel *66 assignment site selection. It should be noted that there is an application on file for the Worcester assignment (BPCT-790215KE) which is almost 19 miles southeast of Worcester and which would easily meet the spacing requirements to a Channel *66 West Milford assignment. It is also necessary to specify reference coordinates for the Scranton, Pennsylvania, Channel 64 assignment, that are 3 or 4 miles west of Scranton, to allow for the filing of an application as much as 1 or 2 miles west of Newton without being short-spaced to the Scranton assignment.

12. Accordingly, we propose to amend § 73.606(b) of the Commission's rules, the Television Table of Assignments, in the following manner:

State and city	Channel No.	
	Present	Proposed
Delaware:		
Dover	*34	*64–
Seaford	38, *64–	38, *68–
New Jersey:		
Asbury Park	[5] 58	60–
Atlantic City	[1] *18, *36, 53+	[1] *18, *36, 53+, 62–
New Brunswick	[1] *19–, 47+, *58	47+, *58
Newton	———	63
Vineland	65–	59–, 65–
West Milford	———	*66–
Wildwood	40	34–, 40
New York:		
Kingston	63	62+
Syracuse [3]	3–, 6–, 9–, *24+, 43+, 62+	3–, 5–, 9–, *24+, 43+, *69–
Pennsylvania:		
Bethlehem	60–	26
Lebanon	59–	55+
State College	29+, *55+	29+, 60

[1] Following the decision in Docket No. 18261, channels so indicated will not be available for television use until further action by the Commission.

[3] Channel 68* instead of Channel 69* may need to be considered as a substitute for Channel 62+ at Syracuse, New York, depending upon current negotiations with Canada regarding revisions to their UHF allocation plan.

[5] This channel is not available for use at Asbury Park unless and until it is determined by the Commission that it is not needed for educational use at New Brunswick, New Jersey.

13. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

This showing is requested from NJTV and NJPBA with respect to the Newton and West Milford proposals only. It should also be noted that counterproposals seeking to have these or other channels assigned to different New Jersey communities will only be accepted during the comment period, not in reply comments.

14. Interested parties may file comments [4] on or before May 8, 1980, and reply comments on or before June 9, 1980.

[4] As discussed in paragraph 1, comments may be directed to any aspect of the Office of Science and Technology Report regarding New Jersey television service as well as to the specific assignments proposed herein.

15. For further information concerning this proceeding, contact Gordon W. Godfrey, Broadcast Bureau, (202) 632-9660. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of the pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.[5]

William J. Tricarico,

Secretary.

Appendix

[BC Docket No. 79-269 RM-3392; RM-3398]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before

[5] See attached Separate Statement of Chairman Ferris.

the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

Separate Statement of Charles D. Ferris, Chairman In Re: Investigation of New Television Service in New Jersey

October 18, 1979.

The FCC has, for many years, been deeply concerned with the problem of television service in and to New Jersey. There is presently no commercial VHF station in that state. Residents of New Jersey must rely on those UFH stations assigned to their state and the commercial VHF stations in New York and Pennsylvania for their news or public affairs programming.

This is an issue that also deeply concerns the people of New Jersey. I hope, therefore, that they will carefully study the actions we have taken today. In particular, I hope that all of New Jersey's residents will examine the report prepared on this issue by the Commission's Office of Science and Technology. This comprehensive study was undertaken so that we could assess all of the possible approaches to providing New Jersey with the television service it needs, wants, and deserves.

The technical conclusions of the study may be disappointing to some. The report found, for instance, that attempts to provide New Jersey with its own VHF station would unavoidably result in a trade-off where many of the TV signals coming into New Jersey from New York and Philadelphia would be blocked, and people in other states would find their own signals weakened or destroyed.

It may be, however, that the people of New Jersey will be willing to sacrifice some out-of-state signals in order to have their own VHF station. If this is the case, then the people of New Jersey should so indicate during the comment period we have established in this proceeding. The importance of public participation in our proceedings is heightened when our decisions affect the choices available to them. We want to make the correct choice, one that is sensitive to the preference of those who are most directly affected. This can be accomplished only if people take the time and effort to inform us.

The OST report concluded that six new UHF stations could be added, without affecting television service in other areas. This option is being considered in the Notice of Proposed Rulemaking we have released today. The addition of this many new stations could begin to provide New Jersey with the kind of local service the residents should have.

But even the assignment of six new UHF stations would be useless unless these stations are economically viable. Network affiliation would aid their economic health and the Commission will examine the question of network affiliations for the new UHF stations. The proposed stations might also be helped if the Commission encouraged cable and subscription television in New Jersey. These services have proven helpful to other UHF stations. Perhaps some of the Commission's rules could be modified with respect to New Jersey.

As a final measure, we have also requested that the staff draft an order to be sent to New York and Philadelphia VHF stations requesting them to submit proposals to establish a greater physical presence through in-state offices and news bureaus in New Jersey. While these stations have provided increasing amounts of New Jersey programming, only their physical presence can provide direct access to the stations, access which is critical to citizens seeking to air their opinions about the problems of their state and community.

Together, these steps—the proposed addition of six new UHF stations with the possibility of various steps to assure their economic viability and the requirement of the physical presence of New York and Philadelphia stations—demonstrate the concern of the FCC to assist all the residents of New Jersey who are now deprived of what I believe to be sufficient local news or public affairs programming.

[FR Doc. 80-7741 Filed 3-12-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 79-270; FCC 79-668]

Providing Optimum Conditions for Utilization of New Jersey Television Channel Assignments; Inquiry

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry and Notice of Proposed Rule Making.

SUMMARY: The Commission adopted a Notice of Inquiry and Notice of Proposed Rule Making to explore steps to improve conditions for the effective use of New Jersey television channel assignments. This action was taken on the Commission's own motion as part of an on-going effort to further the availability of locally attuned television service for the residents of New Jersey.

DATES: Comments must be filed on or before May 8, 1980 and reply comments must be filed on or before June 9, 1980.

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

FOR FURTHER INFORMATION CONTACT: Jonathan David, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: October 18, 1979.

Released: March 5, 1980.

By the Commission: Chairman Ferris issuing a separate statement; Commissioner Jones concurring and issuing a statement in which Commissioner Washburn joins.

In the matter of providing Optimum Conditions for Utilization of New Jersey Television Channel Assignments, BC Docket No. 79-270.

1. This document is part of the Commission's on-going effort to further the availability of television service truly attuned to serving the particular needs of the State of New Jersey and its more than 7,350,000 residents. To this end, the present *Notice of Proposed Rule Making and Notice of Inquiry* is designed to invite comments on methods by which the most favorable conditions for the effective use of existing and proposed New Jersey television assignments may be created.

2. In a separate *Notice of Proposed Rule Making* adopted today (FCC 79-667, BC Docket No. 79-269), the Commission has proposed to make six new UHF television channel assignments to various communities in the State of New Jersey. The six new assignments include three additional unreserved (or "commercial") assignments in southern New Jersey, at Atlantic City, Vineland and Wildwood (in each of which there is already an unreserved channel assigned), and two unreserved and one reserved

assignments at three places in the northern part of the State—Asbury Park, Newton and (reserved for educational use), West Milford.

3. Although the Commission does not bear the responsibility of assuring the financial viability of broadcast licensees, it cannot ignore the effect on viability produced by rules or policies which may have the effect of strangling any potential for a meaningful television service for the State of New Jersey. Accordingly, in adopting a *Notice of Proposed Rule Making* to assign six new UHF stations to that State, we need to understand what has happened with existing New Jersey stations. Two stations in the northern New Jersey area found that STV revenues made an important contribution to their economic position, while a third relies on Spanish language programming to compete against the stations in the New York City market. In the southern part of the State, a station in the Philadelphia suburb of Burlington operates in a fashion that resembles a Philadelphia independent station, and a permittee in nearby Vineland has recently been refused a network affiliation but has been granted an STV authorization.[1]

4. Only in the Atlantic City area has there been any indication that stations may achieve economic viability through a focus on New Jersey directly rather than toward the major markets that surround it. There are presently pending before the Commission two applications for Channel 53 in Atlantic City, and an application to substantially improve the facilities of Station WCMC-TV, Wildwood. With the proposed addition of new channel assignments to Atlantic City and Wildwood, it is very possible that those communities will constitute a distinct and economically viable television market in the very near future.

5. However, other proposed New Jersey assignments do not have so sanguine an outlook. Newton, in the northwest portion of the State, is within the predicted Grade B contour of six commercial VHF stations in New York City. Asbury Park, on the north Jersey shore, is even closer to New York City, within the Grade A contour of two New York City stations and the Grade B of the remaining stations. Vineland, in South Jersey is only 34 miles from Philadelphia and within the Grade A contour of two of that city's stations as well as the Grade B of the remaining three. To be more than an empty gesture, proposals to add those assignments must consider the impediments to their ultimate financial viability. Even if the channels are assigned to those communities, no positive benefits would flow if they went unapplied for, or were applied for but remained unbuilt, or were built and then went bankrupt. We realize that at least one group has expressed an interest in a channel in Newtcong, less that 12 miles from Newton and similarly situated with regard to service from New York City. We further recognize that at least one national network has told a Vineland permittee that an affiliation might have been possible if it had built closer to Atlantic City. These are hopeful signs, but we do not feel we can leave this matter to hope alone. Rather, we must do more to encourage entrepreneurs who are willing to risk substantial personal and economic assets on a venture which would supply local television programming for the State of New Jersey. Thus, we feel it incumbent upon us to explore these matters now, at the same time we are considering the assignment to these channels.

6. Accordingly, we will examine our own rules and policies, as well as the policies of others under our regulatory authority, to identify behavior that, under the circumstances, may be inappropriate and to explore equitable means for altering those patterns. However, it is important to make our intent clear. It is not our intent to guarantee the financial security of existing or future licensees. That, of course, is the product of the skill of individual entrepreneurs. What we intend to do is work toward removing artifical impediments that have a particular implication for New Jersey stations and hence on the State and its residents as well. We shall deal with three of these areas below: network affiliation, limitations on low power operation, and limitations on STV operation.

Network Affiliation[2]

7. One national network has already affiliated with a station in Wildwood. The two applicants for a channel in Atlantic City have both indicated they will seek a network affiliation, and a network has indicated it would have had a greater interest in affiliating with a Vineland station if that station had located its transmitter between Vineland and Atlantic City, rather than towards Philadelphia. Accordingly, there appears to be little problem in establishing a television market with at least three network affiliations in the south Jersey shore area around Atlantic City. Indeed, such affiliations could be to the network's benefit because the Atlantic City area is on the fringe of or beyond the predicted Grade B contours of stations already affiliated with the networks. Licensees in that area could therefore deliver new audiences to their networks, and, in turn, would receive compensation from the network for those audiences.

8. On the other hand, economic incentives for a network affiliating with the stations proposed in Newton and Asbury Park would be substantially less persuasive. This is so because in both cases the audience reached by those stations would be overshadowed by the service areas of existing network affiliates. It is true that the New Jersey stations would serve some homes with a Grade A contour where they currently receive only a Grade B contour from New York or Philadelphia. Such upgrading of service should have some financial significance to a network. Moreover, there are other situations in which networks affiliate with stations whose service areas are substantially duplicated by other affilates.[3] However, in each of those cases the "small" market stations provide a higher grade contour to a significant city. Such it not the case in New Jersey.

9. We further note that in the New Jersey situation, network affiliation decisions may include factors not normally considered in such decisions. Normally, a network may be willing to affiliate with an overshadowed station in order to increase the number of homes receiving a high quality signal, even at the expense of the big city affiliate. Although the network's ability to reduce the big city affiliate's compensation is limited.[4] It may have sufficient freedom to adjust compensation in order to foster the development of the new affiliate. However, if the big city station is itself owned by the network in question, the factors take on different significance. For example, the loss to the big city station—at the expense of the

[1] The grant of that authorization required a waiver of our "complement of four" rule. This action was taken by the Commission on December 19, 1979. The general subject is discussed further below.

[2] In the discussion which follows, we have drawn heavily on the findings of the Network Inquiry Report released in October, 1979, in Docket 21049. It is not our intention to invite comment on the full range of those issues. Rather, we intend to give these points a particular New Jersey focus and examine some special issues such as the impact of network ownership of New York and Philadelphia affiliates on New Jersey affilialion opportunities.

[3] Examples are: The Washington, D.C. and Baltimore markets; San Francisco and San Jose, California; and Manchester, New Hampshire, Boston, Massachusetts, Providence, Rhode Island, markets.

[4] For example, the station may retaliate by not clearing marginal network programs in favor of syndicated programming.

overshadowed station—is a loss to the network itself. Further, the network owned station does not have the same ability to retaliate for the loss by the presentation of syndicated programming. Accordingly, in this latter situation, the decision may not be made in the same manner as the normal network affiliation situation. Since this is the case with regard to the three network stations in new York City, a question is raised as to whether the networks' decisions to affiliate with the proposed stations in Newton and Asbury Park would be normal affiliation decisions or would be skewed by the network's ownership of the New York City stations.

10. With these facts in mind we intend to examine the New Jersey network affiliation problem from the point of view of the marketplace's ability to control the affiliation process there.[5] For, if it does not, there may be a need for a rule [6] to control the process, or in the alternative, a policy statement to deal with affiliation practices by networks in markets which are reached by network owned and operated stations. We invite the submission of all data that can help us resolve this matter.

11. *STV Operation.* The next point we turn to is whether the existing STV rules operate in a fashion to diminish the viability of the UHF television channels assigned to New Jersey. The opportunity for any of these facilities to operate as subscription television stations could mean the chance for them to establish a sound economic underpinning. That being the case, we wish to consider whether waiver of STV rules may be appropriate. For a clearer understanding of this subject, we will provide a brief discussion of the nature of this service and the relevant rules.

12. Subscription television ("STV") broadcasting involves the broadcasting of a scrambled television signal which, on payment of a fee, subscribers are authorized to unscramble through use of a decoder.[7] At the present time, there are six STV stations operating: Station WWHT, Newark, New Jersey; Station KBSC, Corona, California; Station KWHY, Los Angeles, California; Station WQTV, Boston, Massachusetts; Station WXON, Detroit, Michigan; and Station KNXV, Phoenix, Arizona. In addition, nine STV authorizations have been approved, but are not yet in operation; and approximately sixty STV applications have been accepted for filing.

13. There are two significant Commission regulations which have governed the establishment of STV service in a community since 1968.[8] First, STV operation is restricted to communities which are within the Grade A contour of at least five commercial television stations including that of the STV operator. Before an STV grant can be made, at least four of the stations have to be in operation and providing conventional television service (the "complement of four" rule). Second, the Commission has required that in the five-station communities where STV would be permitted, only one of these stations might engage in STV operations. This latter requirement, known as the "one-to-a-community" rule, however, was eliminated effective November 23, 1979, in a *First Report and Order,* Docket No. 21502 (FCC 79–535) adopted on September 25, 1979. Thus, only the "complement of four" rule remains as a barrier to entry into the STV sphere.[9]

14. At the time the Commission adopted the rule restricting STV to communities within the Grade A contour of four conventional stations, we were concerned with striking a reasonable balance between conventional and pay television so as not to hamstring the development of STV and yet provide safeguards against the possibility that events would develop in a manner contrary to the public interest. In New Jersey, however, our concern is not to protect what is practically non-existent, that is locally based conventional television, but rather to establish television service of any kind whether conventional or pay in that jurisdiction. Moreover, it is significant to note that those STV stations presently operating provide conventional programs during most broadcast hours, with approximately four or five hours of their broadcast day, usually during prime time, consisting of pay programming. This practice appears likely to continue to be the norm. Rather than precluding additional free programming, the use of STV in New Jersey can lead to the availability or more, rather than less, conventional programming. This happens in cases where advertising revenues by themselves are inadequate to support the station. However, STV revenues may spell the difference here, with the station being able to spread the fixed cost of operation across conventional and pay programming. In such a case the welfare of both subscribers and non-subscribers will be improved. STV has, and probably will continue, to stimulate the use of UHF channels and provide a firm economic foundation for any UHF facilities presently existing. Thus, we believe that STV can be one vehicle employed in establishing viable television facilities in New Jersey.

15. It appears from our analysis of existing television assignments and stations that under the existing rules, STV can be established in only one of the six New Jersey communities to which we have proposed UHF channel assignments. The community eligible for STV is Asbury Park, which is within the Grade A contour of four stations, these being: WABC-TV, WOR-TV, WPIX-TV, and WXTV. As to West Milford, it is within the Grade A contour of three conventional stations, WABC-TV, WOR-TV and WPIX-TV, and one STV facilities, WTVG. Since the proposed assignment for this community is to be reserved for noncommercial educational use, however, waiver of the "complement of four" rule is not necessary in regard to that assignment. As to the remaining four New Jersey assignments, STV can only be established if that rule is waived, for Atlantic City is not within the Grade A contour of any station while Newton, Vineland and Wildwood are only within the Grade A contour of two, two and one conventional station(s), respectively.[10] The commercial station(s) serving Newton are WOR-TV and WPIX-TV; those serving Vineland are WCAU-TV and WTAF-TV; and the one serving Wildwood is WCMC-TV.

16. We believe it is in the interest of furthering the establishment of local television service in New Jersey to contemplate following a liberal waiver policy regarding the "complement of four" rule with regard to the

[5] The inquiry here is designed to be limited to the particular factual situation presented and is not intended to supplant or duplicate the broader range of matters considered by the Network Inquiry staff.

[6] Arguably, we could deal with such network practices by adopting a rule that would be made applicable to the networks directly. However, there is no need to consider whether the Commission has jurisdiction to adopt such a rule. Rather, we have decided to follow our usual practice of phrasing the rule in terms of a refusal to grant a license to a station affiliated with a network which engages in the practice in question. This is the approach used by the Commission in dealing with "option time," territorial exclusivity, "prime time access" and other aspects of network operation and the approach has been sustained by the Courts, beginning with *National Broadcasting Company v. F.C.C.,* 319 U.S. 190 at 218, 219 (1943).

[7] See *In the Matter of Subscription Television Program Rules,* 52 F.C.C. 2d 1, at 2 (1974).

[8] See the *Fourth Report and Order,* 15 F.C.C. 2d 466 (1968), in Docket No. 11279, in which the basis for nationwide STV service was established.

[9] The possibility of proposing other changes in the STV rules including the "complement of four" rule is currently being examined.

[10] Newton is also within the Grade A contour of STV Station WTVG, while Vineland also has a construction permit authorized for Channel 65, the holder of which is presently seeking program test authority.

communities in New Jersey. We propose waiver of the "complement of four" rule not only as it affects the proposed UHF assignments, but also as it concerns the only station presently licensed to any of these communities, that is WCMC-TV at Wildwood or any conventional station which may later be licensed to these communities. We believe that such waivers may well be needed to enable New Jersey stations to establish economic viability. For that reason, we also propose waiver for any conventional station which in the future may be licensed to West Milford.

17. We invite comments on the general advisability of waiving the "complement of four" rule for the proposed UHF assignments at Atlantic City, Newton, Vineland and Wildwood and whether it would be appropriate to waive that rule for the present station at Wildwood as well as any future assignments to these four communities and West Milford. Parties are specifically requested to address the question of whether, in fact, it will encourage interest in New Jersey television operations. Also, to what extent will STV enable New Jersey stations to firmly establish themselves? And, what effect, if any, would STV facilities in Atlantic City, Newton, Vineland, Wildwood and West Milford, have on conventional television stations in neighboring communities? Finally, all other suggestions and comments pertinent to this area of inquiry and rule making are invited.[11]

Low Power TV For New Jersey

18. Sections III and IV of the Report by the Office of Science and Technology, presented to the Commission on September 25, 1979,[12] explored in detail the service possibilities likely to be realized from systematic use of "less than maximum facilities" such as television translators and low-power television stations. A number of practical difficulties, including predicted destructive interference, were shown to be present in the effort to add service systematically by this route. However, in offering the Office's study for public comment, we do not in any way imply that the selective use of TV translators or of low-power stations is or should be foreclosed.

19. In the unique circumstances of New Jersey, the Commission encourages the parties and the public to explore creatively any path that holds promise of encouraging the success of new full-service UHF broadcast stations within the State. The steps that we shall consider in an appropriate case include expedited handling of applications, approval for flexible ownership and use arrangements, and waiver of particular Commission rules and regulations that otherwise might be a discouragement to new service. The proposed amendments to the Table of Assignments with six new assignments, including some upon the Commission's own motion, are illustrative of our determination to expedite proposals for service to New Jersey.

20. Specifically with regard to low power television, we contemplate encouraging proposals for translator service that could expand and strengthen the base of the new UHF stations. Such translator service could be provided on a non-profit basis, for example, by State or local government, or by educational television broadcast stations. We likewise encourage commercial proposals by the commercial broadcasters, by the applicants for new commercial broadcast stations in New Jersey, or by any other qualified applicant.

21. Proponents of new television translator service for New Jersey are advised that the Commission will carefully consider requests for waiver of the Commission's rules applicable to such service (principally those in Part 74), upon an appropriate showing of need. Any requested waiver that would not result in harmful interference will receive careful and prompt consideration.

22. Specifically, we invite applicants for new TV translator or low-power television service to propose operation in the VHF or UHF bands. We intend to consider permitting applicants for a VHF channel to propose facilities of up to 10 watts for operation outside the Table of Assignments (notwithstanding the one-watt limitation in § 74.735(a)). Applicants for a UHF channel would be able to propose the use of any channel from 14 to 69 (notwithstanding the priorities specified by § 74.702(d)). Although it may be impractical, while avoiding mutaul interference, to undertake further relaxation of the facilities and technical provisions of § 74.702, 74.703, and 74.735, applicants are free to put forward additional proposals, where a showing can be made that harmful interference will not be caused thereby.[13] In this way, it is hoped that the developers of new stations for New Jersey will be able to include in their plans flexible and creative approaches to coverage expansion through the use of TV translators.

23. Authority for the institution of this proceeding is contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended.

24. Pursuant to procedures set forth in § 1.415 of the Commission's Rules, interested persons may file comments on or before May 8, 1980, and reply comments on or before June 9, 1980. The Commission will consider all relevant and timely comments and may also consider other relevant information before it before taking further action in this proceeding.

25. In accordance with the provisions of § 1.419 of the rules, an original and five copies of all comments, replies, briefs, and other documents shall be furnished the Commission. Further, members of the general public who wish to participate informally in the proceeding may submit one copy of their comments, specifying the docket number in the heading. All filings in this proceeding will be available for examination by interested persons during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C. Further information concerning this proceeding may be obtained from Jonathan David, Broadcast Bureau, (202) 632-7792.

Federal Communications Commission,[14]

William J. Tricarico,

Secretary.

Separate Statement of Charles D. Ferris, Chairman

In Re: Investigation of New Television Service in New Jersey October 18, 1979.

The FCC has, for many years, been deeply concerned with the problem of television service in and to New Jersey. There is presently no commercial VHF station in that state. Residents of New Jersey must rely on those UHF stations assigned to their state and the commercial VHF stations in New York and Pennsylvania for their news or public affairs programming.

This is an issue that also deeply concerns the people of New Jersey. I hope, therefore, that they will carefully study the actions we have taken today. In particular, I hope that all of New Jersey's residents will examine the report prepared on this issue by the Commission's Office of Science and

[11] We also intend to consider whether we should provide for expedited processing of STV proposals for New Jersey.

[12] Office of Science and Technology "Investigation of New Television Service for New Jersey," (September, 1979).

[13] The Commission does caution interested persons that proposals to rebroadcast presuppose by the clear terms of 47 U.S.C. 325(a), the consent of the station whose signal is being retransmitted.

[14] See attached Separate Statement of Chairman Ferris and Concurring Statement of Commissioner Jones in which Commissioner Washburn joins.

Technology. This comprehensive study was undertaken so that we could assess all of the possible approaches to providing New Jersey with the television service it needs, wants, and deserves.

The technical conclusions of the study may be disappointing to some. The report found, for instance, that attempts to provide New Jersey with its own VHF station would unavoidably result in a trade-off where many of the TV signals coming into New Jersey from New York and Philadelphia would be blocked, and people in other states would find their own signals weakened or destroyed.

It may be, however, that the people of New Jersey will be willing to sacrifice some out-of-state signals in order to have their own VHF station. If this is the case, then the people of New Jersey should so indicate during the comment period we have established in this proceeding. The importance of public participation in our proceedings is heightened when our decisions affect the choices available to them. We want to make the correct choice, one that is sensitive to the preference of those who are most directly affected. This can be accomplished only if people take the time and effort to inform us.

The OST report concluded that six new UHF stations could be added, without affecting television service in other areas. This option is being considered in the Notice of Proposed Rulemaking we have released today. The addition of this many new stations could begin to provide New Jersey with the kind of local service the residents should have.

But even the assignment of six new UHF stations would be useless unless these stations are economically viable. Network affiliation would aid their economic health and the Commission will examine the question of network affiliations for the new UHF stations. The proposed stations might also be helped if the Commission encouraged cable and subscription television in New Jersey. These services have proven helpful to other UHF stations. Perhaps some of the Commission's rules could be modified with respect to New Jersey.

As a final measure, we have also requested that the staff draft an order to be sent to New York and Philadelphia VHF stations requesting them to submit proposals to establish a greater physical presence through in-state offices and news bureaus in New Jersey. While these stations have provided increasing amounts of New Jersey programming, only their physical presence can provide direct access to the stations, access which is critical to citizens seeking to air their opinions about the problems of their state and community.

Together, these steps—the proposed addition of six new UHF stations with the possibility of various steps to assure their economic viability and the requirement of the physical presence of New York and Philadelphia stations—demonstrate the concern of the FCC to assist all the residents of New Jersey who are now deprived of what I believe to be sufficient local news or public affairs programming.

Concurring Statement of Commissioner Anne P. Jones in which Commissioner Abbott Washburn Joins

In Re: Notice of Proposed Rule Making and Notice of Inquiry: Providing Optimum Conditions for Utilization of New Jersey Television Channel Assignments.

I concur in the Commission's action in this matter. I do believe, however, that questions as to possible control by the Commission of the process of network affiliation (paragraph 10 of the NOI/NPRM) should be left for resolution in the pending Network Inquiry, rather than taken up in this proceeding.

[FR Doc. 80-7742 Filed 3-12-80; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192 and 195

[Docket No. PS-65; Notice 1]

Transportation of Natural and Other Gas and Hazardous Liquids by Pipeline; Incorporation by Reference

AGENCY: Materials Transportation Bureau.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Parts 192 and 195 to update the existing references therein to documents prepared by industry to later published editions of those documents. Many currently referenced editions are now out-of-print.

EFFECTIVE DATE: Interested persons are invited to submit written comments on this proposal before April 30, 1980. Late filed comments will be considered so far as practicable. All interested persons must submit as part of their written comments all the material that they consider relevant to any statement of fact made by them.

ADDRESS: Communications should be sent to the Docket Branch, Room 8426, Materials Transportation Bureau, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590. All comments and docket materials may be reviewed in the Docket Branch between the hours of 8:30 am to 5:00 pm.

FOR FURTHER INFORMATION CONTACT: Ralph R. Simmons, 202-426-2392.

SUPPLEMENTARY INFORMATION: *Need for this proposal.* This Notice of Proposed Rulemaking (NPRM) is in keeping with the Department of Transportation's Semi-Annual Regulations Agenda and is based in part on petitions filed by the American Society of Mechanical Engineers (ASME) and the American Petroleum Institute (API), requesting that the Materials Transportation Bureau (MTB) update all the references to industry documents listed in Appendix A and B of Part 192 and those industry documents referenced in § 195.3. In support of their petitions, ASME and API point out that recent editions of industry developed documents reflect changes in manufacturing practices and technology and qualifications for welders.

MTB concurs with ASME and API that the Federal gas and liquid pipeline standards should be in accord with recent developments in materials and pipeline transportation technology. To this end, it is found appropriate and reasonable for public safety to begin a rulemaking proceeding to incorporate by reference in the Federal Standards the latest editions of all referenced documents.

Parts 192 and 195 incorporate by reference all or portions of 54 different documents containing standards and specifications developed and published by private organizations. Because the MTB review process has not kept current with the frequency of industry publications since the last general update (49 CFR 13590, March 31, 1976), many of the editions which are currently referenced in the Federal Standards are now out-of-print or obsolete. In extreme cases, the gas or liquid pipeline industry is required to comply with an outmoded specification, copies of which are not readily available. Another problem for industry as well as the public safety exists where Part 192 or 195 requires, as a qualification for use of pipe or components, that they be manufactured to an edition of a referenced specification of which there is a later published edition. For example, pipe manufacturers normally make pipe according to the latest published edition. If later editions are not referenced in Parts 192 or 195, operators have trouble ensuring that newly ordered pipe or components are manufactured in accordance with earlier referenced editions. Also if later published editions are presumed to contain up-to-date

safety criteria, the public safety may suffer by requiring compliance with earlier editions.

MTB is considering as an ultimate goal, the substitution of performance requirements for as many of the existing references to industry documents as possible. Performance requirements would not only eliminate the need to refer to outside publications but also eliminate the problems for industry which accompany references to out-of-date documents. In the interim, however, MTB believes that the contribution of Parts 192 and 195 to public safety would be increased by adopting the ASME and API proposals and updating the existing references to industry documents so as to refer to later published editions of those documents.

Where later editions of documents referenced in Parts 192 and 195 have been published, MTB has reviewed them and finds them acceptable from the standpoint of public safety. However, because new editions are frequently published, some of the editions reviewed and proposed by this Notice may not be the latest published editions now available. Where this is true, those editions may be incorporated in the Final Rule if submitted as comments to this Notice and found acceptable by MTB.

MTB believes that no significant increase in cost should result from compliance with the latest editions. In some areas cost savings should result. MTB has determined that the provisions of this proposed rule will not result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034). Also, MTB has determined that this proposal does not require a full draft Regulatory Evaluation under those procedures because it closely parallels current industry practice and would, therefore, have minimal cost impact upon the industry.

Also MTB is considering removing the effective dates from references to documents contained within §§ 192.225, 192.227 and 195.222. These dates refer to application of referenced documents which contain practices or procedures under which welders or welding procedures were previously qualified but under which they may not be requalified after that date.

The effective dates were included in the regulations in order to "grandfather" then existing procedures or practices when the new qualification requirements were adopted through incorporation by reference of later published documents. If the new editions proposed by this notice are adopted, adding more effective dates to continue the "grandfather" concept would complicate the rules. Therefore, MTB believes that removing the dates as proposed will clarify the regulations and make them easier to use while maintaining the present intent of the regulations to "grandfather" existing procedures or practices that have been qualified under earlier listed editions of referenced documents.

MTB is proposing to delete the edition date of the API Standard 1104 in § 195.228(b). The acceptability of a weld is determined according to the latest listed edition of the standard. Since the date of the latest listed edition is in § 195.3; it is redundant and unnecessary to repeat it in § 195.228(b).

American Society for Testing and Materials has discontinued the pipe manufacturing specification A155, "Standard Specification For Electric-Fusion-Welded Steel Pipe For High-Pressure Service," and in its place has published:

(1) ASTM Specification 671, "Electric-Fusion-Welded Steel Pipe For Atmospheric and Lower Temperatures" (A671–77);

(2) ASTM Specification A672, "Electric-Fusion-Welded Steel For High Pressure Service At Moderate Temperatures" (A672–77); and

(3) ASTM Specification A691, "Carbon and Alloy Steel Pipe, Electric-Fusion-Welded For High Pressure Service At High Temperatures" (A691–77).

This separation of A155 specification into three documents clarifies the meaning of the specification for the different temperatures and pressures that pipe is to be used for, but makes no substantive change in the specification.

Also §§ 192.237 and 192.239 refer to "ladle analysis" as the test to obtain the carbon content or equivalent of steel. The appropriate referenced industry standards for steel pipe manufacturers no longer require a "ladle analysis" for this purpose because the final chemical analysis is obtained as a heat. MTB concurs with this practice, and is proposing to amend Part 192 to change the term "ladle analysis" to "heat analysis."

MTB recognizes that some of the referenced industry standards permit deviations to provide for use of the latest advancements in technology. In general, such deviations are permitted under the referenced standards only when the authority having jurisdiction has made a special investigation of all factors and based on sound experience and engineering judgment, concludes that the proposed deviation meets the intent of the standard. For the purpose of Parts 192 and 195, MTB is the authority of jurisdiction, and where such deviations from standard is desired, MTB will consider such request through its waiver procedure.

In consideration of foregoing, MTB is proposing to amend 49 CFR Parts 192 and 195 as follows:

1. By revising § 192.225 (a) and (b) (1) and (2) to read as follows:

§ 192.225 Qualification of welding procedures.

(a) Each welding procedure must be qualified under Section IX of the ASME Boiler and Pressure Vessel Code or Section 2 of API Standard 1104, whichever is appropriate to the function of the weld, except that a welding procedure qualified under an earlier edition in Appendix A than the latest listed edition may continue to be used but may not be requalified under the earlier edition.

(b) * * *

(1) Carbon steels that have a carbon content of 0.32 percent (heat analysis) or less.

(2) Carbon steels that have a carbon equivalent (C+¼MN) of 0.65 percent (heat analysis) or less.

* * * * *

2. By revising § 192.227 (a) and (b) (1) and (2) to read as follows:

§ 192.227 Qualification of Welders.

(a) Except as provided in paragraph (c) of this section, each welder must be qualified in accordance with one of the following documents; however, a welder qualified under an earlier edition in Appendix A than the latest listed edition may weld but may not requalify under that earlier edition:

(1) Section IX of the ASME Boiler and Pressure Vessel Code:

(2) Section 3 of API Standard 1104, except that a welder may be qualified by radiography under subsection 3.51 without regard for the standards in subsection 6.9 for depth of undercutting adjacent to the root bead unless that depth is visually determined by use of a depth measuring device on all undercutting along the entire circumference of the weld.

(b) * * *

(1) Carbon steels that have a carbon content of 0.32 percent (heat analysis) or less.

(2) Carbon steels that have a carbon equivalent (C+¼MN) of 0.65 percent (heat analysis) or less.

* * * * *

3. By revising § 192.237(a) to read as follows:

§ 192.237 Preheating.

(a) Carbon steel that has a carbon content in excess of 0.32 percent (heat

analysis) or a carbon equivalent (C+¼MN) of 0.65 percent (heat analysis) must be preheated for welding.

* * * * *

4. By revising § 192.239 (a) and (b) to read as follows:

§ 192.239 Stress relieving.

(a) Except as provided in paragraph (f) of this section, each weld on carbon steel that has a carbon content in excess of 0.32 percent (heat analysis) or a carbon equivalent (C+¼MN) in excess of 0.65 percent (heat analysis) must be stress relieved as prescribed in Section VIII of the ASME Boiler and Pressure Vessel Code.

(b) Except as provided in paragraph (f) of this section, each weld on carbon steel that has a carbon content of less than 0.32 percent (heat analysis) or a carbon equivalent (C+¼MN) of less than 0.65 percent (heat analysis) must be thermally stress relieved when conditions exist which cool the weld at a rate detrimental to the quality of the weld.

* * * * *

5. By revising Appendixes A and B to Part 192 "Incorporated by Reference" as follows:

Appendix A—Incorporated by Reference

I. List of organizations and addresses.

A. American National Standards Institute (ANSI), 1430 Broadway, New York, N.Y. 10018 (formerly the United States of American Standards Institute (USASI)). All current standards issued by USASI and ASA have been redesignated as American National Standards and continued in effect.

B. American Petroleum Institute (API), 1801 K Street NW., Washington, DC 20006, or 300 Corrigan Tower Building, Dallas, Tex. 75201.

C. The American Society of Mechanical Engineers (ASME), United Engineering Center, 345 East 47th Street, New York, N.Y. 10017.

D. American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, Pa. 19103.

E. Manufacturers Standardization Society of the Valve and Fittings Industry (MSS), 1815 North Fort Myer Drive, Room 913, Arlington, Va. 22209.

F. National Fire Protection Association (NFPA), 470 Atlantic Avenue, Boston, Massachusetts 02110.

II. Documents incorporated by reference. Numbers in parentheses indicate applicable editions. Only the latest listed edition applies except that an earlier listed edition may be followed with respect to pipe or components which are manufactured, designed, or installed in accordance with the earlier edition before the latest edition is adopted, unless otherwise provided in this part.

A. American Petroleum Institute:

(1) API Specification 5A "API Specification for Casing, Tubing, and Drill Pipe" (1968, 1971, 1973 plus Supp 1, 1979).

(2) API Specification 6A "API Specification for Wellhead Equipment" (1968, 1974, 1979).

(3) API Specification 6D "API Specification for Pipeline Valves" (1968, 1974, 1977).

(4) API Specification 5L "API Specification for Line Pipe" (1967, 1970, 1971 plus Supp. 1, 1973 plus Supp. 1, 1975, 1978).

(5) API Specification 5LS "API Specification for Spiral-Weld Line Pipe" (1967, 1970, 1971 plus Supp. 1, 1973 plus Supp. 1, 1975 plus Supp. 1, and 1977, 1978).

(6) API Specification 5LX "API Specification for High-Test Line Pipe" (1967, 1970, 1971 plus Supp. 1, 1973 plus Supp. 1, 1975 plus Supp. 1, and 1977, 1978).

(7) API Recommended Practice 5L1 "API Recommended Practice for Railroad Transportation of Line Pipe" (1967, 1972).

(8) API Standard 1104 "Standard for Welding Pipe Lines and Related Facilities" (1968, 1973, 1977).

B. The American Society for Testing and Materials:

(1) ASTM Specification A53 "Standard Specification for Welded and Seamless Steel Pipe" (A53-65, A53-68, A53-73, A53-78).

(2) ASTM Specification A106, "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service" (A106-66, A106-68, A106-72a, A106-78).

(3) ASTM Specification A134 "Standard Specification for Electric-Fusion (Arc)-Welded Steel Plate Pipe, Sizes 16 in. and over" (A134-64, A134-68, A134-73, A134-74).

(4) ASTM Specification A135 "Standard Specification for Electric-Resistance-Welded Steel Pipe" (A135-63T, A135-68, A135-73a).

(5) ASTM Specification A139 "Standard Specification for Electric-Fusion (Arc)-Welded Steel Pipe (Sizes 4 in. and over)" (A139-64, A139-68, A139-73, A139-74).

(6) ASTM Specification 1671, Electric-Fusion-Welded Steel Pipe For Atmospheric and Lower Temperatures (1671-77).

(7) ASTM Specification A672, "Electric-Fusion-Welded Steel Pipe For High Pressure Service At Moderate Temperatures" (A672-77).

(8) ASTM Specification A691, "Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High Pressure Service At High Temperatures" (A691-77).

(9) ASTM Specification A211 "Standard Specification for Spiral-Welded Steel or Iron Pipe" (A211-63, A211-68, A211-73, A211-75).

(10) ASTM Specification A333 "Standard Specification for Seamless and Welded Steel Pipe for Low Temperature Service" (A333-64, A333-67, A333-73, A33-77).

(11) ASTM Specification A372 "Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessel" (A372-67, A372-71, A372-78).

(12) ASTM Specification A377 "Standard Specification for Cast Iron and Ductile Iron Pressure Pipe" (A377-66, A377-73, A377-77).

(13) ASTM Specification A381 "Standard Specification for Metal-Arc-Welded Steel Pipe for High-Pressure Transmission Systems" (A381-66, A381-68, A381-73, A381-76).

(14) ASTM Specification A539 "Standard Specification for Electric Resistance-Welded Coiled Steel Tubing for Gas and Fuel Oil Lines" (A539-65, A539-73).

(15) ASTM Specification B42 "Standard Specification for Seamless Copper Pipe, Standard Sizes" (B42-62, B42-66, B42-72, B42-78).

(16) ASTM Specification B68 "Standard Specification for Seamless Copper Tube, Bright Annealed" (B68-65, B68-68, B68-73, B68-79).

(17) ASTM Specification B75 "Standard Specification for Seamless Copper Tube" (B75-65, B75-68, B75-73, B75-79).

(18) ASTM Specification B88 "Standard Specification for Seamless Copper Water Tube" (B88-66, B88-72, B88-78).

(19) ASTM Specification B251 "Standard Specification for General Requirements for Wrought Seamless Copper and Copper-Alloy Tube" (B251-66, B251-68, B251-72, B251-76).

(20) ASTM Specification D2513 "Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings" (D2513-66T, D2513-68, D2513-70, D2513-71, D2513-73, D2513-74a, D2513-78ES).

(21) ASTM Specification D2517 "Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings" (D2517-66T, D2517-67, D2517-73).

C. The American National Standards Institute, Inc.:

(1) ANSI A21.1 "Thickness Design of Cast-Iron Pipe" (A21.1–1967 A21.1–1972 A21.1–1977).

(2) ANSI A21.11 "Rubber-Gasket Joints for Ductile-Iron, and Grey Iron Pressure Pipe and Fittings" (A21.11–1964, A21.11–1972, A21.11–1979).

(3) ANSI A21.50 "Thickness Design of Ductile-Iron Pipe" (A21.50–1965, A21.50–1971, 1976).

(4) ANSI A21.52 "Ductile-Iron Pipe, Centrifugally Cast, in Metal Molds or Sand-Lined Molds for Gas" (A21.52–1965, A21.52–1971, 1976).

(5) ANSI B16.1 "Cast Iron Pipe Flanges and Flanged Fittings" (B16.1–1967, 1975).

(6) ANSI B16.5 "Steel Pipe Flanges, Flanged Fittings" (B16.5–1968, B16.5–1973, 1977).

(7) ANSI B16.24 "Bronze Pipe Flanges and Flanged Fittings" (B16.24–1962, B16.10–1971, 1979).

(8) ANSI B36.10 "Wrought Steel and Wrought Iron Pipe" (B36.10–1959, B36.10–1970, 1975).

(9) ANSI C1 "National Electrical Code" (C1–1968, C1–1975).

D. The American Society of Mechanical Engineers:

(1) ASME Boiler and Pressure Vessel Code, Section VIII "Pressure Vessels, Division 1" (1968, 1974, 1977).

(2) ASME Boiler and Pressure Vessel Code, Section IX "Welding Qualifications" (1968, 1974, 1977).

E. Manufacturer's Standardization Society of the Valve and Fittings Industry:

(1) MSP SP–25 "Standard Marking System for Valves, Fittings, Flanges, and Union" (1964, 1978).

(2) MSS SP–44 "Steel Pipe Line Flanges" (1955, 1972, 1975).

(3) MSS SP–70 "Cast Iron Gate Valves, Flanged and Threaded Ends" (1970, 1976).

(4) MSS SP–71 "Cast Iron Swing Check Valves, Flanged and Threaded Ends" (1970, 1976).

(5) MSS SP–78 "Cast Iron Plug Valves" (1972, 1977).

F. National Fire Protection Association:

(1) NFPA Standard 30 "Flammable and Combustible Liquids Code" (1969, 1973).

(2) NFPA Standard 58 "Standard for the Storage and Handling of Liquefied Petroleum Gases" (1969, 1972, 1979).

(3) NFPA Standard 59 "Standard for the Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants" (1968, 1979).

(4) NFPA Standard 59A "Storage and Handling Liquefied Natural Gas" (1971, 1972, 1979).

Appendix B—Qualification of Pipe

I. Listed Pipe Specifications. Numbers in parentheses indicate applicable editions. Only the latest listed edition applies except that an earlier listed edition may be followed with respect to pipe or components which are manufactured, designed, or installed in accordance with the earlier edition before the latest edition is adopted, unless otherwise provided in this part.

API 5L—Steel and iron pipe (1967, 1970, 1971 plus Supp. 1, 1973 plus Supp. 1, 1975, 1978).

API 5LS, Steel pipe (1967, 1970, 1971 plus Supp. 1, 1973 plus Supp. 1, 1975 plus Supp. 1, and 1977, 1978).

API 5LX, Steel pipe (1967, 1970, 1971 plus Supp. 1, 1973 plus Supp. 1, 1975 plus Supp. 1, and 1977, 1978).

ASTM A53—Steel pipe (1965, 1968, 1973, 1978).

ASTM A106—Steel pipe (1966, 1968, 1972a, 1978).

ASTM A134—Steel pipe (1964, 1968, 1973, 1974).

ASTM A135—Steel pipe (1963T, 1968, 1973a).

ASTM A139—Steel pipe (1964, 1968, 1973, 1974).

ASTM Specification A671, "Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures". (1977) ASTM Specification A672, "Electric-Fusion-Welded Steel Pipe For High Pressure Service At Moderate Temperatures". (1977).

ASTM Specification A691, "Carbon and Alloy Steel Pipe Electric-Fusion-Welded For High Pressure Service At High Temperatures", (1977).

ASTM A211—Steel and iron pipe (1963, 1968, 1973, 1975).

ASTM A333—Steel pipe (1964, 1967, 1973, 1977).

ASTM A377—Cast iron pipe (1966, 1973, 1977).

ASTM A381—Steel pipe (1966, 1968, 1973, 1976).

ASTM A539—Steel tubing (1965, 1973).

ASTM B42—Copper pipe (1962, 1966, 1972, 1978).

ASTM B68—Copper tubing (1965, 1968, 1973, 1979).

ASTM B75—Copper tubing (1965, 1968, 1973, 1979).

ASTM B88—Copper tubing (1966, 1972, 1978).

ASTM B251—Copper pipe and tubing (1966, 1968, 1972, 1976).

ASTM D2513—Thermoplastic pipe and tubing (1966T, 1968, 1970, 1971, 1973, 1974a, 1978).

ASTM D2517—Thermosetting plastic pipe and tubing (1966T, 1967, 1973).

ANSI A21.3—Cast iron pipe (1953).

ANSI A21.7—Cast iron pipe (1962).

ANSI A21.9—Cast iron pipe (1962).

ANSI A21.52—Ductile iron pipe (1965, 1971).

(49 USC 1672; 49 USC 1804 for offshore gas gathering lines: 49 CFR Parts 1.53 Appendix A of Part 1 and Appendix A of Part 106)

6. By revising § 195.3 as follows:

§ 195.3 Matter incorporated by reference.[1]

(a) There are incorporated by reference in this part all materials referred to in this part that are not set forth in full in this part. These materials are hereby made a part of this regulation. Applicable editions are listed in paragraph (c) of this section in parentheses following the title of the referenced material. Only the latest listed edition applies, except that an earlier listed edition may be followed with respect to components which are manufactured, designed, or installed in accordance with the earlier edition before the latest edition is adopted, unless otherwise provided in this part.

(b) All incorporated materials are available for inspection in the Materials Transportation Bureau, Washington, D.C. In addition, materials incorporated by reference are available as follows:

(1) American Petroleum Institute (API), 1801 K Street, N.W., Washington, D.C. 20006, or 300 Corrigan Tower Building, Dallas, Texas 75201.

(2) The American Society of Mechanical Engineers (ASME), United Engineering Center, 345 East 47th Street, New York, N.Y. 10017.

(3) Manufacturers Standardization Society of the Valve and Fittings Industry (MSS), 1815 North Fort Myer Drive, Arlington, Va. 22209.

(4) American National Standards Institute (ANSI), 1430 Broadway, New York, N.Y. 10018. (Formerly the United States of America Standards Institute (USASI). All current standards issued by USASI and ASA have been redesignated as American National Standards and continue in effect.)

(5) American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, Pa. 19103.

(c) The full title for the publications incorporated by reference in this part are as follows:

(1) American Petroleum Institute:

(i) API Specification 6D "API Specification for Pipeline Valves," which may be obtained from the Dallas office (1968, 1974, 1977).

(ii) API Specification 1104 "Standard for Welding Pipe Lines and Related Facilities" (1968, 1973, 1977).

(iii) API Specification 5L "API Specification for Line Pipe" (1969, 1975, 1978).

(iv) API Specification 5LS "API Specification for Spiral-Weld Line Pipe" (1969, 1975, 1977, and 1978).

(v) API Specification 5LX "API Specification for High-Test Line Pipe" (1969, 1975, 1977, and 1978).

(2) ASME Code is the American Society of Mechanical Engineers Boiler and Pressure Vessel Code, Section VIII, "Pressure Vessels, Division 1" (1968, 1974; 1977).

(3) Manufacturers Standardization Society of the Valve and Fitting Industry:

(i) MSS Standard Practice SP-75 "Specification for High-Test Wrought Welding Fittings" (1973, 1976).

(4) American National Standards Institute:

(i) ANSI B16.9 "Factory Made Wrought Steel Butt-Welding Fittings" (1964, 1971, 1978).

(ii) ANSI B31.4 "Liquid Petroleum Transportation Piping Systems" (1966, 1974, 1978).

(5) American Society for Testing and Materials:

(i) ASTM Specification A53 "Standard Specification for Welded and Seamless Steel Pipe" (1968, 1972, 1973).

(ii) ASTM Specification A106 "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service" (1968, 1972a, 1978).

(iii) ASTM Specification A134 "Standard Specification for Electric-Fusion (Arc)-Welded Steel Plate Pipe, Sizes 16 in. and Over" (1968, 1973, 1974).

(iv) ASTM Specification A135 "Standard Specification for Electric-Resistance-Welded Steel Pipe" (1968, 1973a).

(v) ASTM Specification A139 "Standard Specification for Electric-Fusion (Arc)-Welded Steel Pipe, (Sizes 4 in. and Over)" (1968, 1973, 1974).

(vi) ASTM Specification A671, "Electric-Fusion-Welded Steel Pipe For Atmospheric and Lower Temperatures", (1977).

(vii) ASTM Specification A672, "Electric-Fusion-Welded Steel Pipe For High Pressure Service At Moderate Temperatures", (1977).

(viii) ASTM Specification A691, "Carbon and Alloy Steel Pipe Electric-Fusion-Welded For High Pressure Service At High Temperatures", (1977).

(ix) ASTM Specification A211 "Standard Specification for Spiral-Welded Steel or Iron Pipe" (1968, 1973, 1975).

(x) ASTM Specification A333 "Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service" (1968, 1973, 1977).

(xi) ASTM Specification A381 "Standard Specification for Metal-Arc-Welded Steel Pipe for High-Pressure Transmission Systems" (1969, 1973, 1976).

Note.—Incorporation by reference provisons approved by the Director of the Federal Register, March 26, 1976.

7. By revising § 195.222 to read as follows:

§ 192.222 Welders: Testing.

Each welder must be qualified in accordance with section 3 of API Standard 1104 except that—

(a) A welder must be qualified by radiography under subsection 3.51 without regard for the standards in subsection 6.9 depth of undercutting adjacent to the root bead unless that depth is visually determined by use of a depth measuring device on all undercutting along the entire circumference of the weld; and

(b) A welder qualified under an earlier edition in § 195.3 other than the latest listed edition may weld but may not requalify under that earlier edition.

8. By revising § 195.228(b) to read as follows:

§ 195.228 Welds and Welding Inspection.

(a) * * *

(b) The acceptability of a weld is determined according to the standards in section 6 of the API Standard 1104. However, the standards in subsection 6.9 for depth of undercutting adjacent to the root bead apply only if:

* * * * *

(Section 203 of the Hazardous Liquid Pipeline Safety Act of 1979 (Title II of Pub. L. 96-129, November 30, 1979); 49 CFR Part 1.53, Appendix A of Part 1 and Appendix A of Part 106)

Dated: March 4, 1980.

Cesar DeLeon,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 80-7392 Filed 3-12-80; 8:45 am]

BILLING CODE 4910-60-M

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49 CFR Part 195

[Docket PS-63, Notice 1]

Transportation of Liquids by Pipeline; Hydrostatic Testing Liquid Pipelines

AGENCY: Materials Transportation Bureau (MTB).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to reduce the 24-hour hydrostatic hold period in Subpart E. A two part test is proposed: A 4-hour strength test at 125 percent of maximum operating pressure is proposed for all hazardous liquid pipelines (both interstate and intrastate pipeline facilities as these terms are defined by the Hazardous Liquid Pipeline Safety Act of 1979); additionally, a 4-hour leak test at 110 percent of maximum operating pressure is proposed for those pipelines which are not visually inspected for leakage while under the strength test. Data indicates the existing 24-hour hold period is unnecessary for safety.

DATE: Interested persons are invited to submit comments on this proposal before April 15, 1980. Late filed comments will be considered to the extent practicable.

ADDRESS: Comments should be sent in triplicate to: Docket Branch, Materials Transportation Bureau, Room 8426, Department of Transportation, 400 7th Street SW., Washington, D.C. 20590. Comments will be available for review at the Docket Branch between 8:30 am and 5:00 pm each working day.

FOR FURTHER INFORMATION CALL: Frank Robinson, (202) 426-2392.

SUPPLEMENTARY INFORMATION: This notice of proposed rulemaking proposes to reduce the hydrostatic test hold period requirement in § 195.302 for all hazardous liquid pipelines. Section 195.302 requires that hydrostatic tests be maintained for at least 24 hours without leakage. The MTB believes this requirement is more than adequate to ensure pipeline safety and results in greater testing costs than are necessary.

The purpose of a hydrostatic test is to ensure that the pipeline will not later fail in service from latent material or construction defects. Broadly defined, the hydrostatic test is the maintenance of water pressure above the maximum operating pressure (MOP), under no-flow conditions for a fixed period of time. The hydrostatic test ensures that the pipeline will not rupture or leak due to latent material and construction defects by causing those defects to break out during the test period.

The 24-hour hold period for hydrostatic testing evolved as an industry safety practice before it could be explained why failures occurred during the hold period. Further, there was no distinction made between testing the pipeline for strength and testing the pipeline for leakage.

In recent years, scientific research and industry experience have demonstrated that the 24-hour hold period is not necessary to ensure pipeline integrity and that a distinction can be made between a strength test

and a leak test. Some of that research and experience is as follows:

(1) R. J. Eiber, J. F. Kiefner, and W. A. Maxey, "Hydrostatic Testing." This paper was presented at the American Gas Association's Fifth Line Pipe Research Symposium November 22–24, 1974, Houston, Texas. An abstract was published as "Pipeliners Study 'Pressure-Reversal Failures' " in the *Oil and Gas Journal*, January 13, 1975. The paper explained the phenomenon known as pressure reversal whereby a defect survives a given test pressure only to fail later when repressured to a level below that of the previous test. The paper also explained the effect of hold period. Although long hold periods may eliminate additional defects, those defects that remain will be increased in size so that there is no net gain in safety created by a long hold period, according to this paper.

(2) G. M. McClure, "Background Behind Proposed Test Pressure Hold Period of 2 Hours." This paper was presented to the American National Standards Institute (ANSI) B31.8 Transmission and Compressor Station Sub Group, Oklahoma City, Oklahoma, April 8, 1970. This paper states that there is no real value in long hold period. The paper concludes that a 2-hour hold period is sufficient to prove the strength of a pipeline.

(3) A. R. Duffy, G. M. McClure, T. J. Atterbury, "Hydrostatic Testing of Pipelines in Place," published in the *Oil and Gas Journal*, December 2, 1968. This article presents laboratory data indicating that hydrostatic testing can provide a pipeline free of injurious defects, and that the pipeline is not damaged by hydrostatic testing.

(4) G. M. McClure, T. J. Atterbury, and A. R. Duffy, "High Pressure Hydrostatic Testing Eliminates More Line Pipe Defects," presented at the American Gas Association Transmission Conference, May 1966, Dallas, Texas. An abstract of the paper was published in the *Oil and Gas Journal*, July 11, 1966. The paper shows that defects remaining in a pipeline after hydrostatic testing do not later cause failures in service.

The research and industry experience show that the test hold period at maximum test level can cause all defects to grow, and some of the defects may fail while others will not, depending on how close the defect is to its critical failure point. At the end of any hold period at maximum test level, there may still be defects on the verge of failure. While the hold period at maximum test pressure level may eliminate some near-failure defects, it will cause remaining defects to grow so that there is no improvement in the safety margins resulting from a long hold period.

Several industry codes support the view that a short hold period is adequate to ensure safety. The American National Standards Institute (ANSI) B31.8 Code "Gas Transmission and Distribution Piping Systems" and the American Society of Mechanical Engineers (ASME) "Boiler and Pressure Vessel Code Section VIII" do not prescribe a hold period. The ANSI B31.3 Code "Chemical Plant and Petroleum Refining Piping" and the ANSI B31.1 Code "Power Piping" require a hold period of only 10 minutes. The ANSI B31.4 Code "Liquid Petroleum Transportation Piping Systems" requires a 4-hour strength test at 125 percent of internal design pressure and a 4-hour leak test at 110 percent of internal design pressure. In a petition (P-3) dated March 12, 1979, the American Petroleum Institute (API) requested that the MTB adopt a test standard in Part 195 similar to the standard in the B31.4 Code, arguing that a short hold period is adequate to ensure safety and would reduce the cost of testing.

Additional support for a short hold period was viewed in response to a notice of proposed rulemaking (43 FR 52504, November 13, 1978) proposing a requirement to hydrostatically test all onshore HVL pipelines in accordance with Subpart E which have not been previously tested to 1.25 times their maximum operating pressure for at least 24 hours. The API, the ANSI B31.4 Code Subcommittee for Liquid Petroleum Transportation Piping, and seven industry commenters recommended reduced hold periods from 2 hours to 8 hours in lieu of the 24-hour hold period, arguing that a long hold period is not necessary to ensure safety. None of the commenters responding to the notice recommended maintaining the 24-hour hold period nor did any of the commenters argue that a 24-hour hold period was necessary to ensure safety.

As a result of (1) the research and industry experience indicating that a long hold period is not necessary to ensure safety, the requirements of industry codes, the comments received in response to the NPRM concerning testing HVL pipelines, and the API petition, all of which support a short hold period, (2) the lack of any information indicating a 24-hour hold period is necessary to ensure safety, and (3) the obvious cost savings to the industry resulting from a short hold period, the MTB proposes to amend Subpart E to require a 4-hour strength test at 125 percent of MOP to ensure pipeline integrity, and a further 4-hour leak test at 110 percent of MOP where the pipeline in not inspected for leakage during the strength test.

The test pressure of the leak test (110 percent of MOP) is considered to be the highest operating pressure the pipeline will experience in service. In accordance with § 195.406(b), the pipeline operating pressure may be as high as 110 percent of the MOP. The purpose of the leak test is to identify leaks that may not be discernible during the strength test if the pipeline is not visually inspected. The MTB believes the 4-hour leak test will provide ample opportunity to identify leaks in locations where the pipeline is not visible, yet will not cause failures to the pipeline through slow growth of defects.

The MTB has determined that this document does not contain a major proposal requiring preparation of a regulatory analysis under DOT procedures. In view of the obvious savings in cost that would result if the proposal is adopted, only a minimum impact should result and, consequently, a full Draft Evaluation is not required under DOT procedures.

In view of the foregoing, the MTB proposes to amend 49 CFR Part 195 by revising § 195.302(b) to read as follows:

§ 195.302 General requirements.

* * * * *

(b) The test pressure for each hydrostatic test conducted under this section must be maintained throughout the part of the system being tested for 4 continuous hours at a pressure equal to 125 percent of the maximum operating pressure and, in the case of a pipeline that is not visually inspected for leakage during test, for an additional 4 continuous hours at a pressure equal to 110 percent of the maximum operating pressure.

(Hazardous Liquid Pipeline Safety Act of 1979 (Title II of Pub. L. 96-129, November 30, 1979, 93 Stat. 1003); 49 CFR 1.53(a), Appendix A to Part 1 and Appendix A to Part 106)

Issued in Washington, D.C., on March 4, 1980.

Cesar DeLeon,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 80-7477 Filed 3-12-80; 8:45 am]

BILLING CODE 4910-60-M

Notices

Federal Register
Vol. 45, No. 51
Thursday, March 13, 1980

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

Forest Service

Lincoln National Forest Land Management Plan, Lincoln National Forest Alamogordo, N. Mex.; Intent To Prepare an Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an environmental impact statement for the Lincoln National Forest Land Management Plan. The Lincoln National Forest is located in Chaves, Otero, Lincoln, and Eddy Counties in New Mexico.

Pub. L. 94-588 (National Forest Management Act of 1976) directs the Secretary of Agriculture to develop land management plans for units of the National Forest System in accordance with regulations promulgated under the act.

The land management plan will provide for multiple use and sustained yield of goods and services from the Lincoln National Forest, will guide all natural resource management activities, and will establish management standards and guidelines for the Forest. A reasonable range of alternatives will be developed and considered. One of these alternatives will be a "no-action" alternative which represents continuation of present management direction. Other alternatives will reflect a range of resource outputs and expenditure levels.

A series of scoping meetings and public meetings will be held to identify issues, management concerns, and development opportunities which will be addressed in the Plan and to discuss the criteria which will be used to choose an alternative plan. Scoping sessions will be held in March and April 1980. These sessions will involve the State of New Mexico and concerned Federal and local governmental agencies. Public workshops will be held as follows, to identify issues, concerns, opportunities and criteria:

Date and place:

May 13, 1980, Carlsbad and Roswell, New Mexico
May 14, 1980, Sacramento and Ruidoso, New Mexico
May 16, 1980, Alamogordo, New Mexico
May 17, 1980, El Paso, Texas, and La Cruces, New Mexico

Meeting place locations and times will be published in newspaper prior to meetings.

The following time schedule will guide the planning process:

Time period and activity:

Winter 1979: Identify preliminary issues, concerns, opportunities, and criteria.
Spring 1980: Public Input on issues, concerns, opportunities, and criteria. Analysis of present management situation.
Fall-Winter 1981: Prepare Draft Environmental Statement—File February 1982.
Spring 1982: Public input on Draft Environmental Statement.
Summer 1982: Prepare Final Environmental Statement—File August 1982.

M. J. Hassell, Regional Forester, Southwestern Region of the Forest Service, is the responsible official for approval of the environmental impact statement and plan. J. R. Abott, Forest Supervisor, Lincoln National Forest, will manage the interdisciplinary team that will prepare the statement and plan.

Written comments and suggestions concerning this Notice of Intent or the proposal should be received by the Forest Supervisor by April 14, 1980.

For further information about the planning project, or the availability of the Environmental Impact Statements, or other documents relevant to the planning process, contact: Larry Soehlig, Lincoln National Forest, 11th & New York Street, Alamogordo, New Mexico 88310. (Phone 505-437-6030).

M. J. Hassell,
Regional Forester.

[FR Doc. 80-7769 Filed 3-12-80; 8:45 am]
BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Docket No. 36941; Order 80-3-33]

Boston Environmental Study; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 6th day of March 1980.

We established the Boston Environmental Study by Order 79-10-133, October 22, 1979, to assess the potential environmental effects of multiple permissive entry on Boston's Logan Airport and surrounding neighborhoods. We directed our staff to prepare an environmental assessment setting forth their findings. By Order 79-11-159, we established a deadline of February 29, 1980, for its completion.

The staff has now completed its assessment and a Finding of No Significant Impact, concluding that award of multiple permissive authority at Boston would not result in significant environmental harm, and therefore does not require the preparation of an environmental impact statement.

We desire that interested persons have an opportunity to comment on these findings and conclusions before we decide whether to adopt them as our own. We are therefore circulating these documents to all parties on the service list of this docket, and will make them available to all persons requesting them.[1] We will allow submission of comments until April 7, 1980. We will continue to take no action on pending applications for Boston authority [2] until we have decided whether to adopt the staff's findings and conclusions.

Accordingly, 1. We establish a period until April 7, 1980, for public comment on the Environmental Assessment and Finding of No Significant Impact; and on whether we should adopt the findings and conclusions as our own in disposing of applications for route authority at Boston;

2. Twenty (20) copies of all comments should be filed with the Dockets Section of the Board in Docket 36941, and one copy served on each party named in the service list of this docket;

[1] Requests for copies should be directed to Mark Atwood, B-72, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5842.

[2] A list of applications pending as of February 29, 1980, is contained in Appendix W of the Environmental Assessment.

3. We continue to defer action on all pending applications for route authority in Boston markets; and

4. We will serve a copy of this order upon all persons on the service list of this docket.

We will publish this order in the Federal Register.

Phyllis T. Kaylor,[3]

Secretary.

[FR Doc. 80-7779 Filed 3-12-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 37638; Order 80-3-48]

Chicago/Cleveland/Newark/New York-Michigan Points Subpart Q Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order (80-3-48), *Chicago/Cleveland/Newark/New York-Michigan Points Subpart Q Proceeding*, Docket 37638.

SUMMARY: The Board is instituting the *Chicago/Cleveland/Newark/New York-Michigan Points Subpart Q Proceeding* and is proposing to grant unrestricted authority to Republic between Chicago, on the one hand, and Flint, Lansing, Muskegon and Saginaw-Bay City-Midland, on the other, and between Cleveland and New York-Newark, on the one hand, and Flint, Grand Rapids, Lansing and Saginaw-Bay City-Midland, on the other, under the expedited procedures of Subpart Q of its Procedural Regulations.

The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than March 25, 1980, a statement of objections, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 37638, which we have entitled the *Chicago/Cleveland/Newark/New York-Michigan Points Subpart Q Proceeding.* They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served upon Republic Airlines; Michigan Aeronautics Commission; Ohio Department of Transportation, Division of Aviation; New York Department of Transportation, Airport Development Section; New Jersey Department of Transportation, Division of Aeronautics; Illinois Division of Aeronautics; Mayors of Bay City, Chicago, Cleveland, Flint, Lansing, Midland, Muskegon, Newark, Grand Rapids, New York, and Saginaw; Airport Manager, Tri City Airport, Saginaw, Michigan; Airport Manager, Chicago O'Hara International Airport; Airport Manager, Cleveland-Hopkins International Airport; Airport Manager, Bishop Airport, Flint, Michigan; Airport Manager, Capital City Airport, Lansing, Michigan; Airport Manager, Muskegon County Airport; Airport Manager, Newark International Airport; Airport Manager, John F. Kennedy International Airport; and Airport Manager, LaGuardia Airport, Airport Manager, Kent County Airport, Grand Rapids, Michigan.

FOR FURTHER INFORMATION CONTACT: Richard E. Clusman, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5216.

SUPPLEMENTARY INFORMATION: The complete text of Order 80-3-48 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, NW, Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80-3-48 to that address.

By the Bureau of Domestic Aviation: March 4, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 7780 Filed 3-12-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket Nos. 37730, 37485; Order 80-3-37]

Standard Foreign Fare Level Investigation; Order to Air Carriers Engaging in Foreign Air Transportation To Supply Certain Information

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 7th day of March 1980.

By this order the Board is consolidating Docket 37485 into the *Standard Foreign Fare Level Investigation,* Docket 37730. We take this action to make explicit the Board's intent that the information directives in Orders 80-1-133 and 80-2-116 are to be considered as initial information requests in the investigation in Docket 37730 and, further, that all questions concerning the production and use of such data in Docket 37730, whether raised in Docket 37730 or in Docket 37485 (including, *inter alia,* requests to modify the information required or requested by the above-cited orders, requests to extend time for supplying such information, and requests for confidential treatment), are to be resolved by the presiding judge in Docket 37730. We also intend by this action to make available the information in Docket 37485 to the judge who will preside over the rate of return phase of this investigation, to the extent he deems the information relevant to the rate of return issues.[1] The latter judge is also empowered to rule upon procedural matters, including those of the nature described above, relating exclusively to the rate of return phase of the investigation.

We take this occasion to further emphasize our intent that the presiding judges exercise the broad authority which the Board has delegated to them to resolve all procedural questions in a manner consistent with the need for overall expedition of this investigation.

Accordingly, 1. Docket 37485 is consolidated into the *Standard Foreign Fare Level Investigation,* Docket 37730.

This order shall be published in the Federal Register and served upon all certificated air carriers and foreign air carriers.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,[2]

Secretary.

[FR Doc. 80-7778 Filed 3-12-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Marine Mammals; Issuance of Permit

On January 28, 1980, Notice was published in the Federal Register (45 FR 6423), that an application had been filed with the National Marine Fisheries Service by Trident Television Limited, Trident House, Brook Mews, London W1Y 2PN, England, to take four (4) Atlantic bottlenose dolphins *(Tursiops truncatus)* for the purpose of public display.

Notice is hereby given that on March 7, 1980 and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) the National Marine Fisheries Service issued a Public Display Permit for the above taking to Trident Television Limited, subject to certain conditions set forth therein.

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[3] All Members concurred.

[1] For convenience of the parties and the Board in identifying pleadings and exhibits, the rate of return phase, although only a subpart of this investigation, has been assigned a separate docket number, Docket 37744.

[2] All members concurred.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: March 7, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-7873 Filed 3-12-80; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The South Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), will meet to discuss: Update on Billfish, Swordfish, Snapper-Grouper, Coral, and Coastal Migratory Pelagics Fishery Management Plans (FMPs) and other management and administrative matters.

DATES: The meeting will convene on Tuesday, March 25, 1980, at 1 p.m. and will adjourn on Thursday, March 27, 1980, at approximately 12 noon. The meeting is open to the public.

ADDRESS: The meeting will take place at the Village Inn, Route 2, I-95 & GA-99, Townsend, Georgia.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571-4366

Dated: March 10, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-7861 Filed 3-12-80; 8:45 am]

BILLING CODE 3510-22-M

COMMUNITY SERVICES ADMINISTRATION

Dates for Review of Unsolicited Proposals for Anti-Poverty Research and Demonstation Projects

AGENCY: Community Services Administration.

ACTION: Dates during which unsolicited proposals will be reviewed by the Office of Community Action, Community Services Administration.

This Notice is NOT a solicitation for proposals.

SUMMARY: Unsolicited proposals for anti-proverty Research and Demonstration Projects to be funded in Fiscal Year 1981 will be accepted during the period October 1, 1980 through March 31, 1981. Funding Decisions will made by September 30.

FOR FURTHER INFORMATION CONTACT: Frank Rupp, Office of Community Action, Community Services Adminstration, Room 332, 1200-19th Street, NW., Washington, D.C. 20506, (202) 632-6625.

SUPPLEMENTARY INFORMATION: All unsolicited proposals for anti-proverty Research and Demonstration projects funded under Section 222 of the Economic Opportunity Act of 1964 as amended, dealing with (1) Community Food and Nutrition, (2) Senior Opportunities and Services, (3) Environmental Action, (4) Rural Housing and Rehabilitation, (5) Emergency Energy Conservation Services and (6) Summer Youth Recreation; and Section 232; Research and Pilot programs, designed to test or assist in the development of new anti-poverty approaches or methods in overcoming the special problems of the poor, to be funded by the Office of Community Action, Headquarters, Community Services Administration, should be addressed to the Director, Office of Program Development, Community Services Administration, 1200-19th Street, NW., Washington, D.C. 20506.

Three copies of each proposal should be submitted. The receipt of each proposal will be acknowledged by letter. Review and analysis of unsolicited proposals normally takes four to five weeks. Funding decisions will be made by September 30 of each year. Proposals postmarked after midnight March 31, 1981 automatically will be considered for Fiscal Year 1982 funding.

Unsolicited proposals which the Director, CSA determines deal with clear emergency situations, will be considered without regard to the above schedule.

This notice and schedule apply only to those unsolicited proposals to be funded by the Office of Community Action, Headquarters, Community Services Administration. It does not apply to those proposals normally funded by the various Regional Offices or other Headquarters Offices of the Community Services Administration.

(Sec. 602, 78 Stat 530; (42 U.S.C 2942))

Graciela (Grace) Olivarez,

Director.

[FR Doc. 80-7596 Filed 3-12-80; 8:45 am]

BILLING CODE 6315-01-M

Decision To Fund the California Rural Legal Assistance Program To Conduct a Community Food and Nutrition Program in Region IX

AGENCY: Community Services Administration.

ACTION: Notice to all Boards of Directors of CAA(s) and SEOO(s) in Region IX.

SUMMARY: The Community Services Administration is notifying all Boards of Directors of Community Action Agencies (CAAs) and State Economic Opportunity Offices (SEOOs), in accordance with Section 222(a) of the Economic Opportunity Act of 1964, as amended, that a decision has been made to fund the California Rural Legal Assistance Program to conduct a Community Food and Nutrition, Training and Technical Assistance Program, in Region IX.

The grantee will operate in California, Arizona, Hawaii, Nevada and Trust Territories. The purpose of the grant is to provide legal services to eligible clients to promote access to Federal food programs for the poor. It will also provide training and technical assistance to CAPs, CFNP grantees, legal services offices and welfare rights groups.

EFFECTIVE DATE: This notice becomes effective on March 13, 1980.

FOR FURTHER INFORMATION CONTACT: Helen Jacobs, 1200 19th Street, N.W., Washington, D.C. 20506, Telephone: (202) 254-6310.

(Sec. 602, 78 Stat. 5301 (42 U.S.C. 2942))

Joe Maldonado,

Deputy Assistant Director for Community Action.

[FR Doc. 80-7474 Filed 3-12-80; 8:45 am]

BILLING CODE 6315-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Discharge Review Board; Standard Operating Procedures

Notice is made that the Standard Operating Procedures of the Army Discharge Review Board, published in the Federal Register (44 FR 25046), on April 27, 1979, is amended. The ADRB Standard Operating Procedures is designed for internal use by members and support personnel of the review

board, but is published with the anticipation that applicants before the board may also find guidance contained in the document helpful in preparing for discharge review. Amendment is made by the addition of SFRB Numbered Memoranda to Annex 0-1, commencing with SFRB Memo #4-79.

Dated: January 23, 1980.

William E. Weber,

Colonel, IN, President.

Army Discharge Review Board

May 7, 1979.

SFRB Memo #4-79

Memorandum for: All ADRB Personnel

Subject: Privacy Deletions From CDR's

1. The Urban Law Stipulation provides as follows in relation to the content of CDR's:

"To the extent required to prevent a clearly unwarranted invasion of personal privacy, identifying details of applicant and other persons will be deleted from the documents mode available for public inspection and copying. Names, addresses, social security numbers and military service numbers must be deleted."

2. The requirement of this language is plain, and it is vital that all personnel involved in any way with the processing of a case be alert to avoid any invasion of personal privacy. Where personal identifers may be replaced by non-personal terms, e.g., company commander for Captain Jones, or left blank, e.g., Private , as appropriate, the idea being to protect privacy, but also retain meaning to whatever is being said.

3. Specific Responsibilities: a. *Chief Administrative Support Division.*

(1) Insure that the analyst leaves *blank* any personal identifiers when listing contentions in Part VI of the draft CDR.

(2) Provide a final review to insure that no personal identifiers are contained in the CDR except for Part I of the original to be filed in the OMPF with all exhibits.

b. *Pre-review Officer*

Insure that no personal identifiers are contained in the draft CDR.

c. *Presiding Officer*

Insure that in providing their input to the CDR, personal identifers are avoided when initially dictated, and check to insure that no personal identifiers are present throughout the CDR when making post-reviews.

d. *Chief, Secretary/Recorder Operations Division*

Insure that Part V summaries do not contain personal identifiers, and check the entire CDR to insure that no personal identifiers are present when making post-reviews.

e. *Chief, Case Processing Branch*

Insure that all personal identifiers throughout the CDR are left *blank.*

William E. Weber,

Colonel, IN, President.

Army Discharge Review Board

SFRB ADM Memo #71-79

October 2, 1979.

Memorandum for all ACRB Personnel

Subject: Interim Change to ADRB Standard Operating Procedures and SFRB Memo #5-79

Pending official full page change to the ADRB SOP, the following changes will be implemented as soon as possible:

a. Prereview for ADRB cases to be heard by Traveling Panels or Hearing Examiners will be completed by board members 3-weeks prior to the day of deployment. Officer personnel (board members) assigned to the respective Traveling Panel or Hearing Examiner will be required to prereview a maximum of 6 cases per day during the third week prior to deployment. During those days the officer is prereviewing cases, he/she will not be assigned to a board in Washington, D.C. However, each officer *must* complete daily his allocation of prereview and return the case to the Operations Officer or Alternate Secretary/Recorder assigned to the trip. Cases to be prereviewed may vary, e.g., they need not *all* be "D" or "E" type cases. Type case each officer receives is based on operational requirement for the ADRB as a whole and will be monitored by the Operations Officer.

b. Officer personnel board members assigned to a Traveling Panel or Hearing Examiner will be utilized on any type Washington, D.C. panel during the second week prior to scheduled deployment.

c. Officer personnel board members assigned to a Traveling Panel or Hearing Examiner will be utilized on any type Washington, D.C. panel on Monday of the first week prior to deployment. On Tuesday, Wednesday, and Thursday, they may be utilized on any type Washington panel as long as they are not designated the post-draft or post-final review officer. This function will be assigned to one of the other board members not deploying.

d. On Friday of the first week prior to deployment, deploying officer board members will not normally be assigned to any board in Washington, D.C., but instead may utilize the time for personal administration, provided all ADRB operational requirements are met and clearance has been received from the ACRB Executive Officer.

e. Under normal operations, officer board members assigned to a Traveling Panel or Hearing Examiner will not be authorized ordinary leave during the third week prior to deployment.

f. Professional prereview will normally begin on the second day (Tuesday) of the third week prior to TP/HE deployment and will terminate NLT the end of the second week prior to deployment. In addition, predisking by CPT personnel for TP/HE cases will commence on the third day (Wednesday) of the third week prior to deployment and will be completed NLT Wednesday of the first week prior to deployment. It is the responsibility of the Operations Officer or Alternate Secretary/Recorder for trip concerned to insure the above schedule is maintained.

The above changes are effective immediately and will apply to October 1979 ADRB deployments where possible. Questions regarding this interim change will be directed to the undersigned.

For the President.

Robert Laychak,

LTC, FA, Executive Officer.

Army Discharge Review Board

August 15, 1979.

Memorandum for all Officer, ACRB

Subject: Concept of Pre-Postreview Officer Operation

1. The document entitled, "Concept of Pre/Postreview Officer Operation," is to be included as a permanent part of the ADRB SOP. This memorandum will be attached to the copy of the document which is in your possession and placed by you as a portion of your personal copy of the SOP.

2. LTC Kelly will assume responsibility for the appropriate microfiching as required.

William E. Weber,

Colonel, IN, President.

Concept of Pre/Postreview Officer Operation

It is my intention to modify the procedures by which postreview of cases, both in draft and final, is accomplished. The purpose of this modification is threefold:

a. To break the pattern of consistent backlog because of the inability to thru-put postreview.

b. More directly involve *all* board members in the post hearing phase of completing Case Reports and Directives; and

c. Insure that case reports are benefitted to the extent possible by having a single board member familiar with the case from beginning to end.

With these new procedures, all officers will be more directly involved and share responsibility for the proper and timely completion of cases and the accurate recording of the who, what, why, when and where of the case. As you are aware, some of our problems in recent litigation concerns repetitive and substantive weaknesses in those parts of the Case Report and Directive in which we justify the *why* of *what* we do, and the time we take to complete cases. I believe much of this stems from the fact that Presiding Officers are overburdened with the task of post hearing review and consequently may be allowing this to impact on their effort. In any event, all board members have a vested interest in cases which they decided and this properly should extend to case completion.

To implement this concept, board members, Secretary/Recorders and CPT personnel must rethink some of the work they are currently doing in the processing of cases so as to make the transition smooth and avoid creating backlogs because of confusion associated with the changeover. Board members, therefore, must assume basic responsibility to be flexible to adjust, as necessary, and to avoid creating problems by being unrealistic in anticipating perfection in early the stages of operation.

Board members will, each day, prior to 0800 hours, pull from his file cabinet drawer in the Secretary/Recorder area those cases that he/she will be responsible for prereviewing during that day, completing the prereview (in addition to other assigned tasks), and return those cases to the file drawer in the Secretary/Recorder area no later than 0800 hours the following morning. In addition with this pull, board members will also by 0800 hours pull from his or her file cabinet drawer in the CPT area those cases that have been draft or final typed and are available for postreview of either type. These cases must be postreviewed and completed by no later than 0800 hours the following morning (in every instance, read "duty day morning"). Those cases that have been draft postreviewed will be replaced in the file drawer cabinet assigned to each officer in the CPT area. Those cases that have been post final reviewed and require no further corrections will be placed in the file cabinet marked, "Completed final post-review cases." Those cases that are final post-reviewed and require corrections will be placed in a file cabinet marked, "Corrections, final post-review." In any event, cases placed in either final review file cabinet will not again be seen by the post-review officer and must be signed at the time they are placed therein. Major changes of final typed cases can be accomplished by returning case to your own file cabinet drawer.

Board members will pull cases for pre-review in accord with the type of panel they are scheduled to sit that day, e.g., officers scheduled to sit "A"–"C" panels will pull "A"–"C" cases from the Secretary/Recorder file cabinet drawer for prereview (three total of any combination as prescribed by panel schedule). Officers scheduled for "B" case panel will pull two "B" cases from their Secretary/Recorder area file cabinet drawer. Officers scheduled for HE panels will pull *no* cases for prereview. Officers not scheduled and not working on "D" prereview or HE prereviews as appropriate will pull no cases for prereviews on those days. All officers, of course, have a postreview responsibility every day on which there are cases available for postreview in their CPT area file cabinet drawer.

Movement of cases for prereview and postreview is a direct responsibility of individual board members and cannot be assumed by any other element of the Board. In the event of sickness, emergency, etc., the pit to which the officer belongs will be responsible for doing that officer's postreview functions that may be ready that day. The cases appropriate for such postreview will be delivered to the pit boss and/or the next senior officer in the pit in the event of the absence of the pit boss by the Secretary/Recorder. *They will not be picked up by the pit.*

The concept, as envisioned for "A" and "C" cases, is that a single officer will be responsible for conducting both the prereview of the case; sitting on the panel in front of which the case is heard; maintaining detailed notes concerning the determinations of the panel with respect to findings to issues and contentions, and the rationale statement, both majority and minority; verifying the accuracy of the information of the Case Report and Directive; conducting the draft post review and the final postreview and certifying as to the accuracy of the narrative contained within the case as it pertains to the findings to contentions and/or issues and the rationale statement. The foregoing excludes responsibility for (Part I), (Sections B and C Part, IV), (Part V), Sections A, B, D, and E of Part VII and (Part VIII) which remain that of the Secretary/Recorder. For "A"–"C" cases, the Pre/Post Review Officer is responsible for summarizing exhibits, Part V.

The system while primarily designated for "A"–"C" cases will, with modification, work (and is intended to work) for "B," "D" and "E" cases as well, and as follows:

a. "B" cases will continue to be prereviewed and they will be drawn for prereview from your file drawer in the Secretary/Recorder area. However, upon completion of prereview, you will return the case to the Secretary/Recorder area and put it in the file cabinet marked, "Completed prereview 'B' cases." You will not necessarily sit on the panel in front of which that "B" case is heard, but on those days when you sit a "B" case panel, the Presiding Officer will designate two cases for each board member to be responsible for postreview. The postreview of these cases will be handled in a manner similar to "A"–"C" cases except that the Secretary/Recorder will postreview the "Summary of Hearing" before you complete the final postreview.

b. "D" cases will be prereviewed by those panel members who are going to deploy on the panel in front of which those cases will be heard downrange. Generally speaking, this prereview will commence on the Monday of the second week preceding deployment. You will prereview each day of that week plus or minus three cases and you will also be responsible for sitting on either a "B" case panel and/or an HE case panel and, as well, postreviewing those and any "C"–"C" cases on which you earlier sat. This routine will continue for the two weeks preceding deployment. During those two weeks, you will not, except in a case of an emergency, be scheduled to sit an "A"–"C" case. Generally speaking, the same philosophy will prevail on the week preceding the timeframe in which you would go on leave, hospital, etc.

c. "E" cases will be prereviewed only by the HE scheduled for the trip and he/she will conduct this prereview during the two weeks preceding deployment. During the prereview phase, the HE will also be responsible for any remaining postreview of "A"–"C" cases but will generally not be scheduled to sit on either "B" or HE panels.

All postreview or draft typed cases must be done by using red (pen, pencil or felt marker) to insure that desired corrections are accomplished by CPT personnel. Any failure to use red will result in the correction not being made and CPT being relieved of the responsibility. During final postreview, board members are expected to make pen and ink corrections for minor typos or word insertion errors and/or spelling that may exist without placing the document into the correction mold.

Major corrections will, of course, be returned for retyping, as previously discussed, and will be identified (the correction desired) by red pen, pencil or felt marker. These cases will be handled as if they were draft type cases.

The officer assigned pre/postreview responsibility for a case must be as familiar with the case as possible and become expert with the documentary aspects of the case. The fact that an individual officer has prereviewed a case gives him no inherent priority in the panel room in the area of using supposition to resolve intangibles and arrive at a decision. It is not the function and must not be the function of the pre/postreview officer to influence in any way the consideration of the case by the panel, nor is it the responsibility nor the right of the pre/postreview officer to write the findings for contentions, issues, or rationale. It is the exclusive responsiblity of the Presiding Officer to phrase the findings and the rationale in a manner which is representative of the board's opinion on the case—both majority and minority, if applicable.

Pre/postreview officers must adopt their own checklists for insuring retention of the salient elements of a case so that when the case surfaces for postreview, they are not ignorant of these essential elements and handicapped thereby in proofing what has been typed. Unfortunately, at times, the draft can be a rather significantly garbled rendition of what actually transpired in the board room. In such circumstances, it is incumbent upon the board member concerned during the postreview to reconstruct the events that transpired and narratively state them as appropriate on the draft Case Report and Directive (in red). This can be accomplished either on the basis of logical recall, given the nature of the case, or discussing it with the Presiding Officer concerned. Under no circumstances will a case for which a vote has been recorded be returned as being nonreviewable because of the garbled nature of the typed product. Innovative, creative effort is the rule that must be applied in these circumstances to insure the development of an appropriate Case Report and Directive.

All "D" cases heard downrange will be finalized downrange. The Presiding Officer will designate for each case heard downrange the postreview function to the same officer who prereviewed that case unless as a result of illness or other emergency, there has been a shift in a panel membership in which case common sense will prevail for designation of cases. The last hearing day of a panel deployment will, of course, be a flexible day with respect to completion of cases. If possible, every effort should be made to finalize the case prior to closing down the hearing site. If not possible, the first duty day following return of panel to Washington, D.C., will be set aside for the SRA/CPA and postreview officer for the purpose of finalizing that case. Under no circumstances will "D" cases brought back from downrange be cycled into file drawers either in the CPT area or the Secretary/Recorder area. The Secretary/Recorder of the deployed panel has full responsibility to insure control of these cases. HE cases placed on tape downrange will be accommodated by special instructions to the Secreary/Recorder and CPT shops. HEs are absolved of any further responsibility upon return to Washington, D.C., provided a postreview draft hardcopy is brought back from the hearing site with a confirmation of a good 4200 transmission and/or the tape in the event of no transmission, or an 8000 disk in the event of an 8000 deployment.

Aside from the interest in involving all board members in the final product of our effort, I hope this new system will provide meaningful utilization of duty time for all officers each duty day. There is inherent in the present strength of the board membership a capability for more case completion than we are currently enjoying. A part of this stems from the inability of the administrative support element to support an increased case thru-put because of the ebb and flow effect of the postreview cycle. Should this new procedure resolve that problem, board members should anticipate a proportionate increase in cases scheduled for hearings on a daily basis.

As with any new system, personnel must be flexible to meet changes as required and to avoid from irritating circumstances by getting up tight if there is a glitch in the learning process amongst the administrative support personnel. Under no circumstances are individual board members authorized to deal directly with CPT or Secretary/Recorder personnel in the event of administrative glitches. Please deal only with the supervisor of the shops concerned. In the event you are dissatisfied with their actions in this regard, deal with the undersigned or the Executive Officer.

Attached is a separate memorandum which defines in greater detail the specific steps involved for a typical sequencing.

May 30, 1979.

Memorandum for Each Board Member

Subject: Typical Sequencing—New Pre/Postreview System

Attached at Inclosures 1 thru 6 respectively are telegraphic, step-by-step sequencing of what can be expected as a typical "day" of a board member and Secretary/Recorders in accordance with assigned duties of that day. Each board member must bear in mind that once a cycle is effected, there must necessarily be flexibility and innovative adaptation to meet changing circumstances. However, for all practical purposes, the system has built into it sufficient flexibility so as to avoid any abnormal deviation from cycling contained herein.

Every board member must accept the responsibility for insuring that the oldest cases move first in all increments. In addition, the board member must immediately call to the attention of the responsible supervisor of the area affected whenever it is apparent that something is going wrong.

It goes without saying that it is absolutely mandatory that each board member comply with the timing requirements (e.g., 0800 hours on or about every morning) and with the responsibility to check his/her respective safe drawer in both the Secretary/Recorder and the CPT area *each* duty day. It is also mandatory that each board member use the ultimate of common sense in the final review phase of his effort. I do not mean to infer that you must remain past 1700. If you choose to—fine. You may, of course, take the cases home (remember Privacy Act) or you can come in early. In any event, 0800 *is* mandatory!

Don't unnecessarily make work for typing. *Do* make minor pen and ink corrections to the final that will allow the product to remain basically professional while also accepting that human error is going to be present in any major bureaucratic effort such as that we are attempting to accomplish.

This system is new and may not be the answer to our problem. However, I believe it is close to what we should be doing.

William E. Weber,

Colonel, IN, President.

Typical Day—Officer Scheduled To Sit "A"–"C" Case Board

Step 1. Prior to (on or about) 0800 hours, secure from your safe drawer in the Secretary/Recorder area no less/no more than three (3) "A"–"C" cases to prereview.

Step 2. Prior to 0800 (on or about), secure from your safe drawer in the CPT

area from Sections 1 and/or 3, all cases placed there for draft postreview and/or final postreview. Enter your name in "PRO" block of routing slip and in "PDR/PFR" blocks.

Step 3. During the duty day (or by the latest by 0800 hours the following duty day morning), complete the prereview and draft post and/or final postreview of all cases you checked out and return them to their respective drawers by no later than 0800 hours of the morning following the duty day of pick-up.

Step 4. Sit as "A"–"C" board member (normally 1100 hours to 1500 hours).

Step 5. All completed prereview "A" cases are to be returned to the Secretary/Recorder safe drawer and placed in the appropriate dividers. all completed prereview "C" cases are to be placed in the appropriate "Completed 'C' Case Prereview" drawer in the Secretary/Recorder area (drawer will be so marked).

Step 6. All completed draft postreview cases are to be placed in the middle section of your CPT safe drawer.

Step 7. All completed final postreview cases are to be placed in the appropriate safe drawer in the CPT area (drawer will be marked accordingly).

Step 8. All final postreview cases requiring corrections will be placed in the appropriately marked safe drawer in the CPT area. In those cases in which the corrections will not require another final review, you must sign the case. If the case will require another final review, DO NOT sign the case.

Typical Day—Officer Scheduled To Sit "B" Case Board

Step 1. Prior to (on or about) 0800 hours, pick up two (2) "B" cases from your preview drawer in the Secretary/Recorder area.

Step 2. Prior to 0800 (on or about), pick up from your safe drawer in the CPT area from Sections 1 and/or 3, all cases placed there for draft postreview and/or final postreview. Enter your name in "PRO" block of routine slip.

Step 3. Be prepared to sit on call of the Presiding Officer (normally 0900 hours until log is complete).

Step 4. Complete prereview of "B" cases and return to appropriately marked file cabinet in the Secretary/Recorder area.

Step 5. When you enter "B" case board room on hearing day, you will be assigned two (2) cases for which you are responsible for post draft and final review. You will enter your name on the routing slip in the "PDR/PFR" block.

Step 6. All completed draft postreview cases are to be placed in the second section of your CPT safe drawer.

Step 7. All completed final postreview cases are to be placed in the appropriate safe drawer in the CPT area (drawer will be marked accordingly).

Step 8. All final postreview cases requiring corrections will be placed in the appropriately marked safe drawer in the CPT area. In those cases in which the corrections will not require another final review, DO NOT sign the case.

Each cycle, e.g., 0800 to 0800, is the only time you have to do your cases that are picked up that day.

Footnote: With respect to draft postreview of "B" cases, the "Summary of Hearing" part will have been completed by the Secretary/Recorder prior to your receipt of the case. If you have any problems concerning that portion of the case, you must deal directly with the Secretary/Recorder concerned prior to the time you return the case to CPT for final type.

Typical Day—Officer Scheduled To Sit "D" Case Board

Officers assigned to a deploying Traveling Panel will, during the second week preceding deployment of the panel, receive each morning from the Secretary/Recorder supporting the Traveling Panel, one-fifth of one-fifth of the total cases scheduled for deployment. (Assume 75 cases deploying: Each board member will receive three cases per day for the five days of the second week preceding deployment for prereview). These cases must be completed in prereview each day and returned to the appropriate Secretary/Recorder so that they may be transmitted to the JAG and medic for comment prior to boxing.

During the second week preceding deployment, deploying board members will not receive any "A"–"C" cases for prereview nor will they receive any "B" cases for prereview. However, they will be scheduled to sit as either "B" case or HE case board member and will be receiving these cases for postreview during that two week timeframe. No deploying board member will be scheduled to sit any panel after Wednesday of the last week preceding deployment. *This does not mean that Thursday and Friday are off days.* These days will be used to insure completion of remaining postreview and any other last minute duties required. Naturally under emergency circumstances, any member can sit as required.

Typical Day—Officer Scheduled to Sit HE Board

Step 1. Do not pick up any cases prior to 0800 hours from the Secretary/Recorder area.

Step 2. Prior to 0800 (on or about), secure from your safe drawer in the CPT area from Sections 1 and/or 3, all cases placed there for draft postreview and/or final postreview. Enter your name in "PRO" block of routing slip and in "PDR/PFR" blocks.

Step 3. During the duty day (or by the latest by 0800 hours the following duty day morning), complete the draft post and/or final postreview of all cases you checked out and return them to their respective drawers by no later than 0800 hours of the morning following the duty day of pick-up.

Step 4. When you enter HE board room, you will be assigned one case for postreview. Place your name in the "PDR/PFR" block.

Hearing Examiner Prereview

HE cases for development downrange will, as in the past, be prereviewed only by the HE. HEs will conduct prereview in the second week preceding deployment of one-fifth of the total cases deployed each day during that week. These cases will be delivered to the HE by the responsible deploying Secretary/Recorder.

During this prereview phase, the HE will not be scheduled to sit on panels but he/she will also be responsible for completing any remaining postreview.

During the last week preceding deployment, the HE will be assigned to sit through Wednesday of the week to either "B" cases or HE board room but will sit no "A"–"C" cases; will prereview no cases.

Typical Day—Alternate Secretary/Recorder

Step 1. At the end of each board day, deliver to CPT in boxes (not to exceed 8 cases per box maximum) the cases conducted by boards that day.

Step 2. Each morning by 0800 hours, check your appropriate drawer in the CPA area for those draft typed "B" cases to conduct draft postreview of *Summary of Hearing only.* At the completion of your draft postreview (which must be completed prior to 0800 hours the next morning), return the case to the appropriate drawer in CPT so that CPT may pass it to the postreview officer for continuation of normal cycling.

Step 3. Each day, from CPT, pick up those finalized cases that have been reconstituted into the original boxes (as delivered by you).

Step 4. Upon receipt of the box, *you* assume responsibility for the administrative completion of the case, e.g., signing your name and stamping my name and that of the Chief, Secretary/Recorder, and preparing for dispatch to

Administrative Support Division. (No more than one duty day may transpire from your receipt of the cases in your boxes to your dispatch of the case to the Administrative Support Division.

Concept of CPT Operation

The following prescribes the *baic* concept of the procedures to be followed within CPT for the receipt and general handling, draft typing, final typing, correction typing, recording and disposition of cases under the new system to take effect on or after 4 June 1979. Each of the steps below require significant amplification and detailed planning by CPT personnel to insure that operational procedures at desk level by each operator, each sub-supervisor, and each supervisor are sufficiently precise to avoid loss of cases, misfiling of cases, and an inability to follow up on the status of cases while they are under the basic responsibility of CPT.

Part I

Step 1. Upon receipt of cases by boxes, from each board room, the supervisor of the enlisted team and the case control specialist will break out the cases in increment elements by post review officer name. Generally speaking, that will amount to three "A/C" cases per element; two "B" cases per element; and one HE case per element.

Step 2. These respective elements will be issued on a proportionate basis to the military team and three civilian teams, predicated on anticipated operator present for duty strength the next duty day.

Step 3. At the same time cases are broken into elements, disks will be assigned to each element in numerical sequence and placed with the case elements in the appropriate team drawer for issue.

Step 4. The alphanumeric control system will be activated for that day's input of cases at this time (see inclosure for alphanumeric columnar alignment).

Step 5. After 0800 hours the next duty day, the supervisor of the enlisted team and the case control specialist will secure from the individual officer file drawers and the Secretary/Recorder file drawers, those cases that have been draft postreviewed, retaining them in their postreview officer case elements (e.g., 3, 2 or 1 case each).

Step 6. Recover the appropriately numbered disk for the case elements that have been recovered from the draft postreview drawer and by approximately 1000/1100 hours, issue these case elements and the disks to team chiefs for final type.

Step 7. Initiate alphanumeric control system for final typing.

Step 8. Following the above, case control specialist secures from the completed final postreview drawers those case returned thereto by officers that morning. These case elements will then be reconfigured into their board room hearing boxes for return to Secretary/Recorder responsible.

Step 9. As the boxes are reconstituted, they will be posted by the appropriate Secretary/Recorder identity and the Secretary/Recorder notified they are available for pick-up.

Step 10. The alphanumeric system will be cleared at this time.

Step 11. At approximately 1600 hours or earlier, as appropriate, case control specialist receives from team chiefs those case elements and appropriately numbered disks that have been draft typed and final typed.

Step 12. The alphanumeric system is cross-checked at this time to add dates and operator name and/or close-out pending final type entry.

Step 13. Those case elements draft typed will be placed in the appropriate postreview officer and/or Secretary/Recorder drawer for draft postreview. Those case elements final typed will be placed in the appropriate postreview officers drawer for final postreview. Disks will be returned to their storage area and retained under the control of case control specialist/supervisor, enlisted team.

Step 14. At approximately 1400/1500 hours each day, case control specialist will empty the safe drawers for completed final postreview cases requiring correction, recover the appropriate disk, and issue to the appropriate team chief for *immediate* action.

Part II

This part covers the actions taken to receive 4200 transmission from deployed TPs/HEs, when appropriate, and to transcribe those cases prepared in draft by enlisted operators on 4200 equipment in the CPT area.

Step 1. Each downrange transmission day, enlisted team supervisor will designate one enlisted operator for the express purpose of receiving downrange transmission and insuring its appropriate recording on a disk. The disks will be turned over to the enlisted team supervisor for storage (if they are HE disks) and for corrections, final typing, and printing (if they are TP disks).

Step 2. Only enlisted team members will finalize transmissions form downrange TP deployments.

Step 3. During each duty day, the enlisted operators using 4200 mode equipment to draft type cases will, at times scheduled by the enlisted team supervisor, transmit their cases from 4200 to 8000 and record on disks their effort. These disks will enter the cycle for final preparation, similar to draft disk prepared on 8000 utilized by enlisted team. (In other words, enlisted team is responsible for completing its own work, even though the operator who prepared the draft may not be present to finalize.)

Step 4. All enlisted operators must be trained and expert in the use of the 4200, the 4300 and the 8000, and in operation center procedures, and, as required, to assist in case control procedures.

Part III

The following prescribes operational procedures within civilian teams to be followed by civilian team chiefs in allocating assigned workload and returning completed workload to enlisted team supervisor:

Step 1. Upon issuance of cases for draft typing each morning (which will be used by case elements, e.g., blocks of 3, blocks of 2, block of 1), the team chief will apportion by case element and numbered disk to present for duty operators a proportionate amount of workload. (Ordinarily this should not exceed 4–5 cases per day for draft type.)

Step 2. Each operator is to understand that the requirement is to complete by no later than on or about 1300 hours, *all* draft typing for the day. (To the extent equipment permits, each team will be staffed with equipment so that two 8000 operators will share one printer. During the morning hours, the printer will be loaded with 2-copy paper. One or about 1300 hours, the paper load will be changed to 7-copy paper.

Step 3. Approximately 1200 hours or thereabouts each day, team chief will draw from enlisted team supervisor those cases to be final typed that day and the appropriate disks. The cases to be final typed (drawn by case element) will, to the extent present for duty strength permits, be the same ones that that team's members prepared in draft.

Step 4. It is imperative that, to the extent possible, the case for final type be returned to the *same* operator that prepared the case in draft.

Step 5. On or about 1300†, each operator should make the transition (having completed draft typing) to final typing and finish the cases and print. It is apparent operators must coordinate their alternating use of the printer.

Step 6. During the afternoon hours, as required, the enlisted team chief and/or case control specialist will issue to the

civilian team chief those cases that have been final typed but require correction. To the extent possible, the same cases that were draft and final typed by the team will be returned for correction.

Step 7. These cases take priority over all other typing when delivered and must be *immediately* accommodated. They are also to be immediately returned to the enlisted team chief/case control specialist.

Step 8. As draft cases by case element are completed, they are to be quality checked by team chief and then delivered to enlisted team supervisor/case control specialist with the disk and identifying the name of the operator who prepared the draft for entry in the alphanumeric system on the case control list for the 8000.

Step 9. On or about 1300 hours†, the civilian team chief will correct the remaining draft type cases by case element and disk for delivery to the enlisted team chief/case control specialist.

Step 10. By 1600 hours, team chiefs will deliver to enlisted team chief/case control specialist final typed cases with disks by case element blocks and cause the alphanumeric system to record the completion of final type and responsible operator in the event it differs from the operator who completed the draft type of that case.

Step 11. Team chiefs must keep adequate records until they are notified by case control specialist that the final type case has cleared the responsibility of CPT (usually 2 duty days later).

Step 12. Team chiefs must insure that the assigned workload to their operators is in consonance with their knowledge of the ability of the operators to complete workload. In those circumstances where it is apparent toward midafternoon that an operator will be incapable of finishing an otherwise normal workload by the end of the duty day, the team chief will ascertain the reasons therefore and counsel the operator concerning as to the need for meeting minimum required production unit. If the workload is such that it exceeds the normal daily workload capacity of the operator, the team chief will request overtime for that operator sufficient to enable completion of the case for that day (providing the operator concerned is amenable to overtime. In the event the operator concerned is not amenable to overtime, the operator will be instructed as to the time available beginning the next duty day to complete the case and appropriate compensation will be made in the issuance of new workload that duty day by team chief.)

Part V

All personnel must appreciate the need for adhering to the turnaround time in the typing (both draft and final) of cases by case element grouping. There must also be an understanding of and adherence to the requirement that a single operator remains responsible for the case from beginning to end so as to enable both team chiefs and operators to perceive and understand the areas in which improvement can be effected in the typing process.

For understanding purposes, a case element consists of that number of cases by typed case which, on any given day, are the responsibility of a single postreview officer in the postreview function. Ordinarily, and as stated elsewhere, this will consist of a case element of 3 "A–C" cases, 2 "B" cases, 1 HE case.

Cases to be prepared that emanate from other boards of the Council are to be handled by the Chief, CPT Section and the responsible Secretary/Recorder. One team is to be designated basically responsible for the typing of these cases. (To the extent possible, it should be the enlisted team; in the event this is not possible, then an alternate civilian team.) These cases when required to be typed will be accommodated during a 2-hour period, no more than twice each week. It is the responsibility of the Chief, CPT Section to coordinate this timing with the responsible Secretary/Recorder of the other boards.

The foregoing is, of course, a broad concept of desired operational procedures. As experience establishes the need for change (assuming this change is a result of improper planning versus absent motivation), they will be made.

BILLING CODE 3710-08-M

Page Number _____
Month _____

CASE CONTROL FORM - ALPHANUMERIC

A (2)	B (3)	C (4)	D (5)	E (6)	F (7)	G (8)	(9)	(10)	(11)	(12)	(13)	H (14)	I (15)	J (16)

FOOTNOTES:

(1) Page number will be the date of the month on which the form is prepared and, where the requirement exists to enter the month, enter the numerical identity of the month (e.g., alphanumeric page number for 12 May would show in the upper right hand corner of the page "12/5".

(2) Column A equals case number of case. List only the last digit of the year of case and the number (e.g., case number AD 77-12345 would be listed as 7/12345.

(3) Column B equals the last name of the applicant.

(4) Column C equals the number issued to identify the postreview officer responsible for the case (e.g., If Colonel Mantooth is board member number 12, and the line item entry represents the case for which he is the postreview officer, the number "12" will be placed in Column C.

(5) Column D equals box number from which case emanates. Entry will be entered identifying the month and the number of the box as follows: Box #147 for May will be entered as "5/147".

(6) Column E consists of identifying the number of disk assigned on which the case will be prepared.

(7) Column F identifies the team number to which the case is assigned for draft/final/correction type. (Teams will be identified as Team 1 = 1; Team 2 = 2; Team 3 = 3; Military = M.)

(8) thru (13) Column G consists of following:

(8) 1st column identifies date of the month case is issued to team for draft type.)
(9) 2nd column identifies date of the month team returns draft type case.) If action occurs
(10) 3rd column identifies date of the month case is issued to team for final type.) on 22 June, entry is
(11) 4th column identifies date of the month team returns final typed case.) "22".
(12) 5th column identifies date of the month case is issued to team for correction type.)
(13) 6th column identifies date of month team returns corrected typed case.)

(14) Column H identifies name of operator issued case for preparation.

(15) Column I identifies the date on which the case is reboxed (e.g., placed back into the box in which it was delivered by the Secretary/Recorder. This should be expressed as the month and the date of the month. For example: A case reboxed on 22 May would be entered as "22/5".

(16) Column J identifies the number assigned the responsible Secretary/Recorder.

BILLING CODE 3710-08-C

Concept of Operations for Secretary/Recorder Operations Division based on previous discussions with LTC Gomez and CPT Scott. Concept listed below has been approved by COL Weber and is based on CPT Scott in his section retaining 4 personnel and operations officer retaining 3 personnel and Secretary/Recorder teams consisting of 15 officers and 15 enlisted personnel.

1. The records library of the Administrative Support Division will deliver to the Operations Section, Secretary/Recorder Division on a weekly basis (1330 hrs each Friday), the following number of A/C cases:

A—180 (5 days—3 boards per day)

C—45 (5 days—3 boards per day)

In addition, same delivery date/time the records library will ship a maximum of 50 B cases to CPT Scott and his Section.

2. It is the operations officer responsibility to develop procedures for A/C cases control and pre-review. In addition, all control of cases to be heard in Washington and downrange is a function of the operations section.

3. A/C cases may remain in a Board members file in the event he is absent for a maximum of 30 days after said officer has pre-reviewed the case. However, after 30 days the operations officer in conjunction with instructions provided by the Chief, Secretary/Recorder will cause these cases to be boarded and a new officer will be designated for post-review.

4. It is the function of CPT Scott and personnel assigned his section to send specific scheduling letters for B cases who responded positively to warning letters. In addition, it is the responsibility of CPT Scott personnel to place pertinent information for all B cases on the Infrox system prior to transferring the B cases to the operations section for pre-review and board action.

5. For A/B and C cases the case control card will be annotated in the board room with all pertinent hearing information. One copy (Secretary/Recorder copy) will be checked daily by the operations officer prior to close of business each hearing day. This copy of the case control card, properly annotated, will be provided by the oeprations officer not later than 0800 hrs on the day following the hearing day to CPT Scott. CPT Scott will cause information located on case control card to be placed on Infrox system and will return within 24 hrs copies received of the case control card to the operations officer.

When the case/OMPF plus case report and directive is shipped to the Administrative Support Division the operations officer will annotate the case control card of the date shipped and return the control card to CPT Scott who will place information on Infrox system and cause Case control card to be filed. CPT Scott and his section are responsible for providing the following:

a. Recommended deployment locations by type through Chief, Secretary/Recorder to President, ADRB 120 days in advance of proposed deployment. Copies of this proposed deployment listing will be provided the operations officer, Secretary/Recorder Division and Executive Officer, ACRB.

When the President, ADRB approves the recommended deployment list, CPT Scott will cause notification letters to be mailed to both applicants and counsel for each location listed. This responsibility is for all notification mailings, i.e., 1st mailing, 2d mailing, etc.

Non-deliverable or negative responses, copies of the notification letters and those whose suspense date expired will be forwarded to Records Library for inclusion in the applicants OMPF and to insure his mode of hearing is changed accordingly. 40 days prior to the month of deployment for the trip concerned, CPT Scott will provide a list of all positive applicants and their counsels to the operations officer, Secretary/Recorder Division. The operations officer will take the necessary action to insure the Secretary/Recorder team designated for that particular trip sends out and retains a copy for the OMPF specific scheduling letters to both applicant and counsel.

CPT Scott will provide a by name listing of OMPFs required to be shipped from the Records Library, not later than 30 days prior to date of deployment.

D&E cases scheduled for a particular trip as requested by CPT Scott and his section will be delivered by the Records Library personnel to his section in order for the Notification letters and positive responses from applicants and/or counsels to be inserted in OMPF.

When this action is completed the OMPF will be transferred to the operations officer section by CPT Scott for additional administrative processing.

6. The operations officer will insure the Secretary/Recorder team has the OMPFs at least two weeks prior to deployment to insure specific scheduling letters are inserted in the OMPF and the pre-review by designated panel members is completed to include JAG/Medical review prior to the Wednesday preceding weekend of deployment.

7. The operations officer for D case will insure the Secretary/Recorder copy of the case control card with all appropriate information completed is provided CPT Scott not later than the 2nd working day following return of the Traveling Panel for those cases completed and ready for shipment to the Administrative Support Division. He will include the date of shipment to Administrative Support Division prior to delivery to CPT Scott. CPT Scott will cause information to be placed on the Infrox system and then have the case control card placed in the appropriate file.

8. For those D cases which are not complete the operations officer will provide the appropriate copy of the case control card with complete hearing information on CPT Scott within two working days following the return of the Traveling Panel. CPT Scott, after inserting the appropriate information on the Infrox system will retain the case control card copy to the operations officer who will retain the copy until the OMPF is shipped to the Administrative Support Division and at this time will annotate the case control card with the appropriate shipment date and return the case control card to CPT Scott for final action.

Army Discharge Review Board

September 19, 1979.

SFRB Change 1 to Memo 6–79

Memorandum for Each Officer, Noncommissioned Officer, Enlisted Member and Civilian Employee, ACRB

Subject: Revised OSA Form 172 (Discharge Review); OSA Form 172 Addendum (Discharge Review).

Attached is a corrected copy of TAB A to SFRB Memo 6–79, 15 August 1979. The corrected copy will be substituted for TAB A attached to the basic memorandum.

This change eliminates the need for double description of the same information in the OSA Form 172 and Addendum.

For the President.

1 Incl as.

Robert Laychak,

LTC, FA, Executive Officer. a002

BILLING CODE 3710-08-M

ITEM DESCRIPTION	ANALYST ACTIONS IN PART IV, SECTION A		FOLLOW-ON ACTIONS	
			PREREVIEW OFF	BOARD
	List Verbatim Sec A, Para 4	Describe & Assign Ex # in Part IV Sec A, Para 3	Frame Issue	Make Findings
Clear Contention listed on DD 293 (my contention is .... My discharge should be changed because .....)	Yes	No	No	Yes
Statement on DD 293 does not list clear contention	No	No	Yes, if points are identifiable	Yes (1)
Brief or letter in support of DD 293 that contains clear contentions	Yes, but only the clear contentions	Yes, other elements not listed verbatim	No, unless other portions identify such	Yes (2)
Brief or letter in support of DD 293 that does not contain clear contentions	No	Yes	Yes, if points are identified	Yes (1)
Other documents submitted with the DD 293	No	Yes	Yes, if points are identified	Yes (1)

NOTES:

(1) Board may reject issues in Part VI, Section C, if appropriate rather than make findings.
(2) Issues may be treated as in Note (1); Contentions must have findings.

BILLING CODE 3710-08-C

TAB A

CORRECTED COPY

Army Discharge Review Board

SFRB Memo 6-79
August 15, 1979.

Memorandum for Each Officer, Noncommissioned Officer, Enlisted Member, and Civilian Employee, ACRB

SUBJECT: Revised OSA Form 172 (Discharge Review); OSA Form 172 Addendum (Discharge Review)

1. *Purpose.* The purpose of this memorandum is to distribute to each addressee a master copy of the forms listed in the subject and, as well, the work sheet configuration of these forms, and to explain purpose, procedures and responsibility for preparation and verification for each element of the form.

a. *General.* The basic purpose of the OSA Form 172 and Addendum is to provide a record and summarization of the information known and provided by the applicant and/or counsel and/or by the government to reach a decision on an appeal. The OSA 172 records the Facts and Circumstances, Documentation, Contention, Issues, Findings, Summary of Hearing, Conclusions, Determinations, Recommendation, Decision and Approval. Consequently, the preparation of this form requires dedicated adherence by all personnel to procedures and the use of intelligent, meaningful practices in preparing the form. Each individual and section within the ADRB has a part to play in the development of the form and it is incumbent upon all to insure that their portion is properly and correctly completed prior to passing responsibilities for further work on the form to the next agency or individual in the chain.

b. *Concept of Use.* It is the intent of this new procedure to insure that only a single work sheet draft copy of the Case Report and Directive (OSA Form 172) moves through the stages of preparation and development until ready for final preparation. As an exception in B, D and E cases, Parts I through IV inclusive may be produced in 6 additional draft copies, one each to members hearing the case and one to the applicant and counsel prior to the hearing. The original work sheet draft remains in control of the Secretary/Recorder assigned to the case. Every effort must be made to insure that the case is typed (word processed) only *once* and that every administrative action thereafter is oriented towards *correcting* the draft preparatory to preparation in final form.

c. *Work Sheet.* The work sheet form of the OSA Form 172 will be used for the draft preparation by all elements responsible for preparation of portions of the form. In many instances, the work sheet form will be duplicative of the final copy form; but, in some instances, the work sheet form will be larger and consist only of a heading and a sufficient length of space on the page or pages to permit handwriting or double spaced typing.

d. *Specific Responsibility for Development, Preparation, Completion and Verification of Form:*

(1) *Part I:*

(a) *Prepared by: Personnel in Records Processing Branch, Administrative Support Division.*

(b) *Purpose:* To identify factual data in appropriate blocks.

(c) *Verification:* Record Analysis Branch.

(2) *Part II:*

(a) *Prepared by:* Records Processing Branch, Administrative Support Division.

(b) *Purpose:* To identify factual data in appropriate blocks.

(c) *Verification:* Record Analysis Branch.

(3) *Part III, Sections A through J inclusive:*

(a) *Prepared by:* Record Analysis Branch, Administrative Support Division.

(b) *Purpose:* To identify or summarize the factual information contained in documentation within the OMPF and to additionally identify the tabbed location in the OMPF at which the document supporting the entry might be found.

(c) *Additional Responsibilities:* When in the review of records, the Record Analysis Branch finds the documentation has not been appropriately tabbed or filed in the OMPF, it is the responsibility of that branch to tab and file the document. In other words, it is essential that no OMPF contain any tabs other than Tabs A through J inclusive (sub tabs are permitted) and that at each of these tabs will be found the documentation that relates to or supports the documentation identified in Sections A through J.

(d) *Verification:* Pre/Postreview Officer

(4) *Part IV, Section A:*

(a) *Prepared by:* Record Analysis Branch

(b) *Purpose:* Each of the 5 sub-parts of Section A, Part IV, requires a specific entry or summarization of data by the Record Analyst, except that "COMMENTS" will be made only if they are appropriate.

(c). In "1.—Discharge Reason," it is necessary that the chapter and AR authorizing separation at the time of separation and the chapter and AR that would be application today be listed. The narrative must correspond to the heading of the appropriate chapter under current regulatory authority.

(d) in "2—Summary of Facts and Circumstances Concerning the Discharge," it is necessary that there be a brief and concise summarization of the "story" of the discharge processing action from its inception to its completion. It is not the intent of this portion to include any other summarization of the military service of the individual concerned.

(e) In "3.—Summary of PreHearing Exhibits and Evidence Submitted," it is the purpose of this part to list and summarize any exhibits or evidence submitted by the applicant and/or counsel at the time of submission of the DD Form 293 or subsequent thereto, but prior to the actual hearing date.

(f) In "4—PreHearing Contentions Submitted with 293 and/or Brief," the analyst is responsible for listing those "specific" contentions (meeting the test of the stipulation) that are submitted by applicant and/or counsel/representative at the time of submission of the DD Form 293 or at any other time prior to the hearing and not subsequent to the analysis of the function. It is important to note that only specific contentions will be listed here by the analyst. It is not the duty of the analyst to assume contentions or attempt to develop contentions from nonspecific narrative provided by counsel and/or counsel/representative. In the case of nonspecific narrative, it is the responsibility of the analyst only to summarize the document submitted and do nothing further. The Prereview Officer than assumes responsibility for development of issues from this nonspecific narrative, as covered later in this narrative.

(g) In "5—Comments," the analyst will address those aspects of the case which are appropriate to the analysis function but do not infringe on the adjudicative or evaluation aspects of the case.

(h) *Verification:* Pre/Postreview Officer.

(5) *Part IV, Section B:*

(a) *Prepared by:* Record Analysis Branch and Prereview Officer.

(b) *Purpose:* To permit both analysts and Prereview Officer the ability to identify by index reference numbers those areas that may be possible issues for development by the Board.

(c) *General:* The analyst's contribution to this will stem from the impressions gained by the analyst from any prehearing documents submitted which do not specify contentions and/or form any documents in the OMPF, and which may involve an area appropriate for consideration by the Board. The Prereview Officer's responsibility in this area is to identify in Section B those areas which will be specifically enunciated as issues in "2" of Section C. The Prereview Officer's responsibility in this area is to indicate those areas of consideration, as outlined in the DOD Directive and the Army Regulation on discharge review, which are potentials for consideration by the Board and identifying such by index reference number. The Prereview Officer's determination is predicated on the evaluation of the case gained through his assessment of the documents and other evidence available and his

objective/subjective evaluation of the intangible elements of the case.

(6) *Part IV, Section C:*

(a) *Prepared by:* Prereview Officers and/or Hearing Examiners.

(b) *Purpose:* Each of the three subparts of Section C, Part IV, require, if appropriate, a narrative entry by the Prereview Officer or Hearing Examiner which will summarize those elements appropriate to that portion of Section C. As an example:

1. In "1—Evaluation," the PreReview Officer or Hearing Examiner will summarize the essential elements of information present in the case covering the totality of information known about the applicant and not limit it only to the Facts and Circumstances concerning processing for discharge. In short, background information and other areas are appropriate for consideration and coverage in this part. *It is not the function of the Prereview Officer in Section C to arrive at conclusions or to vote the case, nor is it the function of the Prereview Officer to lead the panel in any specific direction.* This area is limited to a narrative summarization of the essential elements of information.

2. In "2," it is the purpose of this subsection to allow the Prereview Officer to state in narrative sentence format possible issues for Board consideration which may have surfaced as a result of the analyst's assessment or the evaluation performed by the Prereview Officer. Issues listed herein for Board consideration must meet the same test of specificity and relativity to the case (as do contentions).

3. In "3," it is the responsibility of the Prereview Officer to specifically enunciate herein any reason for submission of the case to the Medical and/or JAG advisor for opinion.

(c) *Verification:* Pre/Postreview Officer.

(7) *Part IV, Section D:*

(a) *Prepared by:* Medical Officer, Professional Branch.

(b) *Purpose.* To respond to queries that may have been addressed to the Medical Officer by the analyst and/or Prereview Officer and also to provide an evaluation in those cases which are referred to medical prereview by SOP, e.g., in B, D and E cases.

(c) It is not the purpose of this section to allow a case to be rigidly cast into a decision mold by comments made by the Medical Officer, nor is it appropriate to state, "No comment." A positive finding concerning medical aspects must be enuciated.

(d) *Verification:* Alternate Secretary/Recorder.

(8) *Part IV, Section E:*

(a) *Prepared by:* Legal Officer, Professional Branch.

(b) *Purpose:* To respond to queries that may have been addressed to the legal officer by the analyst and/or Prereview Officer and also to provide an evaluation in those cases which are referred to legal prereview by SOP, e.g., in B, D and E cases.

(c) It is not the purpose of this section to allow a case to be rigidly cast into a decision mold by comments made by the Legal Officer, nor is it appropriate to state, "No comment." A positive finding concerning legal aspects must be enunciated.

(d) *Verification:* Alternate Secretary/Recorder.

(9) *Part V, Section A:*

(a) *Prepared by:* Secretary/Recorder Team.

(b) *Purpose.* To identify specific information pertaining to the type of hearing, site, date, and appearance by applicant and/or counsel.

(c) *Verification:* Alternate Secretary/Recorder.

(10) *Part V, Section B:*

(a) *Prepared by:* Secretary/Recorder Team, as directed by the Presiding Officer and/or Hearing Examiner.

(b) *Purpose:* To provide a listing of those areas (facts) that can be stipulated and which are documented by information contained in the OMPF or material submitted by applicant or counsel in advance of the hearing which have been authenticated as representing fact.

(c) The purpose of listing stipulations in this area is to avoid the necessity of establishing them by argumentation on the part of counsel through direct examination or opening or closing argument. It is also intended to list those facts present in the case germane to the hearing, and which the Board would, in any event, be obliged to give full consideration in consideration of the case. Essentially, stipulation in advance of hearing permits a shortening of time length for the hearing and clarifies those common areas that both Board, counsel and applicant agree are essential to a fair and equitable consideration of a case. Very careful use must be made of stipulations since once stipulations are established and recorded, they are mandated to the Board. Consequently, no Hearing Examiner or Presiding Officer may allow any other member of the team or panel to approve stipulations, even though others may be instrumental in the development of stipulations. As a matter of practice, Alternate Secretary Recorders should, in conjunction with applicants and/or counsel/representative, develop recommended stipulations for negotiation by the Hearing Examiner or Presiding Officer.

(d) *Verification:* Post Review Officer.

(11) *Part V, Section C thru H inclusive:*

(a) *Prepared by:* Secretary/Recorder Team.

(b) *Purpose:* To summarize, as appropriate, those sections which are a part of the hearing and which present the essential elements of testimony, evidence and/or documents submitted during the hearing.

1. The summary must be complete enough to convey the essence of the material presented, the contentions under which presented and the substance of the testimony. Short, telegraphic, grammatical practices should prevail but not at the expense of an understanding of that which is submitted.

2. The application of proper techniques of summarization is critical to the preparation of this section. Alternate Secretary/Recorders must understand that their preparation for this task involves being thoroughly familiar with the record and the case and having prehearing dialogue with the applicant and/or counsel/representative which covers in sufficient detail the presentation that will be made in defense of the appeal so as to permit an understanding of what is to occur. It is the interchange of dialogue between the Alternate Secretary/Recorder and the applicant and/or counsel/representative which permits the Alternate Secretary/Recorder to anticipate that which will occur during the opening statement, direct examination, presentation of evidence and/or exhibits and closing statement. It is the experience of the Alternate Secretary/Recorder that will permit the anticipation of that which will probably occur during cross-examination. No Alternate Secretary/Recorder should be surprised by an occurrence in the board room once the case commences. Good summarization techniques involve listening for the topic sentence or thought and placing that in the summary as opposed to attempting to capture verbatim the totality of what is being said. *SUMMARIZATION REQUIRES PRACTICE—CONSTANT PRACTICE!* The true test of a successful summary is one in which, after reading, a knowledgeable reader would be able to reconstruct the bulk of what transpired during that portion of the hearing. *Every essential element of information point must be captured! Every essential point of an argument supporting a contention must be captured!!* The summary when coupled with the other portion of the Case Report and Directive should enable an

individual who was not a participant in the hearing to understand the who, why, what, when, where and reason for the decision that resulted in the case.

(c) *Verification:* Alternate Secretary/Recorder.

(12) *Part VI, Section A:*

(a) *Prepared by:* Secretary/Recorder Team, as established by contentions submitted by applicant and findings to these contentions, developed by the Board and approved for recording by the Presiding Officer.

(b) *Purpose:* To list the specific contentions that meet the test of the stipulation and the findings to these contentions as developed during the executive session of the Board's deliberation of the case. Contentions that appear herein are those that are enunciated by applicant and/or counsel before and/or during the hearing.

(c) *Verification:* Postreview Officer.

(13) *Part VI, Section B:*

(a) *Prepared by:* Secretary/Recorder Team, as directed by the Presiding Officer.

(b) *Purpose:* To list the issues and findings for these issues as developed by the panel during executive deliberation of the case.

(c) *General:* Only those issues agreed to by the panel and that meet the test of the stipulation concerning areas of fact, law or circumstances appear herein.

(d) *Verification:* Postreview Officer.

(14) *Part VI, Section C:*

(a) *Prepared by:* Secretary/Recorder Team as directed by the Presiding Officer.

(b) *Purpose:* To allow the Presiding Officer to identify those recommended issues by the Prereview Officer that are rejected by the panel and the reason for rejection and to explain any other circumstances that are unique to the case.

(c) *Verification:* Post Review Officer.

(15) *Part VII, Sections A thru D:*

(a) *Prepared by:* Secretary/Recorder Team, as directed by the Presiding Officer.

(b) *Purpose:* The purpose of these sections is self-explanatory. They record the determinations, conclusions, recommendations, and vote of the panel.

(c) *Verification:* Alternate Secretary/Recorder.

(16) *Part VII, Section E:*

(a) *Prepared by:* Secretary/Recorder Team, as directed by the Presiding Officer.

(b) *Purpose:* To permit the Presiding Officer to enunciate the rationale that justifies the vote of the majority of the panel and, where appropriate, minority consideration, when a minority report is not requested by the minority members.

(c) *General:* The narrative that appears within the rationale must be complete and stand by itself to justify the action of the panel. Reference may be made to findings of either contentions or issues, but the reference must be specific enough to cover what these findings were and supportive of the total thought content of the rationale. In the event that the panel does not award full relief, e.g., Honorable, it is also necessary to list in Section E the reason why full relief was denied.

(d) *Verification:* Postreview Officer.

(17) *Part VII, Section F:*

(a) *Prepared by:* Secretary/Recorder Team, as presented by the minority member(s).

(b) *Purpose:* The purpose of the minority report is self-explanatory.

(c) *General:* Serious consideration must be given to the use of the minority report since a minority report must be factually supportive and cannot be submitted simply on the basis of unsubstantiated opinion. The senior minority member is directly responsible for verifying the matter contained in Part VII, Section F.

(18) *Part VII, Section G.*

(a) *Prepared by:* Postreview Officer and Alternate Secretary/Recorder.

(b) *Purpose:* Self-explanatory.

(19) *Part VII, Section H:*

(a) *Prepared by:* Secretary/Recorder, as directed by the President, ADRB.

(b) *Purpose:* To enable the President, ADRB to exercise the responsibility as required.

(c) *General:* In the event referral to the Secretary of the Army is not required, it is the responsibility of the Secretary/Recorder to check and verify the appropriate block.

(20) *Part VII, Section I:*

(a) *Prepared by:* As required.

(b) *Purpose:* Self-explanatory.

(21) *Part VIII.*

(a) *Prepared by:* Alternate Secretary/Recorder who supported the panel hearing the case.

(b) *Purpose:* To enable authentication and approval action of the recommendation of the panel on the case.

(c) *General:* It is the direct responsibility of the Alternate Secretary/Recorder concerned to insure that the date and the stamped signatures of the Chief, Secretary/Recorder and President, ADRB are affixed to the final copy of the Case Report and Directive.

e. *Specific Guidance:*

(1) *Determining entry for Part III, Section C, "Conduct and Efficiency Rating."*

(a) *Prepared by:* Analyst.

(b) *Purpose:* To reflect the conduct and efficiency ratings or the efficiency ratings rendered during the applicant's period of military service.

(c) *General:* An individual may have conduct and efficiency ratings indicated in the military record or only efficiency ratings in the form of Enlisted Efficiency Reports. The following instructions indicate how these entries will be entered on the OSA Form 172:

1. Where the DA Form 20 or DA 24 reflects adjectival ratings, the rating will be entered as shown on the DA Form 20, showing conduct first and efficiency second. Example: EX/EX, EX/UNS, UNS/UNS, etc. Where one area is rated and the other is not, an NE will be shown for the unrated (including UNKNOWN entries) element. Example: EX/NE, NE/UNS, etc. The following abbreviations will be used:

Excellent	EX
Satisfactory	SAT
Good	GD
Fair	FR
Poor	PR
Unsatisfactory	UNS

2. Where the rating period is covered by a DA Form 2166–4 (1 Jul 70), the most prevalent adjectival rating will be assigned as the representative rating for the period. Only one entry will be made for that period. There are six areas rated on this version of the form. If there is a split (3 areas rated one way and 3 rated another) (Example: 3 rated Excellent and 3 rated Above Average), the higher rating will be reflected. If there is a three way split (2 areas rated Average, 2 areas rated Excellent, and 2 areas rated Above Average), the middle rating (Above Average in the example) will be assigned as the rating for the period. If each of the 6 areas is rated differently, the rating reflected will be "Average." The following abbreviations will be used:

Outstanding	OSTDG
Excellent	EXC
Above Average	AB AV
Average	AVER
Below Average	BL AV
Unsatisfactory	UNS

3. When the rated period is covered by a DA Form 2165–5 or DA Form 2166–5A (1 Jul 75), the numerical rating from the Report Score Block (Section H, DA 2166–5 or Section I, DA 2165–5A) will be entered for the period.

4. Where there are duplicative ratings covering the same period of time, the higher rating will be reflected on the OSA Form 172. Overlapping ratings will be treated in the same manner. An explanatory remark will be placed in paragraph 5, Part IV in such cases

calling the Board's attention to the existing dual or overlapping ratings.

5. All periods of service during the period of service under review will be covered in this section of the OSA Form 172. If there are no entries or the record has been destroyed, the NE entry will be made for the entire period of service as a single line entry.

6. The periods will be in whole months (Example: Jan 64–Mar 65, Apr 65–Jul 66, etc.), with consecutive periods with the same rating combined into one entry. Where a rating period (DA 20 or DA 24) starts or ends during a calendar month, the period will be rounded to the nearest month with the exception of the initial and the final months of the period of service under review as follows. Example:

DA 20 or DA 24 Entry

29 May 69 to 5 Jun 69, Unk/Unk
6 Jun 69 to 28 Aug 69, Ex/Ex
29 Aug 69 to 22 Sep 69, Unk/Unk
23 Sep 69 to 29 Nov 69, Ex/Ex
39 Nov 69 to 31 Jul 70, Ex/Ex
1 Aug 70 to 5 Aug 70, Unk/Unk
6 Aug 70 to 14 Sep 70, Gd/Gd
15 Sep 70 to 23 Nov 72, No entries
24 Nov 72 to 2 Jan 73, Uns/Uns

OSA 172 Entry

NE, May to May 69
EX/EX, Jun to Aug 69
NE, Sep to Sep 69
EX/Ex, Oct 69 to Jul 70
GD/GD, Aug to Aug 70
NE, Sep 70 to Nov 72
UNS/UNS, Dec 72 to Jan 73

(d) *Verified by:* Prereview Officer.

(2) *Entries in Part IV, Section A, Paragraph 4, "Prehearing Contentions Submitted with DD 293 and/or Brief."*

(a) *Prepared by:* Analyst.

(b) *Purpose:* To present to the Board the specifically identified contentions submitted by the applicant and/or counsel either on the DD Form 293 or in a separate brief submitted in support of the DD 293. (Note that these instructions are applicable only to those elements submitted with/in support of the DD 293. Similar elements submitted subsequent to the completion of the analyst's portion of the OSA 172 will be entered in Part V under the appropriate section by the Secretary/Recorder Team at the time of the actual discharge review or hearing examination.)

(c) *General:* The analyst function in preparation of this portion of the OSA 172 is most important to the facilitation of the discharge review process. Proper accomplishment of the steps in this portion will provide to the Board the fact that the applicant did or did not submit specific contentions with his DD 293 and whether he submitted information which, while not constituting a specific contention, can be the basis for the Prereview Officer and the Board to identify potential issues which must be considered by the Board. The following table (TAB A) provides guidance to the analyst as to how to handle certain types of input and also indicates follow-on actions required by the Prereview Officer and the Board.

(d) *Verified by:* Prereview Officer and Postreview Officer.

f. *Summary:*

(1) This form will become effective for all cases heard on or after 1 October 1979. The work sheet format will be used for all cases processing through the system, preparatory to hearing before 1 October 1979, if the cases are scheduled to be heard after 1 October 1979. Any individual responsible for preparation of any portion of this form who receives a case whose scheduled hearing date will clearly be on or after 1 October 1979 and the old OSA form is being used will call it to the attention of his supervisor. Supervisors will cause the case to be recycled at the first point in the processing chain capable of conducting recycling. In the event this occurs during a Prereview Officer phase, the Prereview Officer will return the case directly to the Chief, Record Analyst Branch for recycling and arrange for it to be returned directly to the Prereview Officer concerned no less than two duty days later. Chief, Record Analyst Branch is responsible to ensure that this sequencing is maintained.

(2) This memorandum and the procedures prescribed herein for the preparation and handling of the OSA Form 172 take precedence over any previous instructions concerning the handling of the OSA Form 172. Any member of the ACRB who is aware of a conflict that may cause difficulties should bring this to the attention of his supervisor for resolution.

(3) Those responsible for the preparation of portions of the OSA form should bear in mind that timely, final preparation is dependent upon the ability of those next in line to understand and transcribe what has been done before. Sloppy handwriting, grammatical errors, misspelling, and procedural errors that are allowed to progress through the chain of completion without being corrected by the individual first noticing the error, are a violation of the responsibility we all have to do our job properly.

(4) These instructions are mandated for compliance by all personnel. Recommendations enabling the form to be improved (taking into consideration the totality of production requirement) are encouraged. Anyone can bring to the attention of his supervisor recommendations believed appropriate for consideration. The Case Report and Directive (OSA Form 172) is the document which identifies what we do and is the only means to impart to the applicant how and why we do what we do. Thus, the form reflects our professionalism, pride in our work, and ability to do our job. Every individual in the chain of completion bears credit when the job is done properly and the absence of credit, when done improperly.

2. Also attached for information (except where specific responsibilities are appropriate) is a copy of the Complaint Form.

4 Incl: 1. OSA Form 172—Final, 2. OSA Form 172—Work Sheet, 3. OSA Form 172—Addendum, 4. complaint Form.

William E. Weber,
Colonel, IN, President.

BILLING CODE 3710-08-M

ITEM DESCRIPTION	ANALYST ACTIONS IN PART IV, SECTION A			FOLLOW-ON ACTIONS	
				PREREVIEW OFF	BOARD
	List Verbatim Sec A, Para 4	Summarize in Part IV, Sec A, Para 4	Describe & Assign Ex # in Part IV Sec A, Para 3	Frame Issue	Make Findings
Clear Contention listed on DD 293 (My contention is .... My discharge should be changed because .....)	Yes	No	No	No	Yes
Statement on DD 293 does not list clear contention	No	Yes	No	Yes, if points are identifiable	Yes (1)
Brief or letter in support of DD 293 that contains clear contentions	Yes, but only the clear contentions	Other elements	Yes (2)	No, unless other portions identify such	Yes (3)
Brief or letter in support of DD 293 that does not contain clear contentions	No	Yes	Yes (2)	Yes, if points are identified	Yes (1)
Other documents submitted with the DD 293	No	No	Yes	Yes, if points are identified	Yes (1)

NOTES:
(1) Board may reject issues in Part VI, Section C, if appropriate rather than make findings.
(2) Description can be quite limited since the document is summarized and quoted (contentions) in Para 4.
(3) Issues may be treated as in Note (1); Contentions must have findings.

TAB A

UNITED STATES ARMY
DISCHARGE REVIEW BOARD
CASE REPORT AND DIRECTIVE

CASE #

** PART I **
** APPLICATION DATA **

NAME	SSN/ASN	ADDRESS: PHONE:
COUNSEL/REP: ORGN:		ADDRESS: PHONE:
NEXT-OF-KIN: SURV SPOUSE: LEGAL REP:		ADDRESS: PHONE:

TYPE DISCH	DATE DISCH	AUTH CH AR	DATE OF APPLICATION	DATE OF PRIOR REVIEW

TYPE APPLICATION: [ ] INDIV [ ] BD MOTION

REQUEST: [ ] RECHARACTERIZE [ ] MODIFY

** PART II **
** PERSONAL HISTORY DATA **

DOB	AGE AT ENTRY FIRST	AGE AT ENTRY LAST	CIV ED LEVEL ENTRY	CIV ED LEVEL DISCH	APTITUDE DATA AFQT	GT	MEN CAT

** PART III **
** SERVICE HISTORY DATA **

SECTION A
UCMJ AND DISCIPLINARY DATA

ART 15	DATE	OFFENSE
SCM		
SPCM		
GCM		

SECTION B
TIME LOST DATA

STATUS	TIMES	DAYS
AWOL/DFR		
CONF MIL AUTH		
CONF CIV AUTH		
EXCESS LEAVE		
TOTAL		

SECTION C
CONDUCT/EFFICIENCY/RATING

C&E/ER	MO/YR	MO/YR

SECTION D
AWARDS AND DECORATIONS

TYPE	LOCATION
VALOR	
MERIT	
SERVICE	
FOREIGN	

SECTION E
ASSIGNMENT/OVERSEA DUTY

UNIT	MO/YR	MO/YR	PLACE

SECTION F
PROMOTION/DEMOTION

FROM	TO	MO/YR	DUTY/REASON

SECTION G

SERVICE DATA: [ ] ENL [ ] RENL [ ] IND [ ] OAD Mos Yrs

WAIVER: [ ] MORAL [ ] AWOL [ ] MEDICAL [ ] MENTAL [ ] MINOR [ ] OTHER

OSA FORM 172, DISCHARGE REVIEW, 1 OCT 79

CASE#

** PART III **

** SERVICE HISTORY DATA (con't)**

SECTION H TRNG/REHAB/ADMIN DATA	YES	NO	NA	SECTION I MED/SJA/DISCH PROC DATA	YES	NO	NA	SECTION K BACKGROUND DATA	YES	NO	NA
COMPL BCT				NP/MEN STAT EVL				MIL ROI			
COMPL AIT				ENTRY PHYSICAL				CIV ROI			
ENL OPT SATIS				SEPAR PHYSICAL				FBI RPT			
ENL OPT WAIVED				EPTS MED				ART 32 INVES'TN			
ASGD TOE UNIT				COUN FOR CONSULT				WITNESS ST'MNTS			
ASGD IN PMOS				COUN FOR REPRE				CIV DRUG/ALCOHOL			
REHAB TRANS				GMC SJA REVIEW				CIV CONV (EPTS)			
REHAB DRUGS				GMC CDR REVIEW				CIV CONV(IN SVC)			
RET TO DY FM RB				SEP ORDER FILED				CLEM'NCY DISCH			
DISCH FM RB/CTF				DD 214 CORRECT				ALTERNATE SVC			
DISCH TDP/EDP				CM CHGS PREF'D				REENL BAR			
DISCH FM UNIT				WAIVER ST'MNTS				OTHER PERT DATA			

** PART IV **

** PRE HEARING REVIEW **

SECTION A

ANALYST ASSESSMENT

1. DISCH REASON: (a). REGS: CH_____ AR_____ (at sep), CH_____ AR_____ (now).
(b). NARRATIVE:_____

2. SUMMARY OF FACTS AND CIRCUMSTANCES CONCERNING DISCHARGE:

3. SUMMARY OF PREHEARING EXHIBITS OR EVIDENCE SUBMITTED:

4. PREHEARING CONTENTIONS SUBMITTED WITH DD293 AND/OR BRIEF:

5. COMMENTS:

DSA FORM 172, DISCHARGE REVIEW, 1 OCT 79

CASE #:

SECTION B

APPLICABLE ELEMENTS

	ISSUES				
	ANAL	PRO		PANEL	
		YES	NO	YES	NO
(A01.00) Elements Common All Discharges					
_____,					
_____,					
_____,					
(A02.00) Elements common when SM has BD rights					
_____,					
_____,					
_____,					
(A03.00)to(A04.00) Spec ele pert to rsn/disch					
_____,					
_____,					
_____,					
(A85.00)to(A89.00) Policy chgs spec retroactive					
_____,					
_____,					
_____,					
_____,					
_____,					
_____,					
_____,					

	ISSUES		
	PRO	PANEL	
		YES	NO
(A90.00) Procedural changes not made retroactive.			
_____,			
_____,			
(A91.00) Policy chgs not retroactive			
_____,			
_____,			
(A92.00) Quality of service			
_____,			
_____,			
(A93.00) Capability to serve			
_____,			
_____,			
_____,			
_____,			
(A94.00) Other equity considerations			
_____,			
_____,			
(A99.00) Adm act indirect to disch			
_____,			
_____,			

SECTION C

HE AND/OR PREREVIEW OFFICER EVALUATION

1. EVALUATION:

2. POSSIBLE ISSUES FOR BOARD CONSIDERATION: ☐ NONE. ☐ AS FOLLOWS:

OSA FORM 172, DISCHARGE REVIEW, 1 OCT 79

CASE #

** PART IV **

** PRE HEARING REVIEW (con't)**

SECTION C

HE AND/OR PREREVIEW OFFICER EVALUATION (con't)

3. REFERRED TO: ☐ MEDICAL ADVISOR; ☐ JAG ADVISOR; FOR:

SECTION D

MEDICAL PREHEARING COMMENTS

SECTION E

LEGAL PREHEARING COMMENTS

** PART V **

** SUMMARY OF HEARING **

SECTION A

ADMINISTRATIVE DATA

TYPE OF HEARING		HEARING	APPEARANCE BY	
			APPLICANT	COUNSEL
☐ RECORDS	☐ HEARING EX	SITE: _____	☐ YES	☐ YES
☐ PERSONAL	☐ TRAVEL PNL	DATE: _____	☐ NO	☐ NO
☐ COUN/REP	☐ OTHER_____	H. E. SITE/DATE	☐ NA	☐ NA
		SITE _____		
		DATE		

SECTION B

STIPULATIONS

SECTION C

SUMMARY OF OPENING REMARKS

SECTION D

SUMMARY OF DIRECT EXAMINATION

SECTION E

SUMMARY OF WITNESS STATEMENT

SECTION F

SUMMARY OF EXHIBITS

SECTION G

SUMMARY OF CROSS EXAMINATION

SECTION H

SUMMARY OF CLOSING REMARKS

OSA FORM 172, DISCHARGE REVIEW, 1 OCT 79

CASE#	CONTINUATION SHEET (Use as needed)
**	PART ___ (con't) **
**	_____ **
	SECTION ___ (con't)
	_____

OSA FORM, DISCHARGE REVIEW, 1 OCT 79

CASE#

** PART VI **

** CONTENTIONS AND ISSUES **

SECTION A

APPLICANT CONTENTIONS-BOARD FINDINGS

CONTENTIONS:

1.

2.

3.

FINDINGS:

1.

2.

3.

SECTION B

BOARD ISSUES-BOARD FINDINGS

ISSUES:

1.

2.

3.

FINDINGS:

1.

2.

3.

SECTION C

PRESIDING OFFICERS COMMENTS

OSA FORM 172, DISCHARGE REVIEW, 1 OCT 79

CASE#	CONTINUATION SHEET (Use as needed)
**	PART ___ (con't) **
**	**
	SECTION ___ (con't)

OSA FORM, DISCHARGE REVIEW, 1 OCT 79

CASE#

** PART VII **
** BOARD ACTION **

SECTION A
DETERMINATION

DISCHARGE AS ISSUED WAS:

- [ ] PROPER
- [ ] EQUITABLE
- [ ] NOT PROPER
- [ ] NOT EQUITABLE

SECTION B
CONCLUSION

DISCHARGE AS ISSUED IS AFFIRMED AS:

- [ ] PROPER AND EQUITABLE
- [ ] UPGRADED
- [ ] MODIFIED
- [ ] IN FULL
- [ ] AUTH
- [ ] PARTIAL
- [ ] REASON

SECTION C
RECOMMENDATION

1. ISSUE: [ ] DD 214 AS FOLLOWS:
   - [ ] HON [ ] UHC [ ] SPD
   - [ ] AR _____

2. ISSUE: [ ] DD 215 CHANGING DD 214
   - [ ] AUTH: AR _____ SPD _____
   - [ ] REMARKS: _____

3. ISSUE: [ ] OFFICAL NOTIFICATION OF DENIAL OF APPEAL.

SECTION D
MEMBERS / VOTE

RANK / NAME	APPEAL			
	GRANTED		DENIED	MOD'Y
	HON	UHC		
PRESIDING OFFICER				

SECTION E
RATIONALE

a. MAJORITY:

b. MINORITY CONSIDERATIONS: (When Minority Report not Submitted)

c. FULL RELIEF DENIED (if appropriate):

OSA FORM 172, DISCHARGE REVIEW, 1 OCT 79

Case #

** PART VII **

BOARD ACTION (con't)

SECTION F

MINORITY REPORT

☐ NONE SUBMITTED ☐ SUBMITTED AS FOLLOWS:

MEMBER MEMBER

SECTION G

VERIFICATION AND AUTHENTICATION

FINDINGS AND RATIONALE VERIFIED: HEARING SUMMARY AND BOARD ACTION AUTHENTICATED:

POST HEARING REVIEW OFFICER ALTERNATE SECY RECORDER

SECTION H

PRESIDENT ADRB RECOMMENDATION

☐ REFERRAL TO SECY/ARMY NOT REQUIRED (See Part VIII)

☐ REFERRAL TO SECY/ARMY FOR:

☐ MINORITY RPT DECISION ☐ POLICY CONSIDERATION

☐ SPECIAL INTEREST ☐ INFORMATION

COMMENTS:

PRESIDENT, ADRB

SECTION I

SECRETARY OF ARMY (or designee) DECISION

☐ NOT REQUIRED	☐ APPROVE MAJORITY	☐ RETURNED FOR REHEARING
	☐ APPROVE MINORITY	☐ NEW FINDINGS

RATIONALE:

** PART VIII--DIRECTIVE **

To: THE ADJUTANT GENERAL DATE:

The Army Discharge Review Board, established UP Sect 30, PL 346, 78th Cong, 22 June 1944 and codified in 10 U.S.C., Sect 1553, in the case of the applicant named in Part I finds, concludes, and decides as indicated.

As authorized by the Secretary of the Army, it is directed that actions specified in Part VII be executed and the indivials, named in Part I be notified.

OFFICIAL	APPROVED
s/V. C GOMEZ LTC SEC/REC ADRB	s/WILLIAM E. WEBER COL PRESIDENT ADRB

****

EXHIBITS

A - ORDER APPOINTING BOARD D - INSTRUCTIONAL LETTER APPLICANT F - OTHER

B - APPL FOR REV OF DISCH E - SCHEDULE LTR TO APPLICANT G - OTHER

C - AFF., DEP., STMTS BY/FOR APPL

INDEX REFERENCE NUMBERS

OSA FORM 172, DISCHARGE REVIEW, 1 OCT 79

PART IX - EXPLANATORY NOTES TO APPLICANTS | Case No.

**ABBREVIATIONS (The following abbreviations are used in this document)

A
Abs -absent/absence
AFQT-Armed Forces Qualification Test
AIT -Advanced Individual Training
AR -Army Regulation
asg -assign/assigned
auth-authorized/authority
AWOL-absent without leave

B
BCT -Basic Combat Training
Bde -brigade
Bn -battalion

C
C&E -character and efficiency rating
Cdr -commander
CH -Chapter
CHL -confinement at hard labor
civ -civilian
CM -court-martial/courts-martial
cnf/conf -confinement/confined
Co -company
CO -Conscientious Objector
couns-counsel
CTF -Correctional Training Facility

D
Det -Detachment
DFR -dropped from rolls
disapr-disapprove/disapproved
disch -discharge/discharged
DOB -date of birth
DOLC -disobey lawful command
DOLO -disobey lawful order
drk -drunk
Dx -diagnosis/diagnosed
dy -duty

E
Ed -education
EDP -Expeditious Discharge Program
Enl -Enlistment-enlisted-enlist
EPTS -existed prior to service
ER -efficiency report

F
fm -from
FTG -fail to go
FTR -fail to repair
FOLO -fail to obey lawful order

G
GCM -General Court-Martial
GCMA -General Court Martial Convening authority
GCMO -General Court-Martial Order
GT -General Test

I
IND -Inducted

M
m/b -manifested by
MenCat-Mental Category
MJ -marijuana/marihuana
MSE -mental status evaluation

N
NP -Neuropsychiatric/Neuropsychiatrist
NPE -neuropsychiatric evaluation

P
PCF -Personal Control Facility
POD -place of duty

R
rcm -recommend/recommended
reenl -reenlist/reenlistment
RMC -returned to military control
ROI -Reports of Investigation
rpt -report/reported
rtn -return/returned

S
SUMCM -Summary Court-Martial/Summary Courts-Martial
SCMO -Summary Court-Martial Order
SPCM -Special Court-Martial/Special Special Courts-Martial
SPCMA -Special Court-Martial convening authority
SPCMO -Special Court-Martial Order
SPD -Special Processing Detachment
SPN -Separation Program Number
sqd -squad
Sqdn -squadron
susp -suspend/suspended

T
TDP -Trainee Discharge Program

U
UD -Undesirable Discharge
UHC -Under honorable conditions
unex -unexcuted
UOTHC -under other than honorable conditions
UP -under the provisions of
USARB -US Army Retraining Brigade

W
w/ -with
-w/o -without
WIA -wounded in action

** AWARDS & DECORATIONS **

ARCOM -Army Commendation Medal
AM -Air Medal
BSM -Bronze Star Medal
DFC -Distinguished Flying Cross
DSC -Distinguished Service Cross
DSM -Distinguished Service Medal
GCMDL -Good Conduct Medal
JSCOM -Joint Service Commendation Medal
LOM -Legion of Merit
MH -Medal of Honor
SSM -Silver Star Medal
SM -Soldier's Medal
w/V -with V device (for valor)
OLC -Oak Leaf Cluster (for additional awards after the award of the Basic medal

OSA Form 172, 1 Oct 79

UNITED STATES ARMY
DISCHARGE REVIEW BOARD
CASE REPORT AND DIRECTIVE

CASE #

** PART I **
** APPLICATION DATA **

NAME	SSN/ASN	ADDRESS:
		PHONE:
COUNSEL/REP: ORGN:		ADDRESS:
		PHONE:
NEXT-OF-KIN: SURV SPOUSE: LEGAL REP:		ADDRESS:
		PHONE:

TYPE DISCH	DATE DISCH	AUTH CH AR	DATE OF APPLICATION	DATE OF PRIOR REVIEW

TYPE APPLICATION				REQUEST			
[ ]	INDIV	[ ]	BD MOTION	[ ]	RECHARACTERIZE	[ ]	MODIFY

** PART II **
** PERSONAL HISTORY DATA **

DOB	AGE AT ENTRY FIRST	AGE AT ENTRY LAST	CIV ED LEVEL ENTRY	CIV ED LEVEL DISCH	APTITUDE DATA AFQT	GT	MEN CAT

** PART III **
** SERVICE HISTORY DATA **

SECTION A
UCMJ AND DISCIPLINARY DATA

ART 15	DATE	OFFENSE
SCM		
SPCM		
GCM		

SECTION B
TIME LOST DATA

STATUS	TIMES	DAYS
AWOL/DFR		
CONF MIL AUTH		
CONF CIV AUTH		
EXCESS LEAVE		
TOTAL		

SECTION C
CONDUCT/EFFICIENCY/RATING

C&E/ER	MO/YR	MO/YR

SECTION D
AWARDS AND DECORATIONS

TYPE	LOCATION
	VALOR
	MERIT
	SERVICE
	FOREIGN

SECTION E
ASSIGNMENT/OVERSEA DUTY

UNIT	MO/YR	MO/YR	PLACE

SECTION F
PROMOTION/DEMOTION

FROM	TO	MO/YR	DUTY/REASON

SECTION G

SERVICE DATA						WAIVER					
	ENL		IND	Mos			MORAL		MEDICAL		MINOR
	RENL		OAD	Yrs			AWOL		MENTAL		OTHER

OSA FORM 172, DISCHARGE REVIEW, 1 OCT 79 ** WORK SHEET **

CASE#

** PART III **

** SERVICE HISTORY DATA (con't)**

SECTION H TRNG/REHAB/ADMIN DATA				SECTION I MED/SJA/DISCH PROC DATA				SECTION J BACKGROUND DATA			
	YES	NO	NA		YES	NO	NA		YES	NO	NA
COMPL BCT				NP/MEN STAT EVL				MIL ROI			
COMPL AIT				ENTRY PHYSICAL				CIV ROI			
ENL OPT SATIS				SEPAR PHYSICAL				FBI RPT			
ENL OPT WAIVED				EPTS MED				ART 32 INVES'TN			
ASGD TOE UNIT				COUN FOR CONSULT				WITNESS ST'MNTS			
ASGD IN PMOS				COUN FOR REPRE				CIV DRUG/ALCOHOL			
REHAB TRANS				GMC SJA REVIEW				CIV CONV (EPTS)			
REHAB DRUGS				GMC CDR REVIEW				CIV CONV(IN SVC)			
RET TO DY FM RB				SEP ORDER FILED				CLEM'NCY DISCH			
DISCH FM RB/CTF				DD 214 CORRECT				ALTERNATE SVC			
DISCH TDP/EDP				CM CHGS PREF'D				REENL BAR			
DISCH FM UNIT				WAIVER ST'MNTS				OTHER PERT DATA			

OSA FORM 172, DISCHARGE REVIEW, 1 OCT 79 ** WORK SHEET **

CASE#

** PART IV **

** PRE HEARING REVIEW **

SECTION A

ANALYST ASSESSMENT

1. DISCH REASON: (a). REGS: CH_____ AR_____ (at sep), CH_____ AR_____ (now).
(b). NARRATIVE:_____

2. SUMMARY OF FACTS AND CIRCUMSTANCES CONCERNING DISCHARGE:

OSA FORM 172, DISCHARGE REVIEW, 1 OCT 79 ** WORK SHEET **

CASE#	** PART IV **
	** PRE HEARING REVIEW **
	** SECTION A (con't) **
	** ANALYST ASSESSMENT **

3. SUMMARY OF PREHEARING EXHIBITS OR EVIDENCE SUBMITTED:

4. PREHEARING CONTENTIONS SUBMITTED WITH DD293 AND/OR BRIEF

5. COMMENTS.

OSA FORM 172, DISCHARGE REVIEW, 1 OCT 79 ** WORK SHEET **

CASE #:

SECTION B

APPLICABLE ELEMENTS

(A01.00) Elements Common All Discharges	ISSUES ANAL	PRO YES	PRO NO	PANEL YES	PANEL NO
_____,					
_____,					
_____,					
(A02.00) Elements common when SM has BD rights					
_____,					
_____,					
_____,					
(A03.00)to(A04.00) Spec ele pert to rsn/disch					
_____,					
_____,					
_____,					
(A85.00)to(A89.00) Policy chgs spec retroactive					
_____,					
_____,					
_____,					
_____,					
_____,					
_____,					
_____,					

(A90.00) Procedural changes not made retroactive.	ISSUES PRO	PANEL YES	PANEL NO
_____,			
_____,			
(A91.00) Policy chgs not retroactive			
_____,			
_____,			
(A92.00) Quality of service			
_____,			
_____,			
(A93.00) Capability to serve			
_____,			
_____,			
_____,			
_____,			
(A94.00) Other equity considerations			
_____,			
_____,			
(A99.00) Adm act indirect to disch			
_____,			
_____,			

OSA FORM 172, DISCHARGE REVIEW, 1 OCT 79 ** WORK SHEET **

CASE#	** PART IV **
	** PRE HEARING REVIEW **
	SECTION C
	HE AND/OR PREREVIEW OFFICER EVALUATION

1. EVALUATION

OSA FORM 172, DISCHARGE REVIEW, 1 OCT 79 ** WORK SHEET **

CASE#

** PART IV **

** PRE HEARING REVIEW **

SECTION C

HE AND/OR PREREVIEW OFFICER EVALUATION (con't)

2. POSSIBLE ISSUES FOR BOARD CONSIDERATION: [ ] NONE. [ ] AS FOLLOWS:

DSA FORM 172, DISCHARGE REVIEW, 1 OCT 79 ** WORK SHEET **

CASE #

** PART IV **

** PRE HEARING REVIEW (con't)**

SECTION C

HE AND/OR PREREVIEW OFFICER EVALUATION (con't)

3. REFERRED TO: ☐ MEDICAL ADVISOR; ☐ JAG ADVISOR; FOR:

SECTION D

MEDICAL PREHEARING COMMENTS

SECTION E

LEGAL PREHEARING COMMENTS

OSA FORM 172, DISCHARGE REVIEW, 1 OCT 79 ** WORK SHEET **

CASE#

** PART V **

** SUMMARY OF HEARING **

SECTION A

ADMINISTRATIVE DATA

TYPE OF HEARING		HEARING	APPEARANCE BY	
		SITE:	APPLICANT	COUNSEL
☐ RECORDS	☐ HEARING EX	DATE:	☐ YES	☐ YES
☐ PERSONAL	☐ TRAVEL PNL	H. E. SITE/DATE	☐ NO	☐ NO
☐ COUN/REP	☐ OTHER____	SITE	☐ NA	☐ NA
		DATE		

SECTION B

STIPULATIONS

THE FOLLOWING AS AGREED TO PRIOR TO THE HEARING BY THE PRESIDING OFFICER/HEARING EXAMINER, AS AUTHORIZED BY THE PRESIDENT OF THE ADRB, AND THE APPLICANT AND/OR COUNSEL/REPRESENTATIVE ARE STIPULATED TO BE BEING ESTABLISHED BY DOCUMENTATION OR OTHER RECORD, REQUIRE NO FURTHER SUBSTANTIATION AND WILL BE GIVEN FULL CONSIDERATION BY THE ADRB.

CASE#	** PART V **
	** SUMMARY OF HEARING **
	SECTION C
	SUMMARY OF OPENING REMARKS

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CASE#	** PART V (con't) **
	** SUMMARY OF HAERING **
	SECTION D
	SUMMARY OF DIRECT EXAMINATION

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CASE#	** PART V (con't) **
	** SUMMARY OF HAERING **

SECTION E

SUMMARY OF WITNESS STATEMENT

SECTION F

SUMMARY OF EXHIBITS

OSA FORM 172, DISCHARGE REVIEW, 1 OCT 79 ** WORK SHEET **

CASE#	** PART V (con't)**
	** SUMMARY OF HEARING **
	SECTION G
	SUMMARY OF CROSS EXAMINATION

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CASE#	** PART V (con't)**
	** SUMMARY OF HEARING **
	SECTION H
	SUMMARY OF CLOSING REMARKS

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CASE#	** PART VI **
	** CONTENTIONS AND ISSUES **

SECTION A

APPLICANT CONTENTIONS-BOARD FINDINGS

CONTENTIONS:

FINDINGS:

OSA FORM 172, DISCHARGE REVIEW, 1 OCT 79 ** WORK SHEET **

CASE#	** PART VI(con't) **
	** CONTENTIONS AND ISSUES **

SECTION B

BOARD ISSUES-BOARD FINDINGS

ISSUES

FINDINGS.

OSA FORM 172, DISCHARGE REVIEW, 1 OCT 79 ** WORK SHEET **

CASE#	** PART VI(con't) **
	** CONTENTIONS AND ISSUES **
	SECTION C
	PRESIDING OFFICERS COMMENTS

CASE#	** PART VI(con't) **
	** CONTENTIONS AND ISSUES **
	SECTION C
	PRESIDING OFFICERS COMMENTS

OSA FORM 172, DISCHARGE REVIEW, 1 OCT 79 ** WORK SHEET **

CASE#

** PART VII **
** BOARD ACTION **

SECTION A DETERMINATION	SECTION B CONCLUSION
DISCHARGE AS ISSUED WAS.	DISCHARGE AS ISSUED IS AFFIRMED AS:
[ ] PROPER [ ] NOT PROPER	[ ] PROPER AND EQUITABLE
[ ] EQUITABLE [ ] NOT EQUITABLE	[ ] UPGRADED [ ] IN FULL [ ] PARTIAL
	[ ] MODIFIED [ ] AUTH [ ] REASON

SECTION C RECOMMENDATION	SECTION D MEMBERS / VOTE	APPEAL			
		GRANTED		DENIED	MOD'Y
	RANK / NAME	HON	UHC		
1.ISSUE: [ ] DD 214 AS FOLLOWS					
[ ] HON [ ] UHC [ ] SPD					
[ ] AR					
2.ISSUE: [ ] DD 215 CHANGING DD 214					
[ ] AUTH. AR SPD					
[ ] REMARKS					
3.ISSUE: [ ] OFFICAL NOTIFICATION OF DENIAL OF APPEAL.	PRESIDING OFFICER				

DSA FORM 172, DISCHARGE REVIEW, 1 OCT 79 - ** WORK SHEET **

CASE#	** PART VII **
	** BOARD ACTION **
	SECTION E
	RATIONALE

a MAJORITY

OSA FORM 172, DISCHARGE REVIEW, 1 OCT 79 ** WORK SHEET **

Case #	** PART VII **
	BOARD ACTION (con't)
	SECTION E
	RATIONALE (con't)

b. MINORITY CONSIDERATIONS. (When Minority Report not Submitted)

c. FULL RELIEF DENIED (if appropriate)

Case #

** PART VII **

BOARD ACTION (con't)

SECTION F

MINORITY REPORT

☐ NONE SUBMITTED ☐ SUBMITTED AS FOLLOWS.

MEMBER MEMBER

SECTION G

VERIFICATION AND AUTHENTICATION

FINDINGS AND RATIONALE VERIFIED: HEARING SUMMARY AND BOARD ACTION AUTHENTICATED.

POST HEARING REVIEW OFFICER ALTERNATE SECY RECORDER

SECTION H

PRESIDENT ADRB RECOMMENDATION

☐ REFERRAL TO SECY/ARMY NOT REQUIRED (See Part VIII)

☐ REFERRAL TO SECY/ARMY FOR:

☐ MINORITY RPT DECISION ☐ POLICY CONSIDERATION

☐ SPECIAL INTEREST ☐ INFORMATION

COMMENTS.

PRESIDENT, ADRB

SECTION I

SECRETARY OF ARMY (or designee) DECISION

☐ NOT REQUIRED ☐ APPROVE MAJORITY ☐ RETURNED FOR REHEARING

☐ APPROVE MINORITY ☐ NEW FINDINGS

RATIONALE.

** PART VIII--DIRECTIVE **

To: THE ADJUTANT GENERAL DATE:

The Army Discharge Review Board, established UP Sect 30, PL 346, 78th Cong, 22 June 1944 and codified in 10 U.S.C., Sect 1553, in the case of the applicant named in Part I finds, concludes, and decides as indicated.

As authorized by the Secretary of the Army, it is directed that actions specified in Part VII be executed and the indivials, named in Part I be notified.

OFFICIAL	APPROVED
s/V. C GOMEZ LTC SEC/REC ADRB	s/WILLIAM E. WEBER COL PRESIDENT ADRB

****

EXHIBITS

A - ORDER APPOINTING BOARD D - INSTRUCTIONAL LETTER APPLICANT F - OTHER

B - APPL FOR REV OF DISCH E - SCHEDULE LTR TO APPLICANT G - OTHER

C - AFF., DEP., STMTS BY/FOR APPL

INDEX REFERENCE NUMBERS

OSA FORM 172, DISCHARGE REVIEW, 1 OCT 79 ** WORK SHEET **

CASE#	CONTINUATION SHEET	(Use as needed)
**	PART ___ (con't)	**
**	_____	**
	SECTION ___ (con't)	
	_____	

OSA FORM 172, DISCHARGE REVIEW, 1 OCT 79 ** WORK SHEET **

UNITED STATES ARMY
DISCHARGE REVIEW BOARD
CASE REPORT AND DIRECTIVE

CASE#			2d REGULAR REVIEW		3d REGULAR REVIEW

PART I
APPLICATION DATA

NAME	SSN/ASN	ADDRESS PHONE.
COUNSEL/REP ORGN NAME.		ADDRESS. PHONE:
NEXT-OF-KIN SURV SPOUSE LEGAL REP.		ADDRESS. PHONE:
TYPE APPLICATION ☐ REGULAR ☐ REVIEW (BD) ☐ OTHER		REQUESTS ☐ RECHARACTERIZE ☐ MODIFY

****

PART II *
PERSONAL HISTORY DATA

****

PART III *
SERVICE HISTORY DATA

****

PART IV *
PREHEARING REVIEW

****

PART V
SUMMARY OF HEARING

SECTION A
ADMINISTRATIVE DATA

TYPE OF HEARING		HEARING	APPEARANCE BY	
		SITE	APPLICANT	COUNSEL
☐ RECORDS	☐ HEARING EX	DATE		
☐ PERSONAL	☐ TRAVEL PNL	H/E SITE & DATE	☐ YES	☐ YES
☐ COUN/REP	☐ OTHER	SITE	☐ NO	☐ NO
		DATE	☐ NA	☐ NA

SECTION B
STIPULATIONS

SECTION C
SUMMARY OF OPENING REMARKS

SECTION D
SUMMARY OF DIRECT EXAMINATION

SECTION E
SUMMARY OF WITNESS STATEMENT

SECTION F
SUMMARY OF EXHIBITS

SECTION G
SUMMARY OF CROSS EXAMINATION

SECTION H
SUMMARY OF CLOSING REMARKS

OSA FORM 172, ADDENDUM, 1 OCT 79 * SEE BASIC OSA FORM 172, dtd _____

CASE#	CONTINUATION SHEET	(Use as needed)
	PART ___ (con't)	
	SECTION ___ (con't)	

OSA FORM 172, ADDENDUM, 1 OCT 79 * SEE BASIC OSA FORM 172, dtd _____

CASE#	PART VI CONTENTIONS AND ISSUES

SECTION A
APPLICANT CONTENTIONS-BOARD FINDINGS

CONTENTIONS.

1.

2.

3.

FINDINGS.

1.

2.

3.

SECTION B
BOARD ISSUES-BOARD FINDINGS

ISSUES:

1.

2.

3.

FINDINGS.

1.

2.

3.

SECTION C
PRESIDING OFFICERS COMMENTS

OSA FORM 172, ADDENDUM, 1 OCT 79 * SEE BASIC OSA FORM 172, dtd_____

CASE#	CONTINUATION SHEET	(Use as needed)
	PART ___ (con't)	
	SECTION ___ (con't)	

OSA FORM 172 ADDENDUM, 172 OCT 79 * SEE BASIC OSA FORM 172, dtd _____

CASE# _____

PART VII
BOARD ACTION

SECTION A DETERMINATION	SECTION B CONCLUSION
DISCHARGE AS ISSUED WAS [ ] PROPER [ ] NOT PROPER [ ] EQUITABLE [ ] NOT EQUITABLE	DISCHARGE AS ISSUED IS AFFIRMED AS: [ ] PROPER, EQUITABLE AND CORRECT [ ] UPGRADED [ ] IN FULL [ ] PARTIAL [ ] MODIFIED [ ] AUTH [ ] REASON

SECTION C RECOMMENDATION	SECTION D MEMBERS / VOTE				
1.ISSUE. [ ] DD 214 AS FOLLOWS: [ ] HON [ ] UHC [ ] SPD _____ [ ] AR _____		APPEAL			
		GRANTED		DENIED	MOD'Y
	RANK / NAME	HON	UHC		
2.ISSUE: [ ] DD 215 CHANGING DD 214 [ ] AUTH· AR _____ SPD _____ [ ] REMARKS. _____					
3.ISSUE: [ ] OFFICAL NOTIFICATION OF DENIAL OF APPEAL.	PRESIDING OFFICER				

SECTION E
RATIONALE

a. MAJORITY

b. MINORITY CONSIDERATIONS: (When Minority Report not Submitted)

c. FULL RELIEF DENIED (if appropriate):

OSA FORM 172, ADDENDUM, 1 OCT 79 * SEE BASIC OSA FORM 172, dtd _____

Case # _____

PART VII
BOARD ACTION (con't)

SECTION F
MINORITY REPORT

☐ NONE SUBMITTED ☐ SUBMITTED AS FOLLOWS:

_____ MEMBER _____ MEMBER

SECTION G
VERIFICATION AND AUTHENTICATION

FINDINGS AND RATIONALE VERIFIED: _____ POST HEARING REVIEW OFFICER

HEARING SUMMARY AND BOARD ACTION AUTHENTICATED: _____ ALTERNATE SECY RECORDER

SECTION H
PRESIDENT ADRB RECOMMENDATION

☐ REFERRAL TO SECY/ARMY NOT REQUIRED (See Part VIII)
☐ REFERRAL TO SECY/ARMY FOR:
☐ MINORITY RPT DECISION ☐ POLICY CONSIDERATION
☐ SPECIAL INTEREST ☐ INFORMATION

COMMENTS:

_____ PRESIDENT, ADRB

SECTION I*
SECRETARY OF ARMY (or designee) DECISION

☐ NOT REQUIRED ☐ APPROVE MAJORITY ☐ RETURNED FOR REHEARING
☐ APPROVE MINORITY ☐ NEW FINDINGS

RATIONALE:

_____

PART VIII--DIRECTIVE

To THE ADJUTANT GENERAL DATE: _____

The Army Discharge Review Board, established UP Sect 30, PL 346, 78th Cong, 22 June 1944 and codified in 10 U.S.C., Sect 1553, in the case of the applicant named in Part I finds, concludes, and decides as indicated.

As authorized by the Secretary of the Army, it is directed that actions specified in Part VII be executed and the indivials, named in Part I be notified.

OFFICIAL	APPROVED
s/V. C GOMEZ LTC SEC/REC ADRB	s/WILLIAM E. WEBER COL PRESIDENT ADRB

****

EXHIBITS

A - ORDER APPOINTING BOARD
B - APPL FOR REV OF DISCH
C - AFF., DEP., STMTS BY/FOR APPL
D - INSTRUCTIONAL LETTER APPLICANT
E - SCHEDULE LTR TO APPLICANT
F - OTHER
G - OTHER

INDEX REFERENCE NUMBERS

OSA FORM 172 ADDENDUM, 1 OCT 79 * SEE BASIC OSA FORM 172, dtd _____

COMPLAINT#	UNITED STATES ARMY DISCHARGE REVIEW BOARD COMPLAINT CASE REPORT AND DIRECTIVE	FILE W/OSA 172 CASE REPORT AD dtd

** PART I **
** APPLICATION DATA **

NAME	SSN/ASN	ADDRESS. Phone:
COUNSEL/REP ORGN		Address. Phone:
COMPLAINTANT (IF NOT MEMBER)		Address Phone:

REQUESTED	RECEIVED	BASIS TO HEAR
☐ HON ☐ UHC ☐ MOD'Y	☐ FULL RELIEF ☐ PART RELIEF ☐ NO RELIEF	

** PART II **
** COMPLAINT **

☐ INDEX ☐ CONTENTION (S) ☐ ISSUE (S) ☐ CONCLUSIONS (S)
☐ RATIONALE ☐ COMMENT (S) ☐ OTHER

1. SPECIFIC COMPLAINT (NARRATIVE - VERBATIM)

2. SPECIFICALLY INDENTIFIED VIOLATION OF STIPULATION:

COMPLAINT ADDENDUM, OSA FORM 172, Revised 1 OCT 79

COMPLAINT#

** PART III **

** DRB REREVIEW OF CASE AND DIRECTIVE **

CASE NO.	HEARING DATE	MODE	BASIS	ACTION

SUBSEQUENT DECISIONAL DOCUMENT ___ DID CORRECT ERROR ALLEGED IN COMPLAINT
___ DID NOT

** PART IV **

** BOARD ACTION **

( ) NO SPECIFIC COMPLAINT ( ) CORRECTED PAGES ATTACHED ( ) REHEARING AUTHORIZED
( ) COMPLAINT CORRECTED BY HEARING INDENTIFIED IN PART III ABOVE
( ) NO SPECIFIC VIOLATION OF STIPULATION ( ) REQUESTED CHANGE NOT WARRANTED

RESULTS OF REVIEW·

** PART V **

** NOTIFICATION TO APPLICANT **

DETERMINATION: ( ) FINAL ( ) INTERIM

APPLICANT MAY REQUEST REVIEW BASED ON.
( ) DoD 1332.28 ( ) SPECIAL PROGRAM (deNovo) ( ) PL 95-126 (deNovo)
( ) REVIEW BASED ON INSUFFICIENT RECORDS AND PRIOR REVIEW DID NOT GRANT FULL RELIEF

REQUEST FOR REVIEW MUST BE POSTMARKED WITHIN:
( ) 30 DAYS OF RECEIPT OF THIS DECISION
( ) TIME SPECIFIED UNDER PROVISIONS OF ORIGINAL HEARING METHOD
( ) STATUTORY PERIOD

NOTIFICATION (COPIES TO).
( ) APPLICANT ( ) COUNSEL ( ) COMPLAINT (OTHER THAN APPLICANT)
( ) AG/RCPAC (OMPF) ( ) ASD (MRA&L)/JSRA ( ) PUBLIC (READING ROOM)
( ) INDEX (SUPPLEMENT)

PANEL DATE:	AUTHENTICATION DATE:
RANK NAME	PRESIDING OFFICER
	SIGNATURE OF SECRETARY/RECORDER
	SIGNATURE OF PRESIDENT OF THE BOARD
	s/WILLIAM E. WEBER COL PRESIDENT ADRB

COMPLAINT ADDENDUM, OSA FORM 172, Revised 1 OCT 79

CASE#	CONTINUATION SHEET	(Use as needed)
	PART ___ (con't)	
	SECTION ___ (con't)	

OSA FORM, 1 OCT 79

COMPLAINT#	UNITED STATES ARMY DISCHARGE REVIEW BOARD COMPLAINT CASE REPORT AND DIRECTIVE	FILE W/OSA 172 CASE REPORT AD dtd

** PART I **
** APPLICATION DATA **

NAME	SSN/ASN	ADDRESS: Phone:
COUNSEL/REP ORGN:		Address: Phone:
COMPLAINTANT (IF NOT MEMBER)		Address: Phone:

REQUESTED	RECEIVED	BASIS TO HEAR
☐ HON ☐ UHC ☐ MOD'Y	☐ FULL RELIEF ☐ PART RELIEF ☐ NO RELIEF	

** PART II **
** COMPLAINT **

☐ INDEX ☐ CONTENTION (S) ☐ ISSUE (S) ☐ CONCLUSIONS (S)
☐ RATIONALE ☐ COMMENT (S) ☐ OTHER

1. SPECIFIC COMPLAINT (NARRATIVE - VERBATIM):

2. SPECIFICALLY INDENTIFIED VIOLATION OF STIPULATION:

COMPLAINT ADDENDUM, OSA FORM 172, Revised 1 SEP 79

COMPLAINT#

** PART III **

** DRB REREVIEW OF CASE AND DIRECTIVE **

CASE NO.	HEARING DATE	MODE	BASIS	ACTION

SUBSEQUENT DECISIONAL DOCUMENT [ ] DID [ ] DID NOT CORRECT ERROR ALLEGED IN COMPLAINT

** PART IV **

** BOARD ACTION **

( ) NO SPECIFIC COMPLAINT ( ) CORRECTED PAGES ATTACHED ( ) REHEARING AUTHORIZED

( ) COMPLAINT CORRECTED BY HEARING INDENTIFIED IN PART III ABOVE

( ) NO SPECIFIC VIOLATION OF STIPULATION ( ) REQUESTED CHANGE NOT WARRANTED

RESULTS OF REVIEW:

** PART V **

** NOTIFICATION TO APPLICANT **

DETERMINATION: ( ) FINAL ( ) INTERIM

APPLICANT MAY REQUEST REVIEW BASED ON:

( ) DoD 1332.28 ( ) SPECIAL PROGRAM (deNovo) ( ) PL 95-126 (deNovo)

( ) REVIEW BASED ON INSUFFICIENT RECORDS AND PRIOR REVIEW DID NOT GRANT FULL RELIEF

REQUEST FOR REVIEW MUST BE POSTMARKED WITHIN:

( ) 30 DAYS OF RECEIPT OF THIS DECISION

( ) TIME SPECIFIED UNDER PROVISIONS OF ORIGINAL HEARING METHOD

( ) STATUTORY PERIOD

NOTIFICATION (COPIES TO)

( ) APPLICANT ( ) COUNSEL ( ) COMPLAINT (OTHER THAN APPLICANT)

( ) AG/RCPAC (OMPF) ( ) ASD (MRA&L)/JSRA ( ) PUBLIC (READING ROOM)

( ) INDEX (SUPPLEMENT)

PANEL DATE:	AUTHENTICATION DATE:
RANK NAME	PRESIDING OFFICER
	SIGNATURE OF SECRETARY/RECORDER
	SIGNATURE OF PRESIDENT OF THE BOARD
	s/WILLIAM E. WEBER COL PRESIDENT ADRB

COMPLAINT ADDENDUM, OSA FORM 172, Revised 1 SEP 79

BILLING CODE 3710-08-C

Army Discharge Review Board

SFRB Memo 7-79
August 20, 1979.

Memorandum for Each Officer, Noncommissioned Officer, Enlisted Member, and Civilian Employee, ACRB

Subject: Corrections to ADRB Memo 6-79, 15 Aug 79, subject: Revised OSA Form 172 (Discharge Review); OSA Form 172 Addendum (Discharge Review)

The following corrections will be made to subject memorandum:

a. Insert attached page 14; destroy old page 14.

b. Make pen and ink changes as follows:

(1) *Page 2, paragraph d(3).* Change Section A thru J inclusive to read, "Section A thru K inclusive."

(2) *Page 3, second line from top.* Change "Tabs A thru J inclusive" to read, "Tabs A thru K inclusive."

(3) *Page 3, last line of first paragraph.* Change "A thru J" to read, "A thru K."

c. Insert attached two pages of Inclosure 1 (OSA Form 172—Final) and destroy old pages.

d. Insert first two pages of Inclosure 2 (OSA Form 172—Work Sheet) and destroy old pages.

5 Incl as

William E. Weber,

Colonel, IN, President.

(2) This memorandum and the procedures prescribed herein for the preparation and handling of OSA Form 172 take precedent over any previous instructions concerning the handling of the OSA Form 172, with one exception. Those instructions in Annex J of the ADRB SOP that identify the means by which information is developed for placement in the OSA 172 remain current as they are applicable to those elements of the new OSA Form 172 that are duplicative of the old, from the standpoint of presenting information. This is true even though the sections may not relate from the old to the new form. Any member of the ACRB who is aware of a conflict between this memorandum and previous instructions that are outstanding that may cause difficulties in the preparation of the form should bring this to the attention of the Pit Boss and/or supervisor, as appropriate for resolution.

(3) Those responsible for the preparation of portions of the OSA form should bear in mind that timely, final preparation is dependent upon the ability of those next in line to understand and transcribe what has been done before. Sloppy handwriting, grammatical errors, misspelling, and procedural errors that are allowed to progress through the chain of completion without being corrected by the individual first noticing the error, are a violation of the responsibility we all have to do our job properly.

(4) These instructions are mandated for compliance by all personnel. Recommendations enabling the form to be improved (taking into consideration the totality of production requirement) are encouraged. Anyone can bring to the attention of his supervisor recommendations believed appropriate for consideration. The Case Report and Directive (OSA Form 172) is the document which identifies what we do and is the only means to impart to the applicant how and why we do what we do. Thus, the form reflects our professionalism, pride in our work, and ability to do our job. Every individual in the chain of completion bears credit when the job is done properly and the absence of credit, when done improperly.

2. Also attached for information (except where specific responsibilities are appropriate) is a copy of the Complaint Form.

4 Incl. 1. OSA Form 172—Final, 2. OSA Form 172—Work Sheet, 3. OSA Form 172—Addendum, 4. Complaint Form.

William E. Weber,

Colonel, IN, President.

BILLING CODE 3710-08-M

ARMY DISCHARGE REVIEW BOARD
CASE REPORT AND DIRECTIVE

CASE #

** PART I **
** APPLICATION DATA **

NAME	SSN/ASN	ADDRESS:
		PHONE:

COUNSEL/REP:	ADDRESS:
ORGN:	
	PHONE:
NEXT-OF-KIN:	ADDRESS:
SURV SPOUSE:	
LEGAL REP:	PHONE:

TYPE DISCH	DATE DISCH	AUTH	DATE OF APPLICATION	DATE OF PRIOR REVIEW
		CH AR		

TYPE APPLICATION			REQUEST		
[ ] INDIV	[ ] BD MOTION		[ ] RECHARACTERIZE	[ ] MODIFY	

** PART II **
** PERSONAL HISTORY DATA **

DOB	AGE AT ENTRY		CIV ED LEVEL		APTITUDE DATA		
	FIRST	LAST	ENTRY	DISCH	AFQT	GT	MEN CAT

** PART III **
** SERVICE HISTORY DATA **

SECTION A
UCMJ AND DISCIPLINARY DATA

ART 15	DATE	OFFENSE
SCM		
SPCM		
GCM		

SECTION B
TIME LOST DATA

STATUS	TIMES	DAYS
AWOL/DFR		
CONF MIL AUTH		
CONF CIV AUTH		
EXCESS LEAVE		
TOTAL		

SECTION C
CONDUCT/EFFICIENCY/RATING

C&E/ER	MO/YR	MO/YR

SECTION D
AWARDS AND DECORATIONS

TYPE	LOCATION
VALOR	
MERIT	

SECTION E
ASSIGNMENT/OVERSEA DUTY

UNIT	MO/YR	MO/YR	PLACE

SECTION F
PROMOTION/DEMOTION

FROM	TO	MO/YR	DUTY/REASON

SECTION G
PRIOR SERVICE

SERVICE	SVC	DISCH	MO/YR	MO/YR	SVC	DISCH	MO/YR	MO/YR

SECTION H

SERVICE DATA					WAIVER		
FOREIGN	ENL	IND	DATE		MORAL	MEDICAL	MINOR
	RENL	OAD	MOs	YRs	AWOL	MENTAL	OTHER

OSA FORM 172, DISCHARGE REVIEW, 1 OCT 79

CASE#

** PART III **

** SERVICE HISTORY DATA (con't)**

SECTION I TRNG/REHAB/ADMIN DATA	YES	NO	NA	SECTION J MED/SJA/DISCH PROC DATA	YES	NO	NA	SECTION K BACKGROUND DATA	YES	NO	NA
COMPL BCT				NP/MEN STAT EVL				MIL ROI			
COMPL AIT				ENTRY PHYSICAL				CIV ROI			
ENL OPT SATIS				SEPAR PHYSICAL				FBI RPT			
ENL OPT WAIVED				EPTS MED				ART 32 INVES'TN			
ASGD TOE UNIT				COUN FOR CONSULT				WITNESS ST'MNTS			
ASGD IN PMOS				COUN FOR REPRE				CIV DRUG/ALCOHOL			
REHAB TRANS				GCM SJA REVIEW				CIV CONV (EPTS)			
REHAB DRUGS				GCM CDR REVIEW				CIV CONV(IN SVC)			
RET TO DY FM RB				SEP ORDER FILED				CLEM'NCY DISCH			
DISCH FM RB/CTR				DD 214 CORRECT				ALTERNATE SVC			
DISCH TDP/EDP				CM CHGS PREF'D				REENL BAR			
DISCH FM UNIT				WAIVER ST'MNTS				OTHER PERT DATA			

** PART IV **

** PRE HEARING REVIEW **

SECTION A

ANALYST ASSESSMENT

1. DISCH REASON: (a). REGS: CH____ AR_____ (at sep), CH____ AR_____ (now).
(b). NARRATIVE:

2. SUMMARY OF FACTS AND CIRCUMSTANCES CONCERNING DISCHARGE:

3. SUMMARY OF PREHEARING EXHIBITS OR EVIDENCE SUBMITTED:

4. PREHEARING CONTENTIONS SUBMITTED WITH DD293 AND/OR BRIEF:

5. COMMENTS:

OSA FORM 172, DISCHARGE REVIEW, 1 OCT 79

ARMY DISCHARGE REVIEW BOARD
CASE REPORT AND DIRECTIVE

CASE #

** PART I **
** APPLICATION DATA **

NAME	SSN/ASN	ADDRESS:
		PHONE:
COUNSEL/REP: ORGN:		ADDRESS:
		PHONE:
NEXT-OF-KIN: SURV SPOUSE: LEGAL REP:		ADDRESS:
		PHONE:

TYPE DISCH	DATE DISCH	AUTH	DATE OF APPLICATION	DATE OF PRIOR REVIEW
		CH AR		

TYPE APPLICATION				REQUEST		
[ ]	INDIV	[ ]	BD MOTION	[ ]	RECHARACTERIZE	[ ] MODIFY

** PART II **
** PERSONAL HISTORY DATA **

DOB	AGE AT ENTRY		CIV ED LEVEL		APTITUDE DATA		
	FIRST	LAST	ENTRY	DISCH	AFQT	GT	MEN CAT

** PART III **
** SERVICE HISTORY DATA **

SECTION A
UCMJ AND DISCIPLINARY DATA

ART 15	DATE	OFFENSE
SCM		
SPCM		
GCM		

SECTION B
TIME LOST DATA

STATUS	TIMES	DAYS
AWOL/DFR		
CONF MIL AUTH		
CONF CIV AUTH		
EXCESS LEAVE		
TOTAL		

SECTION C
CONDUCT/EFFICIENCY/RATING

C&E/ER	MO/YR	MO/YR

SECTION D
AWARDS AND DECORATIONS

TYPE	LOCATION
VALOR	
MERIT	

SECTION E
ASSIGNMENT/OVERSEA DUTY

UNIT	MO/YR	MO/YR	PLACE

SECTION F
PROMOTION/DEMOTION

FROM	TO	MO/YR	DUTY/REASON

SECTION G
PRIOR SERVICE

SERVICE	SVC	DISCH	MO/YR	MO/YR	SVC	DISCH	MO/YR	MO/YR

SECTION H

FOREIGN	SERVICE DATA					WAIVER		
	ENL	IND	DATE			MORAL	MEDICAL	MINOR
	RENL	OAD	MOs	YRs		AWOL	MENTAL	OTHER

OSA FORM 172, DISCHARGE REVIEW, 1 OCT 79 **WORK SHEET**

CASE#

** PART III **

** SERVICE HISTORY DATA (con't)**

SECTION I TRNG/REHAB/ADMIN DATA	YES	NO	NA	SECTION J MED/SJA/DISCH PROC DATA	YES	NO	NA	SECTION K BACKGROUND DATA	YES	NO	NA
COMPL BCT				NP/MEN STAT EVL				MIL ROI			
COMPL AIT				ENTRY PHYSICAL				CIV ROI			
ENL OPT SATIS				SEPAR PHYSICAL				FBI RPT			
ENL OPT WAIVED				EPTS MED				ART 32 INVES'TN			
ASGD TOE UNIT				COUN FOR CONSULT				WITNESS ST'MNTS			
ASGD IN PMOS				COUN FOR REPRE				CIV DRUG/ALCOHOL			
REHAB TRANS				GCM SJA REVIEW				CIV CONV (EPTS)			
REHAB DRUGS				GCM CDR REVIEW				CIV CONV(IN SVC)			
RET TO DY FM RB				SEP ORDER FILED				CLEM'NCY DISCH			
DISCH FM RB/CTR				DD 214 CORRECT				ALTERNATE SVC			
DISCH TDP/EDP				CM CHGS PREF'D				REENL BAR			
DISCH FM UNIT				WAIVER ST'MNTS				OTHER PERT DATA			

** PART IV **

** PRE HEARING REVIEW **

SECTION A

ANALYST ASSESSMENT

OSA FORM 172, DISCHARGE REVIEW, 1 OCT 79 **WORK SHEET**

BILLING CODE 3710-08-C

Army Discharge Review Board

SFRB Memo #8-79*
August 31, 1979.
Memorandum for all ADRB Personnel
Subject: Fraudulent Entry Discharge Reviews

1. The current DA discharge standards concerning individuals discharged for fraudulent entry (Section II, Chapter 14, AR 635-200, which became effective on 1 April 1976 pursuant to a DA message) provide that in certain instances the enlistment must be voided. In other instances, particularly when the applicant's period of service has been so short that proper application of established standards for characterization of service is not possible, the same practice is encouraged. The regulation, however, does permit the issuance of a characterized discharge in those cases in which a void enlistment is not mandated.

2. Void enlistments are mandated (para 14-5a(1), AR 635-200) when court-martial charges are not pending or contemplated and the case involves:

a. Concealment of a previous discharge under other than honorable conditions; or,

b. The individual is in an unauthorized absence status or absent in the hands of civil authorities.

3. In discharge reviews involving discharges awarded after the implementation of the policies contained in Section II, Chapter 14, AR 635-200 (1 Apr 76) and in which one or more of the conditions listed in paragraph 2 above are met, the issuance of a characterized discharge was contrary to the established DA discharge standards applicable at the time the applicant was separated from the Army. In such cases, the Army Discharge Review Board will return the case to the U.S. Army Reserve Components Personnel and Administration Center, pointing out that the characterized discharge was without authority, and will indicate that RCPAC should issue a new DD 214 that conforms to the requirements of paragraph 14-11, AR 635-200. Analysts and Prereview Officers will be responsible for identifying such cases and bringing them to the attention of the Executive Officer who will take the action indicated above.

4. In other cases involving discharge after 1 April 1976 which do not fall into one of the categories in which voiding the enlistment was mandated, the ADRB will review the discharge in accordance with AR 15-180.

5. In cases involving a voided enlistment for fraudulent entry after 1 Apr 76, the case will be returned to RCPAC since there is not discharge to review.

6. In cases involving discharge prior to 1 Apr 76 in which the DD 214 issued at the time of discharge indicates that the service was characterized and no creditable service is reflected on the DD 214, the ADRB will return the case to RCPAC as outlined in paragraph 3 above.

7. In cases involving discharge prior to 1 Apr 76 in which the DD 214 issued at the time of discharge indicates a characterization of service *and* in which there is creditable service reflected on the DD 214, the case will be reviewed in accordance with AR 15-180.

8. In any case involving the issuance of a characterized discharge and in which some creditable service is reflected on the DD 214, the ADRB may vote to change the characterization of the service awarded. Such action will be based on the ADRB evaluation of the record of service and other evidence presented at the discharge review. In such cases, the SPD of record will be JKG (Misconduct-Fraudulent Entry).

9. In cases involving discharge for fraudulent entry based on verified recruiter connivance between 1 Apr 76 and 14 Jul 78, voiding the enlistment was mandated. Subsequent to 14 Jul 78, a message change to AR 635-200 (DAPC-MSF-FS 141800Z Jul 78) authorized a commander to void such enlistments, discharge the individual or retain the individual in the military service. Requests for review of discharge involving separation during the dates shown will be treated as indicated in paragraphs 3 or 5 above. Requests for discharge review after 14 Jul 78 involving verified or alleged recruiter connivance will be considered under paragraph 4 above if the individual was discharged or under paragraph 3 if the enlistment was voided.

10. Supersession: The contents of this memorandum supersede those contained in SFRB Memorandum 26, 11 May 1977 and SFRB Memorandum 8-79, 28 August 1979.

1 Incl Matrix
William E. Weber,
Colonel, IN, President.

Discharge Reviews Involving Discharge/Separation for Fraudulent Entry

Description of condition	Return to RCPAC	Conduct discharge review	SPD of record
Separation after Apr. 1, 1976:			
Service characterized, one of conditions which mandates voiding enlistment present.	Yes	No	NA
Service characterized, no condition mandating voiding of enlistment present	No	Yes	JKG
Service not characterized, enlistment voided	Yes	No	NA
Separation prior to Apr. 1, 1976:			
Service characterized, no creditable service shown	Yes	No	NA
Service characterized, creditable service shown	No	Yes	JKG

P 141BOOZ Jul 78
FM CDR MILPERCEN Alex, VA//
DAPC-MSF-RS//
Section 2 of 4

AR 635-200 are changed as follows: 5-25b(2). If it is determined that the enlistment/extension was erroneous, separation, when deemed appropriate, will be accomplished without referral of the case to the commander, U5AEEA. Release from military control is mandatory in cases set forth in para 5-11c.

5-25b(3). If it is determined that the enlistment/extension was erroneous, but retention is considered to be in the best interest of the service, the member desired retention (by completing the statement in figure 5-8), and the disqualification is waivable (up of AR 601-210 or AR 601-280), retention may be directed. Waivers will be granted only in meritorious cases. The member's personnel qualification record (DA Form 2-1) will be ennotated and the original copy of the document authorizing retention and the member's statement will be processed in accordance with instructions in (4) below.

5-25b(4). If it is determined that the enlistment/extension was erroneous, but retention is considered to be in the best interest of the service, the member desires retention (by completing the statement in figure 5-8), and the disqualification is otherwise nonwaivable (up of AR 601-210 or AR 601-280), forward the case, including the information in an above and the reasons for recommending to the commander, USAEEA, 9700 Page Boulevard, St. Louis, MO 63132. Approval of recommendations for retention of members subject to nonwaivable procurement disqualifications (up AR 601-210 and 601-280) will be granted only in exceptionally meritorious cases. Where recommendations are not favorably considered by the commander, USAEEA, separation will be directed. Where recommendations for retention are favorably considered,

* This memorandum supersedes SFRB Memo #8-79 dated 28 August 1979.

retention may be directed. In such cases the following statement will be entered in item 27 of the member's personnel qualification record (DA Form 2-1): "Separation action considered and retention is authorized on (date)," the original copy of the document authorizing retention and the member's request for retention (figure 5-8) will be forwarded to the commander, U.S. Army enlisted records and evaluation center, Fort Benjamin Harrison, IN 46249, for inclusion in the member's official personnel record. A copy will also be placed in the member's field MPRJ.

6. Page 7-1, chapter 7, AR 635-200, paragraph 7-4c is changed as follows:

7-4c. Unless under charges for a serious offense committed after attaining the age of 17 years, members may be discharged for minority if the member is at least 17 but less than 18 years of age, enlisted without the consent of parents or guardian, and no application has been received in accordance with b above. The immediate commander may recommend retention of the member to the Secretary of the Army if the member indicates his desire to be retained in the service by completing the statement in figure 5-8. Requests for retention, will be forwarded with appropriate documentation and recommendations, to CDR, MILPERCEN (DAPC-EPA-A-S) Alexandria, VA 22331 for final action. When retention is directed, the following statement will be entered in item 27 of the member's personnel qualification record (DA Form 2-1): "Separation action considered and retention authorized on (date)." The original copy of the document authorizing retention and the member's request for retention (figure 5-8) will be forwarded to the commander U.S. Army enlisted records and evaluation center, Fort Benjamin Harrison, IN 46249, for inclusion in the member's official personnel record. A copy will also be placed in the member's field MPRJ.

7. Page 7-1, chapter 7, AR 635-200, delete paragraph 7-40.

8. Page 14-3, chapter 14, paragraph 14-5, AR 635-200 is changed as follows:

A. 14-5a. When court-martial charges are not pending or contemplated, commanders exercising general court-martial jurisdiction will take one of the following actions: (table 14-1 should be reviewed, however, prior to taking any action.)

(1) Void the fraudulent entry by issuing orders releasing the member from Army control for fraudulent entry in all cases involving concealment of previous discharge under other than honorable conditions, or where the member is presently AWOL, in desertion, or absent in the custody of civil authorities.

(2) In cases of fraudulent entry involving alleged or verified connivance by recruiting officials, the general court-martial convening authority will determine whether retention or separation is appropriate. Prior to taking any action, however, the tests for recruiter connivance outlined in paragraph 14-5c below must be satisfied.

(a) When the general court-martial convening authority determines that further military service by the individual is not warranted, the fraudulent enlistment will be voided or the member will be discharged. See para. 14-5b.

(b) When the general court-martial convening authority determines that further military service by the individual is warranted, but the individual does not desire to continue military service, the fraudulent enlistment will be voided or the member will be discharged. See para 14-5b.

(c) When the general court-martial convening authority determines that further military service by the individual is warranted, and the individual desires to continue his military service, the individual may be retained. The individual will indicate its desire to be retained by the Army by executing the statement in figure 5-b. When the general court-martial convening authority directs retention, the following statement will be entered in item 27 of the member's personnel qualification record (DA Form 2-1): "Separation action considered and retention authorized on (date)." The original of the document authorizing retention and the member's statement (figure 5-8) will be forwarded to the commander, U.S. Army enlisted records and evaluation center, Fort Benjamin Harrison, IN 46249, for inclusion in the member's official personnel record. A copy will also be placed in the member's field MPRJ.

b. Change paragraph 14-5a(2) to 14-5a(3).

c. 14-15c. Connivance by recruiting officials. In each instance in which it has been established that the enlistment/reenlistment was fraudulent (see tests, (1), (2) below), an inquiry will be made to the commander JSAREC (Attn: USARCRFM-SA-M), Fort Sheridan, IL 60037 to determine if the fraud was aided by a recruiting official. If such action by a recruiting official is verified. Section 3 of 4

One of the actions listed in paragraph 14-5A(2) above will be taken. When questioned concerning possible connivance, the member will be advised of his rights under Article 31, UCMJ. If the member alleges misconduct by recruiting officials, or if no answer is given, actions listed in paragraph 14-5A(2) above may be taken even though the allegation may later prove groundless. Before connivance becomes relevant, the following two critical tests must be applied in each case of suspected fraudulent enlistment/reenlistment to establish the enlistment/reenlistment as fraudulent.

(1) First test. Commanders will determine if the information is in fact disqualifying. In each instance in which information previously concealed by an enlistee is revealed which gives rise to the suspicion that the enlistee fraudulently enlisted/reenlisted by a deliberate material misrepresentation, omission, or concealment as to his qualifications for enlistment, commanders must evaluate the newly revealed information in light of the criteria established in AR 601-210 or AR 601-280 to determine whether the newly discovered information, if true, would have disqualified the individual under AR 601-210 or AR 601-280. If the disqualification was waivable, but was not in fact waived, it is a disqualification. If, on its face the newly revealed information does not amount to a disqualification from enlistment under AR 601-210 or reenlistment under AR 601-280, then there is no fraudulent enlistment/reenlistment even though a recruiting official advised the enlistee to conceal the information or was aware the enlistee was concealing it. Hence, the enlistment/reenlistment is valid and separation may not be directed.

(2) Second test. Commanders must verify the existence and true nature of the apparently disqualifying information. For example, if the member alleged that he was convicted of burglary and placed on probation, inquiries must be made whether he was actually convicted of burglary. In fact, he may have initially been charged with burglary but it may have been reduced at time of trial to trespass which is a minor nontraffic offense for enlistment purposes and, if it is the sole record which the member has, he is not disqualified for enlistment/reenlistment. Thus, verification of the actual offense for which convicted would reveal that the enlistee was not disqualified and, therefore, is not a fraudulent enlistee. The concealment of non-disqualifying information does not constitute fraudulent enlistment/reenlistment even though a recruiting official was aware that the enlistee was concealing the information or advised the enlistee to conceal it. Hence, the enlistment/reenlistment is valid and separation

may not be directed. For the purpose of conducting a reasonable inquiry under these steps to establish existence of fraud, a delay of 30 days is considered reasonable.

9. Page 14–5, chapter 14, paragraph 14–7, AR 635–200 is changed as follows:

14–7A. The Unit Commander will—(ADD)

(4) Forward the action and necessary inclosures to the General Court-Martial Convening Authority for a determination whether a fraudulent enlistment had in fact taken place.

10. Page 14–5, chapter 14, paragraph 14–8A, AR 635–200, ADD (B) Statement From Member (figure 5–8) If Member Desires Retention in the Army.

11. Page 14–6, chapter 14, paragraph 14–9D is deleted.

12. Paragraph 14–9E is changed to 14–9D and amended as indicated.

14–9D. Direct retention of an individual when he believes that exceptional circumstances in a case warrant retention even though the individual entered the service with a waivable or otherwise non-waivable disqualification (up AR 601–210 or AR 601–280). This authority may be exercised only where the commander personally determines that the member's service following the fraudulent entry has been such as to clearly establish the member's ability to successfully serve as a member of the Army.

13. Paragraph 14–9F is changed to 14–9E and amended as indicated.

14–9E. Direct that the fraudulent entry be voided as required by paragraph 14–5A(1) or authorized by paragraph 14–5A(2) or 14–5A(3) (B). The orders issuing authority will issue orders releasing this individual from custody and control of the Army (see para 1–7B for instructions for ARNGUS and USAR personnel). See paragraph 14–11 regarding the DD Form 214. When this individual is in an AWOL status, or in desertion or in hands of the civil authorities, the following additional action will be taken:

14. Table 14–1:

Rule 1 is changed as follows:

A. The enlistee deliberately concealed a disqualification with or without the recruiter's knowledge.

C. Paragraph 14–5A(2) or 14–5A(3), Chap 14, AR 635–200, Fraudulent Enlistment.

Rule 2 is deleted.

Rule 3 is changed as follows:

A. The enlistee, without fraudulent intent and in good faith, failed to reveal a disqualification with or without the knowledge of recruiting personnel.

C. Paragraph 5–253(2) or (4), Chap 5, AR 635–200, Erroneous Enlistment.

Rule 4 is deleted.

Rule 5 is changed as follows:

A. The enlistee deliberately concealed a disqualification and the recruiter did or did not have knowledge of or did or did not actively participate in the concealment.

C. Paragraph 14–5A(2) or (3), Chap 14, AR 635–200, Fraudulent Enlistment.

Rule 6 is deleted.

Rule 7 is changed as follows:

A. The enlistee, without fraudulent intent and in good faith, failed to reveal a disqualification and the recruiter did or did not have knowledge of the disqualification.

C. Paragraph 5–25B(2) or (3); Chap 5, AR 635–200, Erroneous Enlistment.

Rule 8 is deleted.

15. Add figure 5–8 as follows:

Request for Retention On Active Duty. Data required by the Privacy Act of 1974 (5 U.S.C. 552A). Authority: Section 301, Title 5 U.S.C. and Section 3012, Title 10, U.S.C.

Final Section of 4

Purpose: Individual request for retention on active duty when it is discovered that the enlistment or order to active duty of the individual was invalid.

Routine uses: Used by personnel activities to process members for separation or retention when commanders have determined that the individual's enlistment or order to active duty was invalid. This personal information may be used by other appropriate federal agencies and state and local governmental authorities where use of the information by them is compatible with the purposes for which the information was collected. Member's request will be filed in the OMPF and MPRJ.

Disclosure is voluntary. Failure to provide information results in individual being separated from the service.

Date

Subject: Request for retention on active duty

To: (General Court-Martial convening authority) (name)

1. Having been advised of my rights under Article 31, Uniform Code of Military Justice, I hereby acknowledge that my military status is invalid because it was based on an enlistment or order to active duty which was improper. I understand that current regulations provide that this defect may be waived and that I may be allowed to remain on active duty. I desire to remain on active duty in order to complete the period of service which I would have been required to serve if the defect had not occurred. I request that the defect be waived in my case.

2. If this request is approved I agree to complete the term of service for which I was enlisted or ordered to active duty. I understand that I am subject to the Uniform Code of Military Justice.

Figure 5–8—Continued

Signature of member (Date)

Name typed or printed

Grade, SSN

Witness:

Signature of witnessing officer

Date

Name, typed or printed

Rank, Branch

Figure 5–8—Continued

16. POC Mr. Bennick, AUTOVON 221–9126. DAPC–MSF–RS.

Army Discharge Review Board

SFRB Memo #8–79

August 28, 1979.

Memorandum for all ADRB Personnel

Subject: Fraudulent Entry Discharge Reviews

1. The current DA discharge standards concerning individuals discharged for fraudulent entry (Section II, Chapter 14, AR 635–200, which became effective on 1 April 1976 pursuant to a DA message) provide that in certain instances the enlistment must be voided. In other instances, particularly when the applicant's period of service has been so short that proper application of established standards for characterization of service is not possible, the same practice is encouraged. The regulation, however, does permit the issuance of a characterized discharge in those cases in which a void enlistment is not mandated.

2. Void enlistments are mandated (para 14–5a(1), AR 635–200) when court-martial charges are not pending or contemplated and the case involves:

a. Verified connivance by recruiting officials;

b. Concealment of a previous discharge under other than honorable conditions; or,

c. The individual is in an unauthorized absence status or absent in the hands of civil authorities.

3. In discharge reviews involving discharges awarded after the implementation of the policies contained in Section II, Chapter 14, AR 635–200 (1 Apr 76) and in which one or more of the conditions listed in paragraph 2 above are met, the issuance of a characterized discharge was contrary to the established DA discharge standards applicable at the time the applicant was separated from the Army. In such cases, the Army Discharge Review Board will return the case to the U.S. Army Reserve Components Personnel and Administration Center, pointing out that the characterized discharge was without authority, and will indicate that RCPAC

should issue a new DD 214 that conforms to the requirements of paragraph 14–11, AR 635–200. Analysts and Prereview Officers will be responsible for identifying such cases and bringing them to the attention of the Executive Officer who will take the action indicated above.

4. In other cases involving discharge after 1 April 1976 which do not fall into one of the categories in which voiding the enlistment was mandated, the ADRB will review the discharge in accordance with AR 15–180.

5. In cases involving a voided enlistment for fraudulent entry after 1 Apr 76, the case will be returned to RCPAC since there is no discharge to review.

6. In cases involving discharge prior to 1 Apr 76 in which the DD 214 issued at the time of discharge indicates that the service was characterized and no creditable service is reflected on the DD 214, the ADRB will return the case to RCPAC as outlined in paragraph 3 above.

7. In cases involving discharge prior to 1 Apr 76 in which the DD 214 issued at the time of discharge indicates a characterization of service *and* in which there is creditable service reflected on the DD 214, the case will be reviewed in accordance with AR 15–180.

8. In any case involving the issuance of a characterized discharge and in which some creditable service is reflected on the DD 214, the ADRB may vote to change the characterization of the service awarded. Such action will be based on the ADRB evaluation of the record of service and other evidence presented at the discharge review. In such cases, the SPD of record will be JKG (Misconduct-Fraudulent Entry).

9. Supersession: The contents of this memorandum supersede those contained in SFRB Memorandum 26, 11 May 1977.

1 Incl Matrix

William E. Weber,

Colonel, IN, President.

Discharge Reviews Involving Discharge/Separation for Fraudulent entry

Description of condition	Return to RCPAC	Conduct discharge review	SPD of record
Separation after Apr. 1, 1976:			
Service characterized, one of conditions which mandates voiding enlistment present.	Yes	No	NA
Service characterized, no condition mandating voiding of enlistment present	No	Yes	JKG
Service characterized, enlistment voided	Yes	No	NA
Separation prior to Apr. 1, 1976:			
Service characterized, no creditable service shown	Yes	No	NA
Service characterized, creditable service shown	No	Yes	JKG

Information contained in this memorandum is not published because it relates solely to internal administrative procedures for designated personnel to complete OSA Form 174 for disability appeal and rating review board cases. These boards are a component of the Army Council of Review Boards and not the Army Discharge Review Board.

Army Council of Review Boards

September 1, 1979.

SFRB Memo #10–79

Memorandum for each officer (06); Chief, Administrative Support Division; Chief, Secretary/Recorder Division, Chief, CP Section; Chief, P&P Section

Subject: Revised OSA Form 173 (Grade Determination)

1. *Purpose.* The purpose of this memorandum is to distribute to each addressee a master copy of the form listed in the subject and, as well, the work sheet configuration of this form, and to explain purpose, procedures and responsibility for preparation and verification for each element of the form.

a. *General.* The basic purpose of the OSA Form 173 is to provide a record and summarization of the information known and provided by the applicant and/or counsel and/or by the government to reach a decision on an appeal. The OSA 173 records the Facts and Circumstances, Documentation, Contention, Issues, Findings, Summary of Hearing, Conclusions, Determinations, Recommendation, Decision and Approval. Consequently, the preparation of this form requires dedicated adherence by all personnel to procedures and the use of intelligent, meaningful practices in preparing the form. Each individual and section within the ACRB has a part to play in the development of the form and it is incumbent upon all to insure that their portion is properly and correctly completed prior to passing responsibilities for further work on the form to the next agency or individual in the chain.

b. *Concept of Use.* It is the intent of this new procedure to insure that only a single work sheet draft copy of the Case Report and Directive (OSA Form 173) moves through the stages of preparation and development until ready for final preparation. As an exception, Parts I thru V inclusive may be produced in 6 additional draft copies, one each to members hearing the case and one to the Secretary/Recorder prior to the hearing. The original work sheet draft remains in control of the Secretary/Recorder assigned to the case. Every effort must be made to insure that the case is typed (word processed) only *once* and that every administrative action thereafter is oriented towards *correcting* the draft preparatory to preparation in final form.

c. *Work Sheet.* The work sheet form of the OSA Form 173 will be used for the draft preparation by all elements responsible for preparation of portions of the form. In many instances, the work sheet form will be duplicative of the final copy form; but, in some instances, the work sheet form will be larger and consist only of a heading and a sufficient length of space on the page or pages to permit handwriting or double spaced typing.

d. *Specific Responsibility for Development, Preparation Completion and Verification of Form:*

(1) *Part I.*

(a) *Prepared by:* Personnel in Records Processing Branch, Administrative Support Division.

(b) *Purpose:* To identify factual data in appropriate blocks.

(c) *Verification:* Records Analysis Branch.

(2) *Part II:*

(a) *Prepared by:* Records Analysis Branch, Administrative Support Division.

(b) *Purpose:* To identify factual data in appropriate blocks.

(c) *Verification:* Record Analysis Branch.

(3) *Part III, Sections A thru J inclusive:*

(a) *Prepared by:* Record Analysis Branch, Administrative Support Division.

(b) *Purpose:* To identify or summarize the factual information contained in documentation within the OMPF and to additionally identify the tabbed location in the OMPF at which the document supporting the entry might be found.

(c) *Additional Responsibilities:* When in the review of records, the Record Analysis Branch finds the documentation has not been appropriately tabbed or filed in the OMPF, it is the responsibility of that branch to tab and file the document. In other words, it is essential that no OMPF contain any tabs other than Tabs A thru J inclusive (sub tabs are permitted) and that at each of these tabs will be found the documentation that relates to or supports the documentation identified in Sections A thru J.

(d) *Verification:* Pre/Postreview Officer.

(4) *Part IV, Section A:*

(a) *Prepared by:* Records Analysis Branch.

(b) *Purpose:* Each of the 5 sub-parts of Section A, Part IV, requires a specific entry or summarization of data by the Record Analyst, except that "COMMENTS" will be made only if they are appropriate.

(c) In "1. Summary of Facts and Circumstances Concerning Retirement or Disability," for disability retirement cases, a layman's description of the disability, total percentage of disability and date of onset of disability should be entered (see PEB proceedings). For 30 year retirement cases, enter the reason for retirement, e.g., retirement for length of service, 20 years (see DD Form 214 or retirement orders). Also indicate if the service member was pending or being considered for separation for a reason other than that for which he was ultimately retired or is now being processed.

(d) In "2. Summary of Non-OMPF Exhibits," list and summarize any exhibits or evidence submitted by the individual or his counsel. Note that almost all grade determinations are made at the request of RCPAC or MILPERCEN and not as a result of an application or request from the individual. Accordingly, it is very unusual for the individual concerned to submit exhibits or other information in his behalf.

(e) In "3. Contentions Submitted," list verbatim any contentions offered by the individual or counsel. For reasons indicated in (d) above, contentions, like non-OMPF exhibits, seldom, if ever, appear in grade determination cases.

(f) In "4. Comments," the analyst will address those aspects of the case which are appropriate to the analysis function but do not infringe on the adjudicative or evaluation aspects of the case.

(g) *Verification:* Pre/Postreview Officer.

(5) *Part IV, Section B:*

(a) *Prepared by:* Prereview Officer

(b) *Purpose:* Each of the two sub-parts of Section B, Part IV, requires a narrative entry by the Prereview Officer which will summarize those elements appropriate to that portion of Section B. As an example:

1. In "1 Evaluation," the Prereview Officer will summarize the essential elements of information present in the case covering the totality of information known about the applicant. In short, background information and other areas are appropriate for consideration and coverage in this part. *It is not the function of the Prereview Officer in Section B to arrive at conclusions or to vote the case, nor is it the function of the Prereview Officer to lead the panel in any specific direction. This area is limited to a narrative summarization of the essential elements of information.*

2. In "2," it is the purpose of this subsection to allow the Prereview Officer to state in narrative sentence format possible issues for Board consideration which may have surfaced as a result of the analyst's assessment or the evaluation performed by the Prereview Officer. Issues listed herein for Board consideration must meet the same test of specificity and relativity to the case (as do contentions).

(c) *Verification:* Pre/Postreview Officer.

(6) *Part V, Section A:*

(a) *Prepared by:* Records Analysis Branch or Prereview Officer, as established by contentions submitted by applicant and findings to these contentions, developed by the Board and approved for recording by the Presiding Officer.

(b) *Purpose:* To list the specific contentions and the findings to these contentions as developed during the executive session of the Board's deliberation of the case. Contentions that appear herein are those that are enunciated by applicant and/or counsel.

(c) *Verification:* Postreview Officer.

(7) *Part V, Section B:*

(a) *Prepared by:* Records Analysis Branch, Prereview Officer or panel with findings recorded, as directed by the Presiding Officer.

(b) *Purpose:* To list the issues and findings for these issues as developed by the panel during executive deliberation of the case.

(c) *Verification:* Postreview Officer.

(8) *Part VI, Sections A thru D:*

(a) *Prepared by:* Secretary/Recorder Team (normally for grade determinations, Secretary/Recorder Team includes Alternate Secretary/Recorder and court reporter), as directed by the Presiding Officer.

(b) *Purpose:* The purpose of these sections is self-explanatory. They record the determinations, conclusions, recommendations, and vote of the panel.

(c) *Verification:* Alternate Secretary/Recorder.

(9) *Part VI, Section E:*

(a) *Prepared by:* Secretary/Recorder Team, as directed by the Presiding Officer.

(b) *Purpose:* To permit the Presiding Officer to enunciate the rationale that justifies the vote of the majority of the panel and, when appropriate, minority consideration, when a minority report is not requested by the minority members.

(c) *General:* The narrative that appears within the rationale must be complete and stand by itself to justify the action of the panel. Reference may be made to findings of either contentions or issues, but the reference must be specific enough to cover what these findings were and supportive of the total thought content of the rationale.

(d) *Verification:* Postreview Officer.

(10) *Part VII:*

(a) *Prepared by:* Alternate Secretary/Recorder who supported the panel hearing the case.

(b) *Purpose:* To enable authentication and approval action of the recommendation of the panel on the case.

(c) *General:* It is the direct responsibility of the Alternate Secretary/Recorder concerned to insure that the date and the stamped signatures of the Chief, Secretary/Recorder and President, ADRB are affixed to the final copy of the Case Report and Directive.

e. *Specific Guidance:*

(1) *Determining Entry for Part III, Section F, "Conduct and Efficiency Rating."*

(a) *Prepared by:* Analyst

(b) *Purpose:* To reflect the conduct and efficiency ratings or the efficiency ratings rendered during the applicant's period of military service.

(c) *General:* An individual may have conduct and efficiency ratings indicated in the military record or only efficiency ratings in the form of Enlisted Efficiency Reports. The following instructions indicate how these entries will be entered on the OSA Form 172:

1. Where the DA Form 20 or DA 24 reflects adjectival ratings, the rating will be entered as shown on the DA Form 20, showing conduct first and efficiency second. Example: EX/EX, EX/UNS, UNS/UNS, etc. Where one area is rated and the other is not, an NE will be shown for the unrated (including UNKNOWN entries) element. Example: EX/NE, NE/UNS, etc. The following abbreviations will be used:

Excellent	EX
Satisfactory	SAT
Good	GD
Fair	FR
Poor	PR
Unsatisfactory	UNS

2. Where the rating period is covered by a DA Form 2166-4 (1 Jul 70), the most prevalent adjectival rating will be assigned as the representative rating for the period. Only one entry will be made for that period. There are six areas rated on this version of the form. If there is a split (3 areas rated one way and 3 rated another) (Example: 3 rated Excellent

and 3 rated Above Average), the higher rating will be reflected. If there is a three way split (2 areas rated Average, 2 areas rated Excellent, and 2 areas rated Above Average), the middle rating (Above Average in the example) will be assigned as the rating for the period. If each of the 6 areas is rated differently, the rating reflected will be "Average." The following abbreviations will be used:

Outstanding	OSTDG
Excellent	EXC
Above Average	AB AV
Average	AVER
Below Average	BL AV
Unsatisfactory	UNS

3. When the rated period is covered by a DA Form 2165–5 or DA Form 2166–5A (1 Jul 75), the numerical rating from the Report Score Block (Section H, DA 2166–5 or Section I, DA 2165–5A) will be entered for the period.

4. Where there are duplicative ratings covering the same period of time, the higher rating will be reflected on the OSA Form 173. Overlapping ratings will be treated in the same manner. An explanatory remark will be placed in paragraph 4, Section A, Part IV in such cases, calling the Board's attention to the existing dual or overlapping ratings.

5. All periods of service during the period of service under reivew will be covered in this section of the OSA Form 173. If there are no entries or the record has been destroyed, the NE entry will be made for the entire period of service as a single line entry.

6. The periods will be in whole months (Example: Jan. 1964–Mar. 1965, Apr. 1965–July 1966, etc.), with consecutive periods with the same rating combined into one entry. Where a rating period (DA 20 or DA 24) starts or ends during a calendar month, the period will be rounded to the nearest month with the exception of the initial and the final months of the period of service under review as follows: Example:

DA 20 or DA 24 entry

29 May to 5 June 1969, Unk/Unk
6 June to 28 Aug. 1969, Ex/Ex
29 Aug. to 22 Sept. 69, Unk/Unk
23 Sept. to 29 Nov. 1969, Ex/Ex
30 Nov. to 31 July 1970, Ex/Ex
1 Aug. to 5 Aug. 1970, Unk/Unk
6 Aug. to 14 Sept. 1970, Gd/Gd
15 Sept. 1970 to 23 Nov. 1972, No Entries
24 Nov. 1972 to 2 Jan. 1973, Uns/Uns

OSA 173 entry

NE, May to May 1969
EX/EX, June to Aug. 1969
NE, Sept. to Sept. 69
EX/EX, Oct. 1969 to July 1970
GD/GD, Aug. to Aug. 1970
NE, Sept. 1970 to Nov. 1972
UNS/UNS, Dec. 1972 to Jan. 1973

(d) *Verified by:* Prereview Officer

(2) *Entries in Part IV, Section A, Paragraph 3, "Contentions Submitted:"*

(a) *Prepared by:* Analyst

(b) *Purpose:* To present to the Board the specifically identified contentions submitted by the applicant and/or counsel either on the DD Form 149 or in a separate brief or letter.

(c) *General:* The analyst function in preparation of this portion of the OSA 173 is most important to the facilitation of the review process. Proper accomplishment of the steps in this portion will provide to the Board the fact that the applicant did or did not submit specific contentions and whether he submitted information which, while not constituting a specific contention, can be the basis for the Prereview Officer and the Board to identify potential issues which must be considered by the Board.

(d) *Verified by:* Prereview Officer and Postreview Officer.

f. *Summary:*

(1) This form will become effective for all cases heard on or after 1 October 1979. The form will be used for all cases processing through the system preparatory to hearing before 1 October 1979, if the cases are scheduled to be heard after 1 October 1979. Any individual responsible for preparation of any portion of this form who receives a case whose scheduled hearing date will clearly be on or after 1 October 1979 and the old OSA form is being used will call it to the attention of his supervisor. Supervisors will cause the case to be recycled at the first point in the processing chain capable of conducting recycling. In the event this occurs during a Prereview Officer phase, the Prereview Officer will return the case directly to the Chief, Record Analyst Branch for recycling and arrange for it to be returned directly to the Prereview Officer concerned no less than two duty days later. Chief, Record Analyst Branch is responsible to ensure that this sequencing is maintained.

(2) This memorandum and the procedures prescribed herein for the preparation and handling of the OSA Form 173 take precedence over any previous instructions concerning the handling of the OSA Form 173. Any member of the ACRB who is aware of a conflict that may cause difficulties should bring this to the attention of his supervisor for resolution.

(3) Those responsible for the preparation of portions of the OSA form should bear in mind that timely, final preparation is dependent upon the ability of those next in line to understand and transcribe what has been done before. Sloppy handwriting, grammatical errors, misspelling, and procedural errors that are allowed to progress through the chain of completion without being corrected by the individual first noticing the error, are a violation of the responsibility we all have to do our job properly.

(4) These instructions are mandated for compliance by all personnel. Recommendations enabling the form to be improved (taking into consideration the totality of production requirement) are encouraged. Anyone can bring to the attention of his supervisor recommendations believed appropriate for consideration. The Case Report and Directive (OSA Form 173) is the document which identifies what we do and is the only means to impart to the applicant how and why we do what we do. Thus, the form reflects our professionalism, pride in our work, and ability to do our job. Every individual in the chain of completion bears credit when the job is done properly and the absence of credit, when done improperly.

William E. Weber,
Colonel, IN, President.

1 Incl OSA Form 173

Army Discharge Review Board

September 7, 1979.

SFRB Memo #11–79
Memorandum for All ADRB Personnel
Subject: Change of Reason for Discharge

1. Following is the rationale from an ADRB Case Report and Directive:

In denying additional relief to the applicant in the form of a fully Honorable Discharge, the Board took into consideration the evidence of record and the exhibits submitted at the time of the hearing. After careful review, however, it was the opinion of the Board, notwithstanding the psychiatric report, that a condition of "frequent incidents of a discreditable nature" would better describe the conduct of the applicant while in the service. For this reason, the applicant's discharge was modified to read separation as a result of "frequent incidents of a discreditable nature." Based upon these facts, it was the opinion of the Board that additional relief was not considered as appropriate. The Board also noted that the command was proper in separating the applicant as a C&B at that time in view of the fact that the psychiatric evaluation was present.

This was a case involving a valid C&B diagnosis, and the separation action was clearly a proper and equitable one as the panel also indicated.

2. The problem presented is that the panel directed that the reason for separation be changed from "C&B," an *unsuitability* category, to "frequent incidents of a discreditable nature," a *misconduct* category.

3. Basic to separation philosophy is that commanders may not increase the severity of a recommended discharge category, i.e., when a Board recommends separation for unsuitability a discharge cannot be approved for misconduct. However, the contrary is permissible, i.e., a recommendation that separation be for misconduct may be approved for unsuitability.

4. ADRB policy is in accord with this basic philosophy. A panel may decide to change the reason only (as opposed to reason and characterization) for a discharge, if appropriate, but only if the resultant data on the DD 214 will reflect a less stigmatizing discharge. Obviously, just as we have no right to downgrade, we have no right to degrade.

William E. Weber,
Colonel, IN, President.

Army Discharge Review Board

September 18, 1979.
SFRB Memo #12-79
Memorandum for Chief, Secretary/Recorder Division
Subject: Provision of "Code of Ethics" to Free Counsel

Attached for your information is a copy of a memorandum provided to free counsel provided by organizations in the Washington, D.C. area, presenting "C" cases to the ADRB. As you will note, the material is provided to these agencies and individuals without comment.

I desire that every Secretary/Recorder routinely make available this same information to each free counsel who has been designated to present cases to a Traveling Panel of the DRB, a Hearing Examiner of the DRB, a "B" case panel of the DRB and/or "C" case panel of the DRB. This requirement can be satisfied by providing the organization providing counsel or representatives the information in lieu of providing it to each counsel/representative from that organization.

To the extent possible, this information should be provided as far in advance of the scheduled hearing date as is practical, given the constraints of deployment and ability to contact the individual counsel and/or parent organization. It is important that all Secretary/Recorders know it is not incumbent upon them to suggest that the "Code of Ethics" is in any way representative of a standard to which counsel must conform, or that it represents in any way an evaluation of methodology utilized by the ADRB. No counsel/representative will be made to feel that our presentation to them of this information is intended as anything other than information for use as they see fit!

William E. Weber,
Colonel, IN, President.

Army Discharge Review Board

September 18, 1979.
SFRB
Memorandum for Counsel/Representatives
Subject: Code of Ethics

Recently, the National Military Discharge Review Project assisted as counsel a plaintiff suing the Marine Corps League, an organization that provides free counsel for appellants to the Navy Discharge Review Board when in its Marine configuration. During the time of the appeal and its aftermath, an allegation was made by the plaintiff that representation by counsel from the Marine Corps League was inadequate and prejudicial to the interests of the applicant. It is not the intent of this paper to comment pro or con on the allegation.

The case was solved out of court through a Stipulation of Dismissal, a copy of which is attached for your information and for whatever use desired. Your special attention is invited to Exhibit A of the Stipulation for Dismissal entitled, "Code of Ethics."

William E. Weber,
Colonel, IN, President.

Exhibit A—Code of Ethics

I. Preservation of Confidences of a Client

(A) Confidence refers to any information gained in the professional relationship between a counsel and client and that the client has requested to be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client.

(B) A counsel should not knowingly:

(1) reveal a confidence of his client

(2) use a confidence of his client to the disadvantage of the client

(3) use a confidence of his client for the advantage of himself or of a third party unless the client consents after full disclosure

(C) A counsel may reveal:

(1) Confidences with the consent of the client or clients affected, but only after a full disclosure to them

(2) Confidences where required by law

(3) The intention of his client to commit a crime and the information necessary to prevent the crime

(4) Confidences necessary to defend himself or his associates against an accusation of wrongful conduct

(D) A counsel should exercise reasonable care to prevent his associates and others whose services are utilized by him from disclosing or using confidences of a client except a counsel may reveal the information allowed by section C above, through an associate.

II. Impairment of Independent Judgment

Except with the consent of his client, after full disclosure, a counsel should not accept employment if the exercise of his professional judgment on behalf of his client will be or reasonably may be affected by his own financial, business, property or personal interests.

III. Limiting Business Relations With a Client

Prior to the conclusion of all aspects of the matter giving rise to his employment, a counsel should not enter into any arrangement or understanding with a client or a prospective client by which he acquires an interest in publication rights with respect to the subject matter of his employment or proposed employment.

IV. Conflicting Interests

(A) A counsel should decline proffered employment if the exercise of his independent judgment in behalf of his client will be or is likely to be adversely affected by the acceptance of the proffered employment or if it would be likely to involve him in representing differing interests.

(B) A counsel should not continue multiple employment if the exercise of his independent judgment in behalf of a client will be or is likely to be adversely affected by his representation of another client, or if it would be likely to involve him in representing differing interests.

(C) In the situations covered by section (A) and (B) above, a counsel may represent multiple clients if it is obvious that he can adequately represent the interest of each and if each consents to the representation after full disclosure of the possible effects of such representation on the exercise of his independent judgment on behalf of each.

(D) If a counsel should decline employment or withdraw from employment, no counsel affiliated with him or his organization should accept or continue such employment.

V. Failing to Act Competently

A Counsel should not:

(A) Handle a matter which he knows or should know that he is not competent

to handle without associating with him a person who is competent to handle it.

(B) Handle a legal matter without preparation adequate in the circumstances.

(C) Neglect a legal matter entrusted to him.

VI. Limiting Liability to a Client

A counsel should not attempt to exonerate himself from or limit his liability to his client for his personal malpractice.

VII. Representing a Client Zealously

A counsel should not intentionally:

(A) Fail to seek the lawful objectives of his client through reasonably available means permitted by law.

(B) Fail to carry out a contract of employment entered into with a client for professional services, except for good cause with prior adequate notice to his client.

(C) Prejudice or damage his client during the course of the professional relationship.

VIII. Representing a Client Within the Bounds of the Law

In his representation of a client, a counsel should not:

(A) Assert a position, conduct a defense, delay a hearing or take other action on behalf of his client when he knows or when it is obvious that such action would serve merely to harass or maliciously injure another.

(B) Knowingly advance a claim or defense that is unwarranted under existing law, except he may advance such claim or defense if it can be supported by good faith argument for an extension, modification or reversal of existing law.

(C) Knowingly use perjured testimony or false evidence.

(D) Knowingly make a false statement of law or fact.

(E) Participate in the creation or preservation of evidence when he knows or it is obvious that the evidence is false.

IX. Withdrawal From Employment

A counsel should not withdraw from employment until he has taken reasonable steps to avoid foreseeable prejudice to the rights of his client, including giving due notice to his client, allowing time for employment of other counsel, delivering to the client all papers and property to which the client is entitled.

In the United States District Court for the Eastern District of Virginia Alexandria, Va.

Michael A. Rodriguez, Plaintiff, v. *Marine Corps League and Raymond Roussel*, Defendants.

C.A. No 79-98-A.

Stipulation of Dismissal

1. Pursuant to the provisions of Rule 41(a)(2) of the Federal Rules of Civil Procedure, it is stipulated and agreed by and between the parties to this action, acting through their undersigned counsel, that the Complaint instituting the suit is hereby dismissed with prejudice, with the understanding that defendants shall take all action necessary to effectuate the settlement terms and conditions hereinbelow set forth, and with the further understanding that the plaintiffs may move to reopen to secure compliance with this stipulation if the defendants fail to fulfill their obligations thereunder.

2. The Marine Corps League agrees to pay to Michael Rodriguez the sum of One Thousand Dollars ($1,000.00) plus reimburse him for costs incurred in pursuing this action in the amount of $30.40 in full satisfaction of any and all claims which he has or may have against the Marine Corps League or Raymond Roussel.

3. Plaintiff agrees to dismiss with prejudice the action currently pending between himself and the Defendants herein in Virginia State Court.

4. The Defendant Marine Corps League agrees to adopt a Code of Ethics which shall hereafter be binding upon it and its representatives whenever it or its representatives undertake to provide legal representation, serve as counsel, or otherwise advocate on behalf of any person before any agency including but not limted to the Naval Discharge Review Board, Board for the Correction of Naval Records, and the Veterans Administration. Said Code of Ethics is attached hereto as Attachment A.

5. The Defendant Marine Corps League agrees to provide training as to the meaning of the Code of Ethics referred to in Paragraph 4 prior to authorizing any person to act on its behalf as legal representative, counsel, or advocate for any person before any agency. Said training program will be implemented within ninety days from the date of this agreement. The Marine Corps League agrees to consult with the National Veterans Law Center and the National Veterans Law Center agrees to provide advice, without cost, to the Marine Corps League concerning the content of its training program.

6. The Defendant Marine Corps League agrees to provide supervision of those persons it authorizes to provide representation by reviewing a substantial number of the cases in which representation is provided both during the pendancy of the representation and subsequent to its completion to ensure both that the work is of sufficient quality and is in compliance with the Code of Ethics. To the extent that it is found that any representative has failed to provide adequate representation the Marine Corps League agrees to notify the affected client and to take all steps necessary and available to repair whatever damage has been done to said client as well as taking action to ensure that said representative does not continue inadequate or unethical practices in future cases. Upon determination by the Marine Corps League that a representative has purposely, knowingly or wantonly violated the standard of care owed to a client under the Code of Ethics or that the representative whose representation was inadequate is incapable of improving, the Marine Corps League shall terminate the representative's authority to provide representation and shall so notify all relevant agencies.

7. The Defendant Marine Corps League agrees to provide to every person for whom it or its representative agrees to serve as legal representative, counsel or advocate before any agency, a copy of the Code of Ethics with a notice that said Code of Ethics will govern the behavior of the Marine Corps League and its representative on behalf of said person.

8. In the event that the Marine Corps League or its representatives have questions of interpretation either of this agreement or of the Code of Ethics such questions will be referred for resolution to Herbert Harmon, Esq. or his successor as General Counsel of the Marine Corps League.

9. This stipulation shall be effective until vacated or modified by Order of this Court.

————Elliott S. Milstein,
————David F. Addlestone;
National Veterans Law Center, American University, Washington College of Law, Washington, D.C. 20016 (202) 686-2741.

Attorneys for Plaintiff:

————Jonathan Shapiro; Zwerling & Shapiro, 108 North Columbus Street, Alexandria, Virginia 22313 (703) 836-5551, Local Counsel.

————Herbert N. Harmon,
————Charles Richard Loftin;
Harmon, Wilmot, & Spaulding, P.O. 910

Seventeeth Street, N.W., Washington, DC 20006 (202) 466-5330.

Attorneys for Defendants:

——S. Randolph Sengel, 117 N. Fairfax Street, Alexandria, Virginia 22313 (703) 836-2299, Local Counsel.

Army Discharge Review Board

November 28, 1979.

Memorandum for Presiding Officers and Alternate Secretary/Recorders

Subject: Contentions/Findings and Issues/Findings

The purpose of this memorandum is to reiterate and bring to your attention the "building block" technique of providing information which leads to a determination on the merits of a case. It is essential that all responsible personnel conform, in substance and form, to the SOP and the Stipulation in arriving at findings to "Contentions and Issues" in a step-by-step sequential manner. Failure to do so can ultimately lead to challenges to cases which could result in surfacing an entire class of cases for re-review.

Except as indicated below, every contention must be responded to in sufficient detail to explain the who, what, why, when, where of the findings. In the event a panel believes a contention is not germane nor specific, it is not only necessary to list that in the findings but also explain why the panel did not find it a specific. The same applies for those issues for which findings are produced or, if they are excluded as issues, the reasoning behind such exclusion.

The exception to the foregoing applies when a panel determines that the finding to a contention or after a series will mandate full relief. In this case, subsequent contentions need not be addressed, but must be listed and covered by a statement to the effect that findings are not required in view of findings to previous contentions. "Issues" are not influenced by the foregoing. *All* must be addressed.

It is the responsibility of Presiding Officers to insure that each contention is addressed in open dialogue with *all* members of the panel. The purpose is to insure coverage of each point essential to the case. No attempt should be made to vote the case until *all contentions and issues are completed.*

Alternate Secretary/Recorders are required to call to the attention of a Presiding Officer any time a contention has failed to be addressed or a finding which is not specific has failed to be developed.

There must be no deviation from compliance with this requirement. Any Case Report and Directive which fails to address each contention and issue specifically is subject to review by those agencies that involve themselves with litigation in this area and can lead to major problems.

William E. Weber,

Colonel, IN, President.

Army Discharge Review Board

November 30, 1979.

Memorandum for all Board Members; Division/Branch Chiefs; Executive Officer

Subject: Vote Methodology and Rationale Statement

Recent dialogue with counsel from the National Military Discharge Review Project concerning the intent and requirements of the Urban Law Stipulation surfaced an area in which there is an absence of uniformity in board operations. This area concerns the practices followed in responding to appeal which requests both:

a. Change in the *reason* for discharge; and

b. Change in the *characterization* of the discharge.

The Urban Law Stipulation mandates that the Board must address, if requested, arguments or allegations supporting a change in *REASON* for discharge and arguments or allegations for change in the *CHARACTER* of discharge. A review of past cases indicates there is an absence of uniformity in the way in which panels are addressing these issues and, at times, a failure (particularly when characterization relief is granted) to provide specific reasons in the rationale statement as to why a change in the reason for discharge or a failure to change the reason for discharge is proper.

This area is becoming more sensitive since the possibility of further litigation is present if we have procedures which give the appearance of failure to comply with the Stipulation. In addition, recent and current litigation involves areas in which change in reason for discharge may be mandated. Lastly, the past practices of panels which stem from the knowledge acquired by members whose skills evolved in accord with changing requirements is now eroding as these old board members depart. Their total knowledge has not been passed to new members because of the mass and rapidity of turnover.

To assist panels in reaching a decision and recording the distinction between "reason" and "characterization," Sections B and D of Part VII will be changed as shown on the attached sheet. Presiding Officers, when dictating rationale statements both for majority and minority (when appropriate) will include an appropriate reference to this aspect of review, e.g., changing the reason for discharge. The priority for consideration when the Board is ready to vote a case will be first to determine:

a. Propriety of existing discharge reason.

b. Equity of existing discharge characterization.

c. Retention of or change in the reason for discharge.

d. Retention of or change in the characterization of the discharge.

In this regard and in keeping with previous guidance, board members are again reminded that the mental processes involved in arriving at a decision on a case must give appropriate consideration to *each* aspect of the review process. Practices which forshorten or skip the steps leading to a decision are contraindicated since they create conditions which omit areas of review critical to the Case Report and Directive and mandated by court order. Consequently, the step-by-step approach to decisionmaking is an essentially to insure appropriate coverage of every point.

It is incumbent upon all board members to insure full compliance with the requirements of the Urban Law Stipulation. In every instance, a full explanation of the vote of the panel and of individual members thereof (when appropriate) must appear in the rationale for the Board's action.

William E. Weber,

Colonel, IN, President.

Footnote: Execution of new Part VII, Section A-D will be effective for all cases after 1 Jan 80 and prior to then as revised Part VII infiltrates the review process. Chief, Secretary/Recorder Division; Chief, Administrative Support Division; and Chief, Case Processing Branch are responsible for effective implementation as appropriate.

Explanation for Use of sections A/B and C/D, Part VII

1. If the panel unanimously determines that a discharge is both "Proper and Equitable," Section A would be checked in the block "Proper" and the block "Equitable." Section B would be checked in the block "Unchanged." Section C would be checked in "3," and Section D would have 5 votes in "No Change" under "Modify" and 5 votes in "No Change" under "Characterization." (Of course, if it is a split vote, the votes could be 3/2 or 4/1.) In any event, 10 "X's" will always appear in Section D, and it is possible that a majority of the panel could vote to modify the discharge and a

majority (different) to vote not to change the characterization.

2. If the panel votes that a discharge is "Proper and Not Equitable," then Section A would be checked in the block "Proper" and the block "Not Equitable." Section B would be checked in the block "recharacterize" (either full or partial). Section C would be checked in "1" and Section D would have 10 "X's" under "Characterization" for some form of upgrade.

3. If the panel votes that a discharge is "Not Proper but Equitable," then Section A would be checked in the block "Not Proper" and the block "Equitable." Section B would be checked "Modify" (both authority and reason) and "Recharacterization" block would not be checked. Section C would be checked in "2". Section D would have 10 "X's"—majority under "Modify" to "Change" and majority under "Character" to "No Change."

4. If the panel determines the discharge is both "Not Proper/Not Equitable," the blocks in Section A "Not Proper" and "Not Equitable" will be checked. In Section B, both "Modify" and "Recharacterize" are checked. In Section C, the "1" will be checked. In Section D, there would be a majority of votes put under "Modify" and a majority of votes to upgrade the character, if appropriate.

5. At all times, there must always be 10 "X's" in Section D. The Rationale Statement may exclude reference to modification when consideration of such is not requested either by applicant or determined necessary by the panel.

BILLING CODE 3710-08-M

CASE#

** PART VII **
** BOARD ACTION **

SECTION A DETERMINATION	SECTION B CONCLUSION
DISCHARGE AS ISSUED WAS: [ ] PROPER [ ] EQUITABLE [ ] NOT PROPER [ ] NOT EQUITABLE	DISCHARGE AS ISSUED IS: [ ] UNCHANGED [ ] MODIFIED [ ] RECHARACTERIZED [ ] AUTH [ ] FULL [ ] REASON [ ] PARTIAL
SECTION C RECOMMENDATION	SECTION D MEMBERS / VOTE
1.ISSUE: [ ] DD 214 AS FOLLOWS: [ ] HON [ ] UHC [ ] SPD [ ] AR	
2.ISSUE: [ ] DD 215 CHANGING DD 214 [ ] AUTH. AR SPD [ ] REMARKS.	
3.ISSUE: [ ] OFFICAL NOTIFICATION OF DENIAL OF APPEAL.	

RANK/NAME	MODIFY CHG	MODIFY N/C	CHARACTER HON	CHARACTER UHC	CHARACTER N/C
PRESIDING OFFICER					

SECTION E
RATIONALE

a. MAJORITY.

b. MINORITY CONSIDERATIONS. (When Minority Report not Submitted)

c. FULL RELIEF DENIED (if appropriate)

OSA FORM 172, DISCHARGE REVIEW, 1 OCT 79

BILLING CODE 3710-08-C

Army Discharge Review Board

November 30, 1979.

Memorandum for all Board Members; Division/Branch Chiefs; Executive Officer

Subject: Procedural/Prejudicial Error

Recent cases heard by the Board suggest there remains uncertainty among board members concerning subject area. This is particularly true when a panel is satisfied with respect to the propriety of the discharge action and is thus inclined to accede to arguments that equity is inherent to propriety. This type argument is fallacious 10 U.S.C., Section 1553, and Pub. L. 95–126 require equal consideration to both propriety and equity.

The aspects of discharge review concerning propriety and equity cannot be separated from each other, though they are distinct considerations. It is improper procedure to consider only one and not the other or to reject consideration of one on the basis of a determination concerning the other. Though an oversimplication, propriety deals with the form and substance of regulation and law, while equity deals with the spirit and intent of these as well as the factors of fairness, compassion, tradition, and the responsibility of the officer corps to manage the force with honor.

In considering the areas of propriety and equity, members must be careful to avoid prejudging the effect of a discerned equestion of propriety or equity. It is apparent that error is possible in the conduct of administrative affairs that need not be fatal to the outcome of these affairs. In short, we are dealing with the difference between the effects of a procedural error versus those of a prejudicial error. In this regard, the question of the process to be followed by a panel in determining the impact of error is a deliberate step-by-step process. It is not proper to conclude that the presence of error mandates relief and the absence of error insures equity.

As covered in DOD Directive 1332.28, prejudice must exist before procedural error can be used to justify relief. In this regard, there are two facets to the consideration of the impact of error. On the one hand, the discernment of procedural error as a direct result of an act of omission in the processing of a discharge insures only that a panel is mandated to determine whether or not the omission results in prejudice as to the reason for discharge or characterization thereof. On the other hand, discernment of a procedural error by an act of commission and satisfaction that this error is known during the processing of the discharge, places both the reason and characterization in jeopardy, and if the panel determines that either has been prejudiced, then relief must be seriously considered.

Justification for the foregoing is based on the principle of regularity in the former case and the challenge to impartiality in the later case. The presence of error is not by itself a mandate to upgrade.[1]

This entire area, is of course, subject to fine lines of distinction. It is not the intent of this memorandum to force decisions where not mandated. It is, however, intended to insure that all board members be aware of the responsibility to cover not only the form but also the substance of this area. It is a violation of a board member's duty to be impartial to *assume* "equity" in the presence of "propriety" or to presume "prejudice" in the presence of "procedural" error.

William E. Weber,

Colonel, IN, President.

Army Discharge Review Board

December 3, 1979.

Memorandum for all ADRB Personnel

Subject: Record of Proceedings Under Article 15, UCMJ, in Discharge Actions of Enlisted Personnel

1. The filing of the record of Article 15 proceedings has varied through the years. In order to evaluate the propriety of consideration of these records in discharge actions, you should be guided by the following summary which lists the rules for filing in the Military Personnel Records Jacket (local 201 file). If the Article 15 record should not have been in the MPRJ at the time of the separation process, it will be treated as a regulatory error which must then be weighed for prejudicial effect, if any, in accordance with paragraph C–2, AR 15–180.

a. *Prior to 1 Feb 63*—Was not filed in the MPRJ. No known retention.

b. *1 Feb 63–15 Dec 71*—Remove at the occurrence of the earliest of the following:

(1) Punishment is set aside.

(2) At the expiration of two years from date punishment was imposed.

(3) Transfer from organization *IF* one year has elapsed from date punishment was imposed and all punishment has been served. (If one year has not passed, at the expiration of the one year.)

c. *15 Dec 71–22 Sep 72:*

(1) Punishment is set aside.

(2) At the expiration of two years from date punishment was imposed.

d. *22 Sep 72—Date:*

(1) If the individual has more than three years active service at the time of the time of the offense(s), the filing in the MPRJ is permanent.

(2) If the individual has less than three years active service at the time of the offense(s), filing rules are the same as for the period 15 Dec 71–22 Sep 79, as indicated above.

2. In applying these rules, you should keep in mind that "lost time" must be excluded in the calculations of time. It is also noted that TJAG has issued an opinion that failure of a respondent to object to the admissibility of an Article 15 record in a Board proceeding constitutes a waiver if the respondent was represented by legally qualified counsel or he affirmatively declined such representation.

William E. Weber,

Colonel, IN, President.

Army Discharge Review Board

January 29, 1980.

Memorandum for all ACRB Personnel

Subject: Fraudulent Entry Discharge Reviews

1. The President, Army Discharge Review Board, has directed the following regarding subject appeal cases:

a. SFRB MEMO #8–79* dated 31 August 1979, subject as above is rescinded.

b. Panels of the ADRB will review subject discharge appeals or FRAD appeals for which a service characterization has been made but no creditable service was awarded. The Board hearing the case will render a decision and recommendation in accordance with appropriate regulations.

c. Panels of the ADRB will also review subject discharge appeals or RFAD appeals where the service contract was voided and no characterization of service rendered, but creditable service was awarded. The Board hearing the case will render a decision and recommendation in accordance with appropriate regulations.

d. Those subject cases for which an appeal has been made, but the applicant's service was voided and no characterization of service or creditable time was rendered by the discharge or releasing authority, will be transferred to the Army Board for Correction of Military Records.

2. Panel members who have questions regarding subject types cases which have not been identified above will present them to the legal section of the ADRB for resolution or guidance.

[1] Excludes certain U.S. Government mandated actions as covered by separate memorandum.

For the President.
Robert Laychak,
LTC, FA, Executive Officer.
[FR Doc. 80-5095 Filed 3-12-80; 8:45 am]
BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed Deepening of Pinole Shoal Channel and Mare Island Strait, Regulatory Permit Application No. 12859-24, Counties of Countra Costa and Solano, Calif.

AGENCY: San Francisco District, U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement.

SUMMARY: 1. *Proposed Action:* The Commander, Mare Island Naval Shipyard, Vallejo, California has applied for a Department of the Army permit under Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344) to dredge Pinole Shoal Channel and Mare Island Strait to a depth of 36 feet below mean lower low water (MLLW). Currently the Corps of Engineers maintains Pinole Shoal Channel to a depth of 35 feet MLLW and Mare Island Strait to a depth of 32 feet MLLW. The applicant (through the Corps of Engineers) proposes to dredge approximately 100,000 cubic yards of material from Pinole Shoal, and approximately 1,500,000 cubic yards of material from Mare Island Strait in order to establish a depth of 36 feet below MLLW. The new channel depth would improve the navigational safety of the latest Naval ship designs. The proposed dredging would be accomplished by hopper dredge and/or by contract clamshell dredge with disposal materials transported by barge to existing San Francisco Water Disposal Sites No. 9 (Carquinez Strait) and No. 10 (San Pablo Bay).

2. *Alternatives:* a. No action. b. Alternate methods of dredging. c. Alternative dredge material disposal sites. d. Alternate locations to accommodate the latest Naval ship designs.

3. *Scoping Process:* a. The Environmental Impact Statement will be prepared by the Corps of Engineers under its regulatory procedures in close cooperation with the U.S. Navy. The structure of the scoping process will primarily consist of the identification of major issues and environmental values and development of alternatives and mitigation plans. The Corps of Engineers will hold a scoping meeting in the near future to which all interested parties will be encouraged to attend.

b. Significant Issues: To date the significant issues which have been identified and which will be analyzed in the DEIS include: (1) Possible impacts both short term and long term on biological resources in the dredged and disposal areas, (2) Possible impacts on water quality to include possible changes in salinity levels and release of pollutants from substrata, (3) Possible impact on the human environment concerning the area's economy and growth inducing impacts of the proposed project and (4) Identification of adequate dredge disposal sites for both the short and long term.

c. The necessary degree of coordination will be carried out as required by Section 404(b) of the Clean Water Act (33 U.S.C. 1251 et. seq.), the Coastal Zone Management Act of 1972, as Amended (16 U.S.C. 1451 et seq.), the Endangered Species Act of 1973, as Amended (16 U.S.C. 1531 et seq.), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the National Historic Preservation Act of 1966, as Amended, (16 U.S.C. 470 et seq.), Executive Order 11988 Floodplain Management May 24, 1977, Executive Order 11990 Protection of Wetlands May 24, 1977, Analysis of Impacts on Prime and Unique Farmlands in EIS, CEQ Memorandum August 30, 1976, and other environmental laws, Executive Orders, etc. as may be required by the proposed action.

4. It is estimated that the DEIS will be released to the public on or about July 1, 1980.

5. Questions pertaining to preparation of the environmental document can be referred to Roger Golden, Environmental Branch, San Francisco District, Corps of Engineers, 211 Main Street, San Francisco, California 94105 (415-556-5412). General questions concerning the processing of the permit application can be referred to Karen Mason, Regulatory Functions Branch, same address as above, (415-556-6980).

Dated: March 6, 1980.
John M. Adsit,
Colonel, Corps of Engineers, District Engineer.
[FR Doc. 80-7692 Filed 3-12-80; 8:45 am]
BILLING CODE 3710-FS-M

Defense Mapping Agency

Relocation of the Defense Mapping Agency, Headquarters, Inter American Geodetic Survey; Availability of Negative Declaration

On 7 March 1980, Major General William L. Nicholson, III, USAF, the Director, Defense Mapping Agency (DMA), Building 56, U.S. Naval Observatory, Washington, D.C. 20305, announced his decision to relocate DMA's Headquarters, Inter American Geodetic Survey (HQ IAGS) to Fort Sam Houston, San Antonio, Texas. The decision to relocate the IAGS Headquarters resulted from the implementation of the Panama Canal Treaty of 1977 and certain actions of the Congress of the United States. The decision to move the HQ IAGS to Fort Sam Houston is considered to be in the best interest of organizational efficiency and operational considerations and is scheduled to be completed by October 1, 1980.

Notice is hereby given, 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 Department of Defense Regulation "Environmental Considerations in Department of Defense Action" (32 CFR Part 214), that an environmental impact statement is not being prepared for the proposed relocation of the IAGS Headquarters. The environmental assessment of this action indicates that this relocation will not create any significant adverse impacts on the physical environment and that no significant controversy related to the natural environment is associated with this action. As a result of these findings, General Nicholson has determined that the preparation and review of an environmental impact statement is not required in this case.

This action concerns relocation of the operations of the IAGS Headquarters from Panama to Fort Sam Houston, Texas, and the transfer to the new site of approximately 60 positions.

The management review, as well as the basic data developed during the environmental assessment are on file and may be reviewed by interested parties in the Facilities Engineering Office, HQ DMA, Building 56, U.S. Naval Observatory, Washington, D.C. 20305. A limited number of copies of the negative declaration are available from the same office to fill single copy requests.

The DMA invites public comment concerning the proposed relocation action and this negative declaration. Interested persons are invited to submit

written data, views and arguments to HQ DMA, ATTN: Facilities Engineering Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, on or before April 7, 1980. Final administrative action on implementation of the proposal will be deferred until that date. Implementation will then begin unless comments are received which result in a contrary determination.

Edward J. Obloy

General Counsel.

March 7, 1980.

O. J. Williford,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 80-7734 Filed 3-12-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Compliance With the National Environmental Policy Act; Intent To Prepare Environmental Impact Statement (EIS) and Conduct a Public Scoping Meeting

AGENCY: Department of Energy.

ACTION: Notice of intent to prepare environmental impact statements.

SUMMARY: The Department of Energy (DOE) announces its intent to prepare an EIS evaluating the impact of its Proposed Prohibition Order for the Bridgeport Harbor Unit 3 Generating Station. Bridgeport Harbor is located in Bridgeport, Conn., and is owned and operated by the United Illuminating Company of Connecticut. The Prohibition Order, if finalized, would prohibit the burning of petroleum or natural gas in this unit. The EIS will be prepared in accordance with Section 102(2)(c) of the National Environmental Policy Act (NEPA). All interested agencies, organizations, and persons wishing to submit comments or suggestions for consideration in connection with the preparation of this EIS are invited to do so. DOE desires to have the benefit of the public's views as to the scope of the EIS and the significant environmental issues which it should address.

DATES: Such comments may be expressed in writing and/or at a meeting which will be held for this purpose on April 15, 1980 in Bridgeport, Conn., at City Hall Council Chambers, 45 Leon Terrace. The meeting is scheduled to begin at 9:00 a.m. and will continue until all persons wishing to speak have had an opportunity to do so. Persons who are unable to attend at this time and who wish the session to extend into the evening hours must submit a written request to Mr. Steven E. Ferguson (address below) by April 1, 1980.

In order for DOE to better gauge public interest in this EIS, those planning to attend the meeting and present information should contact Mr. Steven E. Ferguson, Chief, Environmental Analysis Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3322, Washington, D.C. 20461, telephone (202) 634-6523. Upon completion of each draft EIS, its availability will be announced in the Federal Register, at which time comments will be solicited.

Written comments should be transmitted to Steven E. Ferguson (address above) by May 15, 1980.

For general information on the EIS process, contact:

Robert J. Stern, Acting Director, Division of NEPA Affairs, Office of the Assistant Secretary for Environment, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252-4600.

SUPPLEMENTARY INFORMATION: On November 21, 1979, ERA published a proposed Prohibition Order for Unit 3 (400 MW) of the Bridgeport Harbor Generating Station, in the Federal Register. The order, if finalized, would prohibit this unit from burning natural gas or petroleum as its primary energy source. The proposed prohibition order was based on ERA findings that this powerplant has, or previously had, the technical capability to use an alternate fuel (coal) as a primary energy source. This finding was based on the information that the powerplant was designed and constructed to burn coal as a primary energy source.

Environmental Impact Statement

The EIS will present a comprehensive analysis of the environmental impact of ERA's proposed action in issuing a final order prohibiting Unit 3 of the Bridgeport Harbor generating station from burning natural gas or petroleum as primary fuels. This analysis will discuss the environmental consequences of the proposal and alternatives, including the environmental impacts of burning coal or other fuels as primary fuels. Among the impacts to be discussed are air quality, water quality, solid waste generation and disposal, and transportation and storage of fuel, as well as other impacts determined to be potentially significant during the public comment process. In addition, the EIS will evaluate methods of meeting the requirements of the Clean Air Act, Federal Water Pollution Control Act, Resource Conservation and Recovery Act, and other relevant environmental statutes.

It is possible that DOE may in the future issue prohibition orders to other facilities in the area of the Bridgeport Harbor generating station. If it appears that the environmental effects of conversions in close proximity result in cumulative impacts, DOE may opt to combine these conversions in a single impact statement. DOE will assess various strategies for combining or tiering requisite NEPA documentation that may better serve the decision making process. DOE solicits the public's views and suggestions in this area.

Scoping Meeting

DOE desires to know what the public considers to be the major environmental issues associated with prohibiting Bridgeport Harbor Unit 3 from burning natural gas or petroleum as its primary energy source, The meeting on Aril 15, 1980, will be held to receive comments on the structure of the EIS, anticipated energy/environmental problems, actions that might be taken to address them, and reasonable alternatives which should be considered.

If possible, those planning to present information at the meeting should notify Mr. Ferguson. Participants are encouraged to submit to Mr. Ferguson, in advance, their intent to participate, and copies of any written material. However, public participation is encouraged even without the advance submission of written material. All comments or suggestions made at the meeting will be carefully considered in the preparation of the draft EIS, as well as written material submitted until May 25, 1980. Attendees at the meeting will be asked to register.

Questions regarding the meeting should be addressed to Mr. Ferguson.

Issued in Washington, D.C., March 7, 1978.

Ruth C. Clusen,

Assistant Secretary for Environment.

[FR Doc. 80-7809 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Action Taken on Consent Orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement,

ERA, and the firms listed below during the month of December 1979. These Consent Orders concern prices charged by retail motor gasoline dealers allegedly in excess of the maximum lawful selling price for motor gasoline. The purpose and effect of these Consent Orders is to bring the consenting firms into present compliance with the Mandatory Petroleum Price Regulations and the General Allocation and Price Regulations, and they do not address or limit any liability with respect to the consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions.

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;

2. Post the maximum lawful selling price, or a certification that the current selling price is equal to or less than the maximum allowed, for each grade of gasoline on the face of each pump in numbers and letters not less than one-half inch in height, or in a prominent place elsewhere at the retail outlet in numbers or letters not less than four inches high;

3. Properly maintain records required under the aforementioned regulations; and

4. Cease and desist from employing any discriminatory and/or unlawful business practices prohibited by the aforementioned regulations.

For further information regarding these Consent Orders, please contact James C. Easterday, District Manager, Southeast District, Office of Enforcement, 1655 Peachtree Street, NE, Atlanta, Georgia 30309, telephone number (404) 881-2661.

Firm name and address	Pricing violation	Posting violation	Date
Bill Crabb's Chevron, Campbellsburg, Ky.	Yes		11-27-79
Bob's Texaco, Caryville, Tenn.		Yes	11-27-79
Walton Exxon, I-75 & Ky 1292, Walton, Ky.	Yes	Yes	11-29-79
Melvin's Texaco, Mt. Juliet, Tn.		Yes	11-29-79
C. J. Craighead, Gordonsville, Tn.		Yes	11-29-79
Campus Gulf, Knoxville, Tn.		Yes	11-30-79
Lovelle Road Texaco, Concord, Tn.		Yes	11-30-79
Lovelle Road Mobil, Concord, Tn.		Yes	11-30-79
Morton Market, Concord, Tn.		Yes	11-30-79
Biscayne Gulf Serv, Miami, Fl.	Yes	Yes	11-30-79
Clinton Hwy Gulf Tire, Knoxville, Tn.		Yes	12-01-79
Kingston Pike Chevron, Knoxville, Tn.	Yes		12-3-79
Merchants Rd Exxon, Knoxville, Tn.	Yes	Yes	12-3-79
Newport Chevron, Newport, Tn.	Yes		12-4-79
Duvall Gulf Service, Canton, N.C.	Yes		12-4-79
Tunnel Rd Exxon, Asheville, N.C.	Yes	Yes	12-5-79
Patton Ave Exxon, Asheville, N.C.	Yes	Yes	12-5-79
Lenoir City Chevron, Lenoir, Tn.		Yes	12-3-79
Athens Interstate Gulf, Athens, Tn.	Yes	Yes	12-3-79
Charlies Shope, Cleveland, Tn.		Yes	12-4-79
Jimmy's Chevron, Chattanooga, Tn.	Yes	Yes	12-4-79
Ray's Gulf, Chattanooga, Tn.		Yes	12-4-79
University Exxon, Mobile, Al.	Yes	Yes	12-4-79
David B. Higginbotham, Columbia, S. C.	Yes	Yes	12-4-79
Monteath's Tunnel Gulf, Asheville, N. C.	Yes	Yes	12-5-79
Smith's Gulf Tire, Asheville, N. C.		Yes	12-5-79
Patton Ave 66, Asheville, N. C.	Yes	Yes	12-5-79
Bob's Amoco, Asheville, N. C.		Yes	12-5-79
Robert Britton, Johnson City, Tn.	Yes	Yes	12-5-79
D & S Chevron, Chattanooga, Tn.	Yes	Yes	12-5-79
Jacks Chevron, Chattanooga, Tn.		Yes	12-5-79
204 Amoco Truck Stop, Lexington, S. C.		Yes	12-5-79
Larry's Exxon, Belvedere, S. C.	Yes	Yes	12-5-79
Bob Davis Amoco Sv, Asheville, N. C.	Yes		12-6-79
Robert's Exxon, Asheville, N. C.	Yes	Yes	12-6-79
Texaco Service Center, Alex City, Al.	Yes	Yes	12-6-79
Texaco Service Center, Opelika, Al.	Yes		12-6-79
Cantrell I-85 Standard, Opelika, Al.	Yes	Yes	12-6-79
Quarry Rd Chevron, Sylacauga, Al.	Yes	Yes	12-6-79
Cottage Hill Chevron, Mobile, Al.	Yes		12-6-79
Samuels Truck Stop, Thomson, Ga.	Yes	Yes	12-6-79
Madison Exxon, Madison, Ga.	Yes	Yes	12-6-79
Memorial Drive Gulf, Decatur, Ga.	Yes	Yes	12-7-79
Foreman's Chevron, Bessemer, Al.	Yes		12-10-79
Lent Hunnicutt, Madison, Ga.	Yes	Yes	12-11-79
Evans Mill Chevron, Lithonia, Ga.	Yes	Yes	12-11-79
Conyers Shell, Conyers, Ga.	Yes	Yes	12-11-79
Goebel's Interstate "66", Ocala, Fl.	Yes		12-12-79
Paul H Kelley, Norcross, Ga.	Yes	Yes	12-13-79
West Ave Texaco, Conyers, Ga.	Yes	Yes	12-14-79
Enfinger's Chevron, Dothan, Al.		Yes	12-19-79
Lee Texaco, Homewood, Al.	Yes		10-5-79
Green Springs Shell, Homewood, Al.	Yes		10-5-79
L L Bryan, Franklin, Va.	Yes		11-7-79
John Cook, Atlanta, Ga.	Yes	Yes	11-15-79
B & B Phillips 66, Fort Mitchell, Ky.	Yes		11-21-79
Crescent Springs Shell, Crescent Springs, Ky.	Yes		11-21-79
Talley's Store, Glen Allen, Va.		Yes	11-21-79
Bruce Frazier, Marion, Va.		Yes	11-27-79
Stuckey's Pecan Shoppe, Concord, Tenn.		Yes	11-27-79
Margrave Texaco, Kingston, Tn.	Yes		11-27-79
Cracker Barrel Inc, Harriman, Tn.		Yes	11-27-79
Bill Crabb's Chevron, Campbellsburg, Ky.	Yes		11-27-79
Lake City Chevron, Lake City, Tn.	Yes		11-27-79
Bob's Texaco, Caryville, Tn.		Yes	11-27-79
Campbell Sta Chevron, Concord, Tn.	Yes	Yes	11-27-79
James F. Young, Crossville, Tn.		Yes	11-28-79
Kinnaird's Chevron, Cookeville, Tn.	Yes		11-28-79
Bob's Shell, Covington, Ky.	Yes	Yes	11-28-79
Frontier Market, Marion, Va.		Yes	11-28-79
Tinnel Exxon, Crossville, Tn.		Yes	11-28-79
Plateau Road Exxon, Crossville, Tn.	Yes		11-28-79
Dunn's Texaco, Cookevill, Tn.		Yes	11-28-79
Holiday Gulf, Williamsburg, Ky.		Yes	11-28-79
Interstate Gulf, Abington, Va.	Yes	Yes	11-28-79
Brannons BP Service Center, Abingdon, Va.		Yes	11-28-79
Joel V. Blevins, Abingdon, Va.	Yes	Yes	11-28-79
William H. Forrester, St. Petersburg, Fl.	Yes	Yes	11-28-79
R. Reagan & F. Barnwell, Crossville, Tn.		Yes	11-28-79
Burgess Falls Exxon, Cookeville, Tn.	Yes	Yes	11-28-79
Walton Exxon, Walton, Ky.	Yes	Yes	11-29-79
Dawson's, Hermitage, Tn.		Yes	11-29-79
I-40 Gulf, Mt. Juliet, Tn.		Yes	11-29-79
Mid State Exxon, Lebanon, Tn.	Yes	Yes	11-29-79
Gordonsville Chevron, Gordonsville, Tn.	Yes	Yes	11-29-79
Silver Point Grocery, Silver Point, Tn.		Yes	11-29-79
Damascus Gulf, Damascus, Va.	Yes	Yes	11-29-79
Melvin's Texaco, Mt. Juliet, Tn.		Yes	11-29-79
C. J. Craighead, Gordonsville, Tn.		Yes	11-29-79
Campus Gulf, Knoxville, Tn.		Yes	11-30-79
Lovelle Road Texaco, Concord, Tn.		Yes	11-30-79
Lovelle Road Mobil, Concord, Tn.		Yes	11-30-79
Morton Mkt, Concord, Tn.		Yes	11-30-79
Biscayne Gulf Serv, Miami, Fl.	Yes	Yes	11-30-79
Hagaman Truck Haven, Knoxville, Tn.	Yes	Yes	12-1-79
Poor Boy's Texaco, Knoxville, Tn.		Yes	12-1-79
Clinton Hwy Gulf, Knoxville, Tn.		Yes	12-1-79
Wallace Shell Center, Knoxville, Tn.		Yes	12-3-79
Lenoir City Exxon, Lenoir City, Tn.		Yes	12-3-79
Paper Mill Rd Chevron, Knoxville, Tn.	Yes	Yes	12-3-79
Norwood Exxon, Knoxville, Tn.	Yes		12-3-79
Howard's I-75 Texaco, Athens, Tn.		Yes	12-3-79
Norris Interstate Shell, Cleveland, Tn.		Yes	12-3-79
Athens Interstate Gulf, Athens, Tn.	Yes	Yes	12-3-79
Lenoir City Chevron, Lenoir, Tn.		Yes	12-3-79
Jimmy's Chevron, Chattanooga, Tn.	Yes	Yes	12-4-79
Kingwood Exxon, East Ridge, Tn.	Yes	Yes	12-4-79
Richey's Chevron, Cleveland, Tn.	Yes		12-4-79
James E. Doran, Kingsport, Tn.	Yes		12-4-79
Ray's Gulf, Chattanooga, Tn.		Yes	12-4-79
Duval Gulf Service, Canton, N. C.	Yes		12-4-79

Firm name and address	Pricing violation	Posting violation	Date
Charlie's Shope, Cleveland, Tn.		Yes	12-4-79
23rd St. Shell, Chattanooga, Tn.		Yes	12-4-79
Holiday Gulf, Newport, Tn.	Yes		12-4-79
Larry's Exxon, Belvedere, S. C.	Yes	Yes	12-5-79
Page's Chevron, East Ridge, Tn.		Yes	12-5-79
Bob's Amoco, Asheville, N. C.		Yes	12-5-79
Patton Ave Exxon, Asheville, N. C.	Yes	Yes	12-5-79
Tunnel Rd Exxon, Asheville, N. C.	Yes	Yes	12-5-79
D & S Chevron, Chattanooga, Tn.	Yes	Yes	12-5-79
Robert K. Britton, Johnson City, Tn.	Yes	Yes	12-5-79
Bill's East Ridge Amoco, East Ridge, Tn.		Yes	12-5-79
Broad St. Shell, Chattanooga, Tn.	Yes		12-5-79
Jacks Chevron, Chattanooga, Tn.		Yes	12-5-79
Crowe's Broad St. Union 76, Cleveland, Tn.		Yes	12-6-79
Pineview Exxon, McDonald, Tn.	Yes	Yes	12-6-79
James Rich Chevron, Childersburg, Al.	Yes	Yes	12-6-79
Cosby Hwy Exxon, Newport, Tn.	Yes		12-6-79
Robert's Exxon, Asheville, N. C.	Yes	Yes	12-6-79
Rivermont Gulf, Louisville, Ky.	Yes		12-10-79
Philip N. Bray, Frankfort, Ky.	Yes	Yes	12-11-79
Mr. Marvin Crowder, Bartlett, Tn.	Yes		12-13-79
John W. Alexander, Memphis, Tn.	Yes		12-13-79
Kent D. Queen, Versailles, Ky.	Yes		12-17-79
John Pearson, Memphis, Tn.	Yes	Yes	12-17-79
Mr. L. H. Matlock, Memphis, Tn.	Yes	Yes	12-17-79
Rainbow Coal & Oil Co, Versailles, Ky.	Yes		12-18-79
Richard J. Kienle, Memphis, Tn.	Yes	Yes	12-18-79
B. M. Marbry, Memphis, Tn.	Yes	Yes	12-18-79
Mr. Andrew Gofus, Memphis, Tn.	Yes	Yes	12-18-79
Butch Smith, Frankfort, Ky.	Yes		12-19-79
W. T. Clay Chevron, Montgomery, Al.	Yes		12-19-79
Hines 66, Enterprise, Al		Yes	12-19-79
North Main 66, Enterprise, Al.		Yes	12-19-79
Martin's Auto Service, Mechanicsville, Va.	Yes	Yes	12-20-79
Harold B. Barre, Mechanicsville, Va.		Yes	12-20-79
Bud's Shell, Winter Park, Fl.	Yes	Yes	12-20-79
Aubry J. Cross, Memphis, Tn.	Yes	Yes	12-21-79
Sill's Chevron, Norcross, Ga.	Yes	Yes	12-26-79
Dorothy Green, Georgetown, Ky.	Yes		12-27-79
Joe Clark, Georgetown, Ky.	Yes		12-27-79
Embry Hills Shell, Chamblee, Ga.	Yes		12-27-79
Interstate Amoco, Abington, Va.	Yes	Yes	12-27-79
John Frazier, Bardstown, Ky.	Yes		12-28-79
Nike Mattingly, Chaplin, Ky.	Yes		12-28-79
Pan Do Kim, Va Beach, Va.	Yes	Yes	12-31-79

Issued in Atlanta, Ga., on the 25th day of February 1980.

James C. Easterday,

District Manager.

Concurrence:

Leonard F. Bittner,

Chief Enforcement Counsel.

[FR Doc 80-7733 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-01-M

Petitions for Temporary Public Interest Exemptions To Burn Natural Gas; Decision and Order Granting Exemptions Pursuant to Section 311 of the Powerplant and Industrial Fuel Use Act of 1978

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order granting temporary public interest exemptions from the prohibitions of Section 301(a) (2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 *et seq.* This Decision and Order is issued pursuant to Section 311(e) of FUA, 10 CFR 501.68 and 10 CFR Part 508, to the petitioners who own or operate the powerplants listed in the table below.

Docket No.	Petitioner	Generating station	Powerplant identification
50126-9062-06-41	Atlantic City Electric Co	Deepwater (Pennsgrove, N.J.)	No. 6 (6).
52744-3476-05-41	Southwestern Electric Power Co.	Knox Lee (Easton, Gregg County, Tex.)	No. 5.
52744-1417-03-41		Lieberman (Mooringsport, Caddo Parish, La.)	No. 3.
52744-1417-04-41			No. 4.
51461-0190-05-41	Jonesboro City Water & Light	Water & Light Plant (Jonesboro, Ark.)	No. 5.
51461-0190-06-41			No. 6.
52567-3611-01-41	City Public Service Board	Sommers (San Antonio, Tex.)	No. 1
52567-3611-02-41			No. 2.
52567-3609-03-41		Leon Creek (San Antonio, Tex.)	No. 3.
52567-3609-04-41			No. 4.
52567-3610-03-41		Mission Road (San Antonio, Tex.)	No. 3.
52567-3613-02-41		Tuttle (San Antonio, Tex.)	No. 2.
52567-3613-03-41			No. 3.
52567-3613-04-41			No. 4.
52567-3612-01-41		Braunig (San Antonio, Tex.)	No. 1.
52567-3612-02-41			No. 2.
52567-3612-03-41			No. 3

The petitioners filed for these temporary public interest exemptions pursuant to 10 CFR Part 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule).

Notices of the petitions and proposed orders granting these temporary exemptions were published in the Federal Register on July 20, 1979, with a request for public comments relating to the petitions and the proposed orders. On January 2, 1980 a Notice was published in the Federal Register (45 FR 78) inviting further written comments on the manner in which the Special Rule should be implemented. Upon review of the public comments and the purposes of FUA, ERA has determined to issue final orders granting temporary public interest exemptions to some of the petitioners where petitions were noticed on July 20, 1979.

Based on the information provided by the petitioners, the listed powerplants are either prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source or are prohibited from using natural gas as a primary energy source in excess of the average base year proportion allowed in Section 301(a)(3) of the Act. These temporary exemptions will allow the listed powerplants to burn national gas, nothwithstanding the prohibitions of Section 301(a)(2) and (3) of FUA, to displace consumption of fuel oils.

Statement of Reasons and Rationale for Granting Exemptions

In issuing the Special Rule, ERA recognized that in certain existing electric powerplants the choice of fuels is limited to either natural gas or petroleum fuel oils, and that in general, the near-term use of natural gas is preferred over petroleum. In promulgating the Special Rule, ERA stated that it intended to give priority to facilities displacing middle distillates. On January 2, 1980, ERA requested written comments on what sulfur levels, if any, ERA should consider in determining to grant or deny petitions for natural gas to displace residual fuel oil.

Based upon a survey and analysis conducted by ERA, it has been determined to grant exemptions to all eligible powerplants, irrespective of the sulfur content or type of oil to be displaced, with the exception of those powerplants located in Petroleum Administration for Defense (PAD) District No. 2. ERA's survey and analysis concerned (1) the demand for natural gas and corresponding

displacement of both middle distillate and residual oils by sulfur content of residual fuel oil due to exemptions granted and which may be granted under the Special Rule, (2) availability of natural gas, (3) the impact on refinery operation due to possible reduced demand for residual fuel oil, and (4) a review of the public comments received on the manner in which the Special Rule should be implemented. ERA has determined that the granting of exemptions, irrespective of the sulfur content or the types of oil to be displaced, is in the public interest and in accordance with the purpose of FUA.

ERA's survey of gas companies and pipeline companies and the responses received to ERA's request for public comment indicate that there are sufficient quantities of natural gas supplies available at the present for an increase in natural gas use to accommodate the granting of exemptions to all powerplants with petitions pending under the Special Rule.

ERA also analyzed the impact that increased natural gas use under the Special Rule would have on refinery operations and the demand for residual fuel oil in each of the PAD Districts. ERA has ascertained that while the effect upon refinery operations varies from district to district, that refineries in each of the PAD Districts with the exception of PAD 2 can accommodate a reduction in demand for residual oil without reducing their refinery runs. ERA will further review and examine the impact which granting exemptions under the Special Rule may have on PAD 2 refinery operations.

ERA's decision to grant these exemptions is not expected to have an adverse impact upon residential and commercial consumers of natural gas since current Federal Energy Regulatory Commission (FERC) and State gas curtailment regulations assign powerplants the lowest priority classification. These curtailment regulations are designed to ensure availability of natural gas to higher priority users should gas supplies be reduced. In addition, under the Special Rule, ERA may terminate these temporary exemptions to use natural gas upon six months written notice.

ERA has determined that natural gas use under the Special Rule is consistent with the specific purpose of FUA to reduce the consumption of imported petroleum. ERA also believes that such natural gas use will not reduce or postpone the FUA requirements that new electric powerplants be constructed with capability to utilize fuels other than petroleum or natural gas, or the conversion to alternate fuel use, such as coal, by existing electric powerplants. Generally, in the long-term, the economics of power generation favor the use of coal.

Eligibility for Temporary Public Interest Exemption

Each of the above-named petitioners has demonstrated that each powerplant, for which it is requesting a temporary exemption, is an existing unit that is either prohibited from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of FUA.

Each petitioner has also certified that the proposed use of natural gas will displace consumption of fuel oil and will not displace the use of coal or any other alternate fuel in any facility in the petitioner's utility system, including the powerplants for which these temporary exemptions are issued. As a result, each petitioner has met the eligibility criteria of § 508.2 of the Special Rule.

Duration of Temporary Exemptions

ERA grants these temporary public interest exemptions for an initial period from the effective date of this Decision and Order until November 7, 1981. Upon the request of the petitioners, these exemptions may be extended, at the option of ERA, for additional periods. However, a temporary public interest exemption, including all extensions, may not exceed the maximum 5 year period authorized by the Act. Requests for extension must be filed with ERA by August 7, 1981.

The temporary public interest exemptions granted by this Decision and Order are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on May 12, 1980 in accordance with Section 702(a) of FUA. However, in accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230), ERA will take no action with respect to any natural gas used by the exempted powerplants between May 8, 1979, the effective date of FUA, and the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to Section 314 of FUA and 10 CFR 508.6, the temporary exemptions granted under this Decision and Order are conditioned upon, and shall remain in effect so long as each petitioner, its successers and assigns, complies with the following terms and conditions:

(1) Petitioner will report to ERA for the period from May 8, 1979, through December 31, 1979, and for each subsequent six-month period thereafter the actual monthly volumes of natural gas consumed in the exempted powerplants, and an estimate of the number of barrels of each type of fuel oil displaced. This report will be submitted to ERA within thirty days after the effective date of this Decision and Order and thirty days after the close of each subsequent reporting period.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a system-wide fuel conservation plan to include the initial period covered by these temporary exemptions, including the means by which the petitioner will measure progress in implementing this plan.

(3)If a petitioner seeks to have an exemption extended, the petitioner shall, at that time, submit a fuel conservation plan covering the additional time period for which the extension is being sought, including the means by which the petitioner will measure progress in implementing this plan.

(4) Petitioner will submit to ERA, within 30 days after the close of each year, commencing with the calendar year ending December 31, 1980, a report on progress achieved in implementing the fuel conservation plan.

ERA's grant of these temporary public interest exemptions does not relieve an existing powerplant from compliance with any pertinent rules or regulations concerning the acquisition or the distribution of natural gas that are administered by the Federal Energy Regulatory Commission or any pertinent State regulatory agency or from any public utility obligations to pertinent categories of customers.

Issued in Washington, D.C., on March 6, 1980

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-7730 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-01-M

Petitions for Temporary Public Interest Exemptions To Burn Natural Gas; Decision and Order Granting Exemptions Pursuant to Section 311 of the Powerplant and Industrial Fuel Use Act of 1978

The Economic Regulatory Administration (ERA) of the Department

of Energy hereby issues this Decision and Order granting temporary public interest exemptions from the gas use prohibitions of Section 301(a) (2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 *et seq.* This Decision and Order is issued pursuant to Section 311(e) of FUA, 10 CFR 501.68 and 10 CFR Part 508 to the petitioners who own or operate the powerplants listed in the table below. The exemptions will permit displacement of middle displacement fuel oil by use of natural gas.

Docket No.	Owner	Generating station location	Powerplant Identification
52385-0898-01-41	Illinois Power Co	Wood River (East Alton, Ill.)	No. 1.
52385-0898-02-41			No. 2.
52385-0898-03-41			No. 3.
51998-2322-05-41	Nevada Power Co	Clark (East Las Vegas, Nev.)	No. 5.
51998-2322-06-41			No. 6.
51406-1079-21-41	Iowa-Illinois Gas & Electric Co.	Coralville (Johnson County, Coralville, Ill.)	CT 1.
51406-1079-22-41			CT 2.
51406-1079-23-41			CT 3.
51406-1079-24-41			CT 4.
51406-0899-05-41		Moline (Rock Island County, Moline, Ill.)	No. 5.
51406-0899-06-41			No. 6.
51406-0899-07-41			No. 7.
51406-0899-58-41			CC 8.
51873-9058-01-41	City of Minden	Municipal Plant (Minden, La.)	No. 1.
51873-9058-02-41			No. 2.
51786-9056-02-41	Marshfield Electric & Water Department.	Wildwood (Marshfield, Wis.)	No. 2.
51786-9056-03-41			No. 3.

The petitioners filed for these temporary public interest exemptions pursuant to 10 CFR 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule). Notice of the petitions and a proposed order granting these temporary exemptions were published in the July 20, 1979, Federal Register (44 FR 42759) with a request for public comments relating to the petitions and the proposed order. Upon review of the public comments and the purposes of FUA, ERA has determined to grant the requested temporary public interest exemptions.

Based on the information provided by the petitioners, the powerplants listed in the table below are either prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source or are prohibited from using natural gas as a primary energy source in excess of the average base year proportion allowed in Section 301(a)(3) of the Act. These temporary exemptions will allow these units to burn natural gas, notwithstanding the prohibitions of Section 301(a)(2) and (3) of FUA, to displace consumption of middle distillate fuel oil.

Statement of Reasons

Because petroleum products are in short supply, there is an urgent need to use these natural resources wisely.

To the extent that near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of of natural gas is preferred over petroleum. The use of natural gas in these powerplants will be a significant step toward reducing our short-term oil consumption and will help the United States reduce its dependence on imported petroleum. This increased use of natural gas will also protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency.

The petitioners have demonstrated that these powerplants, for which they are requesting temporary exemptions, are existing units that are either prohibited from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of FUA. The petitioners have also shown that the proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a) (2) or (3) of FUA, will displace consumption of middle distillate fuel oil, and will not displace the use of coal or any other alternate fuel in any facility of the petitioners' utility systems, including the powerplants for which these temporary exemptions are issued.

By establishing these facts the petitioners have met the eligibility criteria set out in § 508.2 of the Special Rule. Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioners have demonstrated that they have met the eligibility criteria, ERA is granting this temporary exemption.

Duration of Temporary Exemption

ERA grants these temporary public interest exemptions for a period of five years. The temporary exemptions are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on May 12, 1980. In accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230) ERA will take no action with respect to any natural gas used by the exempted powerplants between May 8, 1979, the effective date of FUA, and the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to Section 314 of FUA and 10 CFR 508.6, these temporary exemptions granted under this Decision and Order are conditioned upon, and shall remain in effect so long as each petitioner, its successors and assigns, comply with the following terms and conditions:

(1) Petitioner will report to ERA for the period from May 8, 1979, through December 31, 1979, and for each subsequent six-month period thereafter the actual monthly volumes of natural gas consumed in the exempted powerplant, and an estimate of the number of barrels of each type of fuel oil displaced.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a systemwide fuel conservation plan to include the five year period covered by this temporary exemption, including the means by which the petitioner will measure progress in implementing this plan.

(3) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1980, a report on progress achieved in implementing the five-year systemwide fuel conservation plan.

Issued in Washington, D.C., on March 6, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-7729 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-01-M

Powerplant and Industrial Fuel Use Act; Granting of Certain Temporary Public Interest Exemptions; Extension of Time for Issuance of Final Orders Granting or Denying Certain Petitions for Temporary Public Interest Exemptions; Availability of Analysis

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Granting of Certain Exemptions; Extension of Time for Issuance of Certain Final Orders and Availability of Analysis.

SUMMARY: (1) The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice that on March 6, 1980, it issued orders granting certain temporary public interest exemptions, pursuant to the authorities granted it by Section 311(e) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA) or the Act), 42 U.S.C. 8301 *et seq.*, and 10 CFR 501.68 and 10 CFR Part 508, from the prohibitions of Section 301(a)(2) and (3) of the Act.

(2) Notice is also hereby given of an extension of time for issuance of final orders granting or denying certain other petitions for temporary public interest exemptions.

(3) On January 2, 1980, ERA invited public comment on several issues, particularly with respect to future natural gas supplies and sulfur levels of residual fuel oils, pertinent to its analysis of a number of pending petitions for temporary public interest exemptions which had been filed pursuant to 10 CFR Part 508. The Comments which were received are summarized below. In reviewing the public comments, ERA prepared an analysis of those issues. Copies of that analysis are available for public inspection at the address given below.

Background

On July 20, 1979, the Economic Regulatory Administration (ERA) issued a notice accepting petitions for temporary public interest exemptions from the prohibitions of Sections 301(a)(2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978, (FUA or the Act), 42 U.S.C. 8301 *et seq.*, to use natural gas as a primary energy source.

Those petitions were filed purusant to 10 CFR 508 (Exemption for Use of Natuarl Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule).

Upon accepting the petitions, ERA also issued orders pursuant to Section 311(e) of the Act, proposing to grant the exemptions. As required by Section 701(c) of the Act, a 45 day public comment period applicable to the petitions commenced upon publication of the notice in the Federal Register, July 11, 1979, (44 FR 42759).

Section 701(c)(3) of the Act requires that ERA issue a final order granting or denying petitions for exemptions within 6 months after the period for public comment and hearing unless such period is extended.

The pertinent public comment period expired on September 5, 1979, and the applicable 6 month period for issuance of final orders would have expired on March 6, 1980.

ERA Action on Petitions

1. *Granting of Certain Exemptions*—Upon review of the public comments and analysis by ERA, ERA determined to grant certain of the requested temporary public interest exemptions. Therefore, on March 5, 1980, ERA issued an order granting temporary public interest exemptions, pursuant to the authorities granted it by Section 311(e) of the Act, 10 CFR 501.68 and 10 CFR Part 508, from the prohibitions of Section 301(a)(2) and (3) of the Act to the following powerplants:

Docket No.	Petitioner	Generating station	Powerplant identification
50126-9062-06-41	Atlantic City Electric Co	Deepwater (Pennsgrove, N.J.)	No. 6 (8).
52744-3476-05-41	Southwestern Electric Power Co.	Knox Lee (Easton, Gregg County, Tex.)	No. 5.
52744-1417-03-41		Lieberman (Mooringsport, Caddo Parish, La.)	No. 3.
52744-1417-04-41			No. 4.
51461-0190-05-41	Jonesboro City Water & Light	Water & Light Plant (Jonesboro, Ark.)	No. 5.
51461-0190-06-41			No. 6.
52567-3611-01-41	City Public Service Board	Sommers (San Antonio, Tex.)	No. 1.
52567-3611-02-41			No. 2.
52567-3609-03-41		Leon Creek (San Antonio Tex.)	No. 3.
52567-3609-04-41			No. 4.
52567-3610-03-41		Mission Road (San Antonio, Tex.)	No. 3.
52567-3613-02-41		Tuttle (San Antonio, Tex)	No. 2.
52567-3613-03-41			No. 3.
52567-3613-04-41			No. 4.
52567-3612-01-41		Braunig (San Antonio, Tex.)	No. 1.
52567-3612-02-41			No. 2.
52567-3612-03-41			No. 3.

The order granting these temporary exemptions shall be effective May 12, 1980, in accordance with Section 702(a) of FUA. Owners of the above-named powerplants have each received the Decision and Order by certified mail. The order is set forth following this notice.

These temporary exemptions shall be in effect, subject to the terms and conditions stated in the order, for an initial period from the effective date of the Decision and Order until November 7, 1981. Upon the request of the petitioners, these exemptions may be extended, at the option of ERA, for additional periods. However, a temporary public interest exemption, including all extensions, may not exceed the maximum 5 year period authorized by the Act. Requests for extension must be filed with ERA by August 7, 1981.

The temporary public interest exemptions granted by the Decision and Order are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

ERA's grant of these temporary public interest exemptions does not relieve an existing powerplant from compliance with any pertinent rules or regulations concerning the acquisition or the distribution of natural gas that are administered by the Federal Energy Regulatory Commission or any pertinent State regulatory agency or from any public utility obligations to pertinent categories of customers.

2. *Extension of Time for Issuance of Certain Final Orders*—ERA is extending the period for issuance of final orders granting or denying certain petitions for temporary public interest exemptions to the following named powerplants until April 11, 1980, for the reasons set forth below:

Docket No.	Petitioner	Generating Station	Powerplant identification
50494-2226-01-41	Central Nebraska Public Power and Irrigation District.	Canaday (Lexington, Nebr.)	No. 1.
52674-2011-02-41	Sleepy Eye Municipal Utility	Sleepy Eye (Sleepy Eye, Minn.)	No. 2.
50938-2236-01-41	City of Fairbury	Fairbury (Fairbury, Nebr.)	No. 1.
50938-2236-02-41			No. 2.
50938-2236-03-41			No. 3.
50938-2236-04-41			No. 4.
53355-2024-02-41	City of Worthington	Worthington (Worthington, Minn.)	No. 2.
53355-2024-03-41			No. 3.

ERA has extended the period for issuing orders to the above-named powerplants pending further analysis of the impact granting such exemptions could be expected to have on refinery operations in Petroleum Administration for Defense (PAD) District Number 2. All of the above-named powerplants for which orders have not yet been issued are located in PAD 2 and presumably obtain their residual fuel oil from refineries located in PAD 2. Comments were received which asserted that granting exemptions to powerplants in this area would significantly reduce the demand for residual fuel oil in PAD 2. PAD 2 refineries apparently produce most of the residual fuel oil consumed in that District. A reduction in consumption of residual fuel oil in the amounts contemplated by the granting of exemptions to these powerplants could result in reducing refinery runs in PAD 2. It was asserted that such action could jeopardize the economic viability of PAD 2 refinery products, including gasoline. Upon review of these public comments, ERA has determined that additional analysis is appropriate which will focus on the consequences of granting temporary public interest exemptions to powerplants that may obtain their residual fuel oil from PAD 2 before any final orders are issued with respect to those powerplants.

3. *Availability of Analysis and Summary of Public Comments*—In the January 2, 1980, Federal Register Notice, ERA invited written comments on what sulfur levels, if any, ERA should consider in granting or denying temporary public interest exemptions for the use of natural gas in powerplants to displace the use of residual fuel oil. ERA also invited written comments to assist it in an analysis to determine the appropriate scope of the Special Rule in light of expected future natural gas supplies. The comments which were received are summarized below. In reviewing the public comments, ERA prepared an analysis of those issues. Copies of that analysis are available for public inspection at the following address:

Office of Public Information, Economic Regulatory Administration, U.S. Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C., 20461, (202) 634-2170.

ERA received comments from electric utilities, utility associations, gas pipelines, distribution companies, trade associations, oil refiners and distributors, gas consumers other than electric utilities, public officials and other interested persons.

The comments received generally expressed the following three points of view with repect to the issues ERA had raised as pertinent to its analysis of the pending petitions: (1) *Support for liberal granting of exemptions;* A substantial number of the commenters expressed the view that ERA should not consider the sulfur content of the oil to be displaced in deciding whether to grant an exemption; (2) *Opposition to the granting of exemptions;* A commenter expressed the view that FUA exemptions should not be granted in a manner which prefers the use of natural gas over petroleum products; and (3) *Support for the granting of exemptions on a regional basis.* Several commenters were concerned that the granting of exemptions could cause regional problems and that ERA should grant or deny exemptions under the Special Rule on a regional basis. Specifically, the Midwest Fuel Oil Council representing refiners located in PAD 2, asserted that granting exemptions in the Northcentral and Midwestern States would reduce the demand for residual fuel oil in that region enough to disrupt refinery operations.

The following sections, summarize the various comments received and ERA's response to them.

1. *Support for liberal granting of exemptions.* More than 90 percent of the comments received by ERA urged that temporary public interest exemptions be granted to all electric utilities that have applied for them, regardless of the sulfur content of the oil that would be displaced. The public comments and ERA's analysis indicate that sufficient supplies of natural gas are expected to be available to meet the increased demand which would result if additional temporary exemptions are granted.

The view that there are sufficient near-term supplies of natural gas was supported by the electric utility industry. A comment from the Edison Electric Institute stated that "* * * to date, we have seen no solid evidence indicating that granting special exemptions for units displacing higher sulfur residual oil would jeopardize gas supplies for units displacing middle distillate or very low-sulfur residual oil."

The American Gas Association's (AGA) comments cited a recent survey indicating that natural gas supplies are available to displace at least 116,000 barrels of oil per day more than were being displaced in December, 1979. Most of the comments from individual gas suppliers supported the view that there are ample additional natural gas supplies available. For example, the Consolidated Gas Supply Corporation stated in its comment that it "* * * has experienced greater excess supplies of gas than were anticipated last year."

The AGA estimate of available gas supply was reviewed by ERA and determined to be very reasonable. The estimate is supported by other proceedings before ERA which reflect a surplus gas deliverability on major interstate pipeline systems. ERA believes that nationwide gas supplies will be sufficient to displace the oil being consumed by petitioners' powerplants. In addition, we note that Federal and State approved curtailment plans generally assign the use of natural gas by electric utilities the lowest priority. Should natural gas supplies be insufficient for anyone pipeline or local distribution company to serve all its customers, electric utility use would be curtailed first in order to serve higher priority users.

As a result of the ERA analysis and support by the public comments, ERA has concluded that the natural gas supply situation would permit granting temporary exemptions to all eligible petitioners.

2. *Opposition to the granting of exemptions.* A few of the comments received by ERA assert that temporary public interest exemptions should not be granted to powerplants if that results in preferring the use of natural gas over oil. These comments also stressed that granting these exemptions would be contrary to the intent of FUA, that gas supplies are limited, and that gas prices would be increased, if the exemptions were granted.

ERA reviewed these comments but does not believe that the granting of temporary public interest exemptions to burn natural gas instead of oil contravenes the purposes of FUA. It is essential that the Nation immediately reduce its reliance on imported oil. The need to protect the Nation's security of energy supplies and economic well-being, as well as the need to reduce the Nation's balance of payments deficit and the domestic inflation rate require immediate action. To the extent that the near-term choice for certain existing facilities is limited to petroleum or natural gas, we generally prefer the use of natural gas over petroleum products. Expanded use of natural gas in these facilities would be a significant step toward reducing our short-term oil

consumption. Increased use of gas would help the United States meet its commitment to reduce its demand for imported oil.

3. *Support for the granting of exemptions on a regional basis.* A comment submitted by the Midwest Fuel Oil Council, an organization representing refiners, terminal operators, marketers, and transporters of fuel oil located in PAD 2 cites the potential for local problems associated with the granting of exemptions. Concern was expressed that increased use of natural gas would lead to a corresponding decrease in demand for residual fuel oil. This was expected to result in an oversupply of residual fuel oil which might further cause a reduction in refiner runs. The Council asserts that most of the residual fuel consumed in PAD 2 is refined in that district, and any reduction in residual fuel consumption would have to be absorbed largely by reduced production. According to the Council, PAD 2 refiners are already operating at minimum residual yield levels and have no additional storage capacity for residual production, therefore, additional cutbacks in residual fuel demand in the PAD 2 region would result in reduced refinery runs, could jeopardize the economic viability of the region, and could lead to shortages of other refinery products.

ERA has determined to extend the time for issuing orders granting or denying exemptions under the Special Rule to powerplants located in PAD District Number 2. This will permit ERA to further investigate the possible impact on PAD 2 refinery operations which might result if such exemptions were granted.

Issued in Washington, D.C., on March 6, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-7732 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-01-M

Powerplant and Industrial Fuel Use Act Issuance of Orders Granting Temporary Public Interest Exemptions

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice that on March 5, 1980, it issued an order granting temporary public interest exemptions, pursuant to the authorities granted it by Section 311(e) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 *et seq.*, and 10 CFR 501.68 and 10 CFR Part 508, from the gas use prohibitions of Section 301(a)(2) and (3) of the Act to the following powerplants in order to displace middle distillate fuel oil:

Docket No	Petitioner	Generating station	Unit identification	Fuel heat input MM BTU/hour
51783-1993-05-41	Marshall Municipal Utilities	Marshall (Marshall, Minn.)	5	75

Petitions were received and filed pursuant to CFR 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230) with ERA for temporary public interest exemptions for the use of natural gas as a primary energy source. Notice of the petitions and a proposed order granting this temporary exemption was published in the Federal Register on July 20, 1979, (44 FR 42759). Written comments were requested on the proposed order. All comments were considered by ERA.

A general comment from Allied Chemical Corporation expressed concern that the chemical industry has experienced production curtailments and plant shutdowns due to inadequate gas supplies for nonsubstitutable feedstock and process needs at the same time that DOE has concluded that excess supplies of natural gas are available. The Allied Chemical Corporation comment did not refer to any specific region nor did it specify impacts resulting from any particular petition of proposed order.

All comments that referred to specific petitions were supportive of them.

The order granting this temporary exemption shall become effective May 12, 1980, in accordance with Section 702(a) of FUA. The owners of the above-named powerplants have received the Decision and Order by certified mail. The order is set forth following this notice. This temporary exemption shall be in effect, subject to the terms and conditions stated in the order, for a period of five years and may be terminated by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Copies of all comments received during the public comment period will be available for public inspection and copying in the Public Information Office located in Room B-110, 2000 M Street, NW., Washington, D.C., 20461.

Any questions regarding this temporary exemption should be directed to Mr. James W. Workman, Acting Director, Existing Facilities Conversion Division, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, Room 3128, 2000 M Street, NW., Washington, D.C., 20461, (202) 254-7442.

Issued in Washington, D.C., on March 6, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-7731 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-01-M

Powerplant and Industrial Fuel Use Act of 1978; Withdrawal of Acceptance of a Petition for an Exemption

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice that it has withdrawn its acceptance of a petition for a temporary public interest exemption filed pursuant to Section 311(e) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 *et seq.* and 10 CFR Part 508. The petition sought an exemption from the gas use prohibitions of Section 301(a)(2) and (3) of the Act on behalf of the following petitioner:

Docket No.	Owner	Generating station location	Powerplant identification
52385-0898-01-41	Illinois Power Co	Wood River (East Alton, Ill.)	No 1
52385-0898-02-41			No 2
52385-0898-03-41			No. 3
51998-2322-05-41	Nevada Power Co	Clark (East Las Vegas, Nev)	No. 5.
51998-2322-06-41			No. 6
51406-1079-21-41	Iowa-Illinois Gas & Electric Co.	Coralville (Johnson County, Coralville, Ill.)	CT 1
51406-1079-22-41			CT 2
51406-1079-23-41			CT 3
51406-1079-24-41			CT 4
51406-0899-05-41	Moline (Rock Island County, Moline, Ill.).		No. 5.
51406-0899-06-41			No. 6.
51406-0899-07-41			No 7
51406-0899-58-41			CC 8
51873-9058-01-41	City of Minden	Municipal Plant (Minden, La.)	No 1
51873-9058-02-41			No. 2
51786-9056-02-41	Marshfield Electric & Water Department.	Wildwood (Marshfield, Wis.)	No. 2
51786-9056-03-41			No 3

The petitioner has been sent a letter by certified mail informing it that acceptance of its petition for the above listed unit has been withdrawn since it now appears from information made available to ERA that the petitioner is not eligible to obtain an exemption from the prohibitions of Section 301(a)(2) and (3) of the Act for this unit.

SUPPLEMENTARY INFORMATION: ERA previously published in the Federal Register on July 20, 1979 (44 FR 42759) a Notice of Acceptance of Petitions. The petitioner had filed for a temporary public interest exemptions pursuant to 10 CFR Part 508.

If granted, the exemption would have allowed the petitioner's unit to use natural gas as a primary energy source, notwithstanding the prohibitions contained in Sections 301(a)(2) and (3) of the Act.

In the previously accepted petition, the petitioner represented that the unit for which the exemption was sought, was subject to the prohibitions of either Section 301(a)(2) or (3) of FUA. Based upon this information, ERA published its Notice of Acceptance of Petitions in the Federal Register. After publication of the Notice of Acceptance, the petitioner submitted new information, on ERA Form 316.

The information on the ERA Form 316 indicated that the above mentioned unit technically is not a powerplant within the meaning of the Act. The fuel heat input rate of any one unit must be at least 100 million BTUs per hour, or in the case where units are in combination at the same site they must in the aggregate have a fuel heat input rate of at least 250 million BTUs per hour, pursuant to Title I, Section 103(a)(7)(A) of FUA. Therefore, the unit is not prohibited from burning natural gas by the Act. Since the unit is not subject to the prohibitions of 301(a)(2) and (3), ERA has withdrawn its acceptance of the petition.

Any questions regarding this temporary public interest exemption should be directed to Mr. James W. Workman, Acting Director, Existing Facilities Conversion Division, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, Room 3128, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-7442.

Issued in Washington, D.C., on March 6, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-7727 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-01-M

Powerplant and Industrial Fuel Use Act of 1978; Withdrawal of Acceptance of Petition for Exemption

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice that it has withdrawn its acceptance of a petition for a temporary public interest exemption filed pursuant to Section 311(e) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), U.S.C. 8301 *et seq.* and 10 CFR Part 508. The petition sought an exemption from the prohibitions of Section 301(a)(2) and (3) of the Act on behalf of the following Petitioner:

Docket No.	Petitioner	Generating station	Powerplant identification
53567-3613-01-41	City Public Service Board	Tuttle (San Antonio, Tex.)	No. 1

ERA previously published in the Federal Register on July 20, 1979 (44 FR 42760) a Notice of Acceptance of the above mentioned petition. The petitioner had filed for a temporary public interest exemption to use gas to displace oil for electric power generation pursuant to 10 CFR Part 508.

In the previously accepted petition, the petitioner represented that the powerplant for which the exemption was sought, was subject to the prohibitions of either Section 301(a)(2) or (3) of FUA. Based upon this information, ERA published its Notice of Acceptance of the petition in the Federal Register.

The petitioner listed above has now informed ERA that it wishes to withdraw its petition for the above listed powerplant, because the subject powerplant always burned one hundred percent natural gas and is therefore not prohibitied by the Act. In light of this information, ERA hereby publishes this notice of withdrawal.

Any question regarding this temporary public interest exemption action should be directed to Mr. James W. Workman, Acting Director, Existing Facilities Conversion Division, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, Room 3128, 2000 M Street NW., Washington, D.C. 20461, (202) 254-7442.

Issued in Washington, D.C., on March 6, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-7728 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. G-10686, et al.]

El Paso Exploration Co. (Successor to Northwest Production Corp.); Redesignation

March 6, 1980.

On October 19, 1979, El Paso Exploration Company filed an application to amend the certificates currently held by Northwest Production Corporation by substituting El Paso Exploration Company as certificate holder and to redesignate the related rate schedules in the name of El Paso Exploration Company. El Paso Exploration Company also requests to be substituted for Northwest in any and all proceedings before the Commission, all effective from and after August 29, 1979.

Effective August 29, 1979, the corporation name was changed from Northwest Production Corporation to El Paso Exploration Company.

The various dockets, rate schedules and purchasers are listed on the Appendix hereto.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of the protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protests with reference to said application, on or before March 14, 1980, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Appendix

New Schedule No.[1]	Certificate docket No.	Old Schedule No.[2]	Purchaser
1	G-10686	1	Northwest Pipeline Corp.
3	CI66-3	3	El Paso Natural Gas Co.
4	CI71-773	4	El Paso Natural Gas Co.
5	CI71-770	5	El Paso Natural Gas Co.
6	CI71-769	6	El Paso Natural Gas Co.
7	CI78-973	7	El Paso Natural Gas Co.

[1] New: El Paso Exploration Co.'s FERC gas rate.
[2] Old: Northwest Production Corp.'s FERC gas rate.

[FR Doc. 80-7813 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-245]

Virginia Electric and Power Co.; Notice of Filing

March 6, 1980.

The filing Company submits the following: Take notice that on February 25, 1980, Virginia Electric and Power Company (VEPCO) filed a Letter Agreement, dated November 13, 1979, with Northern Piedmont Electric Cooperative (NPEC).

The agreement provides that VEPCO will install, own, and maintain certain excess facilities in order to provide NPEC with data pulses to its equipment at five delivery points, as requested by NPEC.

VEPCO requests that the Commission allow the Letter Agreement to become effective on the date of connection of equipment which is expected to be in March, 1980. VEPCO further submits that it will notify the Commission of the date of connection when the equipment has been installed.

Copies of this filing have been served upon the Virginia State Corporation Commission, Northern Piedmont Electric Cooperative and Southeastern Power Administration.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulation Commission, 825 North Capitol St., N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before March 24, 1980. 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. 80-7833 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-256]

Wisconsin Power and Light Co.; Filing of Contract Amending the Contract for Electricity

March 6, 1980.

The filing Company submits the following: Take notice that on February 28, 1980, Wisconsin Power and Light Company (WPL) tendered for filing a new contract dated February 22, 1980, that amends its Rate Schedule FERC No. 16, Contract for Electricity, dated December 12, 1952, between WPL and South Beloit Water, Gas and Electric Company (SBWG&E).

The Rate Schedule sets the contract energy charges for sale of electricity to SBWG&E, a wholly owned subsidiary of WPL delivered from WPL's local electric distribution facilities in Wisconsin to the adjacent and interconnected distribution facilities of SBWG&E in Illinois.

SBWG&E states that it concurs in the filing of this Amendment, which amends its Rate Schedule FERC No. 2. No other party is affected by this Schedule.

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 St., N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before March 24, 1980. 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. 80-7834 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. E-9579]

Idaho Power Co.; Order Approving Uncontested Offer of Settlement

Issued: February 27, 1980.

By order issued April 20, 1977, we established a hearing in response to a petition for declaratory order requesting a resolution of allegations about the effects of the construction and operation of the Idaho Power Company's (IPC) Hells Canyon Project No. 1971 on anadromous fishery resources. On February 7, 1980, the Presiding Administrative Law Judge certified to the Commission an offer of settlement jointly submitted by the National Marine Fisheries Service, the Idaho Fish and Game Department, the Oregon Department of Fish and Wildlife, the Washington Departments of Fisheries and Game, and IPC. In the certification, the Judge stated that the offer was uncontested and would resolve all of the issues in the proceeding. The Secretary of Agriculture (Agriculture) submitted the only comments on the offer of settlement.[1]

The offer of settlement provides that its requirements would constitute full and complete mitigation for all numerical losses of salmon and steelhead caused by the construction and operation of Project No. 1971 under the existing license. According to the offer of settlement, IPC will provide, operate, and maintain fish traps, fish hatchery facilities, and fish handling and transportation facilities that will provide annual production levels of fall

[1] In his comments the Secretary noted that the parties had agreed that IPC would obtain the approval of the Secretary prior to constructing a fish trapping device on Forest Service lands. The Secretary stated further that his acquiescence to the offer of settlement did not constitute his approval of the location of the fish trapping device. The record shows that IPC has applied for the Secretary's approval and that the application was proceeding toward Secretarial approval (Tr. 1918-19).

chinook, spring chinook, and steelhead smolts. Facilities development includes providing a permanent adult trapping facility on the Oregon side of the Snake River below Hells Canyon Dam; refurbishing the Oxbow hatchery facilities; enlarging the Pahsimeroi Hatchery; and modifying the Niagara Springs Hatchery.[2] The offer of settlement also sets forth a flow schedule, including ramping rates, for Project No. 1971 from November 1, 1979 through May 31, 1982.[3]

The offer of settlement resolves all of the issues set for hearing in our order of April 20, 1977. We conclude that the offer of settlement is reasonable and in the public interest in carrying out the provisions of the Federal Power Act and should be approved.

The Commission orders: (A) The offer of settlement in this docket certified to the Commission by the Presiding Administrative Law Judge on February 7, 1980, is approved.

(B) The Commission's approval of this settlement shall not constitute approval of or precedent regarding any principle or issue in this proceeding.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-7814 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. G-20584]

Kansas-Nebraska Natural Gas Co., Inc.; Petition To Amend

March 7, 1980

Take notice that on February 22, 1980, Kansas-Nebraska Natural Gas Company, Inc. (Petitioner), P.O. Box 680, Hastings, Nebraska 68901, filed in Docket G-20584 a petition to amend the order issued April 6, 1960,[1] pursuant to Section 7(c) of the Natural Gas Act in the instant docket so as to authorize the transfer of natural gas service from B&R Mills, Inc. (B&R Mills), an alfalfa dehydration mill, to Agri-Hol, Inc. (Agri-Hol), a gasohol plant, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that the Commission's order issued April 6, 1960, in Docket No. G-20584 authorized Petitioner to provide gas service to B&R Mills which is located near Holdrege, Nebraska; B&R Mills, it is stated, has sold these facilities to Marvin C. Wescott, sole owner of Agri-Hol, and Agri-Hol has requested that the gas service previously provided for alfalfa dehydration be made available to the proposed gasohol plant.

It is stated that Agri-Hol would distill corn to produce fermentation ethyl alcohol for fuel grade consumption in a mixture with gasoline. It is indicated that the production of said fermentation ethyl alcohol requires these basic steps: (1) grinding of the grain or other substrate and mixing it with water, (2) cooking and adding enzymes to convert the starchy naturals into sugar, (3) fermentation of the sugars to produce carbon dioxide and ethyl alcohol, (4) distillation to segregate the alcohol from the remaining water, and (5) treatment (e.g., drying and evaporating) of the stillage to make it suitable for animal consumption.

As to the treatment of the stillage, it is stated that the necessity of producing a completely dry byproduct would depend upon the location of the market for the feed ration: if all of the stillage can be sold locally, drying would not be necessary; however, if all of the stillage is not sold locally, that portion to be transported outside of the local market area would need to be dried.

The gas-fired equipment to be used by Agri-Hol consists it is stated, of a stillage dryer with a rating of 4,000,000 Btu's per hour and a boiler with a rating of 12,000,000 Btu's per hour; the stillage dryer would remove moisture from the stillage while the boiler would provide the steam required for the cooker and the other steps of the process. The peak day capability of the equipment would be 384 Mcf, 96 Mcf for the dryer and 288 Mcf for the boiler, it is stated.

Petitioner asserts that authorization to transfer service from B&R Mills to Agri-Hol would not affect service to existing customers since natural gas service to B&R Mills is subject to an annual volumetric limitation of 200,000 Mcf per year, and Agri-Hol's annual requirements are not expected to exceed 140,160 Mcf even if it operates at peak capacity 365 days per year.

Service to Agri-Hol is to be provided, it is stated, from the existing pipeline tap in Section 31, Township 6N, Range 17W, Phelps County, Nebraska, which has been used to provide service to the alfalfa mill.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-7815 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-251]

Michigan Wisconsin Pipe Line Co.; Application

March 7, 1980.

Take notice that on February 22, 1980, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP80-251 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 2,400 Mcf of natural gas per day for Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), all as more fully set forth in the application which is on file with the Commisison and open to public inspection.

Applicant states that in accordance with the terms and conditions set forth in a gas sales and purchase agreement dated August 8, 1977, between Tennessee and Mesa Petroleum Company (Mesa), Tennessee has acquired the right to purchase gas attributable to Mesa's sixteen percent leasehold interest in South Marsh Island Area Block 146 (Block 146), offshore Louisiana. Pursuant to a transportation agreement dated December 14, 1979, Applicant states that it has agreed to assist Tennessee in effectuating receipt of its Block 146 gas supplies. Applicant states further that the transportation agreement provides that Applicant would take receipt of up to 2,400 Mcf of natural gas per day at the production platform in Block 146 for the account of Tennessee, and make deliveries of equivalent volumes at an undersea valve located on Applicant's 24-inch diameter pipeline in South Marsh Island Area Block 132 (Block 132), offshore Louisiana.

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[2] The plans and specifications of these facilities are to be filed for review at a later date.

[3] The ramping rates were in effect for almost all of November 1979. By order issued November 2, 1979, the Director of the Office of Electric Power Regulation modified Article 45 of the license to allow the ramping rate proposed in the offer of settlement.

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was tranferred to the Commission.

Applicant states that to effectuate receipt of the Block 146 gas supplies from the redelivery point in Block 132, Tennessee and Texas Eastern Transmission Corporation (Texas Eastern) have entered into a gas exchange and transportation agreement dated October 8, 1979, which provides for the exchange of such gas supplies for equivalent volumes produced in West Cameron Area Block 540, offshore Louisiana. For particulars respecting an exchange service arrangement between Applicant and Texas Eastern wherein the undersea valve in Block 132 was designated as an exchange point, reference is further made to the joint certificate application of Applicant, Texas Eastern, and Transcontinental Gas Pipe Line Corporation pending in Docket No. CP80-82.

It is stated that the term of the transportation agreement is for 15 years commencing with the date of initial deliveries, and the rate set forth therein is $2.72 per month for each Mcf of contract demand.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-7216 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-261]

Mississippi Power & Light Co.; Filing

March 6, 1980.

The filing Company submits the following:

Take notice that on February 29, 1980, Mississippi Power & Light Company (MP&L) tendered for filing with the Federal Energy Regulatory Commission copies of an unexecuted Interconnection Agreement between MP&L and Gulf States Utilities Company (GSU). The proposed Agreement does not presently provide for the rendering of any services between GSU and MP&L but is intended to govern the scheduling of any power flows that may eventually occur across the 500 KV transmission line which interconnects the MP&L and GSU systems near the Town of Felps, Louisiana.

Although no transactions are now scheduled to take place under the proposed Interconnection Agreement, MP&L requests that it be placed in effect on the day of filing, or sixty days thereafter if waiver is not granted, as an initial rate schedule between the two parties.

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 Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and should be filed on or before March 28, 1980. Protest 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. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-7817 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-2-36]

Mountain Fuel Supply Co.; Tariff Sheet Filing Effective April 1, 1980

March 7, 1980.

Take notice that on February 29, 1980, Mountain Fuel Supply Company, pursuant to Section 154.62 of the Commission's Regulations under the Natural Gas Act, filed Tenth Revised Sheet No. 3-A to its FERC Gas Tariff Original Volume No. 1. Mountain Fuel states that the filed tariff sheet relates to the Unrecovered Purchased Gas Cost Account of the Purchased Gas Adjustment provision authorized by the Commission's Order issued February 27, 1976, in Docket No. RP76-64. More specifcally the tariff sheet reflects a net increase from that currently being collected of $.09253/Mcf (X-4), a net decrease of $.00574/Mcf (X-5) and a net increase of $1.32153/Mcf (X-20) all to be effective April 1, 1980.

Any person desiring to be heard and to make any protest with reference to said filing should on or before March 21, 1980, file with the Federal Energy Regulatory Commission, 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 but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's Rules. Mountain Fuel Supply Company's Tariff Filing is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-7818 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-247]

Natural Gas Pipeline Co. of America; Application

March 7, 1980.

Take notice that on February 20, 1980, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP80-247 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it (a) to increase the certificated inventory limit of its North Lansing Storage Field, Harrison County, Texas, from 132,500,000 Mcf to

144,000,000 Mcf, (b) to permit the withdrawal therefrom of up to 88,000,000 Mcf during any twelve-month period, and (c) to increase the maximum average reservoir shut-in wellhead pressure from 2695 psig to 2775 psig, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has been developing the Rodessa-Young formation as its North Lansing storage reservoir since 1975 and anticipates reaching the certificated inventory limit to 132,500,000 Mcf this spring. Applicant states that it had calculated that the total gas in the reservoir at discovery was 148,900,000 Mcf, but it now believes that the reservoir is capable of holding additional volumes above the presently certificated inventory limit of 132,500,000 Mcf without exceeding the discovery bottom hole pressure in the reservoir. Since, it is stated, the gas Applicant has been injecting into the reservoir is much lighter than the gas originally in the reservoir (average specific gravity of about .580 vs. .653), Applicant calculates that a total inventory of 144,000,000 Mcf would bring the reservoir pressure up to original discovery bottom hole pressure.

Applicant, therefore, proposes to inject into the reservoir through existing facilities an additional 11,500,000 Mcf of gas increasing the storage field inventory to 144,000,000 Mcf. Applicant asserts that it would not exceed the initial discovery bottom hole shut-in pressure of 3191.4 psia in the reservoir, but it is anticipated that the maximum average reservoir shut-in wellhead pressure would increase to 2775 psig and Applicant requests authority to increase the shut-in wellhead pressure to this level. Of the additional volumes to be injected into the reservoir, 5,200,000 Mcf is stated to be considered current top storage; therefore, Applicant proposes to increase the maximum net withdrawals during any twelve-month period by this volume to a total of 88,000,000 Mcf. The peak day withdrawal of 740,000 Mcf as presently authorized would not change, Applicant states.

Applicant asserts that it has relied and continues to rely on the North Lansing reservoir year-round as protection against major supply outages on its Gulf Coast system and for management of gas supply.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-7819 Filed 3-12-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP80-252]

Natural Gas Pipeline Co. of America Application

March 7, 1980.

Take notice that on February 25, 1980, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP80-252 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of pipeline line and related facilities in the High Island area, offshore Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states it has the right to purchase natural gas in reserves located in the offshore Texas High Island Block 139 area. Applicant proposes to construct approximately 25.62 miles of 16-inch pipeline from Superior Oil Company's (Superior) production platform in Block 139 to an existing sub-sea valve on Applicant's existing 16-inch pipeline located in High Island Block 48 in order to transport this additional supply of gas. Applicant states the proposed facilities would provide a daily capacity of 39,056 Mcf which would be required in order to receive the estimated maximum daily volumes that are expected to be available to Applicant from Block 139.

Applicant states that the estimated cost of construction of said facilities would be $11,444,000, which cost would be financed initially through revolving credit arrangements, short-term loans, and from funds on hand. It is stated that permanent financing would be undertaken as part of Applicant's respective overall long-term financing programs at later dates.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-7820 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP74-204]

Natural Gas Pipeline Co. of America, and Columbia Gulf Transmission Co.; Petition To Amend

March 7, 1980.

Take notice that on February 25, 1980, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, and Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP 74-204 a joint petition to amend the order issued March 3, 1977 [1] as amended, pursuant to Section 7(c) of the Natural Gas Act in the instant docket so as to authorize two additional transportation and exchange delivery points, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order issued March 3, 1977, Petitioners were authorized to exchange up to 115,000,000 Mcf of natural gas per day. Natural states it would make available its entitlement in the pipeline system operated by the Stingray Pipeline Company (Stingray), thereby enabling Columbia Gulf to transport gas available to it in the West Cameron Area, offshore Louisiana; and Natural would deliver gas available to it into the Blue Water Project which is owned jointly by Columbia Gulf and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee).

Subsequently, Petitioners state that they were authorized to modify the gas exchange agreement to add additional points of delivery on the Stingray pipeline system for Columbia Gulf.

It is stated that Natural has available to it gas produced from reserves located in Block 287, Vermilion Area, and in Block 354, East Cameron Area, both offshore Louisiana. Petitioners state Natural, Columbia Gulf and others would cause to be constructed an 8-inch pipeline from the "A" platform located in Vermilion Block 287 to an existing subsea tap on Columbia Gulf's existing pipeline system located in Vermilion Block 267. Columbia Gulf's existing pipeline interconnects with the Blue Water system in Vermilion Block 248, it is asserted. In addition, it is stated that Natural and others would cause to be constructed a 10-inch pipeline from the "A" platform located in East Cameron Block 353 to a subsea valve in West Cameron Block 601, offshore Louisiana, on an existing pipeline (Project 601) of which Columbia Gulf owns an interest. Petitioners state that this existing pipeline interconnects with the Blue Water Project in Vermilion Block 245.

Natural and Columbia Gulf assert that they have agreed by letter agreement dated November 29, 1979, to amend further the gas exchange agreement of October 12, 1973, to add two additional delivery points on Columbia Gulf's Blue Water Project as follows:

(1) The existing interconnection between Columbia Gulf's 16-inch pipeline and Blue Water in Block 248, Vermilion Area, offshore Louisiana, and

(2) The existing interconnection between the Project 601 pipeline system of which Columbia Gulf owns an interest and Blue Water in Block 245, Vermilion Area, offshore Louisiana.

No additional facilities are necessary to effectuate the additional delivery points, it is asserted.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-7821 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-85-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket Nos. ER78-78, ER78-79]

New England Power Co.; Extension of Time

March 6, 1980.

On March 4, 1980, New England Power Company (NEP) filed a request for an extension of time to file briefs on exceptions and briefs opposing exceptions to the Initial Decision issued December 13, 1980, in the above-docketed proceeding. The motion states that additional time is needed for parties to this proceeding to fully evaluate the tentative settlement agreement which has been achieved between NEP and the NEPCO Customer Rate Committee.

Upon consideration, notice is hereby given that an extension for filing briefs on exceptions is granted to and including April 21, 1980. Briefs opposing exceptions shall be filed on or before May 12, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-7822 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-258]

Northern States Power Co.; Filing

March 6, 1980.

The filing Company submits the following: Take notice that Northern States Power Company, on February 28, 1980, tendered for filing Supplement No. 7, dated February 20, 1980, to the integrated Transmission Agreement, dated August 25, 1967, with Cooperative Power Association.

Supplement No. 7 deletes Section 2.07 of the Original Agreement, but substitutes a new Section 2.07: *Adjustment for Losses Between the Points of Metering and the Points of Delivery.*

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 Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions and protests should be filed on or before March 25, 1980. 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. 80-7823 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP77-511]

Northwest Pipeline Corp.; Amendment to Application

March 7, 1980.

Take notice that on February 19, 1980, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP77-511 an amendment to the application pending in the instant docket, so as to reflect an extension of the temporary authorization for transportation of natural gas from Applicant to El Paso Natural Gas Company (El Paso) through September 30, 1981, all as more fully set forth in the amendment to the application which is on file with the Commission and open to public inspection.

It is stated that Northwest's application as originally submitted herein was one of a series of applications intended to provide an interim storage service during the summer of 1977 to be utilized ultimately to protect the priority 1 and 2 requirements of El Paso's East of California (EOC) customers. It is stated that the storage service was for a limited time pending El Paso's developing underground storage, at which time it was contemplated that the volumes of natural gas remaining in interim storage could be transferred to El Paso's storage.

It is stated that El Paso has requested and Applicant and Mountain Fuel Resources, Inc. (Resources) have agreed to extend further the interim storage arrangement for an additional storage withdrawal season and to extend the primary term of the agreement to September 30, 1981. It is projected that for the 1980-81 withdrawal season a maximum working gas inventory of between 18,000,000 Mcf and 20,000,000 Mcf would be available to El Paso. Any volumes remaining in Clay Basin storage for the account of El Paso as of the completion of the 1980-81 withdrawal season would be redelivered to El Paso by September 1981.

Applicant proposes to transport volumes of natural gas during the 1980 injection season for the account of El Paso on a best-efforts basis. The amended agreement provides that Applicant would redeliver up to 250,000 Mcf per day to El Paso by displacement during the 1980-81 withdrawal season.

Deliveries by El Paso to Applicant may be made at any one of three existing points of interconnection between the facilities of El Paso and Applicant in the San Juan Basin of Colorado and New Mexico. It is stated that redelivery by Applicant to El Paso would also be at one of the aforementioned delivery points. It is further stated deliveries of the gas transported for El Paso to Resources for El Paso's account would be at an existing point of interconnection between the facilities of Resources and Applicant in Daggett County, Utah.

Applicant proposes to charge El Paso the transportation rate of 20.34 cents per Mcf for all volumes of natural gas delivered to applicant for transportation and delivery to Resources.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before March 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-7821 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-255]

Public Service Co. of Indiana, Inc., Proposed Tariff Change

March 6, 1980.

The filing Company submits the following: Take notice that Public Service Company of Indiana, Inc. on February 28, 1980 tendered for filing pursuant to the Inter-connection Agreement between Public Service Company of Indiana, Inc. and Indiana & Michigan Electric Company Modification No. 7 to become effective March 1, 1980.

Said Modification increases the demand charge for Short Term Power from 70¢ per kilowatt per week to 85¢ per killowatt per week, increases the transmission charge for Short Term Power supplied from another system from 17.5¢ per kilowatt per week to 24¢ per kilowatt per week, increases the demand charge for Limited Term Power from $3.75 per kilowatt per month to $4.50 per kilowatt per month and, increases the transmission charge for Limited Term Power supplied from another system from 75¢ per kilowatt per month.

Copies of the filing were served upon the American Electric Power Service Corporation, the Public Service Commission of Indiana, and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before March 25, 1980. 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 the filing are available for public inspection at the Federal Energy Regulatory Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-7825 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. GP80-42]

Sea Robin Pipeline Co.; Third-Party Protest[1]

Issued: March 7, 1980.

Take notice that in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23-B,[2] and "Order on Rehearing of Order No. 23-B," [3] the staff of the Commission protested on March 3, 1980, the assertion by Sea Robin Pipeline Company (Sea Robin) and certain producers that the contracts identified in its protest constitute contractural authority for the producers to charge and collect any applicable maximum lawful price under the Natural Gas Policy Act of 1978 (NGPA).

Staff stated that the language of the contracts contained in Appendix A and Appendix B of this notice does not constitute contractual authority for the producer to increase prices to the extent claimed by Sea Robin in its supplementary evidentiary submission.

Any person, other then the pipeline and the seller, desiring to be heard or to make any response with respect to these protests should file with the

[1] The term "third-party protest" refers to a protest filed by a party who is not a party to the contract which is protested.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79-22, issued June 21, 1979.

[3] Docket No. RM79-22, issued August 6, 1979.

Commission, on or before March 21, 1980 a petition to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because under 18 CFR 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

Kenneth F. Plumb,

Secretary.

Appendix A

Producer and Rate Schedule No.

Pennzoil Offshore Gas Operators, Eugene Island Block 261—07-07-77

Pennzoil Louisiana and Texas Offshore Inc., Eugene Island Block 238—05-16-78

Appendix B

Producer and Rate Schedule No. or Contract Date

Mesa Offshore Co.—06-17-79

[FR Doc. 80-7826 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-264]

Southern California Edison Co.; Filing

March 6, 1980.

The filing company submits:

Take notice that on March 4, 1980, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, an agreement dated January 23, 1980, with the City of Burbank ("Burbank"). The agreement is entitled: "Edison-Burbank Interruptible Transmission Service Agreement."

Under the terms of the agreement, Edison will provide to Burbank up to a maximum of 150 megawatts of two-way interruptible transmission service for interruptible energy purchased or sold, by or to Burbank, from or to various suppliers or purchasers, between Sylmar Switching Station, Victorville-Lugo Interconnection, Eldorado Substation and Mead Substation, located in California and Nevada.

Edison has requested that the Agreement be made effective as an initial rate schedule 60 days after acceptance for filing by FERC.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Burbank.

Any person desiring to be heard or to protest this application 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, 1.10). All such petitions or protests should be filed on or before *March 28, 1980.* 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. 80-7827 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-262]

Southern Company Services, Inc.; Filing

March 6, 1980.

The filing Company submits the following:

Take notice that Southern Company Services, Inc., on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company (the Operating Companies) on March 3, 1980, tendered for filing Service Schedule E providing for a long term power sale from the Operating Companies to Florida Power & Light Company (FPL). Service under the rate schedule is scheduled to commence on March 3, 1980. Service Schedule E between the Operating Companies and FPL makes provision for a long term power sale from the Operating Companies to FPL and specifies the rates for capacity and energy transactions to be conducted pursuant to such schedule.

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 Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 28, 1980. 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. 80-7828 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-241]

Southern Natural Gas Co.; Application

March 6, 1980.

Take notice that on February 13, 1980, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP80-241 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a short-term storage service for certain customers of Applicant and a related transportation service for those customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

On June 20, 1979, Applicant states that it filed in Docket No. CP79-374 and application requesting authorization to render permanent storage and related transportation service for certain of its customers as part of a stipulation and agreement approved in Docket No. CP71-68, *et al.* It is asserted that the storage and transportation services proposed in Docket No. CP79-274 are not expected to be available until April 1, 1981.

Accordingly, in order to insure that its storage customers would have a storage service available within the time frame required by the stipulation and agreement approved on January 21, 1977, Docket No. CP71-68, *et al.*, Applicant states it offered those customers a short-term storage service and related transportation service. It is stated that the proposed storage and transportation services were subscribed to by Atlanta Gas Light Company, South Georgia Natural Gas Company and the City of LaGrange, Georgia. These participating customers subscribed to a total of approximately 1,960,000 Mcf of winter contract quantity of temporary service, it is asserted.

Applicant states it has arranged with ANR Storage Company (ANR) and Michigan Wisconsin Pipe Line Company (Mich Wis) to make available to Applicant temporary storage and transportation services which would enable Applicant to provide the proposed temporary storage service for its customers.

According to Applicant, the storage service it would provide its participating customers pursuant to temporary storage agreements which it has entered into tracks the storage and transportation services Applicant has arranged with ANR and Mich Wis.

Under these temporary storage agreements, Applicant states gas would be provided to it for storage and returned from storage at the Shadyside

Delivery Point, St. Mary Parish, Louisiana. Applicant would deliver the gas to Mich Wis at this point for redelivery to ANR in Crawford County, Michigan.

In order to arrange for the transportation of gas to be stored by Applicant to and from the Shadyside Delivery Point, Applicant asserts all storage customers have entered into a temporary storage transportation agreement with it. Pursuant to these temporary transportation agreements, Applicant states that the participating customers would nominate and pay for the volumes Applicant delivers at the Shadyside Delivery Point to be stored under the temporary storage agreements, plus related fuel gas at the time such volumes are delivered to Applicant for transportation. It is stated that volumes returned from storage at Shadyside by Applicant, would be returned to particpating customers less appropriate fuel gas pursuant to the temporary transportation agreements.

Applicant states that the storage and transportation services proposed herein would be rendered for one year for the purpose of making a storage service available to participating customers pending commencement of the permanent service proposed in Docket No. CP79-374 and would expire on March 31, 1981. Because of the temporary nature of the proposed storage and related transportation it is stated that no additional facilities would be built by Applicant for the purpose of providing those services. Therefore, Applicant asserts that the temporary storage agreements and temporary transportation agreements provide for service on an interruptible basis.

It is stated that the temporary storage agreements are cost of service tariffs and provide for a charge which flows through to each participating customer the percentage of Applicant charges from ANR and Mich Wis attributable to the storage and transportation services provided for such customer. In addition, Applicant states that each participating customer would be required to provide it with fuel gas equivalent to the fuel gas Applicant must provide ANR and Mich Wis to perform storage and transportation services for Applicant for the benefit of that customer. It is asserted that the rate and fuel gas provisions of the temporary storage agreements are designed so that any changes in the charges and/or fuel gas the Commission authorizes ANR and Mich Wis to charge Applicant flow through automatically to participating customers on a *pro rata* basis.

It is stated that for the transportation service to be provided pursuant to the temporary transportation agreement Applicant would charge each participating customer an administrative charge of $500 per month for each month of the winter period. Applicant states that under the temporary transportation agreements each participating customer would also be required to provide Applicant with the fuel gas necessary in order to perform the transportation service called for under those agreements.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 18, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-7829 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-248]

Transcontinental Gas Pipe Line Corp.; Application

March 7, 1980.

Take notice that on February 20, 1980, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP80-248 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain gas supply facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to construct and operate five offshore gas supply facilities which are required to attach new gas supplies to its system, either directly or indirectly.

The facilities proposed herein are most particulary described as follows:

Location and Description

Block 310A, Vermilion Area, South Addition, offshore Louisiana, 0.82 mile of 12-inch pipeline and meter station.

Block A-467,[2] High Island Area, South Addition, offshore Texas, 2.20 miles of 12-inch pipeline and meter station.

Block A-492,[2] High Island Area, South Addition, offshore Texas, 1 mile of 12-inch pipeline and meter station.

Block A-284,[2] High Island Area, East Addition, South Extension, offshore Texas, 1 mile of 10-inch pipeline and meter station.

Block 105F, Eugene Island Area, offshore Louisiana, 1.13 miles of 6-inch pipeline.

Applicant states that the total cost of the proposed facilities is estimated to be $12,157,000, to be financed initially from short-term loans and available cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition

[2] These facilities would connect Applicant's gas supplies to the system of High Island Offshore System, which is authorized to transport gas for Applicant pursuant to order issued June 4, 1976, in Docket No. CP76-18, *et al.*

to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-7830 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-05-M

[Docket No. TA80-1-42 (PGA80-2, IPR80-2 and TT80-2)]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

March 7, 1980.

Take notice that Transwestern Pipeline Company (Transwestern) on March 3, 1980, tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following sheets: Revised Fifteenth Revised Sheet No. 5. Fifteenth Revised Sheet No. 6. First Revised Sheet No. 6A.

These sheets are issued pursuant to (1) Transwestern's Purchased Gas Cost Adjustment provision set forth in Article 19 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1 and (2) Article V, Transportation Cost and Revenue Tracking, of Transwestern's Stipulation and Agreement in Docket No. RP77-19 approved by Commision Order issued July 9, 1979. The Purchased Gas Cost Adjustment reflected herein consists of a PGA increase of 20.54¢/dth based upon increased purchased gas costs, adjusted for Projected Incremental Pricing Surcharges for the months of April through September, 1980, and an increased balance in the Gas Cost Adjustment Account as of November 30, 1979. The Transportation Adjustment included in the rates filed herein, an increase of 2.61¢/dth, is based on the net of transportation costs paid to others by Transwestern for transportation arrangements and revenues collected under Transwestern's TS-1 and TS-2 Rate Schedules, as provided in Article V of the RP77-19 Stipulation and Agreement.

The proposed effective date of the above tariff sheets is April 1, 1980.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before *Mar. 20, 1980.* 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. 80-7831 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-250]

United Gas Pipe Line Co.; Application

March 7, 1980.

Take notice that on February 22, 1980, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP80-250 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 8.7 miles of 8-inch pipeline and appurtenant facilities and a 750 horsepower compressor station all in Rusk County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has acquired the right to purchase a supply of gas in the South Henderson Area of East Texas. In order to connect this gas to its existing system, Applicant states it would be required to construct approximately 8.7 miles of 8-inch pipeline and appurtenant facilities.

Applicant proposes to deliver the South Henderson Area gas into its Carthage-Longview 20-inch line, which is operated at a pressure of approximately 700 psi, while the South Henderson Area gas is anticipated, to be delivered at a pressure of approximately 500 psi. Applicant states that it would therefore be necessary to install compression at the interconnection of the 8-inch South Henderson Area pipeline and Applicant's Carthage-Longview 20-inch pipeline at the Rusk County, Texas, location.

Applicant proposes to install a 750 horsepower packaged compressor station, which installation, it is stated, would consist of a natural gas reciprocating engine compressor and the appropriate fittings to connect to Applicant's existing system and would be situated on a proposed six-acre site approximately 20 miles northwest of Carthage, Panola County, Texas, and approximately 13 miles southeast of Longview, Gregg County, Texas. Cost of facilities is estimated to be $2,161,889 which Applicant would finance from internally generated funds, it is asserted.

Applicant states that the South Henderson Area volumes would be included in its general system gas supply and would help to alleviate, to the extent possible, the shortage of gas on the system of Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 31, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is

required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-7832 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-85-M

Office of Consumer Affairs

Review of Advisory Committees

The Department of Energy (DOE) is conducting a comprehensive review of its advisory committees in accordance with Office of Management and Budget Circular No. A-63, Transmittal Memorandum No. 5. Public comment is invited.

All agencies have been directed to conduct this review for each committee to determine (a) whether such committee is carrying out its purpose; (b) whether consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised; (c) whether it should be merged with other advisory committees; or (d) whether it should be abolished.

DOE is now in the process of conducting this review for the following committees:

Consumer Affairs Advisory Committee
Federal Photovoltaic Utilization Program Advisory Committee
Fossil Energy Advisory Committee
Fuel Oil Marketing Advisory
Gasoline Marketing Advisory Committee
High Energy Physics Advisory Panel
Local Government Energy Policy Advisory Committee
Advisory Committee on Atmospheric Carbon Dioxide
Energy Research Advisory Board
Environmental Advisory Committee
Inertial Fusion Advisory Committee
National Energy Extension Service Advisory Board

Committees which were established or renewed subsequent to October 1, 1979, are exempt from the review.

DOE is required to complete its review and submit its determination concerning continuation or termination of committees to the Committee Management Secretariat, GSA, not later than April 16, 1980. Therefore, any public comments and recommendations should be provided not later than March 28, 1980, to Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, Room 8G087, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Issued at Washington, D.C., on March 7, 1980.

Tina Hobson,

Advisory Committee Management Officer.

[FR Doc. 80-7808 Filed 3-12-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangements; U.S. and Japan; Peaceful Uses of Atomic Energy

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy and the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval of the following contracts:

DE-SCO5-80 LEU-0502, to CERCA, France, approximately 28.5 kilograms of uranium, enriched to about 45% U-235, for fabrication of fuel elements for the Reduced Enrichment Research and Test Reactor (RERTR) program.

DE-SCO5-80 LEU-0503, to Japan, approximately 14 kilograms of uranium, enriched to about 45% U-235, for fabrication of fuel elements for the RERTR program for the Kyoto University reactor.

DE-SCO5-80 LEU-0501, to NUKEM, West Germany, approximately 15 kilograms of uranium, enriched to about 45% U-235, and approximately 30 kilograms of uranium, enriched to about 20% U-235, for fabrication of fuel elements for the RERTR program.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than 15 days after the date of publication of this notice.

For the Department of Energy.

Dated: March 12, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-8042 Filed 3-12-80; 10:05 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[80T-132; FRL 1430-2]

Approval of Test Marketing Exemption From Premanufacture Notification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On January 16, 1980 EPA received an application from Hercules Incorporated of Wilmington, Delaware to manufacture a new chemical substance for test marketing purposes. The substance is dipropylene glycol polyester of byproducts from the manufacture of dimethyl ester of 1,4-benzenedicarboxylic acid. A Federal Register notice published on January 31, 1980 (45 FR 6998) announced the receipt of the exemption application. EPA has determined that Hercules' test marketing of the chemical substance will not present any unreasonable risk of injury to health or the environment. Therefore the Agency has granted Hercules an exemption from the TSCA premanufacture reporting requirements for the test marketing activity described in the application and this Federal Register notice. The exemption is effective immediately.

FOR FURTHER INFORMATION CONTACT: George Bagley, Notice Review Branch, Premanufacturing Review Division (PTS-794), Office of Pesticides and Toxic Substances, EPA, Washington, D.C., 20460 (202/426-3936).

SUPPLEMENTAL INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in or import into the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. Section (5)(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirement of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing

purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipts, and under section 5(h)(6) the Agency must publish a notice of its disposition in the Federal Register. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On January 16, 1980, EPA received an application from Hercules Incorporated for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a substance for test marketing purposes. A Federal Register notice published on January 31, 1980 (45 FR 6998) announced receipt of the exemption application and requested comment on the appropriateness of granting the exemption. The Agency received no comment concerning the application. The substance for which the exemption application was submitted is dipropylene glycol polyester of byproducts from the manufacture of dimethyl ester of 1,4-benzenedicarboxylic acid.

In the application, Hercules stated its intention to test market "mill run quantities" of this substance. Upon subsequent inquiry, the Agency was told by Hercules that less than 20,000 pounds of the material would be produced during test marketing. The application also states that the substance produced under the exemption application would be distributed in test quantities to up to 50 manufacturers of rigid urethane foam. These manufacturers will use the substance to produce the rigid urethane foam and conduct 90-day humidity aging tests and other performance tests on this foam. Hercules expects that its own manufacturing process and normal customer handling of the material will minimize the opportunity for worker exposure. Though no specific toxicological or worker exposure data were submitted in the test marketing application, Hercules provided such data in a premanufacture notice (PMN) for this chemical substance, submitted simultaneously with the exemption application. These data indicate that when full commercial production is achieved, a maximum of 10 persons will be exposed for ½ hour per day. Exposure will occur during sampling and analysis, changing filters, and loading of the material into tank cars or drums for shipment. Analytical samples taken by Hercules are put in land fills. Exposure during production of the urethane foam is expected to be minimal. The Agency, therefore, has assumed for purposes of deciding whether or not to grant this exemption that potential exposure during the production and use of this substance for test marketing will be no greater than that described in the PMN.

Data submitted by Hercules with the PMN also indicate that the substance has a low degree of acute toxicity. The data for the ester feedstock and for a related substance indicate that these substances are minimally irritating to the eye and slightly irritating to the skin. The oral LD_{50}'s (rat) were > 31,270 mg/kg and = 12,560 mg/kg. The Agency expects that the new substance would have a similar acute toxicity. No data were available with regard to potential chronic effects or carcinogenicity, teratogenicity, or mutagenicity but structure-activity relationships gave no cause for conern about these effects. With regard to ecological effects, the Agency has found no reason to anticipate hazards to invertebrates, plants, fish, mammals, birds, or microorganisms. The reasoning is based on the structure of the substance and on its appreciable water solubility which will cause the substance to dissipate in an aquatic environment. Bioabsorption is not expected to be a problem.

Because of the low level of concern regarding the toxicity of the substance and the anticipated exposure to it during test marketing, EPA has determined that the substance will not present any unreasonable risk of injury to health or the environment as a result of the test marketing activities described by Hercules. Accordingly, EPA grants Hercules an exemption, effective immediately, from the premanufacture reporting requirements for purposes of test marketing the dipropylene glycol ployester of byproducts from the manufacture of dimethyl ester of 1,4-benzenedicarboxylic acid in the manner described in the exemption application and in a letter sent to the manufacturer. Though Hercules did not provide specific production levels of the substance for the test marketing activity in the application, Hercules has since indicated that it expects to produce less than 20,000 pounds. Therefore, Hercules is restricted to producing no more than 20,000 pounds for use by its customers in producing rigid urethane foam for performance testing. This exemption is granted only for Hercules Incorporated.

A PMN for this substance was submitted on January 16, 1980. Receipt of the PMN by the Agency was acknowledged in the Federal Register on January 30, 1980 (45 FR 6833). The PMN review period expires on April 15, 1980. If the Agency, takes no regulatory action on the PMN under sections 5(e) or 5(f) of TSCA before April 15, and does not extend the notification period under section 5(c) of TSCA, TSCA will no longer preclude unrestricted production of the substance.

Dated: March 5, 1980

Douglas M. Costle,

Administrator.

[FR Doc. 80-7756 Filed 3-12-80; 8:45 am]

BILLING CODE 6560-01-M

[80T-11; FRL 1434-2]

Bis (Substituted-6,6,6-Triacryloyloxymethyl-4-Oxahexyl) Dimethyl-Disubstituted Heteromonocycle; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. Section 5(d)(2) requires EPA to publish in the Federal Register within 5 working days, after receipt, certain information about each PMN the Agency receives. This Notice announces receipt of a PMN on the chemical substance bis (substituted-6,6,6-triacryloyloxymethyl-4-oxahexyl) dimethyl-disubstituted heteromonocycle and provides a summary of certain information provided in the PMN.

DATE: Written comments by April 4, 1980.

ADDRESS: Written comments to: Documents Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, 202-755-8050.

FOR FURTHER INFORMATION CONTACT: Mr. Kirk Maconaughey, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, 202-426-2601.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substances to submit a PMN to EPA at least 90 days before manufacture or import. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the Federal

Register of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for a commercial purpose became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the Federal Register of January 10, 1979 (44 FR 2242). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the Federal Register nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the Federal Register.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended Federal Register notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

Once received, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) Federal Register notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the Federal Register.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, EPA is issuing the PMN set forth below.

PMN 80-25.

Close of Review Period. May 4, 1980.

Manufacturer's Identity. Claimed confidential.

Chemical Identity. Claimed confidential. Generic name provided: Bis (substituted-6,6,6-triacryloyloxymethyl-4-oxahexyl) dimethyl-disubstituted heteromonocycle.

Data. The following summary is taken from data submitted by the manufacturer in support of claims made in the application.

Production Volume. Claimed confidential.

Use. Coating on supporting substrates.

Physical Properties.

Physical state: Liquid.

Oral toxicity (rat): LD_{50} 500 mg/kg.

Eye irritation (rabbit): Extreme irritant.

Skin irritation (rabbit): Moderate irritant.

Ames Salmonella assay: Not mutagenic.

Saccharomyces cerevisiae D3 assay: Not recombinogenic.

Chemical Properties.

Chemical oxygen demand: mg/kg; 1,600,000.

Biological oxygen demand: 5 day, mg/kg; 6,400.

Biological oxygen demand: 10 day, mg/kg; 15,000.

Biological oxygen demand: 20 day, mg/kg; 27,000.

Human Exposure.

During Manufacture.

Because of the relatively small amounts of this chemical substance to be produced, we expect a minimum of exposure to workers involved. It involves a closed system reaction with potential worker exposure resulting from skin contact during the process of removing the chemical from the reaction vessel and filling the containers for storage. Exposure to raw materials involved in the manufacture will be minimized by the use of safety equipment provided by the company and by following standard industrial hygiene practices.

During Processing.

Workers processing this chemical substance will follow the industrial hygiene regulations in force throughout the plant. Any special precautions of concern to the workers will be listed on the processing instructions and called to the attention of the foreman in charge. Worker exposure (skin contact) will be minimized by the use of safety equipment provided by the company.

In Commerce.

The user of products containing this chemical substance will either receive the article having the substance factory coated and cured to a polymeric state or will receive coated products containing this chemical substance in an unreacted condition. Square footage handled by a customer in the unreacted state could vary from several up to about 300 square feet per day. Exposure will come from skin contact when the coated article is handled. Contact may also be made when approximately 90% of the chemical substance is removed by the user from the coated material and disposed of according to local environmental regulations.

Disposal during Manufacture and Processing.

The reaction and mixing vessels will be rinsed with solvent which will then be destroyed in company controlled incinerators.

Interested persons may, on or before April 4, 1980, submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[80T-11]". Comments received may be seen in the above office between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays. (Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604)).

Dated: March 4, 1980.

John P. Dekany,

Deputy Assistant Administrator for Chemical Control.

[FR Doc. 80-7735 Filed 3-12-80; 8:45 am]

BILLING CODE 6560-01-M

[80T-38; FRL 1434-1]

Polymer of Butyl Acrylate, Methyl Methacrylate, Hydroxethyl Methacrylate, Hydroxyl Propyl Acrylate, and Acrylic Acid; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. Section 5(d)(2) requires EPA to publish in the Federal Register within 5 working days, after receipt, certain information about each PMN the Agency receives. This Notice announces receipt of a PMN on the chemical substance polymer of butyl acrylate, methyl methacrylate, hydroxethyl methacrylate, hydroxyl propyl acrylate, and acrylic acid and provides a summary of certain information provided in the PMN.

DATE: Written comments by April 4, 1980.

ADDRESS: Written comments to: Documents Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460, 202-755-8050.

FOR FURTHER INFORMATION CONTACT: Ms. Mary-Margaret Zemrose, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460, 202-426-3980.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the Federal Register of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for a commercial purpose became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the Federal Registers of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the Federal Register nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identify of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the Federal Register.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended Federal Register notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

Once received, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) Federal Register notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the Federal Register.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is issued below.

PMN 80-30.

Close of Review Period. May 4, 1980.

Manufacturer's Identity. Jones Blair Company, P.O. Box 35286, Dallas, TX 75235.

Specific Chemical Identity. Polymer of Butyl Acrylate, Methyl Methacrylate, Hydroxethyl Methacrylate, Hydroxyl Propyl Acrylate, and Acrylic Acid.

Data. The following summary is taken from data submitted by the manufacturer in support of claims made in the PMN.

Use. Painting aluminum extrusions.

Physical state. Liquid.

Exposure.

	Exposure route(s)	Maximum number persons exposed	Maximum duration		Concentration (ppm)	
			Hour/day	Day/year	Average	Peak
Manufacture	Dermal	6	16	250	0-1	100
Processing	Dermal	10	8	250	0-1	100

Production Estimates.

Production year		Minimum	Maximum
		(Kilograms/pounds)	
First year	[1] 7,500	4,000	10,000
Second year	[1] 15,000	8,000	20,000
Third year	[1] 22,500	12,000	30,000

[1] Kilogram.

The manufacturer submitted no test data because he considers the product to be non-toxic.

Interested persons may, on or before April 4, 1980, submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St. SW., Washington, D.C. 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control

number "[80T-38]". Comments received may be seen in the above office between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604).) Q02

Dated: March 6, 1980.

John P. Dekany,

Deputy Assistant Administrator for Chemical Control.

[FR Doc. 80-7753 Filed 3-12-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1433-8]

Science Advisory Board, Clean Air Scientific Advisory Committee; Open Meeting

Notice is hereby given that the location for a meeting of the Clean Air Scientific Advisory Committee has been changed. Information concerning the meeting, to be held March 17, 18, 1980, originally appeared in the Federal Register on February 28, 1980, p. 13191. The new location is the Twin Bridges Marriott Hotel, Arlington, Virginia. The agenda for the meeting remains the same as originally advertised in the Federal Register.

Richard M. Dowd,

Director, Science Advisory Board.

March 5, 1980.

[FR Doc. 80-7751 Filed 3-12-80; 8:45 am]

BILLING CODE 6560-01-M

[80T-99; FRL1433-7]

TSCA Chemical Assessment Series; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing the availability of the TSCA Chemical Assessment Series. This series contains information received and evaluated by EPA.

FOR FURTHER INFORMATION CONTACT:

Information for or Comments on Volumes

Director, Assessment Division (TS-792), Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency, 401 "M" Street, SW., Washington, D.C. 20460, (202/755-1500).

Ordering

Industry Assistance Office, U.S. Environmental Protection Agency, 401 "M" Street, SW., Washington, D.C. 20460, Toll Free: (800-424-9065), Washington, D.C.: (554-1404).

SUPPLEMENTARY INFORMATION: Reports developed by scientists in EPA's Office of Testing and Evaluation, Office of Pesticides and Toxic Substances (OPTS), in the course of implementing provisions of the Toxic Substances Control Act (TSCA), will be published periodically and made available to the public in the TSCA Chemical Assessment Series. Some of the volumes in the series are reports on single chemicals; others are compendiums of information received and evaluated by the Agency about many chemicals. (The anticipated frequency of publication will vary among titles: some will be published annually, some semiannually, and others quarterly.) The titles that constitute the TSCA Chemical Assessment Series follow:

Chemical Screening: Initial Evaluations of Substantial Risk Notices, section 8(e), (date)——— to ———

Chemical Screening: Initial Evaluations of Published or Submitted Data, (date)——— to ———

Chemical Screening: Exposure and Hazard Scoring of Chemicals

Chemical Hazard Information Profiles (CHIPS), (date)——— to ———

Assessment of Testing Needs: (Name of Chemical)

Chemical Problem Assessment: Priority Review Level 1 (Name of Chemical)

Chemical Problem Assessment: Priority Review Level 2 (Name of Chemical)

Preliminary Risk Assessment: Phase I: (Name of Chemical)

Risk Assessment in Support of Regulatory Decision Making: Phase II (Name of Chemical)

The chemical risk assessment process performed in OPTS is a sequential one in which chemical problems are evaluated in greater detail at each succeeding stage of the process.

Preliminary screens of submitted or published data set priorities and directions for further information gathering and evaluations; detailed evaluations support decisions on the need for testing or control regulations under TSCA. This variety in the scope and depth of the chemical risk assessment process is reflected in the titles in the series.

Because the chemical assessments published in this series often will reflect initial or intermediate steps in EPA's evaluation of a chemical under TSCA, the Agency welcomes the submission of additional information for or comments on its evaluations. Such submissions will be considered either at a subsequent step in the assessment of the subject chemical or in the decision not to proceed with further evaluation.

All information for or comments on volumes in the TSCA Chemical Assessment Series should be submitted to: Director, Assessment Division (TS-792), Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency, 401 "M" Street, SW, Washington, D.C. 20460.

The first volumes in the series that will be made available are "Chemical Screening: Initial Evaluations of Substantial Risk Notices, Section 8(e), January 1, 1977, to June 30, 1979," and "Chemical Hazard Information Profiles (CHIPS), August 1, 1976, to November 20, 1979."

Distribution of the TSCA Chemical Assessment Series will be made through the Industry Assistance Office (IAO) in OPTS. IAO will maintain two mailing lists: a subscription list of persons who want to receive all volumes in the series and a notification list of persons who want to receive announcements of individual volumes as they become available.

In addition, the trade and scientific press and trade and professional associations will be notified of the availability of individual volumes. Persons on the subscription list will automatically receive the volumes in the series, and a copy will be sent to the manufacturers of a volume's subject chemical substance, known to OPTS through the public TSCA Chemical Substances Inventory. Requests for a volume can be made by persons on IAO's notification list by telephoning the Industry Assistance Office (toll-free 800-424-9065 or, in Washington, D.C., 554-1404) or writing to IAO at the address given below. To sign up for either the subscription or the notification list, please complete and return the coupon below.

TSCA Chemical Assessment Series
Industry Assistance Office (TS-799)
OPTS—U.S. E.P.A.
401 "M" Street, S.W.
Washington, D.C. 20460
Date———

Please enter my name on:

[ ] the subscription list to receive all the publications in the series

[ ] the notification list to receive announcements of each volume so that I may ascertain if I am interested in requesting a copy.

(Name)

(Company/Organization)

(Address or P.O. Box)

(City) (State) (Zip)

Generally, five thousand copies of each volume will be printed. After this supply is exhausted, copies can be purchased from the National Technical Information Service (NTIS), whose "PB" reference number can be found in the OPTS "Comprehensive List of Scientific

and Technical Reports," also available from IAO.

Dated: March 5, 1980.

Steven D. Jellinek,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 80-7752 Filed 3-12-80, 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 80-88; FCC 80-93]

American Communications Systems, Inc.; Show Cause Order To Modify Public Mobile Radio Services License

AGENCY: Federal Communications Commission.

ACTION: Show Cause Order to modify Public Mobile Radio Services license. Also a new delegation of authority to Common Carrier Bureau.

SUMMARY: The Commission issues an Order to Show Cause, under Section 316 of the Communications Act of 1934. The Show Cause Order looks toward modifying the Public Mobile Radio Services license of American Communications Systems, Inc. (ACS), by deleting two base station locations where severe television interference has been reported. An expedited proceeding is scheduled in which the record will be certified to the Commission for final action. The Commission also delegates authority to the Common Carrier Bureau to order expedited proceedings in cases which involve electrical interference and which require expedited action.

DATE: Non-Applicable.

FOR FURTHER INFORMATION CONTACT: Myron C. Peck, Common Carrier Bureau, (202) 632-6450.

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

SUPPLEMENTARY INFORMATION:

Adopted: February 28, 1980.

Released: March 4, 1980.

By the Commission: Commissioner Lee absent.

In the matter of American Communication Systems, Inc., 3019 East Point Street, Atlanta, Georgia 30334, Domestic Public Land Mobile Radio Service Station KIG300, CC Docket No. 80-88.

1. We are initiating a proceeding to consider the modification of the license of American Communication Systems, Inc. (ACS), to operate Station KIG300 in the Domestic Public Land Mobile Radio Service (DPLMRS) in the Atlanta, Georgia, area.

2. ACS is presently authorized to provide one-way signalling (paging) service to the public in the Atlanta, Georgia, area, including residential areas such as Conyers, Georgia, and Lawrenceville, Georgia. ACS is authorized to operate on paging frequency 43.58 MHz. The Commission has received numerous complaints of television interference caused by the ACS one-way paging operation in the Conyers and Lawrenceville areas.[1] Commission personnel in the Atlanta regional office estimate that two to three dozen telephone complaints have been received as well as six written complaints. In Lawrenceville the interference problem affects a hospital, a nursing home, businesses, and 40-50 residences. The interference problems are so severe in Conyers that the ACS station is no longer in operation.[2]

3. ACS has applied for an alternative frequency and informal attempts have been made by the parties to resolve this matter. The informal efforts have to date failed to relieve the interference. Furthermore, the alternative frequency sought by ACS cannot be granted without a waiver of a nationwide allocation structure. Such a waiver potentially involves complex legal, factual, and policy questions which go beyond the scope of the local situation in Atlanta. It thus appears possible that the efforts of ACS cannot in the near future be successful in resolving the interference problem. It is therefore essential to the public interest that the Commission act promptly to respond to the local interference problems in Conyers and Lawrenceville, Georgia.

4. Because of the serious nature of the interference problem and the necessity for prompt action, the Commission will dispense with the initial decision and issue a final decision based upon the record developed in this proceeding. The Commission may dispense with the initial decision of a presiding officer where the Commission finds that "due and timely execution of its functions imperatively and unavoidably so requires." Section 1.274 of the Rules; Section 409(a) of the Communications Act of 1934, as amended; and Administrative Procedure, 5 U.S.C. 557. We have examined the matters submitted by the parties to this proceeding and, in view of the seriousness of the interference situation, we believe that the problem must be resolved as expeditiously as possible. Therefore, we shall direct that the designated Administrative Law Judge immediately certify the record to us.

5. Accordingly it is ordered, that, pursuant to Section 316(a) of the Communications Act of 1934, as amended, American Communication Systems, Inc., show cause why the authorization of DPLMRS Station KIG300, Atlanta, Georgia, should not be modified to delete Location No. 3 at Lawrenceville, Georgia, and Location No. 5 at Conyers, Georgia.[3]

6. It is further ordered, That the designated Administrative Law Judge is directed to certify the record in this show cause proceeding to the Commission for final decision without the issuance of an initial decision. For purposes of assisting the Commission in preparing the final decision, a staff member (Michael A. Menius) will be separated from the rest of the staff and is hereby designated a decision-making person in this proceeding.

7. It is further ordered, That, in order to avail itself of the opportunity to be heard, the respondent, pursuant to § 1.87(c) of the Commission's rules, shall, within 30 days of the mailing of this order, notify the Commission in writing that the respondent requests a hearing and will appear at the hearing and present evidence on the matters specified in this Order, such hearing, if requested[4] to be held at a time and

[1] ACS does not dispute that its paging operations on frequency 43.58 MHz are the electrical source of the television interference.

[2] The landlord of the Conyers tower site has suspended operations for ACS on 43.58 MHz because of threats from individuals experiencing television interference.

[3] None of the exclusions of Section 0.291, 47 CFR 0.291 are applicable to show cause orders, whether issued for revocation of authorization pursuant to Section 312 of the Communications Act of 1934, 47 U.S.C. 312, or issued for modification of authorization pursuant to Section 316 of the Communcations Act. We also delegate to the Bureau the authority to order an expedited proceeding under rules § 1.274 in cases involving electrical interference where the Bureau determines that due and timely execution of its functions imperatively and unavoidably requires that the record be certified to the Commission for final decision. This delegation is made under rules §§ 0.91 and 0.291 and under Section 5 of the Communications Act of 1934 as amended. Thus, in future cases involving this issue, we expect the Bureau to issue the show cause order and invoke expedited procedures where necessary.

[4] Sec. 1.87(c) of the Commission's rules provides that a licensee or permittee, in order to avail itself of the right to request a hearing and of the opportunity to appear and give evidence on the matters specified in an order to show cause, shall, in person or by attorney, file with the Commission, within the time specified in the order, a written statement stating that it requests a hearing and will appear at the hearing and give evidence on the matters specified in the order. Sec. 1.87 of the Commission's rules provides that if the licensee or permittee fails to timely file the written request required by § 1.87(c) or, having filed such a written request, fails to appear at the hearing, either in person or by attorney, such failure shall be deemed to constitute a waiver of the right to a hearing and shall be considered as consent to the modification of the licenses or permits. Where the right to request a hearing has been waived, a written statement may

Footnotes continued on next page

place to be specified in a subsequent order, but in no event less than 30 days after receipt of this order.

8. It is further ordered, That the Secretary of the Commission shall send a copy of this order by certified mail, return receipt requested, to American Communication Systems, Inc., at the above-captioned address.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 80-7700 Filed 3-12-80; 8:45 am]
BILLING CODE 6712-01-M

[FCC 80-61]

EEO Processing Guidelines Changed for Broadcast Renewal Applicants

February 13, 1980.

The Commission has authorized its Broadcast Bureau to apply revised criteria for the selection of stations for in-depth review of their equal employment opportunity performance at license renewal time. Effective with the renewal cycle beginning April 1, 1980, and continuing for the entire three-year cycle, the following are the revised processing guidelines:

a. Stations with less than 5 full-time employees will continue to enjoy exemption from having a written EEO program.

b. Stations with 5 to 10 full-time employees will have their EEO programs reviewed if minority groups and/or women are not employed on their full-time staffs at a ratio of 50 percent of their workforce availability overall and 25 percent in the upper-four Form 395 job categories. The upper-four job categories are officials and managers, professionals, technicians, and sales.

c. Stations with 11 or more full-time employees will have their EEO programs reviewed if minority groups and/or women are not employed full-time at a ratio of 50 percent of their availability in the workforce overall and 50 percent in the upper-four job categories.

d. In addition, all stations with 50 or more full-time employees will have their EEO programs reviewed.

Under the previous guidelines, stations with five to ten full-time employees were subject to in-depth EEO review at license renewal time only if their employment record showed no females or minorities employed during the license term or if no females or minorities were in the top four job categories. Stations employing eleven or more full-time employees were subject to the 50/25 processing guideline which is now being applied to stations with five to ten full-time employees, as described above. No entire group of stations received complete review as will now take place with stations employing 50 or more full-time workers.

Nearly half of the broadcast industry's employees work at stations with 50 or more full-time workers. Those stations are also the only ones that are currently required to submit job classification data. Thus, in-depth review of these stations will help the Commission to determine whether broadcasters are corrently classifying minority and female employees by FCC-designated job categories.

Although complete review of all renewal applications remains the goal, this expanded oversight is a significant step in that direction. It was made possible by the recent reorganization of the Broadcast Bureau. An EEO Branch was established in the Renewal and Transfer Division with an increased staff of EEO specialists.

In adopting these revised standards, the Commission noted that the current ones had been in place for a complete three year renewal cycle. By April, 1980, every station covered by the guidelines will have had its EEO performance evaluated under the same standards.

The use of processing standards enables the Broadcast Bureau to focus on those renewal applicants having the worst EEO performance records. Approximately 3,000 renewal applications are processed every year, a volume that precludes in-depth review of each. In 1977, the Court, commenting specifically on the 50/25 standard, said that it expected the Commission to adopt a more stringent view of the acceptable "zone of reasonableness" as EEO plans had additional time to yield results. Similarly, the Commission noted in 1975 that "(t)he zone of reasonableness is a dynamic concept, which contracts as licensees are given time to implement our anti-discrimination rules and policies."

Action by the Commission February 13, 1980. Commissioners Feris (Chairman), Lee, Fogarty and Brown, with Commissioner Quello concurring in the result, Commissioner Washburn approving in part, dissenting in part and issuing a statement, and Commissioner Jones concurring in part and dissenting in part.

Federal Communications Commission.
William J. Tricarico,
Secretary.
February 13, 1980.

Statement of Commissioner Abbott Washburn Approving In Part and Dissenting in Part; Re: Renewal Agenda Item #4—EEO Requirements

I am dissenting only to that part of this item which imposes a 50/25 processing standard on licensees with 5 to 10 employees. Along with the other members of the Commission, I am alert to the importance of equal employment and am proud of the FCC's record in this regard. But I believe the imposition of the requirement to employ minority groups and/or women on fulltime staffs at a ratio of 50% of the workforce availability and 25% in the upper four (Form 325) job categories is not realistic for such small stations. These stations already have an EEO obligation. To impose stringent additional requirements will prove counterproductive, in my opinion.

I also believe it would have been more judicious and better regulatory practice had the Commission prescribed a date some time in the future for these new processing standards to become effective. This would have allowed licensees appropriate time in which to plan for and to achieve the new EEO goals. Instead, the new standards are becoming effective almost immediately. We were assured by the Staff, however, that it will not be looking for immediate compliance.

[FR Doc. 80-7702 Filed 3-12-80; 8:45 am]
BILLING CODE 6712-01-M

[BC Docket No. 80-92]

GBE, Inc.; Order To Show Cause

Adopted: February 28, 1980.

Released: March 4, 1980.

By the Commission: Commissioner Lee absent.

In the matter of revocation of the license of GBE, Inc., Station KLSN(FM), Brownwood, Texas, BC Docket No. 80-92.

1. The Commission has before it for consideration the outstanding license of GBE, Inc., to operate Radio Station KLSN(FM), Brownwood, Texas, and the Commission's field inquiry concerning the operation of that station.

2. Information before the Commission raises the following questions:

(a) Whether, in light of all the facts and circumstances pertaining thereto, the licensee in any or all of three applications for additional time to construct (FCC Form 701) filed with the

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Footnotes continued from last page
be filed within the period of time specified in the order, showing with particularity why the licenses or construction permits should not be modified as proposed in the order. In such a case, the Commission may, depending upon the facts alleged and the proof offered, require additional information under oath, designate the matter for hearing, or issue, without further proceedings, an order modifying the licenses or construction permits as proposed in the show cause order.

Commission on April 27, 1978, September 25, 1978 and March 29, 1979, respectively, misrepresented facts to the Commission and/or was lacking in candor.

(b) Whether the licensee misrepresented to the public and its advertisers the operating power authorized for Station KLSN(FM) by the Commission pursuant to a construction permit (File No. BPH-996, as mod.) granted June 10, 1977 and modified July 16, 1979.

(c) Whether, in light of the evidence adduced under the preceding questions, the licensee possesses the requisite qualifications to remain a licensee of the Commission.

3. Information relating to the above questions has come to the attention of the Commission since grant of the renewal of license of KLSN(FM). This information would, if substantiated, warrant a refusal to grant a license or permit or an original application, and raises serious questions, best resolved in a hearing, as to whether GBE, Inc., has the qualifications to be a licensee of the Commission.

4. Accordingly, it is ordered, That pursuant to the provisions of Section 312(a)(2) and (4) of the Communications Act of 1934, as amended, GBE, Inc., is directed to show cause why an Order revoking the license of KLSN, Brownwood, Texas, should not be issued and to appear and give evidence as to the matters raised in paragraph 2, at a hearing to be held at a time and location specified in a subsequent Order, that time to be no less than thirty days from the receipt of the Order.

5. It is further ordered, That the Chief of the Broadcast Bureau is directed to serve upon GBE, Inc., a bill of particulars regarding the matters referred to in questions (a) and (b), set out in paragraph 2, within thirty days of the release of this Order.

6. It is further ordered, That pursuant to Section 312(d) of the Communications Act of 1934, as amended, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Broadcast Bureau.

7. It is further ordered, That to avail itself of the opportunity to be heard, the licensee, pursuant to Section 1.91(c) of the Commission's Rules, in person or by attorney, shall file with the Commission within thirty days of the receipt of the Order to Show Cause a written appearance stating that he will appear at the hearing and present evidence on the matters specified in the Order. If the licensee fails to file an appearance within the time specified, the right to a hearing shall be deemed to have been waived. See § 1.92(a) of the Commission's rules. Where a hearing is waived, a written statement in mitigation or justification may be submitted within thirty days of the receipt of the Order to Show Cause. See § 1.92(b) of the Commission's rules. In the event the right to a hearing is waived, the presiding officer or the chief administrative law judge, if no presiding officer has been designated, will terminate the hearing proceeding and certify the case to the Commission in the regular course of business and an appropriate Order will be entered. See §§ 1.92 (c) and (d) of the Commission's rules.

8. It is further ordered, That the Secretary of the Commission send a copy of this Order to Show Cause by certified mail—return receipt requested, to GBE, Inc., licensee of KLSN(FM), Brownwood, Texas.

Federal Communications Commission.

William Tricarico,

Secretary.

[FR Doc. 80-7699 Filed 3-12-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 80-84, 80-86; File Nos. BRH-791219UB, etc.; FCC 80-76]

Near North Broadcasting, Inc., et al.; Designating Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order

Adopted: February 13, 1980.

Released: March 5, 1980.

In re applications of Near North Broadcasting, Inc., Marinette, Wisconsin. For renewal of license of Radio Station WLST(FM), BC Docket No. 80-84, File No. BRH-791219UB, BRSCA-791219UB; Marinette Central Broadcasting Co.,[1] Marinette, Wisconsin. For renewal of license of Radio Station WMAM, BC Docket No. 80-85, File No. BR-791219UA; CJL Broadcasting, Inc., Marinette, Wisconsin. For renewal of license of Radio Station WCJL, BC Docket No. 80-86, File No. BR-790731VZ.

1. The Commission has before it for consideration the above-captioned license renewal applications and its inquiries into the operation of Radio Stations WMAM, WLST(FM), and WCJL.[2]

2. Information before the Commission raises serious questions as to whether the applicants possess the qualifications to remain licensees of the captioned stations. In view of these questions, the Commission is unable to find that a grant of the renewal applications would serve the public interest, convenience and necessity, and must, therefore, designate the applications for hearing.

3. Accordingly, it is ordered, that the captioned applications are designated for consolidated hearing pursuant to Section 309(e) of the Communications Act of 1934, as amended, at a time and place to be specified in a subsequent Order, upon the following issues:

(a) To determine whether the licensee Near-North Broadcasting, Inc., licensee of Radio Station WLST(FM); Marinette Central Broadcasting Co., licensee of Radio Station WMAM; and CJL Broadcasting, Inc., licensee of Radio Station WCJL, engaged in anti-competitive practices by combining or conspiring to arrange their commercial advertising rates.

(b) To determine whether the activities, if any, described in issue (a), above, resulted in the arrangement of commercial advertising rates by Near-North Broadcasting, Inc., licensee of Radio Station WLST(FM), Marinette Central Broadcasting Co., licensee of Radio Station WMAM, and CJL Broadcasting, Inc., licensee of Radio Station WCJL.

(c) To determine, in light of the evidence adduced under the preceeding issues, whether the licensees of Radio Stations WMAM, WLST(FM), and WCJL have the requisite qualifications to be or remain licensees of the Commission and whether a grant of the captioned applications would serve the public interest, convenience and necessity.

4. It is further ordered, that the Chief of the Broadcast Bureau is directed to serve upon the captioned applicants within thirty (30) days of the release of this Order a Bill of Particulars with respect to issues (a) and (b).

5. It is further ordered, that the Broadcast Bureau proceed with initial presentation of evidence with respect to issues (a) and (b) and the applicants then proceed with their evidence and have the burden of establishing that they possess the requisite qualificatins to be and to remain licensees of the Commission and that a grant of the applications would serve the public interest, convenience and necessity.

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[1] Marinette Central Broadcasting Co. is the wholly owned subsidiary of Near-North Broadcasting, Inc.

[2] Because the captioned applications of Near-North and Marinette Central were not timely filed, they are subject to the provisions of §§ 1.516(e) of the Commission's rules concerning competing applications for construction permits and 1.580(i) concerning petitions to deny. In addition, since the staff has not yet had an opportunity to process Near-North's captioned applications fully, the Bureau is not precluded from seeking issue enlargement concerning any matters disclosed during staff processing.

6. It is further ordered, that to avail itself of the opportunity to be heard, the applicants, pursuant to § 1.221 of the Commission's rules, in person or by attorney, shall, within twenty (20) days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for hearing and present evidence on the issues specified in this Order.

7. It is further ordered, that the applicants herein, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules shall give notice of the hearing within the time and in the manner prescribed in such rule and shall advise the Commission thereof as required by § 1.594(g) of the rules.

8. It is further ordered, that the Secretary of the Commission send a copy of this Order by Certified Mail—Return Receipt Requested, to Near-North Broadcasting, Inc., licensee of Radio Station WLST(FM), Marinette, Wisconsin, Marinette Central Broadcasting Co., licensee of Radio Station WMAM, Marinette, Wisconsin, and to CJL Broadcasting, Inc., licensee of Radio Station WCJL, Marinette, Wisconsin.[3]

Federal Communication Commission.
William J. Tricarico,
Secretary.

[FR Doc. 80-7701 Filed 3-12-80; 8:45 am]
BILLING CODE 6712-01-M

Fourth Meeting of the Advisory Committee on AM Broadcasting in Region 2

March 10, 1980.

Pursuant to Pub. L. 92-463, notice is hereby given of the fourth meeting of "The Advisory Committee on AM Broadcasting in Region 2" on Tuesday, April 8, 1980, beginning at 9:30 a.m. in Room A-110 of the FCC Annex, 1229 20th Street, NW., Washington, D.C.

The Agenda will be as follows:

1. Call to order by the Chairman
2. Announcements
3. Approval of minutes of previous meeting
4. Briefing on First Session of Region 2 Conference
5. New assignments to Task Forces
6. Other Business
7. Next meeting date and adjournment

All interested parties are invited to attend, and may submit comments, in writing, addressed to Mr. Charles H. Breig, Broadcast Bureau, Federal Communications Commission, 2025 "M" Street, NW., Room 8002, Washington, D.C. 20554.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 80-7767 Filed 3-12-80; 8:45 am]
BILLING CODE 6712-01-M

[3] The Commission also has under consideration an application (File No. BTC-791119GT) for voluntary acquisition of positive control of CJL Broadcasting, Inc., by the present 50% stockholder, Leon R. Felch. Action on this application will be held in abeyance pending the conclusion of the hearing ordered herein. See *Jefferson Radio Company, Inc.* v. *FCC*, 340 F. 2d 781, 783 (D.C. Cir. 1964), *Walton Broadcasting Co.*, 28 FCC 2d 111 (1071), and *Bi-County Broadcasting Corporation*, 34 FCC 2d 1117 (1972).

FEDERAL MARITIME COMMISSION

Transocean Lines, Inc. and Orient Overseas Line, Inc.; Order of Revocation

Certificate of financial responsibility for indemnification of passengers for nonperformance for transportation No. P-121 and certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages No. C-1,117. Transocean Lines, Inc. and Orient Overseas Line, Inc., c/o Orient Overseas Services, Inc., 510 Montgomery Street, San Francisco, California 94111.

Whereas, Transocean Lines, Inc. and Orient Overseas Line, Inc. have ceased to operate the passenger vessel Oriental Empress to and from United States ports;

It is ordered, that Certificate (Performance) No. P-121 and Certificate (Casualty) No. C-1,117 issued to "Transocean Lines, Inc. and/or Orient Overseas Line, Inc. (Orient Overseas Line)" covering the Oriental Empress, be and are hereby revoked effective March 6, 1980. *It is further ordered,* that a copy of this Order be published in the Federal Register and served on certificants.

By the Commission March 6, 1980.
Francis C. Hurney,
Secretary.

[FR Doc. 80-7862 Filed 3-12-80; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Dominion Bankshares Corp.; Acquisition of Bank

Dominion Bankshares Corporation, Roanoke, Virginia, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Valley of Virginia Bankshares, Inc., Harrisonburg, Virginia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 7, 1980. 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, March 5, 1980.
William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 80-7703 Filed 3-12-80; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

Statewide Professional Standards Review Council of Missouri; Request for Nominations for Public Member Positions on the Council

There are four public representatives on the Statewise Council. Membership terms for two of those representatives will expire on April 30, 1980.

Professional Standards Review Organizations (PSROs) review medical care services paid for under the Medicare, Medicaid, and Maternal and Child Health and Crippled Children Services programs in order to assure that those services are medically necessary, of acceptable quality, and provided at the appropriate level of care.

Statewide Councils are established in States that have three or more PSROs to: (1) Help to coordinate PSRO activities and disseminate information among them; (2) assist the Secretary in the development of uniform data gathering and operating procedures; (3) review certain determination and recommendations made by PSROs as a result of their reviews of medical care; (4) work with doctors and other practitioners and with medical facilities so that they will assure that medical care provided is necessary, appropriate, and of acceptable quality; and (5) assist the Secretary to carry out several of his responsibilities, including the evaluation of PSROs' review activities and the designation of replacement PSROs when necessary.

Nominees for public representatives are considered on the basis of whether they are:

(1) Knowledgeable about health care provided in Missouri under the Medicare, Medicaid, and maternal and Child Health and Crippled Children Services programs;

(2) Willing and able to represent the interests of the public; and

(3) Willing and able to discharge the responsibilities of membership in the Statewide Council.

Special consideration will be given to qualified individuals who are not affiliated with:

(1) Organizations and groups that must, under law, be represented on the Council (PSROs and physician groups); or

(2) Organization and groups that must, under law, be represented on the Council's Advisory Group (hospitals and other health care facilities and health care practitioners other than physicians).

Please include biographical data which demonstrate each nominee's qualifications, particularly their knowledge of health care in the State and their willingness and ability to represent the interests of the public. Persons or organizations may submit nominations to: Gene Hyde, Regional Administrator, Health Care Financing Administration, DHEW, Federal Office Building, Room 235, 601 East 12th Street, Kansas City, Missouri 64106.

After consideration of all nominations received within 60 days of this Notice, the Secretary will appoint two new public representatives.

For further information about the nature and functions of the Council and the role of public members in Council activities, please call the Office of the Regional Administrator, HCFA, (816) 374-5233.

Dated: March 6, 1980.

Gene Hyde,

Regional Administrator, Health Care Financing Administrator.

[FR Doc. 80-7684 Filed 3-12-80; 8:45 am]

BILLING CODE 4110-35-M

Health Services Administration

Sudden Infant Death Syndrome Program; Announcement of Competitive Grant Application; Correction

The Bureau of Community Health Services (BCHS), Health Services Administration, in a notice in the Federal Register on February 21, 1980 (45 FR 11535), announced that competitive applications for Sudden Infant Death Syndrome (SIDS) Information and Counseling project grants are now being accepted under the grant program established by section 1121(b) of the Public Health Service Act (42 U.S.C. 300c-11).

Under item G in the notice, Closing Dates for Receipt of Applications, two dates were given. The second of the two dates was incorrect. The correct date is June 20, 1980.

Dated: February 29, 1980.

John H. Kelso,

Deputy Administrator.

[FR Doc. 80-7685 Filed 3-12-80; 8:45 am]

BILLING CODE 4110-84-M

National Institutes of Health

Consensus Development Conference on Fibrinolytic Therapy in Thrombosis

Notice is hereby given of a Consensus Development Conference on Fibrinolytic Therapy in Thrombosis, sponsored by the National Heart, Lung, and Blood Institute and the Food and Drug Administration, April 10-12, 1980 in Masur Auditorium, Building 10, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

This meeting will be open to the public on April 10, from 9:00 a.m. to 5:00 p.m.; on April 11, from 8:30 a.m. to 4:30 p.m., and on April 12, 9:00 a.m. until conclusion. Attendance will be limited to space available. The first day of the conference will be devoted to the basic physiology and biochemistry of the fibrinolysis system. The second day will center on clinical aspects of fibrinolysis. The consensus statement will be presented on the morning of the third day.

For detailed program information, agenda, list of participants and meeting summary, contact: Dr. Anne P. Ball, Chief, Blood Diseases Branch, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, NIH Federal Building, Room 5C10, Bethesda, Maryland 20205 (301) 496-5911.

Dated: March 5, 1980.

Suzanne L. Fremeau,

Committee Management Officer; National Institutes of Health.

[FR Doc. 80-7725 Filed 3-12-80; 8:45 am]

BILLING CODE 4110-08-M

Office of Education

Nationally Recognized Accrediting Agencies and Associations; Revisions To List

For purposes of determining eligibility for Federal assistance, pursuant to 20 U.S.C. 1141(a) and other legislation, beginning with the Veterans' Readjustment Assistance Act of 1952, the U.S. Commissioner of Education hereby publishes revisions to the list of nationally recognized accrediting agencies and associations which he determines to be reliable authorities as to the quality of training offered by educational institutions either in a geographical area or in a specialized field, and the general scope of recognition granted to the accrediting bodies.

These revisions may be added to the list previously promulgated by the Commissioner of Education on January 19, 1979, 44 FR 4017-4020.

National Institutional and Specialized Accrediting Agencies and Associations

Additions

Dance and Theater Education

Joint Commission on Dance and Theater Accreditation, sponsored by the National Association of Schools of Art and the National Association of Schools of Music (independent dance and theater schools)

Microbiology

American Academy of Microbiology, Committee on Postdoctoral Educational Programs (postdoctoral programs)

Changes in Scope of Recognition

Blood Bank Technology

American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Subcommittee on Accreditation, American Association of Blood Banks (programs for the blood bank technologist)

Interior Design Education

Foundation for Interior Design Education Research, Committee on Accreditation (programs of interior design in junior and community colleges, trade and technical schools, professional schools, baccalaureate level schools and colleges and graduate schools)

Occupational, Trade and Technical Education

National Association of Trade and Technical Schools, Accrediting Commission (private trade and technical schools, including associate and baccalaureate degrees, and all resident course offerings of a private school primarily engaged in trade or technical training)

Podiatry

American Podiatry Association, Council on Podiatry Education (colleges of podiatric medicine, including first professional

degree and graduate degree programs in podiatry)

Psychology

American Psychological Association, Committee on Accreditation (doctoral programs in clinical, counseling, and school psychology, and predoctoral internship programs in professional psychology)

Public Health

Council on Education for Public Health (graduate schools of public health, and graduate programs offered outside schools of public health in community health education and in community health/preventive medicine)

Changes in Name

Dental and Dental Auxiliary Programs

American Dental Association, Commission on Dental Accreditation (programs leading to the DDS or DMD degree, advanced dental specialty programs, general practice residency programs and programs in dental hygiene, dental assisting and dental technology)

Engineering

Accreditation Board for Engineering and Technology, Inc. (first professional degree programs in engineering, graduate programs leading to advanced entry into the engineering profession, and associate and baccalaureate degree programs in engineering technology)

Funeral Service Education

American Board of Funeral Service Education, Committee on Accreditation (independent schools and collegiate departments)

Marriage and Family Counseling

American Association for Marriage and Family Therapy, Commission on Accreditation for Marriage and Family Therapy Education (graduate degree programs and clinical training programs)

Speech Pathology and Audiology

American Speech-Language-Hearing Association, American Boards of Examiners in Speech Pathology and Audiology (master's degree programs)

Withdrawal from List

Physical Therapy

American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Review Committee for Physical Therapy Education, which is sponsored by the American Medical Association (professional programs for the physical therapist)

Accrediting Agencies and Associations Recognized for their Preaccreditation Categories

Changes in Scope of Recognition

American Dental Association, Commission on Dental Accreditation (Accreditation Eligible)

American Osteopathic Association (Preaccreditation Status, Provisional Accreditation)

American Podiatry Association, Council on Podiatry Education (Reasonable Assurance, Preliminary Accreditation)

Council on Chiropractic Education, Commission on Accreditation (Recognized Candidate for Accreditation)

Change in Name

Accreditation Board for Engineering and Technology, Inc., Technology Accreditation Commission (Candidate for Accreditation, Reasonable Assurance of Accreditation)

Withdrawal from List

National League for Nursing, Inc., Board of Review for Associate Degree Programs, Board of Review for Baccalaureate and Higher Degree Programs, Board of Review for Diploma Programs (Reasonable Assurance of Accreditation) (by request)

Dated: February 26, 1980.

William L. Smith,

U.S. Commissioner of Education.

[FR Doc. 80-7693 Filed 3-12-80; 8:45 am]

BILLING CODE 4110-02-M

Office of Assistant Secretary for Education

Educational Agencies and Institutions; Data Acquisition Activities

AGENCY: Office of the Assistant Secretary for Education, Department of Health, Education, and Welfare.

ACTION: Notice of Data Acquisition Activities Involving Educational Agencies and Institutions.

SUMMARY: The paperwork control requirements in Section 400A of the General Education Provisions Act, added by Pub. L. 95-561, require public announcement of certain data requests that Federal agencies address to educational agencies and institutions. Federal agencies propose to collect the data described below from educational agencies or institutions during School year 1980-81. The data acquisition activities that are covered by this Act are subject to review and approval by the Secretary through the Federal Education Data Acquisition Council (FEDAC).

FOR FURTHER INFORMATION CONTACT: Mrs. Elizabeth M. Proctor, FEDAC Staff, 400 Maryland Avenue SW., Washington, D.C. 20202, phone (202) 245-1022. The contact persons listed in conjunction with the individual summaries are the ones to whom specific comments or questions concerning a data acquisition activity should be directed.

SUPPLEMENTARY INFORMATION: Under the Paperwork Control Amendments of 1978, section 400A of the General Education Provisions Act, the Secretary of Health, Education, and Welfare is responsible for reviewing and approving collection of information and data acquisition activities of all Federal agencies.

(1) Whenever the respondents are primarily educational agencies or institutions; and

(2) Whenever the purpose of the activities is to request information needed for the management of, or the formulation of, policy related to Federal education programs or research or evaluation studies related to the implementation of Federal education programs. The Secretary has delegated authority to the Assistant Secretary for Education.

We published interim FEDAC review procedures on August 8, 1979 (44 FR 46535), which are now effective. The Council is considering revisions to these procedures based on the public, Federal agency, and Congressional comments received. Revisions, as necessary, will be made and the procedures will be republished. One requirement is that "no information or data will be requested of any educational agency or institution unless that request has been approved and publicly announced by the February 15 immediately preceding the beginning of the new school year, unless there is an urgent need for this information or a very unusual circumstance exists regarding it."

Data activity plan summaries of proposed data acquisition activities for School Year 1980-81 are being published for comment. Each agency or institution subject to the request for data, its representative organizations, or any member of the public, may comment on the proposed data acquisition activity. Comments should be addressed to the project sponsor listed in item (r) of each of the data activity plan summaries. Comments should refer to the specific sponsoring agency and form number and they must be received on or before April 14, 1980. After the public comment period ends, each project sponsor must submit copies of the comments and a summary of them to the FEDAC staff for review.

In addition to these specific summaries, a composite listing of known data acquisition activities planned for school year 1980-81 was published on February 19, 1980.

Dated: March 5, 1980.

Peter D. Relic,

Acting Assistant Secretary for Education.

The proposed data activity plan summaries follow:

Data Activity Plan Summary

(a) & (b) Titles of Proposed Activities and Agency Form Numbers:

1. Report of Child Nutrition Operations ..... FNS-10.
2. Annual Report of Revenue and Cost FNS-13

3. Annual Report of Meal Service in Schools FNS-47
4. Application, Claim, and Agreement—FSEA (NSLP, SBP, CCFP) FNS-65
5. Application for Participation, School Food Authority (NSLP, SBP, SMP) FNS-66
6. Agreement Between School Food Authority and USDA (NSLP, SBP, SMP) FNS-67
7. Federal—State National School Lunch Act and Child Nutrition Act Agreement FNS-74
8. Application for Donated Commodities (Commodity—Only Schools) FNS-127
9. Agreement for Use of Donated Commodities (Commodity—Only Schools) FNS-129
10. Monthly Report of Lunch Service Operations (Commodity—Only Schools) FNS-130
11. Monthly Claim for Reimbursement (NSLP, SBP, SMP) FNS-806
12. State Plan of Child Nutrition Operations

(c) Name of Sponsoring Agency: U.S. Department of Agriculture, Food and Nutrition Service.

(d) Justification: The information and data collected by the forms enumerated under category A, above, are necessary for the administration of the USDA school nutrition programs. Such information and data are not available from other sources.

(e thru h) Description of Survey Plan, Tabulation and Publication Plans, Time Schedule for Data Collection and Publication Consultations Outside the Agency: Form FNS-10 is used by the State agencies to report participation and food service information for the USDA school nutrition programs (NSLP, SBP, SMP, FSEA). The information reported on the FNS-10 is used to determine the operational status of the USDA school feeding programs, and to project the potential program growth. The data is also used to reconcile fiscal information reported on financial documents. States are required to submit the FNS-10 monthly, by the 30th day of the following month. This form is cleared through the Committee on Evaluation and Information Systems (CEIS) data acquisition subcommittee.

Form FNS-13 provides revenue and cost information pertaining to USDA's school feeding programs. The information enables FNS to monitor the use of Federal program funds and the State matching of these funds as required by regulations. This annual report is submitted at the end of the school year, by October 31, at the latest. This form is cleared through the CEIS subcommittee.

Form FNS-47 provides FNS with the necessary information to apportion Reserved Food Service Equipment Assistance funds among the States. This form also reports the status of the existing food service in schools, including those without meal service, throughout the State. This annual form is completed on the basis of March data and must be submitted no later than April 30 each year. The information is compiled by State and presented as the Annual Report of Meal Service In Schools. Form FNS-47 is submitted to CEIS for clearance prior to implementation.

Form FNS-65 is a combined application and agreement document which is used to initiate participation in the Food Service Equipment Assistance Program. It is submitted by those School Food Authorities where the USDA school feeding programs are administered by FNS. This form is used to obtain specific information on the status of any existing meal service within the school(s), the nature of available food service equipment, and a statement on the availability of non-Federal matching funds.

Form FNS-66 is used by School Food Authorities, whose USDA programs are administered by FNS, to apply for participation in any of the school food service programs (NSLP, SBP, and SMP).

Form FNS-67 is the agreement document which is submitted to FNS by the School Food Authority when applying for participation in the USDA school food service program(s). It is used only in those situations where the School Food Authority's programs are not administered by the State agency. Form FNS-67 presents a summary of all requirements pertaining to the operation of the school food service programs.

Form FNS-74 is the agreement document which is submitted to FNS by a State agency for the operation of the USDA school food service programs. This form specifies State agency responsibility for the operation of the programs in all schools except those schools administered directly by FNS.

Form FNS-127 is an application for school participation in the USDA donated commodity program. This application is submitted to FNS by a School Food Authority where the program is to be administered directly by FNS.

Form FNS-129 is the agreement document which is submitted to FNS by the School Food Authority when applying for participation in the USDA donated commodity program. Form FNS-129 presents a summary of all requirements pertaining to the operation of the donated commodity program.

Form FNS-130 is submitted by the School Food Authority participating in the USDA donated commodity program. This form provides monthly operational information on lunch service in each participating school.

Form FNS-806 is used to submit a claim for reimbursement for meals served under the NSLP or SBP, or for milk served under the SMP. This form is submitted by School Food Authorities whose USDA school food service programs are administered directly by FNS.

The State Plan of Child Nutrition Operations is a planning and outreach document prepared by the State agency. It sets forth the State agency's goals in the administration of the Child Nutrition programs. Included in the State Plan document are the action plans for achieving the stated goals, and measurable objectives to facilitate State agency monitoring. The State plan for School Year 1981 must be submitted to FNS no later than May 15, 1980. An FNS-approved State plan is a prerequisite to the payment of cash assistance funds to the State agency under the National School Lunch Act and the Child Nutrition Act, as amended, and to the donation of commodities by USDA for use in schools. FNS prepares a document entitled "State Plan Guidance" to assist the State in developing its State Plan. The State Plan Guidance is submitted to CEIS for review and clearance.

(i) Estimation of Responent Reporting Burden:

Agency form number	Respondent type	Number of responses	Estimate of person-hours
FNS-10	State Education Agency (SEA).	57	684
FNS-13	SEA	57	72
FNS-47	SEA	57	1,140
FNS-65	School Food Authority (SFA).	100	500
FNS-66	SFA	1,500	1,500
FNS-67	SFA	1,500	750
FNS-74	SEA	57	15
FNS-127	SFA	10	5
FNS-129	SFA	10	5
FNS-130	SFA	120	60
FNS-806	SFA	18,700	6,250
State Plan of Operation.	SEA	57	4,560

(j) Sensitive Questions: None.

(k) Estimate of Cost to Federal Government: Cost estimates have not been prepared for existing forms because these forms had been categorized as required management and recordkeeping reports; however, cost estimates will be prepared for each form submitted for clearance hereafter.

(l) Detailed Justification of How Information Once Collected Will Be Used: Not available.

(m) Methods of Analysis: State data are aggregated and tabulated on a USDA Regional level and on a national level. Primary classifications for tabulation include numbers of schools in USDA programs, meal participation by type of meal, and total meals served.

(n) Legislative Authority Specifically Requiring or Allowing the Data

Collection: The National School Lunch Act, as amended, and the Child Nutrition Act, as amended.

(o) Timetable for Dissemination of Collected Data: Generally, data will be available approximately 120 days after the close of the reporting period.

(p) Estimate of the Total Person-Hours and Costs Required To Complete the Request: See item (i).

(q) Evidence of any Urgent Need or Very Unusual Circumstance Requiring the Data: Not applicable.

(r) Copy of the Exact Data Instrument: The approved data instruments for School Year 80–81 are not yet available. A second notice will be published when they are available and indicate when the public comment period will end. At that time, the public may obtain copies of the full plan and data instruments upon request and may submit comments to: George C. Rogers, Director, School Nutrition Programs, Department of Agriculture, FNS–SPD, 14th and Independence, Washington, D.C. 20250.

(s) Brief Account of Early Involvement and Communications with Respondent Populations: It has been FNS procedural policy to submit drafts of reporting forms and data acquistion plans to the Committee on Evaluation and Information Systems, and organization representing the Chief State School Officers. The Committee's comments, objections, and/or recommendations are incorporated in the revision process wherever feasible.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request: FNS will attempt to provide as much lead time as possible.

(u) Specific Justification for a Multi-Year Approval: Multi-year approvals will be requested only on applications and reports which have been used successfully and do not impose a significant reporting burden.

Data Activity Plan Summary

(a) Title of the Proposed Activity: Financial Statistics of Higher Education fort Fiscal Year Ending 1980 (Higher Education General Information Survey XV).

(b) Name of the Sponsoring Agency/Bureau/Office: Department of Education/National Center for Education Statistics/Division of Postsecondary and Vocational Education Statistics

(c) Agency Form Number: NCES Form 2300–4

(d) Justification: This is the only comprehensive nation-wide collection of financial statistics of institutions of higher education. It is needed by NCES to fulfill its mandate to provide "full and complete statistics on the condition of education in the United States;" it is used by the Bureau of the Census for its reports on state and local governments' finances; by the National Institute of Education to develop the Higher Education Price Index; and by the Office of Education for the administration of Title III. The survey also provides the comparative data States need and thus eliminates the need for similar surveys. Data from the survey are used by private agencies for a variety of purposes, including the assessment of financial condition and the economic future of institutions of higher education.

(e) Description of Survey Plan: The HEGIS Package, including the Finance questionnaire, will be sent to the 3,195 institutional units that are listed in the *Education Directory*.

Those institutions failing to submit a completed survey form by the due date (October 31, 1980) will receive a reminder letter. Later, respondents will be sent mailgrams. Lastly, NCES or its contractor will telephone the nonrespondents (or their State's HEGIS coordinator) Estimation of data for nonresponding institutions (which should be less than 9 percent of the survey population) will be accomplished by either 1. using data reported by the nonresponding institution in previous year's survey, when available or 2. when not available, a responding institution of the same size and with characteristics similar to the nonresponding institution will be selected and the data from that institution will be used to derive an estimate for the nonresponding institution.

(f) Tabulation and Publication Plan: The following publications and tape are planned by NCES for this survey:

1. Financial Statistics of Colleges and Universitites, 1980, Preliminary Tabulations (Early Release)
2. Financial Statistics of Institutions of Higher Education Fiscal Year 1980, State Data
3. Financial Statistics of Institutions of Higher Education for Fiscal Year Ending 1980 (Computer Tape)

(g) Time Schedule for Data Collection and Publication:

Survey due date—October 31, 1980
Early Release white paper tables and report—March 1, 1981
Clean data tape—October 1, 1981
State Data white paper tables and report to GPO—December 1, 1981

(h) Consultations Outside the Agency: This survey is the same as last year's. Last year's survey had the benefit of extensive prior consultation with representatives of States, institutions, and professional/education organizations. Examples include the National Association of College and University Business Officers and the American Council on Education. The State Higher Education Executive Officers (SHEEO)/NCES Communication Network reported that representatives of the 50 States concluded that, "The survey of Finance was the single most selected survey for each year * * *"

(i) Estimation of respondent Reporting Burden:

Respondent type	Number	Estimate of average person-hours
College and universities	3,195	2.25

(j) Sensitive Questions: This survey contains no sensitive questions.

(k) Estimate of Cost to Federal Government:

Salaries and expenses	$120,000
Printing and dissemination	5,000
Total	125,000

Contractor not yet determined.

(l) Detailed Justification of How Information Once Collected Will Be Used: Federal agencies, State agencies, private organizations, and researchers will use the data to describe the financial condition of institutions of higher education and to project their future development. The Bureau of the Census use the data for several purposes: 1. To develop estimates of state and local governments' finances; 2. to relay these estimates to the Bureau of Economic Analysis for calculation of the Gross National Product; 3. to publish in the Census reports of state and local governments' finances; and 4. to pick up supplemental data the census of governments does not collect. Further, the Bureau of Labor Statistics and the Federal Mediation and Conciliatory Service are secondary users of these data. The Office of Education's Division of Institutional Support use Part B data to help determine whether or not an applicant college or university is eligible to receive a Title III (Developing Institutions) grant. The National Institute for Education relies on the survey's data to develop the Higher Education Price Index, which is a measure of inflation in higher education as the CPI is for the general economy. The data are needed by NCES to fulfill its mandate which states that, "The purpose of the Center shall be to collect and disseminate statistics on the condition of education in the United States."

Many States use the data provided by this survey for their own purposes. Nongovernment uses include the

development of indicators of institutional financial health or distress. (The National Association of College and University Business Officers and the American Council on Education are currently engaged in this project.)

(m) Methods of Analysis: Data are published in aggregate form by state and control and level of institution. Detailed data will be made available in the form of a computer tape.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection: Section 406 of Pub. L. 93-380 Refer to (d) above.

(o) Time Table for Dissemination of Collected Data:

Early Release—March 1, 1981
State Data Report (Final)—December 1, 1981
Computer Tape—October 1, 1981

(p) Estimate of the Total Respondent Person-Hours and Costs:

Total hours response burden—7,189 hours
Professional hourly wage.—$10
Total costs—$71,890

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data: Not applicable.

(r) Copy of the Exact Data Instruments: Copies of the exact instrument and the instructions may be obtained from Norman Brandt, Room 3073, FOB #6, 400 Maryland Avenue, SW., Washington, D.C. 20202.

(s) Brief account of Early Involvement and Communications With Respondent Populations: See (h) above.

(t) Assurance That Respondents Will Have Sufficient Lead Time to Comply With Request: It is expected that the forms will be mailed to the respondents in July, 1980, with a due date of October, 1980.

(u) Specific Justifications for a Multi-Year Approval: It is important to assure respondents of the continuity of data elements. In addition, the Federal and State agencies, researchers, and education associations are reliant upon this survey to collect and provide data for the use described above.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request: It is expected that the forms will be mailed to the respondents in July, 1980, with a due date of October, 1980.

(u) Specific Justifications for a Multi-Year Approval: It is important to assure respondents of the continuity of data elements. In addition, the Federal and State agencies, researchers, and education associations are reliant upon this survey to collect and provide data for the uses described above.

Summary of the Data Activity Plan

(a) Title of the Proposed Activity: Application for grants under Title IV of the Civil rights Act of 1964 for Civil Rights Technical Assistance and Training Programs.

(b) Name of the Sponsoring Agency/Bureau/Office: U.S. Office of Education/Bureau of Elementary and Secondary Education/Equal Education Opportunity Programs.

(c) Agency Form Number: OE Form 296.

(d) Justification: Title IV of the Civil Rights Act (Pub. L. 88-352) authorizes grants to eligible agencies to help solve problems related to eliminating discrimination on the basis of race, sex, and national origin. Neither the regulations governing the awards, 45 CFR Part 180, nor the statute, have been revised. Any modifications to the application have been made for the purpose of reducing the reporting burden on the applicant.

(e) Description of Surey Plan: Not applicable.

(f) Tabulation and Publication Plans: Not applicable.

(g) Time Schedule for Data Collection and Publication:

(1) Applications mailed to potential applicants—Sept. 1980
(2) Application receipt date—Dec. 1980

(h) Consultations Outside the Agency: None.

(i) Estimation of Respondent Reporting Burden:

Type	Number	Estimate of average person-hour
Colleges	121	25
Local educational agencies	96	25
Nonprofit organizations	18	20
State educational agencies	106	25

(j) Sensitive Questions: None.

(k) Estimate of Cost to Federal Government: Not applicable.

(l) Detailed Justification of How Information Once Collected Will Be Used: Each application for a grant under Title IV at the Civil Rights Act will be subject to the following reviews:

(1) *Eligibility Review:* The Office for Civil Rights has the responsibility to determine the applicant's compliance status under Pub. L. 88-352. The Office of Education is responsible for determining if the applicant has met the requirements for all other assurances.

(2) *Educational Quality Review:* The educational quality score of each application will be determined by a panel of qualified persons using the criteria outlined in the regulations. The listing of prominent milestones outlined by the applicant will be used by OE personnel to track the progress of the project.

(m) Method of Analysis: Not applicable.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection: (1) *Technical Assistance Programs.* "The Commissioner is authorized upon the application of any school board, State, municipality, school district, or other governmental unit legally responsibile for operating a public school or schools to render technical assistance to such applicant in the preparation, adoption and implementation of plans for the desegregation of public schools."

(Pub. L. 88-352, Sec. 403); (42 U.S.C. 2000c-2)

(2) *Training Institute Programs.* "The Commissioner is authorized to arrange, through grants or contracts, with institutions of higher education for the operation of short-term or regular session institutes for special training designed to improve the ability of teachers, supervisors, counselors, and other elementary or secondary school personnel to deal effectively with special educational problems occasioned by desegreation."

(Pub. L. 88-352, Sec. 404); (42 U.S.C. 2000c-3))

(3) *School Board Grants.* "The Commissioner is authorized, upon application of a school board, to make grants to such school board to pay, in while or in part, the cost of—

(i) Giving to teachers and other school personnel inservice training in dealing with problems incident to desegregation, and

(ii) Employing specialists to advise in problems incident to desegregation.

(Pub. L. 88-352, Sec. 405(a)); (42 U.S.C. 2000-c4(a))

(o) Timetable for Dissemination of Collected Data: Not applicable.

(p) Estimate of the Total Person-Hours and Costs Required To Complete the Request:

Hours: 95
Costs: $323,950

(q) Evidence of Any Urgent Need or Very Unusual Circumstances Requiring the Data: Not applicable.

(r) Copy of the Exact Data Instrument: For a copy of the application: Contact Elsie Janifer, Chief, Program Services Branch, Equal Educational Opportunity Programs, Room 2006, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations: No response.

(t) Assurance That Respondent Will Have Sufficient Lead Time To Comply With Request: The Closing date for the transmittal of applications under Title IV of the Civil Rights Act of 1964 will be published in the Federal Register in August, 1980. Public meetings will be held around the country during late October and early November to provide technical assistance to interested applicants.

(u) Specific Justification for a Multi-Year Approval: Not applicable. Under Title IVB of the Civil Rights Act (Pub. L. 88-352) the maximum grant period is 12 months.

Data Activity Plan Summary

(a) Title of The Proposed Activity: Application for Educational Opportunity Centers, Higher Education Act, as amended.

(b) Name of the Sponsoring Agency/Bureau/Office: U.S. Office of Education/Bureau of Higher and Continuing Education/Division of Student Services and Veterans Programs.

(c) Agency Form Number: OE 343.

(d) Justification: The form is needed to obtain programmatic and budgetary information from eligible applicants who submit applications for support from the Federally funded Educational Opportunity Centers Program.

(e) Description of Survey Plan: Not applicable.

(f) Tabulation and Publication Plans: Not applicable.

(g) Time Schedule for Data Collection and Publication: Winter of 1980 or Spring of 1981.

(h) Consultations Outside the Agency: None.

(i) Estimate of Respondent Reporting Burden:

Respondent type	Number	Estimate of average person-hours
Institution of higher education	280	16
Public and private agencies, organizations	40	16

(j) Sensitive Questions: There are no sensitive questions.

(k) Estimate of Cost to Federal Government: Not applicable.

(l) Detailed Justification of How Information Once Collected Will Be Used: The form requests programmatic and budgetary information from eligible applicants so that the Office of Education program officers and non-Federal reviewers will have adequate, relevant information with which to make funding decisions. The collected information will also be used to determine compliance with the published funding criteria.

(m) Methods of Analysis: Not applicable.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection: "Section 417A. (a) The Commissioner shall, in accordance with the provisions of this subpart, carry out a program designed to identify qualified students from low-income families, to prepare them for a program of postsecondary education, and to provide special services for such students who are pursuing programs of postsecondary education."

(20 U.S.C. 1070d)

"Section 417B. (a) The Commissioner is authorized to make grants * * *"

(20 U.S.C. 1070d-1)

(o) Timetable for Dissemination of Collected Data: Not applicable.

(p) Estimate of the Total Person-Hours and Costs Required To Complete the Request: 5,120 Person-Hours—Total cost to the respondent is $51,200.

(q) Evidence of any Urgent Need or Very Unusual Circumstance Requiring the Data: Not applicable.

(r) Copy of the Exact Data Instrument: Available, Winter of 1980 or Spring of 1981, from:

Division of Student Services and Veterans Programs, Information Systems and Program Support Branch, U.S. Office of Education, (Room #3514, Regional Office Building #3), 400 Maryland Avenue, SW., Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations: In the past, contact was made with representatives from insitutions of higher education and from non-profit and private agencies. Currently, contact was made by telephone and by application workshops.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request: All respondents are given from forty-five (45) to sixty (60) days to prepare and to submit the application.

(u) Specific Justification for a Multi-Year Approval: It represents continuity for the respondent. It is cost effective to both the government and the respondent. It represents a small or minimal burden to the respondent. It represents better services to those affected.

Data Activity Plan Summary

(a) Title of Proposed Activity: Annual Report for the Library Services and Construction Act.

(b) Name of the Sponsoring Agency: U.S. Office of Education/Bureau of Elementary and Secondary Education/Office of Libraries and Learning Resources.

(c) Agency Form Number: OE 774.

(d) Justification: "Sec. 6. (a) Any State desiring to receive its allotment for any purpose under this Act for any fiscal year shall (1) have in effect for such fiscal year a basic State plan * * *" (Pub. L. 84-597, as amended by Pub. L. 95-123, 20 U.S.C. 354)

The State library in its Basic State Plan "Assures that it will make reports, including reports of evaluations * * * as the Commissioner may reasonably require to carry out the Commissioner's functions under the Act and to determine the extent to which funds provided under the Act have been effective in carrying out its purposes." (45 CFR 130.42)

(e) Description of Survey Plan: Not applicable.

(f) Tabulation and Publication Plans: Data will be edited, tabulated, analyzed and published in "The Bowker Annual" and as a separate.

(g) Time Schedule for Data Collection and Publication: Mail form—September 30, 1981. Completion deadline—December 31, 1981. Edit, tabulate, analyze and publish—September 30, 1982.

(h) Consultations Outside the Agency: Consulations were made with selected State library agencies, including those in Maryland and West Virginia.

(i) Estimation of Respondent Reporting Burden:

Respondent type	Number	Estimated person-hours
State Library Agency	57	30

(j) Sensitive Questions: None.

(k) Estimate of Cost to Federal Government: $6,120.

(l) Detailed Justification of How Information Once Collected Will Be Used: Information will be used for program management and evaluation purposes. Fiscal data are analyzed to determine whether maintenance-of-effort and other requirements have been met. Program information is analyzed regarding mandated priorities and optional utilization of funds. Information from the form is used as a basis for consultation with State library agencies, for program monitoring and for State management reviews. It is also needed for budgetary purposes and for responding to requests for current program information that are received from the Congress and other data users.

(m) Methods of Analysis: State tabulations to be made to obtain national totals.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection: See item (d) above.

(o) Timetable for Dissemination of Collected Data: Approximately October 1, 1982 via article in "The Bowker Annual" or as separate publication.

(p) Estimate of Total Person-Hours and Costs Required To Complete the Request:

Person hours—1,710
Cost—$15,390

(q) Evidence of any Urgent Need or Very Unusual Circumstance Requiring the Data: Not applicable.

(r) Copy of the Exact Data Instrument: Copies may be obtained from: Nathan M. Cohen, Office of Libraries and Learning Resources, U.S. Office of Education, Room 3124, ROB-3, Washington, D.C. 20202

(s) Brief Account of Early Involvement and Communications With Respondent Populations: In addition to communication with specific State library agencies some years ago when the form was first developed, as noted in item 8 above, there has been continuing consultation with State library agencies over the years. The latest such communication was held in April 1979 with representatives from 57 States and Outlying Parts.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request: Previous experience indicates that lead time is adequate.

(u) Specific Justification for a Multi-Year Approval: Pub. L. 95-123 provides authority for the program through FY 1982.

Summary of the Data Activity Plan

(a) Title of the Proposed Activity: A questionnaire for recipients of Basic grants under the Emergency School Aid Act for Local Educational Agencies on student enrollment and disciplinary actions for the school year prior to the submission of the application and for each subsequent year after the award of the grant.

(b) Name of the Sponsoring Agency/Bureau/Office: U.S. Office of Education, Bureau of Elementary and Secondary Education, Equal Educational Opportunity Programs.

(c) Agency Form Number: OE form 776

(d) Justification: The questionnaire is designed to solicit from school districts receiving ESAA Basic grants data on the total enrollment and disciplinary actions, by race and sex, for the school year preceeding the grant award as well as for each subsequent year after the award. The data will allow management to do the following:

(i) Accurately measure program progress by comparing the number of disciplinary actions from year to year;

(ii) Realistically set national goals for the elimination of the disparity in disciplinary actions among minority students;

(iii) Effectively award funds to districts with greatest need;

(iv) Readily identify projects that are successful and provide technical assistance as well as to identify successful models that can be replicated in other districts.

(e) Description of Survey Plans: The questionnaire will be sent, within 30 days, to each school district receiving funds to conduct activities to reduce the overrepresentation of minority students involved in disciplinary actions. The one page questionnaire will ask for the name, address and contact person for the funded activity. Also, the district will be requested to list each school in the district, and for the reporting year, give totals, by race and sex, of all disciplinary actions taken. The term disciplinary actions include suspensions, expulsions, corporal punishment, in-school suspensions and other disciplinary actions particular to the district. Grand totals will also be requested for each category. In addition, total enrollment by sex and race should also be included.

(f) Tabulation and Publication Plans: The data will be manually tabulated by district to determine national totals. National totals will be used in summary reports. The reports will summarize the previous year's national totals and will also show the current rate of disciplinary actions. Also, based on the data, a national goal will be set for the reduction of such actions for the coming school year. The data submitted by the districts will not be generally disseminated to the public.

(g) Time School for Data Collection and Duplication: The data will be tabulated prior to the end of the first semester following the basic grant award of continuation notification:

(i) Questionnaire sent to LEA—10/1
(ii) Deadline for submission of data by LEA—10/30
(iii) LEA data verified and tabulated—11/30
(iv) Duplication and dissemination to appropriate USOE officials—12/1

(h) Consultations Outside the Agency: The data will be used by program officers to provide technical assistance to appropriate LEA's. No other outside use of the data is anticipated.

(i) Estimation of Respondent Reporting Burden:

Type	Number	Estimate of average person-hour
Local educational agencies	79	5

(j) Sensitive Questions: None.

(k) Estimate of Cost to Federal Government: $1,000.

(l) A Detailed Justification of How Information Once Collected Will Be Used: The data gained from the questionnaire will be used to:

(i) Determine the extent to which the problem exists, locally and nationally;

(ii) Determine which schools in the district have the greatest problem;

(iii) Determine where to focus funds and technical assistance;

(iv) Identify districts where model sites are likely to be replicated because of the characteristics of the problem; and

(v) Establish national, yearly goals, by district, for the reduction/elimination in the overrepresentation of minority students involved in disciplinary actions.

(m) Methods of Analysis: Total disciplinary actions for each district by race and sex will be determined as well as the enrollment and overrepresentation rate. The overrepresentation rate will be completed for each district by percentage and number. The data computation will be done manually for all districts.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection: "* * * sets forth effective procedures, including provisions for objective measurement of change in educational achievement and other change to be effected by programs conducted under this title, for the continuing evaluation of programs under this title, including their effectiveness in achieving clearly stated program goals, their impact on related programs and upon the community served, and their structure and mechanisms for the delivery of services, and including, where appropriate, comparisons with proper control groups composed of persons who have not participated in such program or projects."

(Pub. L. 95-561, section 610(a)(11); (20 U.S.C. 3200(a)(11)); (45 CFR 185.16))

(a) A grantee shall maintain records of significant project experiences and results.

(b) The grantee shall use the records under paragraph (a) to—

(1) Determine progress in accomplishing project objectives; and

(2) Revise those objectives, if necessary.

(20 U.S.C. 1221e-3(a)(1)); (Education Division General Administrative Regulations, § 100a. 732)

(o) Timetable for Dissemination of Collected Data: There will be no general distribution of the data to the public. The data is intended for use by USOE staff to realistically and effectively establish national goals, to manage program progress, to provide technical assistance, to replicate successful models and to allocate resources, where needed.

(p) Estimate of the Person-Hours and Costs Required to Complete the Request:

Hours: 395
Costs: $11,850

(q) Evidence of any Urgent Need or Unusual Circumstance Requiring the Data: The data is essential to USOE program staff in order to effectively manage funded programs designed to meet the "management initiative" of the Department (to eliminate the overrepresentation of minority students involved in disciplinary actions).

(r) Copy of the Exact Data Instrument: For a copy of the questionnaire: Contact Dorothea Perkins, Special Projects Branch, Equal Educational Opportunity Programs, Room 2017, 400 Maryland Avenue SW., Washington, D.C. 20202.

(s) Brief Account of early Involvement and Communications With Respondent Populations: In August of 1979 a workshop conference was held with potential respondents to discuss their particular disciplinary problems and to provide technical assistance to the districts in attendance, based on submission of simmilar data in their Basic grant application under the category of "needs assessment" or "justification" for financial assistance. Based on these discussions and the goals of USOE management, it was determined that baseline data for each participating district needed to be officially gathered yearly to establish mutual goals.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request: The proposed timeline for receipt of the data (10/30 of each school year) would allow the districts approximately three months to respond after the award of a grant for activities in this area, and a month after the OCR forms 101 and 102 are required to be completed by the district.

(u) Specific Justification for a Multi-Year Approval: Approximately a five year period will be required to meet the national goal of completely eliminating the overrepresentation of minority students involved in disciplinary actions in ESAA participating school districts. Because of the multi-year grant cycle (up to five years) of ESAA awards, it is critical that the baseline data be established for each year through the use of a questionnaire because a completely new application is not required yearly. The statute provides that "an application of a local educational agency for assistance under this title may cover a period of from one to five years * * *"

(Pub. L. 95-561, Sec. 610(c)(1); (20 U.S.C. 3200))

Data Activity Plan Summary

(a) Title of Proposed Activity: Application under the Library Service and Construction Act.

(b) Name of the Sponsoring Agency: U.S. Office of Education/Bureau of Elementary and Secondary Education/ Office of Libraries and Learning Resources.

(c) Agency Form Number: OE-4563.

(d) Justification: "Sec. 2(a). It is the purpose of this Act to assist the States in the extension and improvement of public library services in areas of the States which are without such services or in which such services are inadequate, and with public library construction, and in the improvement of such other State library services as library services for physically handicapped, institutionalized, and disadvantaged persons, in strengthening State library administrative agencies, in promoting interlibrary cooperation among all types of libraries, and in strengthening major resource libraries.

"Sec. 6. (a) Any State desiring to receive its allotment for any purpose under this Act for any fiscal year shall (1) have in effect for such fiscal year a basic State plan * * *, (2) submit an annual program * * * and shall submit * * * a long-range program * * *."

(Pub. L. 84-597, as amended by Pub. L. 95-123, (20 U.S.C. 352 and 354))

(e) Description of Survey Plan: Not applicable.

(f) Tabulation and Publication Plans: Not applicable.

(g) Time Schedule for Data Collection and Publication: Not applicable.

(h) Consultations Outside the Agency: Consultations were made with selected State library agencies, including those in Maryland and West Virginia.

(i) Estimation of Respondent Reporting Burden:

Respondent type	Number	Estimated person-hours
State Library Agency	57	30

(j) Sensitive Questions: None.

(k) Estimate of Cost to Federal Government: $1,000.

(l) Detailed Justification of How Information Once Collected Will be Used: Information will be used for program management and evaluation purposes. Fiscal data are analyzed to determine whether maintenance-of-effort and other requirements have been met. Program information is analyzed regarding mandated priorities and optional utilization of funds. Information from the form is used as a basis for consultation with State library agencies, for program monitoring and for State management reviews. It is also needed for responding to requests for current program information that are received from the Congress and other data users.

(m) Methods of Analysis: Not applicable.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection: From Pub. L. 95-123: Title I: "Sec. 103. Any State desiring to receive a grant from its allotment for the purposes of this title for any fiscal year shall, in addition to having submitted, and having had approved, a basic State plan under section 6, submit for that fiscal year an annual program for library services. Such program shall . . . include an extension of the long-range program, taking into consideration the results of evaluations."

Title III: "Sec. 303. Any State desiring to receive a grant from its allotment for the purposes of this title for any fiscal year shall, in addition to having submitted, and having had approved, a basic State plan under section 6, submit for that fiscal year an annual program for inter-library cooperation. Such program shall * * * include an extension of the long-range program, taking into consideration the results of evaluations.

(Pub. L. 84-597, as amended by Pub. L. 95-123, 20 U.S.C. 354)

(o) Timetable for Dissemination of Collected Data: Not applicable.

(p) Estimate of total Person-Hours and Costs Required to Complete the Request:

Person hours: 1,710
Cost: $15,390

(q) Evidence of any Urgent Need or Very Unusual Circumstance Requiring the Data: Not applicable.

(r) Copy of the Exact Data Instrument: Copies may be obtained from: Nathan M. Cohen, Room 3124, ROB-3, Office of

Libraries and Learning Resources, U.S. Office of Education, Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications with Respondent Populations: In addition to communication with specific State library agencies some years ago when the form was first developed, as noted in item 8 above, there has been continuing consultation with State library agencies over the years. The latest such communication was held in April 1979 with representatives from 57 States and Outlying Parts.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request: Previous experience indicates that lead time is adequate.

(u) Specific Justification for a Multi-Year Approval: Pub. L. 95-123 provides authority for the program through FY 1982.

[FR Doc. 80-7736 Filed 3-12-80; 8:45 am]
BILLING CODE 4110-89-M

Office of the Assistant Secretary for Education

Data Acquisition Activities Involving Educational Agencies and Institutions

AGENCY: Office of the Assistant Secretary for Education, Department of Health, Education, and Welfare

ACTION: Notice of Data Acquistion Activities Involving Educational Agencies and Institutions

SUMMARY: The paperwork control requirements in Section 400A of the General Education Provisions Act, added by Pub. L. 95-561, require public announcement of certain data requests that Federal agencies address to educational agencies and institutions. The Education Division of HEW and the Food and Nutrition Service of the Department of Agriculture propose to collect the data described below from educational agencies during school year 1979-80.

FOR FURTHER INFORMATION CONTACT: Mrs. Elizabeth N. Proctor, FEDAC Staff, 400 Maryland Avenue SW., Washington, D.C. 20202 Phone (202) 245-1022.

SUPPLEMENTARY INFORMATION: Under the Paperwork Control Amendments of 1978, section 400A of the General Education Provisions Act, the Secretary of Health, Education, and Welfare is responsible for reviewing and approving collection of information and data acquisition activities of all Federal agencies

(1) Whenever the respondents are primarily educational agencies or institutions; and

(2) Whenever the purpose of the activities is to request information needed for the management of, or the formulation of, policy related to Federal education programs or research or evaluation studies related to the implementation of Federal education programs. The Secretary has delegated authority to the Assistant Secretary for Education.

We published interim FEDAC review procedures on August 8, 1979 (44 FR 46535), which are now effective. One requirement is that "no information or data will be requested of any educational agency or institution unless that request has been approved and publicly announced by the February 15 immediately preceding the beginning of the new school year, unless there is an urgent need for this information or a very unusual circumstance exists regarding it." I determine that an unusual circumstance exists regarding the data activities listed below because of the newness of the review requirements.

Data activity plan summaries of proposed data acquisition activities for School Year 1979-80 are being published for comment. Most of these data acquisition activities were also listed—but not described in as much detail—in the Federal Register of February 15, 1979. Other activities previously approved were also on that list.

Each agency or institution subject to the request for data, its representative organizations, or any member of the public, may comment on the proposed data acquistion activity. The Federal Education Data Acquisition Council Staff accepts comments at the above address. Comments should refer to the specific sponsoring agency and form number and they must be received on or before April 14, 1980.

I ask the affected educational agencies and institutions to cooperate in the following data collection activities that are being reviewed by the Federal Education Data Acquisition Council (FEDAC) staff.

Dated: March 5, 1980.

Peter D. Relic,

Acting Assistant Secretary for Education.

The proposed data collection activities are:

A Data Activity Plan Summary

(a) *Title of the proposed activity.* A Study of Graduate and Professional School Financial Aid Programs and Practices, and their Impact upon Low Income Student Access.

(b) *Name of the sponsoring agency/bureau office.* Fund for the Improvement of Postsecondary Education, Office of the Assistant Secretary for Education.

(c) *Agency form number.* ASE 0101.

(d) *Justification.* The project is a comprehensive study of the demographic and economic characteristics of students seeking assistance to attend graduate and professional school. It will compare resources, expenses, indebtedness, financial aid packages and student opinions about selected program features, and will compare lower income and minority students with their middle- and upper-income peers. It will also investigate shifts in the composition of financial aid packages received in the first year of graduate or professional school in relation to financial aid received during the senior year in college.

Several similar data collection efforts (NLS third follow-up, NCES Survey of Recent College Graduates, AMS study) have been undertaken, but have not focused exclusively on graduate or professional financial aid applicants or on the specific issues to be addressed by the current study.

(e) *Description of survey plan.* the study will involve a survey of persons who applied for financial aid for use at graduate or professional schools during the 1979-80 academic year. A ten percent sample will be systematically drawn after a random sort of the files of the Graduate and Professional School Financial Aid Service and of the College Scholarship Service. The sample will be selected from a combined CSS and GAPSFAS population consisting of approximately 215,000 persons. Questionnaires will be mailed to persons in the sample. Questionnaire data will be matched with pre-existing data on the CSS and GAPSFAS files for each respondent. Educational Testing Service (ETS), the contractor for the study, will not link questionnaire responses with student names or social security numbers.

(f) *Tabulation and publication plans.* Two publications are planned: (1) A narrative describing the results of the study and (2) a compilation of supplementary tables.

Respondents will be categorized into four main analysis groups: (1) Entering students who were enrolled full-time for both semesters or terms during the 1979-80 academic year; (2) Entering students who did not enroll in graduate or professional school; (3) Full-time continuing students who were enrolled both terms or semesters during 1979-80; (4) Drop-outs and others. Tabulations

will be prepared across main analysis groups and within main analysis groups.

(g) *Time schedule for data collection and publication.* Data will be collected directly from sample students between the end of March and mid-May. Questionnaires will be processed between mid-May and mid-June with analysis occurring between mid-June and 30 December. A final report, with release tapes, will be submitted to FIPSE by 30 June 1981.

(h) *Consultations outside the agency.* The questionnaire and supporting statement for the study have been reviewed by staff at Educational Testing Service as well as an advisory committee for the study consisting of representatives from FIPSE, Rutgers University, New Jersey Department of Higher Education, Columbia University Graduate School of Arts and Sciences, and the Office of the Assistant Secretary for Planning and Evaluation, DHEW.

(i) *Estimation of respondent burden.*

Respondent type	Number	Estimate of average person-hours
Student in postsecondary education	21,500	.5

(j) *Sensitive questions.* None.

Requirements.

(k) *Estimate of cost to Federal Government.* $158,000.

(l) *How information once collected will be used.*

Research. The primary objective of the study is to investigate the "effects" of financial aid, alone and in combination with other variables, on the decisions of low-income minority financial aid applicants' decisions to attend graduate or professional school. In addition, the study will compare debt burdens and undergraduate—graduate school shifts in financial aid profiles. It is anticipated that the data will be useful for federal policy analysis in evaluating alternative proposals for loan and (need-based) grant programs for graduate and professional students.

(m) *Methods of analysis.* National data will be disaggregated by alternative student subgroups on the basis of sex, dependency status, marital status, race, income level, type of graduate or professional program, age of student, and year in graduate or professional school. Analysis plans include frequency and percentage distributions, correlational analysis, and multiple point biserial regression analysis. Appropriate significance tests will be performed.

(n) *Legislative authority specifically requiring or allowing the data collection.* Sec. 404 "* * * the Secretary is authorized to make grants to * * * private educational institutions and agencies * * * to improve postsecondary educational opportunities by providing assistance * * * for the introduction of reforms in graduate education * * *"

(20 USC 1221d); Pub. L. 92-318, sec. 301(a)(2), 86 Stat. 327; Pub. L. 94-482, Title IV sec. 402(b), 90 Stat. 2227.

(o) *Timetable for dissemination of collected data.* The final report and release tapes will be available to users by 30 June 1981. Reports will be available through FIPSE. In addition, the written products will be available through the ERIC clearinghouse.

(p) *Estimate of the total person-hours and costs required to complete the request.* 10,750 person-hours are estimated. No cost to respondents.

(q) *Evidence of urgent need or very unusual circumstances requiring the data.* None.

(r) *Copy of exact data instrument.* May be obtained from:

Robert J. Fullilove, FIPSE, Room 3123, 400 Maryland Avenue SW., Washington, D.C. 20202.

(s) *Brief account of early involvement and communications with respondent populations.* Officials of both the Graduate and Professional Financial Aid Council and the College Scholarship Service of the College Board have been contacted about the study and have reviewed the Supporting Statement.

(t) *Assurance that respondents will have sufficient lead time to comply with request.* Persons in the sample will be asked to respond within ten days. The data collection period—including two follow-ups to non-respondents—will occur over a 45 day period, which should allow ample time for response.

(u) *Specific approval for multi-year approval.* Not applicable.

Data Activity Plan Summary

(a) *Title of proposed activity.* The Study of Nutrition Education and Training and Participation in the School Lunch Program

(b) *Name of sponsoring agency/bureau/office.* Office of Policy Planning and Evaluation, Food and Nutrition Service, Department of Agriculture

(c) *Agency form number.* AG/FNS 1105

(d) *Justification.* This study is one of a series of studies which were requested by Senate Resolution 90, Report No. 96-208, June 20, 1979. The resolution directed the Secretary of Agriculture to conduct a study of the school nutrition programs administered under the National School Lunch Act and the Child Nutrition Act of 1966. The Food and Nutrition Service, Nutrition Education and Training Program was an Amendment to the Child Nutrition Act. The objectives of this study include:

(1) The assessment of the influence of nutrition education and of types of nutrition education on participation in the school lunch program.

(2) The development of a prototype simulation model capable of projecting future rates of student participation in NSLP on the basis of extant data routinely available as a result of either the AIMS reporting system or through the more intensive NSLP quality control information system; and

(3) The comparative examinations of the predictive accuracy of models based on data that are routinely available and models requiring data available only through special survey efforts.

(e) *Description of the survey plan.* The study will be conducted in two States, New York and Georgia, which have been shown to maintain good quality records. The participation rate in New York elementary schools is approximately 50 percent and thus offers a good potential for variation, both upwards and downwards. Since the participation rate in Georgia elementary schools is higher than 85 percent, the study will also be able to address the question of whether changes and trends in participation rates can be identified when levels are very high. The respondents for the survey include school food authority directors. Three related data collection efforts will be undertaken.

(1) In each of the two States selected for the study, a stratified random sample of approximately 400 schools will be chosen. Participation data for these schools, including average daily participation (separately for free, reduced- and full-price pupils), average daily attendance, school enrollment, and the number of pupils approved for free and reduced price lunches, will be obtained from State records on a monthly basis over a period of at least three years.

(2) A mail survey of the directors of the school food authorities will be conducted. The respondents will be asked for information about the factors that might have influenced participation and in what ways, if any, these factors have changed over the past three years.

(3) After analyses of the data obtained from the above collection efforts, a subset of approximately 54 schools will be contacted in order to gather more detailed information. Schools selected will be those showing abrupt and sustained changes in the level or pattern or participation over the past three years as identified by analyses of the

time series obtained in data collection efforts. The data collected will provide support for, or disconfirm, hypotheses generated in the analyses regarding factors affecting participation.

(f) *Tabulation and publication plans.* The findings of this study will be presented in a report in July, 1980. The analyses will capitalize on the longitudinal (time series) data available from State offices and will relate variables obtained in the survey to the time series.

(g) *Time schedule for data collection and publication.*

Task	Beginning date	Ending date
1. Project start date	June 7, 1979	Aug. 7, 1980
2. Discussions with consultants and FNS officials.	Oct. 1, 1979	Nov. 15, 1979
3. Prepare study design	Nov. 15, 1979	Dec. 15, 1979
4. Study design review at Food and Nutrition Service.	Dec. 15, 1979	Jan. 7, 1980
5. Study design review at Department of Agriculture.	Jan. 7, 1980	Jan. 15, 1980
6. Study design review at FEDAC.	Jan. 9, 1980	Feb. 15, 1980
7. Survey	Mar. 1, 1980	Apr. 15, 1980
8. Data analysis and report	Apr. 20, 1980	July 15, 1980

(h) *Consultations outside the agency.* The materials and design were reviewed by Dr. David Price, Professor, Washington State University; Ms. P. Isaia, School Food Authority Director, Arlington, MA; Dr. Thomas Cook, Professor, Northwestern University; and Mr. Richard Reed, Bureau Chief, Bureau of School Food Management, New York State Education Department. Mr. Reed is not a paid study consultant. However, he has provided valuable advice and encouragement for study activities.

(i) *Estimation of respondent reporting burden.*

Respondent type	Number	Estimate of average person-hours
School food authority director	800	0.75

(j) *Sensitive questions.* None of the questions in the survey measures qualify as sensitive.

(k) *Estimate of cost to Federal Government.*

Contractor costs. The total cost of this study is $648,964, distributed over 16 months including overhead charges.

Agency Staff and Expenses. The agency contributes substantially to the contract in the form of monitoring review and occasional travel. The estimated cost of this contribution for the total contract is approximately $22,000. The estimated cost for the Nutrition Education and School Lunch Participation Study is approximately $4,000.

(l) *Detailed justification of how information once collected will be used.*

Program Management: Agency staff will utilize the results of this evaluation study in the Congressional re-authorization process for the Nutrition Education and Training Program during the 1980's as well as in the agency response to Senate Resolution 90 (Report No. 96-208, June 20, 1979) in March 1981. Evidence that nutrition education and training can influence children's participation in the school lunch program would substantially influence Congressional support for the NET Program and the school lunch program.

Furthermore, the models of school level participation developed in this study will provide the basis for the development of a more comprehensive national model to be developed in future studies. The comprehensive model will provide the agency with a powerful management tool for estimating the effect on participation of various policy manipulations.

The great advantage of the approach taken in this study is that extant data on participation rates are utilized which are routinely available for reimbursement purposes.

(m) *Methods of analysis.* Time series and variations on time series will be the dominant mode of analysis for this study.

(n) *Legislative authority specifically requiring or allowing the data collection.* "That the Secretary of Agriculture is hereby requested to conduct a study of the school nutrition programs administered under the National School Lunch Act and the Child Nutrition Act of 1966. The study is to include, but not be limited to, consideration and assessment of * * * actions necessary to develop a national survey data base on these programs suitable for making projections of program participation and cost through simulation or other techniques; * * * Whether the statements of policy contained in the National School Lunch Act and the Child Nutrition Act of 1966 should be modified; the feasibility of using the school lunchroom as a nutrition education classroom;" "Sec. 2. The Secretary is requested to report on the progress of the study to Congress by January 31, 1980, and submit a final report to Congress by March 31, 1981." (Senate Resolution 90, Report No. 96-208, June 20, 1979)

(o) *Timetable for dissemination of collected data.* The final report will be issued in July 1980.

(p) *Estimate of the total person-hours and costs required to complete the request.* The total person-hours is approximately 600 hours with a dollar value of approximately $4,500.

(q) *Evidence of any urgent need or very unusual circumstance requiring the data.* The Congressional request for information on the NET program post-dated the February 15, 1979 deadline, thus it was not possible to announce this study in the Federal Register in detail at that time. Furthermore, the study is non-recurring and the participation of the States and all local schools is voluntary.

(r) *Copy of the exact data instrument* may be obtained from:

Dr. Jack Radzikowski, U.S. Department of Agriculture, Food and Nutrition Service, Office of Policy Planning and Evaluation, Room 624—GHI Building, 500 Twelfth Street, S.W., Washington, D.C. 20250

(s) *Brief account of early involvement and communication with respondent population.* The State Directors of School Food Service were contacted in late November and December, 1979. Contact with the actual respondents has not been made.

(t) *Assurance that respondents will have sufficient lead time to comply with request.* The respondents will require little lead time, no records review or other data compilation is required to complete the survey. Respondents are, however, requested to gather relevant data from other knowledgeable individuals in the schools they serve.

(u) *Specific justification for a multi-year approval.* Not applicable. The study does not require multi-year approval.

Data Activity Plan Summary

(a) *Title of the proposed activity.* Nonpublic School Libraries/Media Centers, Fall 1979 Library General Information Survey (LIBGIS V)

(b) *Name of the sponsoring agency/bureau/office.* National Center for Education Statistics, Division of Multilevel Education Statistics, Learning Resources Branch

(c) *Agency form number.* NCES Form 2349-3

(d) *Justification.* "* * * to provide for the first time basic data for the administration and support of Pub. L. 95-561, (2) to supply data for comparison purposes (i.e., * * * public and private schools that receive Federal funds can be compared); and (3) to provide a statistical data base for the private school library media centers * * *." (20 U.S.C. 1221e-1).

(e) *Description of survey plan.* This project will determine the school library media center resources in 1979 in the United States nonpublic schools. Data to be collected, collated, and published are resources (books, periodicals, audio/

visual materials), grade span of schools, expenditures by source, staff, service activities, and facilities.

(f) *Tabulation and publication plans.* The publication will consist of approximately 40 tables and text. Early release tables may be available in August, 1980.

(g) *Time schedule for data collection and publication.* Closeout data collection will be May, 1980. Camera ready tables will be available in November 1980. Manuscript will be completed by December 1980 to go to GPO.

(h) *Consultations outside the agency.* Meetings were held with the Office of Libraries and Learning Resources, the School Library Media Center Statistics Committee, American Library Association, CEIS (Committee on Evaluation and Information Systems, Chief State School Officers), and the Executive Board of the Council of American Private Education (CAPE).

(i) *Estimation of respondent reporting burden.*

Respondent type	Number	Estimate of average person-hours
Nonpublic, nonprofit elementary/secondary schools	1635	30 minutes.

(j) *Sensitive questions.* Not applicable

(k) *Estimate of cost to Federal Government.*

Salaries and expenses	$12,000
Contract	75,000
Other	5,000
Total	92,000

(l) *Detailed justification of how information once collected will be used.*

1. *The Congress.* To respond to Congressional requests for data regarding the Title IVB programs of ESEA, Pub. L. 95–561 which USOE/OLLR administers at an annual level of $180,000,000.

2. *DHEW's Office of Education/OLLR.* The Title IVB funds for library resources needed require information on Public and Private Schools regarding the improvement of their services and functions.

3. *The National Commission on Libraries and Information Center (NCLIC).* NCES supplies information for the program of the National Commission on Libraries and Information Center which was created under Pub. L. 91–345. The data are also needed for implementation of the Report of the White House Conference on Library and Information Services which deals with needs to improve these facilities.

4. *The United States Department of State.* Every three years, NCES supplies library statistics through the Department of State to UNESCO (the United Nation's Educational, Scientific and Cultural Organization) for publication in its annual *Statistical Yearbook.*

5. *Professional Associations (such as The American Association of School Librarian (AASL) and Support Industries (such as publishers).* The data are essential for administrators of public and nonpublic schools and support industries depending on libraries who need survey data for essential marketing information. AASL just added in 1979 a Non-Public Schools Section which co-sponsors this survey.

(m) *Methods of analysis.* The level of data aggregation will be national. Only tabulations of descriptive data are to be reported. Since this is a first time survey no comparison with previous data is possible. Aggregate data for public and nonpublic schools.

(n) *Legislative authority specifically requiring or allowing the data collection.* "The Center shall: (1) Collect, collate, and from time to time, report full complete statistics on the condition of education in the United States; (2) conduct and publish reports on specialized analyses of the meaning and significance of such statistics; (3) assist State and local educational agencies in improving and automating their statistical and data collection activities * * * (20 U.S.C. 1221e–1).

(o) *Timetable for dissemination of collected data.* Manuscript will be completed by December 1980 to go to GPO.

(p) *Estimate of the total person-hours and costs required to complete the request*

1,635 respondents × 30 minutes=estimated 818 person-hours

$6,000 estimated dollar costs to respondents

(q) *Evidence of any urgent need or very unusual circumstance requiring the data.* The data on nonpublic schools had been requested by OLLR for 1978. Due to NCES budget shortage the survey year had to be postponed to now. The contract was awarded on September 29, 1979 with collection of data supposed to begin four months after award of contract.

(r) *Copy of the exact data instrument.* Copies of the data instrument may be obtained from:

Elizabeth Faupel at National Center for Education Statistics, DMES/LRB Room 3145, 400 Maryland Avenue SW., Washington, D.C. 20202.

(s) *Brief account of early involvement and communications with respondent population.* Meetings were held with CEIS (Committee on Evaluation and Information Systems, Chief State School Officers).

(t) *Assurance that respondents will have sufficient lead time to comply with request.* The respondent community has been informed by Council of American Private Education (CAPE) for 3 months and the American Association of School Librarians (AASL) for 6 months that this survey will be undertaken in March 1980.

(u) *Specific justification for a multi-year approval.* Not applicable.

Data Activity Plan Summary

(a) *Title of the proposed activity.* A Study of Factors Affecting State leadership for Vocational Education.

(b) *Name of the sponsoring agency/bureau/office.* U.S. Office of Education, Bureau of Occupational and Adult Education.

(c) *Agency form number.* OE Form 753.

(d) *Justification.* During the period 1975–1979, there was a turnover rate of over 60% in positions of State leadership. This seemingly high rate has been the focus of considerable concern and has resulted in the proposal for a study of factors affecting State leadership in vocational education. The proposal for this study calls for information about the characteristics of people in State education leadership positions, i.e., State directors of vocational, adult and special education and State higher education executive officers, to be collected in order to:

(1) Portray characteristics of State leaders of vocational education;

(2) Compare characteristics of State leaders of vocational education with those of other State leaders in education;

(3) Compare the characteristics with existing data relating to factors affecting State leadership in vocational education; and

(4) Identify and describe new and emerging competencies needed by State leaders in vocational education.

(e) *Description of survey plan.* In order to obtain the information needed, a telephone interview technique will be used with four respondent populations: (1) State directors of vocational education; (2) State directors of Special education; (3) State directors of adult education; and (4) State higher education executive officers. An N of 200 will be utilized with 50 from each of the four respondent groups. No contact will be made with people in the extra-territorial jurisdictions of the United States. Names of people occupying the four leadership positions noted will be provided by the national association of each respondent group.

(f) *Tabulation and Publication Plans.* The information obtained from the survey will be tabulated using frequency counts, percentages, and averages. This data will be analyzed with other data from existing sources about factors influencing State leadership in vocational education. A report of the results of the study will be prepared.

(g) *Time Schedule for data collection and publication.* Data will be collected during July–September, 1980. Publication or report will be January 31, 1981.

(h) *Consultation outside the agency.* Data and/or information needed for this survey had been discussed with the following: Dr. William Pierce, Executive Director, Council of Chief State School Officers; Dr. George Rush, CEIS Coordinator, Council of Chief State School Officers, Dr. Richard Galloway, Executive Director, National Association of State Directors of Special Education; Mr. James Reid, Executive Director, National Association of State Directors of Vocational Education; Dr. James Dorland, Executive Director, National Association for Public Continuing and Adult Education; and Dr. Richard Millard, Executive Secretary, State Higher Education Executive Officers. Information pertaining to chief state school officers, and needed for the survey, was found to be already available from the Council of Chief State School Officers. Consequently, this group (CCSSO's) has been omitted from the the survey. Information relating to other groups, however, was found to be incomplete.

(i) *Estimation of respondent reporting burden.*

Respondent type	Number	Estimate of average person-hours
Adult education administrators	50	0.50
State vocational education directors	50	0.50
Other (state directors of special education)	50	0.50
Other (state higher education executive officers)	50	0.50

(j) *Sensitive Questions.* There are no sensitive questions included in the survey.

(k) *Estimate of cost to Federal Government.* $26,680.

(l) *Detailed justification of how information once collected will be used.* Information collected will be used as research bases to attempt to identify those factors which seem to be associated with state leadership positions. By expanding the knowledge of factors that influence positions of state leadership, this study can be of great help to people occupying such positions as they plan for and project future activities.

(m) *Methods of analysis.* The descriptive data collected in this survey will be analyzed using descriptive statistics and reported in tabular and graphic formats.

(n) *Legislative authority specifically requiring or allowing the data collection.* "(The National Center for Research in Vocational Education will) * * * (D) develop and provide information to facilitate national planning and policy development in vocational education." (Section 171 (a)(2) of the Vocational Education Act, as amended by Pub. L. 94–482, Title II, Section 212, 20 U.S.C. 2401).

(o) *Timetable for dissemination of collected data.* Collected data will be initially available for dissemination with submission of final report, January 31, 1981.

(p) *Estimate of the total person-hours and costs required to complete the request.* Using the total projected N of 200 and the estimated 0.50 person-hour figure, the total number of person-hours will be 100. At an estimated hourly rate of $10.00, the total estimated cost to respondents would be $1,000.00 (200 × 0.50 × $10.00).

(q) *Evidence of any urgent need or very unusual circumstance requiring the data.* Not applicable.

(r) *Copy of exact data Instrument.* Copies of the data instrument may be obtained from:

Dr. Paul Manchak, Bureau of Occupational and Adult Education, U.S. Office of Education, 7th and D Streets, SW, Washington, D.C. 20202.

(s) *Brief account of early involvement with respondent populations.* Data and/or information needed for this survey has been discussed with the following: Dr. William Pierce, Executive Director, Council of Chief State School Officers; Dr. George Rush, CEIS Coordinator, Council of Chief State School Officers; Dr. Richard Galloway, Executive Director, National Association of State Directors of Special Education; Mr. James Reid, Executive Director, National Association of State Directors of Vocational Education; Dr. James Dorland, Executive Director, National Association for Public Continuing and Adult Education; and Dr. Richard Millard, Executive Secretary, State Higher Education Executive Officers.

(t) *Assurance that respondents will have sufficient lead time to comply with request.* In order to assure sufficient lead time, and at the same time complete the data collection as expeditiously as possible, each respondent's office will be contacted at least one week in advance of the tentative interview. Arrangements will be made at that time for a specific date and time for the interview.

(u) *Specific justification for a multi-year approval.* Not applicable.

[FR Doc. 80-7737 Filed 3-12-80; 8:45 am]
BILLING CODE 4110-89-M

Public Health Service

National Toxicology Program Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Toxicology Program Board of Scientific Counselors, U.S. Public Health Service, April 7–8, 1980, Building 31C, Conference Room 7, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public from 9 a.m. to 5 p.m., April 7, and from 9 a.m. to adjournment on April 8, 1980, for the purpose of discussing the bioassay analysis and reporting activities of the NCI Carcinogenesis Testing Program; mechanisms for review and public reporting of the bioassay results; presentation of the Subcommittees' reports; and for the conceptual review of contract proposals. Attendance by the public will be limited to space available.

The NTP Director, Dr. David P. Rall, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919) 541–3201 (FTS 629–3201), will furnish summaries of the meeting, rosters of committee members and substantive program information.

Dated: March 6, 1980.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 80-7720 Filed 3-12-80; 8:45 am]
BILLING CODE 4110-08-M

Projects for Adolescent Pregnancy Prevention and Services; Review Requirement and Extension of Date for Submission of Applications

AGENCY: Office of Adolescent Pregnancy Programs (OAPP), Public Health Service, HEW.

ACTION: Notices of required review and extension of date for submission of applications.

SUMMARY: This is to notify applicants for financial assistance under Title VI of Pub. L. 95–626 (42 U.S.C. 300a–21(a)) that they must submit their applications for review by the Health Systems Agencies (HSAs). In order to give applicants

sufficient time to make their submissions to the HSAs, the deadline for submitting the applications to this Department is extended.

DATE: Competitive applications for assistance must be received in the Office of Adolescent Pregnancy Programs and by the appropriate HSA by 5:00 p.m. on April 15, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. Lulu Mae Nix, Director, Office of Adolescent Pregnancy Programs, 5600 Fishers Lane, Room 16A-17, Rockville, Maryland 20857 (301) 443-1390.

SUPPLEMENTAL INFORMATION: On December 12, 1979, the OAPP published in the Federal Register an announcement soliciting competitive applications for assistance under Title VI of Pub. L. 95-626. 44 FR 71908. The deadline for submission of such applications was 5:00 p.m., March 14, 1980.

It has now been determined that these applications must undergo review under section 1513(e) of the Public Health Service Act, 42 U.S.C. 3001-2(e), as amended by Pub. L. 96-79. See sec. 301, Pub. L. 95-626. This means that applicants for Title VI funds must submit a copy of their application to their local HSAs for review at the same time they submit it to the OAPP. The regulations setting out procedures and criteria for HSA review appear at 42 CFR Part 122, Subpart E. 44 FR 47064 (August 10, 1979).

In order to permit the orderly submission of Title VI applications to the appropriate HSAs, the deadline for submission of applications is being extended to 5:00 p.m., April 15, 1980.

If additional information is needed concerning the HSA review, Contact Dr. Nix at the above address.

Dated: March 10, 1980.

Lulu Mae Nix,

Director, Office of Adolescent Pregnancy Programs.

[FR Doc. 80-7952 Filed 3-12-80; 8:45 am]

BILLING CODE 4110-85-M

Office of the Assistant Secretary for Health

National Committee on Vital and Health Statistics; Subcommittee on International Statistics; Meeting Cancelled

The Federal Register document appearing on page 12503 for Thursday, February 26, 1980, the March 17 meeting of the Subcommittee on International Statistics of the National Committee on Vital and Health Statistics has been cancelled. The meeting has been rescheduled for April 2, 1980 in Room 403-405 of the Hubert E. Humphrey Building at 9:30 a.m.

Dated: March 11, 1980.

Wayne C. Richey, Jr.,

Associate Director for Program Support, Office of Health Research, Statistics, and Technology.

[FR Doc. 80-8031 Filed 3-12-80; 10:31 am]

BILLING CODE 4110-85-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environmental Quality

[Docket No. NI-12]

Intended Environmental Impact Statements on Certain Projects

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for each of the following projects under HUD programs as described in the appendices of the Notice: Evergreen Park Housing Development, Fort Collins, Colorado; Park Meadows Subdivision, Tulare, California; Cheyenne Mountain Ranch, Master Plan, Cheyenne, Wyoming; The Fairfield Addition, Arlington, Tarrant County, Texas; Colby Lake Planned Development, Woodbury, Minnesota, and the Cascade Sewer Trunkline, Redding, California. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning a particular project to the specific person or address indicated in the appropriate part of the appendices.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D.C., March 7, 1980.

Richard H. Broun,

Director, Office of Environmental Quality.

Appendix

EIS on Evergreen Park Housing Development, Fort Collins, Colo.

The HUD Area Office in Denver, Colorado intends to prepare an EIS on Evergreen Park, described below, and requests information and comments for consideration in the EIS.

Description. Approximately 1250 dwelling units (Multi-family) will be constructed in north Fort Collins, Colorado. Construction will include streets and water and sewerage facilities.

Need. An EIS is required because the total number of dwelling units exceeds a HUD-established threshold.

Alternatives. The alternatives are HUD participation in the development as proposed by the builder, participation in the development provided that HUD-required modifications are implemented by the builder, or reject participation in the development.

Scoping. A scoping meeting will not be held. HUD will request input from the appropriate government agencies and service organizations. This notice will also appear in a paper of local circulation in Fort Collins, Colorado.

Comments. Comments should be forwarded on or before April 3, 1980 to: HUD, Region VIII, Attention: Carroll F. Goodwin, Area Office Environmental Clearance Officer, 1404 Curtis Street, Executive Tower Inn, Denver, Colorado 80202.

Appendix

EIS on Park Meadows Subdivision Proposal, Tulare, Calif.

The San Francisco Area Office of the U.S. Department of Housing and Urban Development proposes to publish and distribute a Draft EIS in the summer of 1980 on the project described below and solicits information and comments for consideration in the EIS. This EIS will be developed pursuant to 24 CFR 50.

Description. This is a proposal to develop 599 dwelling units on a 110 acre parcel in the southwest part of the City of Tulare, California. The parcel has frontage of one-fourth mile along the south side of Bardsley Average at "E" Street and extends southerly approximately three-fourths of a mile. It is one-fourth mile east of Pratt Avenue and borders the Tulare High School Farm on its westerly side.

The project will consist of approximately 265 single family homes and 334 duplex and apartment units, 8 acres of parks and meandering walkways, and a 3 acre commercial site. Development will be in 6 phases and take 4 years to complete. The first phase of 200 lots will start in March, 1980 under a special Early Start approval granted by HUD.

The sponsor has requested HUD analysis under Section 203b of the Mortgage Insuance Program to order to make HUD mortgage insurance available to eligible home buyers. Some of the apartments will be constructed under the Farmers Home Administration

(FmHA) Section 515 of the Rural Housing Act. The project has been approved by the City of Tulare.

Need. An EIS is required on this proposal because the proposed number of units exceeds the allowable threshold under which a project can be approved without an EIS.

Alternatives perceived. At this time, known HUD alternatives are (1) to approve the project for insurability, (2) to approve the project partially for insurability, or (3) to disapprove the project.

Scoping. This notice is part of the process for scoping the EIS. Accordingly you are invited to submit a list of the significant issues which you or your agency believes should be analyzed in depth in this EIS. If any of the significant issues listed by you or your agency involve an area of expertise not generally known to be part of HUD's interdisciplinary capability, your assistance may be requested in preparing the environmental analysis in accordance with 40 CFR 1501.6. Please submit the name, address and telephone number of the designated person whom we may contact, if necessary, concerning the issue or the need for assistance. HUD also requests your assistance in providing, on permanent or loan basis, any documents pertaining to issues you may have listed, or in identifying any individual or agency (with address and telephone number) able to provide information concerning the issues.

Comments. Please submit the requested information on or before April 13, 1980, and direct any questions about the proposed action and the Environmental Impact Statement to: Edward Handschin, EIS Manager (415) 556-6642, HUD Area Office, 16th Floor, 1 Embarcadero Center, San Francisco, California 94111.

Appendix

EIS on Master Plan for Cheyenne Mountain Ranch; Cheyenne, Wyo.

Notice is hereby given that the Denver Area Office of the U.S. Department of Housing and Urban Development is preparing an Environmental Impact Statement (EIS) on the master plan described below.

Description. The master plan for Cheyenne Mountain Ranch will consist of approximately 10,025 units on 2827.9 acres. The initial project, Cheyenne Meadows Filling No. 3 and 4 within the master plan, will consist of 250 units on 87 plus acres. The project is located at East Meadows Drive and Cheyenne Meadows Road. Anticipated publication date of the draft EIS for public comment is April, 1980. The developer has requested early start of 199 units pursuant to HUD regulations which permit approval of a first segment of a large scale project which is found to be financially and functionally separate and meets specific criteria.

Need. The number of units exceeds the threshold established pursuant to HUD Handbook 24 CFR, Part 50, dated November 27, 1979. HUD anticipates approval of construction of 199 housing units of the proposed 250 units in Cheyenne Meadows Filing No. 3 and 4 not less than 15 days from the first printing of this notice.

Scoping. A scoping meeting will not be held. All comments will be considered for inclusion in the Draft Environmental Impact Statement.

Comments. All interested parties are invited to comment on the environmental impacts of the Cheyenne Mountain Ranch master plan by addressing their comments to: Mr. Carroll F. Goodwin, Environmental Clearance Officer, HUD Area Office, 1405 Curtis Street—Executive Towers Inn, Denver, Colorado 80202. Comments should be in writing, be specific, and submitted not more than 21 days after the first printing of this notice in the Federal Register. (April 3, 1980).

EIS on Fairfield Addition, Arlington, Tarrant County, Tex.

The Dallas Area Office of the Department of Housing and Urban Development intends to prepare an Environmental Impact Statement for a proposed subdivision to be known as Fairfield Addition, located in Arlington, Tarrant County, Texas. The purpose of this Notice is to solicit comments and recommendations from all interested persons, local, state and Federal agencies regarding the issues to be addressed in depth in the Environmental Impact Statement.

Description. The Crow Development Company, Dallas, Texas, proposes to develop a tract comprised of 501.23 acres of land which is located east of Matlock Road and south of Interstate Highway 20 and within the city limits of the City of Arlington, Texas. The developer proposes a residential housing development which will consist of approximately 1,473 single family residences. When fully developed, it is anticipated the development will accommodate a population of approximately 5,150 persons. The developer has requested an early start on 199 lots.

Need. Due to the size and scope of the total proposed project the Dallas Area Office has determined that an environmental impact statement will be prepared pursuant to Pub. L. 91-190, the National Environmental Policy Act of 1969.

Alternatives. The alternatives available to the Department are (1) find the project acceptable for mortgage insurance as submitted, (2) find the project acceptable for mortgage insurance with modifications, or (3) reject the project.

Scoping. No formal scoping meeting is anticipated for this project. This Notice is part of the process used for scoping the environmental impact statement. Any response to this Notice will be used to help (1) determine significant environmental issues and (2) identify data which the EIS should address.

Contact. Comments should be sent within 21 days following publication of this Notice in the Federal Register to I. J. Ramsbottom, Environmental Officer, Dallas Area Office, Department of Housing and Urban Development, 2001 Bryan Tower, Dallas, Texas 75201. The commercial telephone number of this office is 214-767-8347 and the FTS number is 729-8347.

Appendix

EIS on Colby Lake Planned Development, Woodbury, Minn.

The HUD Area Office in Minneapolis, Minnesota intends to prepare an EIS on the project described below and solicits information and comments for consideration in the EIS.

Description. The proposal calls for the phased construction of a maximum of 8926 residential units in Woodbury (Washington County) Minnesota by Orrin Thompson Construction Corporation (Division of U.S. Homes) and Minnesota Mutual Life Insurance Company. The Project is expected to begin in March, 1980. Construction will include all necessary streets, water and sewerage facilities and provide appropriate open space and recreation areas. The site is located South of Valley Creek Road, North of Bailey Road, and bounded along the west by Pioneer Drive with the eastern boundary parallel with Woodbury Drive. Total project area is 2,285 acres. The developer has requested an early start on this project pursuant to HUD regulations which permit approval of a first segment of a large scale project which is found to be financially and functionally separate and meets specific criteria.

Need. An EIS is proposed due to HUD threshold requirements in accordance with housing program environmental regulations and probable impact on: water resources, energy, transportation systems and community services.

Alternatives perceived. At this time the HUD alternatives include: no project, accept project as proposed, accept project with conditions, or modification of project.

Scoping. A scoping meeting to determine significant issues to be addressed will be held at 9:00 A.M. on Tuesday, April 15, 1980, in the Fort Snelling Federal Building, Fort Snelling (St. Paul) Minnesota. Additional information regarding the project will be sent to interested agencies in advance of the meeting.

Comments. Comments regarding this proposal should be sent on or before April 3, 1980 to: Thomas T. Feeney, Area Manager, Attention: William Middleton, Environmental Clearance Officer, HUD Area Office, 6400 France Avenue South, Minneapolis, Minnessota 55435 (or call (612) 725-4724).

Appendix

EIS on Cascade Sewer Trunkline, Redding, Calif.

The City of Redding, as Community Development Block Grant recipient, intends to prepare an Environmental Impact Statement (EIS) on the project described below and solicits comments and information for consideration in the EIS.

Description. The project involves the construction of two major sewer trunk lines located in the southern region of Redding in Shasta County. The first would connect into the existing line at Westside Road and extend 1,000 feet south to Kenyon Drive and 700 feet west on Kenyon Drive with a 15-inch diameter line. The second sewer line would connect into the existing line along South Bonnyview Road, run under the Southern Pacific Railroad Tracks and Highway 273, extend along Cedar Road and end at Branstetter Lane. The trunk line extension will have the capacity to accommodate 2,600 household equivalents, which will permit the creation of parcels with less than one-half acre.

At present there are no public sewers in South Redding, except for an 18-inch collector and a 42-inch interceptor pipeline. Sewage treatment and disposal are accomplished by individual septic tanks and drain fields, thus requiring larger lots per household. It has been determined by county health officials that poor drainage and a high groundwater table, along with an increasing population density, have led to septic tank failures. Due to poorly- or non-functioning septic systems, sewage has collected around valves and pipelines and in some areas is lying on the surface of the ground. This causes potential health hazards for the residents of the Redding-Cascade neighborhood. Completion of the Cascade sewer trunkline will make it possible for the formation of sewer assessment districts, which in turn will remedy the existing potential health hazard.

Project construction is estimaged to take three to five months to complete, with a project completion date of June, 1981.

Need. Redding is located in Shasta County, which is classified by HUD as an SMSA County (pop. 110,000). The household equivalent capacity of the proposed sewer line is 2,600 (H.H.E.). This exceeds the "automatic threshold limit" of 700 units established by HUD in § 58.25, Part III of the Federal Register, thus requiring the preparation of an Environmental Impact Statement.

Alternatives. The no-project alternative would increase the number of septic tank failures, and result in the State Health Department declaring a moratorium on building activity and the closure of non-functioning septic tank systems. Another alternative would be to require the replacement of existing failing septic tank systems and to require larger parcel sizes for new septic tank systems. The third alternative relates to two different routes for the sewer trunk line.

Scoping. The City of Redding does not intend to hold a scoping meeting unless one is requested by any affected agency. Significant issues and selected data will be incorporated into the EIS through written response by affected agencies.

Comments. Comments should be forwarded on or before April 3, 1980, to Jim King, 760 Parkview Avenue, Redding, California (916) 246-1151.

[FR Doc. 80-7775 Filed 3-12-80; 8:45 am]

BILLING CODE 4210-01-M

Office of the Secretary

[Docket No. D-80-595]

Acting Regional Administrator, Seattle Regional Office, Region X, Washington; Designation

Each of the Officials appointed to the following positions is designated to serve as Acting Regional Administrator during the absence of the Regional Adminstrator, with all the powers, functions, and duties redelegated or assigned to the Regional Administrator: *Provided,* That no official is authorized to serve as Acting Regional Administrator unless all officials listed before him in this designation are unavailable to act by reason of absence or vacancy in the position:

1. Director, Office of Regional Administration
2. Director, Office of Regional Community Planning & Development
3. Director, Office of Regional Housing
4. Director, Office of Regional Fair Housing and Equal Opportunity

Effective as of the 21st day of November 1979.

Gordon N. Johnston,

Acting Regional Administrator, Seattle Regional Office.

[FR Doc. 80-7783 Filed 3-12-80; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. D-80-596]

Houston, Sacramento, Phoenix, and Des Moines Multifamily Service Offices; Redelegation of Authority

Section A. *Redelegation of Authority.* Each Supervisor and Deputy Supervisor of the Houston, Sacramento, Phoenix and Des Moines Multifamily Service Offices is hereby authorized to exercise the power and authority of the Secretary of Housing and Urban Development with respect to the approval of all Assisted Housing Projects, proposals and/or applications for the Section 8, Low-Income Public Housing, Indian Housing, and Public Housing Modernization programs under the United States Housing Act of 1937 (42 U.S.C. 1401 et seq.), as amended, and for Housing for the Elderly and Handicapped under Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q).

For purposes of this redelegation, the approval authority shall include the approval of Low-Income Public Housing and Section 10(c) and Section 23 Leased Housing Operating Budgets requiring operating subsidy or lease adjustments to Basic Annual Contributions.

Sec. B. *Exercise of delegated authority.* Redelegations of Authority made under Section A shall not be construed to modify or otherwise affect the administrative and supervisory powers of the Regional Administrators, Area Managers, or any of them, to whom a delegate is responsible.

(Secretary's delegation of authority published at 36 FR 5005, March 16, 1971)

Effective date. This redelegation of authority is effective as of March 4, 1980.

Issued at Washington, D.C., March 7, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 80-7781 Filed 3-12-80; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. D-80-594]

Region X (Seattle, Wash.); Designation of Acting Area Manager for the Portland Area Office

The officers appointed to the following listed positions in the Portland Area Office, Region X, are designated to serve as Acting Area Manager during the absence of the Area Manager, with all the power, functions, and duties redelegated or assigned to the Area Manager: *Provided, however,* That no official is authorized to serve as Acting Area Manager unless all officials listed before him or her in this designation are unavailable to act by reason of absence or vacancy in the position:

1. the Deputy Area Manager
2. the director, Housing Division
3. the Director, CPD Division
4. the Area Counsel
5. Deputy Director, Housing Management
6. Deputy Director, Housing Development

This supersedes all previous designations.

(SEA 1200, Paragraph III, Designations, B.3.c.)

Effective Date: October 25, 1979.

Dated: November 14, 1979.

Nile Paull,

Acting Area Manager.

[FR Doc. 80-7782 Filed 3-12-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Caballo Mountain Communications Site Acces Road; Closing Order

Notice is hereby given that effective on March 13, 1980, the Bureau of Land Management will close the Caballo Mountain Communications Site Access Road pursuant to the regulations published in the Code of Federal Regulations (CFR) Title 43 Subpart 8364 and the Federal Land Policy and Management Act (FLPMA) of 1976, Pub. L. 94-579, Title V, Section 505.

This closure does not apply to authorized users, to use by hunters during big game hunting seasons as published annually by the New Mexico Department of Game and Fish, or to Federal, State or governmental agencies during law enforcement or emergency operations. On request, a permit may be obtained by anyone wishing to use this road at the Bureau of Land Management, District Office, 1705 North Valley Drive, Las Cruces, New Mexico 88001. Any person who knowingly and willingly violates this closure order shall be fined not more than $1,000 or

imprisoned not more than 12 months, or both.

The area of closure is the road contained within T. 15 S., R. 4 W., Section 26, NE¼SW¼NW¼. For exact location of the proposed closure, see maps at the Las Cruces District Office.

John E. Provine,

Acting District Manager.

March 7, 1980.

[FR Doc. 80-7766 Filed 3-12-80; 8:45 am]

BILLING CODE 4310-84-M

California; Seasonal Closure of Public Lands

Notice is hereby given that all public lands and waters within 1 mile of Negit and Paoha Islands, including all or portions of Section 13, 14, 23, 24, 25, 36; T. 2N, R. 26E, MDM; Section 18, 19, 20, 28, 29, 30, 31, 32, 33, T. 2N, R. 27E, MDM; Section 1, T. 1N, R. 26E, MDM; Sections 5 and 6, T. 1N, R. 27E, MDM; are hereby closed to public use and entry except for authorized personnel, from April 1, to August 1 of each year.

The purpose of this closure and use restriction is to provide solitude for nesting California Gulls.

Authorization for closure is under Title 43, CFR 6010.4 and will be in effect until revoked or not longer than 49 years.

This closure has been concurred in by California Department of Fish and Game, Reg. 5; Los Angeles Department of Water and Power; and the State Lands Commission of California. Records of concurrence are on file in the Bakersfield District Office.

Dated: March 5, 1980.

Louis A. Boll,

District Manager.

[FR Doc. 80-7768 Filed 3-12-80; 8:45 am]

BILLING CODE 4310-84-M

Chief, Branch of Cadastral Survey, Division of Technical Services, New Mexico State Office; Redelegation of Authority

March 5, 1980.

1. Pursuant to the authority contained in Part I, Section 1.4(a)(1) of Bureau Order No. 701 of July 23, 1964, as amended, I hereby redelegate to the Chief, Branch of Cadastral Survey in the Division of Technical Services authority to take action on Special Instructions and Supplemental Special Instructions.

2. The State Director may, in his discretion, personally exercise any authority hereby delegated to the Chief, Branch of Cadastral Survey.

3. The Chief, Branch of Cadastral Survey may redelegate the authority vested in him by this delegation to any qualified employee under his jurisdiction. Any order of redelegation must be approved by the State Director and published in the Federal Register.

4. The Chief, Branch of Cadastral Survey may, by written order, designate any qualified employee of the Branch to perform the functions of his position in his absence. Such order will be approved by the Chief, Division of Technical Services.

5. *Effective date.* This redelegation will become effective March 15, 1980.

Arthur W. Zimmerman,

State Director.

[FR Doc. 80-7760 Filed 3-12-80; 8:45 am]

BILLING CODE 4310-85-M

Montana and Wyoming; Powder River Regional Coal Team Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to the responsibilities set forth at 43 CFR 3400.4(b), the regional coal team will meet on April 14, 1980, to determine the number of ex officio members necessary to participate in regional coal team activities to insure that local perspectives are articulated during the decision proceedings. In addition, the team may make appointments of ex officio members to the regional coal team.

The regional coal team will be briefed on specific issues relating to coal development (e.g., socio-economic concerns, transportation, hydrology, etc.). These briefings will serve as the basis for the initial guidance that the regional coal team may, at this meeting, provide to the tract delineation team.

Public attendance at the regional coal team meeting is welcome.

DATES: The regional coal team will meet at 8:30 a.m. on April 14, 1980. In the event the regional coal team does not complete its work on April 14, 1980, the meeting will be continued on April 15, 1980, at 8:30 a.m.

ADDRESSES: The regional coal team meeting will be held in the Cheyenne Club Room of the Hitching Post Motor Inn, 1700 West Lincoln Way, Cheyenne, Wyoming. If the regional coal team continues its meeting on April 15, 1980, the meeting will be held in the 3rd floor conference room of the Bureau of Land Management's Wyoming State Office, 2515 Warren Avenue, Cheyenne, Wyoming.

FOR FURTHER INFORMATION CONTACT: Robert O. Buffington, Regional Coal Team Chairperson, (208) 384-1401.

Dated: March 10, 1980.

Arnold E. Petty,

Acting Associate Director.

[FR Doc. 80-7812 Filed 3-12-80; 8:45 am]

BILLING CODE 4310-84-M

[N-20614, N-20615, N-20622, N-20623, N-20624]

Nevada; Realty Action; Sale of Public Lands in Nye County, Nev.

March 3, 1980.

The following described lands have been identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716, at no less than the fair market value shown:

Parcel No. (serial register No.)	Legal description	Acreage	Value
	T. 2 N., R. 42 R., MDM		
	Section 1		
N-20622	Lot 24	32.22	$129,000
N-20623	Lot 21, SW¼SE¼NW¼.	11.82	39,500
N-20624	Lot 20	.91	3,000
	Section 2		
N-20614	Lots 29 & 30	12.28	$73,500
N-20615	Lot 24	7.05	42,500

The sale will be held on Wednesday, May 14, 1980, at the Tonopah Convention Center, 301 Brougher Street, Tonopah, Nevada. Registration of bidders will begin at 8:00 a.m. and the sale will start at 9:00 a.m. and continue until 5:00 p.m., if necessary.

The land is being offered for sale to facilitate land use planning and to accommodate growth occurring in and around Tonopah, Nevada. The lands offered for sale have potential either for retention for multiple-use management or for use in residential and business development. However, virtually all private land in Tonopah amenable to residential or business development is currently being used. The sale is consistent with the Bureau's planning and has been discussed with the Nye County Commissioners. The public interest would be served by offering the land for sale.

The terms and conditions applicable to the sale are:

1. Mineral rights will be reserved to the United States.

2. The sale of these lands will be subject to valid existing rights.

3. An easement 45 feet in width will be reserved to Nye County for public use along the existing road where it crosses parcels N-20614 and N-20615.

4. An easement 30 feet in width will be reserved along the northern

boundary of parcel N-20623, a distance of approximately 730 feet, for roads and public utilities, to assure continued ingress and egress to adjacent land.

5. An easement 60 feet in width will be reserved along the northern most boundary of parcel N-20622 where it adjoins Lot 21, a distance of approximately 70 feet for roads and public utilities, to assure continued ingress and egress to adjacent land.

Detailed information concerning the sale, including the planning documents, environmental assessment and the record of the public discussions, is available for review at the Bureau of Land Management, Battle Mountain District Office, Second and Scott Streets, P.O. Box 194, Battle Mountain, Nevada 89820, or the Tonopah Resource Area Office, Building 102, Military Circle, Tonopah, Nevada 89049. No bid will be accepted for less than the appraised price and bids for a parcel must include all the land in the parcel. Federal law requires that bidders be U.S. citizens or, in the case of corporations, subject to the laws of any state or the United States.

Bids must be made by a principal or his agent, either by sealed bid mailed or delivered to the Bureau of Land Management, Battle Mountain District Office, or by oral bidding at the sale. Bids delivered or sent by mail will be considered only if received at the Bureau of Land Management, Battle Mountain District Office, P.O. Box 1945, Battle Mountain, Nevada 89820, prior to 4:30 p.m. on Tuesday, May 13, 1980. Each bid must be in a sealed envelope accompanied by a certified check, postal money order, bank draft or cashier's check, made payable to the Bureau of Land Management for not less than one-fifth of the amount of the bid.

The envelopes must be marked in the lower left-hand corner as follows: "Bid Parcel No. ; Sale to be Held May 14, 1980". The highest sealed bid on each parcel will determine the base of the oral bidding conducted the day of the sale. If two or more envelopes are received containing valid bids of the same amount for the same parcel, the determination of which is to be considered the highest bid will be by drawing.

The highest qualifying sealed bid will be publicly declared on the day of the sale and oral bids will then be invited. After oral bids, if any, are received, the highest qualifying bid will be declared by the authorized officer. The person declared to have entered the highest qualifying oral bid shall submit payment by cash, personal check, bank draft, money order, or any combination for not less than one-fifth of the amount of the bid immediately following the close of the sale. The successful bidder shall submit the remainder of the full bid price within 30 days of the sale. Failure to submit the full bid price within 30 days shall result in cancellation of the sale of the specific parcel and the deposit shall be forfeited and disposed of as other receipts of sale.

All bids will be either returned, accepted, or rejected in writing within 30 days of the sale date.

For a period of 30 days from the date of this notice, interested parties may submit comments to the Secretary of the Interior (BLM 320). Any adverse comments will be evaluated by the Secretary of the Interior, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the Secretary of the Interior, this realty action will become the final determination of the Department of the Interior.

Wm. J. Malencik,

Chief, Division of Technical Services.

[FR Doc. 80-7764 Filed 3-12-80; 8:45 am]

BILLING CODE 4310-84-M

[N-27765 Thru N-27775]

Nevada; Realty Action; Public Auction Sale; Public Lands In White Pine County, Nev.

March 5, 1980.

The following described lands have been identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716, at no less than the fair market value:

Parcel No. (serial register No.)	Legal description	Acreage
	T. 17 N., R. 63 E., Section 25	
N-27765	SE¼NE¼SW¼SE¼,E½SE¼SW¼SE¼,SW¼SE¼SW¼SE¼,E½NW¼SE¼SW¼SE¼.	11.25
	T. 17 N., R. 64 E., Section 19	
N-27766	S½NE¼NE¼SW¼	5.00
N-27767	S½NW¼NE¼SW¼	5.00
N-27768	S½NE¼SE¼SW¼	10.00
N-27769	SE¼SE¼SW¼	10.00
N-27770	S½NE¼SW¼SW¼, NW¼SE¼SW¼SW¼,W½SW¼SE¼SW¼SW¼.03	8.75
	T. 17 N., R. 64 E., Section 30	
N-27771	S½NE¼SE¼NW¼	5.00
N-27772	N½SE¼SE¼NW¼	5.00
N-27773	S½SW¼SE¼NW¼	5.00
N-27774	S½SE¼SW¼NW¼	5.00
N-27775	NW¼SW¼SW¼NW¼	2.50

The sale will be held at a time, date and place to be announced in general news releases and legal notices. Particulars for this public auction sale, including appraisals, specific easement reservations and procedures for bidding will be made available to the public approximately 30 days before the sale date. The land will not be offered for sale until at least 60 days after the date of this notice.

The land is being offered for sale in order to facilitate land use planning in the area and to accommodate growth occurring in and around the area of White Pine County lying between the City of Ely and community of McGill.

The land meets the first and third disposal criteria of Section 203(a) of the aforementioned sale authority. It has potential for suburban residential development. The sale is consistent with the Bureau's planning for the land and has been discussed with the White Pine County Regional Planning Commission. The public interest would be served by offering the land for sale.

The terms and conditions applicable to the sale are:

1. Reservations for road rights-of-way will be incorporated into each patent in conjunction with the State of Nevada Department of Transportation and the White Pine County Road network.
2. The sale of these lands will be subject to all valid existing rights.
3. No preference right will be given to adjoining land owners.
4. Mineral rights will be reserved to the United States.

Detailed information concerning the sale, including the planning documents, environmental assessment and the record of public discussion, is available for review at the Ely District Office, Star Route 5, Box 1, Ely, Nevada 89301.

For a period of 30 days from the date of this notice, interested parties may submit comments to the Secretary of the Interior (BLM 320). Any adverse comments will be evaluated by the Secretary of the Interior who may vacate or modify this realty action and issue a final determination. In the absence of any action by the Secretary of the Interior, this realty action will become the final determination of the Department of the Interior.

Wm. J. Malencik,

Chief, Division of Technical Services.

[FR Doc. 80-7762 Filed 3-12-80; 8:45 am]

BILLING CODE 4310-84-M

Alaska; Intent To Conduct a Nonsuitability Study Within Existing Utility and Transportation Corridors, and Solicit Public Input and Comments

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice.

SUMMARY: In accordance with provisions of Section 603 of the Federal Land Policy and Management Act (FLPMA) of 1976, the Bureau of Land Management (BLM), Alaska, has initiated a review of public lands along the proposed natural gas pipeline right-of-way.

The intent of this assessment is to utilize existing or readily available information to distinguish those public lands which clearly and obviously lack wilderness characteristics from those that may possibly contain wilderness characteristics and warrant further study along the proposed right-of-way. It is not the intent of this assessment to identify wilderness study areas. Such studies have been postponed in Alaska pending congressional settlement of the land management issue and funding.

DATES: The initial inventory began February 22, 1980. Public input and comments are requested and welcomed in this assessment through April 4, 1980.

ADDRESSES: Public meetings will be conducted in Alaskan villages near the proposed right-of-way area in conjunction with land use planning meetings to be held from mid-March to early April (dates pending). Public information meetings will be held in Anchorage and Fairbanks upon request for the purposes of gathering information and explaining the inventory process.

Comments and information are to be sent to Tom Schoder, Wilderness Study Coordinator, Bureau of Land Management, Alaska State Office (930), 701 C Street, Box 13, Anchorage, AK 99513.

FOR FURTHER INFORMATION CONTACT: Tom Schoder, (907) 271-5069 in Anchorage, or Dick Bout, (907) 265-2025 in Fairbanks, concerning the inventory process and requests for meetings.

SUPPLEMENTARY INFORMATION: In anticipation of various types of lands use authorization requests, the BLM initiated an assessment of public lands within or adjacent to existing utility and transportation corridors to determine the suitability or nonsuitability of these lands for further wilderness consideration. Public meetings in the following villages will be held from mid-March to early April: Stevens Village; Bettles/Evansville; Minto; Wiseman; Rampart; Allakaket/Alatna; Livengood; Anaktuvak Pass; Nuiksut; Barrow; Tok; Delta; and Northway. Public information meetings in Anchorage and Fairbanks will be held at the request of the public.

Curtis V. McVee,

State Director.

[FR Doc. 80-7695 Filed 3-12-80; 8:45 am]

BILLING CODE 4310-84-M

Alaska State Office; Redelegation of Authority; Part 1 Section 1.4(a)(b)

Under the delegation of authority contained in Bureau Order No. 701, dated July 23, 1964, as amended, and more specifically Amendment No. 30, dated November 23, 1979, I hereby redelegate authority to the Chief, Division of Cadastral Survey, Alaska State Office, to perform all functions and sign for the State Director, all documents relating to approval and acceptance of original surveys, only in his area of jurisdiction.

Curtis V. McVee,

State Director.

[FR Doc. 80-7694 Filed 3-12-80; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. A-12160]

Arizona; Application

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Provident Energy Company, 3003 North Central Avenue, Phoenix, Arizona 85012, filed an application for a right-of-way to construct a 16" O.D. pipeline for the purpose of transporting crude oil from the Kingman vicinity to Mobile, Arizona. The proposed pipeline will cross approximately 125 miles of public lands beginning in T. 20 N., R. 17 W. and extending to T. 4 S., R. 1 W., GSR Mer., Arizona.

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 on this matter should do so promptly. Persons submitting comments should include their name and address, and send them to the State Director, Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, and to the District Manager, Phoenix District, Bureau of Land Management, 2929 West Clarendon, Phoenix, Arizona 85017.

Dated: March 3, 1980.

Mildred C. Kozlow.

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-7687 Filed 3-12-80; 8:45 am]

BILLING CODE 4310-84-M

Miles City District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Miles City District Grazing Advisory Board will be held on April 22, 1980.

On April 22, the meeting will begin at 10:00 a.m. in the conference room of the Bureau of Land Management Office, West of Miles City, Miles City, Montana.

The agenda for the meeting will include: (1) Range Improvements; (2) Range Management; (3) Allotment Management Plans; (4) Budget; (5) Wilderness and Range Management; (6) The arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301, by April 18, 1980. Depending on the number of persons wishing to make oral statements, a person's time limit may be established by the District Manager.

Summary minutes of the board 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.

Robert Teegarden,

Acting District Manager.

[FR Doc. 80-7696 Filed 3-12-80; 8:45 am]

BILLING CODE 4310-84-M

Rock Springs District Advisory Board; Meeting

March 7, 1980.

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Rock Springs District Grazing Advisory Board will be held on April 24, 1980.

The meeting will begin at 9:00 a.m. in the conference room of the Bureau of Land Management District Office on Highway 187 North, Rock Springs, Wyoming.

The agenda for the meeting will include: (1) The election of a chairman for the new Board; (2) a briefing on the progress of the Allotment Management Plans and planning for the Salt Wells and Big Sandy Resource Areas; (3) a presentation of an alternative Allotment

Management Plan for the Desert Common Allotment; (4) a progress report on range improvement projects constructed with Range Betterment Funds; (5) a public comment period, and; (6) the arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Board between 2:00 and 2:30 p.m., or file written statements for the Board's consideration. Anyone wishing to make oral statements must notify the District Manager, Bureau of Land Management, Highway 187 North, Rock Springs, Wyoming 82901 by April 23, 1980. Depending on the number of persons wishing to make oral statements a person time limit may be established by the District Manager.

Summary minutes of the Board meeting will be maintained in the District Office and be available for public inspection and reproductions (during regular business hours) within 30 days following the meeting.

Jerry K. Ostrom,

Assistant District Manager.

[FR Doc. 80-7697 Filed 3-12-80; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Availability of a Draft Environmental Impact Statement on the Sheldon National Wildlife Refuge Renewable Natural Resources Management Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that a draft Environmental Impact Statement on Sheldon National Wildlife Refuge in northwestern Nevada is available for public review. Comments and suggestions are requested.

Sole legal responsibility for managing the Sheldon National Wildlife Refuge was transferred to the U.S. Fish and Wildlife Service (FWS) in February 1976. Prior to that time the area had been jointly adminstered with the U.S. Bureau of Land Management (BLM). Because FWS administers National Wildlife Refuges under different legal authorities than BLM administers land under its jurisdiction, a resource management plan reflecting the FWS mission was prepared for Sheldon. The primary purpose of this plan is to provide habitat for a diversity of native plant and animal species.

DATES: Written comments are requested by April 21, 1980.

ADDRESS: Comments should be addressed to: U.S. Fish and Wildlife Service, Region 1 (ARWPRO), Lloyd 500 Building, Suite 1552, 500 NE., Multnomah Street, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Jeff Thomas, Writer/Editor, Address as above (503) 231-6171. *Local Contacts:* Marvin Kaschke, Refuge Manager, or Bruce Wiseman, Asst. Refuge Manager, Sheldon National Wildlife Refuge, 308 U.S. Post Office Bldg., (P.O. Box 111), Lakeview, OR 97630. Telephone: (503) 947-3315.

Anyone wishing copies of this EIS for review should immediately contact the above individuals. Copies have been sent to all participants in the scoping process and to others who have already requested copies.

SUPPLEMENTAL INFORMATION: The Fish and Wildlife Service (FWS), Department of the Interior, has prepared a Draft EIS on its proposed managment plan for Sheldon National Wildlife Refuge. The purpose of this plan is to improve wildlife habitat by solving two major vegetative problems. The first problem is that vegetative communities on Sheldon lack diversity. Lack of diversity results in reduced wildlife diversity and reduced availability of food and cover for wildlife. Second, plant communities on Sheldon exhibit uniformly low vegetative health or vigor. Low vegetative vigor translates into reduced food supplies for wildlife. The proposed action is designed to solve these two problems. It involves implementing a controlled grazing program on about 367,000 acres of Sheldon, designed to manipulate the vegetation to improve diversity and vigor; construction of gates, cattle guards, and approximately 70 miles of interior fence to control livestock movements; development of springs and water reservoirs to provide wildlife water, and disperse cattle; management of a special 197,000 acre area designated because of its fragile soils, high value to bighorn sheep, reptiles, amphibians, plant species of special concern, and importance as winter range for antelope and mule deer; and special management emphasis upon sensitive habitats (e.g., springs, meadows, streams, riparian strips, and aspen groves).

The proposed action would result in increased diversity and health in plant communities on Sheldon. As a result soil erosion would decrease over a twenty year period. Antelope, mule deer and sage grouse would benefit because of increased food and cover. Bighorn sheep would benefit because cattle would not be allowed to graze within sheep habitat areas. Effects on other wildlife species are unknown at this time, but it is suspected that greater plant diversity and increased plant health would be beneficial. The proposed project would not adversely effect proposed wilderness areas, cultural resources or threatened and endangered species. The total number of AUMs removed by livestock the first five years would be reduced from the present level of 20,000 AUMs per year. The reduction would range from 30% the second year to 10% the fifth year. Because AUM reductions have been coordinated with each permittee, no significant adverse effects would be expected in the short or long term.

Other alternatives considered include the proposed plan without horses and burros; eliminate grazing and use a combination of fire, mechanical and chemical treatments; eliminate all forms of vegetative management; and no-action. Other than loss of horses and burros the effects of the proposed plan without horses and burros would not differ significantly from the proposed plan. The eliminate grazing and use a combination of fire, mechanical and chemical treatments alternative could only be used on a selective basis and would not solve the habitat problems identified in the planning process. The same is true for eliminating all forms of vegetative management. Vegetative vigor and diversity would improve the first ten years but would decline in the long term. In addition, both alternatives would adversely effect seven of the ten permittees who graze cattle on Sheldon, severely curtailing four operations and putting three operators out of business. The no-action alternative would continue the current pattern of uncontrolled grazing thereby perpetuating the poor health and lack of diversity found in the vegetative communities on Sheldon. In addition, some cultural resource sites around springs would suffer from livestock trampling.

Other government agencies and several members of the general public contributed to the planning and evaluation of the proposal and to the preparation of this EIS. Public meetings were held March 7, 8, and 9, 1978, in Alturas, California; April 28 and 29, 1978, in Reno , Nevada; and July 22, 23, and 24, 1978, at Badger cabin on Sheldon National Wildlife Refuge. In addition a field trip was held on Sheldon November 4 and 5, 1978, for the public to inspect problems on the ground. The following individuals and organizations were represented at these public meetings: the Sierra Club, Nevada Wildlife Federation, Wild Horse Organized Assistance, Nevada Society of Range Management, the Oregon and

Nevada State Fish and Game Departments, Universities of Nevada and Calfornia, the three BLM districts surrounding Sheldon, and the Sheldon grazing permittees.

Lawrence W. DeBates,

Acting Regional Director, Region 1; Fish and Wildlife Service.

[FR Doc. 80-7698 Filed 3-12-80; 8:45 am]

BILLING CODE 4310-55-M

Intent To Prepare an Environmental Impact Statement on the Proposed Disposition and Administration of Lands on the Islands of Culebra and Culebrita, Puerto Rico.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This Notice advises the public that the Fish and Wildlife Service (FWS) intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS) on the proposed disposition and administration of lands declared excess by the U.S. Navy on the Islands of Culebra and Culebrita in Puerto Rico. This Notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

DATES: Written comments should be received by April 14, 1980.

Two public scoping sessions are planned: These sessions are planned as public meetings to be held on the Island of Culebra and San Juan, Puerto Rico. Meeting dates and locations are as follows:

April 7, 1980—9:00 a.m. Conservation and Development Authority at San Ildefonso Camp on Culebra Island, Puerto Rico.

April 9, 1980—9:00 a.m. Auditorium in Department of Natural Resources Building, Stop 3, Munoz Rivera Avenue, San Juan, Puerto Rico.

ADDRESSES: Comments should be addressed to: Area Manager, U.S. Fish and Wildlife Service, Jacksonville Area Office, 900 San Marco Blvd., Jacksonville, Florida 32207.

FURTHER INFORMATION CONTACT: Same as above. Telephone: (904) 791-2477.

SUPPLEMENTAL INFORMATION: The Fish and Wildlife Service has completed an Environmental Assessment (EA) on the proposed disposition and administration of lands on the islands of Culebra and Culebrita. This assessment considered the consequences of six alternative courses of action for disposing of and administering these lands. The alternatives considered in detail in the environmental assessment were the (1) Joint Report Alternative (Preferred FWS Alternative), (2) No Action Alternative, (3) Joint Report Alternative without Culebrita, (4) Essential Habitat Alternative, (5) Economic Development Alternative, and (6) Wildlife Refuge System Alternative. The FWS solicits participation from involved or concerned agencies and/or individuals in the development of other feasible alternatives and in identifying significant issues which should be explored in the preparation of an Environmental Impact Statement.

The purpose of the scoping process in the EIS preparation is to determine the scope of issues to be addressed and to identify the significant issues relating to the proposed land transfer on Culebra and Culebrita. The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 et seq.), Council on Environmental Quality Regulations (40 CFR Parts 1500-1508), other appropriate Federal regulations, and FWS procedures for compliance with these regulations.

We estimate that the DEIS will be made available to the public by late summer, 1980.

Kenneth E. Black,

Regional Director, Fish and Wildlife Service.

March 4, 1980.

[FR Doc. 80-7688 Filed 3-12-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Amendment Notice of Receipt of Application; Florida Game and Fresh Water Fish Commission

Applicant: Florida Game & Fresh Water Fish Commission, 620 S. Meridan Street, Tallahassee, FL 32304.

The applicant requests an amendment to his permit issued August 10, 1979 for scientific and propagation purposes with dusky seaside sparrows (*Ammospiza maritima nigrescens*). Three birds have been taken from the wild and placed in the captive propagation program thus far.

The requested amendment would authorize the removal from the wild of an additional 12 birds for safe keeping in a captive breeding program until its habitat can be rehabilitated at which time captive reared birds will be restocked.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4329. Interested persons may comment on this application within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: March 10, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80-7865 Filed 3-12-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application; Harvey K. Nelson

Applicant: Harvey K. Nelson, Regional Director, U.S. Fish & Wildlife Service, Federal Building, Fort Snelling, Minnesota 55111.

The applicant requests a permit to take Kirtland's warbler's (*Dendroica Kirtlandii*) including but not limited to the following activities: live-trapping, holding, salvaging specimens and eggs and parts, harassing, photographing, observing, and studying. The permit is for the purpose of scientific research and enhancement of survival. The proposed activity is to be conducted in the following states: Michigan, Ohio, Indiana, Illinois, Minnesota, and Wisconsin.

Humane care and treatment has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-6364. Interested persons may comment on this application within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: March 10, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80-7864 Filed 3-12-80; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Gateway National Recreation Area; Public Discussion

CHANGE: This notice is to change the location of a meeting that was published in Federal Register, Vol. 45, No. 19, page 6479, dated January 28, 1980.

The original notice listed the second set of meetings, one of which is scheduled on Wednesday, March 26, 1980, at Jamaica Bay Unit conference room, Building No. 272, Floyd Bennett Field, Brooklyn, New York. The location for this meeting has been changed to Borough Hall, Third Floor, 209 Joralemon Street, Brooklyn, New York. The time and date do not change.

Dated: March 5, 1980.

Richard L. Stanton,

Regional Director, North Atlantic Region.

[FR Doc. 80-7807 Filed 3-12-80; 8:45 am]

BILLING CODE 4310-70-M

Request for Permission for Construction of 765-kV Transmission Line Across Blue Ridge Parkway; Notice of Availability of Environmental Assessment

An Environmental Assessment considering the direct and indirect impacts on the human environment of alternatives for construction of a 765-kV power line to cross the Blue Ridge Parkway as proposed by the Appalachian Power Company is available for public review and comment. The assessment considers the resources of Blue Ridge Parkway and the impacts of the various alternatives on them. The assessment is available for inspection at the Southeast Regional Office of the National Park Service, 75 Spring Street, SW, Atlanta, Georgia 30303, and at the Superintendent's Office, Blue Ridge Parkway, 700 Northwestern Bank Building, Asheville, North Carolina 28801. Limited copies are available for public distribution.

In addition to the alternatives and their environmental impacts, the assessment considers the mitigating measures to soften the effects of each alternative on the human environment.

Public comments on the assessment and its alternatives are solicited. Written comments will be received at the Southeast Regional Office, National Park Service, and at the Superintendent's Office, Blue Ridge Parkway, at the addresses listed above until May 12, 1980.

Dated: March 7, 1980.

Neal G. Guse, Jr.,

Acting Regional Director, Southeast Region.

[FR Doc. 80-7806 Filed 3-12-80; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL COMMUNICATION AGENCY

U.S. Advisory Commission on Public Diplomacy; Meeting

The U.S. Advisory Commission on Public Diplomacy will meet on March 27, 1980 to discuss the contents of the annual report required to be submitted to the Congress, to the President, to the Secretary of State and to the Director of the International Communication Agency under Section 8 of Reorganization Plan No. 2 of 1977. Based on information provided by the Chairman of the Advisory Commission, the Director has determined that the meeting may be closed because of a discussion of properly classified foreign policy information, inextricably intertwined with other matters, relating to Agency operations in the Middle East and other areas of the world where there are current sensitive foreign policy issues. The information to be discussed falls within the scope of 5 U.S.C. 552b.(c)(1) in that public discussion is likely to disclose matters that are specifically authorized under criteria established by Executive Order 12065 of June 28, 1978 to be kept secret in the interest of national defense or foreign policy and in fact are properly classified pursuant to the Order. The meeting will begin at 9:00 a.m., in Room 1008, 1750 Pennsylvania Avenue, NW, Washington, D.C.

The Commission will conduct an open meeting on March 28, 1980. The first part of the meeting will include a discussion of the Voice of America and will be held in Room 3317, HEW Building, 300 C Street, SW, beginning at 10:30 a.m. The second part of the meeting will deal with the International Communication Agency's European programs and will be held in Room 600, 1750 Pennsylvania Avenue, NW, beginning at 2:00 p.m. Because space is limited, please call Miss Elizabeth Fahl, (202) 724-9244, if you are interested in attending the meeting.

Jane S. Grymes,

Management Analyst, Management Analysis/Regulations Staff, Associate Directorate for Management, International Communication Agency.

[FR Doc. 80-7921 Filed 3-12-80; 8:45 am]

BILLING CODE 8230-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Redelegation of Authority No. 99.1.7 Amdt. No. 2]

Revocation of Redelegation of Authority 99.1.7 to Mission Director, USAID Afghanistan

Pursuant to the authority delegated to me by Redelegation of Authority No. 99.1 (38 FR 12,836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby revoke Redelegation of Authority No. 99.1.7 to the Mission Director, USAID Afghanistan (38 FR 29,498)

This revocation is effective on the date of signature.

Dated: March 3, 1980.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 80-7860 Filed 3-12-80; 8:45 am]

BILLING CODE 4710-02-M

INTERNATIONAL TRADE COMMISSION

[731-TA-17 (Preliminary)]

Clams in Airtight Containers from Canada; Institution of Preliminary Antidumping Investigation and Scheduling of Conference

Investigation instituted. Following receipt of advice from the Department of Commerce on March 5, 1980, the United States International Trade Commission on March 10, 1980, instituted a preliminary antidumping investigation under section 733(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of clams in airtight containers provided for in items 114.01 and 114.05 of the Tariff Schedules of the United States, allegedly sold or likely to be sold at less than fair value. This investigation will be subject to the provisions of Part 207 of the

Commission's *Rules of Practice and Procedure* (19 CFR 207, 44 FR 76457) and particularly, Subpart B thereof, effective January 1, 1980.

Written Submissions. Any person may submit to the Commission on or before April 3, 1980, a written statement of information pertinent to the subject matter of the investigation. A signed original and nineteen copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All the written submissions, except for confidential business data, will be available for public inspection.

Conference. The Director of Operations of the Commission has scheduled a conference in connection with the investigation for 10 a.m., e.s.t., on March 31, 1980, at the U.S. International Trade Commission Building, 701 E. Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the senior/supervisory investigator for the investigation, Ms. Vera Libeau (202-523-0368). It is anticipated that parties in support of the petition for antidumping duties and parties opposed to such petition will each be collectively allocated one hour within which to make an oral presentation at the conference. Further details concerning the conduct of the conference will be provided by the senior/supervisory investigator.

Inspection of petition. The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission, and at the New York City office of the U.S. International Trade Commission located at 6 World Trade Center.

Issued: March 10, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-7810 Filed 3-12-80; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-63/65]

Certain Precision Resistor Chips; Commission Request for Comments Concerning Settlement Agreement

Background

In connection with the Commission's investigation, under section 337 of the Tariff Act of 1930, of alleged unfair methods of competition and unfair acts in the importation and sale of certain precision resistor chips in the United States, the Administrative Law Judge (ALJ) recommended on February 22, 1980, that the Commission grant a joint motion to terminate this investigation with prejudice, filed by all of the parties on February 14, 1980. Copies of the ALJ's recommendation may be obtained by interested persons by contacting the Office of the Secretary to the Commission, 701 E Street, NW, Washington, D.C. 20436, telephone (202) 523-0161.

This investigation began with a complaint filed by Vishay Intertechnology, Inc. on December 15, 1978 alleging (1) misappropriation by respondents of certain proprietary technology, know-how and trade secrets, and (2) incorporation by respondents of misappropriated proprietary technology, know-how and trade secrets in the design and manufacture of precision resistor chips. Investigation No. 337-TA-63 was instituted on January 12, 1979 based on Vishay's complaint. On March 30, 1979 SFERNICE and Resistor Research Corporation (RRC) filed a complaint against Vishay under section 337 based upon the exports to the U.S. of Vishay's Israeli subsidiary. Vishay was alleged to have monopolized and attempted to monopolize the precision resistor industry in the U.S. and alleged to have committed certain other unfair acts, including: (1) Utilizing section 337 proceedings to maintain a monopoly position; (2) knowingly asserting patents beyond the proper valid scope; (3) anti-competitive territorial restrictions in their licensing agreements; (4) unreasonably procuring and misusing a proprietary position; and (5) deceit in obtaining information by improper means. On April 25, 1979, the Commission instituted investigation No. 337-TA-65 based upon that complaint. In May of 1979 investigation No. 337-TA-63 was consolidated by the presiding officer with investigation No. 337-TA-65.

On April 20, 1979, SFERNICE filed a complaint in Federal District Court for the Eastern District of Virginia asking for treble damages and injunctive relief based upon alleged violations of section 2 of the Sherman Antitrust Act, 15 U.S.C. 2 and of section 43(a) of the Lanham Act, 15 U.S.C. 1125(a). On May 18, 1979, Vishay filed a counterclaim in federal district court against SFERNICE and RRC alleging theft of its trade secrets. On November 6, 1979 a jury verdict was returned in the case of *SFERNICE* v. *Vishay Intertechnology* in the Eastern District of Virginia. The jury found a violation of section 2 of the Sherman Act and found that SFERNICE had suffered actual damages of 1.5 million dollars. The counterclaims in that case are still pending before that court.

Written comments requested

Because all parties have filed a joint motion to terminate this investigation based upon the settlement agreement and because the ALJ has recommended termination on the basis of the settlement agreement, no oral argument will be held with respect to the ALJ's recommendation. However, in light of the Commission's duty to consider the public interest, the Commission requests written comments from persons concerning the effect of the termination of this investigation based on the settlement agreement upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers. These written comments must be filed with the Secretary to the Commission no later than 30 days after publication of this notice in the **Federal Register**. The text of the settlement agreement follows.

Text of the Settlement Agreement

This Settlement Agreement and its appendices are entered into as the 4th day of February, 1980, between Vishay Intertechnology, Inc. ("Vishay"), a company incorporated under the laws of the State of Delaware, and Societe Francaise de L'Electro-Resistance ("SFERNICE"), a company incorporated under the laws of France, and its subsidiary Resistor Research Corporation ("RRC"), a company incorporated under the laws of the State of Delaware. For convenience of reference, the term SFERNICE shall include both SFERNICE AND RRC.

1. Vishay and SFERNICE agree to settle all outstanding disputes between them by using their best efforts and by immediately taking appropriate actions, including, but not limited to, prompt preparation, execution, and filing of stipulations.

2. This Settlement Agreement, the Releases and Royalty Agreement shall take effect on the Effective Date, which shall be five (5) business days after all of the following actions have occurred:

a. An Order entered by the United States District Court for the Eastern District of Virginia, in Civil Action No. 79-338-A, vacating the verdict and judgment rendered thereon by the Court on November 6, 1979, and dismissing the Complaint with prejudice and without costs;

b. An Order entered by the United States District Court for the Eastern District of Virginia, in Civil Action No. 79-338-A, dismissing the Counterclaim with prejudice and without costs;

c. An Order entered by the United States International Trade Commission terminating

Investigation No. 337-TA-63/65 with prejudice;

d. The filing by the parties involved of a Praecipe marking the case brough by Vishay in the Court of Common Pleas, Chester County, Pennsylvania, and designated No. 189 Equity settled, discontinued, and ended with prejudice. In connection therewith, there shall be executed by the parties involved in that litigation mutual general releases in favor of the opposing party and Vishay, its officers, directors, and legal representatives, for any conduct engaged in by them prior to the execution of this Agreement. SFERNICE agrees to hold Vishay harmless for any claims that might be pursued against Vishay by the opposing party in that litigation for actions taken prior to the execution of this Agreement.

e. A withdrawal of the following matters in various French courts and execution of documents in compliance with French law sufficient to terminate these actions with prejudice.

i. Vishay's Complaint and SFERNICE's Counterclaims in the Paris patent litigation;

ii. SFERNICE's Complaint in a Paris court alleging false advertising by Vishay Micro-Mesures S.A. and M. Jean Avril; and

iii. SFERNICE's Complaint in a Nice court alleging misuse by Vishay of various goods, documents, and photgraphs obtained during Saisie-Countrefacons.

It is understood by Vishay and SFERNICE that completion of the foregoing actions will terminate all complaints and/or litigation currently pending anywhere in the world between Vishay and SFERNICE, with each party bearing its own costs.

3. Vishay and SFERNICE each specifically agree to execute, concurrently with the signing of this Agreement, the General Release attached as Appendices B and C. These Releases shall take effect on the Effective Date.

4. Vishay and SFERNICE agree to refrain from lodging or pursuing a complaint or action of any nature with any Court, governmental regulatory agency, or any other judicial, legislative, executive, or administrative body regarding any conduct or activity of either Vishay or SFERNICE, their officers, employees, directors, or other representatives prior to the signing of this Agreement. Both parties also agree to withdraw any complaints, if any, which either has made (and which are pending) before any judicial, legislative, executive, or adminstrative body, and whether or not the same are included in Paragraph 2 above. Both parties agree to use their best efforts to take appropriate actions, without expense, to terminate any such complaint or action pending before any judicial, legislative, executive, or administrative body.

5. On the Effective Date Vishay shall pay to SFERNICE Two Million U.S. Dollars ($2,000,000.00) and issue to SFERNICE a not bearing interest at the rate of three percent (3%) per annum in the amount of Nine Hundred Eighty-Five Thousand U.S. Dollars ($985,000.00). The issuance of this note satisfies, among other things, a Judgment recently rendered by a French court in favor of SFERNICE in the amount of 339,112.94 FF. The Note and accrued interest is to by paid by Vishay to SFERNICE in one year from the Effective Date. All payments under this paragraph shall be made payable to the order of RRC.

The foregoing payment and issuance of note made by Vishay as described above are in full settlement of counsel fees and other litigation expenses incurred by SFERNICE for those matters set forth in Paragraph 2.

6. SFERNICE shall pay royalties to Vishay in accordance with the Royalty Agreement, attached hereto as Appendix A, which shall be executed by Vishay and SFERNICE concurrently with the execution of this Settlement Agreement.

7. The parties hereby consent to the jurisdiction and power of the United States District Court for the Eastern District of Virginia to resolve all questions of whatever nature concerning the interpretation and performance of terms and conditions of this Settlement Agreement and its Appendices, specifically including the jurisdiction and power to enforce the terms hereof.

8. This Settlement Agreement and its Appendices cannot be changed orally but only by a writing signed by both Vishay and SFERNICE and approved by their respective Boards of Directors.

9. Each and every term of this Settlement Agreement and its Appendices shall be binding upon Vishay and SFERNICE, their successors in interest, affiliates, subsidiaries, agents, employees, receivers, principals, assigns, beneficiaries, directors, officers, and attorneys.

10. Vishay and SFERNICE shall prepare a joint press release announcing the termination of all legal disputes between them and shall use their best efforts not to make any promotional use of this settlement other than by such joint press release. The term "promotional use" includes, but is not limited to, uses in publicity releases or press releases other than the joint press release mentioned above, public relations releases, advertisements, brochures, and contacts with customers or potential customers, suppliers, users, or potential users, but shall not include SEC filings, required public papers, and the like.

11. This settlement agreement and the appendices to it are the sole agreements among the parties and there are no other agreements, written or oral, express or implied, among these parties concerning the subject matter of this settlement agreement.

In Witness Whereof, we have caused this Settlement Agreement to be executed as of the 4th day of February, 1980.

Vishay Intertechnology, Inc.,

Felix Zandman,

President.

Societe Francaise De L'Electro-Resistance,

J. Claude Tine,

Chairman of the Board.

Resistor Research Corporation,

Paul R. F. Simon,

President.

Appendix A

Royalty Agreement

As part of the consideration of this settlement, SFERNICE shall pay to Vishay a royalty equal to three percent (3%) of worldwide net sales by SFERNICE (not including intercompany sales) and its affiliates, subsidiaries, and licensees of all fixed resistors using foil chips, foil chips for such resistors, and networks of such resistors manufactured by SFERNICE, its affiliates, subsidiaries, and licensees. Worldwide net sales is defined as SFERNICE's (and its affiliates, subsidiaries, and licensees) net sales before commissions, discounts, duties, and transportation costs and less returns and allowances. Currently such resistors are identified under the trademark "NICROCER."

Such royalty payments are to be made for a three-year period, with the first year to commence January 1, 1980, and to conclude December 31, 1980. Payments are to be made by SFERNICE with an annual basis within ninety (90) days of December 31, 1980.

The annual payments are to be certified as accurate by SFERNICE's certified public accountants. After SFERNICE makes its final payment under the term of this agreement, an independent certified public accountant shall be chosen by Vishay, whose selection shall be agreeable to SFERNICE, for the sole purpose of certifying that the total payment made by SFERNICE under the terms of this Royalty Agreement is accurate.

This Royalty Agreement shall take effect upon the Effective Date of the Settlement agreement to which it is attached as Appendix A.

Appendix B

General Release

1. Societe Francaise de L'Electro-Resistance (as Releasor) in consideration of the sum of one dollar ($1.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged from Vishay Intertechnology, Inc. (the Releasee), hereby releases, discharges and holds harmless the Releasee from all actions, causes of actions, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, covenants, contracts, controversies, executions, claims and demands whatsoever, whether vested or unvested, liquidated or unliquidated, actual or contingent, known or unkown, in law or equity, which, against the Releasee, the Releasor (and its affiliates, subsidiaries and licensees) ever had, now has, or hereafter can, shall or may have for, upon, or by reason of any matter, cause or thing whatsoever which occurred in whole or in part from the beginning of time to the day of the date of this Release, excepting only the obligations of the Releasee contained in the Settlement Agreement to which this is attached as Appendix B, and as are provided in paragraphs 2 and 4 below.

2. This Release shall be construed to permit Releasee and its affiliated parties to continue in the future to manufacture, use and sell foil resistors using all technology currently or previously used by them with respect to the manufacture, use and sale of said resistors. It is specifically understood and agreed, however, that this paragraph shall not in any way affect Releasor's rights to assert against Releasee United States Letters Patent 4,075,452 and/or any patent and/or any patent application which is a direct foreign counterpart of it, whether already issued or

hereafter issued, for acts of infringement occurring after the Effective Date.

3. In addition to the foregoing, but not by way of limitation on the construction thereof, Releasor covenants never to sue Releasee for patent infringement of United States Letters Patent 4,053,977, and/or any patent and/or any patent application which is a direct foreign counterpart of it, whether already issued or hereafter issued, regardless of whether the charged infringement occurred before or after the Effective Date.

4. Except as provided in paragraph 2, Releasor may assert any patents not specifically named in paragraph 3 by reason of acts of infringement occurring after the Effective Date.

5. This Release shall take effect upon the Effective Date of the Settlement Agreement to which this is attached.

Appendix C

General Release

1. Vishay Intertechnology, Inc. (as Releasor), in consideration of the sum of one dollar ($1.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged from Societe Francaise de L'Electro-Resistance (the releasee), hereby releases, discharges, and holds harmless the Releasee from all actions, causes of actions, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, covenants, contracts, controversies, executions, claims and demands whatsoever, whether vested or unvested, liquidated or unliquidated, actual or contingent, known or unknown, in law or equity, which, against the Releasee, the Releasor (and its affiliates, subsidiaries, and licensees) ever had, now has or hereafter can, shall or may have for, upon, or by reason of any matter, cause or thing whatsoever which occurred in whole or in part from the beginning of time to the day of the date of this Release, excepting only the obligations of the Releasee contained in the Settlement Agreement to which this is attached as Appendix C.

2. This Release shall be construed to permit Releasee and its affiliated parties to continue in the future to manufacture, use and sell foil resistors using all technology currently or previously used by them with respect to the manufacture, use and sale of said resistors. It is specifically understood and agreed, however, that this paragraph shall not in any way affect Releasor's rights to assert against Releasee United States Letters Patent 3,405,381 and 3,517,436 for acts of infringement occurring after the Effective Date.

3. In addtion to the foregoing, but not by way of limitation on the construction thereof, Releasor covenants never to sue Releasee for patent infringement of United States Letters Patent 3,174,920, and/or any patent and/or any patent application which is a direct foreign counterpart of it, whether already issued or hereafter issued, regardless of whether the charged infringement occurred before or after the Effective Date.

4. Except as provided in paragraph 2, Releasor may assert any patents not specifically named in paragraph 3 by reason or acts of infringement occurring after the Effective Date.

5. This release shall take effect upon the Effective Date of the Settlement Agreement to which this is attached.

Additional information

The original and 19 true copies of all written submissions must be filed with the Secretary of the Commission. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request *in camera* treatment. Such request should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. The Commission will either accept such submission in confidence or return it. All nonconfidential written submissions will be open to public inspection at the Secretary's Office.

Issued: March 10, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-7611 Filed 3-12-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

National Institute of Justice

Solicitation Regarding Funding of Study of Relationships Between Neighborhood Definitions of Crime Problem, Characteristics of Individuals in Neighborhood, et al.

The National Institute of Justice is planning to fund a major study of relationships between neighborhood definitions of the crime problem, characteristics of individuals in the neighborhood, characteristics of the neighborhood and its organizations, and the level of involvement of individuals and groups in citizen crime prevention activities in the neighborhood. The objective is to help citizens determine the most appropriate crime prevention activities for specific types of neighborhoods, so that these programs and activities will be actively pursued and prove to be useful.

The cooperative agreement will be awarded for not more than 24 months and $225,000. There will be only one award. Proposals are due at the National Institute postmarked not later than April 30, 1980.

To receive a copy of the solicitation, send a self-addressed mailing label to: Neighborhood Responses to Crime Solicitation, National Criminal Justice Reference Service, P.O. Box 6000, Rockville, Maryland 20850.

Do not call requesting the solicitation; phone requests are not accepted by NCJRS or by the National Institute.

Dated: March 4, 1980.

Approved:

Harry M. Bratt,

Primary and Principal Assistant to the Acting Director, National Institute of Justice.

[FR Doc. 80-7689 Filed 3-12-80; 8:45 am]

BILLING CODE 4410-18-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Theatre Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Theatre Panel to the National Council on the Arts will be held April 2, 1980, from 9:00 a.m.-5:30 p.m.; April 3, 1980, from 9:00 a.m.-5:30 p.m.; April 4, 1980, 9:00 a.m.-5:30 p.m.; April 5, 1980, from 9:00 a.m.-5:30 p.m., in Room 1422, Columbia Plaza Office Complex, 2401 E St., NW., Washington, D.C.

A portion of this meeting will be open to the public on April 2, 1980, from 9:00 a.m.-10:00 a.m., for introductory remarks and questions and answers.

The remaining sessions of this meeting on April 2, 1980, from 10:00 a.m.-5:30 p.m.; April 3, 1980, from 9:00 a.m.-5:30 p.m.; April 4, 1980, from 9:00 a.m.-5:30 p.m.; and April 5, 1980, from 9:00 a.m.-5:30 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

Dated: March 5, 1980.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80-7763 Filed 3-12-80; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 80-11]

Reports, Safety Recommendations; Availability

Highway Accident Report

Multiple-Vehicle Collision in a Construction Zone, U.S. Interstate 80, near Laramie, Wyoming, August 22, 1979 (NTSB-HAR-80-1).—The National Transportation Safety Board's formal investigation report on this accident was released on March 3. The report shows that about 6:25 a.m. last August 22 a westbound tractor-semitrailer sideswiped and then struck an eastbound motor home in a two-lane, undivided roadway in a construction zone on Interstate 80 about 30 miles northwest of Laramie. The driver and codriver of the westbound tractor-semitrailer were killed. Six of the seven persons in the motor home were ejected and killed; one person was partially ejected and seriously injured. The two persons in the eastbound tractor-semitrailer were not injured.

The Safety Board determined that the probable cause of this accident was the failure of the fatigued driver of the westbound truck to maintain his vehicle within the proper traffic lane. Contributing to the severity of the accident was the excessive speed of the westbound truck.

As a result of its investigation of this accident, the Safety Board on February 11 recommended that the Federal Highway Administration (1) apply its more stringent construction and maintenance zone rules to all construction projects on divided highways which were built with Federal-aid funds, not just those on which Federal funds are being used for the repair projects; (2) develop and circulate a manual which compiles operational experience and current research findings related to channelizing traffic in work areas; and (3) promote development of a traffic control device to fill the gap between the shaped concrete barrier and traffic cones (Recommendations H-80-9 through 11). Also on February 11 the Safety Board recommended that the State of Wyoming study and make necessary corrections in regrading of shoulders on I-80, and take necessary steps to increase the effectiveness of its enforcement of speed limits, particularly within and near construction zones (Recommendations H-80-12 and 13). (See also 45 FR 11630, February 21, 1980.)

Highway Safety Effectiveness Evaluation

Detection and Control of Unsafe Interstate Commercial Drivers Through the National Driver Register, State Driver Licensing Policies, and the Federal Motor Carrier Safety Regulations (NTSB-SEE-80-1); Highway Safety Recommendations H-80-14 through 20.—The Safety Board on March 5 made available its recently completed safety effectiveness evaulation concerning detection and control of problem commercial drivers—drivers whose records of driver license suspensions, accidents, and traffic convictions indicate a flagrant and repeated disregard for the safety of other highway users. As a result of this evaluation, the Board found that many problem commercial drivers, in spite of their records of unsafe driving, continue to be licensed and employed by motor carriers to operate the largest and heaviest vehicles on the highways.

In its evaluation, the Board conducted 41 investigations of heavy truck accidents involving suspected problem commercial drivers and reviewed data from three previous investigations of heavy truck accidents. The 44 commercial drivers' nationwide driving records, compiled by making inquiries to the States, listed a total of 63 driver licenses held, 98 license suspensions, 104 traffic accidents, and 456 traffic convictions.

Also, the Board made inquiries to the States concerning State policies on the use of the National Driver Register (NDR), driver licensing, and driver records; reviewed studies and reports by other organizations; analyzed sections of the Federal Motor Carrier Safety Regulations pertaining to driver disqualification and driver screening; and analyzed the potential value of the NDR as a tool for the detection and control of problem commercial drivers.

The Board found that, in spite of three levels of commercial driver screening—the NDR, State driver licensing policies, and screening by motor carriers pursuant to Federal regulations, problem commercial drivers continue to be licensed by the States and employed by motor carriers to operate heavy trucks and other commercial vehicles.

As a result of this evaluation, the Board recommends that the Congress enact legislation to revise the NDR. Specifically, the Board recommends that the NDR be authorized to provide:

1. A driver records pointer service which will refer inquiring users to any State(s) in which a commercial driver has a record of any conviction of a moving traffic violation or a denial or withdrawal of the driving privilege. In order to assure the application of uniform criteria for notifying the National Driver Register of the existence of such records, only the Secretary of Transportation should be authorized to determine what constitutes a moving violation for the purposes of the National Driver Register.
2. An on-line, rapid response service to authorized users.
3. An automated switching service which will facilitate the direct exchange of driver record information among the States electronically, via an on-line communications network.
4. Motor carrier access to the National Driver Register service, through State driver licensing authorities, for the purpose of screening the driving records of both applicant and employed commercial drivers.

Additionally, as the evaluation report indicates, the Safety Board is reiterating its recommendation of June 6, 1978, to the governors of the Fifty States, that each State:

Review its driver license program(s) to insure that it conforms to the one-license concept and the driver improvement program suggested by Highway Safety Program Standard 5, Driver licensing, and by the guidelines set forth in Chapter 6 of the Uniform Vehicle Code. (Class I, Urgent Action) (H-78-45)

On March 5 the Safety Board directed a recommendation letter to the Secretary, U.S. Department of Transportation, noting that one of the most serious problems identified in the Board's evaluation concerns commercial drivers holding more than one driver license. The Board states that multiple licenses enable a problem driver to "spread" traffic violations among the records of several States in order to escape detection of his or her complete driving record, or to continue driving, using a second or third license, even after one State withdraws the driver's privilege. In review of this fact, the Board recommends that the Secretary of Transportation:

Develop, within 1 year, a positive incentive to encourage the States to implement fully the one-license provision of Highway Safety Program Standard No. 5, "Driver Licensing." (H-80-14)

Further in conjunction with this safety effectiveness evaluation, the Safety Board on February 29 recommended that the governors and the Presiding Officers of the legislative bodies of Arizona, Arkansas, Florida, Idaho, Iowa, Oklahoma, Rhode Island, Tennessee, and West Virginia:

Take the legislative and executive actions necessary to abolish the requirement in your State that a nonresident driver who is employed by a resident of the State to obtain a driver license issued by the State. (H-80-15)

In the letters transmitting H-80-15, the Safety Board notes that each of the specified nine States has laws which require a nonresident commercial driver who is employed by a resident of the State to obtain a driver license issued by the State—a requirement which is directly contrary to the one-license concept. The Safety Board believes that an adequate, alternate method of controlling nonresident drivers who are employed by a State resident can and should be developed—a method which will not require a commercial driver to hold a driver license in the State of employment as well as the State of residence.

As a further result of its evaluation, the Safety Board on March 5 forwarded to the Federal Highway Administration a recommendation letter identifying a need for more stringent requirements in certain sections of the Federal Motor Carrier Safety Regulations (FMCSR) which pertain to disqualification of drivers and driver record screening by motor carriers. The Board notes that § 391.15, "Disqualification of Drivers," disqualifies a driver whose driving privilege is withdrawn or denied by a State, or who has been convicted of one of four types of serious offenses. However, the disqualifying driving offenses are disqualifying only if the driver was operating a commercial vehicle at the time the offense, and only if the driver was on duty. The Board is concerned that the exclusion of offenses committed while operating a noncommercial vehicle, or while operating a commercial vehicle off duty, provides a loophole which permits some unsafe commercial drivers to escape disqualification and continue operating heavy trucks or other commercial vehicles. The Board believes that the determination of driver disqualification should be based upon the driver's record without regard to the type of vehicle driven, or whether or not the driver was on duty, at the time a serious offense was committed. Drivers who cannot operate a private car or other noncommercial vehicle safely should not be allowed behind the wheel of an 80,000-pound tractor-semitrailer or other commercial vehicle.

The Board's second major concern about the disqualification provisions of FMCSR is that they fail to specify a cumulative level of traffic violations which is disqualifying. Although a motor carrier is required by the regulations to determine whether or not a driver "meets minimum requirements for safe driving," the regulations do not specify what the minimum requirements are. A driver whose driving privilege is suspended by a State because of an excessive level of traffic violations is disqualified on the basis of that suspension. However, a driver having the same or a higher level of violations, who is not suspended by a State because of an excessive level of traffic violations, who is not suspended by a State, can remain qualified, in spite of a record of unsafe driving.

The Board's evaluation shows that problem drivers often are able to escape detection and suspension by a State because of inadequate exchange of driver records among States, the driver's use of multiple licenses, and the failure of some States to give effect to convictions imposed by other States. In view of this, expecting the States to consistently detect problem drivers and suspend their driving privilege is unrealistic. Relying on motor carriers to discharge or deny employment to such drivers, in the absence of specific disqualification criteria based upon traffic records, can result in the application by motor carriers of arbitrary, nonuniform, or inadequate standards of safe driving. The Board believes that the determination of whether a driver "meets minimum requirements for safe driving" should be based upon specific, minimum criteria, such as those specified in State point systems, set forth in the FMCSR.

Also of concern to the Board is § 391.23, "Investigations and Inquiries." One provision of this section requires that a motor carrier investigate a driver's background by contacting the driver's former employers. However, the section does not specify the information a motor carrier is required to request about the applicant's background, beyond the name and address of the former employer. In the absence of a full definition of this requirement, there is no way to determine if a motor carrier is in full compliance with it. The Board believes that the regulations should fully define the requirements they impose on motor carriers.

Motor carrier compliance with requirements pertaining to driver screening particularly concerns the Board because accident investigations included several cases in which a driver was employed by a motor carrier who had no record of the required employment application, had not inquired into and reviewed the driver's traffic records, or had employed a driver whose driving privilege was under suspension by a State—in direct violation of the regulations. In some cases, the employing motor carrier did not even maintain the driver qualification files required by the regulations. In view of the relatively high level of noncompliance detected in the 44 cases investigated, the Board believes that the problem of noncompliance warrants study, evaluation, and public participation in its resolution.

The Board further noted in its letter to FHWA that accidents involving heavy trucks killed more than 5,000 persons in 1978—or about 10 percent of all highway fatalities in the United States that year. The death toll in these accidents was 48 percent higher in 1978 than it was in 1975. Accordingly, the Safety Board recommends that FHWA:

Revise the commercial driver disqualification provisions of the FMCSR to provide that the specified disqualifying driving offenses shall be disqualifying without regard to the type of highway vehicle driven at the time of the offense or whether the driver was on or off duty. (H-80-16)

Evaluate the need for, and feasibility of, specifying in the FMCSR a threshold level of traffic violations, based upon the total number and relative seriousness of the violations, above which a driver is disqualified to operate a commercial vehicle, and within 1 year publish the findings of the evaluation in the Federal Register for public comment or initiate appropriate rulemaking. (H-80-17)

Evaluate the compliance of motor carriers with the FMCSR requirements pertaining to driver disqualification, driver screening, annual review of driving records, and maintenance of driver qualification files, and within 1 year publish the findings of the evaluation in the Federal Register for public comment or initiate appropriate rulemaking. (H-80-18)

Evaluate the compliance of motor carriers who are owner-operators with the driver record review and driver disqualification provisions of the FMCSR, and within 1 year publish the findings of the evaluation in the Federal Register for public comment or initiate appropriate rulemaking. (H-80-19)

Define fully, in the FMCSR's the information that a motor carrier must request from an applicant driver's former employer(s) when making the investigations and inquiries required by the regulations. (H-80-20)

Each of above recommendations Nos. H-80-14 through 20 is designated "Class II, Priority Action."

Safety Recommendation Letters

Aviation

A-80-16 through 18.—Last July 24 a Puerto Rico International Airlines (PRINAIR) deHavilland Heron crashed at the Alexander Hamilton Airport, St. Croix, V.I., killing 8 persons and seriously injuring 13 others. During its investigation, and according to testimony received at the Safety Board's public hearing on the accident, the Board found numerous deficiencies in the crash/fire/rescue (CFR) operations

and services of the Virgin Island Port Authority which require immediate attention.

The Safety Board believes that the CFR response to this accident demonstrates a need for improvement in the Virgin Islands Port Authority's preparation for the execution of the airport emergency plan for the Alexander Hamilton Airport, and in the extent and quality of training given to its CFR personnel. The Safety Board also is concerned that these deficiencies may exist at other airports under the Port Authority's control. Accordingly, on March 5 the Board directed a recommendation letter to the Governor of the Virgin Islands, recommending that the Virgin Islands Port Authority:

Conduct extensive and frequent training for CFR personnel to insure that each individual understands his duties and responsibilities and insure that training stresses the need for positive leadership which is critical to efficient CFR response. (A-80-16)

Expand the provisions of the emergency plans of its airports to provide for the orderly incorporation of the services of line personnel of tenant organizations, and train such personnel. (A-80-17)

Establish an emergency communications system that will provide immediate and discrete contact with those agencies to be notified during emergency situations. (A-80-18)

Marine

M-80-6 through 8.—At 0420, on October 3, 1978, the Panamanian S/T TEXACO IOWA collided with the Liberian M/T BURMAH SPAR while both tank vessels were inbound and maneuvering in the pilot exchange area off Pilottown, La. Total damage to the vessels was estimated at $680,000. No one was injured in the accident.

The investigation showed that the inbound TEXACO IOWA entered the Mississippi River via the Southwest Pass. It was under the navigation control of a bar pilot and scheduled to arrive off Pilottown 5 minutes after the BURMAH SPAR's arrival. The bar pilot estimated his vessel's speed at 12.5 mph, or 10.9 kns, over the ground, against an estimated 1.5- to 2.0-kn current while proceeding in the Southwest Pass. Before reaching Pilottown, the bar pilot radiotelephoned the pilot station watchman to give a 30-minute advance notice of the vessel's arrival.

While approaching the Pilottown pilot exchange area, the TEXACO IOWA's master became concerned about his vessel's speed because of the rapid closing with the BURMAH SPAR which was then in the process of changing pilots. The master requested the bar pilot to reduce the speed, and the pilot complied by reducing the engine rpm from full-ahead to dead-slow, whereupon the vessel sheered to port. The bar pilot attributed the sheering to the rapid engine speed reduction. The bar pilot then ordered full right rudder to correct the vessel's heading. Meanwhile, the vessel continued to close with the BURMAH SPAR, from almost directly astern. Realizing that collision was imminent, the master personaly ordered full left rudder and full speed ahead in an attempt to avoid hitting the BURMAH SPAR. The maneuver to avoid collision was unsuccessful, however, and the TEXACO IOWA's bow struck and its stern quarter raked the BURMAH SPAR's port stern quarter as it passed.

The TEXACO IOWA's bar pilot said that he had not intended to pass the BURMAH SPAR. The bar pilot underestimated the vessel's speed, and despite adequate navigable waterway for passing and maneuvering, he followed too closely in the track of the BURMAH SPAR. As the TEXACO IOWA closed with the BURMAH SPAR, which was then increasing speed, the BURMAH SPAR's river pilot stopped his vessel's engine just before the collision. The stopping of the BURMAH SPAR's engine may have contributed to the extent of damage.

The Safety Board notes that although both vessels had bridge-to-bridge radiotelephones and the pilots had portable radiotelephones, this equipment was not properly used to communicate maneuvering intentions, and communications between the vessels were not established until after the accident. The TEXACO IOWA did not observe the Inland Rules of the Road or the Pilot Rules for Inland Waters for an overtaking situation. No whistle signals were sounded by either vessel.

In view of these findings, the Safety Board on March 5 recommended that the Associated Branch Pilots and the Crescent River Port Pilots Association:

Review the pilot exchange boarding and radiotelephone communications practices used off Pilottown and establish a policy by which (1) the bar and river pilots maintain uninterrupted communications during the pilot exchange, and (2) that they communicate vessel course and speed information and their maneuvering intentions. (M-80-6)

Request member pilots to inform vessel masters concerning the requirements of 33 CFR Part 164, Navigation Safety Regulations, and advise member pilots to use the navigation bridge watch to keep themselves advised of the vessel's position and speed. (M-80-7)

Encourage member pilots to monitor their portable radio-telephone while directing vessel movements until they properly relieved of their responsibility. (M-80-8)

Pipeline

P-80-12 and 13; P-80-14.—On August 28, 1978, natural gas, which had escaped from a circumferential fracture in a socket heat-fusion coupling on a 2-in. polyethylene (PE) main, operating at 40-psig pressure, migrated beneath a one-story house in Grand Island, Nebr., exploded and then burned. One person was injured; the house at 2517 Apache Road was destroyed and three adjacent houses were damaged. The gas was ignited by an unknown source.

Investigation indicated that the 2-in. PE main was installed by a contractor for the Northwestern Public Service Company at a depth of 30 in. in a north-south utility easement along a lot line, terminating just south of 2517 Apache Road. The main was inspected and tested on November 12, 1971. On December 6, 1971, a 4-in. acryonitrile butadiene styrene (ABS) sewer service was installed at a depth of 52 in. perpendicular to and just beyond the end of the gas main and was inspected. On August 22-24, 1972, the gas main was extended 495 ft., inspected, and tested. The failed coupling was 23 in. south of the coupling used to tie in the extension.

When the flexible, 2-in. PE gas main was exposed after the accident, it was lying on the semirigid, 4-in. ABS sewer pipe at a depth of 52 in. The coupling that failed was located at a depth of 48 in. A 64-in. section of pipe, from a point 27 in. north of the sewer line to a point 37 in. south of the sewer line, was displaced from its original depth of 30 in. This sharp displacement, caused by the settling of improperly compacted backfill material, initiated a stress in the coupling which, in time, resulted in the circumferential fracture on the bottom of the coupling.

The Board states that the downward force which caused the displacement might have been prevented if the company had followed the construction procedure outlined in the Northwestern Public Service Company specifications for plastic pipe installation. Section 18, BACKFILL, of these specifications contains the following instructions:

The Contractor shall make sure the line is properly supported by undisturbed earth in the trench bottom before the back-fill operation begins. Any voids under the line shall be filled by hand. Special care shall be taken to assure proper support at transition points from steel to plastic. Where bell-holes have been dug for any reason, the back-fill shall be compacted below the line before mechanical back-fill operation begins.

Other sections of the specifications make the contractor responsible for preventing damage to the pipe during the construction process. Although

Northwestern Public Services Company's construction procedures were in accordance with 49 CFR Part 192 Subpart G, apparently the procedures were not followed carefully during the construction of the main extension in August 1972.

As a result of its investigation of this accident, the Safety Board on March 5 forwarded safety recommendation letters to:

Northwestern Public Service Company—

Emphasize the enforcement of company construction procedures by project engineers and inspectors through training programs and supervisory followup. (P-80-12)

Examine sample locations of utility crossings and tie-ins, and take the necessary appropriate corrective measures to insure the mains are properly supported. (P-80-13)

American Gas Association—

Notify its member companies of the facts and circumstances of this accident and urge them to review their actual operating practices for the supervision of the proper installation and proper support of plastic mains and services to assure that they conform to established company procedures, related industry guidelines, and Federal regulations. (P-80-14)

All of the recommendations above in the aviation, marine, and pipeline modes are designated "Class II, Priority Action."

Railroad

R-90-3 and 4.—A rear-end collision involving two Southern Pacific Transportation Company trains occurred at Thousand Palms, Calif., last July 24. Extra 7810 West (01—BSMFK-20) collided with Extra 8484 West (02-HOLAT-21) while it was standing in a siding. The engineer died following the collision as a result of smoke and fire, and four crewmembers were injured. Damage was estimated by the railroad at $1,479,700.

The Safety Board's investigation disclosed that the train dispatcher, the conductor, and the engineer of Extra 8484 West had talked to the engineer of Extra 7810 West on several occasions while it was between Yuma, Ariz., and Indio, Calif. The response was usual and there was nothing indicated to arouse concern. The engineer of Extra 7810 West had properly called the scanners east of Indio, and the train handling had been such that no one was concerned about any problem on the locomotive. A radio contact was made with Extra 7810 West by Extra 8484 West when that train was leaving Indio. No further radio contacts were made to or from the locomotive of Extra 7810 West.

Extra 8484 West moved from Indio to the siding at Thousand Palms where it was stopped at the extreme west end of the siding. Extra 7810 West was also allowed to move from Indio to the Thousand Palms siding where it was to be held at a crossover interlocking signal for further movement in helper service after the passage of a following train. Instead of properly stopping at the crossover signal, Extra 7810 West moved past it and collided with the rear of Extra 8484 West.

The members of the locomotive crew of Extra 7810 West were known to have been drinking intoxicants during their layover at Yuma. A urinalysis of the engineer's urine yielded a 0.23 percent ethyl alcohol content which equates to a blood-alcohol level of 0.18 percent. No one who had been in contact with the engineer at Yuma indicated that he was concerned about any excessive use of intoxicants by the engineer.

The Safety Board found similar circumstances in the events that preceded a rear-end collision involving Southern Pacific trains at Indio on June 25, 1973. At that time, the Board recommended to the Federal Railroad Administration that it promulgate regulations governing the use of drugs and intoxicants by employees before coming on duty. Additionally, the Safety Board recommended to Southern Pacific that it establish more effective procedures to insure that employees are fit for duty. No changes were made by either addressee. As an alternative, the FRA was to rely on a labor-management program that dealt with the social problem of alcohol. The FRA was reluctant to impose Federal regulations. The Southern Pacific assured the Safety Board that its rules charge the conductor with the responsibility of insuring the fitness of a crewmember for duty and that Rule G covered the matter and provided more positive control than Federal regulations would. Nevertheless, the accident at Thousand Palms was essentially a recurrence of the Indio accident of 1973.

The conductor has the responsibility of determining a crewmember's fitness for duty, and the Safety Board believes that he should be given some support in accomplishing this task or, alternatively, that supervisory personnel not so close to the crew be given this responsibility. The Board believes that it is unrealistic to assume that a crewmember will relieve a fellow crewmember if he suspects the crewmember will lose his job, except in extremely compelling circumstances.

The Board finds that the random sampling technique used by the rules department of the Southern Pacific to check employees' knowledge of the operating rules does not insure that all employees will be contacted systematically for a rules check. This is particularly important since the Southern Pacific does not require a periodic rules examination. A thorough knowledge of the rules and their application would deal with some of the problems that surfaced in this accident and the one at Indio, such as employees under stress fail to react in the proper manner when emergency action is required. It is clear that despite the Southern Pacific's assurances and new programs, the brakeman and conductor failed to overrule the engineer of Extra 7810 West and stop the train when he failed to comply with the rules.

Accordingly, as a result of its investigation of this accident, the Safety Board on March 5:

—reiterated the recommendations made to the Southern Pacific in 1974:

Establish more effective procedures to insure that employees comply with the operating rules such as by requiring that conductors examine crewmembers coming on duty to ascertain their apparent physical competence to perform their responsibilities. (R-74-10)

Train all new employees including brakemen in their responsibilities and duties so that they understand their responsibility to monitor the performance of other employees and to take positive action when the situation warrants. (R-74-11)

—and recommended that the Southern Pacific:

In conjunction with the appropriate labor organizations, implement a system of operating rules re-examinations which will insure that all employees subject to those rules will be systematically and periodically examined. The system should insure that each employee satisfactorily exhibits his/her knowledge and understanding of the current operating rules. (R-80-3)

Establish supervisory procedures at crew-change terminals to insure that operating department employees coming on duty are capable of complying with all pertinent operating rules. (R-80-4)

R-80-5.—About 5:16 a.m. last October 1, ConRail freight train ALPG-2 collided with the rear end of ConRail freight train APJ-2 on the No. 2 main track near Royersford, Pa. The engineer and conductor of ALPG-2 were killed. Property damage was estimated at $562,000.

Investigation disclosed that ALPG-2 left Colebrookdale Junction Yard at Pottstown, 10.6 miles west of the accident location, at 4:55 a.m. When the collision occurred, ALPG-2 was running in full throttle at about 45 mph, and no braking action had been initiated. Witness testimony revealed that ALPG-2 failed, successively, to (1) respond to

an "approach" aspect displayed by signal 131–B, 1.9 miles from the collision point; (2) whistle as required for two grade crossings; (3) respond to a "stop and proceed" aspect displayed by signal 133, 3,600 feet from the collision point; and (4) respond to flagging protection provided by the rear brakeman of APJ–2. Postaccident simulation of the run of ALPG–2 indicated that the train was operated continuously in full throttle and traveled at the maximum attainable speed from Colebrookdale Junction to the accident location.

At the time of the accident, the crew of ALPG–2 had been on duty 4 hours 16 minutes, before which it had ample off-duty time for proper bed rest. However, the Safety Board investigation revealed that the engineer may have been too tired to operate the locomotive. The conductor was the only crewmember known to have operated the locomotive, although he was not qualified to do so, and he may have been operating it after ALPG–2 left Colebrookdale Junction. Although the rules required the head brakeman to ride in the locomotive unit and there was no operational consideration which required otherwise, the conductor insisted that the head brakeman ride in the caboose.

While en route to the reporting point at Bethlehem, the conductor suggested to the engineer that they "get high." Postmortem screening for psychoactive agents revealed significant concentrations of the hallucinogen delta-9-THC in the conductor's blood and urine. According to the toxicologist who performed the tests, it is reasonable to assume that the conductor had smoked a marijuana cigarette while ALPG–2 was en route and that, as a result, his behavior was so modified that he was unable to react to danger warnings.

On their previous trip, also at night, the crew of ALPG–2 passed a stop signal at Burn Tower. It was necessary for the engineer to apply the brakes in emergency and the crew later noticed flat spots on the wheels of the locomotive units and caboose. Neither the incident nor the damage to the equipment were reported and division supervisors were ignorant of that incident.

There was no supervisor on duty at night where the crewmembers of ALPG–2 reported for duty. Surviving crewmembers of the trains could not remember seeing a supervisor at the location at night. Similarly, it does not appear that ConRail supervisors ride with train crews or board trains en route with any regularity. The Safety Board believes that crewmembers will not be concerned about their fitness for duty if there is little probability that they will encounter a supervisor where they report for work or on the job. No matter how familiar they may be with the rules and instructions, crewmembers cannot be depended upon to unfailingly perform as required if there is a little likelihood that supervisors are monitoring their performance.

In view of the above findings, the Safety Board on March 5 recommended that Consolidated Rail Corporation:

> Provide adequate supervision of night train operations and include in supervisory efficiency checks, periodic checks of train crewmembers' fitness for duty at reporting points and on trains en route. (R–80–5)

R–80–6 and 7.—During the past 10 years the Safety Board has investigated at least 10 accidents in which serious shortcomings were noted in the procedures used by railroad operating personnel during the emergency response. The Board notes that during this 10-year period, little or no action has been taken by the railroads to overcome these problems. In view of recent increases in the number of train accidents, the Safety Board undertook a special study to document the reasons for these procedural shortcomings. Copies of the special study, "Railroad Emergency Procedures," are being prepared for release in the near future.

In a letter forwarded by the Safety Board on March 5 to the Federal Railroad Administration, the Board notes that repeated instances of confusion and a lack of direction and organization were observed during these accidents. The lack of systems to disseminate information to responding civil emergency personnel has repeatedly resulted in needless exposure to hazards. The lack of training of crewmembers in the use of emergency equipment and emergency door mechanisms has delayed evacuations and prolonged exposure to hazards. The circumstances surrounding these accidents combined to show that a safety problem exists because of the unavailability of emergency procedures and instructions, and the lack of training of personnel expected to cope with emergencies. Conversely, in a striking example of the accomplishment of training and emergency planning, train crewmembers and emergency response units functioned in efficient and professional manner at a passenger train derailment in Elma, Va., on December 3, 1978.

The Board notes that examination of the rules used as emergency procedures by the various railroads revealed those directives to be vague and nonspecific in establishing lines of authority, task identification, task scheduling or task assignment. There is at present no standardization to define what constitutes an emergency, and emergency procedures are not usually documented or set out as distinct elements of guidance to crewmembers. Accordingly, the Safety Board recommended that FRA:

> Develop and validate through simulated disaster exercises a model emergency response plan for the guidance of the railroad industry in formulating individual plans to be utilized by their train crewmembers in the event of emergency. (R–80–6)
>
> Require operating railroads to develop emergency response plans, put them into effect and file those plans with the Federal Railroad Administration in a similar manner as is required by 49 CFR Part 217 with respect to operating rules. (R–80–7)

Additionally in its March 5 letter to FRA, the Safety Board reiterated its recommendation of July 30, 1976, to FRA:

> Require carriers to train employees in emergeny procedures to be used after an accident, to establish priorities for emergency action, and to conduct accident simulations to test the effectiveness of the program, inviting civic emergency personnel participation. (R–76–29)

R–80–8 and 9.—On January 1, 1980, Southeastern Pennsylvania Transportation Authority (SEPTA) train No. 6, consisting of six self-propelled cars of the Market Street-Frankfort elevated subway line, made a station stop in the subway at 15th and Market Streets, Philadelphia, Pa. A passenger attempted to board the third car as the double sliding doors were being closed. The passenger was able to get only his right foot into the car before the doors closed on his ankle, and he was unable to extract his foot from the closed doors before the train started. He stuck his hand through the rubber facing strips on the door and attempted to hold on to the outside of the door as the train moved from the station. He apparently was pulled from the car by a projection in the subway a short distance from the station and was killed.

The Safety Board notes that the train conductor was controlling the side doors from an operating compartment in the train which was on the same side as the platform. He operated the door closing button and apparently was moving to an operating compartment on the opposite side of the train when the passenger attempted to board the train. The conductor did not see the passenger.

Each married pair of cars is provided with an operating compartment on opposite sides on each end of the pair. The train is operated by the motorman from the forward compartment, and the

doors are controlled by a conductor from one of the other compartments throughout the train. Each car is provided with three sets of double sliding doors on each side. One set is located in the middle of the car with the others near each end. Each 21-inch-side door is provided with a 3-inch-wide flexible rubber facing strip. The doors are opened and closed by an air-operated engine, and are locked in the closed position when the activating arm is horizontal. The doors are not provided with a recycling device and they can close and lock on an object that is about 5 inches wide or less by compressing the rubber facing strips. Each side of the car is provided with a red indicator light at the center door which is illuminated when the doors are opened. A light in the operating compartment is illuminated when the doors are closed and is a signal to the operator that the train may proceed. This light is actuated when the doors are ⅛ inch from the closed position. The operation of the doors does not affect the propulsion system. Power can be applied and the train started with the doors open or partially open.

The Safety Board states that in this accident, when the flexible rubber facing strips compressed around the passenger's ankle, the gap between the doors was small enough to permit the doors to close and lock. However, there was apparently not sufficient space after they had closed for the passenger to pull his foot from the closed doors, and the passengers in the car were not able to pry open the doors before the train started.

To eliminate the possibility of a person's being trapped between the closed doors of these cars after the train is moving, the Safety Board on March 5 recommended that SEPTA:

Change the construction of the side doors on these cars so that they cannot be closed and locked on a person. Establish a control circuit which will prevent the train from moving until all doors are in the closed position. (R-80-8)

Establish a control circuit which will prevent the train from moving until all doors are in the closed position. (R-80-9)

With the exception of R-80-8 and 9, each of the above railroad safety recommendations is designated "Class II, Priority Action." Recommendations R-80-8 and 9 are designated "Class I, Urgent Action."

Note.—Single copies of the Safety Board's reports are available without charge, as long as limited supplies last. Copies of recommendation letters and responses thereto are also provided free of charge. All requests for copies must be in writing, identified by report or recommendation number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of reports may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

March 10, 1980.

[FR Doc. 80-7776 Filed 3-12-80; 8:45 am]

BILLING CODE 4910-58-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

March 10, 1980.

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, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nauture of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and suporting documents is available);

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. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the Federal Register but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance office whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. 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 Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201

New Forms

Food and Nutrition Service
Work registration/job search demonstration project
Single time
Food stamp & employment service project areas; 56 responses, 1,024 hours
Charles A. Ellett, 395-5080
Food and Nutrition Service

National evaluation of school nutrition programs—pilot test for food adminstrator survey
AG/FNS 1106
Dist. superint. & food ser. mgrs. sch. prin. & FS mgrs.; 672 responses, 882 hours
Charles A. Ellett, 395-5080

Revisions

Agricultural Stabilization and Conservation Service Certification of use or nonuse of certain pesticides on tobacco
MQ-38 (Burley & Tobacco)
Annually
Burley, fire, sun, air, & cigar tobacco producers; 290,500 responses, 29,050 hours
Charles A. Ellett, 395-5080

Economics, Statistics, and Cooperatives Service
Quarterly agricultural labor survey
Quarterly
Sample of farmers; 51,700 responses, 19,010 hours
Office of Federal Statistical Policy & Standard, 673-7974

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377-3627

New Forms

Industry and Trade Administration
Permanent magnets
ITA-903
Single time
Permanent magnet manufacturers; 29 responses, 14 hours
John A. Caron, 395-3785
National Bureau of Standards stand alone word processing equipment expected market survey
NBS-1146
Single time
Stand alone word processing system vendors; 20 responses, 40 hours
John A. Caron, 395-3785

Revisions

Bureau of Economic Analysis Interim survey of Foreign direct investment in the U.S.-1979
BE-15
Annually
Foreign owned U.S. business enterprices; 2,100 responses, 6,300 hours
Off. of Federal Statistical Policy & Standard, 673-7974

Bureau of the Census
Aerospace industry (sales and orders)
MQ-37D
Quarterly
Manufacturers of aerospace products; 316 responses, 316 hours
Off. of Federal Statistical Policy & Standard, 673-7974

Maritime Administration
Annual report of maritime carriers
MA-172
Semi-annually
Maritime carriers; 263 responses, 11,835 hours
John A. Caron, 395-3785

DEPARTMENT OF ENERGY

Agency Clearance Office—John Gross—633-9770

Revisions

Monthly motor fuels service station survey
EIA-79
Monthly
Selected service stations; 96,000 responses, 40,320 hours
Jefferson B. Hill, 395-5867

Extensions

Refiner/importer monthly report of petroleum product distribution
FEA-P306-M-O
Monthly
Refiners of petroleum products; 1,200 responses, 19,200 hours
Jefferson B. Hill, 395-5867
Monthly survey of distillate and residual fuel oil
Sales volume to ultimate consumers
FEA-P3140M-0
Monthly
Sample of distillate & residual retailers; 10,800 responses, 43,200 hours
Jefferson B. Hill 395-5867
Monthly survey of propane sales volume to ultimate consumers
FEA P315-M-0
Monthly
Gas plant operators & reseller/retailers; 7,200 responses, 115,200 hours
Jefferson B. Hill, 395-5867

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Joseph J. Strnad—245-6511

New Forms

Food and Drug Administration
Color additive petition
On occasion
Food, drug, cosmetic, device manufacturers; 10 responses, 400 hours
Richard Eisinger, 395-3214
Food and Drug Administration
Medical device good manufacturing practice regulations
Other (see SF-83)
Description not furnished by agency
Richard Eisinger, 395-3214
Office of the Secretary
Family impact survey
OS-4-80-B
Single time
Parents of pennhurst 900 responses, 675 hours
Barbara F. Young, 395-6132
Office of the Secretary
Community attitudes survey
OS-4-80-A
Single time
Residents near CLA locations; 900 responses, 450 hours
Barbara F. Young, 395-6132
Office of the Secretary
A survey of residents of Pennhurst and CLA programs
OS-4-80-C
Single time
Residents of Pennhurst Center; 120 responses, 40 hours
Barbara F. Young, 395-6132.
Public Health Service
Client survey of inpatient mental health settings
Single time
Patients of mental health facilities; 29,500 responses, 7,375 hours
Off. of Federal Statistical Policy & Standard, 673-7974

Revisions

Public Health Service
Applied statistics training institute application
HRA-69
On occasion
Mailing list of 8,000 stats. & health professionals; 2,000 responses, 250 hours
Richard Eisinger, 395-3214

Reinstatements

Health Care Financing Administration (medicaid)
Medicaid quality control statistical summary reports
HCFA 302, thru 312
Semi-annually
Title XIX State Agencies; 53 responses, 3,928 hours
Richard Eisinger, 395-3214

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—755-5184

Revisions

Policy development and research
Annual housing survey—national sample
AHS-1, 2, 4(L1), (L2), 6, D-1701, D-1702, L(CINCH), & 2(CINCH)
Annually
Households in 461 PSU Design; 90,000 responses, 45,000 hours
Off. of Federal Statistical Policy & Standard, 673-7974

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Paul Elston—755-2744

New Forms

Industry capacity profile of the hazardous waste[1]
Service industry
Single time
Hazardous waste management firms; 110 responses, 95 hours
Edward H. Clarke, 395-5867

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Clearance Officer—Linda Shiley-254-9515

Revisions

Community disaster loan
FEMA 90-7
On occasion
Local governments in disaster areas; 100 responses, 300 hours
John M. Allen, 395-3785

Extensions

Crime insurance application residential & commercial, crime insurance notice & proof of loss, amendatory endorsement
FEMA 81-11; 81-12; 81-13; 81-14; & 81-15
On occasion
Crime insurance; 5,000 responses, 1,250 hours
John M. Allen, 395-3785

Promisory note
HUD-445
On occasion
Local governments in disaster areas; 100 responses, 25 hours
John M. Allen, 395-3785

Application for loan cancellation
HUD-446
On occasion
Local governments in disaster areas; 100 responses, 25 hours
John M. Allen, 395-3785

SMALL BUSINESS ADMINISTRATION

Agency Clearance Officer—John Anderson—653-6890

Extensions

Annual financial reports, license application, instructions, personal history statement, and amendments
SBA 415, 415A, 415B, 415, & 468
On occasion
Small business investment companies; 1,640 responses, 2,240 hours
John M. Allen, 395-3785

[1] In order to permit completion by April 1980 of economic studies of the impact of regulations to implement the Resource Conservation and Recovery Act, this request will be acted on in less than ten days.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Agency Clearance Officer—Charles Ervin—523-0267

New Forms

Purchasers' questionnaire on tomatoes, prepared or[2] preserved, invoice 701-TA-42 through 50
Single time
Purchasers of tomatoes products; 100 responses, 1,600 hours
Phillip T. Balazs, 395-4814

Importers' questionnaire on tomatoes, prepared or[2] preserved, invoice nos. 701-TA-42 through 50
Single time
Importers of tomato products; 202 responses, 4,040 hours
Phillip T. Balazs, 395-4814

Producers' questionnaire, invoice nos. 701-TA-42[2] through 50
Single time
Vegetable canners; 211 responses, 5,064 hours
Phillip T. Balazs, 395-4814

C. Louis Kincannon,
Acting Deputy Assistant Director For Reports Management.

[FR Doc. 80-7863 Filed 3-12-80; 8:45 am]
BILLING CODE 3110-01-M-M

[2] These reports will be acted on before normal 10-day period. The clearance of these questionnaires or an expedited basis is necessary in order for the International Trade Commission to complete its investigation concerning Tomatoes, prepared or preserved within the statutory time limits.

RAILROAD RETIREMENT BOARD

Privacy Act of 1974; Systems of Records; Proposed Changes to Systems of Records; New System of Records

AGENCY: Railroad Retirement Board.

ACTION: Annual notice of Privacy Act systems of records; notice of proposed changes to systems of records; notice of new system of records.

SUMMARY: Federal agencies are required by the Privacy Act of 1974 to publish in the Federal Register at least annually a notice of the existence and character of the records they maintain from which information can be retrieved by name or other personal identifier. The Railroad Retirement Board last published its systems of records in their entirety on September 20, 1977, at 42 FR 47469-47491. On June 23, 1978, at 43 FR 27267-27270 it published notice of proposed changes to three systems of records, RRB-5, RRB-16, and RRB-22. On September 26, 1978, at 43FR 43642-43651, the Railroad Retirement Board complied with the annual notice requirement by incorporating by reference in the Federal Register its system of records not amended since its previous publication and by publishing in their entirety the following system of records for which it proposed changes: RRB-1, RRB-3, RRB-5, RRB-6, RRB-7, RRB-9, RRB-16, RRB-19, RRB-20, RRB-21, RRB-22, RRB-33. The Board systems of records as amended were also last compiled by the Office of the Federal Register into "Privacy Act Issuances—1978 Compilation," Volume IV, pages 631-653. The purposes of this document are to:

(1) Comply with Section 552a(e)(4) of Title 5, United States Code, as added by section 3 of the Privacy Act of 1974, which requires agencies to give annual notice of their systems of records.

(2) Give notice of proposed changes to seven existing systems of records. For the convenience of the public each of these seven systems of records is published in its entirety below. Proposed modifications are shown in italics. For an explanation of each proposed change see "Supplementary Information," Part I, below.

(3) Give notice of a new system of records to be known as RRB-39, Milwaukee Railroad Restructuring Act Benefit System. See "Supplementary Information," Part II, below.

(4) Provide, for public convenience, a current listing of addresses of the Railroad Retirement Board's field offices and the addresses and telephone numbers of the Medicare, Part B, payment system regional offices. These two listings of offices are shown in Appendixes I and II, respectively, and are published below.

(5) Provide, for public convenience, a current listing of the system of records the Railroad Retirement Board maintains under the Privacy Act.

DATES: These seven systems shall be amended, and the new system established, as proposed without further notice on April 12, 1980, unless comments are received before this date which would result in a contrary determination.

ADDRESS: Send comments to R. F. Butler, Secretary of the Board, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth P. Boehne, Director of Management Control, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Ill. 60611, Telephone 312-751-4690.

SUPPLEMENTARY INFORMATION:

Part I: Revisions to Seven Systems of Records

Proposed revisions of two routine uses in the system of records, RRB-19, Payroll Record System, would allow the reporting of salary and tax information of Railroad Retirement Board employees to the Social Security Administration. These proposed revisions result from the enactment, on January 2, 1976, of Pub. L. 94-202, which authorizes utilization by the Social Security Administration of information contained on Internal Revenue Service's Form W-2, Wage and Tax Statement. The Social Security Administration needs this information for administration of their programs.

A proposed new routine use in the system of records, RRB-21, Railroad Unemployment and Sickness Insurance Benefit System, would allow the reporting to the Internal Revenue Service of the amounts of unemployment benefits paid to claimants. This proposed routine use results from the enactment, on November 6, 1978, of Pub. L. 95-600, which provides that unemployment benefits may be subject to Federal income tax under certain conditions.

A proposed new routine use in the system of records, RRB-22, Railroad Retirement Survivor, and Pension Benefit System, would allow the reporting to an employee's last employer under the Railroad Retirement Act, of the date the employee files an application for an annuity under the Railroad Retirement Act. The information would be used by the employer in determining the employee's entitlement to continued major medical benefits under insurance programs negotiated with labor organizations. A proposed revision of another routine use in this same system of records would allow the disclosure of beneficiary identifying information, entitlement data and benefit rates to the American Institute on Taiwan and to the Veterans Administration Regional Office, Philippines, to aid in the development of applications, supporting evidence, and the continued eligibility of beneficiaries and potential beneficiaries living abroad. The U.S. Embassy in Taiwan was closed in February, 1979, and the American Institute was established by enactment, on April 10, 1979, of Pub. L. 96-8 (Taiwan Relations Act), as the mechanism by which departments and agencies are to carry out programs and other relations with or relating to Taiwan. Requests for services sent to the U.S. Embassy in the Philippines are handled by the Veterans Administration Regional Office in Manila rather than the embassy. The retention and disposal of certain records in the following systems of records are being changed to reflect current procedures: RRB-1, Social Security Benefit Vouchering System; RRB-11, Files on Concluded Litigation; RRB-20, Health Insurance and Supplementary Medical Insurance Enrollment and Premium Payment System (Medicare); RRB-22, Railroad Retirement Survivor, and Pensioner Benefit System; RRB-37, Medical Records on Railroad Retirement Board Employees.

Part II: New System of Records

The U.S. Railroad Retirement Board is responsible for administering certain provisions of the Milwaukee Railroad Restructuring Act (45 U.S.C. 901-922). That act authorizes the Board to pay supplementary unemployment insurance and new carrer training assistance, and to certify to the Milwaukee Railroad, claims under an employee protection agreement entered into by the Milwaukee Railroad and the labor organizations representing its employees. To carry out these duties, the Board must establish a new system of records to document and verify its payments and certifications.

On January 9, 1980, the Railroad Retirement Board filed a new system report for this system with the Speaker of the House of Representatives, the President of the Senate and the Office of Management and Budget. This was done to comply with Section 552a(o) of Title 5, U.S.C., as added by Section 3 of the Privacy Act of 1974, and OMB Circular A-108, Transmittal Memorandum No. 1, dated September 30, 1975 and Transmittal Memorandum No. 3 dated May 17, 1976.

Availability of 1978 Compilation: "Privacy Act Issuances—1978 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of change. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Dated: March 3, 1980.

By Authority of the Board.

R. F. Butler,

Secretary.

Table of Contents; Systems of Records

RRB-1.—Social Security Benefit Vouchering System.
RRB-2.—Medical Examiner's Index.
RRB-3.—Medicare, Part B (Supplementary Medical Insurance Payment System-Contracted to The Travelers Insurance Company).
RRB-4.—Microfiche of Estimated Annuity, Total Compensation and Residual Amount File.
RRB-5.—Master File of Railroad Employees' Creditable Compensation.
RRB-6.—Unemployment Insurance Record File.
RRB-7.—Applications for Unemployment Benefits and Placement Service under the Railroad Unemployment Insurance Act.
RRB-8.—Railroad Retirement Tax Reconciliation System.
RRB-9.—Protest and Appeals under the Railroad Unemployment Insurance Act.
RRB-10.—Legal Opinion Files.
RRB-11.—Files on Concluded Litigation.
RRB-12.—Railroad Employees' Registration File.
RRB-13.—Disclosure of Information Files.
RRB-14.—Freedom of Information Act Register.
RRB-15.—Covered Abandoned Railroads.
RRB-16.—Social Security Administration Summary Earnings File.
RRB-17.—Appeal Decisions from Initial Denials for Benefits Under the Provisions of the Railroad Retirement Act.
RRB-18.—Travel and Miscellaneous Voucher Examining System.
RRB-19.—Payroll Record System.
RRB-20.—Health Insurance and Supplementary Medical Insurance Enrollment and Premium Payment System (MEDICARE).
RRB-21.—Railroad Unemployment and Sickness Insurance Benefit System.
RRB-22.—Railroad Retirement, Survivor, and Pensioner Benefit System.
RRB-23.—Four Percent Wage History of Railroad Workers.
RRB-24.—Research Master Record for Lump Sum and Residual Awards Under the Railroad Retirement Act.
RRB-25.—Research Master Record for Survivor Beneficiaries Under the Railroad Retirement Act.
RRB-26.—Research Master Record for Retire Railroad Employees and their Dependents.
RRB-27.—Railroad Retirement Board-Social Security Administration Financial Interchange System.
RRB-28.—One Percent Historical File of Railroad Unemployment and Sickness Beneficiaries.
RRB-29.—Railroad Employees' Cumulative Gross Earnings Master File.
RRB-30.—Current Year Wage Study File.
RRB-31.—Twenty Percent Unemployment and Sickness Annual Summary File.

RRB-32.—Twenty Percent Unemployment and Sickness Monthly Summary File.
RRB-33.—Federal Employee Incentive Awards System.
RRB-34.—Employee Personnel Management Files.
RRB-35.—Employee Promotion Evaluation File.
RRB-36.—Negotiated Grievance File.
RRB-37.—Medical Records on Railroad Retirement Board Employees.
RRB-38.—Regional Rail Reorganization Act Reimbursement System.

RRB-1

SYSTEM NAME:

Social Security Benefit Vouchering System—RRB

SYSTEM LOCATION:

U.S. Railroad Retirement Board,
844 Rush Street,
Chicago, Illinois 60611.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants after December 31, 1974, for benefits under Title II of the Social Security Act who have completed ten years of creditable service in the railroad industry, the spouse or survivor of such an individual.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, social security number, type and amount of benefit, suspension and termination information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(2)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Benefit rate information may be disclosed to primary beneficiaries regarding secondary beneficiaries (or vice versa) when the addition of such beneficiary affects either the entitlement or benefit payment.

b. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

c. Benefit rates, names and addresses may be released to the Treasury Department to control for reclamation and return of outstanding benefit checks, to issue benefit checks, act on reports of non-delivery, and to insure delivery of check to the correct address of the beneficiary or representative payee.

d. Beneficiary's name, address, check rate and date plus supporting evidence may be released to the U.S. Postal Service for investigation of alleged forgery or theft of railroad retirement or social security benefit checks.

e. Beneficiary's name, effective date, benefit rate and months paid may be disclosed to the Veterans Administration to verify continued entitlement to benefits.

f. Benefit rates and effective dates may be disclosed to the Social Security Administration, Bureau of Supplemental Security Income, to federal, state and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

g. Last addresses information may be disclosed to the Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

h. Benefit rates, entitlement and other necessary information may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

i. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the Board's payment of benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer for the purposes of determining entitlement to and the rates of private, supplemental pension benefits and to calculate estimated benefits due.

j. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his benefit or anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

k. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

l. Information may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act.

m. Records may be disclosed to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under Title II of the Social Security Act, as amended.

n. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

o. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of record may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

p. Information in this system of records may be released to the attorney representing an individual in connection with that individual's claim for benefits under the Railroad Retirement Act or Title II of the Social Security Act, as amended, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, magnetic tape and microforms.

RETRIEVABILITY:

Social security account number, full name.

SAFEGUARDS:

Records are maintained in areas not accessible to the public; buildings are secured (guard service).

RETENTION AND DISPOSAL:

Paper: Individual claim folders with records of all actions pertaining to the payment of claims are *transferred to the Federal Records Center, Chicago, Illinois, 5 years after the date of last payment or denial activity if all benefits have been paid, no future eligibility is apparent and no erroneous payments are outstanding. The claim folder is destroyed 25 years after the date it is received in the center. Accounts receivable listings and checkwriting operations daily activity listings are*

transferred to the Federal Records Center 1 year after date of issue and are destroyed 6 years and 3 months after receipt at the center. Other paper listings are destroyed 1 year after date of issue. Magnetic tape: Tapes are updated at least monthly, writing over obsolete data. Microforms: Originals are kept for 3 years, transferred to the Federal Records Center, and destroyed 3 years and 3 months after receipt at the center. One duplicate copy is kept 2 years and destroyed by shredding. All other duplicate copies are kept 1 year and destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Retirement Claims, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's records should be in writing addressed to the System Manager identified above, including full name and social security number of the individual. Before any information about any record will be released, the System Manager may require the individual to provide proof of identify or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURES:

See Notification section above.

CONTESTING RECORD PROCEDURES:

See Notification section above.

RECORD SOURCE CATEGORIES:

Individual applicant or his or her authorized representative, the Social Security Administration, other record systems maintained by the Railroad Retirement Board.

SYSTEM NAME:

Files on Concluded Litigation-RRB.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Railroad employees, retired railroad employees, and individuals with some creditable railroad service who are involved in litigation in which the Railroad Retirement Board has some interest as a party or otherwise.

CATEGORIES OF RECORDS IN THE SYSTEM:

Legal briefs, reports on legal or factual issues involving copies of subpoenas which may have been issued, copies of any motions filed, transcripts of any depositions taken, correspondence received and copies of any correspondence released by the Board pertaining to the case, copies of any court rulings on motions, and copies of the final decision in the case.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)) and Section 12(1) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(1)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper.

RETRIEVABILITY:

Name.

SAFEGUARDS:

Stored in locked file cabinets; access to these files is restricted to attorneys, other employees in the Bureau of Law, and other Board employees with express permission of the head of the clerical section of the Bureau of Law.

RETENTION AND DISPOSAL:

Files are retained for 5 years after the case is closed, then shredded.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURES:

See Notification section above.

CONTESTING RECORD PROCEDURES:

See Notification section above.

RECORD SOURCE CATEGORIES:

The individual himself or his authorized representative, other record systems maintained by the Railroad Retirement Board, employers, the Social Security Administration.

RRB-19

SYSTEM NAME:

Payroll Record System-RRB.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Railroad Retirement Board employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Time, leave, and payroll information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pay Acts as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. *Salary and tax information may be disclosed to the Internal Revenue Service, the Social Security Administration, and state and city taxing authorities for tax purposes.*

b. Service history including pay, benefits, salary deductions for retirement, and other information necessary may be disclosed to Civil Service Commission for use in computation of civil service annuities and to carry out its Government-wide personnel management functions.

c. Computer check issue tapes may be released to the Department of Treasury for issuance of salary checks.

d. Identification information, check number, data and amount, plus other supporting evidence may be forwarded to the U.S. Postal Service for investigation of alleged forgery or theft of salary checks.

e. The last addresses and employer information may be released to Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

f. Records may be disclosed to the General Accounting Office for auditing purposes.

g. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

h. *A copy of the employee's Form W-2, Wage and Tax Statement, or other similar form containing the name, social security number, taxable earnings and amounts withheld, may be released to the state, city or other local jurisdiction which is authorized to tax the employee's compensation in accordance with a withholding agreement between the state, city or other local jurisdiction, and the Department of the Treasury or the Social Security Administration, or in absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Director of Budget and Fiscal Operations, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois, 60611.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, tape and microfilm.

RETRIEVABILITY:

Social security number and name.

SAFEGUARDS:

Housed in security building and maintained in areas not accessible to the public; information released only at employee's request or to approved federal and local authorities.

RETENTION AND DISPOSAL:

Consolidated pay tapes, first two master tapes, and last two master tapes for each year: Destroy record three years after close of calendar year in which prepared by erasing tape. Security record-current check issue tape. Dispose when National Personnel Records Center receives second subsequent document covering same type of payment. Paper: Destroyed after four years. Microfilm: Retained until replaced by a new record, usually within one year.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Budget and Fiscal Operations, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois. 60611.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURES:

See Notification section above.

CONTESTING RECORD PROCEDURES:

See Notification section above.

RECORD SOURCE CATEGORIES:

Railroad Retirement Board employees personnel action, time and attendance reports; deduction authorizations.

RRB-20

SYSTEM NAME:

Health Insurance and Supplementary Medical Insurance Enrollment and Premium Payment System (MEDICARE)-RRB.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

District and Regional Offices: See Appendix I for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Qualified Railroad Retirement beneficiaries who are eligible for medicare coverage, attending physicians, chiropractors and physical therapists.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim number, social security number, name, address, type of beneficiary under the Railroad Retirement Act, date of birth, method of Supplementary Medical Insurance premium payment, enrollment status, amount of premium, paid-thru date, third party premium payment information, coverage jurisdiction determination, direct premium billing and premium refund accounting, correspondence from beneficiaries, physicians suspected of overutilization and those suspended from payment by Medicare.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(d) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(d)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Beneficiary identification, enrollment status and premium deductions information may be released to the Social Security Administration and the Health Care Financing Administration to correlate actions with the administration of Title II and Title XVIII (MEDICARE) of the Social Security Act.

b. Beneficiary identification may be disclosed to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

c. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made from the record of the individual to the representative payee.

d. Data may be disclosed to Department of Health, Education, and Welfare for reimbursement for work done under reimbursement provisions of Title XVIII of the Social Security Act, as amended.

e. Jurisdictional clearance, premium rate, coverage election, paid-thru date, and amounts of payments in arrears may be released to the Social Security Administration and the Health Care Financing Administration to assist that agency in administering Title XVIII of the Social Security Act.

f. Beneficiary identification, premium rate and paid-thru date may be released to effect state buy-in and third party premium payments.

g. Payment data may be disclosed to consultants to determine reasonable charges for hospital insurance payments in Canada.

h. Entitlement data may be disclosed to primary beneficiaries regarding secondary beneficiaries (or vice versa) when the addition of such beneficiary affects entitlement.

i. Records may be released to contracts to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act and Social Security Act, as amended.

j. The last addresses information may be disclosed to Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

k. Beneficiary identification, entitlement data and rate information may be referred to the Department of State and embassy officials to aid in the development of applications, supporting evidence and the continued eligibility of beneficiaries and potential beneficiaries living abroad.

l. Records may be released to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under Title XVIII of the Social Security Act, as amended.

m. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

n. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the Board's determination of medicare entitlement, entitlement data and present address may be released to the requesting employer for the purposes of determining entitlement to and rates of supplemental benefits payable under private employer welfare benefit plans.

o. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his entitlement to medicare may be disclosed to the labor organization official.

p. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act, or Social Security Act and may be disclosed during the course of an administrative appeal hearing which such records are relevant to the issue.

q. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

r. Information in this system of records may be released to the attorney representing such individual in connection with the individual's claim for benefits under the Railroad Retirement Act and Title XVIII of the Social Security Act, as amended, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, magnetic tape and microfilm.

RETRIEVABILITY:

Claim number, social security number, full name.

SAFEGUARDS:

Records are maintained in areas not accessible by the public and are not permitted to be removed from headquarters without authorization.

RETENTION AND DISPOSAL:

Paper: *Computer printouts are maintained for 1 year, then shredded. Applications material in individual claim folders with records of all actions pertaining to the payment or denial of claims are transferred to the Federal Records Center, Chicago, Illinois, 5 years after the date of last payment or denial activity if all benefits have been paid, no future eligibility is apparent and no erroneous payments are outstanding. The claim folder is destroyed 25 years after the date it is received in the center. Magnetic tape: Updated weekly. Obsolete tape is written over. Microfilm: Originals are kept for 3 years, transferred to the Federal Records Center and destroyed 3 years and 3 months after receipt at the center. Duplicate copies are destroyed by shredding after 18 months.*

SYSTEM MANAGER(S) AND ADDRESS:

Director of Retirement Claims, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's records should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURES:

See Notification section above.

CONTESTING RECORD PROCEDURES:

See Notification section above.

RECORD SOURCE CATEGORIES:

Applicant (the qualified railroad beneficiary), his/her representative, Social Security Administration, Health Care Financing Administration, The Travelers Insurance Company, Federal, State or local agencies, their party premium payers, all other Railroad Retirement Board files, physicians.

RRB-21

SYSTEM NAME:

Railroad Unemployment and Sickness Insurance Benefit System-RRB.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

Regional and District Offices: See Appendix I for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants and claimants for unemployment and sickness (including maternity) benefits under the Railroad Unemployment Insurance Act: some railroad employees injured at work who did not apply for Railroad Unemployment Insurance Act benefits; all railroad employees paid separation allowances.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information pertaining to payment or denial of an individual's claim for benefits under the Railroad Unemployment Insurance Act: name, address, sex, social security number, date of birth, total months of railroad service (including creditable military service), total creditable compensation for base year, last employer and date last worked before applying for benefits, last rate of pay in base year, reason not working, applications and claims filed, benefit payment information for each claim filed, disqualification periods and reasons for disqualification, entitlement to benefits under other laws, benefit recovery information about personal injury claims and pay for time not worked, medical reports placement data, correspondence and telephone inquiries to and about the claimant, record of protest or appeal by claimant of adverse determinations made on his claims.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 12(1) of the Railroad Unemployment Insurance Act (45 U.S.C. 351, *et. seq.*).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Beneficiary identifying information may be disclosed to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

b. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

c. Beneficiary identifying information, address, check rate, date and number may be released to the Treasury Department to control for reclamation and return outstanding benefit checks, to issue benefit checks, respond to reports of non-delivery and to insure delivery of check to the correct address of the beneficiary or representative payee.

d. Beneficiary identifying information, address, check rate, date and number, plus other necessary supporting evidence may be released to the U.S. Postal Service for investigation of alleged forgery or theft of railroad unemployment/sickness benefit checks.

e. A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

f. Under Section 2(f), the Railroad Retirement Board has the right to recover benefits paid to an employee who later receives remuneration for the same period, therefore, the Railroad Retirement Board may notify the person or company paying the remuneration of the Board's right to recovery and the amount of benefits to be refunded.

g. Under Section 12(o), the Railroad Retirement Board is entitled to reimbursement of sickness benefits paid on account of the infirmity for which damages are paid, consequently, the Railroad Retirement Board may send a notice of lien to the liable party, and, upon request by the liable party, advise the amount of benefits subject to reimbursement.

h. Records may be disclosed to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Unemployment Insurance Act.

i. Beneficiary identifying information, rate and entitlement data may be released to the Social Security Administration to correlate actions with the administration of the Social Security Act.

j. The last addresses and employer information may be released to Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

k. Benefit rate, entitlement and periods paid may be disclosed to the Social Security Administration, Bureau of Supplemental Security Income to federal, state and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

l. Beneficiary identifying information, entitlement, rate and other pertinent data may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

m. Beneficiary identifying information and medical evidence may be released to State or local agencies required by State or local law to be informed of the existence of a legally reportable medical condition, when discovered in connection with an application for disability or sickness benefits.

n. Records may be referred to the General Accounting Office for auditing purposes and for collecion of debts arising from overpayments under the Railroad Unemployment Insurance Act.

o. If a request for information pertaining to an individual is made by an official of a labor organization, of which the individual is a member, information from the record of the individual concerning his benefit or anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

p. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the Board's payment of unemployment or sickness benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer for the purposes of determining entitlement to and rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due.

q. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

r. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

s. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its function, indicates a violation, or potential violation of law, whether civil, criminal on regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

t. Non-medical information in this system of records may be released to the attorney representing such individual upon receipt of a written letter or declaration stating that fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual. Medical information may be released to an attorney when such records are requested for the purpose of contesting a determination either administratively or judicially.

u. Beneficiary identifying information, entitlement data, benefit rates and periods paid may be released to the Veterans Administration to verify continued entitlement to benefits.

v. Identifying information such as full name, social security number, employee identification number, date last worked, occupation, and location last worked may be released to any last employer to verify entitlement for benefits under the Railroad Unemployment Insurance Act.

w. *The amount of unemployment and sickness benefits paid to a claimant under the Railroad Unemployment Insurance Act, if $10 or more in a calendar year, will be reported to the Internal Revenue Service pursuant to Section 112 of the Revenue Act of 1978, Public Law 95-600.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, magnetic tape and microforms.

RETRIEVABILITY:

Social Security number (claim number) and name.

SAFEGUARDS:

Records are maintained in areas not accessible to the public and are not permitted to be removed from headquarters without authorization.

RETENTION AND DISPOSAL:

Paper-transferred to the Chicago Federal Records Center one year after the end of the benefit year during which the case was closed. Destroyed by the General Services Administration five years after the end of the benefit year. In appeal cases, retention is permanent. In benefit recovery cases, the file is transferred to the Federal Records Center if there has been no recent activity; the file is not destroyed until five years after recovery has been completed. Magnetic tape-destroyed ten years after the end of the benefit year. Microforms-destroyed ten years after the end of the benefit year.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Unemployment and Sickness Insurance, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURES:

See Notification section above.

CONTESTING RECORD PROCEDURES:

See Notification section above.

RECORDS SOURCE CATEGORIES:

Applicant, claimant or his representative, physicians, employers, unemployment claims agents, labor organizations, federal, state, and local government agencies, all Railroad Retirement Board files, insurance companies, attorneys, congressmen, liable parties (in personal injury cases), funeral homes and survivors (for payment of death benefits).

SYSTEM NAME:

Railroad Retirement, Survivor, and Pensioner Benefit System-RRB.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

Regional and District Offices: See Appendix I for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for retirement and survivor benefits, their dependents (spouses, children, parents, grandchildren), individuals who filed for lump sum death benefits and/or residual payments.

CATEGORIES OR RECORDS IN THE SYSTEM:

Information pertaining to the payment or denial of an individual's claim for benefits under the Railroad Retirement Act: name, address, social security number, claim number, proofs of age, marriage, relationship, and military service, creditable earnings and service months (including military service), entitlement to benefits under the Social Security Act. Veterans Administration or other benefit systems, rates, effective dates, medical reports, correspondence and telephone inquiries to and about the beneficiary, record of determination and appeal by beneficiary, suspension and termination dates, health insurance effective date, option, premium rate and deduction, direct deposit data and employer pension information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(6) of the Railroad Retirement Act of 1974 (U.S.C. 231f(b)(6)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Beneficiary identifying information may be disclosed to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

b. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

c. Entitlement and benefit rates may be released to primary beneficiaries regarding secondary beneficiaries (or vice versa) when the addition of such beneficiary affects either the entitlement or benefit payment.

d. Identifying information such as full name, address, date of birth, social security number, employee identification number, and date last worked, may be released to any last employer to verify entitlement for benefits under the Railroad Retirement Act.

e. Beneficiary identifying information, address, check rate, number and date may be released to the Treasury Department to control for reclamation and return of outstanding benefit checks, to issue benefit checks, to reconcile reports on non-delivery, and to insure delivery of check to the correct address of the beneficiary or representative payee.

f. Beneficiary identifying information, address, check rate, date, number and other supporting evidence may be released to the U.S. Postal Service for investigation of alleged forgery or theft of railroad retirement or social security benefit checks.

g. Beneficiary identifying information, entitlement data, medical evidence and related evaluatory data and benefit rate may be released to the Social Security Administration and the Health Care Financing Administration to correlate actions with the administration of Title II and Title XVIII of the Social Security Act, as amended.

h. Beneficiary identifying information, including social security account number, and supplemental annuity amounts may be released to the Internal Revenue Service, State and local taxing authorities for tax purposes (Form G-1099, for those annuitants receiving supplemental annuities).

i. Beneficiary identifying information, entitlement, benefit rates, medical evidence and related evaluatory data and months paid may be released to the Veterans Administration to verify continued entitlement to benefits.

j. *Beneficiary identifying information, entitlement data and benefit rates may be released to the Department of State and embassy and consular officials, to the American Institute on Taiwan, and to the Veterans Administration Regional Office, Philippines, to aid in the development of applications, supporting evidence, and the continued eligibility of beneficiaries and potential beneficiaries living abroad.*

k. Beneficiary identifying information, entitlement, benefit rates and months paid may be released to the Social Security Administration. Bureau of Supplemental Security Income, Health Care Financing Administration, to federal, state and local welfare or public

aid agencies to assist them in processing applications for benefits under their respective programs.

l. The last addresses and employer information may be released to the Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

m. Beneficiary identifying information, entitlement, rate and other pertinent data may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

n. Beneficiary identifying information and medical evidence may be released to State or local agencies required by State or local law to be informed of the existence of a legally reportable medical condition, when discovered in connection with an application for a disability annuity.

o. Medical evidence may be released to Board-appointed medical examiners to carry out their functions.

p. Information obtained in the administration of Title XVIII (Medicare) which may indicate unethical or unprofessional conduct of a physician or practitioner providing services to beneficiaries may be released to Professional Standards Review Organizations and State Licensing Boards.

q. Information necessary to study the relationship between benefits paid by the Railroad Retirement Board and civil service annuities may be released to the Civil Service Commission.

r. Records may be disclosed to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under Title II and Title XVIII of the Social Security Act, as amended, or the Railroad Retirement Act.

s. Records may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act.

t. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

u. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the Board's payment of retirement benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer for the purposes of determining entitlement to and rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due.

v. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his benefit or anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

w. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act, and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

x. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

y. Information in this system of records may be released to the attorney representing such individual in connection with the individual's claim for benefits under the Railroad Retirement Act, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

z. The amount of a residual lump sum payment and the identity of the payee may be released to the Internal Revenue Service for tax audit purposes.

aa. The amount of any death benefit or annuities accrued but unpaid at death and the identity of such payee may be released to the appropriate state taxing authorities for tax assessment and auditing purposes.

bb. Beneficiary identifying information, including but not limited to name, address, social security account number, payroll number and occupation, the fact of entitlement and benefit rate may be released to the Pension Benefit Guaranty Corporation to enable that agency to determine and pay supplemental pensions to qualified railroad retirees.

cc. Medical records may be disclosed to vocational consultants in administrative proceedings.

dd. *Date employee filed application for annuity to the last employer under the Railroad Retirement Act for use in determining entitlement to continued major medical benefits under insurance program negotiated with labor organizations.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, microforms, magnetic tape and magnetic disk.

RETRIEVABILITY:

Claim number, social security number and full name.

SAFEGUARDS:

Paper and microforms: maintained in areas not accessible to the public, offices are locked during non-business hours. Magnetic tape and magnetic disk: computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix and an audit trail.

RETENTION AND DISPOSAL:

Paper: Individual claim folders with records of all actions pertaining to the payment of *claims are transferred to the Federal Records Center, Chicago, Illinois, 5 years after the date of last payment or denial activity if all benefits have been paid, no future eligibility is apparent and no erroneous payments are outstanding. The claim folder is destroyed 25 years after the date it is received in the center. Account receivable listings and checkwriting operations daily activity listings are transferred to the Federal Records Center 1 year after the date of issue and are destroyed 6 years and 3 months after receipt at the center. Other paper listings are destroyed 1 year after date of issue. Microforms: Originals are kept for 3 years, transferred to the Federal Records Center, and destroyed 3 years and 3 months after receipt at the center. One duplicate copy is kept 2 years and destroyed by shredding. All other duplicate copies are kept 1 year and destroyed by shredding. Magnetic tape: Magnetic tape records are used to daily update the disk file, are retained for 90 days and then written over. Magnetic disk: Continually updated and permanently retained.*

SYSTEM MANAGER(S) AND ADDRESS:

Director of Retirement Claims; U.S. Railroad Retirement Board, 844 Rush Street Chicago, Illinois 60611.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's records should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any records will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURES:

See Notification section above.

CONTESTING RECORD PROCEDURES:

See Notification section above.

RECORD SOURCE CATEGORIES:

Individual applicants or their representatives, railroad employers, other employers, physicians, labor organizations, federal, state and local government agencies, attorneys, funeral homes, congressmen, schools, foreign government.

RRB-37

SYSTEM NAME:

Medical Records on Railroad Retirement Board Employees-RRB.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Railroad Retirement Board headquarters' employees grade GS-12 and above, age 45 and older, and any building employee involved in a medical emergency requiring further medical treatment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of examination, date of birth, brief narrative statement of the employee's general health and significant medical problem, chief complaint, physical findings and recommended action.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Railroad Retirement Board Order 75-6, written in accordance with section 7(b)(9) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(9)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For internal Board use only.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper.

RETRIEVABILITY:

Name.

SAFEGUARDS:

Locked filing cabinets, only authorized personnel are permitted to access.

RETENTION AND DISPOSAL:

Maintained until 1 year after the termination of employment, then shredded.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Medical Officer, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's records should be in writing addressed to the System Manager identified above, including full name and social security number of the individual. Before any information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURES:

See Notification section above.

CONTESTING RECORD PROCEDURES:

See Notification section above.

RECORD SOURCE CATEGORIES:

Physician, medical personnel, Railroad Retirement Board employee.

RRB-39

SYSTEM NAME:

Milwaukee Railroad Restructuring Act Benefit System.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

CATEGORIES OF THE SYSTEM:

Any employee of the Milwaukee Railroad who may be eligible for supplementary unemployment insurance, new career training assistance, or employee protection benefits under the Milwaukee Railroad Restructuring Act (45 U.S.C. 901-922).

CATEGORIES OF RECORDS IN THE SYSTEM:

Identifying information includes the name of the employee, his social security account number, his address, his date of birth, his occupation code, and employer code. For individuals eligible for supplementary unemployment insurance benefits, information as to qualifications for benefits; railroad earnings during the period from June 1977 through November 1979; monthly benefit rate; month and year of benefit claim; reason not working; amounts deducted for Railroad Unemployment Insurance Act benefits, state unemployment benefits, earnings from all employment and self-employment; amounts paid and dates of payments for benefit claims; verifying information from employers and governmental agencies; amounts owed and the reasons for the indebtedness; amounts recovered and the sources of repayments. For individuals eligible for new career training assistance, information as to qualifications for benefits; schools attended and courses taken; proof of payment for tuition, room, board, fees, and educational materials; amounts paid and dates of payments; amounts owed and the reasons for the indebtedness; amounts recovered and the sources of repayments. For individuals eligible for employee protection payments, information as to the amount of relocation incentive compensation, interim employee assistance, separation allowance, and moving expenses to be paid by the employer to the employee; the kind of payment due the employee and, if applicable, the period for which payment is to be made; Railroad Unemployment Insurance Act benefits, state unemployment benefits, earnings from employment; if applicable, market value of home, sale price of home, moving and related expenses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 9, 10, 11, and 12 of the Milwaukee Railroad Restructuring Act (945 U.S.C. 908-11).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Information received from the employee may be released to his employer, the Social Security Administration, the Department of Labor, the Veterans Administration, state unemployment compensation agencies, and other similar governmental agencies to the extent needed to verify the employee's claim and to resolve conflicts in information.

b. Identifying information, address and check amount may be released to the Treasury Department or the Milwaukee Railroad, if applicable, to issue benefit checks, to control for reclamation and return of checks, to respond to reports of non-delivery of checks, and to ensure delivery of checks to the correct address of the beneficiary.

c. Identifying information, address, check amount, and necessary supporting evidence may be released to the U.S. Postal Service or the Treasury Department for investigation of alleged forgery or theft of benefit checks.

d. Records may be referred to the General Accounting Office for auditing purposes and for collection of debts arising under the Milwaukee Railroad Restructuring Act.

e. Records may be disclosed in a court proceeding relating to any claims for benefits under the Milwaukee Railroad Restructuring Act and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

f. Disclosure may be made to a congressional office from the individual's record in response to an inquiry from the congressional office made at the request of the individual.

g. Disclosure may be made to an official of a labor organization of which the individual is a member in response to an inquiry from the labor organization official on behalf of or at the request of the individual.

h. Disclosure may be made to the attorney representing such individual upon receipt of a letter or written declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

i. A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

j. Records may be disclosed to contractors to fulfill contract requirements pertaining to specific activities related to the Milwaukee Railroad Restructuring Act.

k. The last addresses and employer information may be released to Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

l. Benefit rate, entitlement and periods paid may be disclosed to the Social Security Administration, Bureau of Supplemental Security Income to federal, state and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

m. Beneficiary identifying information, entitlement, rate and other pertinent data may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

n. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its function, indicates a violation, or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

o. Information may be released to the Department of Justice and to courts of competent jurisdiction in response to properly issued subpoenas.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, magnetic tape, and microforms.

RETRIEVABILITY:

Social security number and name.

SAFEGUARDS:

Records are maintained in areas not accessible to the public, are restricted to personnel whose official duties require access, and are not permitted to be removed from headquarters without authorization.

RETENTION AND DISPOSAL:

All records will be retained until January 1990, which is 5 years after the end of the benefit programs.

SYSTEMS MANAGER(S) AND ADDRESS:

Director of Unemployment and Sickness Insurance, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURES:

See Notification section above.

CONTESTING RECORD PROCEDURES:

See Notification section above.

RECORD SOURCE CATEGORIES:

Employee or his representative, employers, labor organizations, governmetnal agencies, real estate appraisers, and all Railroad Retirement Board files.

Appendix I

Offices of the U.S. Railroad Retirement Board

A. Regional Offices

Region 1

101 Marietta Street, Suite 2306, Atlanta, Georgia 30303.

Region 2

Federal Building, Room 3415, 26 Federal Plaza, New York, New York 10007.

Region 3

Anthony J. Celebrezze Federal Building, Room 493, 1240 E. Ninth Street, Cleveland, Ohio 44199.

Region 4

Federal Building, Room 257, 601 East 12th Street, Kansas City, Missouri 64106.

Region 5

Federal Building, Room 7419, 450 Golden Gate Avenue, Box 36043, San Francisco, California 94102.

B. District Offices

Alabama

2121 Building, Room 1532, 2121 8th Avenue North, Birmingham, Alabama 35203.

951 Government Street, Room 122, Mobile, Alabama 36604.

Arizona

301 West Congress, Room 4-M, Box FB-40, Tucson, Arizona 85701.

Arkansas

Combined Communications Center, Room 308, 3rd and Louisiana Streets, Little Rock, Arkansas 72201.

California

Bank of California Building, 2110 Merced Street, Box 752, Fresno, California 93712.

U.S. Courthouse Building, Room 1507, 312 North Spring Street, Los Angeles, California 90012.

George P. Miller Federal Building, 1515 Clay Street, Oakland, California 94612.

Federal Building, Room E-1821, 2800 Cottage Way, Sacramento, California 95825.

568 N. Mountain View, San Bernardino, California 92401.
Federal Building, Room 1423, 450 Golden Gate Avenue, Box 36045, San Francisco, California 94102.

Colorado

183 Custom House, 20th and Stout Streets, P.O. Box 8869, Denver, Colorado 80201.

Connecticut

Federal Building, 150 Court Street, New Haven, Connecticut 06510.

District of Columbia

1925 L Street, N.W., Washington, D.C. 20036.

Florida

400 West Bay Street, Room 244, Box 35026, Jacksonville, Florida 32202.
168 S.E. First Street, Room 809, Miami, Florida 33131.
700 Twiggs Street, Room 707, Tampa, Florida 33602.

Georgia

101 Marietta Street, Suite 2304, Atlanta, Georgia 30303.
719 East 65th Street, Savannah, Georgia 31405.

Idaho

Federal Building and U.S. Courthouse, Room 179, 250 South 4th Avenue, Pocatello, Idaho 83201.

Illinois

Federal Building, 31st Floor, 230 South Dearborn, Chicago, Illinois 60604.
132 South Water Street, Suite 517, P.O. Box 1291, Decatur, Illinois 62525.
8311 State Street, East St. Louis, Illinois 62203.
101 North Joliet Street, Joliet, Illinois 60431.
U.S.P.S. Building, 211 Nineteenth, Rock Island, Illinois 61201.

Indiana

U.S.P.S. Building, Room 238, 101 N.W. Seventh Street, Evansville, Indiana 47708.
Lakeside II Office Building, Suite 145, 2250 Lake Avenue, Fort Wayne, Indiana 46805.
Federal Building, Room 221, 610 Connecticut, Gary, Indiana 46401.
Federal Building, Room 105, 575 North Pennsylvania Street, Indianapolis, Indiana 46204.

Iowa

Federal Building, Room 709, 210 Walnut Street, Des Moines, Iowa 50309.

Kansas

Federal Building, Room 303, 444 S.E. Quincy, Topeka, Kansas 66683.
The Litwin Building, Suite 100-A, 110 North Market Street, Wichita, Kansas 67202.

Kentucky

Federal Building, Room 377A, 600 Federal Place, P.O. Box 3702, Louisville, Kentucky 40201.

Louisiana

Hale Boggs Federal Building, Room 925, 500 Camp Street, New Orleans, Louisiana 70130.
Federal Building, U.S. Courthouse, 500 Fannin Street, Room 3B04, Shreveport, Louisiana 71101.

Maine

Federal Building, P.O. Box 3590, Room 2041, 151 Forest Avenue, Portland, Maine 04101.

Maryland

George H. Fallon Federal Office Building, Room 1029, 31 Hopkins Plaza, Baltimore, Maryland 21201.

Massachusetts

U.S. Post Office and Courthouse Building, Room 408, P.O. Box 2448, Boston, Massachusetts 02208.
Federal Building and Courthouse, Room 411, 436 Dwight Street, Springfield, Massachusetts 01103.

Michigan

2727 North Lincoln Road, Escanaba, Michigan 49829.
P. V. McNamara Federal Building, 477 West Michigan Avenue, Suite 1990, Detroit, Michigan 48226.
Carlson Buiten Building, 965 North Division Street, Grand Rapids, Michigan 49503.

Minnesota

Federal Building, Room 135, 515 West First Street, Duluth, Minnesota 55802.
1821 University Avenue, Room 193, St. Paul, Minnesota 55104.

Mississippi

Federal Building, Room 1007, 100 W. Capitol Street, Jackson, Mississippi 39201.

Missouri

Federal Building, Room 258, 601 East 12th Street, Kansas City, Missouri 64106.
Federal Building, Room 204, 319 South Lamine Avenue, Sedalia, Missouri 65301.
1430 Olive Street, Room 203, St. Louis, Missouri 63103.
Bank of Springfield Office Center, Room 612, 300 South Jefferson, Springfield, Missouri 65806.

Montana

Federal Building, Room 1445, 316 North 26th Street, P.O. Box 1351, Billings, Montana 59103.

Nebraska

U.S.P.O. Courthouse, 300 East Third Street, P.O. Box 1103, North Platte, Nebraska 69101.
New Federal Building, Room 1010, 215 North 17th Street, Omaha, Nebraska 68102.

New Jersey

New Federal Building, Room 707, 970 Broad Street, Newark, New Jersey 07102.

New Mexico

1900-A Carlisle Boulevard, N.E., P.O. Box 30203, Albuquerque, New Mexico 87110.
Federal Building, Hill Avenue and Third Street, Room 130, P.O. Box 910, Gallup, New Mexico 87301.

New York

Leo W. O'Brien Federal Building, Room 264, Clinton Avenue and North Pearl Streets, Albany, New York 12207.
Federal Building, Room 1106, 111 West Huron Street, Buffalo, New York 14202.
Mark Twain Building, 168 North Main Street, Elmira, New York 14901.
183 South Broadway, Third Floor, Room 310, Hicksville, New York 11801.
Federal Building, Room 3404, 26 Federal Plaza, New York, New York 10007
U.S. Courthouse and Federal Building, 100 South Clinton Street, Room 525, Syracuse, New York 13260.

North Carolina

Mart Office Building, Room BB-503, 800 Briar Creek Road (at Independence), Charlotte, North Carolina 28205.
Federal Building, Room 238, 310 New Bern Avenue, Raleigh, North Carolina 27611.

North Dakota

U.S.P.O. Building, Room 219, 657 Second Avenue, North, P.O. Box 383, Fargo, North Dakota 58107.

Ohio

Federal Building, Room 1030, 550 Main Street, Cincinnati, Ohio 45202.
Anthony J. Celebrezze Federal Building, Room 401, 1240 East Ninth Street, Cleveland, Ohio 44199.
Federal Building, U.S. Courthouse, Room 216, 85 Marconi Boulevard, Columbus, Ohio 43215.
Federal Building, Room 321, 234 Summit Street, Toledo, Ohio 43604.
Dollar Bank Building, Room 601, Central Square, Youngstown, Ohio 44503.

Oklahoma

U.S.P.O. Building, Room 146, North Robinson and Dean A. McGee Avenue, Oklahoma City, Oklahoma 73102.
333 West Fourth Street, Room 3339, Tulsa, Oklahoma 74103.

Oregon

U.S. Courthouse, Room 301, 620 Southwest Main Street, Box 8369, Portland, Oregon 97207.

Pennsylvania

615 Howard Avenue, Room 10, P.O. Box 990, Altoona, Pennsylvania 16603.
Federal Building, Room 504, 228 Walnut Street, Box B, Harrisburg, Pennsylvania 17108.
William J. Green, Jr. Federal Building, Room 7224, 600 Arch Street, Philadelphia, Pennsylvania 19106.

Pennsylvania

Park Building, Room 1327, 355 Fifth Avenue, Pittsburgh, Pennsylvania 15222.
U.S.P.O and Courthouse, Washington Avenue and Linden Street, Room 301, Scranton, Pennsylvania 18503.

Tennessee

1111 Northshore Drive, Building 1, Room 237, Drawer 139, Knoxville, Tennessee 37919.
Clifford Davis Federal Building, Room 9, 167 North Street, Memphis, Tennessee 38103.
108 Federal Building, U.S. Courthouse, 801 Broadway, Nashville, Tennessee 37203.

Texas

Federal Building and U.S. Courthouse, Room 118, 205 East Fifth Street, Amarillo, Texas 37203.
1100 Commerce Street, Room 3 D 14, Dallas, Texas 75242.

303 North Oregon, P.O. Box 5311, El Paso, Texas 79954.
819 Taylor Street, Room 10 A 36, Fort Worth, Texas 76102.
Federal Office Building, Room 2615, 515 Rusk Street, P.O. Box 61166, Houston, Texas 77208.
Federal Building, Room B-404, 727 East Durango, San Antonio, Texas 78206.

Utah

IRS Building, Suite 102, 469 South 400 East, Salt Lake City, Utah 84111.

Virginia

Federal Building, Room 801, 200 Granby Mall, Norfolk, Virginia 23510.
Federal Office Building, Room 1207, 400 North Eight Street, P.O. Box 10006, Richmond, Virginia 23240.
Richard Poff Federal Building, Room 739, 210 Franklin Road, S.W., P.O. Box 270, Roanoke, Virginia 24011.

Washington

Federal Building, Room 3210, 915 Second Avenue, Seattle, Washington 98174.
U.S. Courthouse, Room 492, West 920 Riverside Avenue, Spokane, Washington 99201.

West Virginia

1415 6th Avenue, P.O. Box 2153, Huntington, West Virginia 25721.

Wisconsin

Federal Building, Room 19, 500 South Barstow Street, Eau Claire, Wisconsin 54701.
Lewis Center Building, Room 410, 615 East Michigan Street, Milwaukee, Wisconsin 53202.

Appendix II

Railroad Part B Field Offices

Southeastern

P.O. Box 10066, Augusta, Georgia 30903.

Northeastern

P.O. Box 395, Albany, New York 12201.

North Central

2200 East 170th Street, Lansing, Illinois 60438.

South Central

P.O. Box 225493, Dallas, Texas 75265.

Western

P.O. Box 30050, Salt Lake City, Utah 84125.

[FR Doc. 80-7675 Filed 3-12-80; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

Alpha Energy and Gold; Order of Suspension of Trading

March 5, 1980.

It appearing to the Securities and Exchange Commission that there are questions which have been raised regarding the bases for statements concerning ore reserves at the company's mining properties located near Silverton and Naturita in Southwestern Colorado, the Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Alpha Energy and Gold.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 2:30 p.m. on March 5, 1980 through midnight on March 14, 1980.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-7805 Filed 3-12-80; 8:45 am]

BILLING CODE 8010-01-M

Pacific Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

March 6, 1980.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following common stocks:

Total Petroleum (N.A.) Ltd., $1 Par Value (File No. 7-5501), and Jefferson-Pilot, $1.25 Par Value (File No. 7-5502).

These securities are listed and registered on one or more other national securities exchanges.

Interested persons are invited to submit on or before April 1, 1980, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-7804 Filed 3-12-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16634; File No. SR-NSCC-80-6]

Self-Regulatory Organizations; Proposed Rule Change by National Securities Clearing Corp.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on February 29, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows: Statement of the Terms of Substance of the Proposed Rule Change.

The proposed rule change, which shall only be effective until January 24, 1981, is as follows:

Step I: On each day, each participant will be assigned a random allocation number, for each security made available to NSCC for potential borrowing.

Step II: A factor for each firm will be developed by dividing (1) the percentage of each member's average loans as they relate to the total NSCC borrowings by (2) the percentage of each member's average fees paid for trade comparison, trade recording and clearance as they relate to the total of these fees for all members.

Step III: Each random allocation number assigned in Step I will then be multiplied by the factor developed in Step II to produce an adjusted random number per position for each member. Each potential borrow will than be sequenced using the adjusted random number with the lowest number being, the first priority for borrowing.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The description of the formula is in response to the request of the Commission staff (the Commission's letter dated February 6, 1980 to Jack Nelson) that the Corporation file a proposed rule change pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934, to provide a more detailed description of the formula NSCC will use to determine the order in which it will borrow securities from participants to meet its systems' needs.

Under Section 17A of the Act, a proposed rule change may not permit unfair discrimination in the administration of participants or among participants in the use of the clearing agency. The proposed rule change clarifies the method by which NSCC will ensure that members will not be subject to unfair discrimination as to their

participation in the Stock Borrow Program.

No comments on the proposed rule change have been solicited or received.

NSCC does not preceive that the proposed rule change would constitute a burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested parties are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submission will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before April 3, 1980.

For the Commission by the Division of, Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

March 7, 1980.

[FR Doc. 80-7802 Filed 3-12-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11075; 812-4603]

Copenhagen Handelsbank; Application for an Order Exempting Applicant From all Provisions of the Act

March 7, 1980.

Notice is hereby given that Copenhagen Handelsbank ("Applicant") c/o John W. Erickson, Esq., White & Case, 289 Park Avenue, New York, New York 10017, filed an application on January 25, 1980, and an amendment thereto on February 8, 1980, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicant states that it is a commercial bank and one of the two largest banks in Denmark, whose principal office is located at 2, Holmens Kanal, DK-1091, Copenhagen, Denmark. According to the application on December 31, 1978, Applicant's consolidated assets and deposits, amounted to $6,635,000,000 and $4,712,000,000, respectively. Applicant states that it had 8,500,000 shares of common stock outstanding as of December 31, 1978, which represented $208,700,000 in aggregate market value. Applicant further states that it has 392 branches in Denmark, a branch in the Cayman Islands and representative offices, including one wholly-owned subsidiary, in eight other countries. Applicant further represents that it owns minority interests in banks located in London, New York, Zurich and Paris.

According to the application, Applicant's principal business consists of financing Danish trade an industry by providing over-drafts, short and medium term-loans, acceptance credits, and discounting trade bills. As a commercial bank, Applicant represents that its customer base covers a wide spread of Denmark's industry and commerce, not one of which accounts for a significant proportion of Applicant's total loans or deposits. In addition to its commercial lending activities, Applicant provides other traditional banking services such as a check guarantee system and various payment services, savings plans and custodial and safekeeping services. Applicant further provides a full range of investment advisory services to its corporate and government clients. Applicant also provides a broad range of international banking services, and represents that it presently handles approximately 30 percent of the total Danish foreign exchange business. In addition, Applicant states it is involved in both the domestic and international capital markets by way of managing and underwriting securities issues of its customers, and that it acts as a securities broker in Denmark. However, applicant represents such underwriting activities for the three years ended December 31, 1978, never were as much as one percent of its annual consolidated gross revenues.

Applicant states that on December 31, 1978, its total loans, advances and credits (including deposits with other banks) amounted to $3,823,000,000, representing 57.6% of consolidated assets. Interest income from such loans, advances and credits accounted for 69.9% of Applicant's total income for the year ending December 31, 1978. According to the application, 76.8% of Applicant's deposits are those of Danish citizens, companies and other Danish entities. Applicant further states that as of such date its investment securities amounted to $958,000,000 or 14.4% of Applicant's consolidated assets.

According to the application, Applicant is closely supervised and regulated by the Danish government. Under Danish banking legislation, all banks are supervised by the Supervisor of Banks ("Supervisor"), who is responsible to the Minister of Commerce. This supervision includes, among other things, a requirement that the banks submit monthly reports to the Supervisor, which are supplemented by unannounced inspections on the premises of such banks. The banking legislation also sets minimum liquidity requirements to insure that the individual bank can meet its maturing obligations. In order to safeguard the interest of depositors, Applicant states that Danish banking legislation also establishes ceilings on individual commitments or specified transactions, expressed as a percentage of shareholders equity. Moreover, the net capital of every Danish bank must represent not less than 8% of its total debt (excluding subordinated loan capital and certain other items).

According to the application, Applicant proposes to issue and sell unsecured prime quality commercial paper, denominated in United States dollars, to a commercial paper dealer in the United States which will then reoffer the commercial paper in minimum denominations of $100,000 to institutional investors and other entities and individuals in the United States who normally purchase commercial paper. Applicant states that its purpose for making this offering is to provide an additional source of supply of United States dollars to supplement Applicant's existing sources of United States dollars. Applicant represents that its commercial paper will rank *pari passu* among themselves, equally with all its other unsecured, unsubordinated indebtedness, including Applicant's deposit liability, and ahead of its share capital. Applicant plans to sell the notes without registration under the Securities Act of 1933 ("1933 Act"), in reliance upon an opinion of its United States counsel that the offering will qualify for exemption from the registration requirements of the 1933 Act provided for certain short-term commercial paper

by Section 3(a)(3) thereof. Applicant will not proceed with its proposed offering until it has received such an opinion letter. Applicant does not request Commission review or approval of such opinion letter and the Commission expresses no opinion as to the availability of any such exemption. Applicant further represents that the proposed issue of securities and all future issues of securities of Applicant in the United States shall have received, prior to issuance, one of the three highest investment grade ratings from at least one of the nationally recognized statistical rating organizations, and that its United States counsel shall have certified that such rating has been received: *Provided, however,* That no such rating shall be required to be obtained, if in the opinion of United States counsel for Applicant, such counsel having taken into account for the purposes thereof the doctrine of "integration" referred to in various releases and no-action letters made public by the Commission an exemption from registration is available with respect to such issue under Section 4(2) of the 1933 Act. Applicant undertakes to ensure that the dealer will provide each offeree who has indicated an interest in Applicant's securities, and prior to any sale of the commercial paper to such offeree, with (i) a memorandum describing the business of Applicant, (ii) the most recent publicly available fiscal year-end balance sheet and income statement of Applicant, and (iii) the most recent publicly available unaudited interim financial statements of Applicant. Applicant represents that the aforementioned financial statements will be accompanied by a brief paragraph highlighting the differences between Danish accounting principles and generally accepted accounting principles employed by United States companies. Applicant further represents that such memoranda will be at least as comprehensive as those customarily used in commercial paper offerings in the United States. Such memoranda will be updated periodically to reflect material changes in Applicant's financial status. Applicant further represent that any future offerings of its securities in the United States will be done on the basis of disclosure documents at least as comprehensive as those used in the proposed offering. Applicant undertakes to ensure that such disclosure documents will be provided to each offeree who has indicated an interest in the securities then being offered by Applicant, prior to any sale of such securities to such offeree, except that in the case of an offering made pursuant to a registration statement under the 1933 Act, such disclosure documents will be provided to such persons and in such manner as may be required by such Act and the rules and regulations thereunder. Applicant consents to having any order granting the relief requested under Section 6(c) of the Act expressly conditioned upon its compliance with its undertakings regarding disclosure documents.

Applicant represents that it will appoint its special United States counsel as its agent to accept service of process in any action based on the commercial paper and instituted in any State or Federal court by the holder of any of its commercial paper. Applicant further represents that Applicant will expressly accept the jurisdiction of any State or Federal court in the City and State of New York with respect of any such action and that both its appointment of an authorized agent and such consent to jurisdiction will be irrevocable until all amounts due and to become due with respect to the commercial paper have been paid. Applicant represents that it will similarly consent to jurisdiction and appoint an agent for service of process in suits arising from any other offerings of securities that it may make in the United States, which offerings Applicant states may include debt securities but not shares of capital stock.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act or of any rule or regulation under that Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant requests an an order pursuant to Section 6(c) of the Act exempting it from all provisions of the Act. Applicant states, among other things, that compliance by it with a number of substantive provisions of the Act would, as a practical matter, conflict with the banking policies and regulations of the Danish banking authorities; and that Applicant would thus be effectively precluded from selling securities in the United States if it was required to register as an investment company and comply with such provisions of the Act. Applicant asserts that it is a major commercial bank subject to extensive regulation by Danish banking authorities, and therefore that application of the requirements of the Act to Applicant would be unnecessary. As a Danish commercial bank subject to such regulation Applicant argues that it is significantly different from the type of institution that Congress intended the Act to regulate. Applicant concludes that granting its requested exemptive order pursuant to Section 6(c) of the Act would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 31, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549.

A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-7803 Filed 3-12-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11073; 812-4549]

Mutual Investing Foundation and Heritage Securities Inc.; Filing of Application for Order Exempting Proposed Transactions and Approving Proposed Exchanges

March 7, 1980.

Notice is hereby given that Mutual Investing Foundation ("Mutual"), registered under the Act as a diversified open-end, management investment company, and Heritage Securities, Inc. ("Heritage"), One Nationwide Plaza, Columbus, Ohio 43216, Mutual's principal underwriter and investment adviser (collectively referred to as "Applicants"), filed an application on October 5, 1979, and amendments thereto on February 8, 1980 and February 19, 1980, pursuant to Section 6(c) of the Act, for an order exempting certain transactions from the provisions of Section 22(d) of the Act and Rules 2a-4 and 22c-1 thereunder and, pursuant to Section 11(a) of the Act, for an order approving certain proposed exchanges. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that Mutual is a common law trust which issues several classes of shares: MIF Fund, MIF Growth Fund ("Growth Fund"), MIF/Nationwide Bond Fund ("Bond Fund"), and MIF/Nationwide Money Market Fund ("Money Market Fund," collectively referred to with MIF Fund, Growth Fund and Bond Fund as the "Funds"). Applicants further state that shares of MIF Fund and Growth Fund are presently offered for sale to the public and that a registration statement to register shares of Bond Fund and Money Market Fund for sale to the public has not as yet been declared effective. They state that each of the Funds has its own investment requirements and that each is individually managed and distributed by Heritage.

Applicants state that the current public offering price of shares of MIF Fund and Growth Fund is, and that the current public offering price of shares of Bond Fund will be, net asset value per share plus a sales charge which varies from 7½% of the offering price on purchases of less that $2,500 to 1% on purchases in excess of $500,000. The application states that there is no minimum initial investment in MIF Fund, Growth Fund or Bond Fund. The application also states that at the time of an initial investment in Money Market Fund a one-time sales fee of $100 will be charged to the investor (regardless of the amount of the initial investment) and that because the minimum initial investment in Money Market Fund is $2500, this results in a maximum sales charge of 4% of the public offering price. Applicants state that once the $100 fee is paid, additional investments can be made without any further charge as long as the investor has not redeemed the entire account.

Applicants state that Heritage is a wholly-owned subsidiary of Nationwide Corporation, a holding company owned primarily by Nationwide Mutual Insurance Company and Natiowide Mutual Fire Insurance Company. According to the application, Heritage's entire sales force is comprised of licensed insurance agents of the "Nationwide Group of Companies," as described in the application, and commissions paid to those agents from insurance premiums containing a sales charge are designed to compensate the agent for the effort put forth in making the customer contact, presenting his product, and securing the initial application.

Applicants propse to permit the application of amounts payable as benefits, proceeds or cash surrender values under certain contracts or policies of insurance issued by any of the Nationwide Group of Companies to purchase shares of either Bond Fund, Money Market Fund, or both, at net asset value per share plus a reduced sales charge equal to one-half the sales charge stated in the prospectus ("reduced price privilege"). Under Applicants' proposal, the privilege (1) must be exercised within 60 days of the receipt of the benefit check, (2) will apply to both group and individual policies, and (3) will be limited to monies received from the following types of insurance contracts issued by the Nationwide Group of Companies: life insurance policies, property and casualty insurance policies, accident and health insurance policies, disability income protection policies and liability insurance coverage. Applicants note that pursuant to an order of the Commission (Investment Company Act Release No. 10320, July 11, 1978), the reduced price privilege described above was offered to recipients of amounts payable under certain insurance contracts to permit the application of such proceeds toward the purchase of shares of MIF Fund and Growth Fund.

Applicants also propose to offer a transfer privilege to shareholders of Money Market Fund and to shareholders of the three other Funds ("transfer privilege") on the following basis: (1) Shares of Money Market Fund purchased directly or acquired through reinvestment of dividends and distributions may be exchanged for shares in the other three Funds only when the applicable sales charge is paid. The Money Market Fund investor will receive a one-time sales charge credit of up to $100 at the time of the first such exchange, and there is no credit unless the one-time sales charge had actually been paid. (2) With a minimum net asset value of $2500, shares of the other Funds may be exchanged at relative net asset value for Money Market Fund shares without the payment of a sales charge.

Applicants also propose to impose a $5.00 service fee on all transfers between Funds as to which no sales charge is otherwise applicable. Applicants state that Mutual offers its shareholders a transfer privilege permitting the investors of MIF Fund, Growth Fund, and upon its effective registration, of Bond Fund, to transfer shares between these Funds without a sales charge. Applicants state that in addition to this privilege, transfers of shares having a minimum net asset value of $2,500 may be made from MIF Fund, Growth Fund or Bond Fund into Money Market Fund without a sales charge. Applicants further state that certain transfers from Money Market Fund to the other Funds may be made in which the sales charge is credited in full, and therefore these transfers in which no sales charge must be paid would also be subject to the $5.00 service fee.

Sections 22(d) and 11(a)

Sections 22(d) of the Act provides, in part, that no registered investment company or principal underwriter therefor shall sell any redeemable security issued by such company to any person except at a current public offering price described in the prospectus. Accordingly, Applicants request that an order permitting shares of the Funds to be sold at reduced sales charges pursuant to the proposed reduced price privilege and the proposed transfer privilege.

Applicants assert that the purpose of Section 22(d) of the Act is generally considered to be two-fold: preservation and strengthening of the system of distribution of mutual fund shares through properly licensed sales personnel under contract with principal underwriters and protection against unfair discrimination among buyers. Applicants further assert that the reduction of the sales charge on sales to Nationwide policyholders making their purchases with insurance proceeds would create no secondary market for

the securities and would not thereby disrupt the orderly distribution pattern which has been established; moreover, that there is no danger that the proposed transactions would present an opportunity for unfair discrimination between purchasers due to inside information or unequal bargaining power.

The application states that the price reduction authority sought by Applicants is directly related to the reduced sales effort expended and lower cost incurred in connection with the sale of Bond Fund shares under the circumstances described in the application and that this same rationale applies to the price reduction sought for the sale of Money Market Fund shares. The application also states that the reduced effort and costs arise by reason of the previously established relationship between policyholder and insurance agent, and that the agent, upon delivery of the proceeds of the contract or policy of insurance, is merely offering an extension of services to an existing customer in his capacity as a registered representative of Heritage. Applicants contend that the sales effort required under the above-described circumstances would be significantly less than that which is involved in soliciting persons not having this relationship to the Applicants. Applicants state that the sales effort involved in subsequent solicitations is considerably less than that associated with first-time contacts because, once the customer-agent relationship has been satisfactorily established, the customer is more likely to turn to his or her agent for future needs. The application also states that this is true irrespective of the form of the insurance previously provided by the agent, whether life, health and accident, disability income, property and casualty, or liability, because in each case the agent makes his customer aware of his ability to make available any of the above insurance lines, as well as shares of the Funds.

Section 11(a) of the Act provides, in pertinent part, that it is unlawful for any registered open-end investment company or principal underwriter thereof to make an offer to the holders of its securities (or of the securities of any other open-end company) to exchange their shares for shares of the same or another such company on any basis other than the relative net asset values of the respective securities unless the terms of the offer have first been submitted to and approved by the Commission. Applicants request an order pursuant to Section 11(a) to the extent necessary and appropriate to permit Applicants to offer the proposed transfer privilege between the Funds and to charge a $5.00 service fee on transfers between Funds in which there is no sales charge.

Applicants state that with respect to the transfer privilege between Money Market Fund and the three other Funds, that such privilege would involve offers of exchange on a basis other than relative net asset value because of the restriction that shares of Money Market Fund may be exchanged for shares of the other three Funds only when the sales charge applicable to the present transaction (reduced by a one-time credit of up to $100) is paid. Applicants submit that an exercise of the transfer privilege as proposed would be consistent with the interests of protecting the investing public against unfair discrimination between classes of shareholders holding a beneficial interest in the same registered open-end investment company. Applicants believe that the availability of this transfer privilege on the terms described above would avoid inequities which would otherwise result if transfers were permitted between the Funds without regard to the sales charges which the investor had paid in the initial purchase of the shares now sought to be exchanged.

With respect to the $5.00 service fee on all transfers between Funds in which there is no sales charge, Applicants assert that these exchanges require no additional sales effort because the persons redeeming these shares are and will be investors prior to the transfer and will remain investors after the transfer. Applicants state that no commissions are paid on these transfers which are handled by Heritage Financial Services, Inc. (the transfer and dividend disbursing agent for all of the Funds' shares), and that the purpose of the transfer privilege is thus to pass these cost savings on to the investing public. Applicants further assert that the imposition of a $5.00 service fee on no-load transfers will merely defray the administrative costs involved in the handling of each transfer. Applicants state that this service fee will not violate the spirit and purpose of the transfer privilege, and that Applicants believe that the imposition of the $5.00 service fee will enable the Applicants to continue to make this privilege available to investors. Aplicants also believe that the imposition of the $5.00 service fee is in the public interest and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Rules 2a-4 and 22c-1

As discussed above, Applicants state that a registration statement has been filed for Money Market Fund, but this registration has not been declared effective. Applicants further state that Money Market Fund has as its investment objective the achievement of the highest level of current income as is consistent with the preservation of capital and maintenance of liquidity through a diversified portfolio of high quality money market instruments maturing in one year or less; and that, to this end, Money Market Fund will seek to provide its investors with a convenient means of investing short-term funds where the direct purchase of money market instruments may be undesirable or impracticable.

The application states that the types of instruments in which Money Market Fund may invest include securities issued or guaranteed as to principal and interest by the United States government, its agencies or instrumentalities, certificates of deposit issued by major U.S., Canadian and foreign banks and savings associations, bankers' acceptances, documented discount notes and other commercial bank obligations, high-grade commercial paper and corporate obligations. Applicants state that repurchase agreements may be made by Money Market Fund with respect to any of these securities.

Applicants propose to compute net asset value per share of Money Market Fund to the nearest one cent on a share value of one dollar for purposes of effecting sales, redemptions and repurchases. Applicants state that Money Market Fund will use its best efforts to maintain a constant net asset value, or price, per share of $1.00; and that Money Market Fund will endeavor to reduce the amount of unrealized gains and losses which result, among other things, from interest rate changes by maintaining a dollar-weighted average portfolio maturity of 120 days or less.

As stated in the application, in Investment Company Act Release No. 9786 (May 31, 1977), the Commission, among other things, expressed its view that it would be inconsistent with the provisions of Rule 2a-4 for "money market" funds to "round off" calculations of their net asset value per share to the nearest one cent on share values of $1.00, because such a calculation might have the effect of masking the impact of changing values of portfolio securities and, therefore might not reflect properly the values of the underlying portfolio instruments as required by Rule 2a-4.

Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter thereof issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a-4 adopted under the Act provides, *inter alia*, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company.

Applicants state that many investors desire an investment vehicle which offers a stable net asset value per share, and that the exemption sought in the application would enhance the ability of the Applicants to achieve such stability and the shareholders, under ordinary circumstances, could be assured that Money Market Fund shares could be purchased and redeemed at a constant net asset value per share. Applicants further submit that the relief requested would provide the shareholders of Money Market Fund the convenience of being able to determine the value of their shares simply by knowing the number of shares they own, thus facilitating record keeping. Applicants state that the Board of Directors of Heritage and the Board of Trustees of Mutual have determined in good faith that the proposed method of calculating net asset value per share under the circumstances described above, absent unusual circumstances, is appropriate and in the best interest of Money Market Fund shareholders.

Applicants submit that the requested exemptions from the provisions of Rules 2a-4 and 22c-1 under the Act are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that the following conditions may be imposed in an order granting such exemptive relief:

(1) The Board of Trustees of Mutual has undertaken as a particular responsibility with the overall duty of care owed to the shareholders to assure to the extent reasonably practicable, taking into account current market conditions affecting the investment objectives of Money Market Fund, that the price per share in Money Market Fund as computed for the purpose of distribution, redemption and repurchase, rounded to the nearest one cent, will not deviate from $1.00;

(2) Applicants will maintain a dollar-weighted average portfolio maturity appropriate to their objective of maintaining a stable price per share, and they will not (i) purchase an instrument with a remaining maturity of greater than one year, or (ii) maintain a dollar-weighted average portfolio maturity in excess of 120 days; and

(3) Applicants' purchase of portfolio instruments, including repurchase agreements, will be limited to those United States dollar denominated instruments which the Board of Directors of Heritage and the Board of Trustees of Mutual determine present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Directors of Heritage and the Board of Trustees of Mutual.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions, from any provision or provisions to the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 31, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-7801 Filed 3-12-80; 8:45 am]
BILLING CODE 8010-01-M

SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY

Public Hearing—New Orleans, La.

The Select Commission on Immigration and Refugee Policy will hold the ninth of 12 regional hearings on:

Date: March 24, 1980
Time: 9 a.m.-5 p.m.; 7 p.m.-9 p.m.
Place: City Council Chambers, City Hall-Chase Court Entrance, New Orleans, Louisiana.

The New Orleans hearing will be chaired by the Rev. Theodore M. Hesburgh, President, University of Notre Dame, and Chairman of the Select Commission.

The major portion of this hearing will be devoted to testimony from invited witnesses addressing issues relating to immigrant and refugee acculturation, adjustment of status, and family reunification provisions of the current preference system.

There will also be an "Open Mike" in the evening from 7 p.m.-9 p.m. available to anyone wishing to address any immigration issue before the Commission.

Written statements will be accepted for a period of 7 days following the hearing from people unable to appear in person.

The public is cordially invited to attend both the day and evening discussions.

The Select Commission on Immigration and Refugee Policy was created by public law to provide a comprehensive review of U.S. immigration laws, policies, and procedures. The regional hearings are being held to ensure that a wide range of

views are heard and considered by the Commission. Other hearings are being held in Baltimore, Boston, Chicago, Denver, Los Angeles, Miami, New York, Phoenix, San Antonio, and San Francisco.

Members of the Commission include four Cabinet officers, eight members of Congress with four members selected from each Judiciary Committee, and four members appointed by the President.

Anyone wishing more information about the New Orleans hearings or about testifying at the evening session should contact: Nina Solarz, Select Commission on Immigration and Refugee Policy, New Executive Office Building, Suite 2020, 726 Jackson Place, N.W., Washington, D.C. 20506, Telephone: (202) 395-5615.

Dr. Lawrence H. Fuchs,

Executive Director.

[FR Doc. 80-7750 Filed 3-12-80; 8:45 am]

BILLING CODE 6820-AR-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/277]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The working group on international multimodal transport and containers of the Subcommittee on Safety of Life at Sea will conduct an open meeting at 9:30 a.m. on March 26, 1980 in Room 8334 of the Department of Transportation Building, 400 Seventh Street, SW., Washington, D.C. 20590.

The purpose of the meeting is to discuss the following:

(a) UN Conference on a Convention on International Multimodal Transport:

Debriefing on the November 12-30, 1979 conference;

Discussion on the May 8-23, 1980 resumed conference.

(b) U.S. position for the meeting of the Group of Experts on Combined Transport (ECE) to be held June 9-13, 1980, in Geneva including the following items:

International Convention for Safe Containers;

Application of the ATP Convention to refrigerated containers;

Combined rail/road transport and standardization of piggyback carriage;

Convention on International Multimodal Transport;

Container Standards for International Multimodal Transport;

Program of Work of the UNCTAD Committee on Shipping in respect to multimodal transport and containerization.

Requests for further information should be directed to Mr. Paul B. Larsen, Department of Transportation (202) 426-4710.

Dated: March 6, 1980.

John Todd Stewart,

Chairman, Shipping Coordinating Committee.

[FR Doc. 80-7735 Filed 3-12-80; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-80-6]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administraion (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: April 2, 1980.

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 March 7, 1980.

Edward P. Faberman,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
12388	American Airlines	14 CFR § 121.434(f)	Extension of Exemption No. 1806 to allow the continued use of a full-scale cabin simulator for 2½ hours of the 5 hours' operating training experience required.
20063	Anson L. Johnson	14 CFR § 121.383	To allow him to serve as a pilot in air carrier operations after the date shown as his 60th birthday as petitioner contends the date shown is incorrect.
20090	Sierra Academy of Aeronautics	14 CFR § 61.63(d)	To allow trainees enrolled in their flight school to accomplish portions of the required flight test in an aircraft simulator.
20162	SerVair Accessories, Inc	14 CFR §§ 135.297(a) and 135.297(b).	To permit its pilots to serve in air taxi/charter operations without demonstrating their proficiency in conducting all required instrument approaches.
20163	Mr. Gene E. Humphrey	14 CFR §§ 135.243 (b)(2) and (c)(2).	To allow him to serve as a pilot-in-command (PIC) for VFR and IFR operations without meeting the minimum flight time requirements.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
Amdt. 39-3224	American Eagle Airlines, Inc.	14 CFR Part 39 (AD 78-11-03)	To allow petitioner a one-month extension of compliance time, March 1, 1980, to April 1, 1980, to accomplish the blue-etch anodize inspection of PWA JT3D first stage fan blades. *Denied 2/26/80.*
Amdt. 39-3224	Jet Aviation, AG BSL/Switzerland	14 CFR Part 39 (AD 78-11-03)	To allow petitioner a five-month extension of compliance time, March 1, 1980, to August 31, 1980, to accomplish the blue-etch anodize inspection of PWA JT3D first stage fan blades. *Denied 2/26/80.*
18855	Helicopter Association of America	14 CFR Part 135.99, 135.159 (a), (b), and (c), 135.173, 135.181, 135.223, and 135.429.	To amend Exemption No. 2595 to extend the expiration date past March 1, 1980. The petition covers the mandates for additional personnel, equipment and activities for Part 135 operators. *Granted 2/29/80.*
19780	Trans World Airlines, Inc.	14 CFR § 121.309(b)(4)	To allow the petitioner to omit the adding of the date of last inspection to first aid kits. *Denied 2/27/80.*
19827	Frontier Airlines, Inc.	14 CFR § 121.310(d)(2)(i)	To permit the petitioner to conduct Part 121 operation of Convair CV-580 aircraft with an emergency lighting system which cannot be operated manually from a point in the passenger compartment unless the flightcrew station emergency lighting switch is in the "armed" position. *Denied 2/26/80.*
19835	Redmond Air, Inc.	14 CFR § 21.183(d)(1). Note: The correct regulation is 14 CFR § 21.183(c).	To permit issuance of standard airworthiness certificate for certain import aircraft without a statement from the country of manufacture certifying that the aircraft conforms to the type design. *Denied 2/29/80.*
19892	American Airlines Training Corp.	14 CFR § 141.33(a)(3)	To allow petitioner, as a pilot school certificate holder, to use as instructors for flight instruction in courses leading to the issuance of a type rating, airline designated instructor pilots who have airline transport pilot certificates with appropriate type ratings but who do not hold flight instructor certificates. *Granted 2/22/80.*
19997	Air Central, d.b.a. Pro Pilots and Webster Dane Smither.	14 CFR § 135.243(a)	To allow Mr. Smither to serve as pilot-in-command (PIC) for Air Central without holding an airline transport pilot certificate (ATPC). *Granted 2/29/80.*
20014	Falcon Airways, Inc.	14 CFR § 121.61(d)(1)	To allow petitioner to employ Mr. Billy Glynn Mitchell as their Chief Inspector. Mr. Mitchell has not held the powerplant mechanic's certificate for the required 3-year period. *Granted 2/26/80.*
20015	Royal Air Maroc	14 CFR §§ 21.171, 61.3, 63.3, 91.27, 91.29, 91.165, and 91.169.	To allow Royal Air Maroc to operate a U.S.-registered B-707 aircraft dry-leased from TWA with U.S. and foreign certificated airmen in accordance with the FAA-approved MMEL, and to maintain the aircraft in accordance with TWA FAA-approved continuous airworthiness maintenance program. *Granted 2/22/80.*
20030	Western Airlines	14 CFR § 121.291	To allow the operation of B-727-247 with 146 passenger seats without conducting a full-scale emergency evacuation demonstration. *Granted 2/26/80.*
20055	Air Florida, Inc.	14 CFR § 121.291(a)	To allow the introduction of the DC-10 aircraft into passenger-carrying operations with 380 passenger seats without first conducting a full-scale emergency evacuation demonstration. *Granted 2/26/80.*
20064	Professional Charter Services	14 CFR § 135.171	To allow the operation of its Lear Jet without having shoulder harnesses installed at the flight crewmember stations. *Granted 2/29/80.*

[FR Doc. 80-7722 Filed 3-12-80; 8:45 am]
BILLING CODE 4910-13-M

Federal Highway Administration

Preconstruction Management Study

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: The FHWA is conducting a study of the preconstruction processes of State highway agencies. The objective of the study is to design a preconstruction management system that will (a) provide for increased efficiency and effectiveness in utilizing staffing and monetary resources and (b) have the flexibility to permit its adoption in whole or in part by various State highway agencies. The study and the system will include all preconstruction activities from project conception to contract award.

Representatives of State highway agencies have been retained as consultants to assist in the development of the study. As the study progresses it is anticipated that similar consulting services will be provided.

FOR FURTHER INFORMATION CONTACT: Mr. C. E. Gilbert, Systems and Surveys Division (HMS-30), Room 4411, 202-426-1212, Mr. David K. Phillips, Highway Design Division (HNG-20), Room 3124, 202-426-0317, or Mr. S. Abramson, Office of the Chief Counsel (HCC-10), Room 4223, 202-426-0762; Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are 7:30 a.m. to 4:00 p.m., ET, Monday through Friday.

Issued on March 6, 1980.

John S. Hassell, Jr.,

Deputy Administrator.

[FR Doc. 80-7662 Filed 3-12-80; 8:45 am]
BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

Uniroyal PR5 and PR6 Steel Belted Radial Tires, Including Private and Allied Brands; Announcement of Initial Determination of Safety Defect and Subsequent Notification by Uniroyal Obviating Necessity for Public Proceeding

Pursuant to section 152 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (Pub. L. 93-492, 88 Stat. 1470, 15 U.S.C. 1412), the Associate Administrator for Enforcement, National Highway Traffic Safety Administration, made an initial determination on March 6, 1980, that a defect which relates to motor vehicle safety exists in certain steel belted radial tires manufactured by Uniroyal, Inc., in the Zeta 40 PR5, Zeta 40 PR6, and TPC PR6 tire lines, and in similar tires marketed under private and allied brand names. A full listing of all tires involved is contained in the Schedule set forth at the end of this Notice. It was initially determined that separations and other failures of these tires can result in accidents, injuries, deaths, and property damage.

During the course of NHTSA's defect investigation of Uniroyal PR5 and PR6 tires, at Uniroyal's request, the agency entered into negotiations with Uniroyal concerning the scope of a notification and remedy campaign with respect to the tires under investigation. As a condition for pursuing the negotiations, NHTSA required, and Uniroyal agreed, that the three-year limitation in 15 U.S.C. 1414(a)(4) be tolled as of December 1, 1979. Therefore, all tires covered by this initial determination which were manufactured on or after December 1, 1976, shall be subject to remedy without charge.

On March 7, 1980, Uniroyal notified NHTSA that it will waive its rights to notification and other administrative proceedings, as well as to judicial proceedings, and will promptly commence a notification and remedy campaign in accordance with the provisions of 15 U.S.C. 1414 and 1415, and 49 CFR Parts 573, 577 and 579.

Inasmuch as Uniroyal has undertaken to commence a notification and remedy campaign in accordance with the aforementioned statutory and regulatory provisions, NHTSA is not now scheduling a public proceeding for the manufacturer and other interested persons to present data, views and arguments respecting the initial determination. Uniroyal has undertaken to file a defects report in accordance with 49 CFR Part 573 within five working days after the initial determination, and to submit quarterly reports on its notification and remedy campaign, also in accordance with 49 CFR Part 573. The notification letters which Uniroyal will send to owners will conform to the requirements of 49 CFR Part 577.

The agency's investigative file in this matter is available for public inspection during regular working hours (7:45 a.m. to 4:15 p.m.) in the Technical Reference Library, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590.

(Sec. 152, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1412) and delegations of authority at 49 CFR 1.51 and 501.8).

Issued on March 7, 1980.

Lynn L. Bradford,

Associate Administrator for Enforcement.

Schedule*

Size and load range	Plant	DOT serial No.— First two digits range of last three digits
	ZETA 40 PR6	
HR78-15—B...	Detroit	AJ—387-447
LR78-15—B...	Opelika	AN—015-525
LR78-15—B...	Ardmore	AP—055-136
	TPC PR6	
BR78-13—B...	Kitchener, Ontario	AU—145-395
BR78-13—C...	Kitchener, Ontario	AU—145-395
BR78-13—C...	Los Angeles	AM—145-395
LR78-15—B...	Detroit	AJ—225-396
LR78-15—C...	Detroit	AJ—225-396
LR78-15—C...	Kitchener, Ontario	AU—016-136
	ZETA 40 PR5	
HR78-15—B...	Los Angeles	AM—445-396
HR78-15—B...	Ardmore	AP—225-525
LR78-15—B...	Ardmore	AP—145-526
	DIPLOMAT STEEL BELTED RADIAL	
LR78-15—C...	Detroit	AJ—016-396
LR78-15—B...	Detroit	AJ—016-396
LR78-15—B...	Ardmore	AP—016-136
	GILLETTE STEEL BELTED RADIAL	
HR78-15—B...	Ardmore	AP—145-525
LR78-15—B...	Ardmore	AP—145-526
	PEERLESS STEEL BELTED RADIAL	
HR78-15—B...	Ardmore	AP—145-215
LR78-15—B...	Ardmore	AP—145-525
	FISK STEEL BELTED RADIAL	
HR78-15—B...	Ardmore	AP—445-525
LR78-15—B...	Ardmore	AP—355-346
	DELTA RADIAL II STEEL BELTED RADIAL	
LR78-15—B...	Detroit	AJ—056-396
	VICTORIAN II STEEL BELTED RADIAL	
LR78-15—B...	Detroit	AJ—096-176
	DELTA DURASTEEL RADIAL	
HR78-15—B...	Ardmore	AP—145-525
LR78-15—B...	Ardmore	AP—145-176
	VICTORIAN RADIAL	
HR78-15—B...	Ardmore	AP—185-395
LR78-15—B...	Ardmore	AP—145-176
	KM RADIAL 40 STEEL BELTED	
LR78-15—B...	Detroit	AJ—016-396
	KM RADIAL SSK STEEL BELTED	
HR78-15—B...	Ardmore	AP—145-395
LR78-15—B...	Ardmore	AP—145-435
	CO-OP MARK 74 STEEL BELTED RADIAL	
LR78-15—B...	Detroit	AJ—056-396
	CO-OP MARK X STEEL BELTED RADIAL	
HR78-15—B...	Ardmore	AP—315-525
LR78-15—B...	Ardmore	AP—225-526
	SONIC STEEL RADIAL DUAL STEEL BELTS	
HR78-15—B...	Ardmore	AP—185-345
LR78-15—B...	Ardmore	AP—145-305
	EXXON STEEL BELTED RADIAL 78	
HR78-15—B...	Ardmore	AP—145-525
LR78-15—B...	Ardmore	AP—145-526
	TRAVELLER RADIAL DUAL STEEL BELT	
HR78-15—B...	Ardmore	AP—185-305
LR78-15—B...	Ardmore	AP—185-265
	BIG O BIG STEEL RADIAL II	
HR78-15—B...	Ardmore	AP—355-525
LR78-15—B...	Ardmore	AP—355-526

*NOTE.—No snow tires are included.

[FR Doc. 80-7723 Filed 3-12-80; 8:45 am]

BILLING CODE 4910-59-M

Calendar of Meetings Open to the Public

Correction

In FR Doc. 80-6819 appearing at page 14749 in the issue of Thursday, March 6, 1980, on page 14750, in the second column, the sixth line down reads "Germany, France, Great Britain, Italy," but should be corrected to read "Germany. The governments of the Federal Republic of Germany,".

BILLING CODE 1505-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 51
Thursday, March 13, 1980

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

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, March 17, 1980, to consider the following matters:

Disposition of minutes of previous meetings.

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. 44,257-SR—Citizens State Bank, Carrizo Springs, Texas.

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.

Liquidation Audit Report dated October 12, 1979.

Report of the Controller on the termination of the receivership of Chatham Bank of Chicago, Chicago, Illinois.

Report of Director, Division of Liquidation, regarding status of approved committee cases.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: March 10, 1980.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Assistant Executive Secretary.

[S-495-80 Filed 3-11-80; 11:07 am]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, March 17, 1980, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Applications for Federal deposit insurance:

The North Jackson Bank, a proposed new bank, to be located at the southeast corner of the intersection of Kentucky Avenue (State Highway 117) and Second Street, Stevenson, Alabama, for Federal deposit insurance.

First Bank of San Luis Obispo, a proposed new bank, to be located at 996 Higuera Street, San Luis Obispo, California, for Federal deposit insurance.

Security State Bank, a proposed new bank, to be located at the corner of First Avenue and First Street, Beulah, North Dakota, for Federal deposit insurance.

Applications for consent to merge and establish a branch:

Hagerstown Trust Company, Hagerstown, Maryland, an insured State nonmember bank, for consent to merge, under its charter and title, with Boonsboro Bank of Boonsboro, Maryland, Boonsboro, Maryland, an insured State nonmember bank, and to establish the sole office of Boonsboro Bank of Boonsboro, Maryland, as a branch of the resultant Bank.

Onondaga Savings Bank, Syracuse, New York, an insured mutual savings bank, for consent to merge, under its charter and title, with Savings and Loan Association of Auburn, Auburn, New York, a Federally insured mutual savings and loan association, and for consent to establish the sole office of Savings and Loan Association of Auburn as a branch of the resultant bank.

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. 44,248-L—The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.

Case No. 44,250-SR—Surety Bank and Trust Company, Wakefield, Massachusetts.

Case No. 44,251-SR—Franklin Bank, Houston, Texas.

Case No. 44,254-NR—United States National Bank, San Diego, California.

Case No. 44,255-NR—United States National Bank, San Diego, California.

Memorandum re: Adoption of General Procedure for Real Estate Foreclosure Bids.

Memorandum re: Chicopee Bank & Trust Company, Chicopee, Massachusetts.

Memorandum re: American Bank & Trust Company, New York, New York.

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 provisons 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)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: March 10, 1980.

Federal Deposit Insurance Corporation.
Alan J. Kaplan,
Assistant Executive Secretary.
[S-496-80 Filed 3-11-80; 11:08 am]
BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session by telephone conference call at 9:30 a.m. on Wednesday, March 12, 1980, to consider the following matter:

Memorandum and Resolution re: Amendments to Policy Statement on Interest Rate Futures, Forward, and Standby Contracts.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: March 10, 1980.
Federal Deposit Insurance Corporation.
Alan J. Kaplan,
Assistant Executive Secretary.
[S-497-80 Filed 3-11-80; 11:09 am]
BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, March 10, 1980, the Corporation's Board of Directors determined, on motion of Director William M. Isaac (Appointive), seconded by Mr. Lewis G. Odom, Jr., acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the application of Saving Fund Society of Germantown and Its Vicinity, Bala Cynwyd, Pennsylvania for consent to establish a branch at 10th and Reed Streets, Philadelphia, Pennsylvania.

The Board further determined, by the same majority, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Request from a State banking authority that the Corporation, pursuant to section 10(b) of the Federal Deposit Insurance Act, assist in an examination of a national bank in connection with the bank's application for a State charter.

Memorandum re: Request of Authorization to Pay Receivership Certificates.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable, that the public interest did not require consideration of the matters added to the agenda in a meeting open to public observation; and that the matters added to the agenda could be considered in a closed meeting by authority of subsecitons (c)(8), (c)(9)(A)(ii) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii) and (c)(9)(B)).

Dated: March 10, 1980.
Federal Deposit Insurance Corporation.
Alan J. Kaplan,
Assistant Executive Secretary.
[S-498-80 Filed 3-11-80; 11:10 am]
BILLING CODE 6714-01-M

5

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 15363; March 10, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., March 12, 1980.

CHANGE IN THE MEETING: The following items have been added:

Item Number and Docket Number and Company

CAP-12. ES80-31, Gulf States Utilities Company.
CAG-28. RP78-75, Northern Natural Gas Company (Peoples Natural Gas Division).

Kenneth F. Plumb,
Secretary.
[S-494-80 Filed 3-11-80; 11:05 am]
BILLING CODE 6450-85-M

6

FEDERAL ELECTION COMMISSION.

DATE AND TIME: 10 a.m., Tuesday, March 18, 1980.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Compliance. Personnel. Audits. Thresholds for Generating Audits.

DATE AND TIME: 10 a.m., Thursday, March 20, 1980.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings.
Correction and approval of minutes.
Certifications.
Advisory opinions: Draft AO 1980-14—Ralph M. Hall, Candidate for Congress/Hall for Congress and Draft AO 1980-16—Harmon Killebrew/Ralph Harding (Danny Thompson Memorial Leukemia Fund).
1980 election and related matters.
Annual report to congress: Legislative recommendations.
Appropriations and budget.
Pending legislation.
Classification actions.
Routine administrative matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, telephone: 202-523-4065.

Marjorie W. Emmons,
Secretary to the Commission.
[S-505-80 Filed 3-11-80; 3:44 pm]
BILLING CODE 6715-01-M

7

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 10 a.m., March 17, 1980.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

MATTERS TO BE CONSIDERED: Application to Acquire—City Savings and Loan Association, San Angelo, Texas BY Lamar Savings Association and Lamar Financial Corporation, Austin, Texas.

This item was withdrawn from the agenda for the open meeting of March 13, 1980.

Announcement is being made at the earliest practicable time.

No. 322, March 11, 1980.
[S-503-80 Filed 3-11-80; 3:44 pm]
BILLING CODE 6720-01-M

8

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 11 a.m. March 19, 1980.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20510.

STATUS: Open.

MATTER TO BE CONSIDERED: 1. Docket No. 79-92: Matson Navigation Company—Proposed 6.66 Percent Bunker Surcharge Increase in Tariffs FMC-F Nos. 164, 165, 166 and 167—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S-492-80 Filed 3-11-80; 8:49 am]

BILLING CODE 6730-01-M

9

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: March 7, 1980; 45 FR 14988.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., March 13, 1980.

CHANGES IN THE MEETING: Addition of the following items to the open session:

8. Docket No. 79-102: Sea-Land Service, Inc. Proposed Twenty-Five Percent General Rate Increases in the U.S. Mainland-Puerto Rico/Virgin Islands Trades-Consideration of Settlement Order.

9. Application of Sea-Land Service, Inc. for Special Permission to reduce rates in the Puerto Rico trades of less than Statutory Notice.

[S-491-80 Filed 3-11-80; 8:48 am]

BILLING CODE 6730-01-M

10

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

March 7, 1980.

TIME AND DATE: 10 a.m., Friday, March 14, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Charles W. Miller v. Old Ben Coal Company, Docket No. LAKE 79-282-D (Petition for Discretionary Review—Judge Bernstein, Feb. 5, 1980).

2. White Pine Copper, Docket No. LAKE 79-223-RM, etc. (Petition for Discretionary Review—Judge Kennedy, March 4, 1980).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen 202-653-5632.

[S-500-80 Filed 3-11-80; 2:52 pm]

BILLING CODE 6820-12-M

11

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

March 10, 1980.

TIME AND DATE: 10 a.m., Friday, March 14, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will also consider and act upon the following:

3. Consideration and adoption of final Freedom of Information Act regulations.

It was determined by a unanimous vote of Commissioners That Commission business required that a meeting be held on this matter and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202-653-5632.

[S-501-80 Filed 3-11-80; 2:52 pm]

BILLING CODE 6820-12-M

12

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, March 18, 1980.

PLACE: Hearing Room A, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C. 20423.

STATUS: Open regular conference.

MATTER TO BE DISCUSSED: Coal Rates and Regulatory Burdens.

CONTACT PERSON FOR MORE INFORMATION: Douglas Baldwin, Director, Office of Communications, Telephone: (202) 275-7252.

March 11, 1980.

[S-499-80 Filed 3-11-80; 1:34 pm]

BILLING CODE 7035-01-M

13

LEGAL SERVICES CORPORATION.

Provision of Legal Services Committee Meeting

TIME AND DATE: 9 a.m., 6:00 p.m., Friday and Saturday, March 28-29, 1980.

PLACE: Downtown Holiday Inn, Molly Gibson Room, 1415 Glenarm Place, Denver, Colorado.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Adoption of Agenda.
2. Approval of Minutes from November 12, 1979 Meeting.
3. Delivery Systems Study Report.
4. Section 1007(h) Report on Elderly and Handicapped.
5. Reports from Office of Field Services, Office of Program Support and Research Institute.
6. President's Report.
7. Other Business.

CONTACT PERSON FOR MORE INFORMATION: Dellanor Young, Office of the President, telephone (202) 272-4040.

ISSUED: March 10, 1980.

Dan J. Bradley,

President.

[S-490-80 Filed 3-11-80; 8:46 am]

BILLING CODE 6820-35-M

14

[NM-80-12]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, March 20, 1980.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Marine Accident Report*—Fishing Vessel LOBSTA-1 capsizing and sinking in the Atlantic Ocean about 47 nautical miles southeast of Point Judith, Rhode Island, September 23, 1978.

2. *Highway Accident Report*—Van/slow-moving farm vehicle collision, U.S. Route 6/50, near Delta, Utah, September 12, 1979.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202-472-6022.

March 11, 1980.

[S-504-80 Filed 3-11-80; 3:44 pm]

BILLING CODE 4910-58-M

15

NUCLEAR REGULATORY COMMISSION.

DATE: Monday 17, 1980.

PLACE: Commissioners Conference Room, 1717 H Street NW., Washington. D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: 2:00 p.m.

1. Discussion of Proposed Interim Hydrogen Control Requirements for Small Containments (approximately 1½ hours), public meeting.

Note:—General Electric has requested participation in this meeting.

2. Briefing on Work Plans of the Office of Analysis and Evaluation of Operating Data (approximately 1 hour public meeting)

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

Walter Magee,

Office of the Secreary.

March 10, 1980.

[S-502-80 Filed 3-11-80; 2:52 pm]

BILLING CODE 7590-01-M

16

OVERSEAS PRIVATE INVESTMENT CORPORATION.

Meeting of the Board of Directors

TIME AND DATE: Meeting of the OPIC Board of Directors: Tuesday, March 18, 1980 at 9:00 a.m. (Closed Portion) 10:30 a.m. (Open Portion).

PLACE: Offices of the Corporation, seventh floor Board Room, 1129 20th Street NW., Washington, D.C.

STATUS: The first part of the meeting from 9:00 a.m. to 10:30 a.m. will be closed to the public. The open portion of the meeting will start at 10:30 a.m.

MATTERS TO BE CONSIDERED: Closed to the public: 9 a.m. to 10:30 a.m.

1. Finance Project in an African Country.
2. Finance Project in an African Country.
3. Insurance Project in an African Country.
4. Insurance Project in an African Country.
5. Insurance Project in an East Asian Country.
6. Claims Report.
7. Information Reports.
8. Information Reports of Finance Operations.

FURTHER MATTERS TO BE CONSIDERED: Open to the public: 10:30 a.m.

1. Approval of the Minutes of the Previous Board Meeting.
2. Confirmation of Scheduled Board Meetings.
3. Personnel Matters.
4. OPIC By-Laws Amended.
5. Country Eligibility for OPIC Programs; Amended.
6. Proposed OPIC Legislation.
7. Financial Statements.
8. Information Reports.

CONTACT PERSON FOR INFORMATION: Information with regard to this meeting may be obtained from the Secretary of the Corporation at (202) 632–1839.

Elizabeth Burton,

Corporate Secretary.

March 11, 1980.

[S–493–80 Filed 3–11–80; 10:37 am]

BILLING CODE 3210–01–M

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NATIONAL COUNCIL ON EDUCATIONAL RESEARCH.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: (S–475–80 Filed 3–7–80; 10:51 a.m.)

DATE AND TIME: March 14, 1980; 9:30 a.m.–12:30 p.m.

PLACE: The *location of this meeting has been changed* to: Room 4003, U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: *All* items on the *agenda* previously *announced will* remain the same.

CONTACT PERSON FOR MORE INFORMATION: Ella L. Jones, Administrative Coordinator, Telephone: (202) 254–7900.

Peter H. Gerber,

Chief, Policy and Administrative Coordination, National Council on Educational Research.

[S–507–80 Filed 3–12–80; 9:06 am]

BILLING CODE 4110–39–M

federal register

Thursday
March 13, 1980

Part II

Department of Health, Education, and Welfare

Office of Education

National Direct Student Loan, College-Work-Study, and Supplemental Educational Opportunity Grant Programs

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

45 CFR Parts 174, 175, and 176

National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs

AGENCY: Office of Education, HEW.

ACTION: Final regulation.

SUMMARY: On December 7, 1979 the Commissioner published a notice of proposed rulemaking (NPRM) to revise certain sections of the National Direct Student Loan, College Work-Study and Supplemental Educational Opportunity Grant Program regulations. These programs are commonly known as the "campus-based" Federal programs of student financial aid. The NPRM proposed the second phase of a newly devised funding process designed to assure that each institution receives its fair share of the funds available for each program and proposed revised procedures for reallocating institutions' unused funds in an award year.

The Commissioner is revising certain sections of the campus-based regulations on the basis of comments received in writing and at public hearings. The Commissioner is also basing the revisions on analysis of actual data now available for the first time in the newly devised funding process.

EFFECTIVE DATE: These regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the Federal Register. The effective date is changed by statute if Congress disapproves the regulations or takes certain adjournments. If you want to know the effective date of these regulations, call or write the Office of Education contact person.

FOR FURTHER INFORMATION CONTACT: Lynn Laverentz, Bureau of Student Financial Assistance, Room 4018, ROB-3, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: 202-245-9720.

SUPPLEMENTARY INFORMATION:

General Background

The December 7, 1979 (44 FR 70652) notice of proposed rulemaking prescribed funding procedures for the National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs in response to recommendations from a panel of experts in student financial aid. The panel's recommendations appear in the June 1978 BSFA Bulletin and in the preamble to the NPRM in the Federal Register of November 8, 1978.

After receiving written comments and holding public hearings on the November 8, 1978 NPRM (43 FR 52128), the Commissioner published the final regulations in the Federal Register on August 13, 1979. The Commissioner proposed further changes to the final regulation of August 13, 1979 (44 FR 47444) in the December 7, 1979, NPRM.

The panel of experts recommended a three-phase process for changing the method of distributing campus-based program funds. Phase I was implemented in the August 13, 1979, final regulation. Phase II was proposed in the December 7, 1979, NPRM and is being implemented in this final regulation.

The Office of Education mailed copies of the December 7, 1979, NPRM to the financial aid administrators and chief business officers of eligible postsecondary institutions. Public hearings were conducted in five cities: Albuquerque, New Mexico, Kansas City, Missouri, and Atlanta, Georgia on January 9; Philadelphia, Pennsylvania and San Francisco, California on January 10. A total of 48 persons representing various institutions and organizations presented their views on the proposed regulations at these hearings.

Additionally, during the public comment period, the Office of Education received letters and telegrams containing comments, criticisms, recommendations and questions on the proposed regulations. Although the majority of comments were received from financial aid and fiscal officers, virtually every sector of the postsecondary educational community responded to the NPRM. The Commissioner considered each of the comments in the development of the final regulations.

Summary of Major Issues in the December 7, 1979 NPRM

The December 7, 1979, NPRM proposed revisions to sections 4 and 6 of the National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs regulations.

The proposed revision in section 4 would establish priorities for the distribution of funds available for reallocation. These funds would be used first to distribute unused funds within a state to institutions within that state whose awards under the state allotment formula were insufficient. These funds would be used, second, to increase awards to institutions whose students have suffered financial hardships as a result of a natural disaster. These funds would be used, third, to increase awards to institutions who have not received their "fair shares". Finally, if any funds still remain, the Commissioner would reallocate the funds in a manner that would best carry out the purposes of these programs.

The proposed revisions in Section 6 were as follows:

1. *Definitions.* The Commissioner proposed a definition of "base year," which meant the twelve-month period ending on the June 30 preceding the closing date for filing the application.

2. *Conditional guarantee.* The Commissioner proposed two systems for computing the conditional guarantee. The first one, set forth in the body of the proposed regulation, provided that institutions that received funds in award year 1977-78 or 1978-79 or both would receive as a conditional guarantee 90 percent of the greater of their expenditure in 1977-78 or 1978-79. Institutions that did not receive funds in the base year would receive $5,000 per program. New institutions that did receive funds in the base year would receive 90 percent of their actual expenditures in the first year they received funds. The second proposed system, set forth in the preamble only, would set an institution's conditional guarantee at 90 percent of its expenditures in the base year.

3. *Fair share.* The Commissioner proposed several changes in the method of calculating an institution's fair share of program funds:

a. All institutions having base year data would be required to file the information needed to calculate their fair share. In Phase I, this filing was optional.

b. The income grids for dependent and independent students were expanded at the low and high income ends.

c. The base year for reporting data needed for calculating an institution's fair share would be updated annually except for State and institutional grants. For these, 1977-78 would be used.

d. The procedure for determining the State increase was revised.

4. *"Brokeraging."* The provision for "brokeraging" was deleted.

5. *NDSL Federal Capital Contribution (FCC).* For purposes of calculating an institution's FCC, the Commissioner proposed standards relating to the institution's default rate. The proposed standards required institutions to meet one of the following criteria before

receiving FCC: the institution's default rate is 10 percent or less; the institution's default rate is more than 10 percent but has declined by at least 25 percent during the base year; or the institution's default rate is more than 10 percent but the institution demonstrates that it exercised due diligence according to the due diligence provisions of Subpart C of the NDSL regulations during the base year and is currently exercising due diligence. In addition, the proposed standards took into account, in a preliminary way, the new authority contained in the Higher Education Technical Amendments of 1979 for the Office of Education to collect defaulted NDSLs referred to the Commissioner by an institution. In the December 7 NPRM, these "referred" loans were to be excluded from an institution's default rate in determining whether it is to receive new Federal Capital Contributions, if the notes were referred on or before September 15, 1979.

Comments and Responses

The following is a summary of the comments and responses to the various issues raised in the December 7 NPRM. The comments and responses appear in the sequence of the proposed regulations.

General Comments

Overall, the Commissioner received comments from the financial aid community that were supportive of the concepts of conditional guarantee and. fair share. The community recognized that the former method of distributing campus-based funds to institutions needed improvement, and approved of the Office of Education's efforts to achieve equity in the distribution of funds through the conditional guarantee and fair share concepts.

A number of commenters expressed concern over the timing of the publication of the NPRM in the Federal Register. Commenters indicated that there was not enough time for a thorough review of the NPRM and adequate preparation of comments, and objected to a late receipt of institutional copies. A few commenters said that a July or August publication date would have been more appropriate than the December date.

Response: The Commissioner agrees that an earlier publication would have been desirable. Informal notices of the proposed rule, however, were provided to the financial aid community. The Office of Education did send to all participating institutions the September 1979 BSFA Bulletin, which described indepth the items being considered in the NPRM. In addition, Office of Education officials discussed the items being considered at meetings with the financial aid community. The Commissioner received some comments on these items prior to the NPRM's publication.

The Office of Education is required to publish a proposed rule in the Federal Register, but is not required to send a copy to each institution. The Commissioner believes it is desirable for institutions to have copies, and, therefore, mailed two copies of the NPRM to each institution as a courtesy. Because there was a delay in printing the NPRM, the Commissioner extended the end of the official comment period from January 7 through January 21 in an effort to give institutions additional time for review and comment. In addition, individuals were invited to testify at the hearings. During this whole period, the Bureau of Student Financial Assistance consulted with financial aid conferees and representatives of appropriate higher education associations.

State Allotment Formulas

Comment: Several commenters recommended changes in the statutory State allotment formulas.

Response: The Commissioner cannot, by regulation, change statutory provisions.

Reallocation Procedures—Section 4

Comment: The Commissioner received a large number of comments on the proposed rules for the distribution of reallocated funds. Some commenters supported the proposed changes although most commenters found the proposed changes objectionable. The overwhelming majority of comments concerned three issues. First, that reallocation must be accomplished in a timely and effective manner in order that institutions may fully utilize reallocated funds. Secondly, that institutions' unused funds must not leave a State for national distribution until all institutional need in that State has been met. The commenters emphasized that institutions which historically received reallocated funds had to request those funds in an effort to keep their programs alive for the entire academic year. Thirdly, that the reallocation process remain at the regional level and not be centralized. Many commenters believe that the Office of Education regional personnel understand better than central office personnel the individual differences of the institutions located in their respective regions and are more sensitive to the problems which these institutions encounter.

A few commenters recommended that a thorough analysis of the impact of the proposed reallocation rules on institutions is needed before implementation of the rules. A few commenters recommended postponing any changes to the reallocation procedures in light of upcoming reauthorization of the programs.

Response: The Commissioner concurs with the comments that reallocation of funds must be accomplished in a timely manner in order to allow institutions to maximize the expenditure of these funds. Efforts were made under Phase I to send awards to institutions as soon as was realistically possible, and efforts will continue to be made to expedite the reallocation process.

The Commissioner does not agree that unused funds in a State should first be used to meet total need in that State before those funds are distributed at the national level because this would be contrary to the primary objective of the new funding process which is distributing funds to institutions on the basis of the fair share concept.

The Commissioner believes that centralization of the reallocation process is necessary in order to facilitate full implementation of the fair share concept.

Comment: A few commenters said that the negative aspects of the statutory state allotment formulas for the programs have, in the past, been ameliorated through the reallocation process. Some commenters recommended the consideration of other variables in the reallocation procedure. These variables were as follows: consideration of an institution's NDSL default rate; giving preference to institutions which filed fair share data under Phase I; and giving preference to institutions which fully utilized past reallocated funds. A few commenters recommended that unused funds be reallocated solely on the basis of institutional need through a written statement of unmet need submitted by institutions with accompanying justification.

Response: The Commissioner does not believe that the alternatives suggested by the commenters are desirable, however, the Commissioner shall, for the 1979–80 award year only, adopt an "additional allocation procedure" for the College Work-Study and Supplemental Educational Opportunity Grant Programs which would bring institutions that applied for reallocated funds in a program up to the amount of their actual expenditures in 1978–79, if their current year award plus their State increase is less than their 1978–79 expenditures.

The Commissioner did not adopt the "additional reallocation procedure" for the National Direct Student Loan Program because most institutions which received a 1979–80 FCC, which is considerably less than their 1978–79 FCC, had a high default rate, had increased collections, or had a decreased need for new capital as their loan funds moved closer to a revolving status.

The Commissioner is adding a definition of current year to the final regulations that was not included in the proposed rule. The current year means the 12-month period ending on June 30 immediately following the closing date for filing the application.

Comment: A few comments concerned the proposed rule that reallocated funds would be distributed to institutions whose students have suffered financial hardships as a result of natural disaster within the preceding twelve months. One commenter said that the proposed rule included no definition of natural disaster and asked who would be responsible for determining an institution's eligibility for reallocated funds under the natural disaster provision.

Response: The Commissioner will determine the eligibility of institutions under this provision.

Funding Procedure—Section 6

Introduction

The funding procedure describes how an institution which applies for campus-based funds receives its NDSL Level of Expenditure and CWS and SEOG funds. The procedure involves three stages: the computation of an institution's conditional guarantee; the computation of an institution's state increase based on its fair share of the state apportionment; and the computation of an institution's national increase based on its fair share of the national appropriation. A discussion of comments relating to this procedure follows. Topics are in the order in which they appear in the December 7 NPRM.

Conditional Guarantee

Comment: The Commissioner received a large number of comments on the proposed conditional guarantee procedure for Phase II.

A clear majority of commenters objected to the proposed reduction of an institution's conditional guarantee from 100 percent to 90 percent of the greater of institutional expenditures in 1977–78 or 1978–79. The commenters' opposition was based on the following reasoning: that a historically based conditional guarantee penalizes institutions which in prior years did not acquire equitable levels of funding and prohibits consideration of variables affecting the current year, (e.g., an increase in costs due to inflation or changes in enrollment since prior years); that a reduction in conditional guarantee could, for some institutions, result in a significant loss of students; and that a reduction in conditional guarantee is unfair to students who have come to rely on a certain level of aid and who have invested considerable time and effort toward realizing educational goals. A couple of commenters recommended retaining a 100 percent conditional guarantee until the state allotment formulas are changed on the basis that the conditional guarantee ameliorates the negative effects of state allotment formulas.

The commenters made several recommendations for a base year under conditional guarantee. At one end of the spectrum, commenters recommended that an institution be allowed to choose the base year for conditional guarantee from years 1977–78, 1978–79, or 1979–80. At the other end of the spectrum, commenters recommended a rolling base year. Various combinations of base years between these two points were recommended.

Several commenters supported the alternative conditional guarantee of 90 percent of an institution's expenditures in the base year that was proposed in the preamble to the NPRM. Many commenters supported a conditional guarantee based on the greater of two years' expenditures because using the greater of 1977–78 or 1978–79 expenditures is less likely to adversely affect institutions through conditional guarantee.

Response: The Commissioner agrees with the commenters' recommendation to use a rolling base year for the conditional guarantee procedure.

The purpose of the conditional guarantee procedure is to protect an institution's previous level of funding in order to prevent a precipitous dislocation of funds from one institution to another.

For institutions which received NDSL, CWS, or SEOG IY funds in the base year, the Commissioner is reducing the percentage of their conditional guarantee expenditures from 100 percent to 90 percent in an effort to continue to move further toward full implementation of the fair share concept. To use 100 percent of expenditures for these institutions would continue to support distribution of funds according to the former funding process.

CWS and SEOG simulations show no significant shifting of funds from one institution to another using 90 percent compared to 100 percent conditional guarantee for those institutions that participated in the respective programs in the base year. Although no simulations were prepared for NDSL, the Commissioner determined that whatever affected CWS would generally affect NDSL in the same manner because they are components of the same self-help formula.

The Commissioner is not reducing the SEOG CY conditional guarantee from 100 percent to 90 percent for institutions which received CY funds in the base year because a reduction to 90 percent could cause a shift of dollars. Using a 90 percent conditional guarantee could shift dollars from states with large scholarship programs to states which do not have large scholarship programs. Institutions do not have an opportunity to receive an SEOG CY state increase because there is no CY statutory state allotment formula. In order to compensate for the absence of a CY state increase, an institution which received CY funds in the base year will receive the greater of 100 percent of its base year SEOG CY expenditure or 100 percent of its current year CY allocation multiplied by its base year utilization rate.

New Schools

Comment: The Commissioner received several comments concerning the proposed $5,000 per program conditional guarantee for first and second time participants. First time participants will receive campus-based funds for the first time in award year 1980–81. Second time participants received campus-based funds for the first time in award year 1979–80.

A consistent comment was that a $5,000 conditional guarantee is an arbitrary amount and may not be sensitive to individual differences among institutions (e.g., size of enrollment). A few commenters indicated that it might be more equitable to base the conditional guarantee on the average per student expenditure at comparable institutions, and multiply that amount times current enrollment at the new school rather than providing a flat dollar amount for an institution's conditional guarantee.

A few commenters are of the opinion that most first time participants will receive a $5,000 conditional guarantee per program and not realize a significant amount of fair share funds. They base their reasoning on their understanding that most first time participants do not have enrollment data available for the computation of their State and national fair share. One commenter

recommended that these schools be allowed to survey former students for fair share dafa and submit this to the Office of Education for calculation of their fair share. One commenter recommended that second time participants have the option of receiving 100 percent of their 1979–80 conditional guarantee in award year 1980–81. Another commenter recommended that second time participants have the option of receiving 90 percent of their 1979–80 conditional guarantee in award year 1980–81. One commenter recommended that second time participants receive triple the amount of their 1979–80 conditional guarantee if the institutions fully utilized their conditional guarantee in 1979–80.

Response: After carefully reviewing the comments, the Commissioner is changing the proposed procedure for calculating the conditional guarantee for first and second time participants in each program.

A first time participant in the NDSL or CWS Program receives a conditional guarantee equal to the greater of $5,000 or 90 percent of the average base year expenditure per student in the program in eligible institutions offering comparable programs of instruction, multiplied by the applicant institution's base year enrollment.

A first time participant under the SEOG Program receives a conditional guarantee equal to the greater of $5,000 or 90 percent of the average IY and 100 percent of the average CY base year expenditure per student in eligible institutions offering comparable programs of instruction, multiplied by the applicant institution's base year enrollment.

These changes are being made in response to the commenters' concern that first time participants in a program do not have the opportunity to receive fair share funds because of lack of enrollment data.

A second time participant in the NDSL and CWS Programs receives a conditional guarantee equal to the greater of $5,000; 90 percent of the average base year expenditure per student in the program in eligible institutions offering comparable programs of instruction, multiplied by the applicant institution's base year enrollment; or 90 percent of the applicant institution's current year allocation.

A second time participant in the SEOG Program receives a conditional guarantee equal to the greater of $5,000; 90 percent of the average IY and 100 percent of the average CY base year expenditure per student in eligible institutions offering comparable programs of instruction, multiplied by the applicant institution's base year enrollment; or 90 percent of the applicant institution's current year IY allocation and 100 percent of its current year CY allocation.

The conditional guarantee procedure for second time participants includes the additional component to protect institutions which received increases in program funding under Phase I.

The Commissioner determined that $5,000 is a minimally acceptable amount for institutions to implement a program. $5,000 is not meant to reflect what an institution might need to operate a program; the fair share formulas serve this function.

NDSL Federal Capital Contribution (FCC)—Section 6a

The Commissioner received a number of comments on proposed rules in this section concerning an institution's default rate and increase in collections.

Default Rate

The proposed rule states that an institution must meet one of the following three criteria in order to receive FCC: the institution's default rate is 10 percent or less; the institution's default rate is more than 10 percent, but has declined by at least 25 percent during the base year; or the institution's default rate is more than 10 percent but the institution demonstrates that it exercised due diligence according to the provisions of Subpart C during the base year and is currently exercising due diligence.

Several commenters supported the minimum requirement of a 10 percent default rate on the basis that it is realistically attainable. These commenters would oppose a relaxing of the proposed default penalty because to do so would be unfair to institutions which have worked hard to reduce their default rate to 10 percent or below. However, several commenters objected to the default penalty because it does not consider institutions which substantially reduced their default rate during the base year but not by 25 percent. These and other commenters recommended using a graduated default penalty. Several commenters said that an institution's default rate should be an appealable item.

A few commenters expressed support of the checklist which enabled institutions to provide supporting evidence that the institution is practicing due diligence under Subpart C of the NDSL regulations. A few commenters thought that the default rate criteria are insensitive to variables which affect it. Such variables include the diversity of students attending an institution, the various types of institutions, and the economic situations under which students live (e.g., students living in areas of high unemployment).

Response: After careful consideration of the comments concerning the NDSL default penalty, the Commissioner sees no need to increase the default rate cutoff beyond 10 percent or reduce the expected 25 percent reduction of the default rate in the base year. The Commissioner believes these percentages are realistic and attainable. Institutions which do not meet one of the three criteria listed in 174.6a may appeal to the national appeal panel. This panel will consider any documentation provided by the institution.

Increase in Collections

When calculating an institution's FCC, one of the items that the Commissioner subtracts from the institution's level of expenditure is loan repayments in the base year. An institution is expected to increase its NDSL collections 10 percent per year.

Comment: Several commenters consider this percentage realistically attainable; other commenters consider an expected 10 percent improvement per year unfair. Several commenters requested that this collections requirement be an appealable item.

One commenter said that an institution's performance relating to NDSL collections is a program review matter and should not be related to the application. A few commenters recommended that institutions be allowed to include with their application an explanation of why the collections requirement was not met.

Response: The Commissioner does not consider a 10 percent increase in collections unfair or unrealistic. The normal growth in collections is at least 10 percent per year on a national basis. Collections under the NDSL Program have been increasing at approximately $25,000,000 per year from a $200,000,000 base in 1974. In addition, the Office of Education has been effectively using this percentage as a criterion in evaluating applications for a number of years. Institutional appeals on the requirement for NDSL collections will be considered by the national appeal panel.

Comment: Several commenters objected to excluding from an institution's NDSL default rate notes referred or assigned to the Office of Education on or before September 15, 1979. The commenters view this as unfair to institutions which have done an acceptable job in practicing due diligence because the Office of

Education is allowing some institutions to have a default rate computed without consideration of aged notes that were poorly serviced.

Response: Pub. L. 96-49, enacted on August 13, 1979, provided the statutory authority for the referral of defaulted NDSL notes to the Office of Education. During the 20 years that the National Defense/Direct Student Loan Program existed prior to August 13, 1979, institutions participating in the NDSL Program were unable to write off defaulted notes. This, of course, was not the case with other lending institutions in the commercial lending field which have had a standard practice of writing off defaulted loans, enabling them to lower their default rates. NDSL institutions can now lower their default rates by excluding from their default rates any defaulted loans assigned or referred to the Office of Education on or before September 15, 1979. The Commissioner is allowing institutions to exclude these notes from their default rate under Phase II because the statutory authority is now available. Institutions which have done an acceptable job in practicing due diligence in the past, as well as those which have not done an acceptable job, will benefit from the exclusion of these notes from their default rate.

The Fair Share Concept; State Increase; National Increase

General Comment

Comment: The Commissioner received overall support from commenters on the general concept of an institution's receiving its fair share of state apportionment and national appropriation. However, some commenters objected to the concept of fair share on the grounds that it does not adequately provide increased levels of program participation to institutions which traditionally participated in these programs at unrealistically low levels. The commenters recommended that the Office of Education explore other alternatives which would allow these schools to realize more equitable levels of program participation.

A few comenters are of the opinion that the formulas have no apparent relationship to an institution's need for funding because the formula moves funds from institution to institution, and sector to sector, by taking funds from institutions which have demonstrated need for additional funding and giving those funds to institutions which underutilized funds in past years.

Response: The Commissioner does not believe that schools which either utilized or underutilized funds in the past are at a disadvantage under the formulas. While it is true that the conditional guarantee procedure is based on prior funding levels, the purpose of the formulas is to measure an institution's relative need and meet that need if funds are available. Therefore, an institution which demonstrates need for fair share funds should have the opportunity to receive increased funding above its conditional guarantee. The formulas may shift funds from one institution to another and from one sector to another in order to distribute funds on the basis of relative institutional need.

Comment: A number of commenters recommended that the formulas be adjusted to accommodate the time difference between the base and application years. The commenters believe that changes of enrollment, and increases in costs due to inflation need consideration under the formulas. One commenter recommended a six percent increase in cost across the board to help ameliorate the effects of inflation. Some commenters are concerned that the formulas' use of base year data rather than current year data places growth states at a disadvantage.

Response: The Commissioner does not see a need to accommodate the time difference between the base and application years in terms of enrollment changes, inflation, or other variables. The formulas were designed to measure relative institutional need, not current institutional need.

Validity of Fair Share Concept

Comment: Several commenters recommended that Phase II remain the same as Phase I. Their reasoning is that it is unfair to consider reducing an institutions's conditional guarantee when the validity of the fair share concept is untested.

All institutions were required to submit fair share data under Phase II. This requirement did not exist under Phase I. Therefore, the commenters recommended postponing any changes to the process implemented under Phase I until the various financial aid organizations have the opportunity to analyze the impact of all institutions filing fair share data on Phase II.

Response: The Office of Education did simulations using the fair share data provided by all institutions. These simulations compared 1979-80 fund distribution to projected 1980-81 fund distribution. The simulations showed no significant shifts of funding by institutional type and control. Because this data is available, there is no need to delay changes to the process implemented under Phase I.

The Office of Education and the leadership of the education community and financial aid administrators frequently exchanged information during the development of the simulations. These results have given direction to the amendments in the section on funding procedures. The Commissioner will make available to appropriate education and financial aid associations and other interested individuals the results of ongoing analyses that will influence decisions on future changes.

The SEOG CY conditional guarantee will remain at 100 percent under Phase II. Additionally, the fiscal year 1980 appropriation for SEOG provides a $30 million increase to $370 million over the level for the current year expenditures.

Split Between Gift Aid and Self-Help Formulas

Comment: A few commenters questioned the composition of the split between the gift aid and self-help formulas. They are of the opinion that the 70/30 ratio is unfair to students, and is based on faulty suppositions.

Response: The basis for the decision to use a 70/30 ratio between gift aid and self-help funds is a national survey. This survey showed that between ⅔ and ¾ of the total cost of education is met by a combination of gift aid and expected family contribution and about 30 percent of self-help (work and loans). This finding applied to all categories of institutions, both low cost and high cost. You may obtain a copy of the report by writing to the U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202. The title is "Annual Evaluation Report on Programs Administered by the U.S. Office of Education, Fiscal Year 1977."

The Commissioner would like to point out that this regulation in no way attempts to influence the individual institutional philosophies regarding packaging of student financial assistance.

Income Grids

Comment: The commenters supported expansion of the income grids under Phase II for dependent and independent graduate and undergraduate students. Institutions furnish information on the number of eligible undergraduate and graduate, dependent and independent, aid applicants by income categories for the calculation of the effective family contribution schedules through the use of these grids. The purpose of the changes was to provide greater sensitivity to differences among institutions. Commenters favored the expansion of the income grids on the

basis that it is a recognition of the needs of institutions which serve predominately older students with families.

Response: The Commissioner appreciates the commenters' support of the expansion of the income grids.

Expected Family Contribution

Comment: A few commenters asked why the EFC figures were not included in the NPRM.

Response: The Commissioner has not included the EFC figures in the final regulation since that would require an unnecessary annual amending of the regulation to change those figures. The Office of Education updates and disseminates the figures annually through the BSFA Bulletin and other appropriate publications.

Tuition and Fee Cost

Comment: Several commenters objected to the formulas' consideration of an institution's actual tuition and fee revenue, while considering only averages for other components. Some commenters view this difference in the formulas' treatment of costs as discriminating against low-cost institutions and States having an open access policy.

A few commenters particularly objected to the $200 average for books and supplies. These commenters indicated that certain kinds of schools, for instance, military schools and art schools, tend to have higher costs for these items than other kinds of institutions.

Response: The Commissioner uses actual data for tuition revenue, fee revenue, and enrollment count in the formula because this information is auditable and verifiable. The Commissioner uses national averages when it is impossible to verify information submitted by institutions for determination of costs (e.g., student living expenses, books, and supplies). All institutions have students whose costs are both more and less than those of the average student. Therefore, whenever the costs are significantly understated, institutions should document this in an appeal.

Comment: Several commenters expressed the view that the formula penalizes institutions by deriving the institution's average tuition cost by dividing total tuition revenue by total student enrollment. Some commenters said that using total student enrollment is unfair to an institution with a large proportion of part-time students. One commenter recommended the use of enrollment data based on a form of full-time equivalents so that institutions may provide more comparable enrollment figures and more accurate average tuition costs. Some commenters said that an insititution's average tuition cost should be derived on the basis of students eligible for campus-based aid.

Response: The Commissioner determines an institution's average cost of education by dividing total tuition and fee revenue by total enrollment. Total revenue and enrollment data are used in calculating an institution's average cost because institutions have this information available, and it is auditable and verifiable. It is the Commissioner's understanding that institutions do not generally maintain records for tuition and fee revenue for varying types of enrollment, (e.g., part-time students, less than half-time students).

Comment: One commenter said that if institutions are using HEGIS enrollment data, the accuracy of this data should be determined before their use in the formulas. Moreover, accuracy of this data is critical to ensure that all institutions are reporting comparable statistics.

Response: As institutions are aware, there are a number of different ways to report to the National Center for Education Statistics institutional enrollment data for the Higher Education General Information Survey. Any institution which believes its average tuition cost determined under the formulas is significantly different from actual tuition cost is encouraged to appeal this cost determination to the national appeal panel.

Student Living Cost

Comment: The national average for student living cost equals the sum of ¾ of the family size offset for single self-supporting students as calculated under the Basic Educational Opportunity Grant Program, plus an amount for books and supplies. Under Phase II this figure is $2,600. The Commissioner received many comments on the proposed national average of $2,600 for the student living expense component of the formulas. Some comments were supportive. However, several commenters objected to the $2,600 average on the basis that this amount does not reflect the true cost of students with more dependents than considered under the family size offset for the single self-supporting student. One commenter recommended using an average cost for independent students with dependents. The average cost would be derived by using effective family contribution schedules based on varied family size.

Several commenters are of the opinion that the formula shifts funds from low cost institutions to high cost institutions by using a standard living expense figure. Their reasoning is that low cost institutions tend to have a higher enrollment of "non-traditional" students than high cost institutions. The "non-traditional" student is generally older than the traditional student, has more dependents, and therefore, has higher living expenses than traditional students. Other commenters said that a $2,600 average is insensitive to institutional and regional differences in cost of living, a student's marital status, and whether a student is dependent or independent. One commenter recommended that the living expense average be developed by each state association for institutions in the association's respective states, and that this amount be confirmed by the appropriate OE regional staff. Many commenters recommended that the student living cost component of the formulas be an appealable item.

Response: After a careful review of the comments, the Commissioner has decided to include in these regulations the proposed national average of $2,600 for the student living expense component of the formulas.

All institutions have students whose costs are both more and less than those of the average student. Therefore, institutions should provide supporting documentation to the national appeal panel whenever the costs are significantly understated.

Self-Help Formula—Shifting of Funds Between the Self-Help Programs

Comment: Most commenters favored the deletion of the concept of "brokeraging" under the self-help programs. A few commenters recommended retaining the concept of brokeraging but favored changing the original method (e.g., establishing a ceiling on the amount that can be shifted between self-help programs).

Response: After careful consideration of the comments pertaining to the concept of brokeraging under the self-help programs, the Commissioner has decided not to include the concept in these regulations.

SEOG Formula—Institutional and State Scholarships

Comment: The Commissioner received several comments on the inclusion of 50 percent of institutional aid and 100 percent of state aid awarded in 1977–78 in the SEOG formula for determining an institution's need. At one end of the spectrum, commenters recommended that 100 percent of the state and institutional aid should be included in the formula. At the other end of the

spectrum, commenters recommended that no state or institutional aid should be included. Several recommendations were made between those two points (e.g., reducing the state aid percentage to 50 percent to coincide with the 50 percent institutional aid inclusion). A few commenters favored inclusion of 100 percent institutional aid on the basis that a reduction would favor high cost schools. The commenters who objected to inclusion of institutional and state aid in the formula said that including any institutional or state aid effectively provides disincentive to institutions and states, respectively, to make efforts to increase their respective aid.

One commenter recommended using a national average for state grant support to be determined annually which would be included in the formula for all institutions.

Response: The Commissioner does not agree with the commenters' recommendations to change the percentages of institutional and state aid funds included in the formula for determining an institution's SEOG need. To begin with, under the former funding process, 100 percent of institutional aid was considered and updated annually for each year. Under this process only 50 percent of institutional aid awarded in 1977–78 is considered by the formulas. The Commissioner analyzed the effects of including 100 percent state aid and 50 percent institutional aid in the formula. The analysis showed no significant shift of funds between states or sectors. By not counting institutional and state aid in the formula, the effective result would be to take funds from relatively less financially strong institutions and give those funds to institutions of relatively better financial strength. This would be contrary to the primary objective of the formulas which is to measure the relative need of all institutions in order to best serve the neediest students. It would discriminate against institutions which, relatively speaking, are financially less well off than others.

Comment: One commenter asked why 1977–78 was proposed as the base year for institutional and state aid. A few commenters suggested the use of a rolling base year for the state and institutional component of the formula in order to allow for changes in enrollment which potentially might affect the amount of state aid an institution receives.

Response: The Commissioner proposed 1977–78 as the base year for the state and institutional aid component of the SEOG formula to allow institutions and states to increase their respective aid contributions after 1977–78 without consideration of these increases under the formula.

After careful analysis of all pertinent comments, the Commissioner has decided not to change any aspect of the self-help or SEOG formulas under Phase II. However, these formulas will be studied further and, if found necessary, they will be changed.

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.

(Catalog of Federal Domestic Assistance No. 13.471 National Direct Student Loan; 13.463 College Work-Study; and 13.418 Supplemental Educational Opportunity Grant.)

Dated: March 5, 1980.

William L. Smith,

U.S. Commissioner of Education.

PART 174—NATIONAL DIRECT STUDENT LOAN PROGRAM

1. The following sections of Part 174 of Title 45 of the Code of Federal Regulations are amended to read as follows:

§ 174.4 Allocation, reallocation, and payment to institutions.

(a) *Allocation.* (1) If funds available for Federal capital contributions (FCC) within a State are insufficient to honor all requests for funds by institutions in that State, the Commissioner distributes the funds as described in §§ 174.6 and 174.6a.

(2) Allocations to proprietary institutions may not exceed the difference between $190,000,000 and the amount appropriated for Federal capital contributions. If the amounts approved for proprietary institutions exceed that difference, the Commissioner reduces their allocations proportionately.

(b) *Reallocation.* (1)(i) If an institution anticipates not lending all its allocated funds by the end of an award year, it must specify the anticipated unused amount to the Commissioner, who reduces the institution's allocation accordingly.

(ii) Other institutions may apply for those funds on the form and at the time specified by the Commissioner.

(iii) The Commissioner distributes those funds to applicant institutions in accordance with paragraph (b)(2) of this section.

(2)(i) If the funds that become available under paragraph (b)(1) of this section come from the State's initial allotment under § 174.3(a)(1), the Commissioner reallocates those funds proportionately to other institutions in that State. The Commissioner reapportions those funds that are not needed to maintain the State's initial allotment, and any funds that do not come from that initial allotment, in accordance with paragraphs (b)(2) (ii), (iii) and (iv) of this section.

(ii) The Commissioner increases awards to institutions whose students have suffered financial hardships as a result of natural disasters within the preceding 12 months.

(iii) If any funds remain, the Commissioner then increases the Federal capital contribution to institutions whose current level of expenditure (LOE) is less than their national fair shares determined under § 174.6. The Commissioner calculates each applicant's increase as follows:

Institution's remaining LOE shortfall/remaining LOE shortfall of all applicants for reallocation × remaining FCC available for reallocation

(An institution's remaining level of expenditure shortfall is the difference between its national fair share (see 174.6(g)(4)) and its approved level of expenditure calculated in § 174.6 and this section through paragraph (b)(2)(ii).)

(iv) If any funds still remain, the Commissioner reallocates the funds in a manner that best carries out the purposes of this part.

(c) *Payments to institutions.* The Commissioner allocates new Federal capital contributions for a specific period of time. The Commissioner pays funds to an institution in advance or by reimbursement. The Commissioner bases the amount to be paid on periodic fiscal reports.

(20 U.S.C. 1087bb.)

§ 174.6 Funding procedure.

(a) *General.* (1) Each institution applying for NDSL funds receives an approved level of expenditure in the following three stages—

(i) A "conditional guarantee";

(ii) A State increase based on its "fair share" of the State apportionment; and

(iii) A national increase based on its "fair share" of the national appropriation.

(2) The terms "conditional guarantee" and "fair share" refer only to the level of expenditure. The Commissioner computes the Federal capital contribution (FCC) according to § 174.6a.

(3) Definitions—As used in this section—

(i) "Base year" means the 12-month period ending on the June 30 preceding the closing date for filing an NDSL application for a level of expenditure;

(ii) "Current year" means the 12-month period ending on the June 30

immediately following the closing date for filing the application; and

(iii) "Utilization rate" means:

an institution's base year level of expenditure/its NDSL funds available in the base year

NDSL funds available in the base year include—

(A) FCC awards in the base year;

(B) The matching institutional capital contribution;

(C) Loan repayments received in the base year;

(D) Reimbursements for prior year Direct loan cancellations; and

(E) Cash on hand as of June 30 of the base year.

(b) *Conditional guarantee.* The Commissioner computes a conditional guarantee of the level of expenditure in the following way:

(1) An institution that participated in the NDSL program in the base year receives a conditional guarantee equal to the greater of 90 percent of its—

(i) Base year level of expenditure; or

(ii) Current year funding level multiplied by its utilization rate.

(2) An institution's "base year level of expenditure" equals the amount of loans made in that award year plus the amount it claimed for administrative expenses.

(3) An institution's "current year funding level" includes—

(i) The FCC awarded for the current year;

(ii) The matching institutional capital contributions;

(iii) 110 percent of base year loan repayments;

(iv) Reimbursements for base year Direct loan cancellations; and

(v) Cash on hand as of June 30 of the base year.

(4) An institution applying to participate in the NDSL program for the first time receives a conditional guarantee equal to the greater of—

(i) $5,000; or

(ii) 90 percent of the average NDSL base year expenditure per student in eligible institutions offering comparable programs of instruction, multiplied by the applicant institution's base year enrollment.

(5) An institution applying to participate in the NDSL program for the second time receives a conditional guarantee equal to the greater of—

(i) $5,000;

(ii) 90 percent of the average NDSL base year expenditure per student in eligible institutions offering comparable programs of instruction, multiplied by the applicant institution's base year enrollment; or

(iii) 90 percent of its current year funding level.

(c) *Self-help need of an institution.* (1) The Commissioner allocates additional funds to an institution on the basis of calculations made under paragraph (f) (State increase) and paragraph (g) (National increase). These calculations are based in part on the institution's self-help need. Self-help need is the need for funds from work and loan sources. The institution's self-help need is the sum of the self-help need of its eligible graduate students and the self-help need of its eligible undergraduate students.

(2) The Commissioner calculates the self-help need of an institution's eligible graduate students in accordance with paragraph (d) and the self-help need of its eligible undergraduate students in accordance with paragraph (e).

(3) As used in paragraphs (d) and (e):

(i) *Average cost of education* means the education costs for undergraduate and graduate students. These costs include tuition, fees, standard living expenses, books, and supplies. (The institution reports its total tuition and fee revenues, and the Commissioner uses this amount to determine the average cost of education.)

(ii) *Eligible students* means students who satisfy the eligibility requirements of § 174.9 (a)(1) through (a)(4).

(d) *Self-help need of eligible graduate students.* To determine the self-help need of an institution's eligible graduate students, the Commissioner—

(1) Establishes various income categories for dependent and independent graduate students;

(2) Establishes an expected family contribution (EFC) for each income category of dependent and independent graduate students, using a need analysis method approved under § 174.13;

(3) Determines the average cost of education for all graduate students;

(4) Subtracts from the average cost of education for all graduate students, the computed EFC for each income category of dependent students and each income category of independent students. However, the average cost of education minus the EFC for any income category may not be less than zero;

(5) Multiplies those amounts by the number of eligible students in each category;

(6) Adds the amounts obtained for each income category of dependent students and each income category of independent students; and

(7) Totals those two amounts.

The following charts show the income categories and calculations for eligible graduate students.

BILLING CODE 4110-02-M

DETERMINATION OF SELF-HELP NEED FOR ELIGIBLE DEPENDENT GRADUATE STUDENTS

1 INCOME	2 EFC	3 AVERAGE COST	4 AVG COST LESS EFC	5 NUMBER OF ELIGIBLE STUDENTS	6 SELF HELP NEED COL. 4 x COL. 5
$ 0 - $ 2,999					
$ 3,000 - $ 5,999					
$ 6,000 - $ 8,999					
$ 9,000 - $11,999					
$12,000 - $14,999					
$15,000 - $17,999					
$18,000 - $20,999					
$21,000 - $ 23,999					
$24,000 - $26,999					
$27,000 - $29,999					
$30,000 - $32,999					
$33,000 - $35,999					
$36,000 - $38,999					
$39,000 - $41,999					
$42,000 - $44,999					
$45,000 - Over					
7 TOTAL SELF-HELP NEED FOR DEPENDENT GRADUATE STUDENTS					$ _____

DETERMINATION OF SELF-HELP NEED FOR ELIGIBLE INDEPENDENT GRADUATE STUDENTS

1 INCOME	2 EFC	3 AVERAGE COST	4 AVG COST LESS EFC	5 NUMBER OF ELIGIBLE STUDENTS	6 SELF HELP NEED COL. 4 x COL. 5
$ 0 - $ 999					
$ 1,000 - $ 1,999					
$ 2,000 - $ 2,999					
$ 3,000 - $ 3,999					
$ 4,000 - $ 4,999					
$ 5,000 - $ 5,999					
$ 6,000 - $ 6,999					
$ 7,000 - $ 7,999					
$ 8,000 - $ 8,999					
$ 9,000 - $ 9,999					
$10,000 - $10,999					
$11,000 - $11,999					
$12,000 - $12,999					
$13,000 - $13,999					
$14,000 - $14,999					
$15,000 - Over					
7 TOTAL SELF-HELP NEED FOR INDEPENDENT GRADUATE STUDENTS					$

SUMMARY

1 TOTAL SELF-HELP NEED FOR DEPENDENT GRADUATE STUDENTS	$
2 TOTAL SELF-HELP NEED FOR INDEPENDENT GRADUATE STUDENTS	$
3 TOTAL SELF-HELP NEED FOR ALL GRADUATE STUDENTS (1 + 2)	$

BILLING CODE 4110-02-C

(e) *Self help need of eligible undergraduate students.* To determine the self-help need of an institution's eligible undergraduate students, the Commissioner—

(1) Establishes various income categories for dependent and independent undergraduate students;

(2) Establishes an EFC for each income category of dependent and independent undergraduate students, using a need analysis method approved under § 174.13;

(3) Computes 30 percent of the average cost of education for all undergraduate students;

(4) Multiplies the number of eligible dependent students in each income category by the lesser of—

(i) 30 percent of the average cost of education for all undergraduate students; or

(ii) The average cost of education for all undergraduate students minus the EFC determined under paragraph (e)(2) of this section for that income category. However, the average cost of education minus the EFC may not be less than zero;

(5) Adds the amounts obtained for each income category of dependent students;

(6) Multiplies the number of eligible independent students in each income category by the lesser of—

(i) 30 percent of the average cost of education of all undergraduate students; or

(ii) The average cost of education for all undergraduate students minus the EFC determined under paragraph (e)(2) of this section for that income category. However, the average cost of education minus the EFC may not be less than zero;

(7) Adds the amounts obtained for each income category of independent students; and

(8) Adds the amounts obtained under paragraphs (e)(5) and (7) of this section.

The following charts show the income categories and calculations for eligible undergraduate students.

BILLING CODE 4110-02-M

DETERMINATION OF SELF-HELP NEED FOR ELIGIBLE DEPENDENT UNDERGRADUATE STUDENTS

1 INCOME	2 EFC	3 30% x AVERAGE COST	4 AVG COST LESS EFC	5 NUMBER OF ELIGIBLE STUDENTS	6 NEED: LESSER OF COL. 3 x COL. 5 or COL. 4 x COL. 5
$ 0 - $ 2,999					
$ 3,000 - $ 5,999					
$ 6,000 - $ 8,999					
$ 9,000 - $11, 999					
$12,000 - $14,999					
$15,000 - $17,999					
$18,000 - $20,999					
$21,000 - $23,999					
$24,000 - $26,999					
$27,000 - $29,999					
$30,000 - $32,999					
$33,000 - $35,999					
$36,000 - $38,999					
$39,000 - $41,999					
$42,000 - $44,999					
$45,000 - Over					
7 TOTAL SELF-HELP NEED FOR DEPENDENT UNDERGRADUATE STUDENTS $ _____					

DETERMINATION OF SELF-HELP NEED FOR ELIGIBLE INDEPENDENT UNDERGRADUATE STUDENTS

1 INCOME	2 EFC	3 30% x AVERAGE COST	4 AVG COST LESS EFC	5 NUMBER OF ELIGIBLE STUDENTS	6 NEED: LESSER OF COL. 3 x COL. 5 or COL. 4 x COL. 5
$ 0 - $ 999					
$ 1,000 - $ 1,999					
$ 2,000 - $ 2,999					
$ 3,000 - $ 3,999					
$ 4,000 - $ 4,999					
$ 5,000 - $ 5,999					
$ 6,000 - $ 6,999					
$ 7,000 - $ 7,999					
$ 8,000 - $ 8,999					
$ 9,000 - $ 9,999					
$10,000 - $10,999					
$11,000 - $11,999					
$12,000 - $12,999					
$13,000 - $13,999					
$14,000 - $14,999					
$15,000 - Over					
7 TOTAL SELF-HELP NEED FOR INDEPENDENT UNDERGRADUATE STUDENTS $ _____					

SUMMARY

1 TOTAL SELF-HELP NEED FOR DEPENDENT UNDERGRADUATE STUDENTS	$ _____
2 TOTAL SELF-HELP NEED FOR INDEPENDENT UNDERGRADUATE STUDENTS	$ _____
3 TOTAL SELF-HELP NEED FOR ALL UNDERGRADUATE STUDENTS (1 + 2)	$ _____

BILLING CODE 4110-02-C

(f) *State increase.* (1) In any year the Commissioner increases the level of expenditure of institutions in a State ("State increase"), thereby increasing the FCC going to those institutions, if the combined FCC's resulting from conditional guarantees of all institutions in that State are less than the State apportionment under § 174.3(a)(1). However, no institution receives a State increase if it does not qualify for FCC under § 174.6a.

(2) The Commissioner calculates an institution's State increase according to the following formula:

Institution's State increase=its State shortfall/State shortfalls of all institutions in the State×FCC available for State shortfall×1.11

(3) As used in the formula in subparagraph (2)—

(i) "FCC available for State shortfall" means the State apportionment minus the FCC used for conditional guarantees.

(ii) "Institution's State shortfall" means the difference between an institution's conditional guarantee and its State fair share determined in paragraph (f)(4) of this section.

(4) The Commissioner determines an institution's State fair share according to the following formula:

Institution's State fair share=its self-help need/self-help need of all institutions in the State applying for NDSL funds×total State NDSL funds

(5) As used in the formula in paragraph (f)(4) of this section "total State NDSL funds" means the sum of—

(i) The State apportionment of FCC and the matching institutional capital contribution;

(ii) 121 percent of loan repayments in the base year received by institutions in the State; and

(iii) Reimbursement for Direct loan cancellations in the base year received by institutions in the State

(g) *National increase.* (1) For any year the Commissioner will further increase the level of expenditure of institutions ("national increase"), thereby increasing the FCC going to those institutions, if the sum of the conditional guarantees and State increases awarded to institutions is less than the total NDSL funds for that year (see paragraph (g)(5) of this section). However, no institution receives a national increase if it does not qualify for FCC under § 174.6a.

(2) The Commissioner calculates an institution's national increase according to the following formula—

Institution's national increase=its national shortfall/national shortfall of all institutions×NDSL funds available for national shortfall

(3) As used in the formula in paragraph (g)(2) of this section—

(i) "NDSL funds available for national shortfall" is calculated by—

(A) Adding the conditional guarantees and State increases for all institutions; and

(B) Subtracting that sum from total NDSL funds; and

(ii) An institution's "national shortfall" is calculated by subtracting from its "national fair share" its conditional guarantee and State increase.

(4) The Commissioner calculates an institution's "national fair share" according to the following formula—

Institution's national fair share=its self-help need/self-help need of all institutions applying for NDSL funds×total NDSL funds

(5) As used in paragraphs (g) (1), (3), and (4) of this section "total NDSL funds" is calculated by adding—

(i) The appropriation for FCC plus the matching institutional capital contribution;

(ii) 121 percent of loan repayments in the base year; and

(iii) Reimbursements for Direct loan cancellations in the base year.

(h) No institution may receive a higher level of expenditure than it requests.

(20 U.S.C. 1087bb)

§ 174.6a Funding procedure—Federal capital contributions (FCC).

(a) For any year, an institution receives Federal capital contribution if its default rate—

(1) Is 10 percent or less;

(2) Is more than 10 percent, but has declined by at least 25 percent during the base year; or

(3) Is more than 10 percent but the institution demonstrates that it exercised due diligence according to the provisions of Subpart C during the base year and is currently exercising due diligence.

(b) To determine an institution's FCC the Commissioner—

(1) Adds the institution's conditional guarantee, State increase, and national increase;

(2) Subtracts from the sum obtained in paragraph (b)(1) of this section, loan repayments and reimbursements for Direct loan cancellations received in the base year; and

(3) Multiplies the remainder obtained in paragraph (b)(2) of this section by 90 percent.

(c) For purposes of paragraph (b)(2) of this section, loan repayments equal 121 percent of the amount collected in the base year.

(d) The definition of default rate is set forth in § 174.2. However, for purposes of this section, the Commissioner excludes—

(1) Notes referred or assigned to the Commissioner on or before September 15, 1979 if the institution received either a notification of acceptance or a receipt from the Office of Education; and

(2) Notes that have been in default but on which borrowers have made satisfactory arrangements to resume payment.

(e) No institution may receive more Federal capital contribution than it requested.

(20 U.S.C. 1087bb.)

PART 175—COLLEGE WORK-STUDY AND JOB LOCATION AND DEVELOPMENT PROGRAM

2. The following sections of Part 175 of Title 45 of the Code of Federal Regulations are amended to read as follows:

§ 175.4 Allocation, reallocation, and payment to institutions.

(a) *Definition.* As used in this section and in section 175.6, "current year" means the 12-month period ending on the June 30 immediately following the closing date for filing a CWS application.

(b) *Allocation.* If funds available within a State are insufficeint to honor all requests for funds by institutions in that State, the Commissioner distributes the funds as described in § 175.6.

(c) *Reallocation.* (1)(i) If an institution anticipates not using all its allocated funds by the end of an award year, it must specify the anticipated unused amount to the Commissioner, who reduces the institutions's allocation accordingly.

(ii) Other institutions may apply for those funds on the form and at the time specified by the Commissioner.

(iii) The Commissioner distributes those funds to applicant institutions in accordance with paragraph (c)(2) of this section.

(2)(i) If the funds that become available under paragraph (c)(1) of this section come from the State's initial allotment under § 175.3(b)(1), the Commissioner reallocates those funds equitably to other institutions in that State. The Commissioner reallots those funds that are not needed to maintain the State's initial allotment, and any funds that do not come from that initial allotment, in accordance with paragraphs (c)(2) (ii), (iii), (iv), and (v) of this section.

(ii) The Commissioner increases awards to institutions whose students have suffered financial hardships as a

result of natural disasters within the preceding 12 months.

(iii) For award year 1979–80, if any funds remain, the Commissioner raises institutions up to their 1978–79 CWS expenditures if the current year award plus the State increase in paragraph (c)(2)(i) of this section is less than their 1978–79 expenditures.

(iv) If any funds remain, the Commissioner then increases awards to institutions whose awards are less than their national fair share determined under § 175.6. The Commissioner calculates each applicant's increase as follows:

Institution's remaining shortfall/remaining shortfall of all applicants for reallocation × remaining amount available for reallocation

(An institution's remaining shortfall is the difference between its national fair share (see § 175.6(g)(4)) and its award calculated in § 175.6 and this section through paragraph (c)(2)(iii).)

(v) If any funds still remain, the Commissioner reallocates the funds in a manner that best carries out the purposes of this part.

(d) *Payments to institutions.* The Commissioner allocates funds for a specific period of time. The Commissioner pays funds to an institution in advance or by reimbursement. The Commissioner bases the amount to be paid on periodic fiscal reports.

(42 U.S.C. 2756)

§ 175.6 Funding procedure.

(a) *General.* (1) Each institution applying for CWS funds receives an amount computed in the following three stages:

(i) A "conditional guarantee";

(ii) A State increase based on its "fair share" of the State apportionment; and

(iii) A national increase based on its "fair share" of the national appropriation.

(2) Definitions—As used in this section—

(i) "Base year" means the 12-month period ending on the June 30 preceding the closing date for filing a CWS application;

(ii) "Utilization rate" means:

an institution's base year CWS expenditures/ its CWS allocation for the base year

(iii) "Current year" is defined in § 175.4.

(b) *Conditional guarantee.* The Commissioner computes a conditional guarantee in the following way:

(1) An institution that participated in the CWS program in the base year receives a conditional guarantee equal to the greater of 90 percent of its—

(i) Base year expenditures; or

(ii) Current year allocation multiplied by its utilization rate.

(2) An institution applying to participate in the CWS program for the first time receives a conditional guarantee equal to the greater of—

(i) $5,000; or

(ii) 90 percent of the average CWS base year expenditure per student in eligible institutions offering comparable programs of instruction, multiplied by the applicant institution's base year enrollment.

(3) An institution applying to participate in the CWS program for the second time receives a conditional guarantee equal to the greater of—

(i) $5,000;

(ii) 90 percent of the average CWS base year expenditure per student in eligible institutions offering comparable programs of instruction, multiplied by the applicant institution's base year enrollment; or

(iii) 90 percent of its current year allocation.

(c) *Self-help need of an institution.* (1) The Commissioner allocates additional funds to an institution under paragraph (f) (State increase) and paragraph (g) (National increase) based in part on the institution's self-help need. Self-help need is the need for funds from work and loan sources. The institution's self-help need is the sum of the self-help need of its eligible graduate students and the self-help need of its eligible undergraduate students.

(2) The Commissioner calculates the self-help need of an institution's eligible graduate students in accordance with paragraph (d) of this section and the self-help need of its eligible undergraduate students in accordance with paragraph (e) of this section.

(3) As used in paragraphs (d) and (e) of this section:

(i) *Average cost of education* means the education costs for undergraduate and graduate students. These costs include tuition, fees, standard living expenses, books, and supplies. (The institution reports its total tuition and fee revenues, and the Commissioner uses this amount to determine the average cost of education.)

(ii) *Eligible students* means students who satisfy the eligibility requirements of § 175.9 (a)(1) through (a)(4).

(d) *Self-help need of eligible graduate students.* To determine the self-help need of an institution's eligible graduate students, the Commissioner—

(1) Establishes various income categories for dependent and independent graduate students;

(2) Establishes an expected family contribution (EFC) for each income category of dependent and independent graduate students, using a need analysis method approved under § 175.13;

(3) Determines the average cost of education for all graduate students;

(4) Subtracts from the average cost of education for all graduate students, the computed EFC for each income category of dependent students and each income category of independent students. However, the average cost of education minus the EFC for any income category may not be less than zero;

(5) Multiplies those amounts by the number of eligible students in each category;

(6) Adds the amounts obtained for each income category of dependent students and each income category of independent students; and

(7) Totals those two amounts.

The following charts show the income categories and calculations for eligible graduate students.

BILLING CODE 4110-02-M

DETERMINATION OF SELF-HELP NEED FOR ELIGIBLE DEPENDENT GRADUATE STUDENTS

1 INCOME	2 EFC	3 AVERAGE COST	4 AVG COST LESS EFC	5 NUMBER OF ELIGIBLE STUDENTS	6 SELF HELP NEED COL. 4 x COL. 5
$ 0 - $ 2,999					
$ 3,000 - $ 5,999					
$ 6,000 - $ 8,999					
$ 9,000 - $11,999					
$12,000 - $14,999					
$15,000 - $17,999					
$18,000 - $20,999					
$21,000 - $ 23,999					
$24,000 - $26,999					
$27,000 - $29,999					
$30,000 - $32,999					
$33,000 - $35,999					
$36,000 - $38,999					
$39,000 - $41,999					
$42,000 - $44,999					
$45,000 - Over					

7 TOTAL SELF-HELP NEED FOR DEPENDENT GRADUATE STUDENTS $ _____

DETERMINATION OF SELF-HELP NEED FOR ELIGIBLE INDEPENDENT GRADUATE STUDENTS

1 INCOME	2 EFC	3 AVERAGE COST	4 AVG COST LESS EFC	5 NUMBER OF ELIGIBLE STUDENTS	6 SELF HELP NEED COL. 4 x COL. 5
$ 0 - $ 999					
$ 1,000 - $ 1, 999					
$ 2,000 - $ 2,999					
$ 3,000 - $ 3,999					
$ 4,000 - $ 4,999					
$ 5,000 - $ 5,999					
$ 6,000 - $ 6,999					
$ 7,000 - $ 7,999					
$ 8,000 - $ 8,999					
$ 9,000 - $ 9,999					
$10,000 - $10,999					
$11,000 - $11,999					
$12,000 - $12,999					
$13,000 - $13,999					
$14,000 - $14,999					
$15,000 - Over					
7 TOTAL SELF-HELP NEED FOR INDEPENDENT GRADUATE STUDENTS					$ _____

SUMMARY

1 TOTAL SELF-HELP NEED FOR DEPENDENT GRADUATE STUDENTS	$ _____
2 TOTAL SELF-HELP NEED FOR INDEPENDENT GRADUATE STUDENTS	$ _____
3 TOTAL SELF-HELP NEED FOR ALL GRADUATE STUDENTS (1 + 2)	$ _____

BILLING CODE 4110-02-C

(e) *Self-help need of eligible undergraduate students.* To determine the self-help need of an institution's eligible undergraduate students, the Commissioner—

(1) Establishes various income categories for dependent and independent undergraduate students;

(2) Establishes an EFC for each income category of dependent and independent undergraduate students, using a need analysis method approved under § 175.13;

(3) Computes 30 percent of the average cost of education for all undergraduate students;

(4) Multiplies the number of eligible dependent students in each income category by the lesser of—

(i) 30 percent of the average cost of education for all undergraduate students; or

(ii) The average cost of education for all undergraduate students minus the EFC determined under paragraph (e)(2) of this section for that income category. However, the average cost of education minus the EFC may not be less than zero;

(5) Adds the amounts obtained for each income category of dependent students;

(6) Multiplies the number of eligible independent students in each income category by the lesser of—

(i) 30 percent of the average cost of education of all undergraduate students; or

(ii) The average cost of education for all undergraduate students minus the EFC determined under paragraph (e)(2) of this section for that income category. However, the average cost of education minus the EFC may not be less than zero;

(7) Adds the amounts obtained for each income category of independent students; and

(8) Adds the amounts obtained under paragraphs (e)(5) and (7) of this section.

The following charts show the income categories and calculations for eligible undergraduate students.

BILLING CODE 4110-02-M

DETERMINATION OF SELF-HELP NEED FOR ELIGIBLE DEPENDENT UNDERGRADUATE STUDENTS

1 INCOME	2 EFC	3 30% x AVERAGE COST	4 AVG COST LESS EFC	5 NUMBER OF ELIGIBLE STUDENTS	6 NEED: LESSER OF COL. 3 x COL. 5 or COL. 4 x COL. 5
$ 0 - $ 2,999					
$ 3,000 - $ 5,999					
$ 6,000 - $ 8,999					
$ 9,000 - $11, 999					
$12,000 - $14,999					
$15,000 - $17,999					
$18,000 - $20,999					
$21,000 - $23,999					
$24,000 - $26,999					
$27,000 - $29,999					
$30,000 - $32,999					
$33,000 - $35,999					
$36,000 - $38,999					
$39,000 - $41,999					
$42,000 - $44,999					
$45,000 - Over					

7 TOTAL SELF-HELP NEED FOR DEPENDENT UNDERGRADUATE STUDENTS $ _____

DETERMINATION OF SELF-HELP NEED FOR ELIGIBLE INDEPENDENT UNDERGRADUATE STUDENTS

1 INCOME	2 EFC	3 30% x AVERAGE COST	4 AVG COST LESS EFC	5 NUMBER OF ELIGIBLE STUDENTS	6 NEED: LESSER OF COL. 3 x COL. 5 or COL. 4 x COL. 5
$ 0 - $ 999					
$ 1,000 - $ 1,999					
$ 2,000 - $ 2,999					
$ 3,000 - $ 3,999					
$ 4,000 - $ 4,999					
$ 5,000 - $ 5,999					
$ 6,000 - $ 6,999					
$ 7,000 - $ 7,999					
$ 8,000 - $ 8,999					
$ 9,000 - $ 9,999					
$10,000 - $10,999					
$11,000 - $11,999					
$12,000 - $12,999					
$13,000 - $13,999					
$14,000 - $14,999					
$15,000 - Over					

7 TOTAL SELF-HELP NEED FOR INDEPENDENT UNDERGRADUATE STUDENTS $ _____

SUMMARY

1 TOTAL SELF-HELP NEED FOR DEPENDENT UNDERGRADUATE STUDENTS	$ _____
2 TOTAL SELF-HELP NEED FOR INDEPENDENT UNDERGRADUATE STUDENTS	$ _____
3 TOTAL SELF-HELP NEED FOR ALL UNDERGRADUATE STUDENTS (1 + 2)	$ _____

BILLING CODE 4110-02-C

(f) *State increase.* (1) For any year the Commissioner increases awards to institutions in a State ("State increase") if the combined conditional guarantees of all institutions in that State are less than the State's allotment under § 175.3.

(2) The Commissioner calculates an institution's State increase according to the following formula—

Institution's State increase=its State shortfall/State shortfalls of all institutions in State×CWS funds available for State shortfall

(3) As used in the formula in paragraph (f)(2) of this section—

(i) "CWS funds available for State shortfall" is calculated by subtracting from the State allotment, the conditional guarantees of all institutions in the State.

(ii) An institution's "State shortfall" is calculated by subtracting from an institution's State fair share its conditional guarantee.

(iii) An institution's "State fair share" is calculated as follows—

Institution's State fair share=its self-help need/self-help need of all institutions in the State applying for CWS funds × State allotment for CWS

(g) *National increase.* (1) For any year the Commissioner will further increase awards to institutions ("national increase") if the sum of the conditional guarantees and State increases awarded to institutions is less than the CWS appropriation for that year.

(2) The Commissioner calculates an institution's national increase according to the following formula—

Institution's national increase=its national shortfall/national shortfall of all institutions×CWS funds available for national shortfall

(3) As used in the formula in paragraph (g)(2) of this section—

(i) "CWS funds available for national shortfall" is calculated by subtracting from the CWS appropriation the conditional guarantees and State increases of all institutions.

(ii) An institution's national shortfall is calculated by subtracting from its "national fair share", its conditional guarantee and State increase.

(4) An institution's "national fair share" is calculated as follows—

Institution's national fair share=its self-help need/self-help need of all institutions applying for CWS×CWS appropriation

(h) No institution may receive more CWS funds than it requests.

(42 U.S.C. 2756)

PART 176—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

3. The following sections of Part 176 of Title 45 of the Code of Federal Regulations are amended to read as follows:

§ 176.4 Allocation, reallocation, and payment to institutions.

(a) *Definition.* As used in this section and in section 176.6, "current year" means the 12-month period ending on the June 30 immediately following the closing date for filing an SEOG application.

(b) *Allocation.* If funds available within a State are insufficient to honor all requests for funds by institutions in that State, the Commissioner distributes the funds as described in § 176.6.

(c) *Reallocation.* (1)(i) If an institution anticipates not using all its allocation for initial and continuing grants by the end of an award period, it must specify the anticipated unused amount to the Commissioner, who reduces the institution's allocation accordingly.

(ii) Other institutions may apply for those funds on the form and at the time specified by the Commissioner.

(iii) The Commissioner distributes those funds to applicant institutions in accordance with paragraph (c)(2) of this section.

(2)(i) If the funds that become available under paragraph (c)(1) of this section come from the State's initial allotment under § 176.3(a)(1), the Commissioner reallocates those funds equitably to other institutions in that State. The Commissioner reapportions those funds that are not needed to maintain the State's initial allotment, and any funds that do not come from that initial allotment, in accordance with paragraphs (c)(2) (ii), (iii), (iv), and (v) of this section.

(ii) The Commissioner increases awards to institutions whose students have suffered financial hardships as a result of natural disasters within the preceding 12 months.

(iii) For award year 1979–80, if any funds remain, the Commissioner raises institutions up to their 1978–79 SEOG expenditures if the current year award plus the State increase in paragraph (c)(2)(i) of this section is less than their 1978–79 expenditures.

(iv) If any funds remain, the Commissioner then increases awards to institutions whose awards are less than their national fair shares determined under § 176.6. The Commissioner calculates each applicant's increase as follows:

Institution's remaining shortfall/remaining shortfall of all applicants for reallocation×remaining amount available for reallocation

(An institution's remaining shortfall is the difference between its national fair share (see § 176.6 (f)(4) and (g)(4) and its award calculated in § 176.6 and this section through paragraph (c)(2)(iii))).

(v) If any funds still remain, the Commissioner reallocates the funds in a manner that best carries out the purposes of this part.

(d) *Payment to institutions.* The Commissioner allocates funds for initial and continuing year grants for a specific period of time. The Commissioner pays funds to an institution in advance or by reimbursement. The Commissioner bases the amount to be paid on periodic fiscal reports.

(20 U.S.C. 1070b–3.)

§ 176.6 Funding procedure.

(a) *General.* (1) Each institution applying for SEOG initial year (IY) or continuing year (CY) funds receives an amount computed in the following three stages:

(i) A "conditional guarantee";

(ii) An IY State increase based on its "fair share" of the State's IY apportionment; and

(iii) A national increase based on its "fair share" of the national appropriation.

(2) Definition—As used in this section—

(i) "Base year" means the 12-month period ending on the June 30 preceding the closing date for filing an SEOG application;

(ii) "Utilization rate" means:

An institution's base year SEOG expenditure/its SEOG allocation for the base year

(iii) "Current year" is defined in section 176.4.

(b) *Conditional guarantee.* The Commissioner provides each institution a conditional guarantee computed in the following way:

(1) An institution that participated in the SEOG program in the base year receives an SEOG conditional guarantee equal to—

(i) The greater of 90 percent of its—

(A) Base year IY SEOG expenditures; or

(B) Current year IY SEOG allocation×its utilization rate; Plus

(ii) The greater of 100 percent of its—

(A) Base year CY SEOG expenditures; or

(B) Current year CY SEOG allocation×its utilization rate.

(2) An institution applying to participate in the SEOG program for the

first time receives a conditional guarantee equal to the greater of—

(i) $5,000; or

(ii) (A) 90 percent of the average IY base year expenditure per student in eligible institutions offering comparable programs of instructions, multiplied by the applicant institution's base year enrollment; and

(B) 100 percent of the average CY base year expenditure per student in eligible institutions offering comparable programs of instruction, multiplied by the applicant institution's base year enrollment.

(3) An institution applying to participate in the SEOG program for the second time receives a conditional guarantee equal to the greater of—

(i) $5,000;

(ii) (A) 90 percent of the average IY base year expenditure per student in eligible institutions offering comparable programs of instruction, multiplied by the applicant institution's base year enrollment; and

(B) 100 percent of the average CY base year expenditure per student in eligible institutions offering comparable programs of instructions, multiplied by the applicant institution's base year enrollment; or

(iii) 90 percent of its current year IY allocation and 100 percent of its current year CY allocation.

(4) The Commissioner divides each institution's conditional guarantee between IY and CY funds based on the percentage that the institution's request for each type of grant bears to its total request.

(c) *SEOG need of an institution.* (1) The Commissioner allocates additional funds to an institution under paragraph (e) (IY State increase), paragraph (f) (IY national increase), and paragraph (g) (CY national increase) based in part on the institution's need for SEOG funds.

(2) The Commissioner computes an institution's need for IY and CY SEOG funds by the following formula: SEOG need=70% of cost of education − (Total expected family contribution+Basic Grant+State grant+50% of institutional grants).

(3) As used in paragraph (d) of this section:

(i) *Average cost of education* means the education costs for undergraduate students. These costs include tuition, fees, standard living expenses, books, and supplies. (The institution reports its total tuition and fee revenues, and the Commissioner uses this amount to determine the average cost of education.)

(ii) *Eligible students* means students who satisfy the eligibility requirements of § 176.9 (a)(1) through (a)(4).

(iii) *State grant* means the sum of all State grants and scholarships received by undergraduate students at an institution during the award year 1977–78.

(iv) *Institutional grants* means the sum of undergraduate gift aid included in determining the maintenance of effort amount under § 176.20 during the award year 1977–78.

(d) *SEOG need of eligible undergraduate students.* To determine the need for SEOG funds of an institution's eligible undergraduate students, the Commissioner—

(1) Establishes various income categories for dependent and independent undergraduate students;

(2) Establishes an EFC for each income category of dependent and independent undergraduate students, using a need analysis method approved under § 176.13;

(3) Determines 70 percent of the average cost of education;

(4) Subtracts from 70 percent of the average cost of education the computed EFC for each income category; (Seventy percent of the average cost of education minus EFC may not be less than zero.)

(5) Multiplies the remainder by the number of eligible students in that income category;

(6) Adds the amounts obtained in all categories;

(7) Subtracts from that sum all BEOGs received by students at that institution in the base year, all State grant aid, and 50 percent of all institutional grant aid; and

(8) Divides the institution's total SEOG need between IY and CY based on the percentage that the institution's request for each type of grant bears to its total request.

The following charts show the income categories and calculations.

BILLING CODE 4110-02-M

DETERMINATION OF SEOG NEED FOR ELIGIBLE DEPENDENT UNDERGRADUATE STUDENTS

1 INCOME	2 EFC	3 70% x COST	4 NEED COL. 3 LESS COL. 2	5 NUMBER OF ELIGIBLE STUDENTS	6 COL. 4 x COL. 5
$ 0 - $ 2,999					
$ 3,000 - $ 5,999					
$ 6,000 - $ 8,999					
$ 9,000 - $11, 999					
$12,000 - $14,999					
$15,000 - $17,999					
$18,000 - $20,999					
$21,000 - $23,999					
$24,000 - $26,999					
$27,000 - $29,999					
$30,000 - $32,999					
$33,000 - $35,999					
$36,000 - $38,999					
$39,000 - $41,999					
$42,000 - $44,999					
$45,000 - Over					
7 TOTAL FOR DEPENDENT UNDERGRADUATE STUDENTS					$ _____

DETERMINATION OF SEOG NEED FOR ELIGIBLE INDEPENDENT UNDERGRADUATE STUDENTS

1 INCOME	2 EFC	3 70% x COST	4 NEED COL. 3 LESS COL. 2	5 NUMBER OF ELIGIBLE STUDENTS	6 COL. 4 x COL. 5
$ 0 - $ 999					
$ 1,000 - $ 1, 999					
$ 2,000 - $ 2,999					
$ 3,000 - $ 3,999					
$ 4,000 - $ 4,999					
$ 5,000 - $ 5,999					
$ 6,000 - $ 6,999					
$ 7,000 - $ 7,999					
$ 8,000 - $ 8,999					
$ 9,000 - $ 9,999					
$10,000 - $10,999					
$11,000 - $11,999					
$12,000 - $12,999					
$13,000 - $13,999					
$14,000 - $14,999					
$15,000 - Over					
7 TOTAL FOR INDEPENDENT UNDERGRADUATE STUDENTS					$

SUMMARY AND CALCULATION OF SEOG NEED

1 TOTAL FOR DEPENDENT UNDERGRADUATE STUDENTS	$
2 TOTAL FOR INDEPENDENT UNDERGRADUATE STUDENTS	$
3 TOTAL FOR ALL UNDERGRADUATE STUDENTS (1 + 2)	$
4 ALL BEOG	$
5 ALL STATE GRANT AID	$
6 50% OF ALL INSTITUTIONAL GRANT AID	$
7 TOTAL OF ITEMS 4, 5, and 6	$
8 ITEM 3 (TOTAL ALL UNDERGRADUATE STUDENTS) LESS ITEM 7	
EQUALS TOTAL SEOG NEED	$

BILLING CODE 4110-02-C

(e) *IY State increase.*

(1) For any year the Commissioner increases IY awards to institutions in a State ("IY State increase") if the combined IY conditional guarantees of all institutions in that State are less than the State's IY apportionment under § 176.3(a).

(2) The Commissioner calculates an institution's IY State increase according to the following formula—

Institution's IY State increase=its IY State shortfall/IY State shortfalls of all institutions in the State × SEOG IY funds available for shortfall

(3) As used in the formula in paragraph (e) of this section—

(i) "SEOG IY funds available for State shortfall" is calculated by subtracting from the State IY apportionment; the IY conditional guarantees of all institutions in the State.

(ii) An institution's "IY State shortfall" is calculated by subtracting from an institution's IY State fair share its IY conditional guarantee.

(iii) An institution's "IY State fair share" is calculated as follows—

Institution's IY State fair share=its SEOG IY need/SEOG IY need of all institutions in the State applying for SEOG funds×State apportionment for SEOG IY

(f) *IY national increase.* (1) For any year the Commissioner will further increase IY awards to institutions ("IY national increase") if the sum of the IY conditional guarantees and IY State increases awarded to institutions is less than the SEOG IY appropriation for that year.

(2) The Commissioner calculates an institution's IY national increase according to the following formula—

Institution's IY national increase=its IY national shortfall IY national shortfall of all institutions × SEOG IY funds available for national shortfall

(3) As used in the formula in paragraph (f)(2) of this section—

(i) "SEOG IY funds available for national shortfall" is calculated by subtracting from the SEOG appropriation the IY conditional guarantees and State increases of all institutions.

(ii) An institution's "IY national shortfall" is calculated by subtracting from its "IY national fair share", its IY conditional guarantee and State increase.

(4) An institution's "IY national fair share" is calculated as follows:

Institution's IY national fair share=its SEOG IY need/SEOG IY need of all institutions applying for SEOG funds×SEOG IY appropriation

(g) *CY national increase.* (1) For any year the Commissioner will further increase awards to institutions ("CY national increase") if the sum of the CY conditional guarantees awarded to institutions is less than the SEOG CY appropriation for that year.

(2) The Commissioner calculates an institution's CY national increase according to the following formula—

Institution's CY national increase=its CY national shortfall CY national shortfall of all institutions×SEOG CY funds available for national shortfall

(3) As used in the formula in paragraph (g)(2) of this section—

(i) "SEOG CY funds available for national shortfall" is calculated by subtracting from the SEOG CY appropriation the CY conditional guarantees of all institutions.

(ii) An institution's "CY national shortfall" is calculated by subtracting from its "CY national fair share", its CY conditional guarantee.

(4) An institution's "CY national fair share" is calculated as follows:

Institution's CY national fair share=its SEOG CY need/SEOG CY need of all institutions applying for SEOG funds×SEOG CY appropriation

(h) No institution may receive more IY or CY SEOG funds than it requests.

(20 U.S.C. 1070b-3)

[FR Doc. 80-7634 Filed 3-12-80; 8:45 am]
BILLING CODE 4110-02-M

Federal Register

Thursday
March 13, 1980

Part III

Department of Transportation

Coast Guard

New and Existing Tank Barges; Prevention of Oil Pollution; Deferment in Proposed Rulemaking for National Academy of Sciences Study

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Ch. I, Subchapters D and O

[CGD 75-083 and CGD 75-083a]

New and Existing Tank Barges; Prevention of Oil Pollution

AGENCY: Coast Guard, DOT.

ACTION: Supplementary notice: Deferment in proposed rulemaking for National Academy of Sciences study.

SUMMARY: This notice informs the public of a deferment in the rulemaking process for dockets CGD 75-083 and CGD 75-083a. The proposals for improved construction standards for tank barges and the phase out of certain existing barges have resulted in the submission of sufficient testimony and evidence to raise significant questions as to such proposals and to warrant a carefully considered study by a recognized independent body. The National Academy of Sciences/National Research Council will conduct the study which will reexamine the entire tank barge issue and recommend various options to accomplish the Coast Guard's objective. The study will include a workshop structure to solicit information from interested organizations and individuals. This study will aid the Coast Guard in making further decisions on these dockets.

DATES: The National Academy of Sciences Study will be conducted between February, 1980 and January, 1981. A two day workshop will be held on April 15 and 16, 1980 from 8:30 am through 5:00 pm. Requests to attend the workshop must be received by March 21, 1980.

ADDRESSES: The two day workshop will be held in the Lecture Room at the National Academy of Sciences Bldg., 2101 Constitution Ave. NW, Washington, D.C. 20418. Requests to attend the workshop should be addressed to: Mr. Harvey C. Paige, Executive Secretary; Maritime Transportation Research Board (202-389-6440), National Academy of Sciences, 2101 Constitution Ave, NW, Washington, D.C. 20418.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Eugene K. Johnson, Merchant Marine Techincal Division (G-MMT-1/TP13) (202-426-4431) or Lieutenant Commander Kenneth A. Rock (G-MVI-2/TP24) (202-426-2183), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593.

SUPPLEMENTARY INFORMATION: Background: A Notice of Proposed Rulemaking to require double hull construction for all new tank barges designed to carry oil in bulk and an Advance Notice of Proposed Rulemaking proposing the phase out of certain existing tank barges were published in Part VI of the Federal Register on Thursday, June 14, 1979 (44 FR 34440). Public hearings were held in Washington, D.C.; Seattle, WA; New Orleans, LA; and St. Louis, MO. The comment period was scheduled to close on September 30, 1979 but was extended by a notice in the Federal Register (44 FR 64844) to December 1, 1979 due to the large number of comments received after the original closing date and the continued interest concerning both proposals.

Considerable information was received concerning the proposals, both at the public hearings and in the written comments. The sources of the majority of the comments can be categorized as follows: barge owners and operators; financial institutions; industry associations; States or State agencies; and Federal agencies.

The financial institutions have provided considerable insight as to the possible consequences of the early phase out of existing single hull tank barges. They pointed out that any early phase out would have disastrious effects on the ability of barge owners to secure financing for new construction which in turn might lead to the demise of many small companies.

The barge industry comments were overwhelmingly in opposition to the proposals. Two studies commissioned by the American Waterways Operators, Inc., a trade association, were submitted to support industry opposition to the proposals. These studies and the questions they raise are discussed below:

1. A study by Booz-Allen-Hamilton (BAH) presents the industry assessment of the costs of the proposals for both new and existing tank barges. The BAH study used a different methodology than the Coast Guard and used different projections of cost and number of affected barges. In general the BAH cost estimates greatly exceed Coast Guard estimates. Additional discussion of the economic effect is needed.

2. A study by E.G. Frankel Inc. contained some information on costs but mainly addressed the effectiveness of a double hull barge as compared with the effectiveness of a strengthened single hull barge. The Coast Guard has reviewed the Frankel study and has reservations about the methodology used and the assumptions made. The study and these questions need to be discussed and resolved. The alternative of requiring increased scantlings in lieu of double hulls was proposed by several commenters and is the only alternative to the double hull construction standard for new vessels received during the comment period.

The Coast Guard has undertaken a review of double hull effectiveness on double hull barges now in service. The results of this study need to be critically reviewed and technically appraised.

Finally, the detailed proposal to accelerate the normal attrition of existing single hulled barges was published as an Advance Notice of Proposed Rulemaking (CGD 75-083a) to stimulate public participation in finding an acceptable solution for existing tank barges. Resultant comments provided good insight into industry concerns; however, no viable alternatives were offered for existing barges. Comments varied from advocacy of more stringent phase out measures, to full support of the Coast Guard proposal, to total opposition of any phase out of existing tank barges. The entire concept of phasing out existing tank barges needs reexamination.

The National Academy of Sciences/National Research Council has the unique ability to call upon the intellectual resources of the nation to address problems of national importance. The National Research Council provides guidance for maritime transportation and marine transportation systems, including effects of such systems on the economy and society. The goal of that organization is to bring the tools of science and engineering to bear upon vital maritime issues.

The tank barge oil pollution problem is of national concern. The economic impact of any solution affects the general public. Because so many difficult and controversial issues are associated with the proposals in dockets CGD 75-083 and 75-083a, the Coast Guard requested the National Academy of Sciences to undertake a study. The National Academy of Sciences has agreed to study the tank barge oil pollution problem and recommend alternatives for solving the problem. In conducting this study experts from all affected sectors will be involved. It is anticipated that the controversial issues discussed above will be addressed during the study.

Agenda: As part of the National Academy of Sciences' study a two day workshop will be conducted on April 15 and 16, 1980. The workshop will be conducted with invited participants to identify various options for control of

pollution by tank barges and to examine the issues raised by each of the options. Proceedings will be published that will include a digest of discussion as well as the papers and results of the workshop. The proceedings will be published by the National Academy of Sciences in August, 1980. There will be a charge for that publication to cover the cost of printing.

The workshop will be open to the public but advance registration at the address given under ADDRESSES will be required. Advance registration is required so that the workshop can be organized and arrangements for suitable facilities made.

A committee, under the direction of the National Academy of Sciences, will be formed to organize the workshop and conduct the study. This committee will be composed of members who collectively have expertise in all areas of the problem. From the results of the workshop and other information, the committee will prepare a report discussing the options for reducing pollution from tank barges. The report will be issued as a National Academy of Sciences Report no later than the end of January, 1981 and will be made available to the public.

The Coast Guard will defer any further rulemaking on dockets CGD 75-083 and CGD 75-083a until the National Academy of Sciences Report is issued and considered. Accordingly, the dates contained in proposals CGD 75-083 and CGD 75-083a, published in the Federal Register (44 FR 34440) of June 14, 1979, are no longer valid. If the Coast Guard should pursue further action on these proposals, a new time table will have to be developed.

If there are any substantial changes to the study schedule detailed above, additional notices will be published in the Federal Register.

J. B. Hayes,

Admiral, U.S. Coast Guard, Commandant.

March 6, 1980.

[FR Doc. 80-7781 Filed 3-12-80; 8:45 am]

BILLING CODE 4910-14-M

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Federal Register

Vol. 45, No. 51

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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/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

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

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

ENERGY DEPARTMENT

9536 2-12-80 / Bidding systems for Outer Continental Shelf oil and gas leasing

9526 2-12-80 / Disposition of Federal Outer Continental Shelf royalty oil

Conservation and Solar Energy Office—

9542 2-12-80 / Electric and hybrid vehicle research, development and demonstration program performance standards for demonstrations

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

9261 2-12-80 / Calibration of hematocrit centrifuges and vacuum blood agitators

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 March 10, 1980

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: April 4 and 18; at 9 a.m. (identical sessions).

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202-523-5235. Gwendolyn Henderson, Assistant Coordinator, 202-523-5234.

MEMPHIS, TENN.

WHEN: March 25 at 1 p.m.

WHO: The Office of the Federal Register in cooperation with Memphis State University.

WHERE: Assembly Room, Richardson Towers, Memphis State University.

RESERVATIONS: Call Dr. Frank Lewis, 901-454-2829.

LOS ANGELES, CALIF.

WHEN: April 14, 15, and 16; at 9 a.m.

WHERE: Room 8544, Federal Building, 300 N. Los Angeles Street, Los Angeles, Calif.

RESERVATIONS: Call the Los Angeles Federal Information Center, 213-688-3800.