Vol.42—No.172
9–6–77
PAGES
44541–44799

federal register

TUESDAY, SEPTEMBER 6, 1977

highlights

CONTINUED INSIDE

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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

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Subscription problems (GPO)	202–275–3050
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	202–523–5022
Scheduling of documents for publication.	523–5220
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5286
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227

PRESIDENTIAL PAPERS:

Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235

PUBLIC LAWS:

Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

contents

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

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

5 CFR

213 (6 documents) 44541, 44542

7 CFR

1260 44542
1804 44669
1809 44669
1821 44669
1822 44669
1821 (2 documents) 44669, 44692
1832 44669
1841 44717
1843 44717
1861 (3 documents) 44669, 44692, 44696
1864 44696
1866 44696
1867 55669
1871 44696
1872 (2 documents) 44669, 44696
1888 44669
1904 44669
1921 44692
1930 44696
1955 44715
1980 44717
2852 44542

10 CFR

PROPOSED RULES:

211 44551

14 CFR

71 (2 documents) 44542, 44543
75 44543
223 44544

PROPOSED RULES:

71 (3 documents) 44556, 44557
75 44557

17 CFR

PROPOSED RULES:

1 44742
166 44742

18 CFR

PROPOSED RULES:

2 44558

20 CFR

702 44544

PROPOSED RULES:

405 44558

21 CFR

5 44544
176 44544
178 44544
444 44544

24 CFR

890 44548
1917 (2 documents) 44662, 44663

PROPOSED RULES:

1917 (2 documents) 44665

27 CFR

170 44757
173 44758
186 44758
194 44758
201 44759
250 44772
251 44772
252 44772

33 CFR

PROPOSED RULES:

117 44560

40 CFR

60 44544
61 44544

PROPOSED RULES:

52 44561
130 44561
131 44561

43 CFR

3520 44545

47 CFR

73 44545
76 44545
89 44546
91 (2 documents) 44546
93 44546
94 44546

PROPOSED RULES:

89 44561
91 44561
93 44561

49 CFR

1033 44546

50 CFR

32 44547
611 44547

CUMULATIVE LIST OF PARTS AFFECTED DURING SEPTEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.

1 CFR

Ch. I 43959

3 CFR

PROCLAMATIONS:

4518 44211

MEMORANDUM:

August 2, 1977 43957

5 CFR

213 ..... 44233, 44541, 44542

7 CFR

701 44213
908 43959
910 44213
917 ..... 43960, 44214
1260 44542
1438 43961
1804 44669
1809 44669
1821 44669
1822 43964
1831 ..... 44669, 44692
1832 44669
1841 44717
1843 44717
1861 ..... 44669, 44692, 44696
1864 44696
1866 44696
1867 44669
1871 44696
1872 ..... 44669, 44696
1888 ..... 43964, 44669
1904 44669
1921 44692
1930 44696
1955 44715
1980 44717
2852 44715

PROPOSED RULES:

948 44242
980 44242
1133 44243
1822 43980

9 CFR

73 44214
78 44215
318 44217

PROPOSED RULES:

447 43982

10 CFR

20 43965
32 43965
70 (2 documents) 43966
73 43966
150 43966
211 44218

PROPOSED RULES:

40 43983
73 43984
205 44244
211 44551
430 44246

12 CFR

PROPOSED RULES:

308 43984

14 CFR

39 ..... 43967, 43969
71 ..... 43969–43971, 44542, 44543
75 ..... 43971, 44543
121 43973
223 44544

PROPOSED RULES:

21 43985
23 44204
25 44204
27 44204
29 44204
39 ..... 43988, 43989
71 ..... 43990, 43991, 44556, 44557
75 ..... 43990, 44557
91 44204

16 CFR

1 43973
4 43974
1145 44192
1303 44193
1500 44201

PROPOSED RULES:

1500 44160

17 CFR

PROPOSED RULES:

1 44742
166 44742

18 CFR

PROPOSED RULES:

2 44558

PROPOSED RULES:

405 44558

19 CFR

PROPOSED RULES:

134 44246

20 CFR

405 44219
416 44221
702 44544

PROPOSED RULES:

405 44558

21 CFR

5 ..... 44221, 44544
175 44222
176 44544
178 ..... 44222, 44544
430 44223
432 44225
436 44223
444 44544
455 44224
510 44225
520 44226
546 44227
570 44227
640 44228
1010 44228
1020 44230

PROPOSED RULES:

145 44247
150 44247
172 44247
180 44247

21 CFR—Continued

PROPOSED RULES—Continued

189 44247
310 44247
430 44247
510 44247
589 44247
700 44247

24 CFR

890 44548
1912 43975
1915 44234
1917 ..... 44662, 44663
1920 44368–44372

PROPOSED RULES:

1917 ..... 44148–44157, 44665

25 CFR

261 43976

26 CFR

54 44388
141 44394

PROPOSED RULES:

54 44396

27 CFR

170 44757
173 44758
186 44758
194 44758
201 44759
250 44772
251 44772
252 44772

28 CFR

2 44234

29 CFR

2550 44384

33 CFR

PROPOSED RULES:

117 44560

37 CFR

PROPOSED RULES:

201 44247

40 CFR

52 ..... 44234, 44235
60 44544
61 44544
162 44170

PROPOSED RULES:

52 44561
130 44561
131 44561
162 ..... 44174, 44176, 44189

41 CFR

4-4 44236

43 CFR

3520 44545

45 CFR

201 43977
205 43977

45 CFR—Continued

249 43977
250 43977
252 43977

PROPOSED RULES:

166 44406

47 CFR

73 44545
76 44545
89 44546
91 44546
93 44546
94 44546

47 CFR—Continued

PROPOSED RULES:

73 43992
89 44561
91 44561
93 44561

49 CFR

1033 44546
1307 44236
1310 44236

PROPOSED RULES:

172 43993
173 43993
174 43993
175 43993

49 CFR—Continued

PROPOSED RULES—Continued

176 43993
179 43993
1003 44249

50 CFR

26 44241
32 ..... 43977, 43978, 44547
33 43979
611 44547

PROPOSED RULES:

17 43995
26 44250
259 43997

FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

Pages	*Date*
43957–44209	Sept. 1
44211–44540	2
44541–44799	6

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

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.

rules and regulations

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Confidential Assistant to the Special Assistant to the Secretary for Civil Rights is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 6, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3316(q) (8) is added as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(q) *Office of the Special Assistant to the Secretary for Civil Rights.* * * *

(8) One Confidential Assistant to the Special Assistant.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25899 Filed 9-2-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The following positions are excepted under Schedule C: (1) the position of Special Assistant to the Under Secretary because it is confidential in nature; and (2) the position of Deputy Director, Office of Special Projects, Economic Development Administration because it is confidential in nature and because the incumbent will participate in policy development and execution.

EFFECTIVE DATE: September 6, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3314(a) (3) is amended and (q) (14) is added as set out below:

§ 213.3314 Department of Commerce.

(a) *Office of the Secretary.* * * *

(3) One Confidential Assistant, one Special Assistant, and two Private Secretaries to the Under Secretary.

* * * * * *

(q) *Office of the Assistant Secretary for Economic Development.* * * *

(14) Deputy Director, Office of Special Projects.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25900 Filed 9-2-77;8:45 am]

PART 213—EXCEPTED SERVICE

Federal Energy Administration

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: This amendment changes the title of an existing Schedule C position from Staff Assistant, Congressional Affairs, to Staff Assistant to the Special Assistant, Congressional Affairs, to reflect the position's current supervisor.

EFFECTIVE DATE: September 6, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3388(q) (2) and (3) are amended to read as follows:

§ 213.3388 Federal Energy Administration.

* * * * *

(q) *Office of the Associate Administrator for Congressional and Intergovernmental Affairs.* * * *

(2) Two Staff Assistants, Congressional Affairs.

(3) Five Staff Assistants to the Special Assistant, Congressional Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25901 Filed 9-2-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Agriculture

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: The position of Staff Assistant to the Secretary is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 6, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3313(a) (40) is added as set out below:

§ 213.3313 Department of Agriculture.

(a) *Office of the Secretary.* * * *

(40) One Staff Assistant to the Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25902 Filed 9-2-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Treasury

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Assistant to the Treasurer of the United States is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 6, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3305(a) (75) is added as set out below:

§ 213.3305 Department of the Treasury.

(a) *Office of the Secretary.* * * *

(75) One Assistant to the Treasurer of the United States.

(5 U.S. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25903 Filed 9-2-77;8:45 am]

PART 213—EXCEPTED SERVICE

Federal Energy Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The purposes of this amendment are as follows: To change the name of an existing organization from Office of the Deputy Administrator to Office of the Deputy Administrator (Policy) so that its function is more accurately described; to change the title of two existing Schedule C positions to reflect this latter organizational redesignation, specifically, from Staff Assistant to the Deputy Administrator to Staff Assistant to the Deputy Administrator (Policy) and from Special Assistant to the Deputy Administrator to Special Assistant to the Deputy Administrator (Policy), and; to except the position of Staff Assistant to the Deputy Administrator (Policy) from the competitive service under Schedule G because it is confidential in nature.

EFFECTIVE DATE: September 6, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3388 (b), (b) (1) and (b) (3) are amended to read as follows:

§ 213.3388 Federal Energy Administration.

* * * * * *

(b) *Office of the Deputy Administrator (Policy).*

(1) Two Staff Assistants to the Deputy Administrator (Policy).

* * * * *

(3) One Special Assistant to the Deputy Administrator (Policy).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25904 Filed 9-2-77;8:45 am]

Title 7—Agriculture

CHAPTER XI—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS: MISCELLANEOUS COMMODITIES), DEPARTMENT OF AGRICULTURE

[Docket No. BRIA-1]

PART 1260—BEEF RESEARCH AND INFORMATION

Subpart—Beef Research and Information Order

Correction

In FR Doc. 77-24852, appearing at page 43053 in the issue for Tuesday, August 26, 1977 the following correction should be made:

On page 43054, under the heading of "Supplementary Information", the last sentence should read, "Therefore, the order published on April 15, adding Subpart—Beef Research and Information Order to 7 CFR Part 1260 shall not become effective and this proceeding is terminated."

CHAPTER XXVIII—FOOD SAFETY AND QUALITY SERVICE, DEPARTMENT OF AGRICULTURE

PART 2852—PROCESSED FRUITS, VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

U.S. Standards for Grades of Canned Ripe Olives; Correction

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Correction.

SUMMARY: This document corrects numerical errors in a final rule that appeared at page 38585 in the FEDERAL REGISTER of Friday, July 29, 1977 (FR Doc. 77-21339).

FOR FURTHER INFORMATION CONTACT:

Dale C. Dunham, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-4693).

SUPPLEMENTARY INFORMATION: 1. In Table I of § 2852.3754, printed at page 38587 of the FEDERAL REGISTER of July 29, 1977, the count per pound range of medium size olives was printed in error. Change the count range to read: "80-105."

2. In Table III, Acceptance Values of Drained Weights (Ounces), of § 2852.-3755, printed at page 38590, change the "X_d" value for a number 300 size Broken Pitted to read 5.6 and the "LL" value for a number 10 size Broken Pitted to read 48.8.

3. In Table III, Acceptance Values for Drained Weights (Grams), printed at page 38591, change the "X_d" value for number 300 size Broken Pitted to read 158.8 and the "LL" value for a number 10 size Broken Pitted to read 1383.4.

Dated: August 31, 1977.

ROBERT ANGELOTTI,
Administrator.

[FR Doc.77-25927 Filed 9-2-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 77-WE-22]

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

Alteration of Control Zone, Needles, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the effective hours of operation of the Needles, Calif. control zone to coincide with the hours of operation of the Needles Flight Service Station (FSS) which were reduced from continuous to 0800 to 1600 local time, daily. This reduces the availability of special weather observations accordingly and necessitates the change in the control zone hours hours of operation to conform to the Needles FSS hours of operation and will make additional airspace available without due restrictions.

EFFECTIVE DATE: October 6, 1977.

ADDRESS: Copies of this final rule may be obtained from: Federal Aviation Administration, Air Traffic Division, Chief, Airspace and Procedures Branch, AWE-530, 15000 Aviation Boulevard, Lawndale, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, Calif. 90261, Telephone: 213-536-6182.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the designation of the Needles, Calif. Control Zone from a continuous to a parttime control zone. The Needles, Calif. Flight Service Station will reduce its hours of operation effective October 8, 1977. This action removes the availability of weather and communications which are mandatory requirements for the operation of a control zone. Therefore, this action is necessary in order to have the control zone effective during the hours of operation of the Needles Flight Service Station. The control zone will be effective during the specific dates and times established in advance by a Notice to Airman. The effective dates and times will thereafter be continuously published in the Airman's Information Manual.

The aforementioned action will reduce the constraints and, in effect, the impact on the user imposed by control zone operation. Consequently, we have elected to omit circularization of the change for comment.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division and DeWitte T. Lawson, Jr., Esquire, Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, October 6, 1977, as hereinafter set forth.

In Subpart F, § 71.171 (42 FR 355) the Needles, Calif. control zone is amended by adding the following:

This control zone is effective during specific dates and times established in advance by a Notice to Airman. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

This amendment is issued under the authority of section 307(a) of the Fed-

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

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

Issued in Los Angeles, Calif. on August 25, 1977.

HERMAN C. BLISS,
Acting Deputy Director,
Western Region.

[FR Doc.77-25783 Filed 9-2-77;8:45 am]

[Airspace Docket No. 77-WE-16]

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

Designation of Transition Area; Klamath, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates a transition area at Klamath, Calif., to provide controlled airspace for aircraft desiring radar services transiting the area. Radar service will be available utilizing the Klamath, Calif. radar.

EFFECTIVE DATE: December 1, 1977.

ADDRESS: Copies of this final rule may be obtained from: Federal Aviation Administration, Air Traffic Division, Chief, Airspace and Procedures Branch, 15000 Aviation Boulevard, Lawndale, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, Calif. 90261, Telephone: 213-536-6182.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to designate a transition area at Klamath, Calif.

On July 18, 1977, a Notice of Proposed Rulemaking (NPRM) was published in the FEDERAL REGISTER (42 FR 36844) stating that the Federal Aviation Administration proposed to designate a transition area at Klamath, Calif., to provide controlled airspace for aircraft operating within the area and for aircraft desiring radar service transiting the airspace.

Interested persons were afforded an opportunity to participate in the rulemaking through submission of comments. All comments received were favorable.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division and DeWitte T. Lawson, Jr., Equire, Regional Counsel.

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) is amended, effective 0901 G.m.t., December 1, 1977.

§ 71.181 [Amended]

1. By amending § 71.181 (42 FR 440) of Part 71 of the Federal Aviation Regulations by designating a new transition area as follows:

KLAMATH, CALIF.

That airspace extending upward from 2,000 feet above the surface bounded on the north by V-122, on the east by V-23W and V-23, the south by V-195 and on the west by V-27, excluding the airspace within federal airways and Red Bluff, Arcata and Crescent City, Calif. Transition Areas.

This amendment is issued under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

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

Issued in Los Angeles, Calif., on August 25, 1977.

HERMAN C. BLISS,
Acting Deputy Director,
Western Region.

[FR Doc.77-25782 Filed 9-2-77;8:45 am]

[Airspace Docket No. 76-SO-64]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will realign the present high altitude jet routes overlying Memphis, Tenn., commensurate with the relocation of the Memphis, Tenn., VOR/DME at Lat. 35°03'45" N., Long. 89°58'53" W. This facility relocation is part of an overall plan to improve and upgrade the air traffic capabilities in and around the Memphis, Tenn., International Airport area.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. David F. Solomon, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: 202-426-8530.

SUPPLEMENTARY INFORMATION:

HISTORY

On August 12, 1976, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign the high altitude jet routes presently overlying Memphis, Tenn., commensurate with the relocation of the Memphis VOR/DME (41 FR 34077). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. One comment was received with no objections. Section 75.100 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 707).

THE RULE

This amendment to Part 75 of the Federal Aviation Regulations (FARs) realigns the high altitude jet route structure overlying Memphis, Tenn., commensurate with the relocation of the Memphis VOR/DME. This action will improve the air traffic capabilities in the Memphis area.

DRAFTING INFORMATION

The principal authors of this document are Mr. David F. Solomon, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished and amended (42 FR 707 and 55863) is amended, effective 0901 G.m.t., December 1, 1977, as follows:

1. In Jet Route No. 41 "INT Birmingham 300° and Memphis, Tenn., 113° radials; Memphis;" is deleted and "Memphis, Tenn.;" is substituted therefor.

2. In Jet Route No. 66 "INT Memphis 096° and Rome, Ga., 286° radials; to Rome." is deleted and "to Rome, Ga." is substituted therefor.

3. Realign Jet Route J-29, J-35, J-42, J-71 and J-118 via the (relocated) Memphis, Tenn., VOR/DME.

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

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

Issued in Washington, D.C., on August 26, 1977.

EDWARD J. MALO,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc.77-25654 Filed 9-2-77;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-1021, Amdt. 2]

PART 223—FREE AND REDUCED-RATE TRANSPORTATION

Approval by Comptroller General

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice of approval by the Comptroller General of the reporting requirements contained in a regulation concerning free and reduced-rate transportation. This approval is required by the Federal Reports Act, and was transmitted to the Civil Aeronautics Board by letter dated August 25, 1977.

DATES: Effective: August 29, 1977. Adopted: August 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5270).

Accordingly, the Civil Aeronautics Board amends Part 223 of its Economic Regulations (14 CFR Part 223) by adding the following note at the end of Part 223:

NOTE.—The reporting requirements contained in §§ 223.2(c), 223.2(f) (7) & (8), 223.6, 223.7 and 223.8 have been approved by the U.S. General Accounting Office under Number B-180226 (R0069).

This amendment is issued by the undersigned pusuant to the delegation of authority from the Board to the Secretary in 14 CFR 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; U.S.C. 1324.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-25788 Filed 9-2-77;8:45 am]

Title 20—Employees' Benefits

CHAPTER VI—EMPLOYMENT STANDARDS ADMINISTRATION, DEPARTMENT OF LABOR

SUBCHAPTER A—LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT AND RELATED STATUTES

PART 702—ADMINISTRATION AND PROCEDURES

Referral of Claims Under Longshoremen's Act for Formal Hearings and Approval of Fees for Legal Services Rendered Claimants

Correction

In FR Doc. 77-24404 appearing as Part VII at page 42547 in the issue for Tuesday, August 23, 1977, the following corrections should be made.

1. On line 9 of the summary paragraph in the first column of page 42548, the word, "claimants", should read, "claims".

2. On lines 7 and 8 of the supplementary information paragraph in the same column, the citation, "(66 D.C. Code 501-502)", should read, "(36 D.C. Code 501-502)".

3. The section No. in the second column of page 42548, now reading, "§ 702.-32", should read, "§ 702.132".

4. In the same column, in line 27 of § 702.132, the word "necessary" should read "unnecessary".

5. The second to the last line of the footnote at the bottom of the same column, now reading, "this rule and Department acquiesces in all", should read, "this rule the Department acquiesces in all".

6. Footnote 5 at the bottom of the third column on page 42550, now reading, "Ch. 255, § 5, 17 Stat. 196, 197 (1972)." should read, "Ch. 255, § 5, 17 Stat. 196, 197 (1872).".

7. Footnote 6 on the same page, now reading, "See generally Wayma v. Southard, 23 U.S. 1 (1825).", should read, "*See generally Wayman* v. *Southard,* 23 U.S. 1 (1825).".

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

Subpart C—Organization

HEADQUARTERS

Correction

In FR Doc. 77-19102 appearing at page 35151 in the issue for Friday, July 8, 1977 in the list for § 5.100, the third line under "Bureau of Drugs" now reading "Associate Director for Monographs Drug" should read "Associate Director for Drug Monographs".

[Docket Nos. 75F-0041; 76F-0457]

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

Guar Gum Modified

Correction

In FR Doc. 77-21244 appearing at page 37973 in the issue for Tuesday, July 26, 1977, make the following corrections:

(1) At the bottom of the third column on page 37973, the section heading now numbered "§ 172.170" should have read "§ 176.170".

(2) On page 37974, in the table at the top of the page, first column, in the 7th line, "1 pct by weight" should have been written out as follows: "1-percent-by-weight"; in the 8th line, "cp" should have been written "centipoises", and in the last line, "20 r/min." should have read "20 r.p.m.".

[Docket No. 76F-0342]

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

Subpart B—Substances Utilized To Control the Growth of Microorganisms

SANITIZING SOLUTIONS

Correction

In FR Doc. 77-21241 appearing at page 37974 in the issue for Tuesday, July 26, 1977, in § 178.1010(b)(16), in the last line of the second column of the page, "* * * droxypoly * * *" should have read "* * * hydroxypoly * * *".

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 77N-0062; DESI 10106]

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

Certain Antibiotic—Containing Opthalmic Combination Drugs; Effective Date of Order Revoking Provisions for Certification

Correction

In FR Doc. 77-21245 appearing at page 37974 in the issue for Tuesday, July 26, 1977, in the first column of page 37975 under "Supplementary Information" in the 5th line, "1481.15" (referred to twice) should have read "1481.15".

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 784-7]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Delegation of Authority; New Source Review; State of Montana

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule will change the address to which reports and applications must be sent by operators of new sources in the State of Montana. The address change is the result of delegation of authority to the State of Montana for New Source Performance Standards (40 CFR Part 60) and National Emissions Standards for Hazardous Air Pollutants (40 CFR Part 61).

ADDRESS: Any questions or comments should be sent to Director, Enforcement Division, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colo. 80295.

FOR FURTHER INFORMATION CONTACT:

Mr. Irwin L. Dickstein, 303-837-3868.

SUPPLEMENTARY INFORMATION: The amendments below institute certain address changes for reports and applications required from operators of new sources. EPA has delegated to the State of Montana authority to review new and modified sources. The delegated authority includes the review under 40 CFR Part 60 for the standards of performance for new stationary sources and review under 40 CFR Part 61 for national emission standards for hazardous air pollutants.

A Notice announcing the delegation of authority is published today in the FEDERAL REGISTER (42 FR. 44573). The amendments provide that all reports, requests, applications, submittals, and communications previously required for the delegated reviews will now be sent to the Montana Department of Health and En-

vironmental Sciences instead of EPA's Region VIII.

The Regional Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective on May 18, 1977, and it serves no purpose to delay the technical change of this addition of the State address to the Code of Federal Regulations.

This rulemaking is effective immediately, and is issued under the authority of sections 111 and 112 of the Clean Air Act, as amended, 42 U.S.C. 1857, 1857c-5, 6, 7 and 1857g.

Dated: August 17, 1977.

JOHN A. GREEN,
Regional Administrator.

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

1. In § 60.4 paragraph (b) is amended by revising subparagraph (BB) to read as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(BB) State of Montana, Department of Health and Environmental Services, Cogswell Building, Helena, Mont. 59601.

* * * * *

Part 61 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

2. In § 61.04 paragraph (b) is amended by revising subparagraph (BB) to read as follows:

§ 61.04 Address.

* * * * *

(b) * * *

(BB) State of Montana, Department of Health and Environmental Sciences, Cogswell Building, Helena, Mont. 59601.

[FR Doc.77-25827 Filed 9-2-77;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

SUBCHAPTER C—MINERALS MANAGEMENT (3000)

[Circular No. 2425]

PART 3520—PREFERENCE RIGHT AND COMPETITIVE LEASES

Coal Leases; Diligent Development and Continued Operation: Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

SUMMARY: This notice corrects an error in a section of an earlier rule change. The rulemaking is not changed except as to form.

DATE: Effective September 6, 1977.

ADDRESS: Director (210), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Billy R. Templeton, 202-343-8735.

SUPPLEMENTARY INFORMATION: Final rulemaking regarding diligent development and continued operation on coal leases was published on December 29, 1976, on pages 56643 through 56646. The format of Item 7, used to set out amendments to 43 CFR 3523.2-1, was incorrect. The rules are unchanged. The amendatory language in Item 7 of F.R. Doc. 76-38174, beginning at the bottom of the left hand column of page 56646 of the FEDERAL REGISTER of December 29, 1976, is corrected as set forth below.

"7. 43 CFR 3523.2-1(b)(1) (ii) and (iii) are revised to read as follows."

GARY J. WICKS,
Deputy Assistant Secretary of the Interior.

AUGUST 25, 1977.

[FR Doc.77-25760 Filed 9-2-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20065, RM-2224]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Hay Springs-Scottsbluff, Nebr.

Changes Made in Table of Assignments

Correction

In FR Doc. 77-23456 appearing at page 41123 in the issue for Monday, August 15, 1977, the following corrections should be made.

1. The Docket No. should read as set forth above.

2. On page 41127, first column, in the second line of the table for § 73.606, the Channel No. for Santa Anna, Calif. should be added as follows: "40, * 50-".

[Docket No. 20765]

PART 76—CABLE TELEVISION SERVICE

Modification of Certain Technical Standards for Cable Television Systems; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Correcting Report and Order published in the FEDERAL REGISTER at 42 FR 21779, April 29, 1977.

EFFECTIVE DATE: June 6, 1877.

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

FOR FURTHER INFORMATION CONTACT:

Robert S. Powers, Research Division, Cable Television Bureau, 202-632-9797.

SUPPLEMENTARY INFORMATION:

Released: August 19, 1977.

In the matter of amendment of Part 76 of the Commission's Rules to Modify Certain Technical Standards for Cable Television Systems, Docket 20765.

In the "Report and Order" in the above entitled matter, FCC 77-276, adopted April 20, 1977, released April 28, 1977, and published in the FEDERAL REGISTER at 42 FR 21779, Instruction 1 on page 21782, through the words "is revised as follows", is corrected to read as follows:

1. In § 76.601, paragraph (b) is amended by replacing the words "community unit" by the words "cable television system"; paragraph (d) is amended by replacing the words "community unit" by the word "system"; paragraph (e) is deleted and marked (Reserved); the Note following paragraph (e) is moved to the end of § 76.601 and is amended by replacing the words "community units" by the words "cable television systems"; paragraph (f) is revised by replacing the words "paragraphs (b), (c), and (e) of this section" by the words "paragraphs (b) and (c) of this section"; and paragraph (c) is revised as follows:

* * * * *

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-25886 Filed 9-2-77;8:45 am]

[FCC 77-522]

TRANSMITTER IDENTIFICATION CARD AND NOTIFICATION OF COMPLETION OF RADIO STATION CONSTRUCTION

Elimination

AGENCY: Federal Communications Commission.

ACTION: Order amending rules.

SUMMARY: This document eliminates the use of FCC Form 456 (Notification of Completion of Radio Station Construction) and Form 452-C (Transmitter Identification Card). This amendment is procedural in nature and will remove unnecessary requirements.

EFFECTIVE DATE: September 9, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Mr. Eugene C. Bowler or Mr. James E. McNally, Jr., at 202-632-6497, Safety and Special Radio Services Bureau.

SUPPLEMENTARY INFORMATION:

Adopted: July 21, 1977.

Released: August 30, 1977.

Order. In the matter of amendment of Parts 89, 91, 93, and 94 to eliminate the use of FCC Form 452–C (transmitter identification card) and FCC Form 456 (Notice of Radio Station Construction).

1. In accordance with our on-going program of simplifying our rules and to remove unnecessary requirements, we have adopted the following two rule changes in the Public Safety, Industrial Land Transportation and Private Operational Fixed Microwave Service.

2. The Commission's action amending its Safety and Special Radio Services Bureau's rules several years ago eliminated the two step procedure of application for a construction permit and an application for authorization. We are consequently deleting all references to this requirement and to the use of FCC Form 456 from Parts 89, 91, 93, and 94 of the rules.

3. Second, after weighing the benefits derived against the difficulties of compliance, the Commission has concluded that retention of the FCC Form 452–C requirement is no longer necessary to our enforcement activities and we are deleting it.

4. Since the adopted changes are procedural in nature, and relax existing rule requirements, compliance with the prior notice and procedure prescribed by section 4(a) of the Administrative Procedure Act, 5 U.S.C. section 553, is not required.

5. For the foregoing reasons, the Commission has concluded that the public interest will be served by adopting these rule amendments: *Accordingly, it is ordered,* Pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, that Parts 89, 91, 93, and 94 of the Commission's rules are amended, effective September 9, 1977, as set forth below.

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

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Parts 89, 91, 93, and 94 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 89—PUBLIC SAFETY RADIO SERVICES

§ 89.53 [Deleted]

1. Section 89.53 is deleted.

§ 89.59 [Amended]

2. In § 89.59, paragraph (f) is deleted and reserved.

3. In § 89.167, the headnote and text are amended to read as follows:

§ 89.167 Posting station licenses.

(a) The current authorization, or a clearly legible photocopy thereof, for each base or fixed station at a fixed location, shall be posted at the principal control point of the station, and a photocopy of such authorization shall also be posted at all other control points. If a photocopy of the authorization is posted at the principal control point, the location of the original shall be stated on that photocopy.

(b) The current authorization for each mobile station and each base or fixed station authorized to be operated at temporary locations shall be retained as a permanent part of the station records, but need not be posted.

PART 91—INDUSTRIAL RADIO SERVICES

§ 91.52 [Deleted]

4. Section 91.52 is deleted.

§ 91.56 [Amended]

5. In § 91.56, paragraph (f) is deleted and reserved.

6. Section 91.156, headnote and text are amended to read as follows:

§ 91.156 Posting station licenses.

(a) The current authorization, or a clearly legible photocopy thereof, for each base or fixed station at a fixed location, shall be posted at the principal control point of the station, and a photocopy of such authorization shall also be posted at all other control points. If a photocopy of the authorization is posted at the principal control point, the location of the original shall be stated on that photocopy.

(b) The current authorization for each mobile station and each base or fixed station authorized to be operated at temporary locations shall be retained as a permanent part of the station records, but need not be posted.

PART 93—LAND TRANSPORTATION RADIO SERVICES

§ 93.52 [Deleted]

7. Section 93.52 is deleted.

§ 93.56 [Amended]

8. In § 93.56, paragraph (e) is deleted and reserved.

* * * * *

9. Section 93.156, headnote and text are amended to read as follows:

§ 93.156 Posting station licenses.

(a) The current authorization, or a clearly legible photocopy thereof, for each base or fixed station at a fixed location, shall be posted at the principal control point of the station, and a photocopy of such authorization shall also be posted at all other control points. If a photocopy of the authorization is posted at the principal control point, the location of the original shall be stated on that photocopy.

(b) The current authorization for each mobile station and each base or fixed station authorized to be operated at temporary locations shall be retained as a permanent part of the station records, but need not be posted.

PART 94—PRIVATE OPERATIONAL-FIXED MICROWAVE SERVICE

§ 94.27 [Amended]

10. In § 94.27, paragraph (e) is deleted and reserved.

[FR Doc.77-25865 Filed 9-2-77;8:45 am]

PART 91—INDUSTRIAL RADIO SERVICES

Modifying Type Acceptance Requirements for Transmitters in Industrial Radiolocation Service

Correction

In the paragraph numbered 2. above 42343 in the issue for Tuesday, August 23, 1977, the following correction should be made:

In the paragraph numbered 2. above § 91.604 (a) and (b), in the second column on page 42343, line 5 now reading, "and 23,000–24,500 MHz and to show the", should read, "and 23,000–24,250 MHz and to show the".

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. No. 1240, Amdt. 3]

PART 1033—CAR SERVICE

Chicago and North Western Transportation Co. Authorized To Operate Over Tracks of Kansas City Southern Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 3 to Service Order No. 1240).

SUMMARY: Because of increased traffic, the Chicago and North Western Transportation Company's yard at Kansas City, Missouri, is no longer adequate to its needs. The adjacent Henning Street yard is no longer used by its owner, the Kansas City Southern Railway Co., and has been leased to the Chicago and North Western. Service Order No. 1240 authorizes the Chicago and North Western to use the Henning Street yard to relieve congestion in its own facility. Amendment No. 3 to Service Order No. 1240 extends the order until February 28, 1977.

DATES: Effective 11:59 p.m., August 31, 1977. Expires 11:59 p.m., February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202–275–7840, Telex 89–2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below:

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 31st day of August 1977.

Upon further consideration of Service Order No. 1240 (41 FR 15698, 48343; and 42 FR 22367), and good cause appearing therefor:

It is ordered, That: § 1033.1240 *Service Order No. 1240* (Chicago and North Western Transportation Co. authorized to operate over tracks of the Kansas City Southern Railway Co.) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., February 28, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., August 31, 1977.

(49 U.S.C. 1, 12, 15 and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member John R. Michael not participating.

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

[FR Doc.77-25859 Filed 9-2-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Fish Springs National Wildlife Refuge, Utah, to Public Hunting of Duck, Coots, and Mergansers

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to hunting of ducks, coots, and mergansers at Fish Springs National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1977 through January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Rolf H. Kraft, Refuge Manager, Fish Springs National Wildlife Refuge, Dugway, Utah 84022; or Mitchell G. Sheldon, Assistant Area Manager, Refuges and Wildlife, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138, (801-524-5633).

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Hunting for ducks, coots, and mergansers is permitted on Fish Springs National Wildlife Refuge, Utah, only on the areas designated by signs as being open to hunting. This area, comprising 6,773 acres, is delineated on maps available at the refuge headquarters, 66 miles southwest of Dugway, Utah, and from the office of the Area Manager, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138. Hunting shall be in accordance with all State and Federal regulations applicable to the hunting of ducks, coots, and mergansers, subject to the following conditions:

1. All hunters must register at the Visitor Information Station prior to hunting each day and must check out at the end of each day.

2. Shooting from, upon, or across dikes or roads, open to vehicular traffic, is prohibited.

3. The use of small boats, canoes, etc. is permitted, but outboard motors or air thrust boats are prohibited.

4. Dogs may be used for hunting, but must be kept under control at all times.

The provisions of these special regulations supplement the regulations that govern hunting on wildlife refuge areas generally that are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 1, 1978. The public is invited to offer suggestions and comments at any time.

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

Rolf H. Kraft,
Refuge Manager.

August 19, 1977.

[FR Doc.77-25885 Filed 9-2-77;8:45 am]

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 611—FOREIGN FISHING

Hake Trawl Fishery in Washington, Oregon and California

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final regulations.

SUMMARY: This document amends the final regulations which relate to foreign fishing vessels participating in the hake trawl fishery in the area seaward of the States of Washington, Oregon, and California over which the United States exercises exclusive fishery management authority. These amendments will: (a) Reduce the legal minimum mesh size for foreign fishing vessels in order to reduce the wastage of hake which are otherwise killed and lost, (b) revise the limitation on vessel days on the primary fishing grounds for Polish and Soviet vessels participating in the hake fishery.

EFFECTIVE DATE: August 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald R. Johnson, Northwest Regional Director, National Marine Fisheries Service, Seattle, Wash. 98109, (206-442-7575).

SUPPLEMENTARY INFORMATION: On February 11, 1977, the National Marine Fisheries Service published in the Federal Register (42 FR 8812) final regulations implementing conditions and restrictions contained in a Preliminary Management Plan (PMP) for the Trawl Fisheries of Washington, Oregon, and California (42 FR 8577). The PMP was authorized by Section 201(g) of the Fishery Conservation and Management Act of 1976, Pub. L. 94-265.

When the PMP was drafted it was believed that a minimum mesh size of 4.33 inches (110 mm) for pelagic trawl gear would be most effective to prevent the catch of Pacific herring, juvenile Pacific hake and rockfish. Accordingly, the final regulations, in § 611.70(e) of Subpart E, restricted foreign vessels fishing for Pacific hake or jack mackerel to the use of a pelagic trawl with a minimum mesh size of 4.33 inches (110 mm).

Subsequent studies of the effectiveness of that minimum size have been carried out by scientists of the National Marine Fisheries Service and have revealed that the selected minimum size is too large. Observations by these scientists indicate that substantial numbers of adult hake which are caught in the net are either partly forced through the meshes or are completely forced out of the net. Large numbers of dead hake have been observed floating on the surface behind trawl vessels using the 4.33 (110 mm) net. Such losses constitute waste of the hake resource which benefits neither the foreign nation nor the United States.

A series of tests using trawls with the legal minimum size of 4.33 inches (110 mm) and a smaller mesh trawl of 3.94 inches (100 mm) was made, and it was determined that the loss of hake was substantially reduced with the smaller mesh. Because of the losses being experienced with the presently established legal minimum mesh size, it has been determined that this mesh size should be reduced as soon as possible in order to prevent excessive waste of the hake resource during the current fishing season. This new minimum mesh size is not required. Vessels may continue to use larger meshes if they wish to do so.

Also included in the PMP for Trawl Fisheries of Washington, Oregon, and California (42 FR 8577) were proposed restrictions which limited foreign fishing effort in terms of vessel-days on the primary hake grounds. The vessel-day limitation was designed to serve as an added safeguard to insure that the foreign catch quota was not exceeded by

foreign vessels due to excessive fishing effort. The vessel-day limitation was not intended to be more limiting than the catch quota.

Accordingly, foreign fishing allocations (expressed in terms of tonnage and vessel-days) were published on March 3, 1977 (42 FR 12176). Vessel-day limitations were calculated on the basis of 1976 catch rates of 46 metric tons (m.t.) per vessel-day for the Polish fleet and 14 m.t. per vessel-day for the Soviet fleet. Careful monitoring of each country's hake catch has revealed that the 1976 catch rates do not accurately depict the actual catch rates being maintained by the Polish and the Soviet Fleet. To date the hake catch per vessel day for both the Polish and Soviet fleets has been about 3 m.t. per vessel day. As a result of the discrepancy between 1976 and 1977 catch rates, the vessel days calculated for the Polish fleet will be fewer than necessary to meet the Polish catch quota, while the vessel days calculated for the Soviet fleet are far in excess of the number required for the U.S.S.R. to meet its quota.

In order to immediately bring the vessel-day limitation for each country into proportion with the catch quota a technical adjustment using 1977 rather than 1976 catch rates as a basis of calculation is necessary.

The Agency for good cause finds that in the interests of accuracy and in order to encourage full utilization and reduce waste of hake resource, it is considered impracticable and unnecessary to provide advance notice of these amendments as provided in the Administrative Procedure Act.

Therefore, these amendments will become effective on September 6, 1977, and will remain in effect until sooner amended or terminated by appropriate public notice.

Dated: August 31, 1977, at Washington, D.C.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

Part 611 of Title 50 CFR is amended as follows:

§ 611.70 [Amended]

1. Section 611.70(b)(2)(i) is amended to read:

* * * * *
(b) * * *
(2) * * *

(i) Landward of 125°40'W. Long., and North of 39°00'N.—All Countries: Hake quota ÷ 33 m.t./day = vessel days

* * * * *

2. Section 611.70(e)(1) is amended by striking "4.33 inches (110 mm)" and substituting "3.94 inches (100 mm)."

§ 611.20 [Amended]

3. Footnote 4 of Table 2, § 611.20(c) is amended by striking "7,514" and substituting "3,188".

4. Footnote 6 of Table 2, § .20(c) is amended by striking "391" and substituting "545".

[FR Doc.77-25798 Filed 8-31-77;2:26 pm]

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-77-462]

PART 890—ANNUAL CONTRIBUTIONS FOR OPERATING SUBSIDY

Performance Funding System; Interim Rule

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Interim rule.

SUMMARY: The Interim Rule adjusts the basis for determining the operating subsidy under the Performance Funding System (PFS). Due to the shift in the Federal fiscal year from a period beginning on June 1 and ending July 31 to a period beginning on October 1 and ending on September 30, it is necessary to use a special application of the PFS Formula for Public Housing Agency (PHA) fiscal years beginning on October 1, 1977. This approach will assure that in subsequent Federal fiscal years, all PHAs may use the same Formula, weights and related data. Additionally, for the PHA fiscal years beginning July 1, 1977, and thereafter, the severely cold winter of 1976–1977 will be excluded from the period used for estimating utilities consumption to allow for a more normal projection.

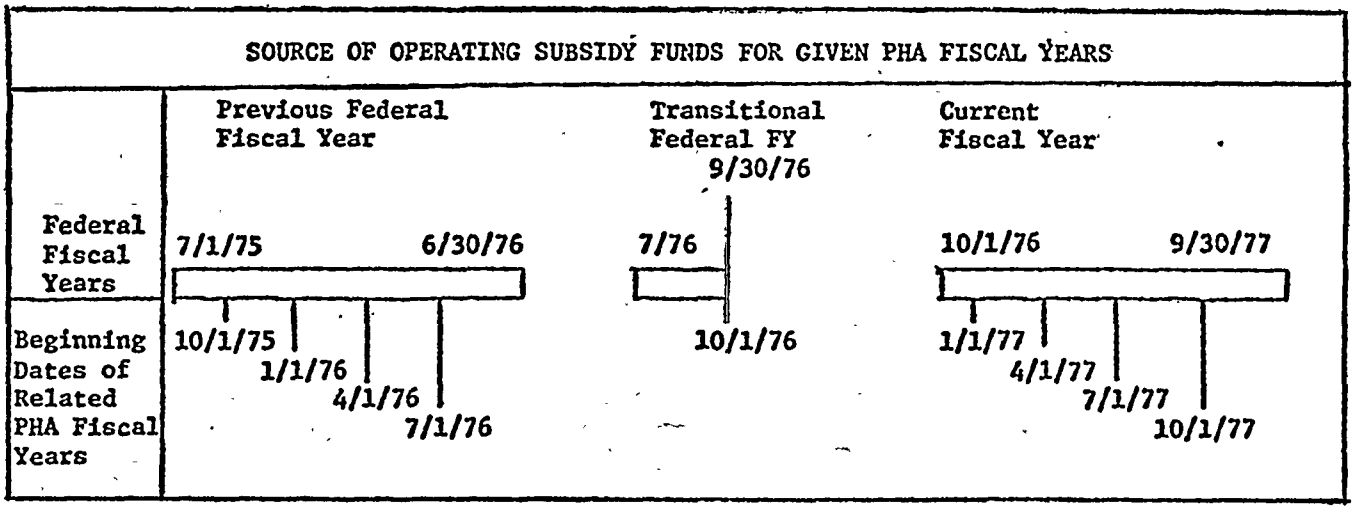
DATES: Effective Date: September 6, 1977. Comments must be received on or before October 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Janice D. Rattley, Chief, Financial Management Procedures Branch, Office of Assisted Housing Management, HUD, Washington, D.C. 20410. (202–755–5846.)

SUPPLEMENTARY INFORMATION: Following is a discussion of the background involving the revisions made by the Interim Rule:

1. *Background of First Revision.* Section 890.105, paragraphs (b) and (d), have been revised because of a shift in the Federal fiscal year. This has changed the relationship between PHA fiscal years and the Federal fiscal year. See graph below:



The PFS Formula which was published at 41 FR 55676–55684 on December 21, 1976, was first applicable to the PHA fiscal years which began on October 1, 1976. As shown in the above graph, such PHA fiscal years received funding from the transitional Federal fiscal year. Consistent with the annual updating of PFS, this group of PHAs would normally utilize a revised Formula for the fiscal year beginning October 1, 1977. Thus, as exemplified in the foregoing graph, this group of PHAs would be in a posture of utilizing a different Formula from the other groups of PHAs (i.e. January, April and July) in any Federal fiscal year. To avoid this occurrence, it is necessary to utilize the same Formula which is currently in use for fiscal year 1977 (updated by an additional year of inflation) so that beginning in Federal fiscal year 1978, all PHAs will be able to utilize the same Formula, weights, and related data. Accordingly, for PHA fiscal years beginning October 1, 1977, the Formula, weights, constant, and Local Government Wages Inflation Factor which were published in the Performance Funding System Handbook 7475.13 (2/77) will be used. In addition, special provision is made herein to reflect an additional year of inflation.

2. *Background of second revision.* Section 890.107, paragraphs (c) and (e) have been revised to change the Utilities Base Consumption Period (Base Period) for PHA fiscal years beginning July 1, 1977 and thereafter. The Regulations have previously provided that the Utilities Expense Level would be based upon average consumption over a 36-month period ending six months prior to the Requested Budget Year. However, due to the severely cold winter of 1976–1977, HUD has determined that it would be improper to include the impact of that winter in the Base Period. Accordingly, the Utilities Base Consumption Period for PHA fiscal years beginning July 1, 1977, and thereafter will exclude this winter. These PHAs will utilize the Utilities Base Consumption Period ending prior to this period. In those cases where a Base Period cannot be derived for the PHA's projects, comparable consumption for the year(s) as outlined in § 890.107(c) as revised, will be used from a comparable PHA. As a last alternative, the actual utilities expense will be used for a year which is consistent with § 890.107(c) as revised.

HUD anticipates the introduction of an additional adjustment, dependent upon fund availability, which will be applied to the revised Utilities Base Consumption Period as defined within these Regulations. This additional adjustment factor will be designed to assure that PHAs are funded at a normal level.

3. *Notice and public procedures.* The Secretary has concluded that notice and public procedures are contrary to the public interest for the following reasons:

First, the operating subsidy for PHA fiscal years beginning July 1, 1977 and October 1, 1977, as determined in accordance with the revised Performance Funding System, must be obligated by September 30, 1977.

Second, with regard to the revised procedure for estimating utility expenses, the Secretary has determined that the Department will have insufficient funds during the current Federal fiscal year to incorporate the winter of 1976–1977 within the Utilities Base Consumption Period. Under § 890.113, operating subsidy provisions are subject to the availability of funds.

Written comments and suggestions will be accepted until October 11, 1977. HUD will make such modifications as it deems appropriate in the Final Rule. Comments should refer to the docket number and be submitted to the Rules Docket Clerk, Office of the Secretary, Room 5216, 451 7th Street SW., Washington, D.C. 20410.

3. *Environmental and inflationary impacts.* A finding of inapplicability under Section 102(2)(c) of the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. A finding of inapplicability of an inflationary impact statement has also been made pursuant to Executive Order 11821. These findings are available for public inspection during business hours in the Office of the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

For the reasons mentioned above, HUD is issuing this amendment as an Interim Rule. Accordingly, 24 CFR Part 890, is revised to read as follows:

Sections 890.105 (b) and (d)(3) are revised to read as follows:

* * * * *

§ 890.105 Computation of allowable expense level.

(b) *Computation of formula expense level.* The PHA shall compute its Formula Expense Level in accordance with this subsection. The weights of the Formula and the Formula published in the Interim Rule on April 16, 1975, at 40 FR 17008 apply to PHA fiscal years beginning April 1, 1975, and July 1, 1975. The weights of the Formula published in the Final Rule on January 15, 1976, at 41 FR 2344 superseded the weights published in the Interim Rule and were applicable to PHA fiscal years beginning October 1, 1975, January 1, 1976, April 1, 1976 and July 1, 1976. The weights of the Formula and the Formula itself are subject to updating by HUD annually or at any other time. This updating will be accomplished by publication in the FEDERAL REGISTER, or by notification given directly to PHAs, whichever is considered appropriate. The Formula applicable to PHA budget years commencing October 1, 1976, and subsequent budget years; and PHA budget years which commenced April 1, 1976, and July 1, 1976, if these PHAs are eligible for Transition Funding for these two PHA fiscal years, subject to updating at any time, is as follows: (1) The population (in thousands) of the Standard Metropolitan Statistical Area (SMSA) of the PHA, multiplied by the weight .00228 (if the PHA exists outside of an SMSA, the population of the area served shall be used); (2) the logarithm to the base 10 of the average number of bedrooms per Project Unit, multiplied by the weight 54.93844; (3) the logarithm to the base 10 of the weighted average age of the ages of all the Projects (weighted by relative proportion of Project Units), multiplied by the weight 11.97794; (4) the logarithm to the base 10 of the HUD-supplied Fair Market Rent (March 29, 1976) for existing nonelevator two-bedroom units computed for the county in which the PHA is located, multiplied by the weight 32.47978; (5) the logarithm to the base 10 of the average height of the tallest building of each Project (weighted by relative proportion of Project Units in each Project) in stories, including only stories containing dwelling units or any space utilized by the PHA for project use which are not in a basement, multiplied by the weight 16.73764; (6) the HUD-supplied index figure for the relative operation costs of a sample of PHAs in the HUD Region, multiplied by the weight .46105. The Formula constant of $102.93610 is subtracted from the sum of subparagraphs (1) through (6) of this paragraph. The resulting amount is increased by the Local Government Wages Inflation Factor supplied by HUD. (Such increase is required under the current Formula to adjust for inflation between the Base Year and the previous year.) The preceding Formula, weights, constant, and Local Government Wages Inflation Factor are applicable to the PHA fiscal years beginning October 1, 1977. However, the special provision for updating as outlined in these Regulations provides that for PHA fiscal years beginning October 1, 1977, the PHA characteristics and the population mentioned above will be updated to the levels for the Current Budget Year and the Requested Budget Year. In addition to one year of the Local Government Wages Inflation Factor reflected in the Formula Expense Levels, the difference between the Formula Expense Level of the Current Budget Year and the Requested Budget Year will also be multiplied by the same Inflation Factor. (These additional steps result in the correct application of the PHA characteristics and population for its fiscal years beginning October 1, 1976, and October 1, 1977, to the Formula, and effectively take into consideration the effects of an additional year of inflation upon the Formula.)

* * * * *

(d) * * *

(3) *Allowable expense level.* Computation for budget years subsequent to first budget year under PFS. For each budget year subsequent to the first budget year under PFS, the Allowable Expense Level for the previous budget year, which includes the amount of the HUD-approved Increase of Base Year Expense Level, (reference: § 890.110),

increased (or decreased) by the following:

(i) The increase (decrease) between the Fomrula Expense Level for the previous budget year and the Formula Expense Level for the Requested Budget Year: *Provided, however,* That for PHA fiscal years beginning October 1, 1977, the increase (decrease) will be multiplied by the Local Government Wages Inflation Factor prior to adding it to the Allowable Expense Level for the previous budget year.

(ii) The sum of the Allowable Expense Level for the previous budget year plus subdivision (i) of this subparagraph, multiplied by the Local Government Wages Inflation Factor supplied by HUD.

* * * * *

Example 1 is revised by adding the following at the end:

PHA FISCAL YEARS BEGINNING OCTOBER 1, 1977

CALCULATION OF ALLOWABLE EXPENSE LEVEL FOR PHA FISCAL YEAR BEGINNING OCTOBER 1, 1977

1. Allowable Expense Level for PHA fiscal year beginning October 1, 1976	$43.20
2. Increase (Decrease) in Formula Expense Levels as have been Calculated for PHA fiscal years beginning Oct. 1, 1976 and Oct. 1, 1977	$1.50
3. Local Government Wages Inflation Factor	1.09
4. Product (Line 3 times Line 2)	1.64
5. Combine Line 1 and Line 4	$44.84
6. Local Government Wages Inflation Factor	1.09
7. Allowable Expense Level for PHA Fiscal Year beginning Oct. 1, 1977 (Line 6 times Line 5)	48.87

It should be noted that the increases in population and updated PHA characteristics have been reflected in the respective Formula Expense Levels involving Line 2, above. The same Formula, weights, constant, and Local Government Wages Inflation Factor which were applied to determine operating subsidy eligibility for the PHA's fiscal year beginning October 1, 1976, are applied to determine operating subsidy eligibility for its fiscal year beginning October 1, 1977. It is stressed that such elements are now applied to the characteristics of the PHA in its fiscal years beginning October 1, 1976, and October 1, 1977. Also, the same inflation factor is applied, once again, to the difference between the Formula Expense Levels, as is done in Line 3 of the example.

Section 890.107(c) (1) and (2) and (e), are revised to read as follows:

§ 890.107 Compulation of utilities expense level.

* * * * *

(c) * * *

(1) *Utilities Base Consumption Period (Base Period) Method.* The PHA shall determine the average amount of each of the Utilities consumed per unit per month during the Utilities Base Consumption Period (Base Period) which is the 36-month period ending six months prior to the first day of the Requested Budget Year. *Provided, however,* That for PHAs with fiscal years beginning July 1, 1977, and for all future fiscal years thereafter, the 36-month Utilities Base Consumption Period to be utilized shall end on December 31, 1975. For PHAs with fiscal years beginning October 1, 1977, and for all future fiscal years thereafter, the 36-month Utilities Base Consumption period shall end on March 31, 1976. For PHAs with fiscal years beginning January 1, 1978, and for all future fiscal years thereafter, the 36-month Utilities Base Consumption Period to be utilized shall end on June 30, 1976. For PHAs with fiscal years beginning April 1, 1978, and for all future fiscal years thereafter, the 36-month Utilities Base Consumption Period to be utilized shall end on September 30, 1976.

(2) *Temporary alternative method where data is not available for Utilities Base Consumption Period.* If the PHA has not maintained or cannot recapture consumption data regarding a particular Utility or Utilities from its records for the 36-month Base Period, it shall submit to the HUD Field Office for approval consumption data for the 24-month period ending six months prior to the beginning of the Requested Budget Year, or, if this is not possible, the 12-month period ending six months prior to the beginning of the Requested Budget Year. *Provided, however,* That for PHAs with fiscal years beginning July 1, 1977, and for all future fiscal years thereafter, the 24-month or 12-month Utilities Base Consumption Period to be utilized shall end of December 31, 1975. For PHAs with fiscal years beginning October 1, 1977, and for all future fiscal years thereafter, the 24-month or 12-month Utilities Base Consumption Period shall end on March 31, 1976. For PHAs with fiscal years beginning January 1, 1978, and for all future fiscal years thereafter, the 24-month or 12-month Utilities Base Consumption Period shall end on June 30, 1976. For PHAs with fiscal years beginning April 1, 1978, and for all future fiscal years thereafter, the 24-month or 12-month Utilities Base Consumption Period shall end on September 30, 1976. The PHA also shall submit a written explanation of the reasons data for the Base Period is unavailable. If a PHA has not maintained or cannot recapture consumption data for the specified Base Period of 36, 24, or 12 months; comparable consumption for the greatest of either 36, 24, or 12 months as available, shall be used for the Utility or Utilities for which the data is lacking. The comparable consumption shall be estimated, based upon the consumption experienced during the allowable Base Utilities Consumption Period, of comparable project(s) with comparable utility delivery systems and occupancy. If a PHA cannot or will not obtain the consumption data for the Base Period, either for its own project(s) or by using comparable consumption data, the dollar amount stated in paragraph (e) of this section, shall be used.

* * * * *

(e) *Utilities Expense Level where consumption data is unavailable.* If a PHA has not maintained or cannot recapture data for at least the 12-month period provided in paragraph (c) (2) of this section or will not retroactively establish consumption records or comparable consumption data, as required in paragraph (c) (2) of this section, it shall request HUD Field Office approval to use actual per unit per month, (PUM) utility expenses. These expenses shall exclude Utilities Labor and Other Utilities Expenses. The actual PUM utility expenses shall be taken from the latest year-end Statement of Operating Receipts and Expenditures, Form HUD-52599, for the PHA fiscal year ending on December 31, 1975, March 31, 1976, June 30, 1976 or September 30, 1976. No subsequent adjustments regarding such Utility or Utilities will be approved for a budget year for which consumption is established based upon the said form.

* * * * *

(Sec. 7(d), Department of Housing and Urban Development Act. (42 U.S.C. 3535(d).)

Issued at Washington, D.C., August 31, 1977.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc.77-25894 Filed 9-2-77;8:45 am]

proposed rules

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 211]

AMENDMENTS TO SYNTHETIC NATURAL GAS FEEDSTOCK ALLOCATION REGULATIONS

AGENCY: Federal Energy Administration.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Administration (FEA) hereby gives notice of a proposed rulemaking and public hearing, for the purpose of revising the Mandatory Petroleum Allocation Regulations with respect to allocated products used for the manufacture of synthetic natural gas (SNG).

DATES: Comments by September 26, 1977; requests to speak by September 19, 1977; statements by September 23, 1977; hearing to be held on September 26, 1977 at 9:30 a.m., and will be continued if necessary at 9:30 a.m. on September 27, 1977.

ADDRESSES: Comments and requests to speak at the hearing to: Executive Communications, Room 3317, Federal Energy Administration, Box OZ; Washington, D.C. 20461. Statements to Executive Communications, Room 3317, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

HEARING HELD AT:

Room 3000A, 12th and Pennsylvania Avenue, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Ed Vilade (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461 (202–566–9833).

Gerald P. Emmer (Regulatory Programs), 2000 M Street NW., Room 2304, Washington, D.C. 20461 (202–254–7200).

Kenneth Kincel (Resource Development Policy), 12th and Pennsylvania Avenue NW., Room 4112, Washington, D.C. 20461 (202–566–9052).

Finn Neilsen (Regulatory Programs), 2000 M Street NW., Room 6318, Washington, D.C. 20461 (202–254–9730).

Joel M. Yudson (Office of the General Counsel), 12th and Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461 (202–566–9565).

SUPPLEMENTAL INFORMATION:

I. BACKGROUND

Since 1974, the Federal Energy Administration (FEA) has regulated the allocation of petroleum feedstocks for production of synthetic natural gas (SNG) under 10 CFR § 211.29 (39 FR 15960, May 6, 1974) and its appendices, Special Rule No. 1 and the accompanying Statement of Policy (39 FR 27910, August 2, 1974). These regulations provide for a case by case review of feedstock applications for new and expanded SNG plants. The criteria to be used for such determinations include availability of feedstocks, degree of curtailment of interruptible customers and customers witih alternate fuel capability, character of natural gas curtailment plan, availabiljty of alternative supply sources, thermal efficiency, cost impact on gas consumers, feedstock capacity, impact on competing users of feedstocks, employment, and environment.

Special Rule No. 1 also provides that allocations of feedstocks be granted to those SNG plants existing prior to May 1, 1974, which use naphtha as an exclusive feedstock, and then only to the extent that supply contracts calling for delivery of specific volumes of naphtha were in effect. However, the Statement of Policy concluded that the manufacture of SNG is, in most instances, an inefficient use of resources.

There are presently 17 SNG plants in operation or under or about to start construction. All current plants use either liquefied petroleum gases (LPG's)—propane and butane—naphtha, or a mixture of natural gas liquids (NGL's). Most of the existing plants are located in New England, the Middle Atlantic States, and the Upper Midwest—the areas hardest hit by curtailments of natural gas in the past few years. East Coast plants use a variety of feedstocks, most of which are imported from the Caribbean and elsewhere. Two SNG plants in the Midwest have historically been heavily reliant on imports of NGL's from the Canadian gas fields in Alberta and Saskatchewan for their feedstock use. Several of the plants using naphtha as a feedstock also require LPG for Btu enrichment to bring the output gas up to pipeline Btu specifications as mandated by various State public utility commissions.

On April 5, 1977, FEA Administrator John O'Leary, in testimony before the House Subcommittee on Energy and Power, stated that FEA would take a "fresh look" at the FEA-SNG petroleum feedstocks allocation policy. He indicated that the new policy would provide for a case by case review of new SNG plants. In addition, he stated that special conditions may exist in some places, such as air quality considerations in the Los Angeles area, which could require use of a gaseous fuel, and that in such places, the use of SNG may be found, after further study, to be appropriate.

On April 29, 1977, the President's *National Energy Plan* (NEP) was issued, which included the following policy statement on SNG:

> The nation's current policy toward synthetic natural gas (SNG) made from petroleum feedstocks is not satisfactory. Existing regulations favor the allocation of naphtha and other potential SNG feedstocks to the petrochemical industry, and effectively preclude their use by gas utilities. This policy has discouraged the construction of new SNG plants. Yet, the 13 SNG plants that were operating this winter provided the additional margin of natural gas suply that kept several areas of the county from shutting off residential users during the coldest months.
>
> Therefore, a Federal task force will be created to work with the gas utilities to identify those areas of the country where a limited number of additional SNG plants should be built to help meet the critical peakload needs for gas over the next five to seven years. Federal Energy Administration regulations will be revised to provide a priority for SNG feedstocks to those plants approved by the task force. This regulatory change will give pipeline companies and utilities the reasonable certainty they need to make investments for this short-term source of gas supply. SNG plants could contribute almost 1 trillion cubic feet of gas annually in the 1980's *National Energy Plan*, pp. 57-58.

In response to those concerns, an FEA SNG task force was established to evaluate the existing FEA policy and regulations on SNG feedstocks and to implement the policy suggested in the NEP. The task force has since studied all aspects of the SNG issue, including specific tasks focusing on (1) efficiency, (2) cost and capital factors, (3) emissions of SNG plants as compared with alternate sources of energy, (4) the projected supply, demand, and price of SNG feedstocks and impacts of alternative allocation policies, and (5) alternative criteria that might be used in a case by case review of applications for SNG feedstock allocations. On June 24, 1977 (42 FR 32838, June 28, 1977), FEA issued a General Inquiry regarding the allocation of synthetic natural gas feedstocks, which solicited responses to fifteen questions concerning possible new criteria to be used in evaluating SNG feedstock allocations. A hearing was held to receive public comment on July 18, 1977. The results

of the task force will be publicly available in the near future.[1]

The creation of the task force did not signal the beginning of FEA's SNG review. The FEA has been in the process of reviewing and reevaluating its SNG feedstock allocation policy for more than a year. In June 1976, a programmatic environmental impact statement (EIS) on the SNG program was begun. A draft of this EIS has been completed and a hearing was held on July 11, 1977, to receive public comment on the EIS. FEA is currently evaluating the comments received and is preparing the final programmatic EIS. The amendments proposed herein most closely resemble Option No. 1 of the draft programmatic EIS and FEA believes that the environmental consequences of the proposal are contained in the discussion of that option, which is described as a continued case by case review of SNG applications.

In July 1976, the FEA amended its regulations (41 FR 30096, July 22, 1976) to exempt naphtha from the Mandatory Petroleum Allocation and Pricing Regulations. The exemption became effective on September 1, 1976, following the expiration of the congressional review period. FEA found at that time that while supplies of naphtha were generally adequate to meet all domestic demands through 1978, there was some uncertainty over the longer term impacts of removing allocation controls on naphtha utilized as SNG feedstock. It was concluded that, because of this uncertainty the programmatic EIS would have to be completed before naphtha utilized as SNG feedstock could be proposed for exemption from allocation regulations. At this time FEA has decided to defer proposing the deregulation of naphtha used as SNG feedstock, but the possibility of proposing such an exemption remains under active consideration.

Based on the analysis of the draft programmatic EIS and the SNG task force, the FEA has concluded that continued case by case allocation of SNG feedstocks is necessary to attain the objectives of the Emergency Petroleum Allocation Act of 1973, as amended (EPAA). Analysis of naphtha supply and demand by the task force indicates the possibility of regional supply and price impacts if no restrictions were placed on the amount of SNG that might be produced from naphtha. As to the other principal type of SNG feedstock, analysis of LPG (primarily propane) supply, demand, and transportation in the light of declining domestic production indicates, first, potential price impacts on traditional users if imports were to increase to meet new SNG demand, unless SNG plants were to bear the full incremental cost of these imports, and, secondly, that regional supply impacts could occur as a result of pipeline distribution system limitations affecting regions where new SNG plants might be constructed. FEA has concluded that the national interest is best served by assuring that feedstock allocations are granted only to new SNG plants for which there is a demonstrated need to meet the gas requirements of residential and other high priority users or where needed due to severe environmental conditions.

II. Proposed Amendments

A. General

FEA is proposing to amend § 211.29 to include applications for SNG feedstock, Btu enrichment and SNG plant fuel use for any allocated product. Products currently exempted from the allocation regulation would not be placed under controls, but in the event controls were reimposed on such products, their use for SNG production would be subject to the proposed regulation. The use limitation on naphtha for SNG feedstock, currently contained in § 211.29(b), would be moved to proposed § 211.29(d), and would also include any allocated natural gas liquid product which would be used in SNG production. Applications for allocations for new and existing SNG facilities would be handled on a case by case basis and, as contemplated by the NEP, would be issued for a term of years to give firms reasonable certainty to make needed investments. New criteria to evaluate such applications are described in this proposal and would also accord with the NEP and the results of the task force. It should be noted that all plants, regardless of the basis of their allocation, would be subject to FEA audit to insure their operation would conform to their allocation orders and the applicable regulations.

B. Existing Plants and Pending Applicants

FEA believes that firms which operate existing SNG plants and have received allocations based on Special Rule No. 1 and the 1974 Statement of Policy should not receive any less favorable treatment under the proposal. Therefore, upon promulgation of new regulations, Special Rule No. 1 would be retained to allow such firms to elect to be treated under either currently existing or the new criteria. The Statement of Policy which accompanies Special Rule No. 1 would be deleted, however, because it no longer reflects accurately FEA's policy with respect to the allocation of feedstock for SNG plants.

The choice of standards could only apply to existing SNG production capacity and would have to be made within thirty days of the effective date of new SNG regulations. It would also be irrevocable. If any firm required SNG feedstock of Btu enrichment material for a new facility or an expansion of existing facilities, it would have to apply under the new regulations.

Currently, there are a number of applications pending before FEA for SNG plants which have not received allocations for commercial operation or have not been fully analyzed by FEA under existing regulations, which has included the opportunity for participation by all interested parties at public hearings. At this time, no decision has been made whether to grant permanent allocations for these applicants because site specific environmental impact statements have not been completed. FEA believes it equitable to treat these applicants for new plants which have relied upon current regulations the same as those firms which have already received allocations for SNG feedstock. FEA has tentatively concluded that firms whose applications were pending before FEA on January 1, 1976, should be permitted to elect to be considered under either existing or new SNG regulations with respect to production capacity contemplated in their applications. The January 1, 1976, date was selected as a cutoff point because all applications pending as of that date have been fully evaluated, while those filed after that time have not.

C. Proposed Definitions and Priority Gas Uses.

A definition of synthetic natural gas itself is included in the proposal. SNG would be defined to mean gas manufactured from any hydrocarbon source material and having the same characteristics as natural gas, and which is, or may easily be made, fungible with natural gas. This proposed definition recognizes that certain SNG when first produced may not be immediately fungible with natural gas and could have to be enriched before becoming freely miscible with natural gas.

The NEP speaks to a limited number of additional SNG plants to be built to help meet critical peakload needs. In this proposal, FEA is attempting to implement that policy by specifying those gas uses believed to be priority needs which would justify the allocation of SNG feedstock or Btu enrichment material. "Priority gas uses" would mean the usage of natural gas for residential use, commercial use, storage injection requirements and firm industrial requirements for plant protection, feedstocks, process fuel uses or other nonboiler fuel uses. These uses derive substantially from Federal Power Commission (FPC) priority of service classification Nos. 1, 2, and 3, excluding industrial boiler fuel customers.

As distinct from current regulations which include as a criterion the degree of curtailment of service to customers with alternate fuel capability (AFC) on a continuing basis, this proposal is intended to discourage SNG feedstock from being used to serve industrial boiler fuel customers, regardless of whether such

[1] Two separate volumes have been prepared, one describing the analyses of tasks 1, 2, 3, and 5, and one describing the results of task 4. These are entitled *Developing an SNG Feedstock Allocation Scheme That Reflects a Sound National Policy on SNG*, Resource Planning Associates, June 1977, and *SNG Feedstock Outlook: Supply, Demand, and Price, and Policy Impacts*, FEA, August 1977. The analysis of tasks 1, 2, 3 and 5 is currently available for inspection at the FEA Freedom of Information Office, Room 2107, 12th and Pennsylvania Avenue, NW., Washington, D.C.

users have AFC. In this regard, FEA believes that industrial boiler fuel users should be encouraged to switch to appropriate alternate sources of energy.

For new SNG plants and expansions of existing facilities, when the requirements described herein would be satisfied, feedstock and Btu enrichment allocations could be granted for the fourth and first calendar quarters (encompassing the winter heating season) in the amount necessary to produce a sufficient amount of SNG which, when added to the applicant's other available gas supplies with the exception of propane-air mixtures when used for needle-peaking only, would enable the applicant to provide gas service to priority gas users under "design" winter conditions.

If a particular heating season would be warmer than a design winter, the SNG plant would be able to use the feedstock to run the SNG plant during that time effectively to function as a supply buffer to meet peak demand. Although a certain amount of SNG would thereby be used to serve lower priority users, FEA would place no end use restriction on the allocated amount of SNG feedstock used during the winter season. FEA would define "design conditions" to mean a specified level of demand required for a sustained period of time experienced during a heating season upon which the system capacity, reliability, and other engineering specifications are based and which has previously been recorded with either a state public utility commission, the Federal Power Commission, or in the case of an unregulated utility can be demonstrated through previous documentation. FEA requests comments as to whether a definition of a "design" winter should be adopted on a uniform basis rather than separately for each applicant.

Having seen the devastating economic impacts of a natural gas shortage caused in part by the severe cold of the 1976–77 winter, FEA believes that the cost in SNG feedstock to provide gas service to low priority users during warmer winter months is a worthwhile investment to assure gas service to priority gas users under design conditions. The allocation would remain subject to FEA audit so as to permit necessary adjustment following a heating season if the allocation does not accurately reflect the design winter requirements of priority users only.

On the other hand, during the second and third calendar quarters, it is not as crucial to keep SNG plants operating as a backup source of supply for priority gas users. Although in warmer than design winter months SNG could be produced to serve any class of customer, in the second and third quarters, all customers in FPC categories 4 through 9 (as set forth in FPC Order 467B, as amended) would have to be curtailed before the SNG feedstock could be used. Under the proposal, during that time firms would be able to use SNG feedstock to provide service to priority gas users and industrial boiler fuel customers which use up to 1,500 MCF per peak day.

FEA specifically requests comments with respect to the alternative of prohibiting SNG feedstock from being used in the second and third quarter when any industrial boiler fuel user receives service. FEA further requests whether this alternative would discourage most firms from operating their SNG plants in the summer months for storage injection.

FEA is concerned with the relationship between the standards governing SNG plants and those pertaining to facilities which inject propane-air mixtures directly into natural gas pipelines. SNG plants do not function optimally as "needle" peaking facilities which could have to be shut down continually as the temperature fluctuates. Operational and other constraints, such as feedstock delivery schedules, prevent these plants from being turned on and off at a moment's notice. In this respect SNG plants are different from propane-air facilities which are less complex, less capital intensive and more efficient. Although FEA recently issued guidelines to evaluate applications for propane-air facilities (42 FR 38553, July 29, 1977), in view of this proposal regarding SNG production, FEA inquires as to whether the propane-air guidelines should be modified and the same standards adopted for propane-air facilities when used for seasonal base loading as for SNG production.

D. INFORMATIONAL REQUIREMENTS

Under proposed § 211.29(c)(2), firms applying for SNG feedstock, Btu enrichment or plant fuel to be used in SNG production at new or expanded SNG plants would be required to submit detailed information regarding gas supply and demand, curtailments, SNG plant operational characteristics, feedstock requirements, and other relevant information. In reference to natural gas supply and demand, the applicant would be required to provide projections of pipeline supplies of gas, other sources of gas (such as LNG, propane-air, or SNG from coal), demand for gas by consuming sector under design winter conditions (by FPC priority or other readily identifiable categories with separate identification of industrial boiler fuel requirements), growth rate in consumption by consuming sector, and curtailment schedules, and would be required to provide descriptions of curtailment plans, rate structures for SNG and other supplemental supplies of gas and its efforts to obtain other sources of supplemental gas supplies.

The applicant would also be required to provide a complete description of the SNG plant and its requirements for feedstock, Btu enrichment, and plant fuel, including the proposed sources, volumes, price and any other information required by FEA in connection with a particular application.

E. REQUIRED CERTIFICATIONS, SHOWINGS, AND OTHER CRITERIA

Unless waived for good cause shown, applicants would be required under proposed § 211.29(c)(3) to satisfy other requirements. As already indicated, the applicant would have to demonstrate that the SNG feedstock or Btu enrichment material will be required under design conditions to meet priority gas uses. To implement FEA's new policy for use of an SNG plant during the second and third calendar quarter, the applicant would have to certify that naphtha or any allocated natural gas liquid product will be used for SNG production in the second or third calendar quarter only while gas service is continued to priority gas users or for industrial boiler fuel users of less than 1,500 MCF per peak day.

Inasmuch as the SNG, if produced, could have significant economic impacts in the state or states served by the SNG plant, FEA believes it appropriate that such states have a major role in the allocation process. Therefore, FEA is proposing that the applicant certify that approval for the proposed new or expanded SNG facility has been obtained from the state public service commission having the appropriate authority in at least one state to be served by the facility. This requirement would not be applicable where no state agency has such jurisdiction.

It is recognized that imported feedstock is more vulnerable to interruption than domestic supplies. However, it is also apparent that in the absence of supply interruptions, allocations based on imported supplies should have fewer adverse impacts on historical users. Weighing these factors, FEA has concluded that if an applicant desires to use propane, butane or natural gasoline for SNG feedstock, Btu enrichment or SNG plant fuel, it would have to certify that only imports of such products (other than from Canada) would be used. This proposed requirement should offer some protection to historic users of products such as propane which are in declining domestic supply. Applications for naphtha would continue to be examined on a case by case basis with respect to the source of supply.

One means, already discussed, of assuring service to priority gas users during periods of critical peakload demand is to allow SNG plants to operate during warmer than design winter months to serve any class of customer. Another important consideration in this regard is to insure that sufficient feedstock will be available to operate the plants. If there were a feedstock supply interdiction caused by cold weather or other problem, FEA believes SNG plants should be kept operable to satisfy the needs of priority gas users. Accordingly, FEA is proposing that applicants certify that a 90 day peak-load supply of feedstock will be maintained in readily accessible storage which can be used without adversely affecting the distribution of such product to other users of such product. FEA recognizes that this requirement could entail large capital expenditures by applicants, but nonetheless has determined it to be of significant importance. The storage need not necessarily be on-site if some method of assured transporta-

tion could be provided which would not be disruptive to other users. Although FEA does not require storage as a condition for other end uses, such as for petrochemical feedstock, FEA believes that a forced closing of an SNG plant could have more severe economic consequences than for other uses and therefore warrants this additional requirement. Commenters are requested to indicate whether storage for greater or less than ninety days of operation should be required, and whether such a provision should apply differently for various kinds of feedstock.

As it has operated, Special Rule No. 1 has served to discourage growth by utilities using SNG plants, regardless of the nature of new end users. The proposal would not discourage new growth for priority gas and would allow SNG to be used to serve such uses. Firms applying for SNG feedstock or Btu enrichment would have to certify that all new growth by the applicant or the applicant's gas utility customers which would be served by its SNG plant will be for priority gas uses.

FEA is not requiring that applicants attempt to have SNG priced incrementally. It is anticipated that the enactment of Section 414 the proposed National Energy Act will provide an overall pricing policy for higher priced supplemental supplies of gas. However, to the extent appropriate, FEA will continue to examine the rate structure for SNG.

The proposal also contains a number of other factors which FEA would consider in evaluating an application for SNG feedstock, Btu enrichment or SNG plant fuel. These include the effects on the distribution and storage systems serving the market area, the security of feedstock supply from the proposed source of supply, the ability of a new plant to use a variety of feedstocks, the environmental impact of granting an allocation within a market area and for feedstocks other than allocated natural gas liquid products, for which imports will be required in every case, the effect of allocation of the requested product for SNG production on the supply of and demand for such product in a particular market area, with due regard to the impacts on competing uses and the effect of allocating domestic rather than imported feedstocks.

The effects on other users of the feedstock will be a key criterion in evaluating any application, regardless of whether such effects derive from impacts on supply and demand or on distribution and storage systems. This is particularly true for applications for use of allocated natural gas liquid products, especially propane, in view of the declining domestic production of these products and the inability of the pipeline distribution system for these products to meet peak seasonal demands in recent winters in certain regions of the country. Unlike other products which can be used for SNG feedstock, there is a large historical residential and agricultural demand for propane, which should be protected. In addition, propane will be needed for Btu enrichment of SNG and for direct injection by gas utilities as needle peaking material.

To the extent that non-Canadian imports of propane or other allocated natural gas liquid products will be permitted for SNG feedstock or enrichment use, FEA intends to include in its final revision of Subjart D or Part 211 a requirement that separate inventory records be maintained for such products and as an amendment to 10 CFR Part 212 a requirement that separate cost computations be made for such products. The proposed revision to Subart D (42 FR 41242, August 15, 1977) required imports of allocated natural gas liquid products for gas utility or industrial use to have such separate cost computations. To mitigate the price impact of SNG feedstock or enrichment use on historical users of propane or other allocated natural gas liquid products, FEA intends to enact a similar provision for SNG uses.

As to the required environmental consideration, if an applicant contends that the production of SNG is required to overcome or mitigate a significant environmental problem, the applicant would be required to provide a clear and convincing demonstration of the need for SNG to overcome such problem. Notwithstanding the other requirements of the proposed regulation, if such a showing could be made, the applicant could be entitled to an allocation to serve other than priority gas users in the second and third calendar quarters or under design winter conditions. However, in this connection, the task force found that it is quite unlikely that the construction and operation of an SNG plant would adequately resolve significant environmental problems in most instances.

One of the consideration contained in Special Rule No. 1 which is not addressed in the proposal is the thermal efficiency of SNG plants as compared to other energy production alternatives in the same market area. The overall efficiency trajectories of SNG plants, including thermal efficiency, have been analyzed in the draft programmatic environmental impact statement and by the task force. The range of efficiencies of SNG for certain end uses has been found to be comparable to that of other fuels for the same uses. Despite the limitation of these determinations, in a reversal from the 1974 Statement of Policy, FEA does not find at this time that SNG produced from light petroleum products is significantly more inefficient for such end uses than alternatives compared. Individual applicants will still be required to submit information as to thermal efficiency of their proposed facilities, but this information will be used primarily for operational purposes.

F. Reporting Requirements and Review.

The proposal also contains a provision whereby each SNG manufacturer would report to FEA in a manner prescribed by FEA on the usage of crude oil or allocated products for SNG production. A form is currently being developed to facilitate such reporting. Each firm operating an SNG plant would also be subject to audit at the discretion of FEA to assure that the plant is continuing to operate in accordance with its allocation order and the applicable regulations. On the basis of such audit, the FEA could decide to rescind the allocation or adjust it upward or downward.

G. Comment Procedure.

1. *Written comments.* Interested persons are invited to submit written comments with respect to the proposed regulations to Executive Communications, FEA, Room 3317, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, Box Number OZ. Comments should be identified on the outside of the envelope and on the documents submitted to FEA with the designation "Comments on Proposed Synthetic Natural Gas Feedstock Regulations." Fifteen (15) copies should be submitted. All comments and related information should be received by FEA by September 26, 1977, in order to ensure consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only, in accordance with the procedures set forth in 10 CFR 205.9 (f). Any material not accompanied by a statement of confidentiality will be considered to be nonconfidential. FEA reserves the right to determine the confidential. FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

2. *Public Hearing.* a. *Request procedures.* A public hearing on the proposed regulations will be held at 9:30 a.m., e.d.t., on September 26, 1977, in Room 3000A, 12th and Pennsylvania Avenue NW., Washington, D.C., to receive oral presentations from interested persons, and if necessary will be continued at the same time at the same location on September 27, 1977.

Any person who has an interest in the proposed regulations or who is a representative of a group or class of persons which has an interest in them may make a written request for an opportunity to make oral presentation. Such a request should be directed to Executive Communications, FEA, Box OZ, Room 3317, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, and must be received before 4:30 p.m., e.d.t., September 19, 1977. Such a request may be hand-delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give concise summary of the proposed oral presentation and a phone number where he or she may be reached through September 21, 1977. Each per-

son selected to be heard will be notified by FEA before 4:30 p.m., e.d.t., September 21, 1977, and must submit 400 copies of his or her proposed statement to Executive Communications, FEA, Room 3317, 12th and Pennsylvania NW., Washington, D.C. 20461, before 4:30 p.m., e.d.t., on September 23, 1977.

b. *Conduct of Hearings.* FEA reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if she or he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing to Executive Communications, FEA, Room 3317, 12th and Pennsylvania Avenue NW., before 4:30 p.m., e.d.t., September 23, 1977. FEA will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by FEA and made available for inspection at the FEA Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments.

In accordance with Executive Order 11821 and OMB Circular A-107, FEA is considering the inflationary impact of this proposal.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332 and Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; E.O. 11933, 41 FR 36641).

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be amended as set forth below.

Issued in Washington, D.C., August 30, 1977.

ERIC J. FYGI,
Acting General Counsel.

1. Section 211.29 is amended to read as follows:

§ 211.29 Synthetic natural gas production.

(a) *General.* Notwithstanding any inconsistent provision of §§ 211.12 and 211.13, a firm which purchases or acquires crude oil and allocated products for use in the production of synthetic natural gas (SNG), including feedstock use, SNG enrichment use, and plant fuel use, shall comply with the provisions of this section. Any firm which has requirements for an SNG plant that exceed its base period volume or which has no base period volume may seek an adjustment of its base period volume or establishment of a base period volume only upon application to the FEA National Office in accordance with Subparts B or C, respectively, of Part 205 of this chapter.

(b) *Existing plants and pending applicants.* Firms which had received allocations for SNG feedstock, SNG enrichment or plant fuel for SNG production prior to July 1, 1977, or which had applied prior to January 1, 1976 for an SNG feedstock allocation, may elect to have existing or future applications, with respect to SNG production capacity which FEA has considered for such uses, evaluated (1) under the criteria in effect on July 1, 1977 as set forth in Special Rule No. 1 of this subpart, or (2) under the criteria set forth in paragraph (c) below. Applications for SNG feedstock, Btu enrichment, or SNG plant fuel for new SNG facilities or expansions of existing facilities shall not be eligible under this paragraph (b) to be considered under criteria existing on July 1, 1977. The election made pursuant to this paragraph shall be irrevocable, and must be made within thirty (30) days after the effective date of this regulation.

(c) *New applications.* (1) The procedures and requirements of this paragraph shall be applicable to all firms for SNG plants, facilities, or expansions which had not operated prior to July 1, 1977 or for which an application for SNG feedstock, Btu enrichment or SNG plant fuel had not been made prior to January 1, 1976, and to those firms electing to have their SNG applications reviewed under these provisions pursuant to paragraph (b) of this section.

(2) *Contents.* The application for adjustment or assignment shall contain, in addition to the information specified in §§ 205.24 or 205.34 of Part 205 of this chapter, respectively, the following information:

(i) The applicant's projected pipeline supply of natural gas for the period for which the application is being made;

(ii) All other current and projected sources of gas supplies, including, but not limited to, underground storage, liquefied natural gas (LNG), propane-air, SNG from coal, and the efforts the applicant has made to obtain such supplies.

(iii) The projected demand for gas (design winter and other estimates—by volume and number of customers) in the applicant's market area, by consuming sector (set forth by FPC priority or other readily identifiable categories with separate identification of industrial boiler fuel requirements), including estimates of that portion of the demand for which the SNG will be required;

(iv) The projected rate of growth of gas consumption in the applicant's market area for each consuming sector;

(v) The projected schedule of curtailments of pipeline supplies of gas for the allocation period, and a description of any curtailment plan in effect for the market area to be served by the SNG plant and an estimate of the effect of such plan.

(vi) A description of the rate structures of the SNG manufacturer and its gas utility customers (if any), including pricing policies for SNG and other supplemental sources of gas;

(vii) A complete description of the proposed feedstock, including the supplier(s), volumes, price, and technical specifications of the feedstock;

(viii) The design and practical feedstock capacity of the SNG plant;

(ix) The proposed product needed for Btu-enrichment requirements of the SNG plant, including source, volumes and price;

(x) The proposed SNG plant fuel, including source and volumes; and

(xi) Other information which may be identified by FEA as necessary for a comprehensive evaluation of the application.

(3) *Required certifications and showings.* Unless otherwise waived by the FEA for good cause shown, the applicant shall:

(i) Certify that approval for the proposed new or expanded SNG facility has been obtained from the state public service commission having the appropriate authority in at least one state to be served by the facility (no such approval is required where no state agency has such jurisdiction);

(ii) Demonstrate that the SNG feedstock or Btu enrichment material will be required in the volumes speciled under design conditions in order to meet priority gas uses during the fourth and first calendar quarters;

(iii) Certify that naphtha or any allocated natural gas liquid product will

be used for SNG production in the second or third calendar quarter only while gas service is continued to priority gas users or for industrial boiler fuel users which use up to 1500 MCF per peak day.

(iv) Certify that any allocated natural gas liquid product to be used for SNG feedstock, SNG Btu enrichment or SNG plant fuel will be imported (other than from Canada) for such use;

(v) Certify that a 90 day peak-load supply of feedstock will be maintained in readily accessible storage which can be used without adversely affecting the distribution of such product to other users of such product; and

(iv) Certify that all new growth by the applicant or the applicant's gas utility customers which would be served by the SNG plant will be for priority gas uses.

(4) *FEA evaluation.* In evaluating an application for assignment or adjustment of base period volumes for SNG feedstock, Btu enrichment or SNG plant fuel, FEA shall consider the following factors, in addition to the criteria set forth in Subparts B or C of Part 205 and the requirements of subparagraph (c)(2) above:

(i) The effects on the distribution and storage systems serving the market area;

(ii) For feedstocks other than allocated natural gas liquid products, for which imports are required, (A) the effect of allocating domestic rather than imported feedstocks and (B) the effect of allocation of the requested product for SNG production on the supply of and demand for such product in a particular market area, with due regard to the impacts on competing uses;

(iii) The security of feedstock supply from the proposed source of supply;

(iv) The ability of a new plant to use a variety of feedstocks;

(v) The environmental impact of allocation options within a market area. If the applicant contends that the production of SNG is required to overcome a significant environmental problem, the applicant shall provide a clear and convincing demonstration of the need for SNG to overcome or mitigate such problem. Notwithstanding the other requirements contained in this paragraph (c), if such a showing is made, an allocation may be granted to the applicant to serve other than priority gas users in the second and third calendar quarters or under design winter conditions.

(d) *Special limitations.* Unless directed by FEA upon application pursuant to Subpart G of Part 205 of this chapter, no supplier shall supply and no wholesale purchaser or end-user shall accept or use naphtha or any allocated natural gas liquid product in excess of one hundred percent of base period use for synthetic natural gas plant feedstock use.

(e) *Reporting requirements.* Each SNG manufacturer shall report to FEA in a manner prescribed by FEA on the usage of crude oil or allocated products for SNG production.

(f) *Review.* Each firm operating an SNG plant shall be subject to audit at the discretion of FEA to assure that the plant is continuing to operate in accordance with the allocation order and the applicable regulations. On the basis of such audit, the FEA may decide to review the allocation and rescind or adjust it upward or downward.

APPENDIX [AMENDED]

2. The Statement of Policy following Special Rule No. 1 to Subpart A of Part 211 is deleted.

3. Section 211.51 is amended by deleting the definition of "synthetic natural gas plant" and by inserting the following definitions of "design conditions," "priority gas uses" and "synthetic natural gas" in the appropriate alphabetical order:

§ 211.51 General definitions.

* * * * *

"Design conditions" means a specified level of demand required for a sustained period of time experienced during a heating season upon which the system capacity, reliability, and other engineering specifications are based and which has previously been recorded with either a state public service commission, the Federal Power Commission, or, in the case of an unregulated utility, can be demonstrated through previous documentation.

* * * * *

"Priority gas uses" means usage of natural gas for residential use, commercial use, storage injection requirements and firm industrial requirements for plant protection, feedstocks, process uses or other non-boiler fuel uses.

* * * * *

"Synthetic natural gas" or "SNG" means gas manufactured from any hydrocarbon source material and having the same characteristics as natural gas, and which is, or may easily be made, fungible with natural gas.

[FR Doc.77-25789 Filed 9-2-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 77-WE-17]

FEDERAL AIRWAY

Proposed Extension

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to extend VOR Federal Airway V-111 from Patty Intersection, Calif., to Modesto, Calif. This action is proposed to reduce ATC communications and increase ATC efficiency by permitting the use of the extended airway as a transition route from the south for aircraft conducting instrument approaches to Modesto City-County, Harry Sham Field and Stockton Metropolitan Airport.

DATES: Comments must be received on or before October 5, 1977.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 77-WE-17, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

The official docket may be examined at the following location:

FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before October 5, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

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

THE PROPOSAL

The FAA is considering an amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to extend VOR Federal Airway V-111 from Patty Intersection, Calif., to Modesto, Calif. This action is necessary to conform to revised instrument approach procedures being established for

Modesto City-County, Harry Sham Field, Modesto, Calif., and Stockton Metropolitan Airport, Stockton, Calif. The revised instrument approach proceduers will designate the extended airway to Modesto as a transition route from the south for aircraft conducting instrument approaches to those airports. Such action will improve ATC efficiency by reducing the need for additional routing clearances and would eliminate some instrument approach chart clutter.

DRAFTING INFORMATION

The principal authors of this document are Mr. John Watterson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.-123 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 307) as follows:

In V-111 "To INT Salinas 028° and Stockton, Calif., 164° radials." is deleted and "INT Salinas 028° and Stockton, Calif., 164° radials; to Modesto, Calif." is substituted therefor.

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

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

Issued in Washington, D.C., on August 29, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-25779 Filed 9-2-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-NW-2]

VOR AIRWAY

Proposed Alteration and Extension

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign VOR low altitude alternate airway (V-4N) in part between Ellensburg and Pasco, Wash., and also extend VOR low altitude alternate airway (V-2S) from Ellensburg, Wash., to Moses Lake, Wash. These actions would improve air traffic efficiency by reducing excessive communications to aircraft for route extensions and off airway radar vectors clear of Restricted Area R-6714.

DATES: Comments must be received on or before October 5, 1977.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Northwest Region, Attention: Chief, Air Traffic Division, Docket No. 77-NW-2, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108.

The official docket may be examined at the following location:

FAA Office of the Chief Counsel Rules Docket, (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

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

FOR FURTHER INFORMATION CONTACT:

Mr. David F. Solomon, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-8530.

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, Northwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, FAA Building, Boeing Field, Seattle Wash. 98108. All communications received on or before October 5, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of the 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 C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign VOR altitude alternate airway (V-4N) in part between Ellensburg and Pasco, Wash., and also extend low altitude alternate airway (V-2S) from Ellensburg, Wash., to Moses Lake, Wash. The FAA believes that these actions will improve air traffic efficiency by reducing excessive communications to aircraft for route extensions and off airway radar vectors clear of Restricted Area R-6714.

DRAFTING INFORMATION

The principal authors of this document are Mr. David F. Solomon, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.-123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 307) and amended (42 FR 15309) as follows:

1. In V-2 "Moses Lake, Wash.;" would be deleted and "Moses Lake, Wash., including a south alternate via INT Ellensburg 107° and Moses Lake 231° radials;" would be substituted therefor.

2. In V-4 "Pasco, Wash.," would be deleted and "INT of Ellensburg 107° and Pasco 321° radials.; Pasco, Wash.," would be substituted therefor.

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

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

Issued in Washington, D.C., on August 30, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-25780 Filed 9-2-77;8:45 am]

[14 CFR Parts 71, 75]

[Airspace Docket No. 77-CE-16]

VOR AIRWAY AND JET ROUTE

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a new low altitude VOR Airway (V-125) from Cape Girardeau, Mo., to St. Louis, Mo., and also designate a new high altitude Jet Route (J-137) from Capitol, Ill., to Little Rock, Ark. These actions are designed to improve air traffic service to the systems users, through more direct routings and increased fuel/time savings.

DATES: Comments must be received on or before October 5, 1977.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Central Region, Attention: Chief, Air Traffic Division, Docket No. 77-CE-16, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106.

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

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

FOR FURTHER INFORMATION CONTACT:

Mr. David F. Solomon, Airspace Regulations Branch (ATT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; Telephone 202-426-8530.

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, Central Region, Attention; Chief, Air Traffic Division, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106. All communications received on or before October 5, 1977. will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

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

THE PROPOSAL

The FAA is considering amendments to Subpart C of Part 71 and Subpart B of Part 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to designate a low altitude VOR Airway (V-125) from Cape Girardeau, Mo., to St. Louis, Mo., and also designate a high altitude jet route from Capitol, Ill., to Little Rock, Ark. These actions are designed to improve air traffic service to the systems users, through more direct routings and increased fuel/time savings.

DRAFTING INFORMATION

The principal authors of this document are Mr. David F. Solomon, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 and § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as republished (42 FR 307 and 707) respectively, as follows:

In § 71.123 "V-125 From Cape Girardeau, Mo., INT Cape Girardeau 347° and St. Louis, Mo., 148° radials; St. Louis." would be added.

In § 75.100 "Jet Route No. 137 From Capitol, Ill., via Farmington, Mo.; Walnut Ridge, Ark.; to Little Rock, Ark." would be added.

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

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

Issued in Washington, D.C., on August 30, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-25781 Filed 9-2-77;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Part 2]

[Docket No. RM75-25]

TRANSPORTATION BY JURISDICTIONAL PIPELINES OF CERTAIN NATURAL GAS

Review Policy Statement of Order Nos. 533 and 533-A

AGENCY: Federal Power Commission.

ACTION: Extension of Time.

SUMMARY: The Commission is granting an extension of time to and including September 9, 1977, within which to file reply comments in the proposed rulemaking proceeding docketed as RM75-25.

DATE: Reply comments must be received on or before September 9, 1977.

ADDRESS: Send reply comments to: Secretary, Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Kenneth F. Plumb (Secretary, 202-275-4166.

SUPPLEMENTARY INFORMATION: On August 8, 1977, Northern Illinois Gas Co. filed a motion to extend the time for filing comments in response to initial comments on the Notice of Proposed Rulemaking, issued June 24, 1977, and published July 6, 1977 (42 FR 34521). Due to administrative error, the Notice granting an extension of time to and including August 19, 1977, was not issued until August 23, 1977. Therefore, the Commission is granting a further extension of time to September 9, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25862 Filed 9-2-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[20 CFR Part 405]

[Regulations No. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Collection and Compromise of Claims Resulting From Overpayments Incurred by Providers, Physicians, and Suppliers of Services

AGENCY: Health Care Financing Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed amendments further extend the provisions of the Federal Claims Collection Act of 1966 (31 U.S.C. 951-953) by authorizing the Secretary or his designee to compromise claims or to suspend or terminate collection action on claims arising from title XVIII overpayments incurred by providers, physicians, or other suppliers or services. This action is being taken to expedite the resolution of those overpayment cases where such action is in the best interest of the Government. Carriers and intermediaries are required to attempt recovery of Medicare overpayments by requesting refunds of effecting offset against payments due or against future payments.

COMMENT PERIOD: Comments must be received by October 21, 1977.

ADDRESS: Comments must be in writing and should be addressed to the Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2372, Washington, D.C. 20013. Please refer to BHI-5-P.

Copies of all comments received in response to this notice will be available for public inspection Monday through Friday of each week from 8:30 a.m. to 5 p.m. in Room 5225 of the Department offices at 330 C Street SW., Washington, D.C. 20201, telephone 202-245-0951.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond Sillup, Staff Director, Medicare Bureau, Health Care Financing Administration, Baltimore, Md. 21235 (301-594-3340). Mr. Sillup will respond to questions but will be unable to accept oral comments on these proposals. Such comments should be in writing as indicated above.

AUTHORITY FOR PROPOSED ACTION

SUPPLEMENTARY INFORMATION: The Federal Claims Collection Act of 1966 (31 U.S.C. 951-953) vests in the Secretary, under regulations prescribed by

him, the authority to compromise claims, or to suspend or terminate collection action on claims of the United States, provided they do not exceed $20,000.00, exclusive of interest, and there are no indications of fraud in connection with the claim.

Section 404.515(a) of Regulations No. 4 of the Social Security Administration (20 CFR 404.515(a)) indicates that determinations under the Federal Claims Collection Act to compromise a claim, or to suspend or terminate collection of a claim, which arise under titles II or XVIII of the Social Security Act, are made by the Social Security Administration and apply only to the recovery of title II or title XVIII overpayments from beneficiaries, and not to the recovery of title XVIII overpayments for which refund is requested from providers, physicians, or other suppliers of services. Situations arise, however, where carrier/intermediary recovery action against providers, physicians, or other suppliers is unsuccessful and the result is often a time consuming and costly series of referrals to other Government agencies for assistance in collection efforts. Where efforts by the Health Care Financing Administration to obtain full recovery fail, quick action to refer the matter for further collection effort or to negotiate, when appropriate, a compromise settlement should provide a measure of success. These compromise and related procedures may alleviate for both the debtor and the Government the expense of court proceedings.

In addition to reducing administrative handling and by providing flexibility to recovery efforts, the proposed amendments will expedite the resolution of outstanding overpayment situations. With respect to the recovery of erroneous title XVIII payments for which providers, physicians, or other suppliers of services have been found liable, the proposed amendments are in conformity with the basic standards and procedures to be used by Federal agencies under the provisions of the Federal Claims Collection Act, as promulgated jointly by the Attorney General and Comptroller General in 4 CFR Parts 101–105. A determination made under these amendments not to compromise a claim or not to suspend or terminate collection of such a claim, or a determination to compromise a claim, including the amount, time, and manner of payment shall not be considered a carrier's "initial determination," or an "intermediary determination," for purposes of the appeals procedures in Subparts H and R, respectively, but may receive an administrative review by the Health Care Financing Administration.

CONFORMING REVISIONS

Conforming changes are also made to Subpart H—Review and Hearing under the Supplementary Medical Insurance Program, and to Subpart R—Provider Reimbursement Determinations and Appeals.

A final revision of Subparts C, F, and O of Regulations No. 5, relating to the conditions for exclusion from coverage of items and services and for termination of provider agreements where there is provider abuse, was published in the FEDERAL REGISTER (40 FR 36311) on August 20, 1975. The revision contained a cross reference error in § 405.315b(a)(3). The cross reference should be § 405.614(a)(5)(iii) rather than § 405.614(a)(5). We are revising this section of the regulation to correctly reflect the cross reference.

The proposed amendments are to be issued under the authority contained in sections 1102, 1815, 1870, and 1871 of the Social Security Act; 49 Stat. 647, as amended, 79 Stat. 297, 79 Stat. 331; 42 U.S.C. 1302, 1395g, 1395gg, and 1395hh; Pub. L. 89–508, the Federal Claims Collection Act, 80 Stat. 308; 31 U.S.C. 951–953.

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Health Insurance: No. 13.801, Health Insurance for the Aged—Supplementary Medical Insurance.)

NOTE.—The Health Care Financing Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 (November 27, 1974) as amended by Executive Order 11949 (December 31, 1976) and OMB Circular A–107.

Dated: July 22, 1977.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: August 30, 1977.

HALE CHAMPION,
Secretary of Health, Education, and Welfare.

Part 405 of title 20 of the Code of Federal Regulations is amended as set forth below:

§ 405.315b [Amended]

1. Paragraph (a)(3) of § 405.315b is amended by correcting the second cross reference therein to read "§ 405.614(a)(5)(iii)".

2. Section 405.374 is added to read as follows:

§ 405.374 Collection and compromise of claims for overpayments.

(a) *General effect of the Federal Claims Collection Act of 1966.* Claims by the Health Care Financing Administration against any provider, physician, or other supplier of services, whether an individual, partnership, corporation, or other legal entity (hereinafter referred to as debtor), for recovery of overpayments under title XVIII of the Social Security Act (including claims arising out of the End Stage Renal Disease program), not exceeding the sum of $20,000.00, exclusive of interest, may be compromised or collection suspended or terminated. Except as provided under paragraph (b) of this section, such claim may be compromised or collection suspended or terminated where the debtor or his estate (if the debtor is a deceased individual), does not have the present or prospective ability to pay the full amount of the claim within a reasonable time (see paragraph (c) of this section), or the cost of collection is likely to exceed the amount of recovery (see paragraph (d) of this section). (Where there is a valid assignment to a physician or supplier of an individual's claim, the provisions of this section apply with respect to such physician or supplier.)

(b) *When there will be no compromise, suspension, or termination of collection of a claim for overpayment.*—(1) *Natural person.* Where the debtor is a natural person, a claim for overpayment will not be compromised, nor will the Health Care Financing Administration suspend or terminate collection of the claim if there is an indication of fraud, similar fault, the filing of a false claim, or misrepresentation on the part of the debtor or on the part of any other party having an interest in the claim.

(2) *All other debtors.* A claim for overpayment against all other debtors (e.g., corporations, partnerships, estates, or trusts), will not be compromised, nor will the Health Care Financing Administration suspend or terminate collection of the claim if there is an indication of fraud, similar fault, the filing of a false claim, or misrepresentation on the part of the debtor, or on the part of the owners, directors, partners, managers, or any other party having an interest in the claim.

(c) *Inability to pay claim for recovery of overpayment.*—(1) *Compromise of claim generally.* A claim may be compromised if the Government cannot collect the full amount because of the debtor's inability to pay the full amount within a reasonable time, or because of the refusal of the debtor to pay the claim in full and the Government's inability to enforce collection in full within a reasonable time by enforced collection proceedings. The Health Care Financing Administration will also consider exemptions available to the debtor under the pertinent State or Federal law in the proceedings.

(2) *Natural person.* In determining whether a debtor who is a natural person is unable to pay the full claim for recovery of an overpayment under title XVIII of the Act, the Health Care Financing Administration will consider the debtor's age, health, assets (e.g., real property, savings accounts), and present and potential income (including inheritance prospects). If a debtor is deceased, the Health Care Financing Administration will consider the available assets of the estate, taking into account any liens or superior claims against the estate.

(3) *All other debtors.* In the case of all other debtors, the Health Care Financing Administration will consider the available assets (e.g., real property, savings accounts), possible concealment or improper transfer of assets, and assets or income of the debtor which may be available in enforced collection proceedings.

If the debtor is a corporation, partnership, or other business concern, the Health Care Financing Administration will consider the solvency of the organization. Neither a percentage of a debtor's profits nor stock in a debtor corporation will be accepted in a compromise of a claim. In negotiating a compromise with a business concern, consideration shall be given to requiring a waiver of the tax loss carry forward and tax loss carry back rights of the debtor.

(4) *Termination of action.* Collection action may be terminated on a claim when it becomes clear that the Government cannot collect or enforce collection of any significant sum from the debtor, having due regard for the above repayment prospects.

(d) *Cost of collection or litigative probabilities.*—(1) *Compromise of claim.* Where the probable costs of recovering an overpayment under title XVIII of the Social Security Act would not justify enforced collection proceedings for the full amount of the claim, or there is doubt concerning the Health Care Financing Administration's ability to establish its claim as well as the time which it will take to effect the collection, a compromise or settlement for less than the full amount may be considered. A claim may be compromised if there is real doubt concerning the Government's ability to prove its case in court for the full amount claimed either because of the legal issues involved or a bona fide dispute as to the facts.

(2) *Termination of action.* Collection action may be terminated on a claim whenever it is determined that the claim is legally without merit, or when it is determined that the evidence necessary to prove the claim cannot be produced, or the necessary witnesses are unavailable.

(e) *Inability to locate debtor.*—(1) *Suspension of action.* Collection action may be suspended temporarily on a claim when the debtor cannot be located after diligent effort and there is reason to believe that future collection action may be sufficiently productive to justify periodic review and action on the claim having consideration for its size and the amount which may be realized thereon.

(2) *Termination of action.* Collection action may be terminated on a claim when the debtor cannot be located, there is no security remaining to be liquidated, the applicable statute of limitations has run, and the prospects of collecting by offset, notwithstanding the bar of the statute of limitations, are too remote to justify retention of the claim.

(f) *Amount of compromise.* The amount to be accepted in compromise of a claim for overpayment under title XVIII of the Act shall bear a reasonable relationship to the amount which can be recovered by enforced collection proceedings, giving due consideration to the exemptions available to the debtor under State or Federal law, the time which the collection will take, and the probability of prevailing on the legal question involved.

(g) *Payment.* Payment of the amount which the Health Care Financing Administration has agreed to accept as a compromise in full settlement of a claim for recovery of an overpayment under title XVIII of the Social Security Act must be made within the time and in the manner prescribed by the Health Care Financing Administration. A claim for the recovery of the overpayment shall not be considered compromised or settled until the full payment of the compromised amount has been made within the time and in the manner prescribed by the Health Care Financing Administration. Failure of the debtor, or his estate where the debtor is a deceased individual, to make the payment as provided shall result in reinstatement of the full amount of the overpayment less any amounts paid prior to such default.

(h) *Administrative actions.* The determination by the Health Care Financing Administration under the authority of the Federal Claims Collection Act of 1966 (31 U.S.C. 951–953) not to compromise a claim for overpayment incurred by providers, physicians, or other suppliers of services, under title XVIII of the Social Security Act, or not to suspend or terminate collection of such a claim, or the determination to compromise such a claim, including the compromised amount, time, and manner of payment shall not be considered an initial determination for purposes of the appeals procedures in Subparts H and R of this part, but may receive administrative review by the Health Care Financing Administration.

3. In § 405.803, a new paragraph (d) is added to read as follows:

§ 405.803 Initial determination.

* * * * *

(d) The determination by the Health Care Financing Administration, pursuant to the authority of the Federal Claims Collection Act of 1966 (31 U.S.C. 951–953), not to compromise a claim for overpayment due from a physician or supplier of services under title XVIII of the Act, or not to suspend or terminate collection of such a claim, or the determination to compromise such a claim, including the compromised amount, time, and manner of payment shall not be considered a carrier's initial determination for purposes of these appeals procedures, but may receive an administrative review by the Health Care Financing Administration.

4. Section 405.1801 is amended by adding the following sentence to the end of paragraph (a) (1) to read as follows:

§ 405.1801 Introduction.

(a) *Definitions.* * * *

(1) * * * The determination by the Health Care Financing Administration, pursuant to the authority of the Federal Claims Collection Act of 1966 (31 U.S.C. 951–953), not to compromise a claim for overpayment due from providers, or from other entities who are obliged to file periodic cost reports and are reimbursed on the basis of information furnished in such reports under title XVIII of the Social Security Act, or not to suspend or terminate collection of such a claim, or the determination to compromise such a claim, including the compromised amount, time, and manner of payment shall not be considered an intermediary determination for purposes of this subpart, but may receive an administrative review by the Health Care Financing Administration.

* * * * *

[FR Doc.77-25797 Filed 9-2-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 77-150]

DRAWBRIDGE OPERATIONS

Umpqua River, Oregon

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Oregon State Highway Division, the Coast Guard is considering revising the regulations for the highway drawbridge across the Umpqua River at Reedsville, Oreg. to require at least four hours notice at all times. The two principal commercial users of this bridge have agreed to this change on a trial basis. This amendment would relieve the state of the obligation of maintaining a full-time drawtender.

DATE: Comments must be received on or before October 3, 1977.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Wash. 98174.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73) Room 7300, Nassif Building, 400 7th Street SW., Washington, D.C. 20590 (202-426-0942).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Each person submitting comments should include his name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Thirteenth Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATIONS

The number of openings for this bridge has decreased. There were 234 openings in 1974, 157 in 1975, and 175 in 1976. This small amount of river traffic, the Oregon State Highway Division contends, does not justify manning the structure on a 24-hour basis and they proposed to open the draw if at least four hours notice is given. The two principal commercial users of this bridge accounting for 95 percent of the openings have agreed to this proposal on a trial basis.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by adding a new subparagraph (16) to § 117.759b(f) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.759b Drawbridges across navigable waters in Oregon where constant attendance is not required.

* * * * * *

(f) * * *

(16) Umpqua River highway drawbridge at Reedsville, Oreg. The draws shall open on signal if at least four hours notice is given.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).)

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

Dated August 22, 1977.

E. L. PERRY,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc.77-25607 Filed 9-2-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 784-8]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Air Pollution Control; State of Arizona Rules and Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: It is the purpose of this notice to acknowledge receipt of and invite public comment on approval or disapproval of the February 11, 1977 revision to the State of Arizona Air Pollution Control Implementation Plan (SIP). This revision concerns amendments to the State rules and regulations regarding vehicle inspection/maintenance.

DATES: Comments may be submitted up to October 6, 1977.

ADDRESS: Send comments to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch, Arizona-Nevada-Pacific Islands Section, EPA Region IX, 100 California St., San Francisco CA 94111.

FOR FURTHER INFORMATION CONTACT:

Erik Hauge 415-556-7595.

SUPPLEMENTARY INFORMATION: The February 11, 1977 submittal contained the following new, amended or repealed rules:

R9-3-1002	Definitions (amended).
R9-3-1003	Vehicles to be inspected by the mandatory vehicular emissions inspection program (amended)
R9-3-1004	State inspection requirements (amended).
R9-3-1005	Time of inspections (amended).
R9-3-1006	Mandatory vehicular emissions inspection (amended).
R9-3-1007	Evidence of meeting State inspection requirements (new).
R9-3-1008	Procedure for issuing certificates of waiver (new).
R9-3-1009	Pass/fail authentication (repealed).
R9-3-1010	Low emissions tune up (new).
R9-3-1011	Inspection report (new).
R9-3-1012	Inspection procedure and fee (new).
R9-3-1013	Reinspections (new).
R9-3-1014	Paid reinspections (repealed).
R9-3-1015	Fees (repealed).
R9-3-1016	Licensing of inspectors (amended).
R9-3-1017	Inspection of government entity (amended).
R9-3-1018	Certificate of inspection (amended).
R9-3-1019	Fleet operator qualifications and permits (amended).
R9-3-22	Procedures for waiving inspections due to technical difficulties (amended).
R9-3-1023	Certificate of exemption (amended).
R9-3-1024	Visible emissions; diesel-powered (repealed).
R9-3-1025	Inspection at State stations (new).
R9-3-1026	Inspection of fleet stations (new).
R9-3-1027	Registration of repair industry analyzers (new).
R9-3-1029	Vehicle emission control devices (new).
R9-3-1030	Visible emissions; diesel-powered locomotives (new).

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations which were submitted as an SIP revision. The Regional Administrator hereby issues this notice setting forth this revision as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX office. Relevant comments received on or before 30 days from publication of this notice will be considered. Comments received will be available for public inspection at the Region IX office and the EPA Public Information Reference Unit.

Copies of the revision are available for public inspection during normal business hours at the following locations:

Arizona Department of Health Services, 1740 West Adams St., Phoenix AZ 85007.
Arizona Department of Health Services, Southern Regional Office, 5955 East Broadway, Suite C-203, Tucson AZ 85711.
EPA Region IX, 100 California St., San Francisco CA 94111.
Public Information Reference Unit, (EPA Library) PM-213, 401 M Street SW., Washington, D.C. 20460.

(Secs. 110, 301(a), Clean Air Act, as amended (42 U.S.C. 1857c-5 1857g(a), respectively).)

Dated: August 23, 1977.

PAUL DE FALCO, Jr.,
Regional Administrator.

[FR Doc.77-25891 Filed 9-2-77;8:45 am]

[40 CFR Parts 130, 131]

STATE AND AREAWIDE WASTE TREATMENT MANAGEMENT PLANS

Acceptance and Approval of Plans and Designated Management Agencies

CROSS REFERENCE: For a notice of a program Guidance Memorandum on State and Areawide Water Quality Management Agencies, see FR Doc. 77-25740 published as a Part VI in this issue of the FEDERAL REGISTER. The second paragraph of that notice states: "Because of the importance of this memorandum, the policy that it establishes will be incorporated in amendments to 40 CFR Parts 130 and 131. Comments on this memorandum are encouraged in the light of the upcoming amendments."

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 89, 91, 93]

[Docket No. 21350; FCC77-523]

PUBLIC SAFETY, INDUSTRIAL, AND LAND AND TRANSPORTATION SERVICES

Simplifying Certain Procedures for Filing Applications

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Communications Commission, on its own initiative, proposes to simplify certain procedures for filing of applications. The Commission proposes to modify eligibility statement requirements and substitute notification procedures in lieu of the formal license modification procedures presently required for certain terms of the station authorization. The proposed changes are procedural in nature.

DATES: The date for filing comments is October 7, 1977, and for filing reply comments is October 17, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Mr. Eugene C. Bowler or Mr. James E. McNally, Jr., at 202-632-6497. Safety and Special Radio Services Bureau.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Parts 89, 91, and 93 to simplify certain procedures for filing applications, Docket No. 21350.

ADOPTED: July 21, 1977.

RELEASED: August 30, 1977.

1. In accordance with our on-going program of reviewing our rules to facilitate administration, the Commission is proposing the following rule changes in the Public Safety, Industrial, and Land Transportation Radio Services to simplify application filing procedures for land mobile radio users.

I. REPORTING OF IN-USE MOBILE TRANSMITTERS

2. The Commission's document "Instructions for Completion of FCC Form 400" (FCC Form 400-10), currently provides that in making an initial application request, an applicant may include a five year estimate as to his mobile requirements. Thus, the document now reads:

> The number of mobile units (transmitters) shown in the "Mobile" column is a combination of the number actually to be acquired within 8 months, and a number of additional mobile units up to the maximum shown in the table below, to cover expected expansion during the license term . . .

Similiar instructions apply to the completion of the Form 425.

3. While this processing technique has eliminated the need for a licensee to file a license modification to increase the authorized number of mobile units in his system, too often it has been the Commission's experience that the licensee's guess as to the anticipated number of mobile units has been overly optimistic. The result has been that while licensees may expand their initial systems without applying for authorization modifications, the Commission has operated under the handicap of inaccurate and misleading records regarding the actual number of mobile transmitters in use. This in turn, has impaired the Commission's ability to conduct meaningful spectrum analyses necessary for the proper administration and allocation of the available spectrum. Accordingly, the Commission is proposing to amend these instructions and its rules to require applicants to specify only the number of mobile units which will be placed into operation with eight months of the grant date. This figure may include:

> 1. The number of transmitters which will be installed and operated immediately after the authorization is issued; and
>
> 2. The number of transmitters for which purchase orders have been signed, and which will be in use within eight months of the date of authorization.

4. In order to negate the impact of this requirement, the Commission proposes allowing licensees to request an increase in the number of authorized mobile units through a simple notification procedure, even though this item is a term of the station authorization. This new procedure would not, however, be adopted for stations operating on frequencies above 470 MHz due to the Commission's need to approve, in advance, any increase in the number of mobile units in order to guarantee that applicable loading standards are not exceeded.

5. In the Public Safety Radio Services, we are aware of the delays inherent in the processes for approving and funding a communication proposal, particularly extensive ones, and additional periods of time beyond the eight month period have been granted from time to time. We want to take this opportunity to recognize the problems and to adopt rule provisions to deal with it. Accordingly, in the Public Safety Radio Service, where the applicant is a governmental entity, the applicant may request that we authorize not only the number of transmitters to be placed in operation immediately and those for which purchase orders have been signed but also:

> The number of transmitters for which bids have been, are being, or will be sought, and which will be put into use within eight months of the date of authorization; and the number of transmitters to be placed in operation later than eight months of the authorization date under a specific implementation schedule which has been adopted by the appropriate final authorities of the applicant.

II. THE ELIMINATION OF NARRATIVE-STYLE-ELIGIBILITY STATEMENTS

6. Commission rules currently require that applications in the Industrial (Part 91) and Land Transportation (Part 93) Radio Services be accompanied by detailed statements establishing the applicant's eligibility in the radio service requested. Review of these statements, which are often so vague and incomplete as to be of no practical use to the Commission staff, now accounts for a substantial amount of the total application processing time. The Commission has consequently concluded that speed of service can be increased with little loss of necessary information by having applicant specify the rule section which describes his particular area of eligibility. This change would relieve applicants of the burden of preparing a detailed statement of eligibility, in the great majority of cases, while at the same time expediting application processing. Applicants, however, will be expected to familiarize themselves with the Commission's rules and will be held strictly responsibe for ensuring conformance between the specific category of eligibility and their own business activities. This proposed change would in no way alter or amend the actual eligibility requirements for licensing in any of these radio services, nor would it affect the Commission's right, under section 308(b) of the Communications Act of 1934, as amended, to ask licensees and applicants at any time for such information as may be deemed necessary for action on their applications and for administration of the Commission's rules.

III. SPECIFICATION OF CONTROL POINTS

7. The final procedural change which the Commission is proposing concerns the enumeration of control points on the face of a license. Presently, the Commission's rules require that each station not authorized for unattended operation be equipped with a control point whose location is specified on the face of the authorization. This same requirement applies to unattended stations at which control point use is optional. Any change in a system's control point(s) is a license modification requiring the submission to the Commission of an application to modify. We are proposing to amend our rules to eliminate the need for submission of applications for modification and instead are substituting a simple notification procedure, even though this item is a term of the station's authorization. Letters of notification, however, must be received by the Commission 30 days prior to alteration or change in location of a system's control point(s).

8. Authority for the proposed amendments is contained in section 4(i) and 303 of the Communications Act of 1934, as amended. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before October 7, 1977, and reply comments on or before October 17, 1977. Relevant and timely comments will be considered by the Commission before final action in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

9. In accordance with the provisions of § 1.419 of the Commission's rules an original and five copies of all statements, briefs or comments filed shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,

VINCENT J. MULLINS,
Secretary.

Parts 89, 91, and 93 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 89—PUBLIC SAFETY RADIO SERVICES

1. Section 89.55 is amended by the addition of new paragraph (c) and by the re-designation of existing paragraphs (c), (d), and (e) as (d), (e), and (f), respectively.

§ 89.55 Filing of applications.

* * * * *

(c) Each application shall limit its request for authorized mobile transmitters to:

(1) Transmitters which will be installed and operated immediately after authorization issuance;

(2) Transmitters for which purchase orders have already been signed and which will be in use within eight months of the authorization date;

(3) Transmitters on which bid orders have been or will be sought and which will be in use within eight months of the authorized date; and

(4) Transmitters to be placed in operation later than eight months of the authorization date pursuant to a specific implementation schedule which has been adopted by the appropriate final authorities of the applicant.

(d) Unless otherwise specified, an application shall be filed at least 60 days prior to the date on which it is desired that Commission action thereon be completed. In particular, applications involving the installation of new equipment shall be filed at least 60 days prior to the contemplated installation.

(e) Failure on the part of the applicant to provide all the information required by the application form or to supply the necessary exhibits or supplementary statements may constitute a defect in the application.

(f) Applications involving operation at temporary locations:

(1) When one or more individual transmitters are intended to be operated as a base station or as a fixed station at unspecified or temporary locations for indeterminate periods, such transmitters may be considered to comprise a single station intended to be operated at temporary locations. An application for authority to operate a base station or a fixed station at temporary locations shall specify the general geographic area within which the operation will be confined. The area specified may be a city, a county, or counties, or a state or states.

(2) When a base station or fixed station authorized to operate at temporary locations remains at a single location for more than one year, an application for modification of the station authorization to specify the permanent location shall be filed within 30 days after expiration of the 1 year period.

2. Section 89.71, headnote and text are revised to read as follows:

§ 89.71 Time in which station must be placed in operation.

(a) Each radio station authorized under this part must be placed in operation within eight months from the date of authorization.

(b) A period longer than eight months for placing a station in operation may be authorized by the Commission, on a case-by-case basis, where the applicant submits a specific schedule for the completion of each portion of the entire system, along with a showing that the system has been approved and funded for implementation in accordance with that schedule.

3. In § 89.75 paragraph (a) is amended, paragraph (c) is re-designated as paragraph (b), and a new paragraph (c) is added to read:

§ 89.75 Changes in authorized stations.

* * * * *

(a) Except as provided in paragraphs (c) and (d) of this section, proposed changes which will result in operation inconsistent with any of the terms of the current authorization require than an application for modification of license be submitted to the Commission. This shall be submited on FCC Form 400, and shall be acompanied by exhibits and supplementary statements as required by § 89.63. A change in a system's control points or number of mobile units will not require an application for modification: *Provided,* The Commission is notified, in writing, 30 days before the proposed change.

(b) Proposed changes which will not depart from any of the terms of the outstanding authorization for the station involved may be made without prior Commission approval. Included in such changes are the substitution of various makes of transmitting equipment at any station: *Provided,* The particular equipment to be installed is included in the Commission's "List of Equipment Acceptable for Licensing" and designated for use in the Public Safety, Industrial, and Land Transportation Radio Services, and, provided the substitute equipment employs the same type of emission and does not exceed the power limitations as set forth in the station authorization.

(c) When a licensee plans to change the number or location of wireline control points of his station, or, in the case of stations operating on frequencies below 470 MHz, when he plans to add or delete mobile units, a formal application for modification of the authorization for the station need not be filed. However, the Commission must be notified 30 days prior to the change. The notice, which may be in letter form, shall state the licensee's name, the station call sign, and the number and location of control points to be added or deleted, or the number of mobile units to be added or deleted. The notice shall be sent to the Secretary, Federal Communications Commission, Washington, D.C. 20554. A copy of the notice shall be retained by the licensee and included with the station records. Control point changes are subject to Commission review for consonance with the rules and regulations and established Commission policy.

* * * * *

PART 91—INDUSTRIAL RADIO SERVICES

4. Section 91.54 is amended by the adoption of new paragraph (c) and by the re-designation of existing paragraphs (c), (d), (e), as (d) (e) and (f) respectively.

§ 91.54 Filing of applications.

* * * * *

(c) Each application shall limit its request for authorized mobile transmitters to:

(1) Transmitters which will be installed and operated immediately after authorization issuance; or

(2) Transmitters for which purchase orders have already been signed and which will be in use within eight months of the authorization date.

(d) Unless otherwise specified, an application shall be filed at least sixty days prior to the date on which it is desired that Commission action thereon be completed.

(e) Failure on the part of the applicant to provide all the information required by the application form or to supply the necessary exhibits or supplementary statements may constitute a defect in the application.

(f) Applications involving operation at temporary locations:

(1) When one or more individual transmitters are intended to be operated as a base station or as a fixed station at unspecified or temporary locations for indeterminate periods, such transmitters may be considered to comprise a single station intended to be operated at temporary locations. An application for authority to operate a base station or a fixed station at temporary locations shall specify the general geographic area within which the operation will be confined. The area specified may be a city, a county, or counties, or a state or states. Sufficient data must be submitted to show the need for the proposed area of operation.

(2) When any unit or units of a base station or fixed station authorized to be operated at temporary locations actually remains or is intended to remain at the same location for a period of over a year, application for a separate authorization specifying the fixed location, shall be made as soon as possible but not later than 30 days after the expiration of the one year period.

5. Section 91.62, headnote and text are revised to read as follows:

§ 91.62 Time in which station must be placed in operation.

Each radio station authorized under this part must be placed in operation within eight months from the date of authorization.

6. In § 91.64, paragraph (a) is amended, paragraph (c) is redesignated as (b) and a new paragraph (c) is added to read:

§ 91.64 Changes in authorized stations.

* * * * *

(a) Except as provided in paragraphs (c) and (d) of this section, proposed changes which will result in operation inconsistent with any of the terms of the current authorization require that an application for modification of license be submitted to the Commission. This shall be submitted on FCC Form 480,

and shall be accompanied by exhibits and supplementary statements as required by § 91.58. A change in a system's control points or number of mobile units will not require an application for modification so long as the Commission is notified, in writing, 30 days before the proposed change.

(b) Proposed changes which will not depart from any of the terms of the outstanding authorization for the station involved may be made without prior Commission aproval. Included in such changes is the substitution of various makes of transmitting equipment at any station: *Provided,* The particular equipment to be installed is included in the Commission's "List of Equipment Acceptable for Licensing" and designated for use in the Public Safety, Industrial, and Land Transportation Radio Services: *and, provided,* The substitute equipment employs the same type of emission and does not exceed the power limitations as set forth in the station authorization.

(c) When a licensee plans to change the number or location of wireline control points, or, in the case of stations operating on frequencies below 470 MHz, when he plants to add or delete mobile units, a formal application for modification of the station authorization need not be filed. However, the Commission must be notified 30 days prior to the change. The notice, which will be in letter form, shall state the licensee's name, the station call sign and the number and location of the control points to be added or deleted from the Commission's records. The notice shall be sent to the Secretary, Federal Communications Commsision, Washington, D.C. 20554. A copy of the notice shall be retained by the licensee and included with the station records. Control point changes are subject to Commission review for consonance with the rules and regulations and established Commission policy.

* * * * *

7. In § 91.252, paragraph (a) is amended to as follows:

§ 91.252 Availability and use of service.

(a) The initial application from a person seeking authorization in the Power Radio Service shall contain a specification of the particular rule section and subparagraph under which the applicant is claiming eligibility. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for ensuring conformance between the specified category of eligibility and their own business activities.

* * * * *

8. In § 91.302, paragraph (a) is amended to read:

§ 91.302 Availability and use of Service.

(a) The initial application from a perleum Radio Service shall contain a specison seeking authorization in the Petroleum Radio Service shall contain a specification of the particular rule section and subparagraph under which the applicant is claiming eligibility. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for ensuring conformance between the specified category of eligibility and their own business activities.

* * * * *

9. In § 91.352, paragraph (a) is amended to read:

§ 91.352 Availability and use of Service.

(a) The initial application from a person seeking authorization in the Forest Products Radio Service shall contain a specification of the particular rule section and subparagraph under which the applicant is claiming eligibility. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for ensuring conformance between the specified category of eligibility and their own business activities.

* * * * *

10. In § 91.402, paragraph (a) is amended to read:

§ 91.402 Availability and use of Service.

(a) The initial application from a person seeking authorization in the Motion Picture Radio Service shall contain a specification of the particular rule section and subparagraph under which the applicant is claiming eligibility. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for ensuring conformance between the specified category of eligibility and their own business activities.

* * * * *

11. In § 91.452, paragraph (a) is amended to read:

§ 91.452 Availability and use of Service.

(a) The initial application from a person seeking authorization in the Relay Press Radio Service shall contain a specification of the particular rule section and subparagraph under which the applicant is claiming eligibility. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for ensuring conformance between the specified category of eligibility and their own business activities.

* * * * *

12. In § 91.502, paragraph (a) is amended to read:

§ 91.502 Availability and use of Service.

(a) The initial application from a person seeking authorization in the Special Industrial Radio Service shall contain a specification of the particular rule section and subparagraph under which the applicant is claiming eligibility. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for ensuring conformance between the specified category of eligibility and their own business activities.

* * * * *

13. In § 91.552, subparagraph (a) is amended to read:

§ 91.552 Availability and use of Service.

(a) The initial application from a person seeking authorization in the Business Radio Service shall contain a specification of the particular rule section and subparagraph under which the applicant is claiming eligibility. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for ensuring conformance between the specified category of eligibility and their own business activities.

* * * * *

14. In § 91.602, paragraph (a) is amended to read:

§ 91.602 Availability and use of Service.

(a) The initial application from a person seeking authorization in the Industrial Radiolocation Service shall contain a specification of the particular rule section and subparagraph under which the applicant is claiming eligibility. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for ensuring conformance between the specified category of eligibility and their own business activities.

* * * * *

15. In § 91.728, paragraph (a) is amended to read:

§ 91.728 Availability and use of Service.

(a) The initial application from a person seeking authorization in the Manufacturers' Radio Service shall contain a specification of the particular rule section and subparagraph under which the applicant is claiming eligibility. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for ensuring conformance between the specified category of eligibility and their own business activities.

* * * * *

16. In § 91.752, paragraph (a) is amended to read:

§ 91.752 Availability and use of Service.

(a) The initial application from a person seeking authorization in the Telephone Maintenance Radio Service shall contain a specification of the particular rule section and subparagraph under which the applicant is claiming eligibility. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for ensuring conformance between the specified category of eligibility and their own business activities.

* * * * *

PART 93—LAND TRANSPORTATION RADIO SERVICES

17. Section 93.54 is amended by the addition of new paragraph (c) and by the re-designation of existing paragraphs (c), (d), (e) as (d), (e) and (f), respectively.

§ 93.54 Filing of applications.

* * * * *

(c) Each application shall limit its request for authorized mobile transmitters to:

(1) Transmitters which will be installed and operated immediately after authorization issuance; or to

(2) Transmitters for which purchase orders have already been signed and which will be in use within eight months of the authorization date.

(d) Unless otherwise specified, an application shall be filed at least sixty days prior to the date on which it is desired that Commission action thereon be completed.

(e) Failure on the part of the applicant to provide all the information required by the application form or to supply the necessary exhibits or supplementary statements may constitute a defect in the applications.

(f) Applications involving operation at temporary locations:

(1) When one or more individual transmitters are intended to be operated as a base station or as a fixed station at unspecified or temporary locations for indeterminate periods, such transmitters may be considered to comprise a single station intended to be operated at temporary locations. An application for authority to operate a base station or a fixed station at temporary locations shall specify the general geographic area within which the operation will be confined. The area specified may be a city, a county or counties, or a state or states. Sufficient data must be submitted to show the need for the proposed area of operation.

(2) When any unit or units of a base station or fixed station authorized to operate at temporary locations actually remains or is intended to remain at the same location for a period of over a year, application for a separate authorization specifying the fixed locations, shall be made as soon as possible but not later than 30 days after the expiration of the one year period.

18. Section 93.62, headnote and text are revised to read as follows:

§ 93.62 Time in which station must be placed in operation.

Each radio station authorized under this part must be placed in operation within eight months from the date of authorization.

19. In § 93.64 paragraph (a) is amended, paragraph (c) is redesignated as (b) and a new paragraph (c) is to read as follows:

§ 93.64 Changes in authorized stations.

* * * * *

(a) Except as provided in paragraphs (c) and (d) of this section, proposed changes which will result in operation inconsistent with any of the terms of the current authorization require that an application for modification of license be submitted to the Commission. This shall be submitted on FCC Form 400, and shall be accompanied by exhibits and supplementary statements as required by § 93.58. A change in a system's control points or number of mobile units will not require an application for modification so long as the Commission is notified, in writing, 30 days before the proposed change.

(b) Proposed changes which will not depart from any of the terms of the outstanding authorization for the station involved may be made without prior Commission approval. Included in such changes is the substitution of various makes of transmitting equipment at any station, provided the particular equipment to be installed is included in the Commission's "List of Equipment Acceptable for Licensing" and designated for use in the Public Safety, Industrial, and Land Transportation Radio Services; *And, provided,* The substitute equipment employs the same type of emission and does not exceed the power limitations as set forth in the station authorization.

(c) When a licensee plans to change the number or location of wireline control points, or, in the case of stations operating on frequencies below 470 MHz, when he plans to add or delete mobile units, a formal application for modification of the station authorization need not be filed. However, the Commission must be notified 30 days prior to the change. The notice, which will be in letter form, shall state the licensee's name, the station call sign and the number and location of the control points to be added or deleted from the Commission's records. The notice shall be sent to the Secretary, Federal Communications Commission, Washington, D.C. 20554. A copy of the notice shall be retained by the licensee and included with the station records. Control point changes are subject to Commission review for consonance with the rules and regulations and established Commission policy.

* * * * *

20. In § 93.251, headnote and paragraph (b) are amended to read as follows:

§ 93.251 Eligibility.

* * * * *

(b) The initial application for an authorization in the Motor Carrier Radio Service shall contain a specification of the particular rule section and subparagraph under which eligibility is claimed. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for ensuring conformance between the specified category of eligibility and their own business activities.

21. In § 93.351, paragraph (b) is amended to read as follows:

§ 93.351 Eligibility.

* * * * *

(b) The initial application for an authorization in the Railroad Radio Service shall contain a specification of the particular rule section and subparagraph under which eligibility is claimed. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for insuring conformance between the specified category of eligibility and their own business activities.

22. In § 93.401, paragraph (b) is amended to read as follows:

§ 93.401 Eligibility.

* * * * *

(b) The initial application for an authorization in the Taxicab Radio Service shall contain a specification of the particular rule section and subparagraph under which eligibility is claimed. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for ensuring conformance between the specified category of eligibility and their own business activities.

23. In § 93.501, paragraph (b) is amended to read as follows:

§ 93.501 Eligibility.

(b) The initial application for an authorization in the Automobile Emergency Radio Service shall contain a specification of the particular rule section and subparagraph under which eligibility is claimed. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for ensuring conformance between the specified category of eligibility and their own business activities.

ELIGIBILITY AND SIGNING REQUIREMENTS

The Commission Document "Instructions for Completion of FCC Form 400" is changed to read as follows:

Item 1(b) paragraph 3 is deleted and a new paragraph 3 is substituted to read:

The number of mobile units (transmitters) shown in the "Mobile" column is a combination of the number of transmitters:

1. Which will be installed immediately after authorization issuance; or for which,

2. For which purchase orders have been signed and which will be in use within 8 months of the authorization date; or on which,

3. In the Public Safety Radio Services only, bid orders which have been sought and which will be in use within 8 months of the authorization date.

[FR Doc.77-25866 Filed 9-2-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

SEMINOLE ELECTRIC COOPERATIVE, INC.

DRAFT ENVIRONMENTAL IMPACT STATEMENT

Notice is hereby given that the Rural Electrification Administration anticipates that it will prepare an Environmental Impact Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 in connection with a possible loan guarantee for Seminole Electric Cooperative, Inc, 2410 East Busch Boulevard, Suite 108, Tampa, Fla. 33612 (hereinafter referred to as "Seminole"), which would provide financing for construction of or otherwise acquiring generation facilities and associated transmission lines in the State of Florida.

Seminole is currently exploring all viable alternatives and their environmental impacts in order to determine the most effective and economical arrangement for meeting the increasing power requirements of its member electric distribution cooperatives. Recent studies conducted by Seminole indicate the need for approximately 1,200 MW of additional generating resources by 1985. The Rural Electrification Administration will consider the need for additional generating capacity and the environmental effects of all structural and non-structural alternatives. REA's Environmental Impact Statement will consider the construction of a 600 MW coal-fired unit to be completed in 1983 and a second 600 MW coal-fired unit to be completed in 1985, and other reasonable alternatives.

Comments, questions, and/or recommendations concerning the environmental impact of the alternatives should be submited to Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Any loan or loan guarantee which may be made pursuant to this possible application will be subject to, and release of funds thereunder will be contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects. Final action will be taken only after compliance with Environmental Statement procedures required by the National Environmental Policy Act of 1969.

Dated at Washington, D C., this 29th day of August 1977.

DAVID A. HAMIL,
Administrator, Rural Electrification Adminis ration.

[FR Doc.77-25778 Filed 9-2-77;8:45 am]

DEPARTMENT OF COMMERCE

Economic Development Administration

GOLDSTEIN FOOTWEAR, INC.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Goldstein Footwear, Inc., 470 Vanderbilt Avenue, Brooklyn, N.Y. 11238, a producer of footwear for women, was accepted for filing on August 29, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the U.S. Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-25758 Filed 9-2-77,8:45 am]

MARKAY BAGS, INC.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Markay Bags, Inc., 15 East 32d Street, New York, N.Y. 10016, a producer of handbags and purses, was accepted for filing on August 24, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the U.S. Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-25759 Filed 9-2-77;8:45 am]

Maritime Administration

[DOCKET NO. S-572]

LYKES BROS. STEAMSHIP CO., INC.

Application

Notice is hereby given that Lykes Bros. Steamship Co., Inc., has filed an application dated August 16, 1977, to amend its present Operating-Differential Subsidy Agreement, Contract No. FMB-59, so as to increase its maximum sailing requirement from 10 to 11 sailings for calendar year 1977 on its subsidized service on its Line G—Trade Area No. 4 (U.S. Great Lakes Mediterranean, Red Sea, Persian Gulf, India, Pakistan).

Interested parties may inspect this application in the Office of the Secretary, Maritime Subsidy Board, Room 3099-B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230.

Any person, firm, or corporation having any interest in such application who desires to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20230, by the close of business on September 16, 1977.

The Maritime Subsidy Board will consider these views and comments and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS)).

By Order of the Maritime Subsidy Board/Maritime Administration.

Dated: August 30, 1977.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77-25756 Filed 9-2-77,8:45 am]

[Docket No S 573]

LYKES BROS. STEAMSHIP CO., INC.

Application

Notice is hereby given that Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, La. 70130, has filed an ap-

plication, dated August 11, 1977, for a one-year operating-differential subsidy agreement (ODSA) pursuant to Title VI (46 U.S.C. 1171–1183) of the Merchant Marine Act, 1936, as amended (the Act), to provide the same services on Trade Routes 13, 15–B, 21, 22, 31 and Trade Area 4, as Lykes currently provides on those services under its existing ODSA. If this application is granted, the short-term contract would begin upon the termination of Lykes' present ODSA, Contract No. FMB–59, presently due to expire on December 31, 1977, and would run until the earlier of (1) December 31, 1978, including voyages in progress on that date, or (2) completion of the administrative processing of Lykes' application for a twenty-year contract (under Dockets S–451 and 479), to replace Contract No. FMB–59.

The number of vessels, service description, and sailing maxima under the proposed one-year contract will be the same as in Lykes' present contract. Service will be provided with forty-one C3, C4, C5, and C8 vessels as follows:

Service	Sailing Maximum
TR 13 (U.S. Gulf, South Atlantic/Mediterranean and Black Sea).	48.
TR 15–B (U.S. Gulf/South and East Africa).	24.
TR 21 (U.S. Gulf/U.K. and Continent).	42 (seabee) or 84 (Conventional).
TR 22 (U.S. Gulf/Far East)	84.
TR 31 (U.S. Gulf/West Coast South America).	36.
Trade Area 4 (Great Lakes/Mediterranean, India, Persian Gulf and Red Sea).	10.

Interested parties may inspect this application in the Office of the Secretary, Maritime Subsidy Board, Room 3099B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230.

Any person having an interest in such application who desires to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20230, by the close of business on September 16, 1977.

The Maritime Subsidy Board will consider these views and comments, and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504, Operating-Differential Subsidies (ODS)).

By Order of the Maritime Subsidy Board/Maritime Administration.

Dated: August 30, 1977.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77-25756 Filed 9-2-77;8:45 am]

National Oceanic and Atmospheric Administration

ATLANTIC TUNA FISHERIES

Large Bluefin Tuna Season Closed

On August 24, 1977, the Director, National Marine Fisheries Services, determined that the 1977 annual quota of 1,850 individual Atlantic bluefin tuna weighing in excess of 300 pounds each and taken by other than purse seining, north and east of a line drawn from a point on the southern coast of Massachusetts extending south through Gay Head Light, Mass., into the Atlantic Ocean as established in 50 CFR 285.13(b)(1), with 100 such tuna reserved for scientific research 50 CFR 285.13(b)(1)(ii), will be reached on September 6, 1977 and further, that the 1977 annual quota of 150 individual Atlantic bluefin tuna weighing in excess of 300 pounds each and taken by other than purse seining west of the Gay Head Light line will be taken on September 9, 1977. The quotas include individual tuna taken in a directed fishery, and those taken incidentally as prescribed in 50 CFR 285.14(c).

As authorized by 50 CFR 285.12, notice is hereby given that the 1977 fishing season for Atlantic bluefin tuna taken by gear other than purse seining, which weigh in excess of 300 pounds each, will terminate in the regulatory area north and east of a line drawn from a point on the southern coast of Massachusetts extending south through Gay Head Light, Mass., into the Atlantic Ocean, at 2400 hours, local time, September 5, 1977, and in the regulatory area west of this line at 2400 hours, local time, September 9, 1977. This closure does not affect the incidental take by traps, as authorized by 50 CFR 285.14(c).

The 1977 season for taking Atlantic bluefin tuna between 14 pounds and 115 pounds by purse seining was closed on June 23, 1977. The closure was effected by publication in 42 FR 31824.

Issued at Washington, D.C., and dated August 30, 1977.

WINFRED H. MEIBOHM,
Acting Associate Director, National Marine Fisheries Service.

[FR Doc.77-25793 Filed 9-2-77;8:45 am]

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL'S SCIENTIFIC AND STATISTICAL COMMITTEE

Meeting Date and Location Change

Notice is hereby given of a change in dates and location of the September 15–16, 1977, meeting of the North Pacific Fishery Management Council's Scientific and Statistical Committee at Juneau, Alaska, as published at 42 FR 43113, on Friday, August 26, 1977.

The meeting of the Committee is now scheduled to be held on September 20–21, 1977, at Council Headquarters Office, 333 West Fourth Street, Suite 32, Anchorage, Alaska. The meeting will convene at 8:30 a.m. and adjourn at approximately 4:30 p.m.

Dated: August 31, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-25792 Filed 9-2-77;8:45 am]

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

Public Meeting

Notice is hereby given of a meeting of the South Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265).

The South Atlantic Fishery Management Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the east coast of Florida, Georgia, North Carolina, and South Carolina. The Council will, among other things, prepare and submit to the Secretary of Commerce, fishery management plans with respect to the fisheries within its area of authority, prepare comments on foreign fishing applications, and conduct public hearings.

The Council will meet Tuesday through Thursday, September 20, 21, and 22, 1977, at the Holiday Inn Downtown, 125 Calhoun Street, Charleston, S.C. The meeting will convene at 1:30 p.m. on September 20 and adjourn at about noon on September 22. The daily sessions will start at 9 a.m. and adjourn at 5 p.m., except as otherwise noted. The meeting may be extended or shortened depending on progress on the agenda.

PROPOSED AGENDA

1. Review of progress on management plan development for billfish, snapper-grouper, and king and Spanish mackerel.
2. Consideration of administrative and technical matters as deemed necessary.
3. Other management business.

This meeting is open to the public and there will be seating for a limited number of public members available on a first-come, first-served basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meetings. To receive information on changes, if any, made to the agenda, interested members of the public should contact, on or about September 13, 1977:

Mr. Ernest D. Premetz, Executive Director, South Atlantic Fishery Management Council, Southpark Building, Suite 306, No. 1 Southpark Circle, Charleston, S.C. 29407 (803–571–4366).

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of official business. Interested members of the public who wish to submit written comments should do so by addressing the Executive Director at the aforementioned address. To receive due consideration and to facilitate inclusion of these comments in the record of the meetings, typewritten statements should be received within 10 days after the close of the meetings.

Dated: August 31, 1977.

WINFRED H. MEIBOHM,
Association Director, National Marine Fisheries Service.

[FR Doc.77-25791 Filed 9-2-77;8:45 am]

TRAWL FISHERIES OF WASHINGTON, OREGON, AND CALIFORNIA

Revision to Preliminary Fishery Management Plan

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Revision to Preliminary Fishery Management Plan.

SUMMARY: This notice revises "Trawl Fisheries of Washington, Oregon, and California," a preliminary fishery management plan, published on February 10, 1977. The plan proposed conservation and management measures for foreign participation in the trawl fisheries of the Washington, Oregon, and California area. The action changes the minimum mesh size of travel gear and the effort limitation vessel-days on the grounds for certain foreign fishermen

EFFECTIVE DATE: August 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Donald R. Johnson, Regional Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue, North, Seattle, Wash. 98109, telephone: 206–442–7575.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On February 10, 1977, a preliminary fishery management plan (PMP) entitled, "Trawl Fisheries of Washington, Oregon, and California" (42 FR 8577) was published by the Secretary of Commerce to provide proposed conservation and management measures for foreign trawl fisheries in the Washington, Oregon, and California area pursuant to Section 201(g) of the Fishery Conservation and Management Act (Pub. L. 94–265). The plan provided, among other things, for proposed regulations pertaining to foreign fishing for hake. One of the proposed restrictions for foreign fishing was a minimum mesh size of 4.33 inches (110 mm) for pelagic trawl gear. The PMP also proposed foreign fishing restrictions expressed in terms of a limitation in vessel-days on the primary hake fishing grounds in order to assure compliance with catch quotas. Foreign fishery allocations were published on March 3, 1977 (42 FR 12176), which allocated 18,000 metric tons (mt) of hake to Poland and 105,200 mt of hake to the U.S.S.R. in the Northeast Pacific area. Final regulations relating to foreign vessels participating in the Washington, Oregon, and California trawl fisheries were published on February 11, 1977 (42 FR 8836). The regulations incorporated pelagic trawl mesh size restrictions and foreign fishing vessel-day limitations in accordance with the PMP.

The Secretary of Commerce, through an appropriate delegation of authority to the Associate Administrator for Marine Resources of the National Oceanic and Atmospheric Administration and the Director of the National Marine Fisheries Service, has determined that amendments to the PMP for trawl fisheries of Washington, Oregon, and California relating specifically to pelagic trawl mesh sizes and foreign fishing vessel-day limitations are necessary and appropriate in the interests of conserving and managing the resource.

PURPOSE

A. REVISION OF PELAGIC TRAWL GEAR MESH SIZE RESTRICTIONS

The specified minimum mesh size for trawl gear was designed to control the harvest of juvenile hake, Pacific herring, and associated bottomfish. However, in July, 1977, the National Marine Fisheries Service was informed that the 4.33 inch minimum size mesh was causing substantial wastage of adult hake. A representative of the National Marine Fisheries Service was placed on board a foreign trawler and observed that large quantities of hake were protruding through the meshes as the trawl was brought aboard the vessel. Adult hake were seen escaping or being forced through the meshes and killed. Large numbers of dead hake were seen floating upon the surface behind the vessel.

A series of comparative tows were conducted on the trawling grounds using trawls with 4.33 inch and 3.94 inch mesh size. Significantly fewer hake were observed protruding through the trawl with a mesh size of 3.94 inches and the number of dead hake floating behind the trawl vessel was substantially reduced.

It was concluded as a result of these observations and tests of alternate gear on the trawling grounds that the use of trawls with a minimum mesh size of 3.94 inches could help alleviate the problem of hake wastage caused by use of the specified minimum mesh size of 4.33 inches. It was further concluded that the mesh minimum size should be revised as soon as possible to reduce wastage of hake during the current fishing season.

B. REVISION OF FOREIGN VESSEL-DAY LIMITATIONS FOR PACIFIC HAKE

Vessel-day limitations for Polish and Soviet vessels participating in the Pacific hake fishery were originally calculated on the basis of 1976 catch rates of 46 mt per vessel-day for the Polish fleet and 14 mt per vessel-day for the Soviet fleet. Since the 1977 hake fishing season landward of 125°40′ W. opened on June 1, 1977, the Polish catch rate has been consistently below the 1976 catch rate of the Polish fleet and the Soviet catch rate has been consistently higher than the 1976 figures for that country's fleet. Computations made using 1977 catch figures reveal the average hake catch per vessel-day for the Polish and Soviet fleets has been about 33 mt per vessel-day.

As a result of this discrepancy between 1976 and actual 1977 catch rate figures, the number of vessel-days allowed the Polish fleet is fewer than the number required for that country to reach its hake quota for 1977. Vessel-days calculated for the Soviet fleet are far in excess of the number needed for the U.S.S.R. to meet its quota.

To ensure the vessel-day limitation accurately reflects foreign effort, in the interests of full resource utilization and in keeping with specific biological standards set forth in the PMP it has been determined appropriate to provide additional fishing days for the Polish fleet to catch their hake allocation of 18,000 mt and, accordingly, to reduce the number of fishing days allowed the Soviet fleet to catch their hake allocation of 105,200 mt. The formula used to determine maximum number of days on the grounds for the Polish and Soviet fleets will be revised using a catch rate of 33 mt for all countries rather than 46 mt for the Polish fleet and 14 mt for the Soviet fleet. The 33 mt catch rate, when applied to the formula, provides for a maximum of 545 vessel-days for the Polish fleet and 3,188 vessel-days for the Soviet fleet in the authorized area landward of 125°40′W. for the entire 1977 hake fishing season (June–October 31).

IMPACT

A. REVISION OF PELAGIC TRAWL GEAR MESH SIZE RESTRICTIONS

This action involves no change in either the preliminary optimum yield of hake in the northeastern Pacific or the allocation of total allowable level of foreign fishing upon hake in the Washington, Oregon, and California area. The use of trawls by foreign fishermen participating in the hake fishery which have a minimum size of 3.94 inches should reduce the wastage of adult hake which are lost from trawls. The proposed reduction in mesh size will have no significant effect upon juvenile hake or incidental catches of Pacific ocean perch or other species. Implementation of this revised management measure is expected to reduce the fishing mortality of hake with a commensurate benefit to the conservation and restoration of the hake resource in the Washington, Oregon, and California area. Since this proposal concerns a minimum mesh size requirement and larger mesh may be used as appropriate it is not possible to quantify the potential benefit to the hake resource.

B. REVISION OF FOREIGN VESSEL-DAY LIMITATIONS FOR PACIFIC HAKE

Monitoring of the hake resource reveals no evidence of reduced hake abundance in 1977. However, U.S. fishermen have reported unusually large numbers of hake on some Pacific trawl grounds and the observed Soviet catch rate of hake is more than double that of 1976. The distribution of hake larvae (newly hatched fish) observed during the March 1977 survey[1] was similar to the period 1963–66 (prior to the development of the hake fishery). The extremely below normal extent of the hake spawning area and possible hake spawning biomass implied by the 1976 hake larvae survey did not persist into 1977. Therefore, the outlook for the hake resource is very encouraging. No adverse impact is ex-

[1] "Report on the 1977 U.S.–U.S.S.R. Egg and Larvae Survey for Pacific Hake," Southwest Fisheries Center Administrative Report No. LJ 77–14, National Marine Fisheries Service, 10 p.

pected upon the domestic fishery as the expected U.S. catch was taken into account before determining the total allowable level of foreign fishing for hake in the Washington, Oregon, and California area.

Revision of the vessel-day limitation is not expected to seriously affect the Soviet fleet's ability to catch its full allocation of hake in 1977. This revision will enable the Polish fleet ample opportunity to catch its full allocation where otherwise it would have had to cease fishing due to an inaccurate earlier projection of catch rate.

NEED FOR EFFECTIVE DATE

It is in the public interest to reduce wastage of the hake resource during the current fishing season. It is considered impractical and contrary to the public interest to provide advance notice of the revision in the minimum mesh size for trawls used by foreign fishermen. A technical adjustment in the vessel-day formula using 1977, rather than 1976, catch rates is necessary and in the public interest so that the vessel-day limitation for foreign vessels participating in the Pacific hake fishery can be brought into more direct proportion with the foreign allocations. As the U.S.S.R. and Poland near their allocations for the 1977 hake fishing season it is essential that these amendments be made operative at the earliest practicable time in order to facilitate effective resource management by the United States in accordance with the Fishery Conservation and Management Act of 1976. This revision to the PMP is made effective August 31, 1977.

The Associate Administrator for Marine Resources of the National Oceanic and Atmospheric Administration has approved this document pursuant to delegations of authority in Department of Commerce Organization Order 25-5A, Section 3-Oldd, Amendment 4 (dated September 30, 1976) and NOAA Directives Manual 05-57 (dated December 1, 1976).

Dated: August 31, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

Amendments to the preliminary fishery management plan are as follows:

1. Section 5.A.4 is amended by deleting "4.33 inches (110 mm)" and inserting "3.94 inches (100 mm)."

2. Section 5.C.1 is revised by deleting subsections 5.C.1.a. and 5.C.1.b in their entirety and substituting:

"C.1. Landward of 125°40'W.—All countries: hake quota÷33 mt/vessel-day on the grounds (based on 1977 catch rates for countries participating in the fishery)."

3. Section 9, Appendix B, Subpart E (b) (1) is amended to read:

"(b) (1) Landward of 125°40'W.—All countries: hake quota÷33."

4. Section 9, Appendix B, Gear restrictions (a) is amended by deleting "4.33 inches (110 mm)" and inserting "3.94 inches (100 mm)."

[FR Doc.77-25794 Filed 9-2-77;8:45 am]

PRELIMINARY FISHERY MANAGEMENT PLANS

Availability of Supplements to Final Environmental Impact Statements for Preliminary Fishery Management Plans

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Availability of draft supplements to final environmental impact statements for preliminary fishery management plans.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91-190) the National Oceanic and Atmospheric Administration has prepared draft supplements or negative declarations for certain final environmental impact statements issued in January and February 1977, for the proposed implementation of preliminary fishery management plans under the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265). The draft supplements address the environmental impacts of proposed amendments to the preliminary fishery management plans which will be implemented for 1978. This notice identifies the preliminary management plans so effected, summarizes the proposed amendments for 1978 and notifies the public of the availability of the draft supplements to the final environmental impact statements.

DATE: Public comment will be received until: October 6, 1977.

ADDRESS: Comments should be addressed to the three Regional Directors of the National Marine Fisheries noted in the background section of this notice.

FOR FURTHER INFORMATION CONTACT:

Richard H. Schaefer, Chief, Fisheries Management Operations Division, 202-634-7454; or Paul J. Leach, Fishery Management Officer, Fisheries Management Operations Division, 202-634-7432, National Marine Fisheries Service, Washington, D.C. 20235.

SUPPLEMENTARY INFORMATION:

BACKGROUND

During January and February 1977, final environmental impact statements (FEIS) were issued, pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, for preliminary fishery management plans (PMP's) prepared by the Secretary of Commerce in accordance with the Fishery Conservation and Management Act of 1976 (FCMA). The PMP's contain, among other things, preliminary determination of optimum yield from a fishery, the total allowable level of foreign fishing for that fishery, and conservation and management measures applicable to foreign fishing. The PMP's were implemented by issuance of the Foreign Fishing Regulations on February 11, 1977, which govern foreign fishing during 1977 for fish over which the United States exercises exclusive fishery management authority. A PMP will remain in effect until such time as a fishery management plan has been prepared and implemented, pursuant to Title III of the FCMA, for such fishery.

The Secretary of Commerce has determined that it is unlikely that the fishery management plans for certain fisheries will be prepared and implemented by January 1, 1978, and in order to allow foreign nations to continue fishing operations in 1978, the PMP's will be amended. Upon approval, the PMP's and amendments thereto will provide an updated preliminary determination of optimum yield, U.S. capacity, and surplus available for foreign harvest as well as conservation and management measures required by the Secretary of Commerce to prevent overfishing and to maintain an orderly fishery. A notice of intent to amend the PMP's, and to supplement the final environmental impact statements or make a negative declaration was published on August 2, 1977 (42 FR 39131).

Draft supplements to the final environmental impact statements are available for the following fisheries and from the following individuals: (The fisheries are listed by title of the PMP—the dates of issuance of the notice of availability of the final environmental impact statement and the PMP are also shown.)

Plan Title, FEIS Notice of Availability Issued, and PMP Issued

Trawl Fishery Gulf of Alaska, Feb. 4, 1977, Feb. 11, 1977.
Sablefish Fishery of the Eastern Bering Sea and Northeastern Pacific, Feb. 4, 1977, Feb. 10, 1977.
Trawl Fisheries and Herring Gillnet Fishery of Eastern Bering Sea and Northeast Pacific, Feb. 4, 1977, Feb. 15, 1977.
Eastern Bering Sea (King and Tanner Crab), Feb. 4, 1977, Feb. 16, 1977.
Contact: Harry L. Rietze, Regional Director, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

Plan Title, FEIS Notice of Availability Issued, and PMP Issued

Trawl Fisheries of Washington, Oregon, and California, Jan. 28, 1977, Feb. 10, 1977.
Contact: Donald R. Johnson, Regional Director, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Wash. 98109.

Plan Title, FEIS Notice of Availability Issued, and PMP Issued

Mackerel Fishery of Northwestern Atlantic, Feb. 4, 1977, Feb. 16, 1977.
Squid Fisheries of the Northwestern Atlantic, Feb. 4, 1977, Feb. 16, 1977.
Foreign Trawl Fisheries of Northwestern Atlantic, Feb. 4, 1977, Feb. 17, 1977.
Hake Fisheries of the Northwestern Atlantic, Feb. 4, 1977, Feb. 18, 1977.
Atlantic Herring Fishery of the Northwestern Atlantic, Feb. 4, 1977, Feb. 22, 1977.
Contact: William G. Gordon, Regional Director, National Marine Fisheries Service, Federal Building, 14 Elm St., Gloucester, Mass. 01930.

Negative declarations on supplements to final environmental impact statements are available for the following fisheries and from the following individuals:

Plan Title, FEIS Notice of Availability Issued, and PMP Issued

Shrimp of the Eastern Bering Sea and Gulf of Alaska, Jan. 21, 1977, March 3, 1977.
Snail Fishery of the Eastern Bering Sea, (negative declaration), Feb. 15, 1977.
Contact: Harry L. Rietze, Regional Director, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

Plan Title, FEIS Notice of Availability Issued, and PMP Issued

Seamount Groundfish Fishery Resources, Jan. 21, 1977, Feb. 10, 1977.
Contact: Gerald V. Howard, Regional Director, National Marine Fisheries Service, Terminal Island, Calif. 90731.

Copies of the final environmental impact statements and preliminary management plans also may be obtained through the aforementioned persons. Because of the need for issuance of foreign fishing permits in time to allow authorized foreign fishing in 1978 to begin on January 1, 1978, interested parties are requested to complete their reviews, and submit written comments on the draft supplements to the aforementioned persons, within 30 days of the publication date of this notice of availability.

SUMMARY OF PROPOSED AMENDMENTS TO PRELIMINARY FISHERY MANAGEMENT PLANS

Amendments to 10 Preliminary Fishery Management Plans are proposed for 1978. These plans were adopted by the Secretary of Commerce in February 1977 and govern foreign fishing activities within the U.S. Fishery Conservation Zone during 1977. These proposed amendments reflect an updated analysis of the biological, ecological, sociological, and economic data which have become available since these plans were first prepared. These amendments meet the requirements of the Act that a preliminary determination be made annually of Optimum Yield (OY) and Total Allowable Level of Foreign Fishing (TALFF) with respect to each applicable fishery (FCMA Section 201(g)). Further, the interests of the domestic fishing industry has been reconsidered in revising estimates of U.S. harvesting capacity for 1978. These amendments reflect the spirit and intent of the Fishery Conservation and Management Act of 1976 and contain the same conservation and management objectives which governed the implementation of the PMP's during 1977.

A brief summary of proposed amendments for each PMP follows:

TRAWL FISHERY GULF OF ALASKA

The following is a list of proposed changes in OY, U.S. Capacity, and TALFF for species in the "Trawl Fishery of the Gulf of Alaska" plan:

POLLOCK

OY from 150,000 metric tons (mt) to 168,800 mt.
U.S. Capacity from 1,000 mt to 17,700 mt.
TALFF from 149,000 mt to 151,100 mt.

FLOUNDER

OY from 23,500 mt to 33,500 mt.
U.S. Capacity from 3,000 mt to 9,200 mt.
TALFF from 20,500 mt to 24,300 mt.

PACIFIC COD

OY from 6,300 mt to 40,600 mt.
U.S. Capacity from 4,000 mt to 15,500 mt.
TALFF from 2,300 mt to 25,100 mt.

PACIFIC OCEAN PERCH

OY from 30,000 mt to 25,000 mt.
U.S. Capacity from 1,000 mt to 1,100 mt.
TALFF from 29,000 mt to 23,900 mt.

OTHER ROCKFISHES

OY from 5,000 mt to 7,600 mt.
U.S. Capacity from 1,000 mt to 2,000 mt.
TALFF from 4,000 mt to 5,600 mt.

ATKA MACKEREL

OY from 22,000 mt to 24,800 mt.
U.S. Capacity—no change.
TALFF from 22,000 mt to 24,800 mt.

SABLEFISH (SAME SPECIES AND AREA ALSO TREATED IN THE "SABLEFISH FISHERY OF THE EASTERN BERING SEA AND NORTHEASTERN PACIFIC" PLAN):

OY—no change.
U.S. Capacity from 2,500 mt to 3,600 mt.
TALFF from 19,500 mt to 18,400 mt.

OTHER SPECIES

OY from 16,200 mt to 14,500 mt.
U.S. Capacity from 0 mt to 500 mt.
TALFF from 16,200 mt to 14,000 mt.

SABLEFISH FISHERY OF THE EASTERN BERING SEA AND NORTHEASTERN PACIFIC

The following is a list of proposed changes in OY, U.S. Capacity, and TALFF for Sablefish in the "Sablefish Fishery of the Eastern Bering Sea and Northeastern Pacific" plan.

CENTRAL AND WESTERN GULF OF ALASKA

OY—no change.
U.S. Capacity from 250 mt to 400 mt.
TALFF from 15,750 mt to 15,600 mt.

SOUTHEAST ALASKA

OY—no change.
U.S. Capacity from 2,250 mt to 3,200 mt.
TALFF from 3,750 mt to 2,800 mt.

ALEUTIAN REGION

OY from 2,400 mt to 1,500 mt.
U.S. Capacity—no change.
TALFF from 2,400 mt to 1,500 mt.

BERING SEA

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

WASHINGTON, OREGON, CALIFORNIA

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

TRAWL FISHERIES AND HERRING GILLNET FISHERY OF EASTERN BERING SEA AND NORTHEAST PACIFIC

The following is a list of proposed changes in OY, U.S. Capacity, and TALFF for species in the "Trawl Fisheries and Herring Gillnet Fishery of Eastern Bering Sea and Northeast Pacific" plan.

POLLOCK

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

YELLOWFIN SOLE

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

OTHER FLOUNDERS

OY from 105,000 mt to 139,000 mt.
U.S. Capacity—no change.
TALFF from 105,000 mt to 139,000 mt.

PACIFIC OCEAN PERCH

COD

OY—no change.
U.S. Capacity—no change.
TALFF—no change.
OY—no change.
U.S. Capacity—no change.
TALFF—no change.

HERRING

OY from 21,000 mt to 18,670 mt.
U.S. Capacity from 1,000 mt to 10,000 mt.
TALFF from 20,000 mt to 8,670 mt.

SQUID

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

ATKA MACKERAL (ALEUTIANS)—NOT INCLUDED IN 1977 PMP

OY—24,800.
U.S. Capacity—0.
TALFF—24,800.

SABLEFISH (SAME SPECIES AND AREAS ALSO TREATED IN THE "SABLEFISH FISHERY OF THE EASTERN BERING SEA AND NORTHEASTERN PACIFIC" PLAN)

BERING SEA SUB-AREA

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

ALEUTIAN ISLANDS SUB-AREA

OY from 2,400 mt to 1,500 mt.
U.S. Capacity—no change.
TALFF from 2,400 mt to 1,500 mt.

OTHER SPECIES

OY from 93,600 mt to 82,800 mt.
U.S. Capacity—no change.
TALFF from 93,600 mt to 82,800 mt.

EASTERN BERING SEA (KING AND TANNER CRAB)

The following is a list of proposed changes in OY, U.S. Capacity, and fishing areas for species in the "Eastern Bering Sea (King and Tanner Crab)" plan.

TANNER (SNOW) CRAB

OY from 37,400 (30,000 mt *C. bairdi* and 7,400 mt *C. opilio*) to 42,000 mt.
U.S. Capacity from 24,900 mt to 29,500 mt.
TALFF—no change in total TALFF; however, 1978 Tanner Crab TALFF is limited almost exclusively to *C. opilio* since foreign fishing is proposed to be limited to that Bering Sea Area north of 58° N. latitude, and west of 164° W. longitude.

CHANGES IN FISHING AREA

The areas in the Bering Sea where foreign nationals may or may not fish will be modified in 1978 to result in a change of foreign catch species composition from *C. bairdi* and *C. opilio* to almost entirely *C. opilio*. The areas closed to foreign fishing in 1977 consist of that area east of 164°00′ W. longitude and south of 56°00′ N. latitude in the Bering Sea, the area throughout the Northeastern Pacific Ocean, and the area within 12 miles of the baseline used to measure the U.S. Territorial Sea. The proposed areas closed to foreign fishing in 1978 consist of that area generally east of 164°00′ W. longitude and south of 58°00′

N. latitude in the Bering Sea, the area throughout the Northeastern Pacific Ocean, and the area within 12 miles of the baseline used to measure the U.S. Territorial Sea.

TRAWL FISHERIES OF WASHINGTON, OREGON, AND CALIFORNIA

The following is a list of proposed changes in Optimum Yield (OY), U.S. Capacity, and TALFF for species in the "Trawl Fisheries of Washington, Oregon, and California" plan.

PACIFIC HAKE

OY—from 150,000 mt to 130,000 mt.
U.S. Capacity from 6,800 mt to 41,000 mt.
TALFF from 143,200 mt to 89,000 mt.

PACIFIC OCEAN PERCH

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

OTHER ROCKFISHES

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

FLOUNDERS

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

SABLEFISH SAME SPECIES AND AREA ALSO TREATED IN THE "SABLEFISH FISHERY OF THE EASTERN BERING SEA AND NORTHEASTERN PACIFIC" PLAN):

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

JACK MACKEREL

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

OTHER SPECIES

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

INCIDENTAL CATCH

Pacific ocean perch and other rockfishes—incidental catch rate from 1.3 percent to 0.8 percent of hake catch.
Sablefish—incidental catch rate changed from 0.2 percent to 0.1 percent of hake catch.

INTENT TO REASSESS U.S. CAPACITY TO HARVEST PACIFIC HAKE

The Department of Commerce will review the assessments of U.S. Capacity and TALFF by July 31, 1978 or as soon thereafter as feasible. As a result of this review, modifications in U.S. Capacity and TALFF may be made during 1978.

MACKEREL FISHERY OF NORTHWESTERN ATLANTIC

The following is a list of proposed changes in Optimum Yield (OY), U.S. Capacity, and TALFF for species in the "Mackerel Fishery of Northwestern Atlantic" plan.

ATLANTIC MACKEREL

OY from 88,000 mt to 53,000 mt.
U.S. Capacity—no change.
TALFF from 69,000 mt to 34,000 mt.

SQUID FISHERIES OF THE NORTHWESTERN ATLANTIC

The following is a list of proposed changes for species in the "Squid Fisheries of the Northwestern Atlantic" plan.

CHANGES IN AREAS AND SEASONS

The areas and seasons (i.e., "Foreign Fishery Windows") where foreign nationals may conduct directed squid fishery operations are modified.

INTENT TO REASSESS U.S. CAPACITY TO HARVEST SQUID

The Department of Commerce will review assessments of U.S. harvesting capacity and TALFF contained in the PMP by June 15, 1978 or as soon thereafter as feasible. As a result of this review, modifications in U.S. Capacity and TALFF may be made during 1978.

FOREIGN TRAWL FISHERIES OF NORTHWESTERN ATLANTIC—INCIDENTAL CATCHING OF FINFISH

The following is a list of proposed changes in Optimum Yield (OY), U.S. Capacity, and TALFF for species in the "Foreign Trawl Fisheries of the Northwestern Atlantic—Incidental Catching of Finfish" plan.

BUTTERFISH

OY—no change.
U.S. Capacity from 12,500 mt to 17,000 mt.
TALFF from 5,500 mt to 1,000 mt.

RIVER HERRING

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

ALL OTHER FINFISH

OY—no change.
U.S. Capacity from 187,000 mt to 200,200 mt.
TALFF from 60,00 mt to 46,800 mt.

INCIDENTAL CATCH RESTRICTIONS

Additional foreign incidental catch restrictions are proposed to prevent continued fishing mortality of regulated species (caught incidentally or in a directed fishery) once imposed allocations have been reached.

HAKE FISHERIES OF THE NORTHWESTERN ATLANTIC

The following is a list of proposed changes in Optimum Yield (OY), U.S. Capacity, and TALFF from species in the "Hake Fisheries of the Northwestern Atlantic" plan.

SILVER HAKE

GEORGES BANK STOCK

OY from 70,000 mt to 58,800 mt.
U.S. Capacity from 15,000 mt to 26,000 mt.
TALFF from 55,000 mt to 32,800 mt.

SOUTHERN NEW ENGLAND STOCK

OY from 45,000 mt to 33,200 mt.
U.S. Capacity from 14,500 mt to 20,600 mt.
TALFF from 30,500 mt to 12,600 mt.

RED HAKE

GEORGES BANK STOCK

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

SOUTHERN NEW ENGLAND STOCK

OY from 28,000 mt to 20,500 mt.
U.S. Capacity—no change.
TALFF from 20,400 mt to 12,900 mt.

AREA AND SEASON CHANGES

Hake "Window A" becomes "Window 1," and is open January through March.
Hake "Window B" becomes "Window 2," and is open April through June.

INTENT TO REASSESS U.S. CAPACITY TO HARVEST HAKE

The Department of Commerce will review assessments of U.S. harvesting capacity and TALFF contained in the PMP by June 15, 1978 or as soon thereafter as feasible. As a result of this review, modifications in U.S. Capacity and TALFF may be made during 1978.

ATLANTIC HERRING FISHERY OF THE NORTHWESTERN ATLANTIC

The following is a list of proposed changes in Optimum Yield (OY), U.S. Capacity, and TALFF for species in the "Atlantic Herring Fishery of the Northwestern Atlantic" plan.

FORMER ICNAF AREA 5Z AND SA6

OY from 33,000 mt to 22,000.
U.S. Capacity from 12,000 mt to 19,000 mt.
TALFF from 21,000 mt to 2,200 mt.

FORMER ICNAF AREA 5Y

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

INTENT TO REASSESS U.S. CAPACITY TO HARVEST HERRING

The Department of Commerce will review assessments of U.S. harvesting capacity and TALFF contained in the PMP by June 15, 1978 or as soon thereafter as feasible. As a result of this review, modifications in U.S. Capacity and TALFF may be made during 1978.

Dated this 31st day of August, 1977 at Washington, D.C.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-25956 Filed 9-2-77;8:45 am]

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL AND SCIENTIFIC AND STATISTICAL COMMITTEE AND ADVISORY PANEL

Notice of Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., Appendix I, notice is hereby given of a joint meeting of the North Pacific Fishery Management Council, its Scientific and Statistical Committee (SSC), and its Advisory Panel (AP) and a separate meeting of the SSC and AP.

The North Pacific Fishery Management Council established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) has authority, effective March 1, 1977, over fisheries within the fishery con-

servation zone adjacent to the State of Alaska. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

The Council has established a Scientific and Statistical Committee, as well as an Advisory Panel, under Section 302(g) of the Act, to assist the Council in the development and amendment of fishery management plans.

The meetings will be Thursday, Friday and Saturday, September 22, 23, and 24, 1977, in the Jury Assembly Room No. 401, State Court Bldg., 303 K Street, Anchorage, Alaska. The meetings will convene at 8:30 a.m., and adjourn at approximately 4:30 p.m. each night. The meetings may be extended or shortened depending upon progress on the agenda. The SSC and AP will meet separately on September 21, 1977, in the Council offices, Suite 32, 333 West 4th Avenue, Post Office Mall Building, Anchorage, Alaska, beginning at 1:30 p.m.

PROPOSED AGENDA

SEPTEMBER 22

1. Executive Director's Report and other Council administrative business.
2. Council review of the DEIS/DFMP for the Tanner Crab Fishery off Alaska.
3. Council review of the Gulf of Alaska Groundfish Fishery during 1978.
4. Period for public comment.
5. Closed Session to discuss classified material on preparations for and actual negotiations in connection with the International North Pacific Fisheries Commission (INPFC), the International Pacific Halibut Commission (IPHC) and continuing negotiations with the Canadians. (Council only).

SEPTEMBER 23

1. Scientific and Statistical Committee Report.
2. Advisory Panel Report.
3. Foreign permit review (if any).
4. United States Coast Guard and National Marine Fisheries Service Report.

SEPTEMBER 24

1. Other Council business.

A closed session of the Council is planned for the early afternoon of the first day, September 22, from 1:30 p.m. through 3:30 p.m. to hear Department of State reports and other related Council business on preparations for and actual negotiations in connection with the International North Pacific Fisheries Commission, the International Pacific Halibut Commission and continuing negotiations with the Canadians, properly classified under Executive Order 11652. Only those members having security clearances will be allowed to attend the closed session. The Scientific and Statistical Committee and Advisory Panel will not attend this session.

After the closed meeting adjourns, a public hearing will be held on the afternoon of the first day, September 22, at approximately 3:30 p.m., at the same location. Interested members of the public are invited to testify at this hearing on matters relating to fishery management plans under development by the Council and other related Council functions.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined, on August 31, 1977 pursuant to Section 10 (d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because these items will be concerned with matters listed in 5 U.S.C. 552b(c)(1), i.e., it is specifically required by E.O. 11652 that they be kept secret in the interest of national security. (A copy of the determination is available for public inspection and copying.)

The meeting will be open to the public (except the closed session of the Council) and there will be seating for approximately 65–75 public members available on a first-come, first-serve basis.

Members of the public having an interest in specific items for discussion are also advised that agenda changes are, at times, made prior to the meetings. To receive information on changes, if any, made to the agenda, interested members of the public should contact on or about September 12, 1977:

Mr. Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council business. Interested members of the public who wish to submit written comments should do so by addressing Mr. Jim Branson at the above address.

The public is permitted to file written statements at any time before or after the meeting. However, to receive due consideration and to facilitate inclusion in the record of the meeting, typewritten statements which relate to the agenda items should be received no later than ten (10) days after the close of the joint meeting.

Dated: August 31, 1977.

WINFRED H. MEIBOHM,
Acting Deputy Director,
National Marine Fisheries Service.

[FR Doc.77-25957 Filed 9-2-77;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

INCREASING IMPORT RESTRAINT LEVELS FOR CERTAIN COTTON, WOOL AND MAN-MADE FIBER TEXTILE PRODUCTS FROM THE REPUBLIC OF KOREA

SEPTEMBER 2, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Granting increases for flexibility in Categories 9/10 (sheeting), 18/19 and part of 26 (printcloth), 45/46/47 (men's and boys' shirts), 50/51 (trousers, slacks and outer shorts), 52 (blouses), 116/117 (knit outerwear), 120 (men's and boys' suits), 121 (men's and boys' outercoats), 124 (slacks and trousers), 234 (dress shirts, not knit), and 235 (other shirts, not knit) during the agreement year which began on October 1, 1976.

(A detailed description of the categories in terms of T.S.U.S.A. Numbers was published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010), as amended on December 31, 1975 (40 FR 60220), December 30, 1976 (41 FR 56881), January 21, 1977 (42 FR 3888), and March 7, 1977 (42 FR 12898).

SUMMARY: Paragraph 5(b) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26 1975, as amended, between the Governments of the United States and the Republic of Korea provides for percentage increases in certain specific category ceilings for flexibility during an agreement year. Pursuant to the foregoing paragraph of the bilateral agreement, the import restraint levels for Categories 9/10, 18/19/26 (printcloth), 45/46/47, 50/51, 52, 116/117, 120, 121, 124 234 and 235 are being adjusted for the agreement year which began on October 1, 1976 and extends through September 30, 1977.

EFFECTIVE DATE: September 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert C. Woods, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-5423).

SUPPLEMENTARY INFORMATION: On October 1, 1976, a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the FEDERAL REGISTER (41 FR 43440), which established import restraint levels for certain specified categories of cotton, wool and man-made fiber textile products, producer or manufactured in the Republic of Korea and exported to the United States during the twelve-month period which began on October 1, 1976. A correction in certain of the levels of restroint was published in the FEDERAL REGISTER on November 5, 1976 (41 FR 48765).

In the letter published below the Commissioner of Customs is directed, in accordance with the provisions of the bilateral agreement, to increase the twelve-month levels of restraint previously established for Categories 9/10, 18/19/26 (printcloth), 45/46/47, 50/51, 52, 116/117, 120, 121, 124, 234 and 235 to the designated amounts.

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

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

September 2, 1977.

DEAR MR. COMMISSIONER: On September 29, 1976, the Chairman, Committee for the Implementation of Textile Agreements, direc-

ted you to prohibit entry for consumption or withdrawal from warehouse for consumption during the twelve-month period beginning on October 1, 1976 and extending through September 30, 1977 of cotton, wool and man-made fiber textile products in certain specified categories, produced or manufactured in Korea, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangment Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to paragraphs 5(b) and 7(a) (i) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, as amended, between the Governments of the United States and the Republic of Korea, and in accordance with the provisions of Executive Order 11651, you are directed to amend, effective on September 6, 1977, the twelve-month levels of restraint previously established for Categories 9/10, 18/19/26 (printcloth), 45/46/47, 50/51, 52, 116/117, 120, 121, 124, 234 and 235 to the following amounts:

Category	*Amended 12-mo. levels of restraint*[1]
9/10 ---square yards---	7,241,326
18/19/26 (printcloth)[2] ---do---	5,759,189
45/46/47 square yards equivalent	3,409,873

	Amended 12-month levels of restraints[2]
50/51 ---dozen[3]---	206,314
52 ---do---	75,678
116/117 ---pounds---	484,798
120 ---numbers---	317,243
121 ---do---	200,950
124 ---do---	1,060,500
234 ---dozen---	4,114,585
235 ---do---	1,506,952

[1] The levels of restraint have not been adjusted to reflect any imports after Sept. 30, 1976.

[2] In category 26 the T.S.U.S.A. numbers for printcloth are: 320.—34, 321.—34, 322.—34, 326.—34, 327.—34, 328.—34.

[3] Of which not more than 109,337 dozen shall be in category 50 and not more than 147,991 dozen shall be in category 51.

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

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, as amended, between the Governments of the United States and the Republic of Korea which provide, in part, that: (1) within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce.

[FR Doc.77-26024 Filed 9-6-77;9:41 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

PRESIDENT'S COMMISSION ON MILITARY COMPENSATION

Notification of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a public hearing to be held by the President's Commission on Military Compensation from 8:30 a.m. to 12:30 p.m. on September 21, 1977, in the Corbin Griffin Hall of the Thomas Nelson Community College, Hampton, Va.

The following rules govern participation by the public:

(1) Open to the public.

(2) Oral presentations of no more than 15 minutes may be made to the Commission provided application is made in writing to the Commission by September 15, 1977. A copy of the presentation must be received by the Commission not later than September 19, 1977.

(3) Applications to make oral presentations to the Commission are accepted on a first received, first granted basis.

(4) Questions and statements from the gallery will not be accepted.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of Assistant Secretary of Defense (Comptroller).

SEPTEMBER 2, 1977.

[FR Doc.77-26061 Filed 9-2-77;11:29 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Division of Oil, Gas, and Shale Technology

LARAMIE ENERGY RESEARCH CENTER

Symposium

NAME: Oil Shale Conversion Symposium.

DATE: September 21-23, 1977.

PLACE: Education Building, University of Wyoming, Laramie, Wyo. (Education Auditorium).

TIME: 8 a.m.

A public Symposium will be held to discuss research in the field of fossil energy.

The purpose of the Symposium is to provide a forum for the discussion of research and development presently being supported by the Division of Oil, Gas, and Shale Technology of ERDA.

The principal objectives of the meeting are:

1. To disseminate information among present and prospective contractors of OGST in the area of oil shale technology; and

2. To inform industry, government, academia, and the public of advances being made and plans for continued work in this area of OGST.

The Symposium will be conducted according to a predetermined agenda and will be open for public observation and comment.

The public is requested to submit any written statements, inquiries, or requests for an agenda at least one week before the Symposium to H. B. Jensen, Laramie Energy Research Center, U.S. Energy Research and Development Administration, P.O. Box 3395, University Station, Laramie, Wyo. 82071, telephone 307-721-2209.

Dated: August 22, 1977.

PHILIP C. WHITE,
Assistant Administrator for Fossil Energy.

[FR Doc.77-26065 Filed 9-2-77;11:06 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 784-6]

STATE OF MONTANA

Standards of Performance for New Stationary Sources and National Emission Standards for Hazardous Air Pollutants; Delegation of Authority

On December 23, 1971 (36 FR 24876), and March 8, 1974 (39 FR 9808), and August 6, 1975 (40 FR 33152), and September 23, 1975 (40 FR 43850), and October 6, 1975 (40 FR 46250), and December 16, 1975 (40 FR 58416), and December 22, 1975 (40 FR 59204), and January 15, 1976 (41 FR 2232 and 2332), and January 26, 1976 (41 FR 3826), pursuant to Section 111 of the Clean Air Act, as amended, the Administrator promulgated regulations establishing standards of performance for 23 categories of new stationary sources (NSPS). On April 6, 1973 (38 FR 8820), and May 3, 1974 (39 FR 15396), and October 14, 1975 (40 FR 48291), pursuant to Section 112 of the Clean Air Act, as amended, the Administrator promulgated national emission standards for three hazardous air pollutants (NESHAPS). Sections 111(c) and 112(d) direct the Administrator to delegate his authority to implement and enforce NSPS and NESHAPS to any State which has submitted adequate procedures. Nevertheless, the Administrator retains concurrent authority to implement and enforce the standards following delegation of authority to the State.

On April 18, 1977, the Governor of the State of Montana submitted to the Environmental Protection Agency Regional Office a request for delegation of authority. Included in that request were procedures for NSPS and NESHAPS and information on available resources to implement such reviews. Included in that request were copies of the State of Montana regulations which incorporate by reference the Federal emission standards and testing procedures set forth in 40 CFR Parts 60 and 61, with certain ex-

ceptions. Also included were copies of State statutes which provide the State with the requisite authority to enforce the Federally promulgated NSPS and NESHAPS. After a thorough review of that request, the Regional Administrator has determined that for the source categories set forth in paragraphs A and B of the following official letter to the Governor of the State of Montana, delegation is appropriate subject to the conditions set forth in paragraph 1 through 13 of that letter:

Hon. THOMAS L. JUDGE,
Governor of Montana,
State Capitol,
Helena, Mont.

DEAR GOVERNOR JUDGE: This is in response to your letter of April 18, 1977, requesting delegation of authority for implementation and enforcement of New Source Performance Standards (NSPS), and National Emission Standards for Hazardous Air Pollutants (NESHAPS), to the Montana Department of Health and Environmental Sciences.

We have reviewed the pertinent laws of the State of Montana and the rules and regulations of the Department of Health and Environmental Sciences and have determined that they provide an adequate and effective procedure for implementation and enforcement of the NSPS and NESHAPS by the State of Montana. We have reviewed the resources and capabilities of the State of Montana. Therefore, we hereby grant delegation of NSPS and NESHAPS to the State as follows:

A. New Source Performance Standards (NSPS): Authority for all sources located in the State of Montana subject to the standards of performance for new stationary sources promulgated in 40 CFR Part 60 as of January 26, 1976. The categories of new sources covered by the delegation are fossil fuel-fired steam generators; incinerators; portland cement plants; nitric acid plants; sulfuric acid plants; asphalt concrete plants; petroleum refineries; storage vessels for petroleum liquids; secondary lead smelters; secondary brass and bronze ingot production plants; iron and steel plants; sewage treatment plants; primary copper smelters; primary lead smelters; primary zinc smelters; primary aluminum reduction plants; coal preparation plants; steel plant electric arc furnaces; and in the phosphate fertilizer industry—wet process phosphoric acid plants, superphosphoric acid plants, drammonium phosphate plants, triple superphosphate plants, and granular triple superphosphate storage facilities.

B. National Emission Standards for Hazardous Air Pollutants (NESHAPS): Authority for all sources located in the State of Montana subject to the national emission standards for hazardous air pollutants promulgated in 40 CFR Part 61 as of October 14, 1975. The three hazardous air pollutants covered by the delegation are asbestos, beryllium, and mercury.

This delegation is based upon the following conditions:

1. Semi-annual reports will be submitted to EPA by the Department of Health and Environmental Sciences which include information for sources which receive approval to construct or begin operations.

2. The Department of Health and Environmental Sciences and EPA will develop a system of communication sufficient to guarantee that each office is always fully informed and current regarding compliance status of the subject sources and interpretation of the regulations.

3. Enforcement of the NSPS and NESHAPS in the State will be the primary responsibility of the Department of Health and Environmental Sciences. If the Department of Health and Environmental Sciences determines that such enforcement is not feasible and so notifies EPA, or where the Department of Health and Environmental Sciences acts in a manner inconsistent with the terms of this delegation, EPA may exercise its concurrent gation, EPA may exercise its concurrent enforcement authority pursuant to section 113 of the Clean Air Act, as amended, with respect to sources within the State of Montana subject to the NSPS and NESHAPS.

4. Acceptance of this delegation of presently promulgated NSPS and NESHAPS does not commit the State of Montant to accept delegation of future standards and requirements. A new request for delegation will be required for any standards not included in the State's Request of April 18, 1977.

5. Upon approval of the Regional Administrator of Region VIII, the Director of the Department of Health and Environmental Sciences may subdelegate his authority to implement and enforce the NSPS and NESHAPS to local air pollution control authorities in the State when such authorities have demonstrated that they have equivalent or more stringent programs in force.

6. The delegation to the State of Montana does not include the authority to implement and enforce NSPS and NESHAPS for sources owned or operated by the United States which are located in the State. The condition in no way relieves any Federal facility from meeting the requirements of 40 CFR Parts 52, 60, and 61 or any State or local regulation.

7. The State of Montana will at no time grant a variance or waiver from compliance with NSPS and NESHAPS regulations. Should the Department of Health and Environmental Sciences grant such a variance or waiver, EPA will consider the source receiving such relief to be in violation of the applicable federal regulation and initiate enforcement action against the source pursuant to section 113 of the Clean Air Act. The granting of such relief by the Department of Health and Environmental Sciences shall also constitute grounds for revocation of delegation by EPA.

8. Actions in process at the time of delegation of authority shall be processed through to completion by the Regional Office. Subsequent enforcement requirements shall be performed by the delegatee.

9. If at any time there is a conflict between a State regulation and a Federal regulation, the Federal regulation must be applied if it is more stringent than that of the State. If the State does not have the authority to enforce the more stringent Federal regulation, this portion of the delegation may be revoked.

10. For NSPS and NESHAPS the Department of Health and Environmental Sciences will utilize the methods specified in 40 CFR Parts 60 and 61 in performing source tests pursuant to the regulations.

11. If the Regional Administrator determines that a State procedure for enforcing or implementing the NSPS or NESHAPS is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the Department of Health and Environmental Sciences.

12. Determinations of applicability such as those specified in 40 CFR 60.5 and 60.6 and 40 CFR 61.06 and 61.07 shall be consistent with those which already have been made by the EPA.

13. Waivers of performance and emission tests and the basis therefore shall be included in the semi-annual post delegation reports to EPA.

A Notice announcing this delegation will be published in the FEDERAL REGISTER in the near future. The Notice will state, among other things, that effective immediately, all reports required pursuant to the federal NSPS and NESHAPS by sources located in the State of Montana should be submitted to the Department of Health and Environmental Sciences Office at Helena, Mont. Any such reports which have been or may be received by EPA, Region VIII, will be promptly transmitted to the State.

Since this delegation is effective upon the date of this letter, there is no requirement that the State notify EPA of its acceptance. Unless EPA receives from the State written notice of objections within ten (10) days of the date of receipt of this letter, the State will be deemed to have accepted all of the terms of the delegation.

Best personal regards.

Sincerely yours,

JOHN A. GREEN,
Regional Administrator.

Therefore, pursuant to the authority delegated to him by the Administrator, the Regional Administrator notified the Governor of the State of Montana on May 18, 1977, that authority to implement and enforce New Source Performance Standards (NSPS), and National Emission Standards for Hazardous Air Pollutants (NESHAPS) was delegated to the State of Montana.

Copies of the request for delegation of authority are available for public inspection at the Environmental Protection Agency, Region VIII Office, 1860 Lincoln Street, Denver, Colo. 80295.

Effective immediately, all reports required pursuant to the delegated New Source Performance Standards (NSPS), and National Emission Standards for Hazardous Air Pollutants (NESHAPS), should not be submitted to the EPA Region VIII Office but instead should be submitted to the State Agency at the following address: Department of Health and Environmental Sciences, Cogswell Building, Helena, Mont. 59601.

Applications for new source review in process at the time of this delegation shall be processed through to completion by the EPA Region VIII Office.

This Notice is issued under the authority of section 111 and 112 of the Clean Air Act, as amended, 42 U.S.C. 1857, 1857c-5, 6, 7 and 1857g.

Dated: August 17, 1977.

JOHN A. GREEN,
Regional Administrator.

[FR Doc.77-25826 Filed 9-2-77;8:45 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	Owner/operator and vessels
01610	C. F. Industries, Inc.: *Jamie A. Baxter.*
01758	Chotin Transportation, Inc.: *ETT-110, ETT-118.*
01800	Albasarda Societa per Azioni di Navigazione: *Marina.*
01891	Canal Barge Co., Inc.: *CBC-143, CBC-144, CBC-145.*
01910	Deutsche Dampfschiffahrts-Gesellschaft "Hansa": *Rabenfels.*
01935	Partnership Between Steamship Company Svendborg Ltd. and Steamship Company of 1912, Ltd.: *Karen Maersk, Sofie Maersk.*
02041	Dalmor Przedsiebiorstwo Polowow Dalekomorskich I Uslug Rybackich: *Antares.*
02145	Memphis Boat Refueling Service, Inc.: *Bunker, AOC No. 2.*
02163	J. Lauritzen A/S: *Norma Dan.*
02194	Compagnie Generale Maritime: *Cezanne, Degas, Eiffel.*
02242	Dall Deutsche Afrika-Linien GMBH & Co.: *Gulf Lancer.*
02716	Aktieselskabet Det Dansk-Franske Dampskibsselskab: *Shetland.*
03047	E. I. Du Pont de Nemours & Co.: *NMS-1200, NMS-1303.*
03137	Cunard Steamship Company, Ltd.: *Alaunia, Alsatia.*
03295	Cement Division, National Gypsum Co. *E.M. Ford, J. B. Ford, P. H. Towsend, Lewis G. Harriman, J.A.W. Iglehart, S.T. Crapo.*
03422	*Daiwa Kaiun Kabushiki Kaisha: Fiji Maru.*
03614	*A/S Kristian Jebsens Rederi: Fossnes.*
03692	*Marmac Corp. BC-227.*
03727	*Continental Oil Co. LCT 66.*
03878	*Ingram Barge Co. STC-2014, STC-2521B, STC-2518B, STC-2507, STC-2005, STC-2506, STC-2002.*
04050	*A/S Uglands Rederi: Favorita, Beatrice.*
04122	*Kristian Gerhard Jebsen Skipsrederi A/S: Swan Arrow.*
04126	*Jugolinija: Trepca.*
04136	*Thomas Marine Co. Apex-3511.*
04289	*Dixie Carriers, Inc.: DXE 101.*
04398	*Hapag-Lloyd Aktiengesellschaft: Cordillera Express.*
04447	*Williamette-Western Corp.: DB Atlas, DB Vulcan, DB Paul Bunyon, Dredge Riedel Sr., Dredge Polhemus, Dredge John Franks, Skookum, Sandhog III, Super Booster, Dredge Herb Anderson.*
04623	Seaspan International, Limited: *Seaspan 640, Conuma River, Gold River, Seaspan Commodore.*
04674	Pescanova S.A.: *Costa de Noruega.*
04834	Tidewater Barge Lines, Inc.: *63.*
04844	Sloman Neptun Schiffahrts Aktiengesellschaft: *Explora, Starman Africa.*
05092	S.A. Esso N.V.: *Esso Antwerp, Esso Ghent.*
05097	Esso Transport Co., Inc.: *Esso Augusta, Esso Milano, Esso Torino.*
05437	The Dow Chemical Co.: *UMC-941, UMC-942, UMC-943, UMC-918.*
05470	Charter Transport Line, Inc.: *Witcrane.*
05581	Latvian Shipping Co.: *Jurmala.*
06029	Associated Container Transportation (Australia), Ltd.: *Act 7.*
06063	Belcher Towing Co.: *Belcher No. 10, Belcher No. 11, Belcher No. 18, Belcher No. 19, Belcher No. 20, Belcher No. 21, Belcher No. 22, Belcher No. 1, Belcher No. 4, Belcher No. 16, Belcher No. 24, Belcher No. 25, Belcher No. 26, Belcher No. 27, Belcher No. 33.*
06130	Northern Shipping Co.: *Fedor Varaksin.*
06248	Commercial Corporation "Sovryblflot": *Sebezh, Nereida, Zvezda Rybaka, Rechitsa.*
06251	Denizcilik Anonim Sirketi: *Ata.*
06729	Overseas Containers, Limited: *Remuera Bay.*
06760	Athelstane Tankers Co., Limited: *Athelqueen.*
06903	Sun Shipbuilding & Dry Dock Co.: *Tonsina.*
07206	Autralian Shipping Commission: *Australian Exporter, Australian Endeavour, Mount Newman, Alnwick Castle, Australian Pioneer, Australian Venture.*
07389	Esso S.A.P.A.: *Esso Nurnberg.*
07550	Erato Shipping, Inc.: *Bellis.*
07942	Solstad Rederi A/S: *Sol Neptun.*
08196	Nordtramp I/S: *Nordlyn.*
08295	Franicons Compania Naviera S.A.: *Good Luck*
08332	Trident Seafoods Corp.: *Mr. J.*
08386	Mercator Mariners Corp.: *Ocean Fellows.*
08617	Fairmont Enterprises, Limited: *Sunny State.*
08884	Arctic Shipping Singapore (Pte.), Ltd.: *Trianon.*
09423	Teh-Hu Cargocean Management Co., Ltd.: *Harmonius, Duteous.*
09545	Maytide Line Co., Ltd.: *Tropical Moon.*
10094	Echo Marine, Inc.: *Hollywood 2200.*
10433	Estonian Shipping Co.: *Parel Dauge.*
01616	Arab Maritime Petroleum Transport Co.: *Ajdabya.*
11111	Trade Wind Marine, Ltd. of Cayman Island: *Nina.*
11258	J. Jost Ohg, Hamburg: *Fjellnes.*
11272	Corriente Navegacion Panama S.A.: *Global Oath.*
11289	Sajo Industrial Co., Ltd.: *Oryong No. 101, Oryong No. 102, Oryong - No. 103, Oryong No. 105.*
11388	Federal Transport Co., Inc.: *Lady Josephine, Lord Trinte.*
11451	Mo. Ark Barge Line, Inc.: *Ellis 2003, Ellis 2004.*
11475	King Fisher Marine Service, Inc.: *LCT 31.*
11515	Palmer Barge Line, Inc.: *Capt. John H. Palmer.*
11641	Dee Navigation, Ltd.: *Ravenswood.*
11938	Varnima Corporation International S.A.: *Al Khafji.*
12217	Canadian National Railway Co.: *Incan St. Laurent.*
12221	Kirkconnell Marine Shipping, Inc.: *Otto, Hawthorne Enterprise, Sirapil.*
12247	Seabulk Chemical Carriers, Inc.: *Seabulk Magnachem.*
12272	Nordic Aurora Shipping, Limited: *Nordic Aurora.*
12376	Sea Horse Navigation S.A.: *Sea Zephyr.*
12434	United Arab Shipping Co. (S.A.G.): *Ibn Jubayr.*
12457	Arta Corp.: *Astakos.*
12523	Toxotis Shipping Co., Limited: *Toxotis.*
12554	Simella Shipping Co., Limited: *Rodon.*
12560	Lin Co.: *Gaines Mill.*
12630	Risco Blanco Compania S.A.: *Shunoh.*
12669	*Global Shipping and Trading* Corp.: *Alvorada.*
12718	Exer Valiant Line S.A.: *Exer Valiant.*
12800	Cia. Promex S.A.: *Tiburon No. 1.*
12803	Baypark Transport, Lt.: *Victoria Faith.*
12804	Soc. Coop. Prod. Pesquera Ricardo Flores Magon S.C.L.: *El Indomable.*
12849	Sociedad Co-op de Production Pesquera Juan Abelardo Rodriquez Sullivan S.C.L.: *Conquistador.*
12852	Sun Eagle Marine Maritime S.A.: *Gerogia Merry.*
12853	Manthos Primera Shipping Co. S.A.: *Manthos.*
12854	Transocean No. 4 Petroleum Carriers, Inc.: *Cys Integrity.*
12855	Societa di Navigazione Italo-Equadoriana S.P.A.: *Punta Bianca.*
12884	Sirope Trading & Transportation Co., Inc.: *Sirope.*
12888	Chronos Steamship Corp.: *Noujaro.*
12891	Kennedy Maritime Co., Ltd. of Monrovia: *Aphrodite Transoceanic.*
12896	Athal Shipping Corp.: *Sea Eagle.*
12920	China Ocean Shipping Co.: *Chunlin, Dade, Guangming, Liming, Tangsham, Kaiping, Longlin, Taolin, Hulin, Dunhuang, Jinsha, Qimen, Tianmen, Yongmen, Xiamen, Jiujiang, Zhengjiang, Longmen, Hongmen, Wumen, Vtongchuan, Yinchuan, Hanchuan, Jiangchuan, Shanyin, Pingyin, Tangyin, Huayin, Hanyin.*
12922	Welland Shipping Co., Inc.: *Maritime Eagle.*
12923	Stork Navigation Corp.: *Sanko Hope.*
12924	Schiffahrts-KG Beteiligungsgesellschaft Alster M.B.H. & Co.: *Sanderskoppel.*
12925	Eastern Tanker Corp.: *Sanko Gerd.*
12927	Kommanditselskapet Nortank A/S: *Norborn, Norbright, Norbega, Norbird, Norbay.*
12928	Rena Shipping Co., Ltd.: *Eurco Ferry.*
12929	Strider 2, Ltd.: *Aqaba Crown.*
12930	Bacamar S.A.: *Rio Verdugo.*
12932	Diotima Shipping Corp. of Monrovia: *Giannis.*
12933	Great Ambition, Inc.: *Pacific Star.*
12934	Star Shipping, Limited: *Hybur Star.*
12935	Schulte & Bruns Baltic Schiffahrts KG Bremen: *Carola Schulte.*
12938	Tas World Shipping Co., Ltd.: *Spruce.*
12941	United Sea Transport S.A.: *United Sea Angel.*
12942	First Shipmor Associates: *Overseas Chicago.*
12946	Tokuei Kaiun Yugen Kaisha: *Tokuei Maru No. 28.*
12947	Meton Tankers, Inc.: *Meton.*
12951	Amber Bay Shipping Co., Ltd.: *Al Rashed.*
12952	International Enterprises, Ltd.: *Trenwood, Gene Trefethen, Chu Fujino, Chalmette, Roberts Bank.*

Certificate No.	Owner/operator and vessels
12953---	Progress Marine, Inc.: *Eastwind I.*
12956---	Union Fair Shipping Co., Inc.: *Grand Apollo.*
12957---	Asia Shipping Co., Ltd.: *Crown, Wakafuji.*

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-25285 Filed 9-2-77;8:45 am]

NORTH ATLANTIC OUTBOUND/ EUROPEAN TRADE JOINT AGREEMENT

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, P.R., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before September 26, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Howard A. Levy, Esquire, 17 Battery Place, Suite 727, New York, N.Y. 10004.

Agreement No. 9488-1 has been filed to cancel the above-named agreement among five North Atlantic Freight Conferences.

Dated: August 30, 1977.

By order of the Federal Maritime Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-25824 Filed 9-2-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP77-117]

CARNEGIE NATURAL GAS CO.

Order Accepting for Filing and Suspending Proposed Rate Increase, Initiating Hearing, and Establishing Procedures

AUGUST 29, 1977.

On July 29, 1977, Carnegie Natural Gas Co. (Carnegie) tendered for filing proposed changes to its FPC Gas Tariff [1] which would increase the rate charged for natural gas sold by Carnegie in Mingo and Logan Counties, W.Va. under Rate Schedule S-6 from 37.5 cents to 85.236 cents per Mcf. The proposed 85.236 cents rate consists of a 53.983 cent per Mcf charge gas and a separately stated 31.253 cents per Mcf charge for compression and gathering services. Carnegie states that rate change would increase its revenues for jurisdictional sales and service by $157,084.17, based on the twelve months ended December 31, 1975, as adjusted. Carnegie requests that the proposed rate increase be permitted to become effective on September 1, 1977. For the reasons stated below, the Commission shall accept the proposed rate increase for filing, suspend it for one day, and set the matter for hearing.

Carnegie's current tariff, as approved by order issued on November 2, 1973 in Carnegie Natural Gas Co. Docket No. RP73-96, permits Carnegie to charge 33.5 cents for gas sold under Rate Schedule S-6, 26.0 cents being the charge for gas and 7.5 cents being the charge for gathering and compression. Carnegie states that beginning on January 16, 1974, Consolidated Gas Supply Corp. (Consolidated), the only customer purchasing gas from Carnegie under Rate Schedule S-6, unilaterally increased its payment for that gas to 37.5 cents. On July 29, 1977, concurrently with the filing in this docket, Carnegie tendered for filing in Docket No. RP76-116 a proposed tariff sheet [2] which would increase the Schedule S-6 rate from 33.5 cents per Mcf to the 37.5 cents per Mcf level which has been paid by Consolidated. Carnegie has requested that the tariff sheet filed in Docket No. RP76-116 be permitted to become effective on January 16, 1974, the date on which Carnegie began receiving increased payments from Consolidated. The Commission will issue a separate order regarding Carnegie's filing in Docket No. RP77-116.

Carnegie states that the principal reason for the rate increase proposed in the instant docket is to secure an increased return upon its investment in facilities to produce, gather, and compress the gas sold to Consolidated in Mingo and Logan Counties, W. Va. Carnegie requests that it be permitted a 15% return on its rate base.

Public notice of Carnegie's filing was issued on August 10, 1977, with comments and petitions to intervene due on or before August 26, 1977.

Based upon a review of Carnegie's filing, the Commission finds that the increased rate which Carnegie proposes to become effective September 1, 1977, has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept that rate for filing but shall suspend its use for one day or until September 2, 1977, when it shall be permitted to become effective, subject to refund, and shall set the matter for hearing.

The Commission finds: It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rate proposed by Carnegie to become effective on September 1, 1977, and that the same be accepted for filing and suspended as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the rate which Carnegie proposes to become effective on September 1, 1977.

(B) Pending hearing and decision, the rate which Carnegie proposes to become effective on September 1, 1977, is accepted for filing and suspended for one day or until September 2, 1977, when it shall be permitted to become effective, subject to refund, upon motion filed by Carnegie in accordance with the provisions of the Natural Gas Act.

(C) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before October 14, 1977. (See Administrative Order No. 157.)

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see Delegation of Authority, 18 CFR 3.5 (d)), shall convene a settlement conference in this proceeding on a date certain within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish such further procedural dates as may be necessary and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

[1] Third Revised Sheet No. 15 to First Revised Volume No. 1.

[2] Second Revised Sheet No. 15 to Carnegie's FPC Gas Tariff, First Revised Volume No. 1.

(E) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25816 Filed 9-2-77;8:45 am]

[Docket No. ER76-709]

CINCINNATI GAS & ELECTRIC CO.

Filing of Revised Tariff Sheet

AUGUST 31, 1977.

Take notice that on August 3, 1977, The Cincinnati Gas & Electric Co. (CG&E) filed Rate WS-PL, Original Sheet No. 5A, as the revised tariff sheet pertaining to rates applicable to The Union Light, Heat & Power Co. (Union Light) for Commission approval, pursuant to an order of the Commission issued July 25, 1977, approving the Settlement Agreement filed April 19, 1977.

CG&E states that Rate WS-PL is the settlement rate for Union Light agreed to by the parties to the Settlement Agreement which will provide an annual increase of $4,435,172 based on estimated data for the twelve months ending December 31, 1976.

CG&E indicates that a copy of the filing was served on all parties and the Public Service Commission of Kentucky.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 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 September 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25840 Filed 9-2-77;8:45 am]

[Docket No. CP77-572]

CITIES SERVICE GAS CO.

Application

AUGUST 29, 1977.

Take notice that on August 17, 1977, Cities Service Gas Co. (Applicant), P.O. Box 25128, Oklahoma City, Okla. 73125, filed in Docket No. CP77-572 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 pipeline taps, measuring, regulating, and appurtenant facilities to enable Applicant to render direct natural gas service to two new customers for rural domestic and irrigation purpose, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the proposed customers have requested gas service pursuant to the terms of certain right-of-way easements and agreements. Applicant further states that the proposed customers have relied upon the provisions for natural gas service as contained in their respective right-of-way easements and agreements, as such provisions constituted a major portion of the consideration given to these individuals by Applicant in exchange for the voluntary grant of such easements.

Specifically, Applicant proposes to:

1. Tap Applicant's Kansas-Hugoton 26-inch Loop transmission pipeline in Edwards County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Steve W. Church.

2. Tap Applicant's Kansas-Hugoton 26-inch Loop transmission pipeline in Ford County, Kans., and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Jerry Hager.

Applicant estimates that the total cost of the facilities proposed to serve the right-of-way grantors would be approximately $2,500, which costs Applicant would finance from treasury funds on hand. Applicant also estimates that the gas required annually by each customer would be approximately 3,000 to 5,000 Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 19, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) 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 the jurisdiction conferred upon the Federal Power 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 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.77-25817 Filed 9-2-77;8:45 am]

[Docket No. CP77-573]

CITIES SERVICE GAS CO.

Application

AUGUST 29, 1977.

Take notice that on August 17, 1977, Cities Service Gas Co. (Applicant), P.O. Box 25128, Oklahoma City, Okla. 73125, filed in Docket No. CP77-573 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 pipeline, tap, measuring, regulating, and appurtenant facilities to enable Applicant to render natural gas service directly or to authorized local natural gas distribution companies for resale to 20 rural domestic customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to provide gas service by sale of gas to authorized local gas distribution companies for resale to these domestic customers directly if no local authorized natural gas distribution company is willing or able to make such service available pursuant to right-of-way easements and agreements and gas storage leases between Applicant and said customers. Applicant states that all of the proposed customers have requested gas service pursuant to the terms of the right-of-way easements and agreements and gas storage leases and that all of the proposed customers have relied upon the provisions for said natural gas service as contained in their respective right-of-way easements and agreements and gas storage leases. Said provisions are said to constitute a major portion of the consideration given to said individuals by Applicant in exchange for the voluntary grant of said easements.

Applicant seeks authorization in this instant docket to:

1. Tap Applicant's 16-inch Kansas River Header transmission pipeline in Douglas County, Kans., and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Russ Bartley.

2. Tap Applicant's Ottawa-Topeka 20-inch transmission pipeline in Douglas County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Kenneth P. Callicott.

3. Tap Applicant's Springfield 16-inch transmission pipeline in Greene County, Mo., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to J. H. Cochran.

4. Tap Applicant's Superior 8-inch transmission pipeline in Rice County,

Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Jack T. Colberg.

5. Tap Applicant's Cambridge-Petrolia 16-inch transmission pipeline in Wilson County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to W. V. Cooper.

6. Tap Applicant's North Topeka 16-inch transmission pipeline in Shawnee County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Robert E. Dick.

7. Tap Applicant's Canadian-Blackwell 26-inch transmission pipeline in Grant County, Okla., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Ronnie Green.

8. Tap Applicant's Food Machinery and Chemical Corp. 4-inch transmission pipeline in Johnson County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to J. L. Harris.

9. Tap Applicant's Gordon Evans 16-inch transmission pipeline in Sedgwick County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Robert E. Helm.

10. Tap Applicant's Kansas City No. 3 16-inch transmission pipeline in Johnson County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Edith C. Hyer.

11. Tap Applicant's McLouth Storage 20-inch storage pipeline in Leavenworth County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to W. C. Jones.

12. Tap Applicant's Grabham-Welda 30-inch transmission pipeline in Allen County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Steven R. Kinzle.

13. Tap Applicant's Ponca City 6-inch transmission pipeline in Kay County, Okla., and construct measuring regulating and appurtenant facilities for delivery of natural gas to Richard H. Koenig.

14. Tap Applicant's Hogshooter-Grabham 16-inch transmission pipeline in Washington County, Okla., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Danny Lemmons.

15. Tap Applicant's Quapaw 16-inch transmission pipeline in Craig County, Okla., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Ralph R. Long.

16. Tap Applicant's McLouth Storage 20-inch storage pipeline in Leavenworth County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Robert L. McBroom.

17. Tap Applicant's Ottawa-Hund Junction 26-inch transmission pipeline in Leavenworth County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to George A. Mansfield.

18. Tap Applicant's Grabham-Welda 30-inch transmission pipeline in Montgomery County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Charles W. Powell.

19. Tap Applicant's McLouth Storage 4-inch storage pipeline in Leavenworth County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas George L. Tyner.

20. Tap Applicant's McLouth Storage 20-inch storage pipeline in Leavenworth County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Thomas R. Zimmer.

Applicant anticipates that the sale to the customers in 3 would be made to the City Utilities of Springfield, Mo., for resale; sales to the customers in 17 and 19 would be made by Applicant on a direct sales basis; and the sales to the other seventeen customers would be made to The Gas Service Co. for resale to these customers.

It is stated that all of the proposed facilities would be installed by Applicant within one year of the Commission approval in this proceeding. Applicant estimates that the total cost of the facilities proposed to serve the right-of-way grantors and lessors would be approximately $13,018, which costs Applicant would finance from treasury funds on hand. Applicant also estimates that the gas required annually be each consumer would be approximately 250 Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 19, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) 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 the jurisdiction conferred upon the Federal Power 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 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.77-25812 Filed 9-2-77;8:45 a.m.]

[Docket No. CP77-575]

CITIES SERVICE GAS CO.

Application

AUGUST 29, 1977.

Take notice that on August 19, 1977, Cities Service Gas Co. (Applicant), P.O. Box 25128, Oklahoma City, Okla. 73125, filed in Docket No. CP77-575 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 tap measuring, regulating and appurtenant facilities to enable Applicant to render natural gas service to The Gas Service Company (Gas Service) for resale to a rural domestic customer, Everett N. Smith, all as more fully set forth in the application which is on file with the Commission and open to public inpection.

Specifically, Applicant requests authority to tap its Hund 2-inch transmission pipeline in Leavenworth County, Kans., and to construct measuring, regulating, and appurtenant facilities for sale and delivery of natural gas to Gas Service for resale to Everett N. Smith. Applicant states that it has a right-of-way agreement across Smith's property and has previously agreed in writing to provide natural gas service to Mr. Smith in settlement of a claim concerning said right-of-way. It is stated that Mr. Smith has agreed to accept and pay for natural gas delivered to him and has paid a sum of $77.25, which Applicant still retains, as a connection charge. Applicant states that the total volumes to be sold to Mr. Smith would be approximately 221 Mcf annually.

Applicant indicates that Mr. Smith was erroneously included as a proposed customer in its certificate application filed November 22, 1976, in Docket No. CP77-68 and was deleted from that application prior to issuance of a certificate on March 7, 1977, because, on its face, the right-of-way agreement with him did not contain a clause obligating Applicant to provide natural gas service to him, as did the other right-of-way agreements involved. Applicant states that it believes that it is obligated to provide natural gas service to Mr. Smith in settlement of a fairly-disputed right-of-way claim, even though the settlement agreement was not embodied in a clause in the written right-of-way instrument.

Applicant estimates the total cost of the proposed facilities to be $614, which cost would be financed with funds on hand. and estimates that approximately one day of on-site construction time will be required to complete the facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 19, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) 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 the jurisdiction conferred upon the Federal Power 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 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.77-25819 Filed 9-2-77;8:45 am]

[Docket No. CP73-44]

COLORADO INTERSTATE GAS CO.

Petition to Amend

AUGUST 31, 1977.

Take notice that on August 22, 1977, Colorado Interstate Gas Co. (Petitioner), P.O. Box 1087, Colorado Springs, Colo. 80944, filed in Docket No. CP73-44 a petition to amend the order issuing a certificate of public convenience and necessity in said docket pursuant to Section 7(c) of the Natural Gas Act on March 30, 1973, so as to authorize the exchange of natural gas with Panhandle Eastern Pipe Line Co. (Panhandle) at an additional delivery point located at the tailgate of Phillips Petroleum Co.'s (Phillips) Sherman processing plant in Hansford County, Tex., for the delivery of up to 15,000 Mcf of natural gas per day, 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 by the order of March 30, 1973, as amended, it was authorized to construct and operate facilities and to exchange natural gas with Panhandle pursuant to the terms of a gas sales and exchange agreement dated July 13, 1972. It is stated that under the terms of the exchange agreement Panhandle delivers gas obtained in 17 northeast Colorado counties and Laramie County, Wyo., to Petitioner at Petitioner's Watkins regulating station. Petitioner asserts that it purchases up to 25 percent of the gas from Panhandle at its option and redelivers the remainder on a thermally equivalent basis to Panhandle at Petitioner's Lakin compressor station.

Petitioner indicates that it has entered into a gas purchase agreement with Amoco Production Co. (Amoco) for natural gas from the Coldwater Creek Field of Sherman County, Tex., and that two wells covered by the agreement are available for immediate connection. Petitioner states that the source of supply is 16 miles from its pipeline system, but is proximate to a gathering system owned and operated by Phillips, and that Phillips has agreed to gather, process, and redeliver to Panhandle for the account of Petitioner at the tailgate of Phillips' Sherman processing plant an equivalent volume of gas less applicable fuel use and shrinkage volumes. Accordingly, Petitioner requests that the Commission amend its order of March 30, 1973, to include the tailgate of Phillips' Sherman processing plant in Hausford County, Tex., as an additional exchange point between Petitioner and Panhandle.

It is stated that Phillips would not charge Petitioner for gathering or processing, but would retain all natural gas liquids recovered pursuant to the agreement with Petitioner.

Petitioner states that deliveries to Panhandle from the Sherman delivery point would be limited to 15,000 Mcf per day and that Panhandle would retain 1.25 percent of the Sherman delivery volumes to offset increased compressor fuel requirements. Petitioner states further that it would pay Panhandle a transportation charge of 1.64 cents per Mcf of gas delivered by Phillips to Panhandle for the account of Petitioner.

It is stated that no new or expanded facilities would be required by Petitioner to effectuate the instant proposal.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) 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.77-25841 Filed 9-2-77;8:45 am]

[Docket No. ER77-565]

COLUMBUS & SOUTHERN OHIO ELECTRIC CO.

Filing of Initial Rate Schedule

AUGUST 30, 1977.

Take notice that on August 25, 1977, Columbus & Southern Ohio Electric Co. (Columbus) tendered for filing a rate schedule setting forth all rates and charges that Columbus and The Dayton Power & Light Co. ("Dayton") have agreed to under an Interconnection Agreement between Columbus and Cincinnati providing for interconnection of electric facilities, emergency service, short term power energy transfer, and limited term power. Columbus indicates that this rate schedule supersedes that contained in the Agreement between Columbus and Dayton dated January 11, 1963, and all modifications thereto and schedules thereunder.

Columbus indicates that copies of the filing and Columbus' letter of transmittal were served upon Dayton.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 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 September 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25832 Filed 9-2-77;8:45 am]

[Docket No. RP77-125]

COMMERCIAL PIPELINE CO., INC.

Proposed Changes in FPC Gas Tariff

AUGUST 30, 1977.

Take notice that Commercial Pipeline Co., Inc. ("Commercial"), on August 22, 1977, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1 to be effective September 23, 1977. The proposed changes would increase revenues from jurisdictional sales and services by $19,426 based on the 12-month period ending December 31, 1976, as adjusted. Commercial also tendered for filing a change to reduce the notice period in its Purchased Gas Adjustment provision from 45 days to 30 days.

Commercial states that the principal reasons for its proposed rate increase are: (1) An increase in its cost of purchased gas; (2) increases in its cost of materials and supplies; (3) increased operation and maintenance costs upon its transmission system; and (4) the need to increase revenues to provide for an adequate rate of return.

Copies of the filing were served upon Commercial's jurisdictional customers as well as the Kansas Corporation Commission and the Missouri 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 Power 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 Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed before September 16, 1977. 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. 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.77-25838 Filed 9-2-77;8:45 am]

[Docket No. ER77-563]

CONNECTICUT LIGHT & POWER CO.

Amendment to Transmission Agreement

AUGUST 26, 1977.

Take notice that on August 22, 1977, Connecticut Light & Power Co. (CP&L) tendered for filing a proposed Amendment to the Transmission Agreement (Amendment) dated June 29, 1977, between: (1) CL&P, The Hartford Electric Light Co. (HELCO) and Western Massachusetts Electric Co. (WMECO), and (2) Mansfield Municipal Electric Department (MMED).

CL&P states that MMED has executed contracts with the Holyoke Gas and Electric Department (HG&E) of Holyoke, Mass., for the purchase of additional power from HG&E's entitlements in HG&E's gas turbine units (the Additional MMED purchase) and also states that the Amendment provides for an increase in the amount to be transmitted for the period from July 1, 1977, to October 31, 1977, from 1,767 kilowatts to 2,067 kilowatts.

CL&P states that MMED did not notify CL&P of its need for additional transmission service over the Northeast Utilities (NU) system until a date which prevented the filing of this Amendment with the Commission more than thirty days prior to the proposed effective date.

CL&P therefore requests that, in order to permit MMED to receive transmission service to wheel the Additional MMED purchase, and to allow CL&P, HELCO, and WMECO to receive payment for such transmission service, the Commission, pursuant to Section 35.11 of its regulations, waive the thirty-day notice period and permit the Amendment filed to become effective on July 1, 1977.

CL&P states that the monthly transmission charge is equal to one-twelfth of the estimated annual average unit cost of transmission service on the NU system determined in accordance with Section 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee multiplied by the number of kilowatts of winter capability which MMED is entitled to recive, reduced to give due recognition of the payments made by MMED for transmission service on New England Power Co.'s system.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to HELCO, Hartford, Conn., WMECO, West Springfield, Mass., and MMED, Mansfield, Mass.

Any person desiring to be heard or to protest said application should file a peition to intervene or protest with the Federal Power 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 Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 14, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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.77-25811 Filed 9-2-77;8:45 am]

[Docket No. ER77-567]

DUKE POWER CO.

Supplement to Electric Power Contract

AUGUST 31, 1977.

Take notice that Duke Power Co. (Duke) tendered for filing on August 26, 1977, a supplement to Duke's Electric Power Contract with Yadkin, Inc., which is to become effective on August 1, 1977. Duke indicates that this contract is on file with the Commission and has been designated Duke Power Co. Rate Schedule FPC No. 11.

Duke indicates that its contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for an increase in contract demand from 30,000 KW to 40,000 KW. Duke further indicates that the supplement also includes an estimate of sales and revenue for the twelve months immediately preceding and for the twelve months immediately succeeding the effective date.

Duke states that a copy of this filing was mailed to Yadkin, Inc., and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NW., 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 September 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25842 Filed 9-2-77;8:45 am]

[Docket No. CP77-581]

EL PASO NATURAL GAS CO.

Application

AUGUST 31, 1977.

Take notice that on August 23, 1977, El Paso Natural Gas Co. (Applicant), P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP77-581 an application pursuant to Section 7 of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission for and approval of the abandonment, during the calendar year 1978, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction and abandonment of facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment would not exceed $3,000,000, and that the cost of any single project would not exceed $500,000. These costs would be financed with internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 23, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) 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 the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natral Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on the 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 and permission for and approval of the proposed abandonment are 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.77-25843 Filed 9-2-77;8:45 am]

[Docket No. CP77-582]

EL PASO NATURAL GAS CO.

Application

AUGUST 31, 1977.

Take notice that on August 23, 1977, El Paso Natural Gas Co. (Applicant), P.O. Box 1492, El Paso, Tex 79978, filed in Docket No. CP77 582 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(c) of the Regulations thereunder (18 CFR 157.7(c)) for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1978, and operation of facilities to make miscellaneous rearrangements on its system, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any change in gas sales or transportation services presently rendered by Applicant. Applicant states that the proposed facilities would not exceed a total cost of $300,000, which cost would be financed with internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) 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 the jurisdiction conferred upon the Federal Power 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 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.77-25844 Filed 9-2-77;8:45 am]

[Docket Nos. CP74-289; CP73-334; CP75-360]

EL PASO NATURAL GAS CO.

Tariff Filing

AUGUST 30, 1977.

Take notice that on August 19, 1977, El Paso Natural Gas Co. (El Paso) tendered for filing, pursuant to Part 154 of the Commission's Regulations Under the Natural Gas Act, certain original tariff sheets to its FPC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A. Such tariff sheets are identified in the attached appendix.

El Paso states that by Opinion Nos. 800 and 800-A, issued May 23, 1977, and July 20, 1977, respectively, the Commission issued El Paso a certificate of public convenience and necessity in the captioned proceedings conditioned upon, inter alia, the prospective reallocation by El Paso of pipeline deliveries among Priority 5 customers in order to restore volumes allegedly misappropriated from El Paso's east-of-California (EOC) customers in effectuating the storage programs involved in the referenced proceedings. Under ordering paragraphs (D) and (E) of Opinion No. 800, El Paso was directed to file with the Commission, within ninety (90) days of the issuance of the Opinion, a proposal for prospective reallocation of deliveries among its Priority 5 customers, or in lieu of the filing of such a proposal, to submit settlement terms and conditions subject to the approval of the Commission.

El Paso states that it is filing, concurrent with the instant document, a Proposal in Settlement and Termination of the Subject Proceeding dated August 19, 1977 (Settlement Proposal), in compliance with the Commission's aforementioned directive in this proceeding and a related motion. El Paso further states that the purpose of the instant tariff filing is to include in El Paso's tariff additional provisions required to implement the Settlement Proposal upon approval by the Commission.

The tendered tariff sheets provide the tariff provisions designed to, inter alia, include a new surcharge rate of 0.7905¢ per Mcf to become effective for the twelve (12) month period November 1, 1977, through October 31, 1978, to collect from certain of El Paso's EOC customers the costs associated with the plan of disposition presented in the Settlement Proposal.

El Paso has requested, pursuant to section 154.51 of the Commission's Regulations, that the Commission grant waiver of the notice requirements of § 154.22 of said Regulations in order that the tendered tariff sheets may be accepted for filing and permitted to become effective on November 1, 1977. Such requested effective date is subject to and conditioned upon the timely approval by the Commission of El Paso's proposed Settlement Proposal filed concurrently herewith in the instant proceeding.

El Paso further states the instant tender has been served upon all parties of record in Docket Nos. CP73-334, CP74-289 and CP75-360 and otherwise, upon all affected customers of El Paso and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff tender should, on or before September 20, 1977, file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) 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 any 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. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25833 Filed 9-2-77;8:45 am]

[Docket No. CP77-583]

EL PASO NATURAL GAS CO.

Application

AUGUST 31, 1977

Take notice that on August 23, 1977, El Paso Natural Gas Co. (Applicant),

P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP77-583 an application pursuant to section 7(c) of the Natural Gas Act and section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1978, and operation of facilities to enable Applicant to take into its certificated interstate pipeline system natural gas which would be purchased from independent producers and other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $5,000,000, and that the cost of any single project would not exceed $1,250,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protest 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 Power 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 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. 77-25845 Filed 9-2-77;8:45 am]

[Docket No. ER76-587]

GEORGIA POWER CO.

Filing of Settlement Agreement

AUGUST 30, 1977.

Take notice that on August 17, 1977, the Georgia Power Co. submitted a Settlement Agreement in the above designated docket.

On August 17, 1977, the Presiding Administrative Law Judge certified the offer of settlement in this contested proceeding to the Commission for its consideration and decision. Docket No. ER76-587 is sometimes referred to as the "PR-2" rate.

The proposed Settlement was entered into by Georgia Power, Oglethorpe Electric Membership Corp. (Oglethorpe), the Municipal Electric Authority of Georgia (MEAG), and the Board of Water, Light and Sinking Fund Commissioners of the City of Dalton, Ga. (Dalton).

The Settlement provides that Georgia Power Co. will file with the Federal Power Commission a revised tariff sheet revising the "Schedule of Monthly Charges for Capacity" delivered pursuant to FPC Rate Schedule PR-2 as follows:

Type of service:	*Monthly charge per kilowatts*
Unreserved base capacity	$3.90
Unreserved intermediate capacity	3.01
Unreserved peaking capacity	2.52
Reserve capacity	2.26

It was acknowledged and agreed by the parties that the revised PR-2 rate capacity charges would have produced on an annualized basis an increase in revenues from Oglethorpe of approximately $7,900,000 for the twelve month period ending December 31, 1976, based on certain sales estimates.

The Settlement provides for the revision of the final paragraph of the Section of the filed PR-2 rate entitled "Determination of Customer Capacity Requirements".

The Settlement further provides that Georgia Power will refund to Oglethorpe a portion of the revenues collected under the PR-2 rate for the period August 1, 1976 through May 31, 1977, as follows:

Month:	*Refund*
August 1976	$265,710
September 1976	318,851
October 1976	318,851
November 1976	318,851
December 1976	318,851
January 1977	329,557
February 1977	329,892
March 1977	329,892
April 1977	329,892
May 1977	329,892

Simple interest at 7.773% per annum is proposed to be paid on the refund described above from the date of receipt of each payment from Oglethorpe under the PR-2 rate, to the date of refund.

Georgia Power proposes to refund to Oglethorpe, MEAG and Dalton a portion of the revenues collected under the PR-2 rate for the period each customer took service under PR-2 until the date of refund as follows: Georgia Power proposes to refund to each Customer the difference between the capacity payment which would have been revised from each Customer under the rates as filed and the capacity payments which would have been received from such Customer if the revised monthly capacity charges described in Section 2.1 of the Settlement Agreement had been in effect. Simple interest at 9% per annum shall be paid in respect to the refund described herein.

Any person wishing to do so may submit comments in writing concerning the proposed Settlement Agreement to the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426 on or before October 7, 1977. The Settlement Agreement is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25834 Filed 9-2-77;8:45 am]

[Docket No. ES77-55]

IOWA POWER & LIGHT CO.

Application

AUGUST 26, 1977.

Take notice that on August 17, 1977, Iowa Power & Light Co. (Applicant) of Des Moines, Iowa, filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing issuance of $30,000,000 principal amount of First Mortgage Bonds due 2007, and 850,000 shares of Additional Common Stock, par value $10 per share.

Applicant proposes to issue the aforesaid First Mortgage Bonds under the Indenture of Mortgage and Deed of Trust dated August 1, 1943, to Harris Trust and Savings Bank and R.S. Stam, Trustees, such Indenture to be dated as of September 15, 1977. The interest rate of the Bonds will be determined by competitive bidding pursuant to the Commission's regulations under the Federal Power Act. The Bonds will not be redeemable prior to September 15, 1982, at the option of the Company through a refunding which has an interest cost to the Company less than the interest cost of the Bonds.

Applicant proposes to issue the aforesaid 850,000 shares of Common Stock, par value $10 per share, under the competitive bidding pursuant to the Commission's regulations under the Federal Power Act.

Applicant states that the purpose for which the New Bonds and Additional Common Stock are to be issued are to obtain permanent financing of the Company's construction program and to refund certain short-term borrowing obligations.

Applicant is incorporated under the laws of the State of Iowa with its principal business office at Des Moines, Iowa, and is engaged in the electric and gas utility business within the State of Iowa

Any person desiring to be heard or to make any protest with reference to the application should on or before September 12, 1977, file with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C., 20426, petitions or protests in accordance with the Commission's rules of practice and procedure

(18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENETH F. PLUMB,
Secretary.

[FR Doc.77-25812 Filed 9-2-77;8:45 am]

[Docket No. ES77-56]

IOWA SOUTHERN UTILITIES CO.

Application

AUGUST 26, 1977.

Take notice that on August 18, 1977, the Iowa Southern Utilities Co. (Applicant), filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance of $30,000,000 aggregate principal amount of unsecured promissory notes.

Applicant is incorporated under the laws of the State of Delaware with its principal business office at Centerville, Iowa, and is engaged in the electric utility business in 24 counties in Iowa.

Applicant proposes to issue notes to commercial banks. The notes will not exceed $30,000,000 and will be issued pursuant to a Revolving Credit and Term Loan Agreement.

The Applicant states that the interest rate on the Notes will not exceed 118 percent of a fluctuating base Alternate Base Rate as described in Credit Agreement. The Notes will mature no later than April 30, 1982.

The Applicant states that the proceeds from the issuance of the securities will be added to the general funds of the Company, which general funds will be used, among other things, to provide in part, interim funds for construction expenditures to be made through 1980.

Any person desiring to be heard or to make any protest with reference to said Application should on or before September 16, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25813 Filed 9-2-77;8:45 am]

[Docket No. ER77-533]

LOUISIANA POWER & LIGHT CO.

Order Provisionally Accepting for Filing Proposed Rate Schedules, Suspending Proposed Rate Changes, Establishing Procedures, Granting Intervention

AUGUST 26, 1977.

On July 29, 1977, Louisiana Power & Light Co. (LP&L) tendered for filing proposed increased rates and charges for jurisdictional sales to nine rural electric cooperatives and four municipal electric customers.[1] The filing would increase the Company's revenues by $4,372,951 (23.4 percent) for the 12-month period ending August 31, 1978. This application was predicated on including pollution control equipment and fuel conversion facilities in the rate base account, Construction Work In Progress (CWIP). The Company requested a September 1, 1977 effective date.

Notice of the tendered filing was issued August 9, 1977, with all protests or petitions to intervene due on or before August 19, 1977. On August 16, 1977, the Cities of Winnfield, Vidalia, and Jonesville, La. (hereinafter referred to as Cities) jointly filed a Protest, Petition to Intervene, a Motion to Reject Rate Filing Pursuant to section 205 of the Federal Power Act and alternatively, a Motion to Suspend the filing for the maximum statutory period.

Cities argue that LP&L's section 205 filing is inconsistent with the existing contracts between the Company and the Cities of Winnfield, Vidalia, and Jonesville.

The Cities cite a number of cases as authority for their request that the Commission reject LP&L's filing with respect to the Cities. *FPC* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956); *United Gas Pipe Line Co.* v. *Mobile Gas Service, Corp.*, 350 U.S. 332, 343 (1956); *Sam Rayburn Dam Electric Cooperative* v. *FPC*, 515 F.2d 988, 1003 (CADC, 1975); and *Anderson Power & Light of the City of Anderson, Ind.*, v. *FPC*, 482 F.2d 490, 499, 501 (CADC, 1973).

The Cities allegation that the contracts are fixed rate contracts within the meaning of the Sierra-Mobile Doctrine was underpinned by their interpretation of the following provision which was part of the printed form contract drafted by LP&L: "The terms and conditions of this Agreement and the Rate Schedule are subject to amendment or alteration as a result of and in accordance with a valid applicable order of any government regulatory authority having jurisdiction hereof."

However, an examination of the fuel adjustment rider executed and filed with the Commission could very well support a different interpretation of the contractual relationship between the Company and the Cities as to whether the contract is a fixed rate contract. Supplement No. 1 to the contract reads: "Electric power and energy will be supplied under this schedule only in connection with a written Agreement for such service, which shall contain all of the Company's usual provisions for service and such additional provisions as may, in the judgment of the Company, be necessary to cover the particular arrangements and to carry out the purpose of this rate schedule." *Service hereunder is subject to the orders of regulatory bodies having jurisdiction and either the Company or Customer may request lawful change in rate or contract in accordance with such jurisdiction.* (Emphasis supplied)

The Commission at this time will not rule on the fixed contract issue but will further analyze the contracts and will rule no later than September 15, 1977. The Company may respond to Cities allegation that the contracts are fixed rate contracts. However, at this time, LP&L's filing will be provisonally accepted subject to our determination of the fixed rate contract issue.

Our review indicates that the proposed rates filed by LP&L have not been shown to be just and reasonable and therefore, may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. Accordingly, we shall suspend the proposed rates for two months to become effective November 2, 1977, subject to refund.

LP&L also tendered for filing a proposed increase in rates predicated on the inclusion of the company's total CWIP in its rate base. LP&L seeks authorization to include all of CWIP in its rate base under the severe financial difficulty exception of Order No. 555.[2] The proposed inclusion of CWIP would increase LP&L's revenues by $7,422,000 (45%) for period II and increase its rate base by about $287.5 million (33.6 percent). The Company further requested that the Commission promptly issue an order approving the collection of these rates.

The Company in its transmittal letter alleged that the inclusion of all of the Company's CWIP in rate base is essential if the company is to be able to issue new securities necessary to finance its construction program at reasonable cost.

The Company further stated that based on the year ending December 31, 1977, the inclusion of all of the Company's CWIP in its rate base would provide it with an additional $3,778,000 of annual cash revenue from its wholesale customers. The Company claimed that

[1] The Rural electric Cooperatives are: Bossier Rural Electric Membership Corp., Claiborne Electric Cooperative, Inc., Concordia Electric Cooperative, Inc., Dixie Electric Membership Corp., Northeast Louisiana Power Cooperative, Inc., Pointe Coupee Electric Membership Corp., South Louisiana Electric Cooperative Association, Valley Electric Membership Corp., and Washington-St. Tammany Electric Cooperative, Inc.—all of whose contracts have been assigned to Cajun Electric Power Coop., Inc., who administers their requirements. The Municipal Electric systems are: The Town of Jonesville, the Town of Winnfield, the Town of Vidalia, and the Town of Minden. (See Appendix A for Designation.)

[2] Order No. 555, Docket No. RM75-13, issued November 8, 1976, at p. 16.

this additional cash flow is necessary to help alleviate its financial plight.

Order No. 555 provides that all CWIP except that portion which relates to pollution control and fuel conversion facilities must be excluded from rate base[3] unless there is a showing by the company of "severe financial difficulty which cannot be otherwise alleviated without materially increasing the cost of electricity to consumers."[4]

The Commission recently reaffirmed that any inclusion of CWIP based on the severe financial difficulty exception can be prospective only from the date of issuance of a final order or rehearing approving inclusion of such amounts in the rate base.[5]

Although the Company filed prepared testimony dealing with its difficulty in acquiring new capital for its construction program, the company failed to show how the additional $3.7 million would alleviate the difficulties associated with the capital expansion requirements.

Under Order No. 555, the company must make a showing of financial difficulty which cannot be otherwise alleviated without materially increasing the cost of electricity to its consumers. CWIP in the rate base must be detailed and comprehensive as to present financial conditons; the reasons for the Company's financial lordship; the futility of alternatives, and as to how the additional revenues generated from inclusion of CWIP in rate base will alleviate the severe financial difficulty.

The Commission believes LP&L should be afforded the opportunity to offer additional testimony and exhibits illuminating inter alia the following relevant considerations:

(1) To what extent does LP&L's major construction program reflect Middle South Utilities system-wide planning? In particular, were the loads of LP&L's affiliated MSU companies considered in planning for the 1165 MW Waterford Nuclear Unit No. 3? In this connection, it is noted that LP&L peak 1977 demand is estimated to be about 3400 MW.

(2) To what extent have affiliated companies of MSU participated in financing construction designed to meet system-wide needs? What actions has LP&L taken to alleviate its difficulties by seeking such participation?

(3) Under what specific planning requirements was the need for Waterford No. 3 established? What are the relevant reserve and reliability criteria employed by LP&L and MSU? In what specifically quantified manner would the quality of service to LP&L's customers be affected by deferral of Waterford No. 3 or joint participation by other members of MSU in that unit? In what specifically quantified manner would the cost of service to LP&L's customers be affected by deferral of Waterford No. 3 or joint participation by other members of MSU in that unit, recognizing the extent to which capital costs may be avoided during the interval of deferral?

(4) What is LP&L's specific capital expansion program now planned to implement its construction program?

(5) What specific amount of total additional annual revenues is required by LP&L to implement its capital expansion program? On what basis was this amount determined? What specific segment of these additional annual revenues is proposed to be obtained from customers other than resale customers? What action has been taken to seek authorization for such additonal revenues, and to what specific extent has the request for such authorization been supported by claiming CWIP in rate base.

(6) Of the total additional annual revenues required by LP&L for its capital expansion program, what specific segment is required from the wholesale services in this proceeding, recognizing that wholesale revenues are in the order of 5 percent of LP&L total electric revenue? Of this specific segment, how much is proposed to be obtained through rates supported by LP&L's cost of service with CWIP limited to pollution control and fuel conversion facilities? Would the required wholesale segment be supportable by the inclusion of less than the full amount of CWIP in rate base? If so, how much less?

(7) Does LP&L seek authorization to include all CWIP in its rate base for the indefinite future? If not, for how long?

(8) What are the specific accounting procedures proposed by LP&L to ensure that wholesale customers will not subsequently be charged for any corresponding AFUDC capitalized as a result of different accounting and ratemaking treatment accorded CWIP by a state commission? LP&L testimony speaks of memorandum records, but does not describe the specific manner in which it proposes on an ongoing basis to identfy CWIP for which it identifies wholesale customer related CWIP for which no AFUDC will be capitalized. Nor does LP&L indicate whether its state Commission does in fact require a ratemaking treatment differing from that here requested of this Commission.

The Cities raise a "price squeeze" allegation in the filing. To conform with our Order No. 563, additional procedures must be set so as to effectuate these policies. We will direct the Administrative Law Judge to convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the petitioner's request for data necessary to present its prima facie showing on the price-squeeze issue.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the proposed increased rates and charges, tendered by LP&L on July 29, 1977, the application for inclusion of its total CWIP in the rate base, establishing procedures for that hearing, and that the proposed increased rates and charges be provisionally accepted for filing, suspended, and the use thereof deferred, all as hereinafter ordered.

(2) Participation by the Cities in this proceeding may be in the public interest.

(3) Good cause exists to establish "price squeeze" procedures to effectuate the Commission's policy announced in Order No. 563

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act, particularly Sections 205, 206, 301, 308, and 309 thereof, and pursuant to the Commission's rules of practice and procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by LP&L in this proceeding and LP&L's application for inclusion of its total CWIP in the rate base.

(B) Pending such hearing and decision thereon, the proposed increased rates and charges filed by LP&L on July 29, 1977 and identified above are hereby provisionally accepted for filing, suspended and the use thereof deferred until November 2, 1977, when they shall become effective, subject to refund.

(C) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before December 15, 1977.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose shall preside at a conference in this proceeding to be held on January 4, 1978, at 10:00 A.M. (ET) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Law Judge is authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(E) Cities is hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *Provided, however,* that participation of such intervenor shall be limited to the matters affecting asserted rights and interests specifically set forth in the petition to intervene; and *Provided, further,* that the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any orders entered in this proceeding.

(F) The Administrative Law Judge shall convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the Cities' request for data required to present its case, including a prima facie showing, on the price-squeeze issue. LP&L shall also be required to respond to the discovery requests authorized by

[3] See Commission Order in Utah Power & Light Co., Docket No. ER77-311, issued June 23, 1977.

[4] Order No. 555, Docket No. RM75-13, issued November 8, 1976, at p. 16.

[5] Commission order in Utah Power & Light Co., Docket No. ER77-311, issued June 23, 1977, mimeo at p. 2.

the Administrative Law Judge within 30 days and the Cities shall file its case-in-chief on the price-squeeze issue within 30 days after LP&L's response.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

LOUISIANA POWER & LIGHT CO.
DOCKET NO. ER77-533

	Designation
(1) Dixie Electric Membership Corp.	Supp. No. 4 to Rate Schedule FPC No. 34 (supersedes supp. No. 2 to Rate Schedule FPC No. 34).
(2) Pointe Coupee Electric Membership Corp.	Supp. No. 5 to Rate Schedule FPC No. 35 (supersedes supp. No. 3).
(3) Washington-St. Tammany Electric Cooperative, Inc.	Supp. No. 4 to Rate Schedule FPC No. 37 (supersedes supp. No. 2).
(4) Cajun Electric Power Coop., Inc.	Supp. No. 12 to Rate Schedule FPC No. 42 (supersedes supp. No. 10).
(5) Town of Jonesville, La.	Supp. No. 3 to Rate Schedule FPC No. 22 (supersedes supp. No. 1).
(6) City of Winnfield, La.	Supp. No. 3 to Rate Schedule FPC No. 26 (supersedes supp. No. 1).
(7) Town of Vidalia, La.	Supp. No. 2 to Rate Schedule FPC No. 53.
(8) City of Minden, La.	Supp. No. 2 to Rate Schedule FPC No. 52.

[FR Doc.77-25814 Filed 9-2-77;8:45 am]

[Docket No. RP77-121]

McCULLOCH INTERSTATE GAS CORP.

Application for Extension of Time for Repayment of Advanced Payments and Request for Rate Base Treatment Thereof

AUGUST 30, 1977.

Take notice that on August 16, 1977, McCulloch Interstate Gas Corp. ("McCulloch Interstate") filed with the Commission an Application for Extension of Time for Repayment of Advanced Payments and Request for Rate Base Treatment Thereof. The proposed request seeks permission to extend the period of time for repayment of advanced payments by Galaxy Oil Co. ("Galaxy") from May 9, 1978, pursuant to the terms of a Contribution Agreement dated March 2, 1972 between Galaxy and McCulloch Interstate; and further, request that the granting of said proposed extension of time for repayment provide for and allow McCulloch Interstate to obtain rate base treatment for the contribution relating to the subject well under the Contribution Agreement beyond the five year period set forth in FPC Order No. 411, as amended (Docket No. R-411). McCulloch Interstate states that the amount due under said Contribution Agreement as of May 31, 1977 is $180,000.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or 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 proceedings. 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.77-25839 Filed 9-2-77;8:45 am]

[Docket Nos. ER77-427 and ER77-473]

MINNESOTA POWER & LIGHT CO., SUPERIOR WATER, LIGHT & POWER CO.

Order Permitting Intervention

AUGUST 30, 1977.

By our order dated July 21, 1977, this Commission accepted the proposed rates tendered in Docket No. ER77-473 for filing, suspended their effectiveness subject to refund until December 8, 1977, directed that a hearing be held to determine their justness and reasonableness and consolidated the proceeding with the proceeding in ER77-427 for purposes of hearing and decision. Comments, protests; and petitions to intervene were due in the proceedings in Docket No. ER77-473 on or before July 20, 1977.

On July 22, 1977, the Public Service Commission of Wisconsin, an agency of the State of Wisconsin having, among other things, the authority to regulate the rates charged for the sale of electric energy by companies engaged in the sale of electric energy to the public in the State of Wisconsin, filed a Notice of Intervention in Docket No. ER77-473 in order to participate in the event that a formal hearing is held.

The Commission finds: Since participation by the Public Service Commission of Wisconsin will not delay the instant proceedings, good cause exists for accepting its late request to intervene as hereinafter ordered and conditioned.

The Commission orders: (A) The Public Service Commission of Wisconsin is hereby permitted to intervene in these proceedings subject to the rules and regulations to the Commission; *Provided, however,* that participation of such intervenor shall be limited to the matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further,* that the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The late intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of these proceedings.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25835 Filed 9-2-77;8:45 am]

[Docket No. ER77-480]

MONTAUP ELECTRIC CO.

Order Granting Interventions

AUGUST 29, 1977.

On July 20, 1977, the Commission issued an order in this proceeding entitled Order Accepting for Filing and Suspending Tendered Rate Schedule Revisions. A timely petition to intervene was filed in this docket but was not considered in the above Commission order.

On July 13, 1977, a Petition of Rhode Island Consumers' Council and Division of Public Utilities and Carriers of the State of Rhode Island (Petitioners) For Leave to Intervene and For Suspension of Tariff Schedules was filed in this proceeding. The petition asserts that the Carriers' Council is authorized pursuant to Rhode Island statute to appear before Fedefal, State, and local Commissions on matters affecting consumers. The Division of Public Utilities is granted exclusive State statutory authority to supervise and regulate companies offering energy to the public in intrastate commerce.

Petitioners assert that an increase in Montaup's wholesale rates to jurisdictional customers will result in price increases to many Rhode Island consumers, and such consumers constitute a class of people who would not be adequately represented without intervention by Petitioner.

Petitioners also seek imposition of the full five-month suspension period, a provision which was included in the Commission's order of July 20, 1977 and which will remain in effect.

On July 15, 1977, a Protest, Petition to Intervene, and Request for Suspension was filed on behalf of the Municipal Gas & Electric Department of the Town of Middleborough, Mass. (Middleboro). Middleboro is a partial requirements customer of Montaup and asks for intervention status and a suspension period of five months.

On July 20, 1977, a Protest and Petition to Intervene was filed on behalf of Francis X. Bellotti, Attorney General of the Commonwealth of Massachusetts and the Massachusetts Consumers Council (The Council). Each assert that they are empowered by Massachusetts statute to intervene on behalf of Massachusetts consumers on matters affecting electric rates. Two of Montaup's wholesale customers (Brockton Edison Co. and Fall River Electric Light Co.) serve several

hundred thousand Massachusetts consumers. The Attorney General and The Council oppose Montaup's proposed rate of return and its proposed adjustments to test year expenses and reserve the right to raise other objections.

Also on July 20, 1977, a Petition to Intervene was filed on behalf of the Naragansett Electric Co. Naragansett is a wholesale customer of Montaup under the current filing.

On July 25, 1977, an untimely Petition to Intervene was filed on behalf of Newport Electric Corp. of Newport, R.I., another jurisdictional customer of Montaup.

The Commission finds: (1) The participation in this proceeding of Rhode Island Consumers' Council, Division of Public Utilities and Carriers of the State of Rhode Island, the Municipal Gas and Electric Department of the Town of Middleborough, the Attorney General of the Commonwealth of Massachusetts, the Massachusetts Consumers Council, the Narragansett Electric Co., and the Newport Electric Cooperative of Newport, R.I., may be in the public interest.

The Commission orders: (A) Rhode Island Consumers' Council Division of Public Utilities and Carriers of the State of Rhode Island, the Municipal Gas and Electric Department of the Town of Middleborough of the State of Rhode Island, the Attorney General of the Commonwealth of Massachusetts, the Massachusetts Consumers' Council and the Narragansett Electric Co., and the Newport Electric Corp. of Newport, R.I. are permitted to intervene, subject to the Commission's Rules and Regulations; *Provided, however,* that such intervention is limited to the issues set forth in the petition to intervene; and *Provided, further,* that the admission of the intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any Commission order entered in this proceeding.

(B) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission:

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25820 Filed 9-2-77;8:45 am]

[Docket No. CP77-574]

MOUNTAIN FUEL SUPPLY CO.

Application

AUGUST 31, 1977.

Take notice that on August 18, 1977, Mountain Fuel Supply Co. (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP77-574 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 facilities for the transportation of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate a 3-inch gas supply tap and appurtenant facilities on its main transmission pipeline near Granger, Wyo. According to Applicant, the tap will be used to receive gas owned by Applicant from Well No. 5 in the Bruff Field. The appurtenant facilities will include 700 feet of 2-inch pipeline, which Applicant says is needed to connect the gas supply to the transmission system.

Applicant says that Well No. 5 is more than a mile from existing or previously proposed taps for obtaining gas from this field. Applicant's main transmission pipeline passes through this field and within 700 feet of Well No. 5, says Applicant, and construction of the proposed tap would therefore minimize the gathering facilities in the area.

Applicant estimates that deliverability from the Bruff No. 5 Well will be approximately 1,860 Mcf per day. The current estimated proven gas reverse attributed to this well is said to be 4,500,000 Mcf. Applicant says that development in this area is continuing and that any successful wells in the vicinity may be connected to the proposed tap if it is the most economical point of connection.

The cost of the tap and appurtenant facilities is estimated by Applicant to be about $4,500, to be financed with funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 23, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) 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 the jurisdiction conferred upon the Federal Power 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 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.77-25846 Filed 9-2-77;8:45 am]

[Docket No. CP76-492]

NATIONAL FUEL GAS SUPPLY CORP., NATIONAL GAS STORAGE CORP.

Amendment to Application

AUGUST 31, 1977.

Take notice that on August 18, 1977, National Fuel Gas Supply Corp. (Supply Corporation) and National Gas Storage Corp. (Storage Corporation) (sometimes jointly referred to herein as Applicants), 308 Seneca Street, Oil City, Pa. 16301, filed in Docket No. CP76-492 Amendment No. 2 to their pending joint application filed on August 20, 1976, pursuant to Sections 7(c) and (b) of the Natural Gas Act for authorization to develop and operate underground gas storage and related facilities in Allegany County, N.Y., and Potter County, Pa. Amendment No. 2 requests authorization for Supply Corporation to render underground storage service to Storage Corporation during the periods 1978-79 and 1979-80, while Storage Corporation's facilties are under construction, and is said to provide further support for the proposed development of the Beech Hill Field, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

In their joint application filed August 20, 1976, as amended, Applicants request authority to develop two separate storage pools and to acquire an already developed pool for the purpose of rendering underground gas storage service to non-affiliated customer utilities in an aggregate amount expected to reach 23,500,00 Mcf top storage capacity upon completion of construction in June 1979. It is stated that authorization for the development and operation by Storage Corporation of the East and West Independence pools, which have an estimated 11,500,000 Mcf top storage capacity, is the subject of Applicant's initial filing and that Amendment No. 1 to that filing provides detailed support for Applicants' proposed development of the Beech Hill Field, which is estimated to reach 12,000,000 Mcf top storage capacity.

It is stated that the instant amendment provides further support for Applicants' proposed development of the Beech Hill Field in the form of copies of precedent agreements between Storage Corporation and four customers (Connecticut Natural Gas Corporation, Haverhill Gas Company, Penn Fuel Gas, Inc., and Pennsylvania and Southern Gas Company), together with detailed market data for three of these utilities, and a statement by each one indicating its need for storage service.

In addition, Applicants request authorization for Supply Corporation to

render up to 3,200,000 Mcf of underground storage service to Storage Corporation annually during the periods 1978–79 and 1979–80. It is stated that Storage Corporation would utilize this 3,200,000 Mcf capacity to serve a portion of its non-affiliated customers' needs for storage during this interim two-year period when facilities of Storage Corporation will be under construction, subject to the approval of this Commission.

It is asserted that the construction schedule filed by Applicants on August 20, 1976, contemplated commencement of work by the fall of 1976, that this schedule cannot be met, and that limited-term storage service from Supply Corporation is required in order to meet the needs of Storage Corporation's customers until such time as Storage Corporation's facilities can be completed. Applicants state further that the proposed storage service by Supply Corporation would be effectuated through existing delivery points.

Applicants state that Storage Corporation would pay Supply Corporation $0.4077 per Mcf to top storage capacity for this service and that the proposed rate has been adopted by the Commission in previous dockets for similar limited-term storage service rendered by Supply Corporation. Applicants assert further that Storage Corporation would charge its customers, on a rolled-in basis, a rate which reflects the $0.4077 per Mcf paid to Supply Corporation for 3,200,000 Mcf of storage capacity.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commissions' 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. Persons who have heretofore filed in this docket need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25847 Filed 9-2-77;8:45 am]

[Docket No. CP77-576]

NATURAL GAS PIPELINE CO. OF AMERICA

Application

AUGUST 31, 1977.

Take notice that on August 22, 1977, Natural Gas Pipeline Co. of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP77-576 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain measuring facilities owned by Applicant at the Calumet sales meter station in Chicago, Ill., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is indicated that the measuring facilities which Applicant proposes to abandon were constructed and placed in operation pursuant to authorization issued by the Commission on February 3, 1943, in Docket No. G-289 and on June 22, 1948, in Docket No. G-1057, and that the facilities are being used at present to measure gas sold by Applicant to The Peoples Gas Light & Coke Co. (Peoples), a customer and affiliate of Applicant. Applicant states that as part of Peoples' program to upgrade and modernize facilities leased to Applicant under an agreement dated February 20, 1950, the abandoned facilities will be replaced by new measuring facilities to be installed by Peoples at the Calumet Measuring Station and leased to Applicant for operation. Applicant states further that 2.6 miles of the Peoples' Calumet No. 1 24-inch pipeline, which is currently leased and operated by Applicant, will be taken out of service and that any loss in capacity will be offset by an increase in capacity in the No. 2 24-inch line through upgrading to a higher pressure. The orginal cost of the facilities to be abandoned is stated to be $32,414.

Applicant states that there will be no change in service or deliveries as a result of the proposed abandonment or in the design capacity of the facilities leased by Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) 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 the jurisdiction conferred upon the Federal Power 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 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 permission ment are 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 Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25848 Filed 9-2-77;8:45 am]

[Docket No. ER77-564]

NORTHERN INDIANA PUBLIC SERVICE CO.

Filing of Letter Agreement

AUGUST 30, 1977.

Take notice that Northern Indiana Public Service Co. (NIPSCO) on August 22, 1977, tendered for filing a letter agreement dated August 19, 1977 between NIPSCO, Commonwealth Edison Co. and Commonwealth Edison Co. of Indiana, Inc. NIPSCO indicates that the agreement proposes to enable NIPSCO to purchase from Commonwealth Edison Co. of Indiana, Inc., electric energy, originating from Minnesota Power & Light Co., on a weekly basis as deemed necessary and economic.

NIPSCO states that the agreement will be effective immediately upon approval of the Federal Power Commission and shall terminate on October 31, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before September 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25836 Filed 9-2-77;8:45 am]

[Docket Nos. RP-76-115, RP73-109, and RP74-95]

NORTHWEST PIPELINE CORP.

Order Denying Motion for Reconsideration

AUGUST 29, 1977.

Northwest Pipeline Corp. (Northwest) filed on August 4, 1977, an application for rehearing of the Commission's order of July 5, 1977, approving Northwest's rate settlement in the captioned dockets. For the reasons stated below, the Commission shall deny Northwest's application.[1]

[1] Northwest's application was not filed within the time specified by Section 1.34 of the Commission's rules of practice. Therefore, it shall be accepted for filing and consideration on its merits as a motion for reconsideration.

Northwest's application relates to ordering paragraph (B) of the July 5 order. This paragraph states:

(B) Nothing contained herein shall be deemed to relieve Northwest of the Commission's filing requirements in Part 154.63 of its regulations should the Commission determine such data is necessary in judging the proprietary of a tariff filing relating to special overriding royalty costs. Further, nothing contained herein shall be construed as limiting the Commission's rights under the Natural Gas Act to reject or otherwise dispose of any tariff filing made by Northwest to collect the potential overriding royalty costs.

Northwest requests rehearing:

to the extent—and only to the extent—Ordering Paragraph (B) is intended to require Northwest to file what is, in effect, a new general rate case and to submit to a review of its existing or previously effective base rates as part of the determination of the justness and reasonableness of its rate adjustments to recover its increased special overriding royalty payments.

Northwest claims that the special overriding royalties question should be regarded as a reserved issue apart from the remaining portion of the settlement in these proceedings. Northwest contends further that review of the base rate does not follow the intent of the settlement, and that review of its previously approved rates would be unlawful.

The Commission cannot agree. The Commission is charged with the responsibility under the Natural Gas Act to establish rates which are just and reasonable. *FPC* v. *Hope Natural Gas Co.*, 320 U.S. 591 (1944). This duty can be accomplished only by finding that a pipeline's rates fairly represent its cost of providing service. The cost involved in Northwest's special overriding royalties is substantial in relation to Northwest's total revenues. Auotmatic approval of such amounts in the absence of a review of Northwest's underlying base tariff rates could result in total rates which are excessive. In reviewing any future request by Northwest for approval of overriding royalty costs, the Commission is obligated to insure that the resulting rates, representing the combined base tariff rates plus claimed royalty costs, will be just and reasonable. Nothing in the settlement agreement can be construed as a limitation on the Commission's obligation to insure that Northwest's rates are just and reasonable. Ordering paragraph (B) provides the means by which the Commission may obtain information which may be necessary in making a final determination and is thus consistent with the Commission's responsibility under the mandate expressed in Section 4(a) of the Natural Gas Act.

It should be noted that ordering paragraph (B) does not require Northwest to file a complete rate application under section 154.63 of the Commission's regulations at the time it files to recover costs asscciated with special overriding royalty payments. It provides only that Northwest shall be required to submit additional, relevant information as may be found necessary by the Commission in determining whether Northwest's resulting total rates will be just and reasonable.

Based on the foregoing considerations, the Commission finds that Northwest's motion for reconsideration is without merit and must be denied.

The Commission orders: (A) Northwest's application for rehearing is being considered as a motion for reconsideration and is hereby denied.

(B) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25821 Filed 9-2-77;8:45 am]

[Project No. 2652]

PACIFIC POWER & LIGHT CO.

Application for Approval of Exhibit S

AUGUST 29, 1977.

Public notice is hereby given that an application for approval of Exhibit S was filed on May 5, 1977, under the Federal Power Act, 16 U.S.C. §§ 791a–825r, by Pacific Power & Light Co. (Licensee) (Correspondence to: Mr. G. Eldon Drennan, Executive Vice President, Pacific Power & Light Co., 920 SW. Sixth Avenue, Portland, Oreg. 97204) for its constructed Project No. 2652 known as the Big Fork Project. Project No. 2652 is located on the Swan River near the City of Kalispell in Flathead County, Mont.

The Licensee was required to file the Exhibit S pursuant to Article 26 of its license. The Exhibit S describes the impact of the project operation on fish and wildlife in the area and protective measures at the project such as the fish structures. Licensee stated that it has consulted periodically with the Montana Department of Fish and Game respecting flow regulations, fish ladder operation and maintenance and matters concerning the fishery. Licensee also states that the project has no adverse impact on wildlife in the area.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 11, 1977, file with the Federal Power Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR §1.8 or § 1.10 (1977). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become 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.77-25822 Filed 9-2-77;8:45 am]

[Docket No. E-9572]

PAPAGO TRIBAL UTILITY AUTHORITY AND ARIZONA ELECTRIC POWER COOPERATIVE, INC. v. ARIZONA PUBLIC SERVICE CO.

Order Granting Late Intervention

AUGUST 29, 1977.

On December 27, 1976, Citizens Utilities Co. (Citizens), tendered for filing a petition to intervene out of time in the above-captioned proceeding. For the reasons hereinafter stated, the Commission shall grant Citizens petition to intervene.

On October 28, 1976, the Papago Tribal Utility Authority and Arizona Electric Power Cooperative, Inc., jointly tendered for filing a complaint against Arizona Public Service Co. (APS) alleging that APS has failed to comply with certain provisions of the Order Approving Stipulation and Offer of Settlement Subject to Conditions issued by the Commission on September 16, 1975, as clarified by an order issued on November 4, 1975, in Docket Nos. E-8621, et al.—E-9280, et al., and E-9081, and with the express terms of the June 27, 1975 settlement agreement thereby approved.

On July 5, 1977, the Commission issued an order instituting an investigation with respect to the allegations of the complaint and granted the petitions to intervene by the Welton-Mohawk Irrigation and Drainage District and the Arizona Power Authority.

Citizens states that it had been granted intervention in Docket Nos. E-9281 and E-9282 (consolidated with Docket No. E-9280) and that it had agreed to the settlement approved by the Commission in its order of September 16, 1975. Citizens further states that it believes that APS contravened the above mentioned settlement agreement with respect to the refunds transmitted to Citizens.

We determine that Citizens has standing to intervene in this docket and that granting late intervention will not prejudice or inconvenience any party to this proceeding.

The Commission finds: Intervention in these proceedings by Citizens may be in the public interest.

The Commission orders: (A) Citizens is hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission; *Provided, however,* that participation of Citizens shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further* that the admission of Citizens as intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25823 Filed 9-2-77;8:45 am]

[Project No. 2685]

POWER AUTHORITY OF THE STATE OF NEW YORK

Application for Approval of Revised Exhibit S

AUGUST 30, 1977.

Take notice that an application was filed on August 8, 1971, and supplemented on December 8, 1971, by the Power Authority of the State of New York (Correspondence to: Lewis R. Bennett, Assistant General Manager-General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, N.Y. 10019) for Commission approval of a revised Exhibit S for the Blenheim-Gilboa Pumped Storage Project, FPC No. 2685, located on Schoharie Creek in the towns of Blenheim and Gilboa, Schoharie County, N.Y.

The revised Exhibit S, filed pursuant to Article 36 of the license, presents Licensee's fish and wildlife development plan for the Blenheim-Gilboa Project area. Licensee's plan was prepared in consultation and cooperation with the Fish and Wildlife Service of the U.S. Department of the Interior, the Division of Fish and Wildlife of the New York State Department of Environmental Conservation (DEC), and the Capitol District State Park Commission.

Licensee plans to improve existing wildlife habitat through implementation of a 10-year food and cover planting program conducted in cooperation with DEC, the initial phase of which has already been established. To mitigate the loss of fishery and fishing opportunity due to construction operation and maintenance of the Project, Licensee proposes to establish and enhance a fishery in the lower reservoir and through construction of a boat launch area to provide fishing access at all reservoir elevations. A 16.6-acre fishing pond at another location is expected to mitigate fish losses due to project operations. Design provisions have been incorporated in the lower reservoir dam to permit minimum flow releases to sustain downstream fishlife.

Any person desiring to be heard or to make any protest with reference to this matter should on or before October 10, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR § 1.8 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any 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. This application is on file with the Commission and available for public inspection at the Commission's offices in Washington, D.C.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25837 Filed 9-2-77;8:45 am]

[Docket No. ER77-464]

PUBLIC SERVICE COMPANY OF NEW MEXICO

Order Granting Petitions to Intervene

AUGUST 29, 1977.

On July 19, 1977, the Commission issued an order in this proceeding entitled Order Accepting for Filing and Suspending Proposed Increased Rates. Two timely petitions to intervene were filed in this docket but were not considered in the above Commission Order.

On July 11, 1977, an Intervening Petition, Protest and Motion to Suspend was filed on behalf of Plains Electric Generation & Transmission Cooperative (Plains). Plains is a wholesale electric customer of Public Service Company of New Mexico (PNM) and Plains and its Cooperative members serve approximately 20 percent of New Mexico's public. Plains asserts that its preliminary analysis reveals disagreement with both (PNM) test year costs and its proposed rate of return. Plains seeks both intervention status and imposition of the full five-month suspension period.

On July 13, 1977, a Petition to Intervene was filed on behalf of Community Public Service Co. (CPS). CPS states that it is a wholesale customer of (PNM) under a time-of-day rate structure. CPS asserts that the proposed filing in this docket significantly alters the present time-of-day rate structure to a degree that would necessitate changes in CPS's retail structure as well. CPS asks that, pending final determination in this proceeding the identification of off-peak and on-peak hours in (PNM's) currently-effective rate schedules be continued, and that any changes be ordered prospectively from a Commission final order in this docket.

The petitions to intervene of Plains and CPS will be granted, but no change will be made in the suspension period, and the proposed rates will become effective on October 1, 1977, subject to refund as ordered.

The Commission finds: (1) The participation in this proceeding of Plains and CPS may be in the public interest.

The Commission orders: (A) Plains Electric Generation & Transmission Cooperative and Community Public Service Co. are permitted to intervene, subject to the Commission's Rules and Regulations; *Provided, however,* that such intervention is limited to the issues set forth in the petition to intervene; and *Provided, further,* that the admission of intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any Commission order entered in this proceeding.

(B) Commission Staff shall prepare and serve Top Sheets on all parties on or before October 27, 1977 (See Administrative Order No. 157).

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5 (d)), shall convene a settlement conference in this proceeding within 10 days after service of Top Sheets by Staff, in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(D) The Secretary shall cause the prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25828 Filed 9-2-77;8:45 am]

[Docket No. ER76-87]

SIERRA PACIFIC POWER CO.

Compliance Filing

AUGUST 26, 1977.

Take notice that Sierra Pacific Power Co. (Sierra) on July 25, 1977, tendered for filing the following FPC Electric Tariff Sheets:

FPC sheet No.	Title of sheet	Canceling FPC sheet No.
8th revision 4	Schedule R, resale service	7th revision 4.
4th revision 5	Schedule R, resale service (continued)	3d revision 5.
1st revision 5A	Schedule R, resale service (continued)	Original 5A.
5th revision 8	Fuel adjustment	4th revision 8.
3d revision 8A	Fuel adjustment (continued)	2d revision 8A and original 8B.
1st revision 9H	Terms and conditions (continued)	Original 9H.

Sierra indicates that these revised tariff sheets are in compliance with the Commission's Order approving settlement issued June 30, 1977.

Any person desiring to protest said filing should file a petition to protest with the Federal Power Commission, 825 North Capitol Street, 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 protests should be filed on or before September 6, 1977. Protests will be considered by the Commission in determining the appropriate action. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25815 Filed 9-2-77;8:45 am]

[Docket No. RP77-31]

SOUTHERN NATURAL GAS CO.

Settlement Conference

AUGUST 24, 1977.

Take notice that a settlement conference in the captioned proceeding will be

held on Otcober 6, 1977, beginning at 11:00 a.m. in Room 5200, Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceedings.

All parties will be expected to come fully prepared to discuss the merits of all issues concerning the lawfulness of the proposed rate increase and any procedural matters preparatory to a full evidentiary hearing or to make commitments with respect to such issues and any offers of settlement or stipulations discussed at the conference.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25810 Filed 9-2-77;8:45 am]

[Docket No. CP77-571]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Application

AUGUST 29, 1977.

Take notice that on August 17, 1977, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Tex. 77001, filed in Docket No. CP77-571 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for 15 years for Orange & Rockland Utilities, Inc. (Orange & Rockland), one of Applicant's existing resale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to render a transportation service for Lowell for a primary term of 15 years ending March 31, 1993, pursuant to a precedent agreement dated August 10, 1977, among Applicant, Orange & Rockland and National Gas Storage Corp. (Storage Corp.). It is stated that the proposed transportation service which Applicant would perform would enable Orange & Rockland to store a portion of the natural gas it purchases from Applicant with Storage Corp. under the storage service proposed by Storage Corp. in Docket No. CP76-492.

Applicant indicates that Orange & Rockland has entered into a preliminary agreement with Storage Corp. under which Storage Corp. would, upon certification and development of the storage facilities proposed in Docket No. CP76-492, perform a storage service for Orange & Rockland extending through March 31, 1993, with the following storage volumes:

[In thousand cubic feet]

Annual storage quantity	Daily injection quantity	Daily withdrawal quantity
1,000,000	5,000	6,667

Applicant states that in order to enable Orange & Rockland to utilize the storage service, Applicant proposes to receive from Orange & Rockland and/or from Columbia Gas Transmission Corp. (Columbia Gas), for Orange & Rockland's account, daily volumes of natural gas (injection input volumes) nominated by Orange & Rockland from its contracted demand purchases from Applicant under Applicant's Rate Schedule CD-5 and/or from its purchases from Columbia Gas under Columbia Gas' Rate Schedule CDS and to transport and deliver such volumes to Storage Corp. for storage for Applicant from Columbia Gas would be volumes which Orange & Rockland would cause Columbia Gas to nominate out of Columbia Gas' contracted demand purchased from Applicant at the applicable receipt point, it is said.

When requested by Orange & Rockland, Applicant proposes to receive daily volumes from Storage Corp., for Orange & Rockland's account (withdrawal input volumes), and to transport and deliver the equivalent volumes (withdrawal transportation volumes) to Orange & Rockland and/or, after deduction of a small portion of such volume for Applicant's system fuel and use requirements, to Applicant for Orange & Rockland's account. It is indicated that the maximum daily injection input volume which Orange & Rockland may request Applicant to receive for transportation and deliver to Storage Corp. is 6,933 Mcf for volumes received from Orange & Rockland and 7,111 Mcf for volumes received from Columbia Gas for Orange & Rocklands account. On any day when an injection input volume is made available to Applicant by Columbia Gas, the injection transportation volume would equal 0.9750 times the injection input volume and the remaining 0.025 times the injection input volume would be retained by Applicant as a supplement to its system gas supply for its system fuel and use requirements. Applicant states that the total of the injection transportation volumes during the April 1 through October 31 period of each year would not exceed 1,040,000 Mcf.

It is stated that the maximum daily withdrawal input volume which Orange & Rockland may request Applicant to receive from Storage Corp. for transportation and delivery to Orange & Rockland, or to Columbia Gas for Orange & Rocklands account, is 9,091 Mcf. On any day when a withdrawal input volume is made available to Applicant for a transportation and delivery to Orange & Rockland, the withdrawal transportation volume would equal 0.9864 times the withdrawal input volume for volumes delivered to Orange & Rockland and 0.9892 times the withdrawal input volumes for volumes delivered to Columbia Gas for Orange & Rocklands account. Applicant states that the remaining 0.0136 and 0.0108, respectively, times the respective withdrawal input volume would be retained by Applicant as a supplement to its system gas supply for its system fuel and use requirements and that the total of the withdrawal transportation volumes during the November 1 through March 31 period of each year would not exceed 1,000,000 Mcf.

Applicant indicates that the receipt and delivery point for all volumes to be received from and delivered to Orange & Rockland by Applicant would be at Applicant's existing Pearl River sales meter station delivery point to Orange & Rockland in Rockland County, N.Y., or when required by operating conditions, at any other mutually agreed to existing point of interconnection between the two companies. Applicant further indicates that the receipt point for all volumes to be received from Columbia Gas by Applicant, for Orange & Rockland's account, for transportation and delivery to Storage Corp. would be at Applicant's existing South Ceredo sales meter station delivery point to Columbia Gas in Wayne County, W. Va., or when required by operating conditions, at any other mutually agreed to existing point of interconnection between the two companies.

It is stated that the delivery point for all volumes to be delivered to Columbia Gas by Applicant, for Orange & Rockland's account, would be at Applicant's existing Milford sales meter station delivery point to Columbia Gas in Pike County, Pa., or when required by operating conditions, at any other mutually agreed to existing point of interconnection between the two companies.

Applicant states that the receipt and delivery point for all volumes to be delivered to and received from Storage Corp. by Applicant for Orange & Rockland's account would be at a point of interconnection between the facilities of Applicant and Storage Corp. to be established at or near Applicant's Main Line Valve 313G-102 in Potter County, Pa., for which authorization is being sought in Applicant's application filed in Docket No. CP77-569 in which Applicant proposes to render a similar transportation service for Central Hudson Gas & Electric Corp.

It is indicated that the compensation to be paid each month by Orange & Rockland to Applicant for the transportation service by Applicant would consist of the following charges:

(A) *Charges for transportation of base gas for injection.*—For each Mcf of natural gas made available to Applicant by Orange & Rockland at the point of receipt—Orange & Rockland, which gas Applicant delivers during the month to Storage Corp. for the account of Orange & Rockland to enable Orange & Rockland to make base gas available to Storage Corp., Orange & Rockland shall pay to Applicant 9.34 cents per Mcf and for each Mcf so made available to Applicant at the Point of Receipt—Columbia, which Applicant delivers during the month to Storage Corp. for the account of Orange & Rockland, Orange & Rockland shall pay Applicant 17.19 cents per Mcf.

(B) *Charge for transportation of top gas withdrawals.*—For each Mcf of withdrawal transportation volume which Applicant delivers during the month, Orange & Rockland shall pay to Applicant 12.53 cents per Mcf. The rates specified in this section are intended to reflect transportation of the withdrawal transportation volume by Applicant to Columbia for the account of Orange & Rockland at the Point of Delivery—Colum-

bia. Upon notice by Orange & Rockland, the rate to be charged under this section shall be adjusted to reflect deliveries by Tennessee to Orange & Rockland at the Point of Delivery—Orange & Rockland.

(C) *Added volume charge.*—(a) For the purpose of calculating the added volume charge, the following terms applicable to each period from November 1 through the following March 31 are defined:

(i) The CD–5 underage volume shall be the positive remainder, if any, of the total of Orange & Rockland's curtailment period quantity entitlements (CPQEs) during such period under Applicant's contracted demand gas sales contract with Orange & Rockland minus the volume for which Orange & Rockland pays Applicant at Applicant's CD 5 commodity rate under said gas sales contract during such period.

(ii) The displaced volume shall be the lesser of the CD–5 underage volume, or, the volume, within the total of the withdrawal transportation volumes during such period, which Orange & Rockland obtained from sources other than Applicant.

(iii) The terms curtailment period, CD–5 commodity rate, and curtailment period quantity entitlement are defined in Volume 1 of Applicant's FPC Gas Tariff.

(b) The added volume charge for each period from November 1 through the following March 31 shall consist of a sum equal to the product of 14.78 cents per Mcf times the displaced volume.

(c) The added volume charge applicable to each period from November 1 through the following March 31 shall appear on Applicant's invoice issued during the month of April at the end of each such period.

(D) *Minimum Annual Bill.*—Beginning with the month of April 1981 Orange & Rockland shall pay Applicant during April of each year, 12.53 cents multiplied by the difference in volume between (a) 0.9892 times (1,000,000 Mcf minus any Storage Corp. withdrawal fuel related to 1,000,000 Mcf for the period from November 1 through the following March 31) reduced by whatever portion of such volume which Applicant did not transport and deliver for the account of Orange & Rockland during such period because of Applicant's inability to transport and deliver volumes related to injection and withdrawal input volumes requested by Orange & Rockland, and (b) the total of the daily withdrawal transportation volumes such period from November 1 through the following March 31.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 19, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) 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 the jurisdiction conferred upon the Federal Power 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 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.77-25831 Filed 9-2-77;8:45 am]

[Docket No. CP77-569]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO, INC.

Application

AUGUST 29, 1977.

Take notice that on August 17, 1977, Tennessee Gas Pipeline Co., a Division of Tenneco, Inc. (Applicant), P.O. Box 2511, Houston, Tex. 77001, filed in Docket No. CP77-569 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for 15 years for Central Hudson Gas & Electric Corp. (Central Hudson), one of Applicant's existing resale customers, and to construct and operate interconnecting facilities on Applicant's pipeline system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to render a transportation service for Central Hudson for a primary term of 15 years ending March 31, 1993, pursuant to a precedent agreement dated August 10, 1977, among Applicant, Central Hudson and National Gas Storage Corp. (Storage Corp.). It is stated that the proposed transportation service would enable Central Hudson to store a portion of the natural gas it purchases from Applicant with Storage Corp. under the storage service proposed by Storage Corp. in Docket No. CP76-492. Applicant indicates that Central Hudson has entered into a preliminary agreement with Storage Corporation under which Storage Corp. would, upon certification and development of the storage facilities proposed in Docket No. CP76-492, perform a storage service for Central Hudson commencing April 1978 and extending through March 31, 1993, with the following storage volumes:

[In thousand cubic feet]

	Annual storage quantity	Daily injection quantity	Daily withdrawal quantity
Period 1: Apr. 1, 1978 through Mar. 31, 1983	200,000	1,000	1,333
Period 2: Apr. 1, 1983 through Mar. 31, 1993	500,000	2,500	3,333

Applicant states that in order to enable Central Hudson to utilize the storage service, Applicant proposes to receive from Central Hudson daily volumes of natural gas (injection transportation volumes) nominated by Central Hudson from its contracted demand purchases from Applicant under Applicant's Rate Schedule CD-5 and to transport and deliver such volumes to Storage Corp. for storage for Central Hudson's account. When requested by Central Hudson, Applicant proposes to receive daily volumes from Storage Corp., for Central Hudson's account (withdrawal input volumes), and after deduction of a small portion of such volume for Applicant's system fuel and use requirements, to transport and deliver the equivalent remaining volumes (withdrawal transportation volumes) to Central Hudson.

It is stated that the maximum daily injection transportation volumes which Central Hudson may request Applicant to receive for transportation and delivery to Storage Corp. are 1,387 Mcf during Period 1 and 3,467 Mcf during Period 2. It is further stated that the total of the injection transportation volumes during the April 1 through October 31 period of each year would not exceed 208,000 Mcf during Period 1 and 520,000 Mcf during Period 2.

It is indicated that the maximum daily withdrawal input volume which Central Hudson may request Applicant to receive from Storage Corp. for transportation and delivery to Central Hudson is 1,818 Mcf during Period 1 and 4,545 Mcf during Period 2. On any day when a withdrawal input volume is made available to Applicant, the withdrawal transportation volume would equal 0.9843 times the withdrawal input volume. The remaining 0.0157 times the withdrawal input volume would be retained by Applicant as a supplement to Applicant's system gas supply for Applicant's fuel and use requirements. The total of the withdrawal transportation volumes which Central Hudson may request Applicant to transport during the November 1 through March 31 period of each year shall not exceed 200,000 Mcf during Period 1 and 500,000 Mcf during Period 2.

Applicant states that the delivery point for all volumes to be received from and delivered to Central Hudson by Applicant would be at Applicant's existing Cedar Hill Sales Meter Station Delivery Point to Central Hudson located in Albany County, N.Y., or when required by operating conditions, at any other mutually agreed to existing point of interconnection between the two companies. Applicant further states that the deliv-

ery point for all volumes to be delivered to and received from Storage Corp. by Applicant for Central Hudson's account would be at a point of interconnection between the facilities of Applicant and Storage Corp. to be established at or near Applicant's Main Line Valve 313G-102 in Potter County, Pa. Applicant requests authorization to construct and operate a side valve at the aforementioned point of interconnection. The cost of such side valve would be borne by Storage Corp., it is said.

It is indicated that the compensation to be paid each month by Central Hudson to Applicant for the transportation service by Applicant would consist of the following charges:

A. *Charge for transportation of base gas for injection.* For each Mcf of natural gas made available to Applicant by Central Hudson at the point of receipt, which gas Applicant delivers during the month of Storage Corp. for the account of Central Hudson to enable Central Hudson to make base gas available to Storage Corp., Central Hudson shall pay to Applicant 10.79 cents per Mcf.

B. *Charge for transportation of top gas withdrawals.*—For each Mcf of withdrawal transportation volume which Applicant delivers during the month to Central Hudson, Central Hudson, Central Hudson shall pay to Applicant 15.91 cents per Mcf.

C. *Added volume charge.* (a) For the purpose of calculating the added volume charge, the following terms applicable to each period from November 1 through the following March 31 are defined:

(i) The CD-5 underage volume shall be the positive remainder, if any, of the total of Central Hudson's curtailment period quantity entitlements (CPQE's) during such period under Applicant's contracted demand gas sales contract with Central Hudson minus the volume for which Central Hudson pays Applicant at Applicant's CD-5 commodity rate under said gas sales contract during such period.

(ii) The displaced volume shall be the lesser of the CD-5 underage volume, or, the volume, within the total of the withdrawal transportation volumes during such period, which Central Hudson obtained from sources other than Applicant.

(iii) The terms curtailment period, CD-5 commodity rate, and curtailment period quantity entitlement are defined in Volume 1 of Applicant's FPC Gas Tariff.

(b) The added volume charge for each period from November 1 through the following March 31 shall consist of a sum equal to the product of 14.70 cents per Mcf times the displaced volume.

(c) The added volume charge applicable to each period from November 1 through the following March 31 shall appear on Applicant's invoice issued during the month of April at the end of each such period.

D. *Minimum annual bill.* Beginning with the month of April 1981 Central Hudson shall pay Applicant during April of each year, 15.91 cents multiplied by the difference in volume between (a) during Period 1, a volume equal to 0.9843 times (200,000 Mcf minus any Storage Corp. withdrawal fuel related to 200,000 Mcf for the period from November 1 through the following March 31) reduced by whatever portion of such volume which Applicant did not transport and deliver to Central Hudson during such period because of Applicant's inability to transport and deliver volumes related to injection and withdrawal input volumes requested by Central Hudson, and during Period 2, a volume equal to 0.9843 times (500,000 Mcf minus any Storage Corp. withdrawal fuel related to 500,000 Mcf for the period from November 1 through the following March 31) reduced by whatever portion of such volume which Applicant did not transport and deliver to Central Hudson during such period because of Applicant's inability to transport and deliver volumes related to injection and withdrawal input volumes requested by Central Hudson, and, (b) the total of the daily withdrawal transportation volumes during such periods from November 1 through the following March 31.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 19, 1977, file with the Federal Power Commission, Wahington, 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 the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearng 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 be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25829 Filed 9-2-77;8:45 am]

[Docket No. CP77-570]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO, INC.

Application

AUGUST 29, 1977.

Take notice that on August 17, 1977, Tennessee Gas Pipeline Co., a Division of Tenneco, Inc. (Applicant), P.O. Box 2511, Houston, Tex. 77001, filed in Docket No. CP77-570 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for 15 years for Lowell Gas Co. (Lowell), one of Applicant's existing resale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to render transportation service for Lowell for a primary term of 15 years ending March 31, 1993, pursuant to a precedent agreement dated August 10, 1977, among Applicant, Lowell and National Gas Storage Corp. (Storage Corp.). It is stated that the proposed transportation service which Applicant would perform would enable Lowell to store a portion of the natural gas it purchases from Applicant with Storage Corp. under the storage service proposed by Storage Corp. in Docket No. CP76-492.

Applicant indicates that Lowell has entered into a preliminary agreement with Storage Corp. under which Storage Corp. would, upon certification and development of the storage facilities proposed in Docket No. CP76-492, perform a storage service for Lowell extending through March 31, 1993, with the following storage volumes:

[In thousand cubic feet]

Annual storage quantity	Daily injection quantity	Daily withdrawal quantity
2,000,000	10,000	13,333

Applicant states that in order to enable Lowell to utilize the storage service, Applicant proposes to receive from Lowell daily volumes of natural gas (injection transportation volumes) nominated by Lowell from its contracted demand purchases from Applicant under Applicant's Rate Schedule CD-6 and to transport and deliver such volumes to Storage Corp. for storage for Lowell's account. When requested by Lowell, Applicant proposes to receive daily volumes from Storage Corp., for Lowell's account (withdrawal input volumes), and after deduction of a small portion of such volume for Applicant's system fuel and use requirements, to transport and deliver the remaining volumes (withdrawal transportation volumes) to Lowell.

The maximum daily injection transportation volume which Lowell may request Applicant to receive for transportation and delivery to Storage Corp. would be 13,867 Mcf, and the total of the injection transportation volumes during the April 1 through October 31 period of each year would not exceed 2,080,000 Mcf.

The maximum daily withdrawal input volume which Lowell may request Applicant to receive from Storage Corp. for transportation and delivery to Lowell would be 18,182 Mcf. On any day when a withdrawal input volume would be made available to Applicant, the withdrawal transportation volume would equal 0.9843 times the withdrawal input volume; and the remaining 0.0157 time the withdrawal input volume would be retained by Applicant as a supplement to Applicant's system gas supply for Applicant's system fuel and use requirements. The total of the withdrawal trans-

portation volumes which Lowell may request Applicant during the November 1 through March 31 period of each year would not exceed 2,000,000 Mcf, it is said.

Applicant states that the delivery point for all volumes to be received from and delivered to Lowell by Applicant would be at Applicant's existing Tewksbury sales meter station delivery point to Lowell in Middlesex County, Mass., or when required by operating conditions, at any other mutually agreed to existing point of interconnection between the two companies. Applicant further states that the delivery point for all volumes to be delivered to and received from Storage Corp. by Applicant for Lowell's account would be at a point of interconnection between the facilities of Applicant and Storage Corp. to be established at or near Applicant's Main Line Valve 313G-102 in Potter County, Pa., for which authorization is being sought in Applicant's application filed in Docket No. CP77-569 in which Applicant's proposes to render a similar transportation service for Central Hudson Gas & Electric Corp.

It is indicated that the compensation to be paid each month by Lowell to Applicant for the transportation service by Applicant would consist of the following charges:

A. *Charge for transportation of base gas for injection.* For each Mcf of natural gas made available to Applicant by Lowell at the point of receipt, which gas Applicant delivers during the month to Storage Corp. for the account of Lowell to enable Lowell to make base gas available to Storage Corp., Lowell shall pay to Applicant 17.61 cents per Mcf.

B. *Charge for transportation of top gas withdrawals.* For each Mcf of withdrawal transportation volume which Applicant delivers during the month to Lowell, Lowell shall pay to Applicant 25.98 cents per Mcf.

C. *Added volume charge.* (a) For the purpose of calculating the added volume charge, the following terms applicable to each period from November 1 through the following March 31 are defined:

(i) The CD-6 underage volume shall be the positive remainder, if any, of the total of Lowell's curtailment period quantity entitlements (CPQE's) during such period under Applicant's contracted demand gas sales contract with Lowell minus the volume for which Lowell pays Applicant at Applicant's CD-6 commodity rate under said gas sales contract during such period.

(ii) The displaced volume shall be the lesser of the CD-6 underage volume, or, the volume within the total of the withdrawal transportation volumes during such period, which Lowell obtained from sources other than Applicant.

(iii) The terms curtailment period, CD-6 commodity rate and curtailment period quantity entitlement are defined in Volume 1 of Applicant's FPC Gas Tariff.

(b) The added volume charge for each period from November 1 through the following March 31 shall consist of a sum equal to the product of 25.31 cents per Mcf times the displaced volume.

(c) The added volume charge applicable to each period from November 1 through the following March 31 shall appear on Applicant's invoice issued during the month of April at the end of each such period.

D. *Minimum annual bill.* Beginning with the month of April 1981 Lowell shall pay Applicant during April of each year, 25.98 cents multiplied by the difference in volume between (a) 0.9745 times (2,000,000 Mcf minus any Storage Corp. withdrawal fuel related to 2,000,000 Mcf for the period from November 1 through the following March 31) reduced by whatever portion of such volume which Applicant did not transport and deliver for the account of Lowell during such period because of Applicant's inability to transport and deliver volumes related to injection and withdrawal input volumes requested by Lowell, and (b) the total of the daily withdrawal transportation volumes during such period from November 1 through the following March 31.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 19,1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) 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 the jurisdiction conferred upon the Federal Power 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 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.77-25830 Filed 9-2-77;8:45 am]

[Docket No. CP77-584]

TEXAS EASTERN TRANSMISSION CORP.

Application

AUGUST 31, 1977

Take notice that on August 23, 1977, Texas Eastern Transmission Corp. (Applicant), P.O. Box 2521, Houston, Tex. 77001, filed in Docket No. CP77-584 an aplication pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities and the transportation of natural gas for Florida Gas Transmission Corp. (Florida Gas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct facilities to transport for Florida Gas up to 5,000 dekatherms equivalent of natural gas per day, pursuant to Applicant's proposed Rate Schedule TS-2. Applicant says that the transportation would be in accordance with the terms of a service agreement dated August 2, 1977, between Applicant and Florida Gas.

According to Applicant, Florida Gas Exploration Co., an affiliate of Florida Gas, received authorization to sell up to 5,000 dekatherms equivalent per day of natural gas to Florida Gas by a temporary certificate issued August 11, 1977, in Docket No. CI77-663. Applicant proposes to receive this gas at a point to be constructed on its 30-inch pipeline near Chalkey Field in Cameron Parish, Louisiana, and to deliver the gas to Florida Gas at an existing point of interconnection between the two systems in the Krotz Springs Area of St. Landry Parish, Louisiana.

Applicant says that Florida Gas would reimburse Applicant for all costs of this service. The cost of constructing the proposed facilities is estimated by Applicant to be approximately $12,400.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 23, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) 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 the jurisdiction conferred upon the Federal Power 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 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.77-25849 Filed 9-2-77;8:45 am]

[Docket No. CP77-578]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

AUGUST 31, 1977.

Take notice that on August 22, 1977, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP77-578 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition and operation of certain gathering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to acquire and operate certain gathering and appurtenant facilities from C&K Petroleum, Inc. (C&K), individually, and as representative for C&K—AA '76 Ltd., C&K—H 1976 Ltd., C&K—AC Venture, C&K—CKC 1976 Ltd., and Harding A. Orren, Solly Robins, Julius E. Davis, KHS Associates, John Lawrence, Arthur L. Owen, Vanguard Petroleum Corporation and Jack Webre (hereinafter C&K, et al.) pursuant to a gas purchase contract, dated July 30, 1977, between C&K, et al., and Applicant. Applicant says that this contract has been filed as an exhibit appended to C&K, et al.'s application in Docket No. CI77-724 for a certificate to sell gas to Applicant.

Under the terms of the contract, says Applicant, C&K et al., have agreed to sell and Applicant has agreed to buy all of C&K, et al.'s, interest in the surface gathering and purification equipment which has been previously installed in the Jefferson Island Field, Iberia Parish, Louisiana, including, but not limited to, a six-inch diameter pipeline of approximately 3,851 feet, which runs from the field to the nearby twelve-inch pipeline of Tennessee Gas Pipeline Co., a Division of Tenneco, Inc. (Tennessee); a meter station; a high pressure separator; line heaters; a dehydration unit and related facilities.

Applicant says that the field facilities which it proposes to acquire were constructed for the joint account of the working interest owners of certain natural gas production in the Jefferson Island Field, with the total cost of $205,259.47 apportioned in relation to their interests as follows: C&K, *et al.*, 84.375 percent ($173,187.67); Burlington Industries, Inc. (Burlington), 3.125 percent; and Tesoro Petroleum Corp. (Tesoro), 12.5 percent.

In Docket No. CP77-554, Applicant says, it has on file an application for a certificate authorizing it to transport gas from Burlington's interest in the Jefferson Island Field, for Burlington. Burlington, it is said, will convey to Applicant its interest in the facilities as no cost for as long as transportation service is being rendered.

Applicant says that Tesoro has not yet decided if it will sell its share of the gas to Applicant or to an intrastate purchaser. If Tesoro agrees to sell the gas to Applicant, Applicant indicates that it intends to purchase Tesoro's interest in the facilities also.

Applicant says that the facilities will be used (1) to receive the gas from the Jefferson Island Field which Applicant will purchase from C&K, et al., pursuant to the gas purchase contract and (2) to transport gas for Burlington. All of the gas will be delivered to Tennessee's twelve-inch line for transportation to Applicant's nearby fourteen-inch line in Vermilion Parish, La.

The gathering line and other facilities to be acquired by Applicant are said to have been installed during the second quarter of 1977 and have not been depreciated on C&K, et al.'s, books. The purchase price will be the original cost of the facilities to C&K, et al., $173,187.67. Applicant intends to finance the purchase initially with short term loans and available cash. Later, says Applicant, the facilities will be permanently financed as part of a major financing program.

Applicant estimates that daily deliveries to it from the Jefferson Island Field will be about 15,000 Mcf, but expects this volume to increase since the field is under active development.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) 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 the jurisdiction conferred upon the Federal Power 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 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.77-25850 Filed 9-2-77;8:45 am]

FEDERAL RESERVE SYSTEM

METROPOLITAN BANK AND TRUST CO., ET AL.

Amendment of Order Approving Formation of Bank Holding Companies

By Order of August 10, 1977, the Board approved under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) the applications of Metropolitan Bank and Trust Company, Philippine Securities Corporation, and Tytana Corporation all of Makati, Rizal, Philippines, to become bank holding companies through the direct and indirect acquisition of up to 35 percent of the voting shares of International Bank of California, Los Angeles, Calif. ("Bank"). Applicants indicated in materials submitted with the above applications that as a result of a voting trust agreement with shareholders of Bank, Applicants would control directly or indirectly up to 51 percent of the voting shares of Bank (including the 35 percent for which prior approval was requested). Applicants have amended their applications to reflect the fact that they will control directly or indirectly up to 51 percent of the voting shares of Bank and have requested that the Board amend its Order of August 10 accordingly. The factors that are considered in acting on the amended applications are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The amended applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the amended applications should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than September 14, 1977.

Board of Governors of the Federal Reserve System, September 1, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-26034 Filed 9-2-77;10:29 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on August 30, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency

sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before September 26, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL COMMUNICATIONS COMMISSION

FCC requests an extension no change clearance of the reporting requirement contained in 47 CFR 1.311—National Environmental Policy Act Reporting Requirement. The reporting requirement calls for information to be submitted with applications for authority to construct major communications facilities. This information helps FCC to determine whether the facilities will have a significant effect on the environment. Section 102(2) (c) of the National Environmental Policy Act (NEPA) requires all Federal agencies to prepare an environmental impact statement before taking any major action significantly affecting the quality of human environment. FCC estimates approximately 740 statements are received annually and that respondent burden averages 10 hours per statement.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-25796 Filed 9-2-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Reg.; Temporray Reg. F-440]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the interests of the executive agencies of the Federal Government in an interstate telephone rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* (a) Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a) (4) and 205(d) (40 U.S.C. 481(a) (4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Tennessee Public Service Commission involving the application of the South Central Bell Telephone Company for increased rates and charges for intrastate telephone service.

(b) The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

(c) This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

JAY SOLOMON,
Administra'or of General Services.

AUGUST 25, 1977.

[FR Doc.77-25887 Filed 9-2-77;8:45 am]

[Federal Property Management Regs.; Temporary Reg. F-441]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent, in conjunction with the Administrator of Genral Services, the consumer interests of the executive agencies of the Federal Government in an interstate telecommunications rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* (a). Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205 (d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Federal Communications Commission involving the application of the American Telephone and Telegraph Company for increases in interstate tariff FCC 260, Series 8000 (Transmittal No. 12796). The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

(b.) The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c.) This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

AUGUST 25, 1977.

JAY SOLOMON,
Administrator of General Services.

[FR Doc.77-25888 Filed 9-2-77;8:45 am]

[Federal Property Management Regs.; Temporary Reg. F-442]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in an interstate telecommunications rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* (a) Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a) (4) and 205(d) (40 U.S.C. 481(a) (4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Federal Communications Commission involving new tariffs filed by the American Telephone and Telegraph Company for Digital Data Service (Tariff FCC 267, Transmittal 12790). The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

(b) The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

(c) This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

JAY SOLOMON,
Administrator of General Services.

AUGUST 25, 1977.

[FR Doc.77-25889 Filed 9-2-77;8:45 am]

[Federal Property Management Regs.; Temporary Reg. F-443]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in an interstate telecommunications rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* (a) Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a) (4) and 205 (d) (40 U.S.C. 481(a) (4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer

interests of the executive agencies of the Federal Government before the Federal Communications Commission involving new tariffs filed by the American Telephone and Telegraph Company for private line telegraph service (Tariff FCC 260, Series 1000, Transmittal No. 12791). The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

(b) The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

(c) This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

JAY SOLOMAN,
Administrator of General Services.

AUGUST 26, 1977.

[FR Doc.77-25890 Filed 9-2-77;8:45 am]

[Intervention Notice No. 38; Case No. U-5502]

MICHIGAN PUBLIC SERVICE COMMISSION, DETROIT EDISON CO.

Proposed Intervention in Electric Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Michigan Public Service Commission concerning an application by the Detroit Edison Co. for an increase in its tariffed rates for intrastate electric service. The GSA represents the interests of the executive agencies of the United States Government, as users of utility services.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone 202-566-0750, on or before October 6, 1977, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act (40 U.S.C. 481(a)(4)).)

Dated: August 25, 1977.

JAY SOLOMON,
Administrator of General Services.

[FR Doc.77-25892 Filed 9-2-77;8:45 am]

[Intervention Notice No. 37; Docket No. RID 438]

PENNSYLVANIA PUBLIC UTILITY COMMISSION, PHILADELPHIA ELECTRIC CO.

Proposed Intervention in Electric Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Pennsylvania Public Utility Commission concerning an application by the Philadelphia Electric Co. for an increase in its tariffed rates for intrastate electric service. The GSA represents the interests of the executive agencies of the United States Government, as users of utility services.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone 202-566-0750, on or before October 6, 1977, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act (40 U.S.C. 481(a)(4)).)

Dated: August 25, 1977.

JAY SOLOMON,
Administrator of General Services.

[FR Doc.77-25891 Filed 9-2-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

ADVISORY COUNCIL ON ENVIRONMENTAL EDUCATION

Meeting

AGENCY: Advisory Council on Environmental Education, HEW/OE.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meeting of the Advisory Council on Environmental Education. It also describes the functions of the Council. Notice of the meeting is required by the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: September 26, 1977, 10:30 a.m. to 5:30 p.m., September 27, 1977, 9:00 a.m. to 4:30 p.m.

ADDRESS: Demonstration Center, Federal Office Building No. 6, Room 1134, 400 Maryland Avenue SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Mr. Walter Bogan, Office of Environmental Education, Room 2025, FOB No. 6, 400 Maryland Avenue SW., Washington, D.C. 20202 (202-245-9231).

(A) Advise the Commissioner and the Office concerning the administration of, preparation of general regulations for, and operation of programs assisted under the Environmental Education Act;

(B) Make recommendations to the Office with respect to the allocation of funds appropriated pursuant to section 7 among the purposes set forth in paragraph (2) of subsection (b) of the Environmental Education Act and the criteria to be used in approving applications, which criteria shall insure an appropriate geographical distribution of approved programs and projects throughout the Nation;

(C) Develop criteria for the review of applications and their disposition; and

(D) Evaluate programs and projects assisted under the Environmental Education Act and disseminate the results thereof.

The meeting of the Council shall be open to the public. The meeting on September 26 will begin at 10:30 a.m. and end at 5:30 p.m. The meeting on September 27 will begin at 9:00 a.m. and end at 4:30 p.m. The meeting will be held at the Office of Education Building, 400 Maryland Avenue SW., Room 1134, Washington, D.C. 20202.

The proposed agenda includes:

1. End of year program briefing and report by the Office of Environmental Education on the status of implementation of Council recommendations.
2. Review of interim reports of Council Sub-Committees.
3. General Council business for 1977.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the Advisory Council on Environmental Education located in Room 2025, Federal Office Building No. 6, 400 Maryland Avenue SW., Washington, D.C. 20202.

Signed at Washington, D.C., on August 31, 1977.

WALTER J. BOGAN, JR.,
Director of Office of Environmental Education.

[FR Doc.77-25800 Filed 9-2-77;8:45 am]

COMMENTS ON COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

Pursuant to Section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The National Center for Education Statistics and the U.S. Office of Education have proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education

Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before October 6, 1977, and should be addressed to Administrator, National Center for Education Statistics, Attn: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202–245–1022.

Dated: August 30, 1977.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity. 1980 Census Data by School District.

2. Agency/Bureau/Office. National Center for Education Statistics.

3. Agency Form Number. NCES 2407.

4. Legislative Authority for This Activity. "Sec. 406(b) The purpose of the Center [National Center for Education Statistics] shall be to collect and disseminate statistics and other data related to education in the United States * * *" (Pub. L. 93–380; 20 USC 1221e–1).

5. Voluntary/Obligatory Nature of Response. Voluntary.

6. How Information To Be Collected Will Be Used. School district maps will be collected in order to make 1980 Census data available to the education community by school district. Census Boundary and Annexation Survey (BAS) maps with the school district boundaries superimposed can be used by State Departments of Education when school districts are in the process of redistricting and by local or County governments when reorganizing election areas for school districts in response to statutory requirements.

7. Data Acquisition Plan. a. Method of Collection: Mail. b. Time of Collection: Spring 1978—Winter 1979. c. Frequency: One time (with a procedure developed for at least annually updating the geographic reference file (GRF).

8. Respondents. (a) Type: SEA. (b) Number: 51. (c) Estimated average man-hours per respondent: 1. (a) Type: LEA. (b) Number: 16,000. (c) Estimated Average Man-Hours per Respondent: 2.5.

(NOTE.—The man-hours per SEA/LEA for this project is dependent upon the physical size of the LEAs and the complexity of their boundaries.)

9. Information To Be Collected. Maps showing school district boundaries or other reliable school district boundary information plus subsequent verification of the school district boundaries drawn on Census BAS maps.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity. Teacher Corps Inservice Teacher Education Survey.

2. Agency/Bureau/Office. U.S. Office of Education, Immediate Office of the Commissioner, Teacher Corps.

3. Agency Form Number. OE 582.

4. Legislative Authority for this Activity. "For the purpose of carrying out this subpart, the Commissioner is authorized to * * * make available technical assistance to local educational agencies and institutions of higher education for carrying out arrangements * * *" (Pub. L. 89–329, Sec. 513(a)) (20 U.S.C. 1103). "The Commissioner shall (1) Prepare and disseminate to State and local educational agencies and institutions information concerning applicable programs and cooperate with other Federal officials who administer programs affecting education in disseminating information concerning such programs; (2) inform the public on federally supported education programs; (3) collect data and information on applicable programs for the purpose of obtaining objective measurements of the effectiveness of such programs in achieving their purposes; * * *" (Pub. L. 91–230, Sec. 422(a)) (20 U.S.C. 1231a).

5. Voluntary/Obligatory Nature of Response. Voluntary.

6. How Information To Be Collected Will Be Used: The data gained from this survey will allow Teacher Corps and its projects to (1) Assess the current status of inservice education for members of Teacher Corps; (2) identify alternative approaches through inservice education; (3) assist local projects and staff development programs; and (4) provide information necessary for future planning and policymaking at the national level.

7. Data Acquisition Plan: (a) Method of collection: Mail. (b) Time of collection: Winter, 1978. (c) Frequency: Single-time.

8. Respondents: (a) Type: Local Education Agency. (b) Number: 134. (c) Estimated average man-hours per respondent: ½ hour. (a) Type: College and University Personnel. (b) Number 117. (c) Estimated average man-hours per respondent: ½ hour. (a) Type: State Education Agency. (b) Number: 50. (c) Estimated average man-hours per respondent: ½ hour. (a) Type: Parent. (b) Number: 300. (c) Estimated average man-hours per respondent: ½ hour.

9. Information To Be Collected: Information will be collected to establish a data base about present practices in inservice education in the 11th and 12th cycle Teacher Corps projects. It will identify the opinions of various categories of educational personnel, community members and interested others in Teacher Corps projects as indicated below:

(a) *Local Education Agency* (LEA). 1. Demographic characteristics, educational level and positions of school personnel.

2. Facts and attitudes concerning quantity and quality of staff development already received.

3. Identification of special needs in inservice training in the areas of today's special focuses. (Exceptional child, preschool education, multicultural education, Bilingual education, etc.)

(b) *College and University Personnel.* 1. Amounts and types of faculty involvement in inservice teacher training programs.

2. Opinions as to the degree of success or failure of present inservice training programs.

3. Identification of college faculty development needs as they pertain to delivering inservice training programs for teachers.

(c) *State Education Agency (SEA).* 1. Attitudes towards various legislation or executive decisions taken by many States with respect to inservice teacher training projects.

2. Opinions as to who should bear the costs of such programs.

3. Views concerning who should conduct and evaluate inservice teachers training programs.

(d) *Parents.* 1. Demographic characteristics of community members served by the school.

2. Opinions as to who should bear the concerning any staff development taking place in the schools.

3. Community experience with and preferences for various forms of governance in an inservice training program.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity. Institutional Request for Additional Funds under the College Work-Study Program.

2. Agency/Bureau/Office. U.S. Office of Education/Bureau of Student Financial Assistance/Division of Student Financial Aid.

3. Agency Form Number. OE 1286.

4. Legislative authority for this activity. "Sec. 442(d) The amount of any State's allotment which has not been granted to an eligible institution under section 443 at the end of the fiscal year for which appropriated shall be allotted by the Commissioner in such manner as he determines will best assist in achieving the purposes of the Act. Amounts reallotted under this subsection shall be available for making grants under section 443 until the close of the fiscal year next succeeding the fiscal year for which appropriated." (Pub. L. 92–318.)

"Funds allocated to an institution which the institution anticipates will not be used by the end of the period for which such funds were made available may be reallocated on an equitable basis to other institutions in that State." (45 CFR 175.4(b); 42 USC 2752.)

5. Voluntary/Obligatory Nature of Response. Voluntary.

6. How Information To Be Collected Will Be Used. Data will be used by the Office of Education to reallocate unused College Work-Study Program funds to participating institutions.

7. Data Acquisition Plan. a. Method of collection: Mail. b. Time of collection: Fall. c. Frequency: Annually.

8. Respondents. a. Type: Colleges, Universities, Vocational/Technical Postsecondary Institutions. b. Number: 1,800. c. Estimated average-man-hours per respondent: 5 minutes.

9. Information To Be Collected. The additional amount of College Work-Study Program funds needed to operate the program during the 1977–78 Award period.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity. State Student Financial Assistance Training Program Financial Status and Performance Report.

2. Agency/Bureau/Office. U.S. Office of Education/Bureau of Student Financial Assistance/State Student Incentive Grant Program.

3. Agency Form Number. OE 1329–1.

4. Legislative Authority for this Activity. "Sec. 493C.(c) A State which desires to obtain a grant under this section for any fiscal year shall submit an application therefor through or by the State agency administering its program of student grants, * * * and containing such information as may be required by such regulations as the Commissioner may prescribe for the purpose of enabling the Commissioner to disburse the funds." (Pub. L. 94–482.)

"At the end of each award period for which a State receives a grant under this part, the State shall provide a report containing such information as the Commissioner determines necessary to ensure that the State is adequately performing its responsibilities." (45 CFR 178a.10.)

5. Voluntary/Obligatory Nature of Response. Required to maintain benefits.

6. How Information To Be Collected Will Be Used. Reports will be used to measure State's progress in attaining objectives approved in their applications and to monitor their compliance with program regulations.

7. Data Acquisition Plan. (a) Method of collection: Mail. (b) Time of collection: Fall. (c) Frequency: Annually.

8. Respondents. (a) Type: State Scholarship/Grant Agencies. (b) Number: 56. (c) Estimated average man-hours per respondent: 8.

9. Information To Be Collected. (a) Standard Form HEW 601-T, Financial Status Report (supplemented). (b) Performance Report, in check sheet and brief-answer format, will show accomplishments and program emphasis in the following areas as specified by regulation:

(1) Number of State and institutional financial aid administrator benefitted and kinds of institutions represented.

(2) Forms of consultation with Statewide financial aid administrator organizations, and other groups consulted.

(3) Numbers of financial aid administrators estimated to be needed in the State and, of those currently in place, number of aid administrators who actually participated in SSFATP training activities.

(4) Professional needs of those administrators.

(5) Strengths and weaknesses of other currently available financial aid training programs.

(6) Design and development of methods and materials under this program to meet the needs of financial aid administrators that are not currently well met.

(7) Conduct of training programs, including areas of program emphasis.

(8) Methods and results of the States' evaluations of the programs.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity. Application for Grant for Equipment and Materials to Improve Undergraduate Instruction and Current Priority Listing.

2. Agency/Bureau/Office. U.S. Office of Education, Bureau of Elementary and Secondary Education, Office of Libraries and Learning Resources.

3. Agency Form Number. OE-3600 and OE-1052.

4. Legislative Authority for this Activity. "Sec. 605(a) Institutions of higher education and combinations of institutions of higher education which desire to obtain grants under this part shall submit applications therefor at such time or times and in such manner as may be prescribed by the Commissioner, and such applications shall contain such information as may be required by or pursuant to regulation for the purpose of enabling the Commissioner to make the determinations required to be made by him under this part". (Pub. L. 89-329; 20 U.S.C. 1125.)

5. Voluntary/Obligatory Nature of Response. Required to obtain or maintain benefits.

6. How Information To Be Collected Will Be Used. Information will be used to determine institution eligibility for participation in the Title VI-A program.

7. Data Acquisition Plan. a. Method of collection: Mail. b. Time of Collection: Fall. c. Frequency: Annually.

8. Respondents. a. Type: Colleges, Universities, and Institutes of higher education. b. Number: 1,700. c. Estimated Average Man-hours Per Respondent: 7.

9. Information To Be Collected. The standard face page for Federal applications SF-424, is used as Part I. Part II is divided into four sections.

(a) Section 1.0, Institutional Eligibility. In this part institutions assure the Commissioner that they have met all eligibility requirements of the Act with regards to accreditation by a Nationally-recognized accrediting agency or association or an acceptable alternative to accreditation as evidenced by certification from the U.S. Office of Education.

(b) Section 2.0, Maintenance of Effort Analysis of Applicable Current Fund Expenditures. Institutions of higher education provides requested data showing that such institution has expended from current funds available for that year for instructional and departmental research and library purposes, other than personnel costs, an amount not less than the amount expended per equivalent full-time student or in the aggregate, whichever is less, by such institution from current funds for such purposes during the second preceding fiscal year.

(c) Section 3.0, Program Project Budget. Separate budget data must be submitted for each subject area for which funds are requested.

(d) Section 4.0, Institution Assurances. In this part an institution assures the U.S. Commissioner of Education that it is eligible to receive a grant by verifying and checking off the listed requirements. Each State is responsible for submitting to the U.S. Office of Education a current priority listing of all applications received, their priority rankings, applications returned to applicants and the reason for such action, the Federal share determination according to the State Plan for each project considered.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity. Report of Handicapped Children Receiving Special Education and Related Services.

2. Agency/Bureau/Office. U.S. Office of Education/Bureau of Education for the Handicapped/Aid to States Division/State Policy and Administrative Review Branch.

3. Agency Form Number. OE Form 9058.

4. Legislative Authority for this Activity. Section 611(a)(1)—

" * * * Except as provided in paragraph (3) and in section 619, the maximum amount of the grant to which a State is entitled under this part for any fiscal year shall be equal to—

(A) The number of handicapped children aged three to twenty-one, inclusive, in such State who are receiving special education and related services; multiplied by * * *

(3) The number of handicapped children receiving special education and related services in any fiscal year shall be equal to the average of the number of such children receiving special education and related services on October 1 and February 1 of the fiscal year preceding the fiscal year for which the determination is made * * *." (20 U.S.C. 1411(a)(3).)

Section 611(a)(5)—

" * * * In determining the allotment of each State under paragraph (1), the Commissioner may not count—

(i) handicapped children in such State under paragraph (1)(A) to the extent the number of such children is greater than 12 per centum of the number of all children aged five to seventeen, inclusive, in such State;

(ii) as part of such percentage, children with specific learning disabilities to the extent the number of such children is greater than one-sixth of such percentage * * *." (20 U.S.C. 1411(a)(5).)

"As used in this part the term 'handicapped children' means those children evaluated in accordance with §§ 121a.530-121a.534 as being mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multi-handicapped, or as having specific learning disabilities, who because of those impairments need special education and related services." (Pub. L. 91-230 as amended by Pub. L. 94-142; 45 C.F.R. 121a.5.)

5. Voluntary/Obligatory Nature of Response. Required to obtain benefits.

6. How Information Collected Will Be Used. Part B of the Education of the Handicapped Act as amended by Pub. L. 94-142 provides flow-through funds to State educational agencies based on a funding formula. The data reported on this form will be the basis for allocating funds based on the formula specified in section 611 of Pub. L. 94-142. The report will also be used to verify the count mandated under law.

7. Data Acquisition Plan. a. Method of collection: Mail. b. Time of collection: After February 1 and prior to April 1. c. Frequency: Annually.

8. Respondents: a. Type: State educational agencies. b. Number: 57. c. Estimated average man-hours: 57.

9. Information to be collected. The Report of Handicapped Children Receiving Special Education and Related Services provides the statistical data required under section 611 of Pub. L. 94-142 as part of a funding formula. The State educational agency is responsible for collecting the counts from local educational agencies and aggregating the counts to the State level. The results of the October and February counts are reported under three age categories (three through five, six through seventeen, and eighteen through twenty-one) by the eleven disability categories defined in the final regulations for Part B of the Education of the Handicapped Act as amended by Pub. L. 94-142.

[FR Doc.77-25750 Filed 9-2-77;8:45 am]

Food and Drug Administration

AVAILABILITY OF ANIMAL DRUGS

Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces the first Ad Hoc Veterinary Professional Meeting regarding the availability of animal drugs. The meeting will be Chaired by the Director, Bureau of Veterinary Medicine. The Commissioner of Food and Drugs will address the group.

DATE: Wednesday, October 5, 1977, 8:30 a.m. to 4:30 p.m.

ADDRESS: Holiday Inn-Georgetown, 2505 Wisconsin Ave. NW., Washington, D.C. 20007 (202-337-7400).

FOR FURTHER INFORMATION CONTACT:

Leo J. McNamara, Bureau of Veterinary Medicine (HFV-226), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-4557).

SUPPLEMENTARY INFORMATION: The meeting will interest people connected with all aspects of veterinary medicine, for both food and nonfood animals. The purpose of the meeting is to exchange information between participants and Food and Drug Administration (FDA) officials on topics such as: use of human and controlled drugs in veterinary practice; use of antibiotics in feed; food safety; zero tolerance for residues; drug availability—bulk drugs (new vs. non-new); drug clearance process; and ways practitioners can impact on FDA's policymaking process.

The meeting will be open to all interested persons.

Dated August 29, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-25755 Filed 9-2-77;8:45 am]

ANESTHESIOLOGY DEVICE CLASSIFICATION PANEL

Meeting Change

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Anesthesiology Device Classification Panel meeting scheduled for September 27 and 28, 1977, will be held in Room 1446D on September 27, and in Room 425 on September 28, 8757 Georgia Ave., Silver Spring, Md. 20910.

FOR FURTHER INFORMATION CONTACT:

Dennis J. Cotter, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, Md. 20910 (301-427-7226).

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announced in a notice published in the FEDERAL REGISTER of August 12, 1977 (42 FR 40954), meetings of FDA public advisory committees and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act.

Notice is hereby given that the location for the meeting of the Anesthesiology Device Classification Panel scheduled for September 27 and 28, 1977, has been changed from Room 5051 HEW-N, 330 Independence Ave. SW., Washington, D.C. to Room 1446D on September 27, and Room 425 on September 28, 8757 Georgia Ave., Silver Spring, Md. 20910. The open public hearing will begin at 8:30 a.m. on September 27.

Dated: August 29, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-25754 Filed 8-2-77;8:45 am]

PANEL ON REVIEW OF TOPICAL ANALGESICS

Meeting Change

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The meeting of the Panel on Review of Topical Analgesics scheduled for September 26, 27, and 28, 1977, has been changed to October 25, 26, and 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Lee Geismar, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857 (301-443-4960).

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration (FDA) announced in a notice published in the FEDERAL REGISTER of August 12, 1977 (42 FR 40954), meetings of FDA public advisory committees and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act.

Notice is hereby given that the meeting of the Panel on Review of Topical Analgesics scheduled for September 26, 27, and 28, 1977, has been changed to October 25, 26, and 27, 1977. The open public hearing will begin at 9 a.m. on October 25, in Conference Rm. K of the Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

August 29, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-25753 Filed 9-2-77;8:45 am]

ADVISORY COMMITTEES

Filing of Annual Reports

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Pursuant to section 13 of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I))., the annual reports required by the act for Food and Drug Administration advisory committees have been filed with the Library of Congress.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Office (HFS-20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857 (301-443-2765).

SUPPLEMENTARY INFORMATION: Copies of the annual reports are available for public inspection at: (1) The Library of Congress, Special Forms Reading Room, Main Building, First St. and Independence Ave. SE., Washington, D.C. 20540; (2) the Department of Health, Education, and Welfare Library, Rm. 1436, 330 Independence Ave. SW., Washington, D.C. 20201, on weekdays between 9 a.m. and 4:30 p.m.; and (3) the Food and Drug Administration Public Records and Documents Center, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 29, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-25752 Filed 9-2-77;8:45 am]

Health Care Financing Administration

PHARMACEUTICAL REIMBURSEMENT ADVISORY COMMITTEE

Rescheduling of Meeting

Notice is hereby given that the Pharmaceutical Reimbursement Advisory Committee Meeting originally scheduled for September 6, 7, and 8, 1977 (42 FR 21571) and canceled August 19, 1977 (42 FR 41923) is now rescheduled.

Date and Time: September 28, 1977 (1 p.m. to 5 p.m.—Orientation for new members). September 29, 1977 (9 a.m. to 5 p.m.). September 30, 1977 (9 a.m. to 5 p.m.).

Place: Auditorium, HEW South Portal Building, 200 Independence Avenue SW., Washington, D.C. 20201.

Dated: August 30, 1977.

PETER RODLER,
Acting Executive Secretary.

[FR Doc.77-25808 Filed 9-2-77;8:45 am]

"OWN MOTION" REVIEW OF PROVIDER REIMBURSEMENT REVIEW BOARD DECISIONS

Interim Procedures

The Health Care Financing Administration announces, in accordance with the Administrative Procedure Act (5 U.S.C. 552), the interim procedures being used in conducting "own motion" review of decisions made by the Provider Reimbursement Review Board.

Section 1878(f)(1) of the Social Security Act (42 U.S.C. 1395oo(f)(1)) provides that a decision of the Provider Reimbursement Review Board (the Board) shall be final unless, on his own motion, the Secretary reverses, affirms, or modifies teh Board's decision. Section 1878(f)(1) requires that the Secretary take such action within 60 days after the provider is notified of the Board's decision. The Secretary has delegated to the Administrator, Health Care Financing Administration, authority to administer the Medicare program, including authority to perform this "own motion" review (42 FR 13262, March 9, 1977).

Pursuant to 5 U.S.C. 552, the interim procedures governing this review are set forth below. This Notice serves to inform the public of the procedures being

followed in carrying out the Secretary's "own motion" review responsibilities while appropriate regulations are developed. These regulations, when developed, will be published in the FEDERAL REGISTER with a Notice of Proposed Rulemaking. If there are any questions regarding the interim procedures, please contact Mrs. Erica L. Gosnell, Attorney-Advisor 301-594-5132.

Interested parties are encouraged to submit written comments, views, or data concerning these procedures to the Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203. All such submissions received on or before October 6, 1977 will be considered in developing appropriate regulations regarding "own motion" review of Provider Reimbursement Review Board decisions.

(Catalog of Federal Domestic Assistance Program Numbers 13.800, Health Insurance for the Aged-Hospital Insurance, and 13.801, Suplementary Medical Insurance.)

Dated: August 30, 1977.

WILLIAM D. FULLERTON,
Acting Administrator, Health Care Financing Administration.

Interim Procedures Governing "Own Motion" Review of Provider Reimbursement Review Board Decisions.

Secretary's Review, Section 1878(f)(1) of the Act and Regulations No. 5 Section 405.1875.

1. *Nature of Secretary's Review.*—(a) Section 1878(f)(1) of the Social Security Act, as amended, provides that a decision of the Provider Reimbursement Review Board (the Board) shall be final unless, on his own motion, the Secretary reverses, affirms, or modifies the Board's decision. Under section 1878, this "own motion" review must occur within 60 days after the provider is notified of the Board's decision. The Secretary has delegated his authority to perform this review to the Administrator, Health Care Financing Administration (HCFA).

(b) The right to this "own motion" review does not vest in the parties to the Board's hearing. Under limited circumstances, however, either party to the hearing may request that a decision be considered for evaluation under these "own motion" review procedures. Further, only providers are entitled to seek judicial review under section 1878(f)(1), 42 U.S.C. 1395oo(f)(1), of any Board decision with which they disagree.

(c) Under section 1878(f), a provider has only 60 days from the date of receipt of the Board's decision within which to seek judicial review of any decision by the Board unless the Board's decision is reversed, affirmed, or modified in the final agency review.

To avoid confusion as to what action to take, any time a Provider is notified that a decision will be reviewed by the Administrator, the review will result in a decision to reverse, affirm, or modify (20 CFR 405.1875 (b)). The Provider will then have 60 days from the date the Administrator's decision is received to seek judicial review of that decision.

2. *Ex Parte Communications Prohibited.*—(a) During the review period for a Board decision, there may not be received any evidence, explanation, analysis, or advice regarding such a case—from the Board; the Medicare Bureau or its representatives; fiscal intermediaries; carriers; providers or their representatives; or any other source—by the Secretary of HEW, the Administrator, HCFA, their respective staffs, or any personnel associated with the function of review; except in the form of written communications which must also be served on the parties to the hearing. Any such communications are to be kept to an absolute minimum.

(b) All submitted proposed findings of fact and conclusions of law, or exceptions to the Board's decision, and supporting reasons for the proposed findings and conclusions or exceptions, should contain a certification indicating that a copy has been furnished to the representatives of the opposing parties and to those who submitted initial comments or objections or were accorded the opportunity to do so. Furnishing copies to the parties is required to prevent communications from being disregarded because they are ex parte.

(c) Any ex parte communications, regarding any case pending review, to the Office of the Secretary of HEW; to the Office of the Administrator, HCFA; or to any personnel associated with the function of review may not be considered.

3. *Procedure When the Administrator Declines to Reverse, Affirm, or Modify.*—Where the Administrator declines to reverse, affirm, or modify a decision of the Board, the parties or their representatives will be promptly notified of the action taken, and the provider will be advised of the right to judicial review. It should be noted that the 60-day time limit within which a provider may initiate civil action is not extended by a declination to reverse, affirm, or modify.

4. *Criteria for Reversing, Affirming, or Modifying a Decision of the Board.*—(a) A case may be reversed, affirmed, or modified by the Administrator when it is believed that: (1) The decision of the Board is contrary to provisions of title XVIII of the Social Security Act, applicable Medicare Regulations, or Rulings issued under the authority of the Commissioner of Social Security, or the Administrator, HCFA; or

(2) The Board has incorrectly assumed jurisdiction on a case not provided for by statute, regulations, or rulings; or

(3) The decision of the Board exceeds the scope of authority provided for by statute and regulations; or

(4) The decision of the Board requires clarification or amplification, or an alternative legal basis for the decision.

(b) In addition, a decision will be issued by the Administrator where exceptions to the Board's decision, or proposed findings of fact and conclusions of law, with supporting reasons for the proposed findings and conclusions or exceptions, have been timely received.

5. *Procedure of the Administrator When a Board Decision Will Be Reversed, Affirmed, or Modified.*—(a) *Procedure when it appears that criteria may be met.* (1) When a criterion may be met for the Administrator to reverse, affirm, or modify a Board decision, the parties to the Board's hearing will promptly be notified.

(2) The parties to the Board's hearing will be accorded 15 days from the date of this notice within which to submit any exceptions to the Board's decision and supporting reasons which they would like to have considered in the course of final agency review. Proposed findings of fact and conclusions of law, with supporting reasons, may also be submitted for consideration in the course of the review. Where it is believed that an administrative policy interpretative of the Medicare program may be involved, the Medicare Bureau may also be accorded 15 days within which to submit exceptions to the Board's decision or proposed findings of fact or conclusions of law, and supporting reasons for the exceptions or proposed findings and conclusions.

(3) In cases where a notice is sent and timely comments are received, as described in Section 5(a)(2), no opportunity will be accorded for the rebuttal of responses received, in view of the 60-day limit for completing review.

(4) There should be included in any response to the notice of review a certification, as described in section 2(b), showing that a copy has been furnished to the parties.

(b) *Submittals where there has been no notification.*

(1) *Submittals.* A party or a party's representative (or the Medicare Bureau, if an administrative policy interpretive of the Medicare program is involved) may submit, for consideration in the course of "own motion" review, any exceptions to the Board's decision, and supporting reasons. Proposed findings of fact and conclusions of law, with supporting reasons, may also be submitted for consideration in the course of the review. These communications are to be submitted within 15 days from the date the Provider received notice of the Board's decision (with the certification statement described in section 2(b) showing that a copy of these communications was sent to the representative of the opposing party to the Board's decision).

(2) *Other Submittals.* In cases where the notice of review described in section 5(a)(2) has not been issued, but submittals have been received from a party or the Medicare Bureau, the opposing party will have 30 days from the date the Provider received notice of the Board's decision within which to submit any exceptions to the Board's decision or proposed findings and conclusions, and supporting reasons for the exceptions or proposed findings and conclusions, for consideration in the course of final agency review. Such submittals should contain the certification described in section 2(b), showing that copies have been sent to the representative of the opposing party to the Board's decision, and to the Medicare Bureau where the Medicare Bureau submitted comments.

(c) All proposed findings and conclusions, or exceptions to the Board's decision, and supporting reasons for the proposed findings and conclusions or exceptions, shall be directed to the Administrator, c/o the Attorney-Advisor, G-44 Altmeyer Building, Health Care Financing Administration, Baltimore, Md. 21235.

(d) *Subsequent Action.* The Administrator's evaluation and analysis of the Board decision, complete with records, include the evaluation of timely filed exceptions to the Board's decision or proposed findings of fact and conclusions of law, and supporting reasons for the exceptions or proposed findings and conclusions. The Office of the Attorney-Advisor assists the Administrator in the evaluation of cases. Decision making authority in "own motion" review cases is reserved exclusively to the Administrator. A decision by the Administrator will be issued in every case in which timely submittals are received or where the Administrator believes a criterion for decision is met.

7. *Administrator's Decision.* The Administrator's decision on the case will occur following the expiration of the time for receipt of such exceptions, comments, or objections, but in any event within the 60-day period.

8. *Notification to Parties.* (a) The parties' representatives will be notified of the action taken by the Administrator and will be advised concerning the provider's right to judicial review.

(b) All evaluations and decisions on review must occur within 60 days after the provider

of services was notified of the Board's decision.

(c) Notification to the parties of the Administrator's action will occur promptly after completion of the Administrator's action but need not necessarily be within the same 60-day period. Since the provider will have 60 days from receipt of the Administrator's decision within which to seek judicial review, any delay in notifying the parties to the Administrator's decision should not cause hardship.

[FR Doc.77-25895 Filed 9-2-77;8:45 am]

Office of the Secretary

ADVISORY COMMITTEE ON NATIONAL HEALTH INSURANCE ISSUES

Meetings

Notice of the establishment of the Advisory Committee on National Health Insurance Issues was published in the April 21, 1977 Federal Register (Vol. 42, No. 77, pages 20675 and 20676).

Pursuant to the Pub. L. 92-463, notice is hereby given of one meeting of the Advisory Committee to be held on Friday, September 23, 1977, and another on Saturday, September 24, 1977.

The September 23 meeting will be held from 10:45 a.m. to 12:15 p.m. and from 1:30 p.m. to 3:00 p.m. at the Aetna Life and Casualty, 151 Farmington Avenue, Hartford, Conn. 06156.

The September 24 meeting will be held from 10:45 a.m. to 12:15 p.m. and from 1:30 p.m. to 3:00 p.m. at the Yale-New Haven Hospital, 780 Howard Avenue, New Haven, Conn. 06504.

The agenda will include the role of private insurance companies under NHI, nonphysician reimbursement, hospital reimbursement, and mental health benefits under NHI.

These meetings will be open to the public.

Further information on these meetings may be obtained from SueZanne B. Hagans in Washington, D.C., 202-472-3026.

Dated: August 30, 1977.

SUSANNE STOIBER,
Project Coordinator.

[FR Doc.77-25807 Filed 9-2-77;8:45 am]

Public Health Service

FOOD AND DRUG ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration), of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare (35 FR 3685-92, February 25, 1970, as amended by 39 FR 18696-18703, May 29, 1974) is amended to reflect the transfer of the Administrative Law Judge and emergency preparedness functions from the Office of Compliance to the Office of the Commissioner and the Executive Director of Regional Operations respectively, and the addition to the Office of Compliance of a quality assurance function for medical products purchased by the Government and a bio-research monitoring function for clinical investigations of new drugs.

Section HF-B, Organization, is amended as follows: Under the heading Office of Compliance (HFA4), delete the current functional statement and substitute the following:

(b) *Office of Compliance (HFA4).* Functions as principal advisor to the Commissioner on regulations and compliance-oriented matters which impact on policy development and execution and long-range program goals.

Evaluates and coordinates the Agency's overall compliance efforts to assure optimum use of FDA and other Federal, State, and local government resources, an effective balance between voluntary and regulatory compliance, and FDA responsiveness to consumer needs.

Stimulates an awareness within FDA of the need for prompt and positive action to secure compliance by regulated industries.

Directs and coordinates the regulation-making activities of the Food and Drug Administration, including preparation of FEDERAL REGISTER material and processing of public response to proposed rulemaking.

Serves as the FDA focal point for activities relating to the Federal medical products quality assurance program and maintains liaison with other Government agencies procuring medical supplies; issues final administrative approval for quality assurance of specific products/firms.

Coordinates development of compliance programs for bio-research monitoring activities; monitors compliance activities to assure uniform application of compliance policy; serves as liaison with other Federal agencies and outside organizations relating to bio-research monitoring activities.

Receives and processes requests for information under the Freedom of Information Act.

Coordinates international aspects of FDA compliance programs and acts as liaison with foreign firms, international groups, and other nations.

Coordinates the preparation of international travel plans, including the Annual International Travel Plan, for the Commissioner's approval.

Dated: August 26, 1977.

JOHN D. YOUNG,
Assistant Secretary for Management and Budget.

[FR Doc.77-25766 Filed 9-2-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

OUTER CONTINENTAL SHELF OFFICIAL PROTRACTION DIAGRAM

Availability

AGENCY: Department of the Interior, Bureau of Land Management, Pacific Outer Continental Shelf.

ACTION: Availability of Official Protraction Diagram.

ADDRESS: 300 No. Los Angeles St., Los Angeles, Calif. 90012.

FOR FURTHER INFORMATION CONTACT:

William E. Grant (213-688-7234).

Notice is hereby given that, effective September 6, 1977, the following OCS Official Protraction Diagram approved on the date indicated, is available, for information only, in the Pacific Outer Continental Shelf Office, Bureau of Land Management, Los Angeles, Calif. In accordance with Title 43, Code of Federal Regulations, this protraction diagram is the basic record for the description of mineral and oil and gas lease offers in the geographic area it represents.

OUTER CONTINENTAL SHELF OFFICIAL PROTRACTION DIAGRAM

Description	*Approval date*
NJ 10-7, Bodega Canyon, revised	June 14, 1977.

Copies of this diagram are for sale at two dollars ($2) per copy by the Manager, Pacific Outer Continental Shelf Office, Bureau of Land Management, 300 N. Los Angeles St., Rm. 7127, Los Angeles, Calif. 90012. Checks or money orders should be made payable to the Bureau of Land Management.

WILLIAM E. GRANT,
Manager, Pacific Outer Continental Shelf Office.

[FR Doc.77-25799 Filed 9-2-77;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, and Corrections

By notice of the FEDERAL REGISTER of February 1, 1977, Part IX, there was published a list of the properties included in the National Register of Historic Places. Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 16 U.S.C. 470 et seq. (1970 ed.), and the procedures of the Advisory Council on Historic Preservation, 3 CFR Part 800.

WILLIAM J. MURTAGH,
Keeper of The National Register.

The following properties have been added to the National Register since August 2, 1977. National Historic Landmarks are designated by NHL; properties recorded by the Historic American Buildings Survey are designated by HABS; and properties recorded by the Historic American Engineering Record are designated by HAER.

ALABAMA

Franklin County

Russellville vicinty, *Alabama Iron Works*, S of Russellville off U.S. 43 (8–3–77).

Jefferson County

Birmingham, *Oak Hill Cemetery*, 1120 N. 19th St. (7–13–77).

Madison County

Huntsville, *Humphreys, David C., House*, 510 Clinton Ave., West (8–3–77).

ALASKA

Cordova-McCarthy Division

Cordova, *Cordova Post Office and Courthouse*, 2nd St. (8–2–77).
Katalla, *Bering Expedition Landing Site*, S of Katalla on Kayak Island (7–20–77).

Fairbanks Division

Fairbanks, *Hinckley-Creamer Dairy*, between Farmer's Loop and College Rd. (7–13–77).

Juneau Division

Juneau, *Bergmann Hotel*, 434 3rd St. (7–28–77).

Nome Division

Nome, *Berger, Jacob, House (Sally Carrighar House)*, 1st Ave. (8–3–77).

Valdez-Chitina-Whittier Division

Gakona, *Gakona Roadhouse*, Mile 205 Glenn Highway (8–3–77).

Yukon-Koyukuk Division

Nenana, *Nenana Depot*, A St. (8–10–77).
Tananna, *Tanana Mission*, E of Tanana (8–3–77).

ARIZONA

Coconino County

Winslow vicinity, *Chavez Pass Pueblo Site* (8–2–77).

Greenlee County

Clifton vicinity, *Potter, Dell, Ranch House*, N of Clifton (8–3–77).

ARKANSAS

Benton County

Rogers, *St. Louis-San Francisco Passenger Depot*, 1st and Cherry Sts. (8–15–77).

Bradley County

Warren, *Warren and Ouachita Valley Railway Station*, 325 W. Cedar St. (8–3–77).

Cleveland County

New Edinburg vicinity, *Barnett-Attwood House*, NE of New Edinburg (7–29–77).

Crittenden County

Marion, *Crittenden County Courthouse*, 85 Jackson St. (8–3–77).

Independence County

Batesville, *Cook-Morrow House*, 875 Main St. (7–29–77).

Jefferson County

Pine Bluff, *Dilley House*, 656 Laurel St. (8–3–77).

Phillips County

Helena, *Phillips County Courthouse*, 622 Cherry St. (7–15–77).

Pulaski County

Little Rock, *MacArthur Park Historic District*, Roughly bounded by Ferry, McGowan, McAlmont, 16th, Bragg, 15th, Scott (includes both sides), 9th, Cumberland, and 5th Sts. (7–25–77).
Little Rock, *Thompson, Ada, Memorial Home*, 2021 S. Main (8–3–77).
Scott, *All Souls Church*, Off AR 130 (8–12–77).

St. Francis County

Forrest City, *Stuart Springs*, Stuart St. (8–3–77).

White County

Searcy, *White County Courthouse*, Court Sq. (8–3–77).

CALIFORNIA

Alameda County

Oakland, *Treadwell Mansion and Carriage House*, 5212 Broadway (7–15–77).

Los Angeles County

Pasadena, *Nicholson, Grace, Building*, 46 N. Los Robles Ave. (7–21–77).

Monterey County

Pacific Grove, *Point Pinos Lighthouse*, Asilomar Blvd. and Lighthouse Ave. (7–14–77).

Napa County

Napa, *Winship-Smernes Building*, 948 Main St. (7–29–77).

Orange County

Irvine vicinity, *Frances Packing House*, NE of Irvine (8–2–77).

San Joaquin County

Stockton, *El Dorado Elementary School*, Harding Way and Pacific Ave. (8–15–77).

CONNECTICUT

Fairfield County

Norwalk vicinity, *Rock Ledge*, S of Norwalk at 33, 40–42 Highland Ave. (8–2–77).

Hartford County

Windsor, *Moore, Deacon John, House*, 37 Elm St. (7–29–77).
Windsor Locks, *Pinney, David, House and Barn*, 58 West St. (7–25–77).

Litchfield County

Winsted, *Rockwell, Solomon, House*, 226 Prospect St. (7–15–77) HABS.
Winsted, *Winsted Green Historic District*, U.S. 44 and Ct. 8 (8–16–77).

Middlesex County

Middletown, *Williams, Capt. Benjamin, House*, 27 Washington St. (7–14–77).

New Haven County

Bethany vicinity, *Wheeler-Beecher House*, 562 Amity Rd. (7–15–77) HABS.
Milford, *Buckingham House*, 61 North St. (7–25–77).

DELAWARE

New Castle County

Stanton vicinity, *Clyde Farm Site*, S of Stanton (7–29–77).

DISTRICT OF COLUMBIA

Washington, *American Institute of Pharmacy Building*, 2215 Constitution Ave., NW (8–18–77).
Washington, *Rock Creek Church Yard and Cemetery*, Webster St. and Rock Creek Church Rd., NW (8–12–77).
Washington, *2000 Block of Eye Street, NW.*, South side of 2000 block of Eye St., NW. (8–9–77).

FLORIDA

Osecola County

Kissimmee, *Osceola County Courthouse*, Bounded by Emmett, Bryan, Rose, & Vernon Sts. (8–16–77).

GEORGIA

Butts County

Jackson, *Carmichael, J. R. House*, 149 McConough Rd. (7–13–77).

Fulton County

Atlanta, *Citizen's and Southern Bank Building*, 35 Broad St. (8–18–77).
Atlanta, *Dixie Coca-Cola Bottling Company Plant*, 125 Edgewood Ave. (7–20–77).
Atlanta, *Healey Building*, 57 Forsyth St. (8–12–77).
Atlanta, *Hillyer Trust Building*, 140 Peachtree St. (7–25–77).

Muscogee County

Columbus, *Bullard-Hart House*, 1408 3rd Ave. (7–28–77).

ILLINOIS

Cook County

Chicago, *St. Patrick's Roman Catholic Church*, 718 W. Adams St. (7–15–77).

McLean County

Hudson, *Gildersleeve House*, 108 Broadway (7–28–77).

IOWA

Audubon County

Exira, *Audubon County Courthouse*, Washington and Kilworth Sts. (7–26–77).

Clarke County

Osceola, *Webster, Dickinson, House*, 609 W. Jefferson St. (7–20–77).

Clayton County

Elkader vicinity, *Motor Townsite*, E of Elkader (8–2–77).

Dickinson County

Orleans vicinity, *Templar Park*, NE of Orleans on IA 276 (8–3–77).

Dubuque County

Dubuque, *Washington Park*, bounded by 6th, 7th, Bluff, and Locust Sts. (7–14–77).

Fayette County

Wadena, *Hardware Building*, 223 Mill St., (7–15–77).

Jackson County

Bellevue vicinity, *Paradise Farm*, W of Bellevue (7–13–77).

Johnson County

Iowa City, *Linsay House*, 935 E. College, (8–2–77).

Mitchell County

Carpenter vicinity, *Severson, Nels, Barn*, N of Carpenter (7–15–77).

Palo Alto County

Emmetsburg, *Ormsby-Kelly House*, 2403 W. 7th St. (7–29–77).

Polk County

Des Moines, *Herndon Hall*, 2000 Grand Ave. (7–27–77).
Des Moines, *Public Library of Des Moines*, Locust St. (7–25–77).
Des Moines, *Salisbury House*, 4025 Tonawanda Dr. (7–20–77).

Scott County

Davenport, *Beiderbecke, Leon Bismark (Bix), House*, 1934 Grande Ave. (7–13–77).
Davenport, *Outing Club*, 2109 Brady St. (7–15–77).

Washington County

Washington vicinity, *Gracehill Moravian Church and Cemetery*, SW of Washington on WA 314 (8–12–77).

KANSAS

Wyandotte County

Kansas City, *Rosedale World War I* Memorial *Arch*, Mt. Marty Park, near Booth and Drexel Sts. (8-2-77).

Kansas City, *Sauer Castle*, 945 Shawnee Dr. (8-2-77).

KENTUCKY

Boyle County

Danville and vicinity, *Three Gothic Villas*, NW of Danville off U.S. 127, 525 Maple Ave., and S of Danville off KY 35 (7-20-77).

Clark County

Winchester, *Brown-Proctoria Hotel*, Main St. and Lexington Ave. (7-29-77).

Winchester vicinity, *Vinewood*, 4 mi. NE of Winchester on U.S. 60 (8-12-77).

Fayette County

Lexington, *Higgins Block*, 145-151 W. Main St. (8-12-77).

Fleming County

Flemingsburg, *First Presbyterian Church*, W. Main and W. Water Sts. (8-12-77).

Jefferson County

Louisville, *Tyler-Muldoon House*, 132 E. Gray St. (7-20-77).

Scott County

Georgetown vicinity, *Flournoy-Nutter House*, E of Georgetown off KY 922 (7-28-77).

Georgetown vicinity, *Leatherer-Lemon House*, Lemon's Mill Pike, 0.5 mi. W of Newtown Pike (7-20-77).

Shelby County

Finchville vicinity, *Grasslands (Hornsby House)*, 4 mi. W of Finchville (8-12-77).

Shelbyville vicinity, *Washburn, Benjamin, House*, Bellevue Pike, 8 mi. N of Shelbyville (8-12-77).

Simpson County

Franklin, *Goodnight House*, 201 S. Main St. (8-12-77).

Warren County

Bowling Green, *Warren County Courthouse*, 429 E. 10th St. (8-2-77).

Washington County

Springfield, *Washington County Courthouse*, Public Sq., Main at Lincoln Park Rd. (7-25-77).

LOUISIANA

Caddo Parish

Shreveport, *Oakland Cemetery*, bounded by Milam, Christian, Sprague, and Baker Sts. (7-13-77).

East Baton Rouge Parish

Baton Rouge, *Magnolia Mound Plantation Dependency*, 2530 Vermont St.; to be moved to 2161 Nicholson Dr. (8-9-77).

MAINE

Penobscot County

Bangor, *Bangor Theological Seminary Historic District*, Union St. (8-2-77).

Sagadahoc County

Georgetown vicinity, *Stone Schoolhouse*, S of Georgetown on Bay Point Rd. (8-12-77).

MARYLAND

Allegany County

Cumberland vicinity, *Phoenix Mill Farm*, NE of Cumberland off MD 220 (8-12-77).

Howard County

Ellicott City vicinity, *White Hall*, W of Ellicott City at 4130 Chatham Rd. (8-12-77).

MASSACHUSETTS

Hampshire County

Amherst, *Dickinson Historic District*, Kellogg Ave., Main, Gray, and Lessey Sts. (8-16-77).

Plymouth County

Brockton, *Central Fire Station*, 40 Pleasant St. (7-25-77).

Brockton, *Kingman, Gardner J., House*, 309 Main St. (7-25-77).

Brockton, *Snow Fountain and Clock*, N. Main and E. Main Sts. (7-25-77).

MICHIGAN

Delta County

Escanaba, *Carnegie Public Library*, 201 S. 7th St. (7-25-77).

Wayne County

Detroit, *Wilson Theatre*, 350 Madison Ave. (8-9-77).

MINNESOTA

Itasca County

Grand Rapids, *Central School*, N. Pokegama and 4th St. (8-10-77).

Ramsey County

St. Paul, *Old Main, Macalester College*, 1600 Grand Ave. (8-16-77).

St. Louis County

Mesaba vicinity, *Longyear, E. J., First Diamond Drill Site*, E of Mesaba (7-20-77).

Washington County

Stillwater, *Chicago, Milwaukee and St. Paul Freight House and Depot*, 233-335 Water St. (7-13-77).

Winona County

Winona, *Winona Free Public Library*, 151 W. 5th St. (7-29-77).

MISSISSIPPI

Adams County

Natchez, *Rosalie*, 100 Orleans St. (8-16-77) HABS.

Hinds County

Jackson, *Ayer Hall*, 1400 Lynch St. on Jackson State University campus (7-14-77).

MISSOURI

Boone County

Columbia, *Senior Hall*, Stephens College campus (8-2-77).

Cooper County

Boonville, *Boller House*, 223 E. Spring St. (8-2-77).

Pilot Grove vicinity, *Pleasant Green*, 8 mi. SW of Pilot Grove on U.S. 135 (7-29-77).

Greene County

Springfield, *Landers Theater*, 311 E. Walnut (8-12-77).

Ralls County

Hannival vicinity, *Garth, John, House*, S of Hannibal off U.S. 61 (7-11-77).

Vernon County

Nevada, *Vernon County Jail, Sheriff's House and Office*, 229 N. Main St. (8-16-77).

MONTANA

Flathead County

West Glacier vicinity, *Sperry Chalets*, E of West Glacier (8-2-77).

Missoula County

Lolo vicinity, *Fort Fizzle Site*, 5 mi. W of Lolo (7-21-77).

NEBRASKA

Saline County

Crete, *Doane College Historic District*, Doane College campus (8-16-77).

NEW HAMPSHIRE

Merrimack County

Hopkinton, *Long, William H., Memorial*, Main St. (7-15-77).

NEW JERSEY

Atlantic County

Atlantic City, *Morton Hotel*, 150 S. Virginia Ave. (7-15-77).

Bergen County

Ramsey, *Westervelt-Ackerson House*, 538 Island Rd. (7-20-77).

Burlington County

Bordentown, *Point Breeze*, U.S. 206 and Park St. (8-10-77).

Moorestown, *Town Hall*, 40 E. Main St. (8-10-77).

Camden County

Glendora, *Hillman Hospital House*, 500 3rd Ave. (7-14-77) HABS.

Essex County

Fairfield vicinity, *Van Ness House*, 236 Little Falls Rd. (7-29-77) HABS.

Newark, *First National State Bank Building* 810 Broad St. (8-10-77).

Gloucester County

Clarksboro, *St. Peter's Episcopal Church*, King's Hwy. (8-10-77).

Hudson County

West End York, *Kestrel* (steam yacht), S end of River Rd. (8-12-77).

Hunterdon County

Clinton vicinity, *Perryville Tavern*, W of Clinton at I-78 and NJ 42 (7-15-77).

Clinton vicinity, *Turner-Chew-Carhart Farm*, NW of Clinton on Sykles Corner Rd. (8-11-77).

Hampton vicinity, *New Hampton Pony Pratt Truss Bridge*, N of Hampton over Musconetcong River (7-26-77) (also in Warren County).

Pittstown vicinity, *St. Thomas Episcopal Church*, SW of Pittstown on Sky Manor Rd. (7-21-77).

Middlesex County

New Brunswick, *Demarest House*, 542 George St. (8-10-77) HABS.

Morris County

Boonton, *Delaware, Lackawanna and Western Railroad Station*, Myrtle Ave. Main, and Division Sts. (7-13-77).

Chester, *First Congregational Church*, Hillside Rd. (8-10-77).

Flanders vicinity, *Carey, Lewis, Farmhouse*, 208 Emmans Rd. (7-20-77).

Lincoln Park, *Dod, John, House and Tavern*, 11 Highland St. and 8 Chapel Hill Rd. (8-12-77) HABS.

Madison, *Gibbons Mansion*, 36 Madison Ave. (8-10-77).

Ocean County

Laurelton, *Orient Baptist Church (Burrsville Church)*, NJ 88 (8-10-77).

Salem County

Woodstown vicinity, *Dunn, Zaccheus, House,* S of Woodstown on East Lake Rd. (8-10-77) HABS.

Somerset County

Millstone vicinity, *Millstone Valley Agriculture District,* S of Millstone on River Rd. (8-10-77).

Sussex County

Monroe, *Old Monroe School House,* NJ 94, (8-12-77).
Stanhope, *Plaster Mill,* Off Main St. and Kelly Pl. (8-3-77).

Warren County

Columbia vicinity, *Fairview Schoolhouse,* E of Columbia on Dean Rd. (8-12-77) HABS.
Hampden vicinity, *New Hampden Pony Pratt Truss Bridge. Reference*—see Hunterdon County.

NEW YORK

Albany County

Albany, *St. Mary's Church,* 10 Lodge St. (7-14-77).

Hamilton County

Blue Mountain Lake vicinity, *Church of the Transfiguration,* N of Blue Mountain Lake on NY 30 (7-26-77).

Nassau County

Greenvale, *Toll Gate House,* Northern Blvd. (8-16-77).

New York County

New York, *House at 51 Market St.,* 51 Market St. (7-29-77).
New York, *Morris, Lewis G., House,* 100 E. 85th St. (2-12-77).
New York, *Old New York Evening Post Building,* 20 Vessy St. (8-16-77).

Onondaga County

Syracuse, *Gridley, John, House,* 205 E. Seneca Tnpk. (8-16-77) HABS.

Queens County

College Point, *Poppenhusen Institute,* 114-04 14th Rd. (8-18-77) HABS.

Rensselaer County

Troy vicinity, *DeFreest Homestead,* S of Troy at U.S. 4 and Jordan Rd. (8-2-77).

Richmond County

Staten Island, *Neville House,* 806 Richmond Terrace (7-28-77).

St. Lawrence County

Ogdensburg, *U.S. Post Office,* 431 State St. (8-16-77).

Saratoga County

Waterford, *Waterford Village Historic District,* Roughly bounded by the Hudson River, Erie Canal, and State St. (7-14-77).

NORTH CAROLINA

Buncombe County

Asheville, *Battery Park Hotel,* Battle Sq. (7-14-77).
Asheville, *Richmond Hill House,* 45 Richmond Hill Rd. (8-16-77).
Asheville, *Young Men's Institute Building,* Market and Eagle Sts. (7-14-77).

Forsyth County

Winston-Salem, *Arista Cotton Mill Complex,* 200 Brookstown Ave. (8-18-77) HAER.

Perquimans County

Belvidere, *Belvidere,* NC 37, W of Perquimans River (8-2-77) HABS.

Vance County

Kittrell vicinity, *Ashburn Hall,* W of Kittrell on SR 1101 (8-16-77).

NORTH DAKOTA

Griggs County

Cooperstown, *Griggs County Courthouse,* Rollin Ave. (7-21-77).

Mercer County

Hazen, *Hazen High School,* 400 Central Ave. (8-12-77).

Stutsman County

Jamestown, *Voorhees Chapel,* Jamestown College campus (7-22-77).

Traill County

Hatton, *Ness, Andres O., House,* Oak Ave. and 6th St. (7-15-77).

OHIO

Columbiana County

Hanoverton, *Hanoverton Canal Town District,* U.S. 30 (8-3-77).

Harrison County

Freeport, *Reaves, John, House,* Public Sq. (7-15-77).

Summit County

Barberton, *Anna-Dean Farm,* OH 619 (7-14-77).

OKLAHOMA

Comanche County

Fort Sill, *Indian Cemeteries,* Fort Sill Military Reservation (8-10-77).

OREGON

Lane County

Eugene vicinity, *Flanagan Site,* W of Eugene (7-20-77).

PENNSYLVANIA

Bucks County

Newtown, *Newtown Friends Meetinghouse and Cemetery,* Court St. (7-21-77).
Rushland vicinity, *Vansant Farmhouse,* N of Rushland on Ceder Lane (8-2-77).

Carbon County

Jim Thorpe, *St. Mark's Episcopal Church,* Race and Susquehanna Sts. (7-26-77).

Centre County

Bellefonte, *Bellefonte Historic District,* Roughly bounded by Stony-Batter, Ardell Alley, Thomas, Armor Penn, Ridge, and Logan Sts. (8-12-77).
Centre Hall vicinity, *Gregg, Andrew, Homestead,* 2 mi. E of Centre Hall off PA 192 (7-28-77).
Milesburg, *Iddings-Baldridge House,* Railroad St. (7-29-77).

Chester County

Marshallton, *Marshallton Inn,* W. Strasburg Rd. (7-29-77).

Cumberland County

New Cumberland, *Black, William, Homestead,* Drexel Hill Park Rd. (7-20-77).
Williams Grove vicinity, *Williams, John, House,* 0.5 mi. S of Williams Grove (7-28-77).

Fulton County

McConnellsburg, *Fulton House,* 112-116 Lincoln Way East (7-20-77).

Lancaster County

Bainbridge vicinity, *Locust Grove,* S of Bainbridge off PA 441 (8-3-77).

Tioga County

Wellsboro, *Robinson House,* 120 Main St. (8-3-77).

Washington County

Canonsburg, *Administration Building, Washington and Jefferson College,* Washington and Jefferson College campus (8-16-77).

York County

Wrightsville vicinity, *Dritt Mansion,* 3.5 mi. S of Wrightsville on PA 624 (8-16-77).

RHODE ISLAND

Providence County

Manville vicinity, *Cole, John, Farm,* E of Manville on Reservoir Rd. (8-116-7).
Providence, *First Universalist Church,* 250 Washington St. (8-16-77).
Providence, *Mason, Israel B., House,* 571 Broad St. (8-16-77).
Providence vicinity, *Mt. Hygeia (Solomon Drown House),* W of Providence on RI 94 8-12-77) HABS.

Washington County

Exeter vicinity, *Austin Farm Road Agricultural Area,* 6 mi. W of Exeter off I-95 (8-16-77).
Hopkinton vicinity, *Tomaquag, Rock Shelters,* S of Hopkinton (8-12-77).

SOUTH CAROLINA

Charleston County

Charleston, *Central Baptist Church,* 26 Radcliffe St. (8-16-77).
Mount Pleasant vicinity, *Oakland Plantation House,* 7 mi. N of Charleston Harbor on U.S. 17 (7-13-77).

Dillon County

Little Rock, *St. Paul's Methodist Church,* Off SC 9 (7-26-77).

Greenville County

Fountain Inn vicinity, *Fairview Presbyterian Church,* W of Fountain Inn off SC 418 (8-16-77).
Greenville, *Greenville Baptist Church,* 101 W. McBee Ave. (8-16-77).

Lexington County

Lexington, *Boozer, Lemuel, House,* 320 W. Main St. (8-16-77).

York County

McConnells vicinity, *Bethesda Presbyterian Church,* 3.5 mi NE of McConnellson SC 322 (8-16-77).
Rock Hill, *Ebenezer Academy,* 2132 Ebenezer Rd. (8-16-77).

SOUTH DAKOTA

Pennington County

Hill City, *Harney Peak Tin Mining Company Buildings,* U.S. 16/85 (7-21-77).

TENNESSEE

Blount County

Townsend, *Cades Cove Historic District,* 16 mi. SW of Townsend in Great Smoky Mountains National Park (7-13-77).

Davidson County

Roughly bounded by Woodland, S. 10th and S. 5th Sts., and Shelby Ave. (7-13-77).
Nashville, *Riverwood,* 1633 Welcome Lane (7-20-77).

Franklin County

Winchester vicinity, *Simmons, Peter House*, 11 mi. SW of Winchester on U.S. 64 (8-16-77).

Hardin County

Savannah, *Cherry Mansion*, 101 Main St. (8-16-77). HABS.

Knox County

Knoxville, *Commerce Avenue Fire Hall*, 201-205 Commerce Ave. (8-16-77). HABS.

Loudon County

Loudon, *Blair's Ferry Storehouse*, 800 Main St. (7-14-77). HABS.

Marshall County

Chapel Hill vicinity, *Forrest, Nathan Bedford, Boyhood Home*, W of Chapel Hill (7-13-77).

Maury County

Columbia vicinity, *Pleasant Mount Presbyterian Church*, SE of Columbia off TN 50 (8-16-77).

Obion County

Union City, *Confederate Monument*, Summer and Edwards Sts. (7-28-77).

Shelby County

Memphis, *Orpheum Theatre*, 197 S. Main St. (8-15-77).

Sumner County

Goodlettsville vicinity, *Bowen-Campbell House*, E of Goodlettsville on Jackson Rd. (7-25-77).

Tipton County

Covington, *St. Mathew's Episcopal Church*, Munford St. (8-16-77).

Washington County

Johnson City vicinity, *DeVault, Valentine House*, 5 mi. N of Johnson City off U.S. 11E on DeVault Lane (7-29-77).

TEXAS

Aransas County

Port Aransas vicinity, *Aransas Pass Light Station*, N of Port Aransas on Harbor Island (8-3-77).

Bexar County

San Antonio, *Alamo Plaza Historic District*, roughly bounded by S. Broadway, Commerce, Bonham and Travis Sts. (7-13-77).

Bosque County

Mosheim vicinity, *Hog Creek Archeological District*, 4 km NW of Mosheim and 13.5 km SW of Clifton, off FM 182 (7-20-77) (also in Coryell County).

Coryell County

Gatesville, *Coryell County Courthouse*, Pub. Sq. (8-18-77).

Erath County

Stephenville, *Erath County Courthouse*, Public Sq. (8-18-77).

Galveston County

Galveston, *Galveston Seawall*, Seawall Blvd. (8-18-77).
Galveston, *Garten Verein Pavilion*, 27th St. and Avenue O (Kempner Park).
Port Bolivar, *Point Bolivar Lighthouse*, TX 87 (8-18-77).

Harrison County

Marshall, *Harrison County Courthouse*, Public Square (8-16-77).

Sabine County

Milam vicinity, *Oliphant House*, 7 mi. E of Milam off TX 21 (8-18-77).

Sutton County

Sonora, *Sutton County Courthouse*, Public Square (7-15-77).

Val Verde County

Del Rio, *Val Verde County Courthouse and Jail*, 400 Pecan St. (8-18-77).

Victoria County

Victoria, *Old Victoria County Courthouse*, 101 N. Bridge St. (8-18-77).

Williamson County

Georgetown, *Williamson County Courthouse Historical District*, Rock and 9th Sts., Main and 7th Sts. (includes both sides) (7-26-77).

Zapata County

San Ygnacia vicinity, *Coralitos Ranch*, 3 mi. N of San Ygnacio off U.S. 83 (8-2-77).

UTAH

Iron County

Modena vicinity, *Gold Spring*, 9.25 mi. NW of Modena (7-21-77).

Salt Lake County

Salt Lake City, *Kahn, Samuel, House*, 678 E. South Temple (7-21-77).
Salt Lake City, *Keith-O'Brien Building*, 242-256 S. Main St. (8-16-77).
Salt Lake City, *McIntyre Building*, 68-72 S. Main St. (7-15-77).

Sanpete County

Manti, *Tuttle-Folsom House*, 195 West 300 North (7-21-77).

Utah County

Salem, *Garner, Ira W., House*, 10 N. Main St. (7-28-77).

Weber County

Ogden, *Becker, Gustav, House*, 2406 Van Buren Ave. (7-21-77).

VERMONT

Addison County

Shoreham vicinity, *District Six Schoolhouse*, N of Shoreham on Worcester Rd. (8-18-77).

VIRGINIA

Alleghany County

Clifton Forge vicinity, *Clifton Furnace*, SE of Clifton Forge off U.S. 220 (8-16-77).

Fairfax County

Fairfax vicinity, *Hope Park Mill and Miller's House*, 12124 Pope's Head Rd. (8-15-77).
Great Falls vicinity, *Colvin Run Mill*, S of Great Falls at 10017 Colvin Run Rd. (8-16-77).

Mathews County

Mathews, *Mathews County Courthouse Square*, VA 611 (8-18-77).

Rockbridge County

Lexington vicinity, *Liberty Hall Site*, N of Lexington (8-16-77).

Winchester (Ind. City)

Winchester, *Old Stone Church*, 304 E. Piccadilly St. (8-18-77) HABS.

WASHINGTON

King County

Fort Lawton vicinity, *West Point Light Station*, W of Fort Lawton (8-16-77).

Klickitat County

Goldendale, *Newell, Charles, House*, 114 Sentinel St. (8-18-77).

Pacific County

South Bend, *Pacific County Courthouse*, Cowlitz and Vine Sts. (7-20-77).

Pierce County

Tacoma, *Drum, Henry, House*, 9 St. Helens St. (7-20-77).

Skagit County

Mount Vernon vicinity, *Skagit City School*, 3.5 mi. S of Mount Vernon on Moore Rd. (7-15-77).

Spokane County

Spokane, *Empire State Building*, W. 901 Riverside St. (8-18-77).

WEST VIRGINIA

Berkeley County

Martinsburg vicinity, *Swan Pond*, E of Martinsburg on WV 5/3 (7-29-77).

WISCONSIN

Ashland County

LaPointe, *LaPointe Indian Cemetery*, S. Old Main St. (8-3-77).

Iron County

Hurley, *Iron County Courthouse*, 303 Iron St. (7-26-77).

Kenosha County

Kenoshal vicinity, *Barnes Creek Site*, S of Kenosha (7-20-77).

Langlade County

Antigo, *Langlade County Courthouse*, 800 Clermont St. (7-25-77).

Racine County

Racine, *McClurg Building*, 245 Main St. (7-13-77).

Rock County

Clinton, *Richardson-Brinkman Cobblestone House*, 607 W. Milwaukee Rd. (7-28-77) HABS.
Evansville, *Eager Free Public Library*, 39 W. Main St. (8-16-77).

WYOMING

Albany County

Woods Landing vicinity, *Boswell, N. K., Ranch*, S of Woods Landing off Wy 230. (7-21-77).

Johnson County

Sussex vicinity, *Cantonment Reno*, 5 mi. N of Sussex at Powder River (7-23-77).

Uinta County

Evanston, *Uinta County Courthouse*, Courthouse Sq. (7-14-77).

* * * * *

The following is a list of corrections to properties previously listed in the FEDERAL REGISTER.

NEVADA

White Pine County

Ely vicinity, *Fort Schellbourne*, 43 mi. N of Ely off U.S. 93 on NV 2, boundary change from 320 to 520 acres (2-23-72).

OHIO

Greene County

Jamestown vicinity, *Dean Family Farm*, 5 mi. W of Jamestown on Ballard Rd., boundary change from 5 to 3 acres (5-29-75).

Hamilton County

Newtown, *Odd Fellows' Cemetery Mounds 1 and 2*, Round Robin Rd. boundary change to include two mounds, adding 4.75 acres (6–19–73).

Mahoning County

Youngstown vicinity, *Austintown Log House*, W of Youngstown on Raccoon Rd., boundary increase to one acre (7–30–74).

Washington County

Marietta, *Mound Cemetery Mound*, 5th and Scammel Sts., boundary increase from 1 to 6 acres to include surrounding iron fence (2–23–73).

TENNESSEE

Knox County

Knoxville vicinity, *Buffat, Alfred, Homestead*, 1 mi. N of Knoxville on Love Creek Rd., boundary change from 9.5 to 7.97 acres (4–1–75).

WASHINGTON

Wahkiakum County

Skamokawa, *Skamokawa Historic District*, Boundary change to include archeological site 45–WK–5 (3–17–76).

* * * * *

The following property was omitted from the February 1, 1977, listing of properties in the FEDERAL REGISTER.

HAWAII

Maui County

Kahului vicinity, *Crater Historic District*, Haleakala National Park (11–1–74).

* * * * *

The following properties have been demolished and therefore removed from the National Register of Historic Places.

NEW MEXICO

Quay County

Tucumcari, *Baca-Goodman House*, Aber and 3rd Sts.

WISCONSIN

Rock County

Janesvillie, *Myers Opera House*, 118 E. Milwaukee St.

* * * * *

The following properties have been determined to be eligible for inclusion in the National Register. All determinations of eligibility are made at the request of the concerned Federal Agency under the authorities in section 2(b) and 1(3) of Executive Order 11593 as implemented by the Advisory Council on Historic Preservation, 36 CFR Part 800. This listing is not complete. Pursuant to the authorities discussed herein, an Agency Official shall refer any questionable actions to the Director, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, for an opinion respecting a property's eligibility for inclusion in the National Register.

Historical properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before an agency of the Federal Government may undertake any project which may have an effect on such a property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal.

ALABAMA

Green County

Gainesville vicinity. *Archeological Sites in Gainesville Project.* Tombigbee Waterway (also in Pickens and Sumter counties).

Jefferson County

Site 1Je36. Project I–459–4(4).

Lowndes County

Jones Bluff Park Site (1 Au 139), Jones Bluff Lake Project.

Madison County

Huntsville, *Lee House*, Red Stone Arsenal.

Montgomery County

Gunter Hill Park Site (1 MT 134), Jones Bluff Lake Project.

Washington County

Sunflower vicinity, *Dr. Williams Home*, AL project RF–98(7).

ALASKA

Fairbanks Division

Davidson Ditch, Steese Hwy.

Nome Division

Little Diomede Island, *Iyapana, John House.*

Sitka Division

Crab Bay, *Crab Bay Petroglyph.*

ARIZONA

Apache County

Grand Canyon National Park, *Old Post Office.*

Apache County

Painted Cliffs Archeological District (Arizona K:12:3, K:12:87, K:12:238, K:12:239), Lupton Interchange of I–40.

Conconino County

Gray Mountain Site, (AR–02–020–946).
House Rock Springs, Upper Houserock Valley.
Paria Plateau Archeological District.

Graham County

Foote Wash—No name Wash Archeological District.

Maricopa County

Beth Israel Synagogue, 120 E. Culver.
Cave Creek Archeological District.
Glendale vicinity, *Cave Creek Dam.*
New River Dams Archeological District.
Phoenix, *Brooks, M. B., House*, 334B 75th Ave.
Phoenix, *Ellis-Shackleford House*, 1242 N. Central.
Phoenix, *Evans Barn*, 67th Ave., between Van Buren and McDowell.
Phoenix, *Fennemore House*, 501 E. Moreland.
Phoenix, *Hidden-Porcher House*, 763 E. Moreland.
Phoenix, *Ivy House*, 111 W. Monroe St.
Phoenix, *Kenilworth Elementary School*, 1210 N. 5th Ave.
Phoenix, *La Ciudad Archeological Site.*
Phoenix, *Las Colinas (Arizona T:12810)*, 1200 block of N. 27th Ave.
Phoenix, *Pierl-Elliott House*, 767 E. Moreland.
Phoenix, *Stewart House*, 1115 N. Central.
Phoenix *Wilcox Property*, 222 W. Washington St.
Site T:4:6.
Site U:1:30 (A.S.U.).
Site U:1:31 (A.S.U.).
Skunk Creek Archeological District.

Mohave County

Colorado City vicinity, *Short Creek Reservoir States NA 13,257 and NA 13,258.*

Navajo County

Holbrook vicinity, *Cholla-Saguaro Transmission Line-Archeological Sites.*
Polacca vicinity, *Walpi Hopi Village*, adjacent to Polacca.

Pima County

Tucson, *Convento Site.*

Yavapai County

Copper Basin Archeological District, Prescott National Forest.

Yuma County

Eagle Tail Mountains Archeological Site.

ARKANSAS

Archeological Sites, Black River Watershed.

Clay County

Site 3CY34, Little Black River Watershed.

Craighead County

Mangrum Site (State Site Number 3CG636).

Faulkner County

Site 3WH145, E fork of Cadron Creek Watershed (also in White county).
Sites 3VB49–3VB51, N fork Cadron Creek Watershed.

Hempstead County

Archeological Sites in Ozan Creeks Watershed.

Lonoke County

Scott vicinity, *William S. Pemberton House.*

Ouachita County

Camden, Old Post Office, Washington St.

Poinsett County

Riverside Site (State Site Number 3P0395).

CALIFORNIA

Archeological Sites, Buchanan Dam at Chowchilla River.

Alpine County

Woodsford vicinity, *Archeological Site 4-Alp–105.*

Amador County

Amador City, 35 mi. SE of Sacramento.

Benito County

Chalone Creek Archeological Sites, Pinnacles National Monument.

Calavras County

New Melones Historical District, New Melones Lake Project area, Stanislaus River (also in Tuolumne County).

Colusa County

Stoneyford vicinity, *Upper and Lower Letts Valley Historical District*, 12 mi. SW of Stoneyford.

Del Norte County

Chimney Rock, Six Rivers National Forest.
Doctor Rock, Six Rivers National Forest.
Peak No. 8, Six Rivers National Forest.

El Dorado County

Site Eld–58.
Giebenhahn House and Mountain Brewery Complex.

Fresno County

Helms Pumped Storage Archeological Sites, Sierra National Forest.
Home Camp T.S. (6 archeological sites) in Sierra National Forest.

Glenn County

Stick Lake Prehistoric Site, Case No. 05–08–67, Mendocino National Forest.
Upper Leach Lake Prehistoric Site, Case No. 05–08–67, Mendocina National Forest.
Willows vicinity, *White Hawk Top Site,* Twin Rocks Ridge Road Reconstruction Project.

Humbolt County

Eureka, Eureka Historic District.

Imperial County

Glamis vicinity, *Chocolate Mountain Archeological District.*
Lake Cahuilla, *Lot 1.*
Lake Cahuilla, *Lot 5.*

Inyo County

Scotty's Castle, Death Valley National Monument.
Scotty's Ranch, Death Valley National Monument.
The Twenty Mule Team Borax Wagon Road (also in Kern and San Bernardino counties).

Kern County

Site Ca-Ker-322.

Lassen County

Archeological Site HJ–1 and HJ–5.

Los Angeles County

Big Tuijunga Prehistoric Archeological Site, I 210 Project.
Los Angeles, *Fire Station No. 26,* 2475 W. Washington Blvd.
Van Norman Reservoir, Site CA–LAN 646, CA–LAN 643, Site CA–LAN 490, and a cluster made up of Sites CA–LAN, 475, 491, 492, and 493.

Madera County

Bass Lake Archeological Sites
CA–MAD 176–185.
Lower China Crossing.
New Site.

Marin County

Point Reyes, P. E. Booth Company Pier, Point Reyes National Seashore.
Point Reyes, *Point Reyes Light Station.*

Modoc County

Alturas vicinity, *Rail Spring,* about 30 mi. N of Alturas in Modoc National Forest.
Johnson Slough Site (Site 1).
Tulelake vicinity, *Lava Bed National Monument Archeological District,* S of Tulelake (also in Siskiyou County).

Mono County

Archeological Site CA–MNO–684.

Monterey County

Big Sur, *Point Sur Light Station.*

Napa County

Archeological Sites 4–Nap–14, 4–Nap–261. Napa River Flood Control Project.

Plumas County

Mineral, *Hay Barn and Cook's Cabin, Drakesbad (Sifford Family) Guest House,* Lassen Volcanic National Park.
Mineral, *Summit Lake Ranger Station,* Lassen Volcanic National Park.

Riverside County

Twentynine Palms, *Cottonwood Oasis (Cottonwood Springs),* Joshua Tree National Monument.
Twentynine Palms, *Lost Horse Mine,* Joshua Tree National Monument.

Sacramento County

Sacramento River Bank Protection Project, Site 1, Sacramento River.
Sacramento Weir
Sacramento, *Tower Bridge,* M St. over Sacramento River (also in Yolo County).

San Bernardino County

Squaw Spring Well Archeological District.
Steam Well Petroglyph Archeological District.
Trona Pinnacles Railroad Camp.
Twentynine Palms, *Keys, Bill, Ranch,* Joshua Tree National Monument.
Twentynine Palms, *Twentynine Palms Oasis,* Joshua Tree National Monument.

San Diego County

North Island, *Camp Howard, U.S. Marine Corps,* Naval Air Station.
North Island, *Rockwell Field,* Naval Air Station.
San Diego, *Marine Corps Recruit Depot,* Barnett Ave.

San Francisco County

Forest Hill Station.
North Point Park/Marina (Eagle Cafe and Pier Facades), San Francisco northern waterfront.
San Francisco, *Twin Peaks Tunnel.*

San Luis Obispo County

New Cuyana vicinity, *Caliente Mountain Aircraft Lookout Tower,* 13 mi. NW of New Cuyana off Rte. 166.
San Luis Obispo, *San Luis Obispo Light Station.*

San Mateo County

Hillsborough, *Point Montara Light Station.*

Santa Barbara County

Santa Barbara, *Site SBa–1330,* Santa Monica Creek.
Site CA–Sba–1325.

Santa Clara County

Sunnyvale, *Theuerkauf House,* Naval Air Station, Moffett Field.

Shasta County

Mineral, *Comfort Station,* Lassen Volcanic National Park.
Mineral, *Park Entrance Station and Residence,* Lassen Volcanic National Park.
Mineral, *Park Naturalist's Residence,* Lassen Volcanic National Park.
Mineral, *Warner Valley Ranger Station,* Lassen Volcanic National Park.
Redding vicinity, *Squaw Creek Archeological Site,* NE of Redding.
Whiskeytown, *Irrigation System (165 and 166),* Whiskeytown National Recreation Area.

Sierra County

Archeological Site HJ–5 (Border Site 26WA–1676).
Properties in Bass Lake Sewer Project.

Siskiyou County

Thomas-Wright Battle Site, Lava Beds National Monument.

Sonoma County

Dry Creek-Warm Springs Valley Archeological District.
Petaluma, *Ferrell Home,* 500 E. Washington St.
Santa Rosa, *Santa Rosa Post Office.*

Tehama County

Los Molinos vicinity, *Ishi Site (Yahi Camp),* E of Los Molinos in Deer Creek Canyon.

Tulare County

Atwell's Mill, Sequoia National Park.
Cattle Cabins, Sequoia National Park.
Quinn Ranger Station.

Ventura County

Simi Valley, *Archeological Site Ven–341.*

Yuba County

Site 4–Yub–S27 (Marysville Riverfront Park Project), along the Feather River, City of Marysville.

COLORADO

Denver County

Douglas County

Keystone Railroad Bridge, Pike National Forest.

El Paso County

Colorado Springs, *Alamo Hotel,* corner of Tejon and Cucharras Sts.
Colorado Springs, *Old El Paso County Jail,* corner of Vermijo and Cascade Ave.

Larimer County

Estes Park, *Beaver Meadows Maintenance Area,* Rocky Mountain National Park utility area.
Sites 5–LR–257 and 5–LR–263, Boxelder Watershed Project.

Pueblo County

Pueblo, *Pueblo Federal Building (U.S. Post Office),* 5th and Main Sts.

CONNECTICUT

Fairfield County

Bridgeport Harbor, *Bridgeport Canal Barges.*
Norwalk, *Washington Street—S. Main Street Area.*

Hartford County

Farmington, *Gridley-Parsons-Staples Homestead,* Rte. 4, Farmington Ave.
Granby, *Granby Center.*
Hartford, *Christ Church Cathedral and Cathedral House,* 955 Main St. and 45 Church St.
Hartford, *Houses on Charter Oak Place.*
Hartford, *Houses on Wethersfield Avenue,* between Morris and Wyllys Sts., particularly Nos. 97–81, 65.
Manchester, *Portions of Cheney Silk Mills Industrial Complex* (Cheney Homes Area).
Southington, *Lewis, Sally, House,* 500 N. Main St.

Middlesex County

Middletown, *Cookson, John, House,* S. Main St.
Middletown, *Fuller, Caleb, House,* Upper Williams St.
Middletown, *Main Street Firehouse,* 533 Main St.
Middletown, *Southmayd, William, House,* Lower Williams St.

New London County

New London, *Bank Street Historic District.*
New London, *Buckingham Memorial Building,* 307 Main St.
New London, *Williams Memorial Institute Building,* 110 Broad St.
Norwich, *Washington Street Historic District,* Project 103–159.

New Haven County

Anconia Opera House, 100 Main St.
New Haven, *Grand Avenue Drawbridge,* over Quinnipiac River.

Windham County

Brooklyn, *Quebec Historic District (Quebec Village).*

DISTRICT OF COLUMBIA

Auditors' Building, 201 14th St. SW.
Brick Sentry Tower and Wall, along M St.
Central Heating Plant, 13th and C Sts. SW.
SE between 4th and 6th Sts SE
1700 Block Q Street NW, 1700–1744, 1746, 1748 Que St. NW.; 1536, 1538, 1540, 1602, 1604, 1606, 1608, 17th St. NW.

FLORIDA

Broward County

Hillsboro Inlet, *Coast Guard Light Station.*

Collier County

Marco Island, *Archeological Sites on Marco Island.*

Monroe County

Knights Key Moser Channel—Packet Channel Bridge (Seven Mile Bridge)
Long Key Bridge
Old Bahia Honda Bridge

Pinellas County

Bay Pines, *VA Center,* Sections 2, 3, and 11 TWP 31–S, R–15E.

St. Johns County

St. Augustine, *St. Augustine National Cemetery.*

GEORGIA

Bibb County

Macon, *Vineville Avenue Area,* both sides of Vineville Ave. from Forsyth and Hardman Sts. to Pio Nono Ave.

Carroll County

Jordan-Hampton House, Route 1.

Chatham County

Archeological Site, end of Skidway Island.
Savannah, *516 Ott Street.*
Savannah, *908 Wheaton Street.*
Savannah, *914 Wheaton Street.*
Savannah, *920 Wheaton Street.*
Savannah, *828 Wheaton Street.*
Savannah, *930 Wheaton Street.*
Skidaway Island, *Priest's Landing Mounds.*

Clay County

Archeological Site WGC–73, downstream from Walter F. George Dam.

Cobb County

Bostwick, Charles C., House, 325 Atlanta St.
Brumby, Arnoldus, House, 472 Powder Springs St.
Clay, Alexander Stephens, House, 353 Atlanta St.
Marietta, *Marietta National Cemetery,* 500 Washington Ave.
McCullock–Wellons House, 348 Powder Springs Rd.
Slaughter, M. G., Cottage, 216 Fraser St.

De Kalb County

Atlanta, *Atkins Park Subdivision,* St. Augustine, St. Charles, and St. Louis places.
Decatur, *Sycamore Street Area.*

Fulton County

Atlanta, *Downtown Atlanta Historic District,* beginning at jct. Atlanta St. and Central Ave.

Gordon County

Haynes, Cleo, House and Frame Structure, University of Georgia.
Moss—Kelly House, Sallacoa Creek area.

Greene County

Wallace Reservoir Archeological District, (also in Hancock, Morgan, and Putnam counties).

Gwinnett County

Duluth, *Hudgins, Scott, Home (Charles W. Summerour House),* McClure Rd.

Heard County

Philpott Homesite and Cemetery, on bluff above Chattahoochee River where Grayson Trail leads into river.

Richmond County

Archeological Sites Project F–117–1 (7).
Augusta, *Blanche Mill.*
Augusta, *Enterprise Mill.*
Augusta, *Green Street.*

Stewart County

Rood Mounds, Walter F. George Dam and Reservoir.

Sumter County

Americus, *Aboriginal Chet Quarry,* Souther Field.

HAWAII

Hawaii County

Hawaii Volcanoes National Park, *Mauna Loa Trail.*
Kwalakakwa Bay, *Kona Field System*

Maui County

Hana vicinity, *Kipahulu Historic District,* SW of Hana on Rts. 31.

Oahu County

Barber's Point Harbor.
Moanalua Valley.

IDAHO

Ada County

Boise, *Alexanders,* 826 Main St.
Boise, *Falks Department Store,* 100 N. 8th St.
Boise, *Idaho Building,* 216 N. 8th St.
Boise, *Simplot Building (Boise City National Bank),* 805 Idaho St.
Boise, *Union Building,* 712½ Idaho St.

Clearwater County

Orofino vicinity, *Canoe Camp—Suite 18,* W of Orofino on U.S. 12 in Nez Perce National Historical Park.

Gem County

Marsh and Ireton Ranch, Montour Flood project.
Town of Montour, Montour Flood project.

Idaho County

Kamiah vicinity, *East Kamiah*—Suite 15, SE of Kamiah on U.S. 12 in Nez Perce National Historical Park.

Lemhi County

Tendoy, *Lewis and Clark Trail, Pattee Creek Camp.*

Nez Perce County

Lapwai, *Fort Lapwai Officer's Quarters,* Phinney Dr. and C St. in Nez Perce National Park.
Lapwai, *Spalding.*
Lewiston, *Fix Building,* 211–213 Main St.
Lewiston, *Lower Snake River Archeological District*
Lewiston, *Moxley Building,* 215 Main St.
Lewiston, *Scully Building,* 209 Main St.

ILLINOIS

Bureau County

I & M Canal (also in Henry, Rock Island, and Whiteside counties).

Carroll County

Savanna vicinity, *Spring Lake Cross Dike Island Archeological Site,* 2 mi. SE of Savanna.

Cook County

Chicago, *Ogden Building,* 180 W. Lake St.
Chicago, *Oliver Building,* 159 N. Dearborn St.
Chicago, *Springer Block (Bay, State, and Kranz Buildings),* 126–146 N. State St.
Chicago, *Unity Building,* 127 N. Dearborn St.

De Kalb County

De Kalb, *Haish Barbed Wire Factory,* corner of 6th and Lincoln Sts.

Henry County

Genesco, *Ristau Brewery.*

Lake County

Fort Sheridan, *Museum Bldg. 33,* Lyster Rd.

Madison County

American Botroms, 69 archeological sites in Madison, Monroe, and St. Clair counties.

Rock Island County

Archeological Site 11–RI–337, East Moline, Mississippi and Rock Rivers.

Scott County

Naples vicinity, *Naples-Castle Site,* SW of Naples.

Williamson County

Wolf Creek Aboriginal Mound, Crab Orchard National Wildlife Refuge.

INDIANA

Lawrence County

Bedford, *Main Post Office,* 1324 K St.
Mitchell, *Riley School.*

Marion County

Indianapolis, *Lockfield Gardens Public Housing Project,* 900 Indiana Ave.
Indianapolis vicinity, *Garfield Park Pagoda,* 2 mi S of Indianapolis in Garfield Park.

Monroe County

Bloomington, *Carnegie Library.*

Orange County

Cox Site, Lost River Watershed.
Half Moon Spring, Lost River Watershed.
Jackson, *Ten Prehistoric Sites in the Patoka Lake.*

St. Joseph County

Mishawaka, *100 NW Block,* properties fronting N. Main St. and W. Lincoln Way.

Spencer County

Evansville, *Pollard, Maier, House.*

Vanderburgh County

Evansville, *Alhambra Theater,* 50 Adams St.
Evansville, *Riverside Neighborhood.*

Vermillion County

Houses in SR 63/32 Project, jct. of SR 32 and SR 63 and 1st rd. S. of Jct.

IOWA

Allamakee County

Marquette vicinity, *Fire Point Site (Nine Foot Channel Navigation Project).*

Boone County

Saylorville Archeological District (also in Polk and Dallas counties).

Ida County

Muri Brown Site (13–IA–4), County Courthouse.

Johnson County

Indian Lookout.

KANSAS

Douglas County

Lawrence, *Curtis Hall (Kiva Hall)*, Haskell Institute.

KENTUCKY

Boone County

Rabbit Hash, *Sites 15Be75 and 15Be76.*

Jefferson County

Archeological Sites: Section 2, SW Jefferson County Local Protection Project.
Louisville, *Levin Bates House*, Bardstown Rd.

Johnson County

Fishtrap United Methodist Church.
Volga, *McKenzie Log Cabin*, McKenzie Branch.

Lawrence County

Fort Ancient Archeological Site.

Trigg County

Golden Pond, *Center Furnace*, N of Golden Pond on Bugg Spring Rd.

LOUISIANA

East Baton Rouge Parish

Baton Rouge, *Spanish Town*, Baton Rouge.

Orleans Parish

New Orleans, *Algiers Point Historic District*, bounded by Mississippi River, Atlantic St., and Opelousas St.
New Orleans, *Casey, Kate, House*, 932–934 Howard.
New Orleans, *Central City District.*
New Orleans, *Cordes, John, House*, 3027–3029 Royal St., Square 170.
New Orleans, *Deyron, Dr. J. A., House*, 3037 Royal St., Square 170.
New Orleans, *Dunn, Andrew Jackson, House*, 928–930 Calliope St., Square 119.
New Orleans, *Duyer, James, House*, 933–935 Gaienne St., Square 119.
New Orleans, *Gasquet, William, Houses*, 1128–1130 Constance St., Square 119.
New Orleans, *Hart, James S., House*, 615 Erato St., Square 71.
New Orleans, *I-Sea Storage and Transfer Company Building*, 2201 Clio St., Square 348.
New Orleans, *Jahucke Building*, 814 Howard Ave., Square 237.
New Orleans, *Lee Circle and Lee Monument*, St. Charles Ave. at Howard Ave.
New Orleans, *Maginnis Cotton Mills*, 1054 Constance St., Square 120.
New Orleans, *McDowall, Robert, House*, 1119–1121 Constance St., Square 130.
New Orleans, *McLaughlin, M. A., House*, 1122–1126 Constance St., Square 119.
New Orleans, *McLeod, Euphenia Napir House*, 1523–1525 Calliope St., Square 183.
New Orleans, *Murray, Thomas, House*, 1131 S. Rampart St., Square 290.
New Orleans, *Old Firehouse*, 1045 Magazne St., Square 158.
New Orleans, *Peyton, William H., House*, 1135 S. Rampart St., Square 290.
New Orleans, *Roper, George W., House*, 1032 St. Charles Ave., Square 183.
New Orleans, *St. John the Baptist Church*, 1139 Dryedes St., Square 277.
New Orleans, *Saulet, Marie Theresa, House*, 1218–1222 Annunciation St., Square 100.
New Orleans, *Schwegmann, G. A., House* 3044 Royal St., Square 142.
New Orleans, *Sincer, Louis, House*, 1061 Camp St., Square 183.
New Orleans, *Sporl, C. J., House*, 3015 Royal St., Square 142.
New Orleans, *Talen, Aaldemar Appollonius, Studio-House*, 1029 Calliope St., Square 137.
New Orleans, *Temple Sinai*, 1032 Ceroudelet St., Square 215.
New Orleans, *Verret, Theodore, House*, 1216 Annunciation St., Square 109.
New Orleans, *Tourae, Nicholas, House*, 1169 Tchoupitoulas St., Square 71.
New Orleans, *Zangel, Frederick, House*, 1118 Constance St., Square 119.

Red River County

Hanna Site (16RR4).

St. Martins Parish

Site 16, Sm—45, Atchafalaya Basin Floodway.

Vernon Parish

Ft. Polk, *Site 16 VN 18.*

MARYLAND

Allegany County

Flintstone vicinity, *Martin Gordon Farm*, Breakneck Rd. (Rte. 1).
Flintstone vicinity, *Martins Mountain Farm*, Breakneck Rd. (Rte. 1).

Anne Arundel County

Claiborne, *Bloody Point Bar Light*, on Chesapeake Bay.
Skidmore, *Sandy Point Shoal Light*, on Chesapeake Bay.

Baltimore (independent city)

Baltimore Belt (Baltimore and Ohio) Railroad (Howard Street Tunnel and Power House).
Barre Circle Historic District, Lombard St., Fremont Ave., Scott St.
Eastern Avenue Sewage Pumping Station, SW corner of Eastern Ave. and President St.
Fayette Street Methodist Episcopal Church, 745 West Fayette St.
Mount Calvary Church Historic District, Biddle St., Madison Ave., N. Eutaw St.

Baltimore County

Federal Hill-Riverside Park Historic District, Federal Hill and Riverside Park areas.
Fort Howard, *Craighill Channel Upper Range Front Light*, on Chesapeake Bay.
Hollins-Lombard Historic District, 800 blocks of Hollins and Lombard Sts., bet. Fremont and Callender; unit block of Parkin St.
New Owings Mills Railroad Station, W of Reisterstown Rd.
Old Owings Mills Railroad Station, Reisterstown Rd.
Old Western Police Station (Old Pine Street Station).
Reistertown Historic District, Butler and Walston Rds.
Ridgely's Delight Historic District.
Sparrows Point, *Craighill Channel Range Front Light*, on Chesapeake Bay.
St. Paul's Cemetery, Union Block, Fremont Ave.

Carroll County

Bridge No. 1-141 on Hughes Road.

Cecil County

Sassafras Elk Neck, *Turkey Point Light*, at Elk River and Chesapeake Bay.

Dorchester County

Hoppersville, *Hooper Island Light*, Chesapeake Bay-Middle Hooper Island.

Frederick County

Fort Detrick, *Horton Test Sphere (One-Million-Liter Test Sphere).*

Montgomery County

Rockville, *Third Addition to Rockville and Old St. Mary's Church and Cemetery.*

St. Marys County

St. Inigoes, *St. Inigoes Manor House*, Naval Electronic System Test and Evaluation Detachment.
St. Marys City, *Point No Point Light*, on Chesapeake Bay.

Talbot County

Tilghman Island, *Sharps Island Light*, on Chesapeake Bay.

MASSACHUSETTS

Barnstable County

Rider, Samuel, House, Gull Pond Rd. off Mid-Cape Hwy. 6.
Truro, *Highland Gold Course*, Cape Cod Light, area.

Hampden County

Holyoke, *Caledonia Building (Crafts Building)*, 185–193 High St.
Holyoke, *Cleary Building (Stiles Building)*, 190–196 High St.
Holyoke, *Steamer Company No. 3.*

Middlesex County

Wayland, *Old Town Bridge (Four Arch Bridge)*, Rte. 217, 1.5 m. NW of Rte. 126 Jct.

Suffolk County

Northern Avenue Bridge, Fort Point Channel.

Worcester County

Leicester, *Shaw Site (Sites 4, 5, and 6)*, Upper Quaboag River Watershed project.
North Brookfield, *Meadow Site No. 11*, Upper Quaboag River Watershed.

MICHIGAN

Kalamazoo County

Masonic Temple, corner Rose and Eleanor Sts.
Little Forks Archeological District.

Wayne County

Mackenzie, David, House, 4735 Cass Ave.

MINNESOTA

St. Louis County

Duluth, *Morgan Park Historic District.*

Winona County

Winona, *Second Street Commercial Block.*

MISSISSIPPI

Lowndes County

Tibbee Creek Archeological Site, Columbus lock and dam project.

Monroe County

Aberdeen vicinity, *East Aberdeen Site (22Mo819)*

Tishomingo County

Tennessee—Tombigbee Waterway.

MISSOURI

Buchanan County

St. Joseph, *Hall Street Historic District*, bounded by 4th St. on W., Robidoux on S., 10th on E., and Michel, Corby, and Ridenbaugh on N.

Dent County

Lake Spring, *Hyer, John, House.*

Franklin County

Leslie, *Noser's Mill and adjacent Miller's House*, Rural Rte. 1.

Henry County

La Due, *Batschelett House*, near Harry S Truman Dam and Reservoir.
Little Black River Watershed (also in Ripley County).

Monroe County

Violette, Alexander House.

MONTANA

Cascade County

Great Falls, *Building at 108 Central Avenue.* 108 Central Ave.

Custer County

"Old Fort" at Fort Keogh.

Fergus County

Lewis & Clark, Campsite, May 23, 1805.
Lewis & Clark, Campsite, May 24, 1805.

Lewis and Clark County

Marysville, *Marysville Historic District.*

NEBRASKA

Cherry County

Valentine vicinity, *Fort Niobrara National Wildlife Refuge.*
Valentine vicinity, *Newman Brothers House.*

Knox County

Niobrara Historic Properties.

NEVADA

Clark County

Las Vegas vicinity, *Blacksmith Shop*, Desert National Wildlife Range.
Las Vegas Vinicity, *Las Vegas Wash Archeological District.*
Las Vegas vicinity, *Mesquite House*, Desert National Wildlife Range.

Elko County

Carlin vicinity, *Archeological Sites 26EK1669, 26EK1672.*

Nye County

Las Vegas vicinity, *Emigrant's Trail*, about 75 mi. NW of Las Vegas on U.S. 95.

Pershing County

Lovelock vicinity, *Adobe in Ruddell Ranch Complex.*
Lovelock vicinity, *Lovelock Chinese Settlement Site.*

Storey County

Sparks vicinity, *Derby Diversion Dam*, on the Truckee River 19 mi. E of Sparks, along I 80 (also in Washoe County).

Washoe County

Site 26Wa2065.

NEW HAMPSHIRE

Cheshire County

Arch Bridge, between N. Walpole and Bellows Falls (also in Windham Co., VT).

Hillsborough County

Amoskaag Millyard Complex.
Smyth Tower.

Rockingham County

Portsmouth, *Pulpit Rock Observation Station*, Portsmouth Harbor.

Strafford County

Odd Fellow's Hall (Morning Star Block).
O'Neill House (Cocheco Co. Housing).
Public Market (Morrill Block).
Trella House (Dover Manufacturing Co. Housing).
Veteran's Building (Central Fire House).
Western Auto Block (Merchants Row).

NEW JERSEY

Hudson County

S.S. Newton, midway between Ellis and Liberty islands.

Mercer County

Hamilton and West Windsor Townships, *Assunpink Historic District.*
Trenton, *Lamberton Interceptor.*
West Windsor Township Wastewater Facilities (Archeological Site 3313.14)—Extended.

Middlesex County

Cranbury Historic District.

Monmouth County

Long Branch, *The Reservation*, 1-9 New Ocean Ave.

Morris County

Morristown, *Abbett Avenue Bridge.*

Ocean County

Joseph Holmes Mill (The Mill Site), SW corner of intersection of Mill and Parker Sts.

Passaic County

Forsberg House, 3 Edgemont Crescent.

Warren County

Oxford, *Oxford Industrial District.*

NEW MEXICO

Chaves County

Cites LA11809—LA11822, Cottonwood-Walnut Creek Watershed (also in Eddy County).

Dona Ana County

Placitas Arroyo, *Sites SCSPA 1—8.*

Guadalupe County

Los Esteros Lake Archeological Site.

Lee County

Laguna Plata Archeological District.

McKinley County

Zuni Pueblo Watershed, *Oak Wash Sites N.M.G.:13:19—N.M.G.:13:37.*

Otero County

Three Rivers Petroglyphs.

Rio Arriba County

Cerrito Recreation Site Archeological District.

NEW YORK

Albany County

Guilderland, *Nott Prehistoric Site.*
Tetilla Peak Site.

Bronx County

New York, *Bronx Post Office.*
New York, *North Brothers Island Light Station*, in center of East River.

Broome County

Mill Site at Site 7-A, Manticoke Creek project (also in Tioga County).
Vestal, *Vestal Nursery Site*, Vestal Project (also in Union County).

Cattaraugus County

Olean, Forness *Park Development-Archeological Sites.*

Chautauqua County

Dunkirk, *Properties in the city of Dunkirk.*
Loomis Archeological Site, South and Central Chautauqua Lake

Erie County

Erie Canal.

Greene County

New York, *Hudson City Light Station*, in center of Hudson River.

Herkimer County

Little Falls, *Dunn Property Buildings*, West Mill St.

Kings County

Steeplechase Parachute Jump.

Nassau County

Long Island, *Seafood Park Archeological Site.*

New York County

New York, *Colonial Park Pool Complex*, Bradhurst Ave.
New York, *Harlem Courthouse*, 170 E. 121st St.

Onondaga County

Syracuse, *Amos Block*, 208-220 W. Water St.

Orange County

Port Jervis, *Church Street School*, 55 Church St.
Port Jervis, *Farnum, Samuel, House*, 21 Ulster Pl.

Oswego County

Gustin-Earle Factory Site, village of Mexico.
Musico Motors Building, W. First and W Seneca Sts.

Otsego County

Swart-Wilcox House

Putnam County

Archeological and Historic Site.

Queens County

Fort Totten Officers' Club.

Rensselaer County

Sand Lake, *Troy and New England Railway* (Trolley Embankment), Sand Lake Sewer Project/Wynantskill Trunk Sewer.

Richmond County

New York, *Romer Shoal Light Station*, located in lower bay area of New York Harbor.
Staten Island, *U.S. Coast Guard Base, St. George.*

Saratoga County

Saratoga Springs, *Yaddo House and Gardens, District.*
Satatoga Springs, *Yaddo House and Gardens*, Saratoga Springs Historic District.
Schuylerville, *Archeological Site*, Schuylerville Water Pollution Control Facility.
Waterford, *Waterford Industrial Complex.*

Staten Island

Tottenville, *Ward's Point*, Oakwood Beach Project.

Suffolk County

Janesport vicinity, *East End Site.*
Janesport vicinity, *Hallock's Pond Site*
New York, *Fire Island Light Station*, U.S. Coast Guard Station.
New York, *Little Gull Island Light Station*, off North Point of Orient Point, Long Island.
New York, *Plum Island Light Station*, off Orient Point, Long Island.
New York, *Race Rock Light Station*, S. of Fishers Island, 10 mi. N. of Orient Point.
Northville Historic District, houses along Sound Ave.

Ulster County

Kingston vicinity, *Esopus Meadows Light Station*, middle of Hudson River.
New York, *Rondout North Dike Light*, center of Hudson River at Jct. of Rondout Creek and Hudson River.

New York, *Saugerties Light Station*, Hudson River.
Wildmere and Cliffhouse Resort Hotels (Minnewaska Acquisition Project), towns of Gardiner and Rochester.

Warren County

Lake George, *Boyau*, portion of Montcalm St.

Washington County

Greenwich, *Palmer Mill (Old Mill)*, Mill St.

Westchester County

Port Washington vicinity, *Execution Rocks Light Station*, lower SW portion of Long Island Sound.
Yonkers, *Women's Institute Building.*
Yorktown, *Yorktown Railroad Station.*

NORTH CAROLINA

Alamance County

Burlington, *Clapp's Mill and Dam Site* (also in Guilford County).
Burlington, *Faust Mill* (also in Guilford County).
Burlington, *Low House* (also in Guilford County).
Burlington, *Southern Railway Passenger Depot*, NE corner Main and Webb Sts.

Camden County

South Mills vicinity, *Burnham House*, U.S. 17.

Caswell County

Archeological Sites CS-12, County Line Creek Watershed Project (also in Rockingham County).
Womack's Mill, in County Creek Watershed Project (also in Rockingham County).

Cleveland County

Archeological Resources in Second Brood River Watershed Project (also in Rutherford County).

Cumberland County

Fayetteville, *Veterans Administration Hospital Confederate Breastworks*, 23 Ramsey St.

Dare County

Buxton, *Cape Hatteras Light*, Cape Hatteras National Seashore.
Wanchese, *Wanchese Harbor Development*, Site 31 DR 35.

Forsyth County

Winston-Salem, *Atkins, Dr. Simon Green, House*, 346 Atkins St.
Winston-Salem, *Hill, James S., House*, 914 Stadium Dr.
Winston-Salem, *Paisley, J. W., House*, 934 Stadium Dr.
Winston-Salem, *Patterson, Ackerman, and Sussdorf Houses*, 434, 440, 448 S. Trade St.

Hyde County

Ocracoke, *Ocracoke Lighthouse.*

NORTH DAKOTA

Burleigh County

Bismarck, *Fort Lincoln Site.*

OHIO

Adams County

Wrightsville vicinity, *Grimes Site (33 AD 39)*, Killen Electric Generating Station.
Wrightsville vicinity, *Killen Bridge Site, (33 AD 36), Killen Electric Generating Station.*

Astabula County

Astabula, *West Fifth Street Bridge*, over Astabula River.

Clermont County

Neville vicinity, *Maynard House*, 2 mi. E of Neville off U.S. 52.

Clinton County

Chester, *Bunnell (Kame) Esker (33-Cn-7).*

Crawford County

Calvary Reformed Church, First United Methodist Church, Crestline Shunk Museum.

Darke County

DAR-S.R.-571-0.00.

Licking County

Heath, *DiGiodomenico Site (LIC-343-0.00).*

Montgomery County

Columbia Bridge Works.
Lower Cratis Road Bridge.

Richland County

Mansfield, *Ritter, William, House*, 181 S. Main.

Seneca County

Tiffin, *Old U.S. Post Office*, 215 S. Washington St.

Summit County

United Way Building, Perkins St.

Tuscarawas County

Conotton Creek Bridge, CR 90 in Warren Township, over Conotton Creek.

Warren County

Corwin, *Shaffer Mound*, S of New Burlington Rd.
Harveysburg, *E. L. Anderice Mound*, S of New Burlington Rd. in Caesar Creek Lake Project.
Massie, *Carr Mill Site (33-WA-75).*
Massie, *Jonah's Run Site #1 (33-Wa-82).*
Massie, *King Road Site (33-Wa-112).*
Massie, *Oglesby-Harris Site (33-Wa-83).*
Massie, *Pipeline Site (33-Wa-78).*
Massie, *Wood 73 Site (33-Wa-92).*

Wayne County

Wooster, *Thorne House*, 1576 Beall Ave.

OKLAHOMA

Atoka County

Estep Shelter, Lower Clear Boggy Watershed.
Graham Site, Lower Clear Boggy Watershed.

Comanche County

Fort Sill, *Blockhouse on Signal Mountain* off Mackenzie Hill Rd.
Fort Sill, *Chiefs Knoll, Post Cemetery*, N of

Kay County

Newkirk vicinity, *Bryson Archeological Site*, NE of Newkirk.

Kingfisher County

Kingfisher Post Office, Main and Roberts Sts.

OREGON

Baker County

Baker vicinity, *Virtue Flat Mining District*, 10 mi. E of Baker off Hwy. 86.

Columbia County

Scappose vicinity, *Portland and Southwestern Railroad Tunnel*, 13 mi. NW of Scappose.

Coos County

Charleston, *Cape Arago Light Station.*

Curry County

Port Orford, *Cape Blanco Light Station.*

Douglas County

Winchester Bay, *Umpqua River Lighthouse.*

Gilliam County

Archeological Sites (Ghost Camp Reservoir).
Arlington vicinity, *Four Mile Canyon Area (Oregon Trail)*, 10 mi. SE of Arlington.
Crum Gristmill, Ghost Camp Reservoir area.
Old Wagon Road, Ghost Camp Reservoir area.
Olex School, Ghost Camp Reservoir area.
Steel Truss Bridge, Ghost Camp Reservoir area.

Klamath County

Crater Lake National Park, *Crater Lake Lodge.*

Lane County

Coburg vicinity, *McKenzie River Railroad Bridge.*
Roosevelt Beach, *Heceta Head Lighthouse.*
Roosevelt Beach, *Heceta Head Light Station.*

Lincoln County

Agate Beach, *Yaquina Head Lighthouse.*

Tillamook County

Tillamook, *Cape Meares Lighthouse.*

Wasco County

Memaloose Island, River Mile 177.5 in Columbia River.

Wheeler County

Antone, *Antone Mining Town*, Barite 1901-1906.

PENNSYLVANIA

Adams County

Gettysburg, *Barlow's Knoll*, adjacent to Gettysburg National Military Park.
Kuhn's Fording Bridge, spans Conewago Creek.

Allegheny County

Bruceton, *Experimental Mine*, U.S. Bureau of Mines, off Cochran Mill Rd.
McJunkin Site, New Texas Rd.
Pittsburgh, *St. Boniface Church*, 2203 East St.

Berks County

Brownsville vicinity, *Lauer/Gerhart Farm.*
Mt. Pleasant, *Berger-Stout Log House*, near jct. of Church Rd. and Tulephocken Creek.
Mt. Pleasant, *Conrad's Warehouse*, near jct. of Rte. 183 and Powder Mill Rd.
Mt. Pleasant, *Heck-Stamm-Unger Farmstead*, Gruber Rd.
Mt. Pleasant, *Miller's House*, jct. of Rte. 183 and Powder Mill Rd.
Mt. Pleasant, *O'Bolds-Billman Hotel and Store*, Gruber Rd. and Rte. 183.
Mt. Pleasant, *Pleasant Valley Roller Mill*, Gruber Rd.
Mt. Pleasant, *Reber's Residence and Barn*, on Tulephocken Creek.
Mt. Pleasant, *Union Canal*, Blue Marsh Lake Project area.
Reading vicinity, *Blue Marsh Archeological District.*

Butler County

Butler, *Bonnie Brook Archeological Site.*

Chester County

Charlestown, *Nesspor House (Thomas Davis House)*, State Rd.
Charlestown, *Pickering Creek Ice Dam*, State Rd.
Loch Aerie.
Nature Center of Charleston, State Rd. Charleston township.

Clinton County

Lockhaven, *Apsley House*, 302 E. Church St.
Lockhaven, *Harvey Judge, House*, 29 N. Jay St.
Lockhaven, *McCormick, Robert, House*, 234 E. Church St.
Lockhaven, *Mussina, Lyons, House*, 23 N. Jay St.

Delaware County

I 476 Historic Sites (20 Historic Sites), Mid-County Expwy. (also in Montgomery County).

Minshall House, Media Borough.

Huntingdon County

Brumbaugh Homestead, Raystown Lake Project.

Lackawanna County

Carbondale, *Miners and Mechanics Bank Bldg.*, 13 N. Main St.

Lancaster County

Bainbridge Township, *Haldeman Mansion.*

Lehigh County

Colesville vicinity, *Site 1: Farmhouse, barn, and outbuildings*, I–78.
Dorneyville, *King George Inn and two other stone houses*, Hamilton and Cedar Crest Blvds.

Lycoming County

Williamsport, *Faxon Co., Inc.*, Williamsport Beltway.

Northampton County

Lehigh Canal.
Site 3: Farmhouse, barn, and outbuildings, I–78.
Site 4: Farmhouse, barn, and outbuildings, I–78.

Philadelphia County

Philadelphia, *Bridge on "I" Street, over* Tacony Creek.
Philadelphia, *Courthouse and Post Office*, 9th St., between Chestnut and Market Sts.
Philadelphia, *New Forest Theatre*, 1108–1114 Walnut St.
Philadelphia, *Poth, Frederick, House*, 216 N. 33rd St.
Philadelphia, *Tremont Mills*, Wigonocking St. and Adams Ave.
U.S. Naval Base, *Quarters "A" Commandant's Quarters.*

Washington County

Charleroi, *Ninth Street School.*
Somerset Township, *Wright No. 22 Covered Bridge.*

York County

Wellsville Historic District.

RHODE ISLAND

Providence County

Pawtucket, *Lorenzo Crandall House*, 221 High St.
Providence, *Woonesquatucket Bridge.*
Woonsocket, *Club Marquette Building (St. Anne's Gymnasium)*, Cumberland St.

Washington County

Narragansett, *Sprague, Gov., Bridge*, Boston Neck Rd.

SOUTH CAROLINA

Beaufort County

Parris Island, *Marine Corps Recruit Depot.*

Charleston County

Charleston, *139 Ashley St.*
Charleston, *69 Barre St.*
Charleston, *69r Barre St.*
Charleston, *316 Calhoun St.*
Charleston, *316r Calhoun St.*
Charleston, *268 Calhoun St.*
Charleston, *274 Calhoun St.*
Charleston, *Old Rice Mill*, off Lockwood Dr.

Florence County

Florence, *United States Post Office-Florence*, South Carolina, corner of Irby St. and Evan St.

SOUTH DAKOTA

Minnehaha County

Orpheum Theater, 315 N. Phillips Ave.

Pennington County

Rapid City, *612–632 Main St.*

TENNESSEE

Davidson County

Nashville, *Ancient Indian Village and Burial Ground*, section 203(b).

TEXAS

Bexar County

Fort Sam Houston, *Eisenhower House*, Artillery Post Rd.

Concho County

Middle Colorado River Watershed, *Prehistoric Archeology in the Southwest Laterals Subwatershed* (also in McCulloch County).

Denton County

Hammons, George House, between Sangers and Pilot Point.

Galveston County

Galveston, *U.S. Customhouse*, bounded by Avenue B, 17th, Water, and 18th Sts.

Hardeman County

Quanah, *Quanah Railroad Station*, Lots 2, 3, and 4 in Block 2.

Uvalde County

Leona River Watershed, Archeological Sites.

Webb County

Laredo, *Bertani, Paul Prevost House*, 604 Iturbide St.
Laredo. *De Leal, Viscaya, House*, 620 Zaragoza St.
Laredo, *Garza, Zoila De La, House*, 500 Iturbide St.
Laredo, *Leyendecker/Salinas House*, 702 Iturbide St.
Laredo, *Montemayor, Jose A., House (Carols Vela House)*, 601 Zaragosa St.

Williamson County

Archeological Districts of North Fork and Granger Lake.

TRUST TERRITORY OF THE PACIFIC ISLANDS

Truk District

Sapore Village, *Aikei/Winas*, Fefen Island.

UTAH

Emery County

Site ML–2145, Manti-LaSal National Forest.

Salt Lake County

Salt Lake City, *Lollin Block*, 238–240 S. Main St.

VERMONT

Chittenden County

Clark Memorial Building.

Windham County

Rockingham, *Bellow Falls Armory*, 72 Westminster St., Bellows Falls.

Windsor County

Windsor, *Post Office Building.*

VIRGINIA

Charlottesville (independent city)

U.S. Post Office and Courthouse (Old Post Office).

Accomack County

Captain's Cove Dev., Archeological Sites (Chincoteague Bay).

Allegheny County

Gathright Lake Project (Archeological sites), (also in Bath County).

Wythe County

Fort Criswell.

WASHINGTON

Benton County

Richland vicinity, *Paris Archeological Site*, Hanford Works Reservation.
Richland vicinity, *Wooded Island Archeological District*, N of Richland.

Callam County

Cape Alava vicinity, *White Rock Village Archeological Site, S o, Cape Alava.*
Olympic National Park Archeological District, Olympic National Park (also in Jefferson County).
Seglum, *New Dungeness Light Station.*

Grays Harbor County

West Port, *Grays Harbor Light Station.*

King County

Burton, *Point Robinson Light Station.*
Seattle. *Alki Point Light Station.*
Seattle, *Home of the Good Shepherd.*
Seattle, *West Point Light Station.*

Kitsap County

Hansville, *Point No Point Light Station.*

Pacific County

Ilwaco, *North Head Light Station.*

Pierce County

Fort Lewis Military Reservation, *Captain Wilkes, July 4, 1841, Celebration Site.*
Longmire, *Longmire Cabin*, Mount Rainier National Park.

San Juan County

San Juan Islands, *Patos Island Light Station.*

Skamania County

North Bonneville, *Site 44SA11*, Bonneville Dam Second Powerhouse Project.

Snohomish County

Mukilteo, *Mukilteo Light Station.*

Wahkiakum County

Skamokawa village, *Archeological site 45–WK–5.*

WEST VIRGINIA

Barbour County

Covered Bridge across Rooting Creek, Elk Creek Watershed (also in Harrison County).

Cabell County

Huntington, Old Bank Building, 1208 3rd Ave.

Kanawha County

Charleston, *Kanawha County Courthouse.*
St. Albans, *Chilton House*, 439 B St.

Pendleton County

Wayside Inn (Site's Inn), Monongahela National Forest.

Wood County

Parkersburg, *Wood County Courthouse.*
Parkersburg, *Wood County Jail.*

WISCONSIN

Ashland County

Ashland vicinity, *Madeline Island Site 7302.*

LaCrosse County

LaCrosse, *LaCrosse Post Office.*

Rock County

Portion of Evansville Historic District.

WYOMING

Fremont County

Pilot Butte Powerplant, Wind River Basin.

Johnson County

Casper, *Castle Rock Archeological Site.*
Casper, *Dull Knife Battlefield.*
Casper, *Middle Fork Pictograph-Petroglyph Panels.*
Casper, *Portuguese Houses.*

Park County

Mammouth, *Chapel at Fort Yellowstone,* Yellowstone National Park.

PUERTO RICO

Mona Island, *Sardinero Site and Ball Courts.*

[FR Doc.77-25658 Filed 9-2-77;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 26, 1977. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by September 16, 1977.

WILLIAM J. MURTAGH,
Keeper of the National Register.

ALASKA

Sitka Division

Sitka, *Mills, May, House (AHRS Site # SIT-189),* 315 Seward St.
Sitka, *See House (AHRS Site # SIT-195),* 611 Lincoln St.

CALIFORNIA

Sonoma County

Healdsburg vicinity, *Dry Creek—Warm Springs Valleys Archeological District,* irregular pattern along Dry Creek and Warm Springs Creek valleys.

COLORADO

Boulder County

Boulder, *Colorado Chautauqua, The (Chautauqua Park),* Chautauqua Park.

FLORIDA

Dade County

Goulds vicinity, *Anderson, William, General Merchandise (Anderson's Corner),* 15700 SW. 232nd St.

KENTUCKY

Madison County

Bybee, *Cornelison Pottery (Bybee Pottery)* Hwy 52E.

MARYLAND

Cecil County

Port Deposit, *Port Deposit,* E bank of Susquehanna River about 10 mi. S of the Mason-Dixon Line.

MISSISSIPPI

Harrison County

Biloxi, *U.S. Post Office, Courthouse, and Customhouse (Biloxi City Hall),* 216 Lameuse St.

MISSOURI

Perry County

Altenburg, *Concordia Log Cabin College,* Main St.

NEW JERSEY

Burlington County

Wrightstown vicinity, *Oakwood (Michael Earl Newbold House),* N of Wrightstown on Springfield Meeting Rd.

OREGON

Benton County

Corvallis, *Benton County Courthouse,* NW. 4th St. between Jackson and Monroe Sts.

Multnomah County

Portland, *Forbes and Breeden Building (Sherlock Building),* 309 SW. 3rd Ave.

SOUTH DAKOTA

Corson County

McIntosh, *Fort Manuel (39-CO-5),* SD 12.

Lake County

Madison, Herman Luce Cabin, Lake Herman State Park.

TEXAS

Lamar County

Pin Hook vicinity, *Ellis II Site (41 LR 57 and 41 LR 63),* N. of Pin Hook.
Pin Hook vicinity, *Emerson Site (41 LR 43 and 41 LR 60),* NE. of Pin Hook.
Pin Hook vicinity, *Loma Alto Site (41 LR 59),* NW. of Pin Hook.
Pin Hook vicinity, *Swindle Site (41 LR 55),* SW. of Pin Hook.

Red River County

Pin Hook vicinity, *McCarty Site (41 RR 47 and 41 RR 57),* NE. of Pin Hook.
Kanawha vicinity, *Neely Site (41 RR 48),* SE. of Kanawha.

Sutton County

Sonora, *Old Mercantile Building,* 222 Main, Courthouse Sq.

VIRGINIA

Albemarle County

Esmont vicinity, *Esmont,* 1 mi. N of Esmont, SW of VA 715 and VA 719. HABS.
Powell Corner vicinity, *Estouteville,* 1.5 mi. SE of Powell Corner; near jct. of VA 712 and VA 627. HABS.

Loudoun County

Ashburn, *Belmont,* 1.8 mi. N of Ashburn, W of jct. of VA 7 and VA 641. HABS.
Taylorstown, *Taylorstown Historic District,* at Catoctin Creek, 2.9 mi. SW of Potomac River. HABS.

Montgomery County

Christiansburg, *Christiansburg Presbyterian Church,* 107 W. Main St.

Pittsylvania County

Berry Hill vicinity, *Berry Hill,* 3 mi. N of VA/NC boundry on VA 863.

Rockingham County

Singers Glén, *Singers Glen Historic District*, jct. of VA 613 and 712, 1 mi. SW of Frog Hollow Creek.

VERMONT

Bennington County

Manchester, *Hildene (Robert Todd Lincoln Estate)*, Off U.S. 7.

Orleans County

Albany, *Hayden, William, House*, VT 14.

WASHINGTON

Clallam County

Port Angeles vicinity, *Ediz Hook Light Station (Port Angeles Coast Guard Air Station)*, Tip of Ediz Hook.

Jefferson County

Kalalock vicinity, *Destruction Island Light Station*, 3 mi. off state coast.

[FR Doc.77-25651 Filed 9-2-77;8:45 am]

Office of the Secretary

KLAMATH PROJECT, OREGON, AND CALIFORNIA TULE LAKE DIVISION, PART 1

Revision of Irrigable Acreage

This notice is published under authority of section 43 of the Omnibus Adjustment Act of May 25, 1926 (44 Stat. 636). The revised irrigable acreage shown in Public Notice No. 55, dated March 14, 1955, is hereby amended as follows:

PART 1.—*Tule Lake Division*

T 48N R 5E section	Farm unit	Irrigable acreage before P.N. 55 (1)	P.N. 55 revised irrigable acreage (2)	Revised irrigable acreage (including Class 5 lands) (3)
17	N	133.6	120.2	126.9
20	Q	108.0	85.3	108.0
20	R	106.3	79.1	106.3
20	S	127.4	111.7	127.4
20	P	132.6	132.6	132.6
21	T	125.3	125.3	125.3
21	U	122.3	122.3	122.3
21	K	126.3	115.6	115.6
21	L	115.6	126.3	126.3
21	J	122.2	97.1	122.2
22	M	127.1	127.1	127.1
22	L	113.9	113.9	113.9
22	N	112.5	14.4	112.5
26	K	91.2	39.9	91.2
26	N	118.8	64.0	118.8
27	M	119.2	82.1	82.1
27	P	111.6	111.6	111.6
27	Q	105.6	105.6	105.6
27	R	106.7	106.7	106.7
28	M	105.6	102.9	105.6
28	N	103.6	103.6	103.6
28	P	112.3	112.3	112.3
29	L	88.0	88.0	88.0

Dated: August 29, 1977.

GARY J. WICKS,
Deputy Assistant Secretary of the Interior.

[FR Doc.77-25685 Filed 9-2-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

CERTAIN STEEL TOY VEHICLES

Prehearing Conference and Hearing

Notice is hereby given that a Prehearing Conference will be held in connection with the above styled investigation at 10 a.m. on September 29, 1977, in the Hearing Room of the Administrative Law Judge, Room 610, Bicentennial Building, 600 E Street NW., Washington, D.C. On or before September 20, 1977, the parties will have completed service of Prehearing Conference Statements by order of the Presiding Officer. The purpose of this Prehearing Conference is to review such statements, complete the exchange of exhibits, and resolve any other necessary matters in preparation for the hearing.

Notice is also given that the hearing in this proceeding will commence at 10 a.m. on October 3, 1977, in the Hearing Room of the Administrative Law Judge, Room 610 Bicentennial Building, 600 E Street NW., Washington, D.C., and will continue until completed.

The Secretary shall serve a copy of this Notice upon all parties of record, and shall publish this Notice in the FEDERAL REGISTER.

Issued: August 30, 1977.

JUDGE MYRON R. RENICK,
Presiding Officer.

[FR Doc.77-25860 Filed 9-2-77;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

FEDERAL COMMITTEE ON APPRENTICESHIP; SUBCOMMITTEE ON EQUAL APPRENTICESHIP OPPORTUNITY

Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) of October 6, 1972, notice is hereby given of a meeting of the Subcommittee on Equal Apprenticeship Opportunity to be held on September 21, 1977, at the Department of Labor Building, Room N-3437, 200 Constitution Ave. NW., Washington, D.C. The meeting will be in session from 9 a.m. until 4:30 p.m. approximately.

The agenda for the meeting includes:
(1) Briefing the members on the new language that has been proposed by the Secretary in the OFCCP proposal so that they can convey a Status Report on the Women's Issues to the FCA members.
(2) Consolidation of the clarification on the Secretary's proposed regulation, Part IV of the FEDERAL REGISTER, August 16, 1977.
(3) Proposed amendments to 29 CFR 30 Equal Employment Opportunity in Apprenticeship and Training to include:
(a) New language for affirmative action for women in apprenticeship;
(b) Changes in compliance and affirmative action procedures.

Members of the public are invited to attend the proceedings. Any member of the public who wishes to file written data, views or arguments pertaining to the agenda may do so by furnishing it to the Executive Secretary at any time prior to the meeting. Thirty duplicate copies are needed for the members and for inclusion in the minutes of the meeting.

If time permits, members may be permitted to address the Subcommittee on the above issues.

Any member of the public who wishes to speak at this meeting should so indicate in a written statement, also the nature of intended presentation and amount of time needed. The Chairman will announce at the beginning of the meeting the extent to which time will permit the granting of such requests.

Communications to the Executive Secretary should be addressed as follows:

Mrs. M. M. Winters, Bureau of Apprenticeship and Training, ETA, U.S. Dept. of Labor, 601 D Street NW., (Room 5434), Washington, D.C. 20213.

Signed at Washington, D.C. this 2nd day of September, 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training Administration.

[FR Doc.77-26026 Filed 9-2-77;10:10 am]

Occupational Safety and Health Administration

FEDERAL ADVISORY COUNCIL ON OCCUPATIONAL SAFETY AND HEALTH

Meeting

Notice is hereby given that the Federal Advisory Council on Occupational Safety and Health, continued under Executive Order 11807 of September 28, 1974 (39 FR 35559), Occupational Safety and Health Programs for Federal Employees, will meet on September 23, starting at 9:30 a.m., in Room S5215 ABC,

New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. The meeting will be open to the public.

The agenda provides for:

I. Announcements and New Appointments.

II. Election of Vice Chairman.

III. A Proposed Program to reduce Occupational Noise Exposure in the Federal Workplace.

IV. Reports on:

A. Implementation of the Ad Hoc Committee recommendation on House Report 1/26/76—Safety in the Federal Workplace.

B. Establishment of interagency task force outlined in the President's Memorandum of August 5 "* * * combatting safety and health hazards in the workplace * * *"

C. Status of the new Executive Order to strengthen the Federal Occupational Safety and Health Program.

The Council welcomes written data, views or comments concerning safety and health programs for Federal employees, including comments on the agenda items. All such submissions received by close of business September 21 will be provided to the members of the Council and included in the record of the meeting.

The Council will consider oral presentation relating to agenda items. Persons wishing to orally address the Council at the meeting should submit a written request to be heard by close of business September 20. The request must include the name and address of the person wishing to appear, the capacity in which appearance will be made, a short summary of the intended presentation and an estimate of the amount of time needed.

All communications regarding this Advisory Council should be addressed to Mr. Walter J. Mason, Executive Director, FACOSH, Department of Labor, OSHA, First Floor South, 2100 M Street NW., Washington, D.C. 20210, telephone 202-653-5500.

Signed at Washington, D.C., this 31st day of August, 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-25932 Filed 9-2-77;8:45 am]

Office of the Secretary

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than Sept. 16, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 16, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 25th day of August 1977.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/workers of former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
American Color Chemical Corp. (workers).	Paterson, N.J.	Aug. 18, 1977	Aug. 15, 1977	TA-W-2,279	Dyes.
Andal Contract Stitching (company).	Lawrence, Mass.	do	Aug. 16, 1977	TA-W-2,230	Stitching of women's shoes.
Brown Shoe Co. (workers)	Cabool, Mo.	Aug. 10, 1977	Aug. 15, 1977	TA-W-2,231	Women's and girls' shoes.
Brown Shoe Co. (Boot and Shoe Workers' Union).	Humboldt, Tenn.	Aug. 18, 1977	do	TA-W-2,232	Children's shoes.
Great Western Sugar Co. (Teamsters, Warehousemen and Sugar Workers).	Johnstown, Colo.	Aug. 17, 1977	Aug. 10, 1977	TA-W-2,283	Monosodium glutimate (seasonings).
Gold Seal Rubber Co. (Retail, Wholesale and Department Store Union).	Readville, Mass.	Aug. 24, 1977	Aug. 22, 1977	TA-W-2,234	Warehousing and distributing of sneakers and boots.
Model Sportswear, Inc. (workers).	Paterson, N.J.	Aug. 19, 1977	Aug. 16, 1977	TA-W-2,285	Ski-jackets and snorkels.
Bert Paley Ltd, Inc. (workers).	Dorchester, Mass.	Aug. 22, 1977	Aug. 18, 1977	TA-W-2,286	Men's sportswear and women's jackets.
Western Electric Co. (workers).	Clark, N.J.	Aug. 18, 1977	Aug. 12, 1977	TA-W-2,287	Transformers and transistors.

[FR Doc.77-25728 Filed 9-2-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-400—50-403]

CAROLINA POWER & LIGHT CO., (SHEARON HARRIS NUCLEAR POWER PLANT, UNITS 1, 2, 3, AND 4)

Continuation of Evidentiary Hearing

Notice is hereby given that the evidentiary hearings on the applications by the Carolina Power & Light Co. for construction permits to construct four nuclear power reactors at the Shearon Harris Nuclear Power Plant, proposed to be located about 20 miles southwest of Raleigh, N.C., will be resumed beginning at 9 a.m., September 27, 1977, at the U.S. District Court, Courtroom No. 2, 7th Floor, 310 New Bern Avenue, Raleigh, N.C. 27611.

These hearings have been in recess since October 1974 because of delays in the Applicant's construction schedules.

The public is invited to attend. Any person may make a written or oral limited appearance statement beginning at 9 a.m. on September 27.

It is so ordered.

For the Atomic Safety and Licensing Board.

Dated at Bethesda, Md., this 30th day of August 1977.

IVAN W. SMITH,
Chairman.

[FR Doc.77-25775 Filed 9-2-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 8.14, Revision 1, "Personnel Neutron Dosimeters," pro-

vides guidance acceptable to the NRC staff on the use of personnel neutron dosimeters where exposure to neutrons occurs. The guide was revised to reflect public comment and additional staff review. This guide endorses ANSI Standard N319–1976, "Personnel Neutron Dosimeters (Neutron Energies Less than 20 MeV)."

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control, Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 29th day of August 1977.

For the Nuclear Regulatory Commission.

RAY G. SMITH,
Acting Director,
Office of Standards Development.

[FR Doc.77-25776 Filed 9-2-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.97, Revision 1, "Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant Conditions During and Following an Accident," describes a method acceptable to the NRC staff for complying with the Commission's requirements to provide instrumentation to monitor plant variables and systems during and following an accident in a light-water-cooled nuclear power plant. This guide was revised as the result of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 25th day of August 1977.

For the Nuclear Regulatory Commission.

RAY G. SMITH,
Acting Director,
Office of Standards Development.

[FR Doc.77-25777 Filed 9-2-77;8:45 am]

[Docket Nos. 50-325 and 50-324]

CAROLINA POWER & LIGHT CO.

Issuance of Amendments to Facility Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 8 and 30 to Facility Operating License Nos. DPR–71 and DPR–62, respectively, issued to Carolina Power & Light Co., which revised the licenses and their appended Technical Specifications for operation of the Brunswick Steam Electric Plant, Unit Nos. 1 and 2 (the facilities) located in Brunswick County, N.C. The amendments are effective as of the date of their issuance.

The amendments authorize modification of both spent fuel storage pools at the Brunswick site to increase the storage capacity for spent fuel discharged from the Brunswick reactors (boiling water reactors) and to accommodate the storage of spent fuel discharged from Carolina Power & Light Co.'s H. B. Robinson Plant Unit No. 2, a pressurized water reactor located near Hartsville, S.C.

The amendments do not authorize the storage of H. B. Robinson spent fuel at the Brunswick facility, but only the installation of modular racks which are designed for such storage. Authorization of the storage will be the subject of a future Commission action.

In addition, these amendments authorize the storage of Brunswick spent fuel discharged from either facility to be stored in either spent fuel storage pool at Brunswick.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Notice of Proposed Issuance of Amendments to Facility Operating Licenses in connection with this action was published in the FEDERAL REGISTER on November 26, 1976 (41 FR 52113). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action. A negative declaration to this effect is appropriate.

For further details with respect to this action, see (1) the application for amendments dated September 23, 1976 as supplemented January 7, March 3, April 7, April 26, 1977, (2) Amendment No. 8 to License No. DPR–71, (3) Amendment No. 30 to License No. DPR–62, (4) the Commission's related Safety Evaluation and (5) the Commission's related Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room 1717 H St. NW., Washington, D.C. and at the Southport-Brunswick County Library, 109 W. Moore St., Southport, N.C. 28461. A copy of items (2), (3), (4) and (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 26th day of August 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-25804 Filed 9-2-77;8:45 am]

[Docket No. 50-277]

PHILADELPHIA ELECTRIC CO.

Granting of Relief From ASME Section XI Inservice Inspection (Testing) Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Philadelphia Electric Co. The relief relates to the inservice inspection (testing) program for the Peach Bottom Atomic Power Station Unit No. 2 (the facility) located in York County, Pa. The ASME Code requirements are incorpo-

rated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The relief consists of those ASME Code requirements for inservice inspection that have been determined to be inpractical for Peach Bottom Unit No. 2.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief. Prior public notice of this action was not required since the granting of this relief from ASME Code requirements does not involve a significant hazards consideration.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5 (d) (4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the request for relief dated August 4, 1977, (2) the Commission's letter to the licensee dated August 30, 1977.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Martin Memorial Library, 159 E Market Street, York, Pa. 17401. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Committee, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 30th day of August 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-25803 Filed 9-2-77;8:45 am]

[Docket Nos. 50-553, 50-554]

TENNESSEE VALLEY AUTHORITY (PHIPPS BEND NUCLEAR PLANT, UNITS 1 AND 2)

Order

AUGUST 30, 1977.

The oral argument in this proceeding scheduled by our Order of June 30, 1977 for Wednesday, September 7, 1977, is hereby postponed until further notice.

It is so ordered.

For the Atomic Safety and Licensing Appeal Board.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.77-25801 Filed 9-2-77;8:45 am]

[Docket Nos. 50-261, 50-324, and 50-325]

CAROLINA POWER & LIGHT CO. (H. B. ROBINSON STEAM ELECTRIC PLANT UNIT NO. 2; BRUNSWICK STEAM ELECTRIC PLANT UNITS NO. 1 AND NO. 2)

Intent to Modify Indemnity Agreement No. B-71

As required in 10 CFR 140.9, the U.S. Nuclear Regulatory Commission is hereby publishing a notice of intent to amend Indemnity Agreement No. B-71 covering the operations at the Brunswick Steam Electric Plant Units No. 1 and No. 2 to allow indemnity coverage for the on-site storage at that facility of spent fuel from Carolina Power & Light Co.'s H. B. Robinson Steam Electric Plant Unit No. 2. This proposed action only affects the Brunswick Indemnity Agreement, and the Commission does not consider it to be precedential. Requests, if any, by other licensees for similar amendments will be handled by the Commission on a case-by-case basis.

The proposed amendment would redefine the term "the radioactive material" in Carolina Power & Light Co.'s indemnity agreement for its Brunswick facility to provide indemnity coverage for storage at Brunswick of spent fuel generated by the Robinson facility. The text of the proposed amendment to Article I, paragraph 9 of the Indemnity Agreement No. B-71 would read as follows:

'The radioactive material' means source, special nuclear, and byproduct material which: (1) is used, was used, or will be used in, or is irradiated, was irradiated or will be irradiated by, the nuclear reactors licensed under DPR-62 and DPR-71, or (2) was used in, or was irradiated in the nuclear reactor licensed under DPR-23 and subsequently is transported to the site of the nuclear reactors licensed under DPR-62 and DPR-71 for the purposes of storage, or (3) which is produced as the result of operation of the nuclear reactors licensed under DPR-62 and DPR-71.

Any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of this amendment to the subject facility indemnity agreement. Petitions for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by September 21, 1977. Such petitions must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A copy of the petition and/or request for a hearing should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to Richard E. Jones, Esquire, Carolina Power & Light Co., 336 Fayetteville Street, Raleigh, N.C. 27602, counsel for the licensee.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d) (4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, contact Mr. Ira Dinitz, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301-492-8336.

Dated at Bethesda, Md., this 31st day of August 1977.

For the Nuclear Regulatory Commission.

EDSON G. CASE,
Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc.77-25881 Filed 9-2-77;8:45 am]

[Docket No. 50-29]

YANKEE ATOMIC ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 41 to Facility Operating License No. DPR-3, issued to Yankee Atomic Electric Co. (the licensee), which revised Technical Specifications for operation of the Yankee Nuclear Power Station (Yankee-Rowe) (the facility) located in Rowe, Franklin County, Mass. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to reflect a changeover from hydraulic shock suppressors to mechanical shock suppressors.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated July 5, 1977, (2) Amendment No. 41 to License No. DPR-3, and (3) the Commission's related Safety Evaluation. All of these items are

available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Greenfield Public Library, 422 Main Street, Greenfield, Mass. 01581. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 18th day of August 1977.

For the Nuclear Regulatory Commission.

THOMAS V. WAMBACH,
Acting Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-25883 Filed 9-2-77;8:45 am]

[Docket No. 50-29]

YANKEE ATOMIC ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 42 to Facility Operating License No. DPR-3, issued to Yankee Atomic Electric Co. (the licensee), which revised Technical Specifications for operation of the Yankee Nuclear Power Station (Yankee-Rowe) (the facility) located in Rowe, Franklin County, Mass. The amendment is effective as of its date of issuance.

This amendment revises the Technical Specifications relating to inservice inspection requirements for piping examination procedures. The revised procedures use the calibration block requirements of Appendix III, ASME Section XI 1974 Edition, Summer 1976 Addenda and 100% DAC (reference level) evaluation requirements.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated August 2, 1977, as supplemented August 9, 1977, (2) Amendment No. 42 to License No. DPR-3, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Greenfield Public Library, 422 Main Street, Greenfield, Mass. 01581. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 19th day of August 1977.

For the Nuclear Regulatory Commission.

THOMAS V. WAMBACH,
Acting Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-25884 Filed 9-2-77;8:45 am]

RENEGOTIATION BOARD

STANDARD FORM OF CONTRACTOR'S REPORT AND APPLICATIONS FOR COMMERCIAL EXEMPTION

Extension of Time for Filing

Effective this date, notice is hereby given that all contractors and subcontractors with fiscal years ending after September 30, 1976, and before October 1, 1977, are granted an extension of the time for filing Standard Forms of Contractor's Report (RB Form 1) and Applications for Commercial Exemption until January 15, 1978.

Dated: August 31, 1977.

GOODWIN CHASE,
Chairman.

[FR Doc.77-25795 Filed 9-2-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 07/07-5078]

COMMUNITY EQUITY CORPORATION OF NEBRASKA

Issuance of License to Operate as a Small Business Investment Company

On May 12, 1977, a notice was published in the FEDERAL REGISTER (42 FR 24133), stating that Community Equity Corporation of Nebraska, located at 5620 Ames Avenue, Room 103, Omaha, Nebr. 68104, had filed an application with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1977), for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business May 27, 1977, to submit their comments to SBA. No comments were received.

Notice is hereby given that, having considered the application and all other pertinent information, SBA issued License No. 07/07-5078 to Community Equity Corporation of Nebraska, on August 16, 1977, to operate as a small business investment company, pursuant to section 301(d) of the Act.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 26, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-25787 Filed 9-2-77;8:45 am]

NATIONAL SBIC ADVISORY COUNCIL

Meeting

The Small Business Administration National SBIC Advisory Council will hold a public meeting Tuesday, September 20, 1977, 9:30 a.m. until 5:00 p.m., at 20 North Wacker Drive, Suite 4100, Chicago, Ill., to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information write or call Peter F. McNeish, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416 (202-653-6584).

Dated: August 23, 1977.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc.77-25786 Filed 9-2-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

RAILROAD OPERATING RULES

Granting of Waivers

As required by 45 U.S.C. 431(c), notice is hereby given that the following railroads have been granted temporary waivers of compliance with certain requirements imposed by the Federal Railroad Administration (FRA). These requirements are contained in the FRA regulations which establish Railroad Operating Rules (49 CFR Part 218).

FRA recently issued new provisions to the Railroad Operating Rules which became effective on August 1, 1977. Each of the railroads identified below sought a waiver of compliance with certain provisions of these standards which prescribe the methods whereby a railroad train crew can be relieved of the requirement to take action to alert the crew of a following train that the track ahead of the following train is occupied.

Prior to taking action to grant temporary waivers in these proceedings, the FRA provided a public notice concerning each proceeding. The notice was published in the FEDERAL REGISTER (42 FR 33393) and contained a description of the facts involved in each request.

In reaching a decision to grant each of these temporary waivers of compliance with the regulation, FRA found that good cause to grant immediate temporary relief had been established and that such a waiver was in the public interest. Furthermore, FRA determined that granting such waivers, subject to specific conditions, was consistent with its goal of improving railroad safety.

The temporary waivers were granted to the following railroads:

1. Chicago, Milwaukee, St. Paul, and Pacific Railroad, in the proceeding identified as FRA Waiver Petition Docket RSOR–77–4.
2. Missouri Pacific Railroad, in the proceeding identified as FRA Waiver Petition Docket RSOR–77–5.
3. Burlington Northern Railroad in the proceeding identified as FRA Waiver Petition Docket RSOR–77–6.
4. Soo Line Railroad, in the proceeding identified as FRA Waiver Petition Docket RSOR–77–12.
5. Chicago, Rock Island, and Pacific Railroad, in the proceeding identified as FRA Waiver Petition Docket RSOR–77–13.
6. Louisville and Nashville Railroad, in the proceeding identified as FRA Waiver Petition Docket RSOR–77–14.
7. Seaboard Coast Line Railroad, in the proceeding identified as FRA Waiver Petition Docket RSOR–77–17.

Persons interested in obtaining detailed or technical information concerning these decisions should write to the Federal Railroad Administration. All communications concerning these petitions should identify the appropriate docket number and should be submitted to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

Issued in Washington, D.C., on August 26, 1977.

ROBERT H. WRIGHT,
Acting Chairman,
Railroad Safety Board.

[FR Doc.77–25805 Filed 9–2–77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 104 (Rev. 4)]

DELEGATION OF AUTHORITY

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The authorization for the Commissioner of Internal Revenue to approve Absences, Leave and Carry-Over of Annual Leave is redelegated to subordinate officials. The text of the delegation order appears below.

EFFECTIVE DATE: October 19, 1977.

FOR FURTHER INFRMATION CONTACT:

Mrs. Lanelle Selby, A:P:EE, 1111 Constitution Ave. NW., Room 734–WB, Washington, D.C. 20224 (202–376–0524, not toll free).

J. S. HENDERSON II,
Chief, Employment Branch
Personnel Division.

Date: September 2, 1977.

Effective Date: October 19, 1977.

Subject: Absence, Leave and Carry-Over of Annual Leave.

1. Pursuant to the authority granted the Commissioner of Internal Revenue by Chapter 250, Treasury Personnel Manual, to administer and conduct personnel management activities: (a) The Deputy Commissioner; Assistant Commissioners; Assistant to the Commissioner (Public Affairs); Regional Commissioners; Regional Inspectors; District Directors; Service Center Directors; the Director, National Computer Center; and the Director, Data Center are hereby authorized to (1) approve leave (including approval of the correction of administrative errors and the determination that a period of sickness or injury interfered with the use of scheduled annual leave, but excluding determinations covered by 2., below); (2) charge Absence Without Leave for unauthorized absences; and (3) authorize brief absences from duty without charge to leave or loss of pay, for individual employees under their supervision and control, in accordance with applicable statutes, Executive Orders, regulations and policies, except as shown in 2., below. This authority may be redelegated, but no lower than to IRS employees in supervisory positions.

(b) The Deputy Commissioner; Assistant Commissioners; Regional Commissioners; Regional Inspectors; District Directors; Service Center Directors; the Director, National Computer Center; and the Director, Data Center, are hereby authorized to close their offices and dismiss employees under their supervision and control from duty without charge to leave or loss of pay, in accordance with the provisions of the Federal Personnel Manual, (1) because of interruption to normal operations by events beyond the control of management or employees; (2) for managerial reasons; and (3) because of local holidays when Federal work may not properly be performed. Only the authority to close Regional Training Centers and Branch, Area, Zone and Local offices, foreign posts, and offices in Puerto Rico may be redelegated, but not lower than to the official having administrative supervision at such subordinate office. Where there are two or more Internal Revenue offices in one locality under the jurisdiction of different District Directors or Assistant Regional Commissioners, such closing and dismissals are to be coordinated as prescribed by the Regional Commissioner. The Assistant Commissioner (Administration) will coordinate the closing of National Office offices located in Washington, D.C.

2. The authority granted to the Commissioner of Internal Revenue by Treasury Department Order No. 231, dated February 13, 1974, to make determinations pursuant to Pub. L. 93–181, 80 Stat. 488, that the exigency of the public business is of such importance that scheduled annual leave may not be used by an employee and therefore may be carried over in accordance with the Public Law, is hereby redelegated to the Deputy Commissioner, Assistant Commissioners, Assistant to the Commissioner (Public Affairs), and Regional Commissioners, except that exigency determinations must not be made by any official whose leave would be affected by the decision. In the event of such conflict, the determination shall be made at the next higher managerial level. This authority may not be redelegated.

3. Delegation Order No. 104 (Rev. 3), issued April 22, 1974, is hereby superseded.

AUGUST 25, 1977.

JEROME KURTZ,
Commissioner.

[FR Doc.77–25809 Filed 9–2–77;8:45 am]

Office of the Secretary

SUPPLEMENT TO DEPARTMENT CIRCULAR PUBLIC DEBT SERIES—NO. 21–77

The Secretary of the Treasury announced on August 30, 1977, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 21–77, dated August 22, 1977, will be 6¾ percent per annum. Accordingly, the notes are hereby redesignated 6¾ percent Treasury Notes of Series K–1981. Interest on the notes will be payable at the rate of 6¾ percent per annum.

DAVID MOSS,
Fiscal Assistant Secretary.

[FR Doc.77–25806 Filed 9–2–77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 471]

ASSIGNMENT OF HEARINGS

AUGUST 31, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC F 12598, Cooper-Jarrett, Inc.—Purchase—Tri-City Express, Inc., MC 35335 (Sub-Nos. 78 and 79), Cooper-Jarrett, Inc.—Extension, now being assigned October 6, 1977, for prehearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 4405 (Sub-No. 550), Dealers Transit, Inc., now assigned November 15, 1977, at Chicago, Ill. is advanced to November 7, 1977 (1 day), at Chicago, Ill., in a room to be later designated.

MC 4963 (Sub-No. 52), Alleghany Corp., d.b.a. Jones Motor, now being assigned November 7, 1977 (2 weeks), at Uniontown, Pa., in a hearing room to be later designated.

MC 117574 (Sub-No. 284), Daily Express, Inc., now assigned November 2, 1977, at Washington, D.C. is canceled and application dismissed.

MC 123407 (Sub-No. 349), Sawyer Transport, Inc., now assigned September 13, 1977 at Chicago, Ill., will be held in Room 2502, Everett McKinley Dirksen Bldg., 219 South Dearborn St.
MC 140820 (Sub-No. 2), A & R Transport, Inc., now assigned September 14, 1977 at Chicago, Ill., will be held in Room 2502, Everett McKinley Dirksen Bldg., 219 South Dearborn St.
MC 142464 (Sub-No. 1), John M. Christopher, now assigned September 15, 1977 at Chicago, Ill., will be held in Room 2502, Everett McKinley Dirksen Bldg., 219 South Dearborn St.
MC 142686 Mid Western Transport, Inc., now assigned September 16, 1977 at Chicago, Ill., will be held in Room 2502, Everett McKinley Dirksen Bldg., 219 South Dearborn St.
MC 113855 (Sub-No. 359), International Transport, Inc., now assigned September 19, 1977 at Chicago, Ill., will be held in Room 2502, Everett McKinley Dirksen Bldg., 219 South Dearborn St.
MC 119632 (Sub-No. 71), Reed Lines, Inc., now assigned September 20, 1977 at Chicago, Ill., will be held in Room 2502, Everett McKinley Dirksen Bldg., 219 South Dearborn St.
MC 115730 (Sub-No. 21), The Mickow Corp., now assigned September 21, 1977 at Chicago, Ill., will be held in Room 2502, Everett McKinley Dirksen Bldg., 219 South Dearborn St.
MC 142620 Bay View Orchards Cooperative, Inc., now assigned September 22, 1977 at Chicago, Ill., will be held in Room 2502, Everett McKinley Dirksen Bldg., 219 South Dearborn St.
MC 143214, Matuszko Farms Trucking, Inc., now being assigned December 6, 1977, (1 day), at Boston, Mass., in a hearing room to be later designated.
MC 119619 (Sub-No. 107), Distributors Service, Co., now being assigned December 7, 1977 (3 days), at Boston, Mass., in a hearing room to be later designated.
MC-F-13084, Yellow Freight System, Inc.—Purchase—Harmon O. E. Lagerberg, D.B.A. Bartlett's Express, now being assigned December 12, 1977, (1 week), at Boston, Mass., in a hearing room to be later designated.
MC 82492 (Sub-No. 145), Michigan & Nebraska Transit Co., Inc. now being assigned October 27, 1977 for hearing at Interstate Commerce Commission in Washington, D.C.
MC 5470 (Sub-No. 132), Tajon, Inc., now being assigned November 9, 1977 for hearing at Interstate Commerce Commission in Washington, D.C.
MC 113855 (Sub-No. 372), International Transport, Inc., now being assigned November 29, 1977 (1 day), at Portland, Oreg., in a hearing room to be later designated.
MC 142998, Laughlin Lines, Inc., now being assigned November 30, 1977 (1 day), at Portland, Oreg., in a hearing room to be later designated.
MC 128527 (Sub-No. 70), May Trucking Co., now being assigned December 1, 1977 (2 days), at Portland, Oreg., in a hearing room to be later designated.
MC 113678 (Sub-No. 651), Curtis, Inc., now being assigned December 5, 1977 (2 days), at Portland, Oreg., in a hearing room to be later designated.
MC 124679 (Sub-No. 75), C. R. England & Sons, Inc., now being assigned December 7, 1977 (3 days), at Portland, Oreg., in a hearing room to be later designated.
MC 112989 (Sub-No. 46), West Coast Truck Lines, Inc., now being assigned December 12, 1977 (1 week), at Portland, Oreg., in a hearing room to be later designated.
MC-F-13067, Roadway Express, Inc.—Control and Merger—Western Gillette, Inc., MC-F-13156, Arkansas-Best Freight System, Inc.—Purchase (Portion)—Western Gillette, Inc., MC-F-13157, Campbell Sixty-Six Express, Inc.—Purchase (Portion)—Western Gillette, Inc.,
MC-F-13158, The Chief Freight Lines Co.—Purchase (Portion)—Western Gillette, Inc.,
MC-F-13159, Churchill Truck Lines, Inc.—Purchase (Portion)—Western Gillette, Inc.,
MC-F 13160, Gordons Transports, Inc.—Purchase (Portion)—Western Gillette, Inc., and
MC-F-13161, Graves Truck Line, Inc.—Purchase (Portion)—Western Gillette, Inc. now being assigned October 27, 1977 for prehearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-25852 Filed 9-2-77;8:45 am]

[Notice No. 472]

ASSIGNMENT OF HEARINGS

AUGUST 31, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

CORRECTION[1]

MC 65697 (Sub-No. 52), Theaters Service Co., Inc. now being assigned October 3, 1977 (2 weeks) at Atlanta, Ga. and November 28, 1977 (2 weeks) for continued hearing at Atlanta, Ga. in hearing rooms to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-25853 Filed 9-2-77;8:45 am]

[Rule 19, Ex Parte No. 241, Rev. Exemption No. 108, Amdt. 1]

CONSOLIDATED RAIL CORP. ET AL.

Exemption Under Provision of Mandatory Car Service Rules

To: Consolidated Rail Corp., Missouri-Illinois Railroad Co., Missouri Pacific Railroad Co.

Upon further consideration of Revised Exemption No. 108 issued February 18, 1977.

It is ordered, That, under authority vested in me by Car Service Rule 19, Revised Exemption No. 108 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire November 30, 1977.

This amendment shall become effective August 31, 1977.

Issued at Washington, D.C., August 25, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-25854 Filed 9-2-77;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

AUGUST 31, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before September 21, 1977.

FSA No. 43421—*Alcohols, Plasticizers, or Solvents from and to Points in Texas.* Filed by Southwestern Freight Bureau, Agent, (No. B-706), for interested rail carriers.

Rates on alcohols and plasticizers or solvents, in tank-car loads, as described in the application, from Bishop and South Bay City, Tex., to East St. Louis, Ill., and St. Louis, Mo.; also from St. Louis, Mo. to Baytown, Houston, and Texas City, Tex.; also between East St. Louis, Ill., on the one hand, and Baytown, Houston, and Texas City, Tex., on the other.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 12 to Southwestern Freight Bureau, Agent, tariff 12-K, I.C.C. No. 5272.

Rates are published to become effective on October 1, 1977.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-25856 Filed 9-2-77;8:45 am]

[Rule 19, Ex Parte No. 241, Exemption 93, Amdt. 12]

GRAND TRUNK WESTERN RAILROAD CO. AND CONSOLIDATED RAIL CORP.

Exemption Under Provision of Mandatory Car Service Rules

To: Grand Trunk Western Railroad Co., Consolidated Rail Corp.

Upon further consideration of Exemption No. 93 issued January 15, 1975.

It is ordered, That, under the authority vested in me by Car Service Rule 19, Exemption No. 93 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire November 30, 1977.

This amendment shall become effective August 31, 1977.

[1] This notice corrects the proceeding from pre-hearing conferences to hearings.

Issued at Washington, D.C., August 23, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-25855 Filed 9-2-77;8:45 am]

[Notice No. 217]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before October 6, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77273, filed August 19, 1977. Transferee: FRITZ TRUCK LINE, INC., Enderlin, N. Dak. 58027. Transferor: R. H. Fritz, doing business as Fritz Truck Line, Enderlin, N. Dak. 58027. Applicants' representative: Alan Foss, Attorney at Law, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 28540 (Sub-No. 2), issued April 25, 1950, as follows: General commodities, with specified exceptions, between Enderlin, N. Dak., and Moorhead, Minn., over specified routes, serving the intermediate points of Fargo, Leonard, and Kindred, N. Dak., and household goods, between points in Minnesota and North Dakota. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b) of the Act.

No. MC-FC-77276, filed August 23, 1977. Transferee: HOWARD W. CLARK, INC., 8201 Stayton Dr., Jessup, Md. 20794. Transferor: Howard W. Clark, Glenelg, Md. 21737. Applicants' representative: Francis J. Ortman, Attorney at Law, 7101 Wisconsin Ave., Washington, D.C. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permits Nos. MC 94851 and MC 94851 (Sub-No. 1), issued May 9, 1941, and August 18, 1958, as follows: *Electrical appliances,* over irregular routes, between Washington, D.C., and Laurel, Md., on the one hand, and, on the other, points and places in Maryland and Virginia within 40 miles of the District of Columbia. Service is not authorized to or from Baltimore, Md. *Electrical appliances, equipment and parts,* with restrictions, between Washington, D.C. and Baltimore, Md. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77277, filed August 29, 1977. Transferee: SCOBEY MOVING & STORAGE CO.—Dallas, doing business as BINYON-O'KEEFE-SCOBEY MOVING & STORAGE CO., 2155 Oak Lawn, Dallas, Tex. Transferor: Binyon O'Keefe Warehouse Company, a Corporation, 2155 Oak Lawn, Dallas, Tex. 75219. Applicant's representative: Phillip Robinson, Attorney at Law, 1806 Rio Grande, P.O. Box 2207, Austin, Tex. 78768. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC-140694 (Sub-No. 3), issued March 28, 1977, as follows: Used household goods, between points in Anderson, Cherokee, Collins, Dallas, Denton, Ellis, Freestone, Henderson, Johnson, Kaufman, Navarro, Raines, Rockwell, Smith, Tarrant, Van Zandt, and Wood Counties, Tex., subject to certain restrictions. Transferee presently holds no authority from this Commission, but is affiliated with Scobey Moving & Storage Company, a carrier holding authority under Certificate MC-8468 and subs thereafter. Application has not been filed for temporary authority under Section 210a(b) of the Act.

No. MC-FC-77278, filed August 23, 1977. Transferee: GARY L. SHOWALTER, doing business as SHOWALTER TRUCKING, 805 Walnut Street, Roaring Spring, Pa. 16673. Transferor: J. J. Yoder, doing business as J. J. Yoder Trucking, 206 Wineland Street, Martinsburg, Pa. 16662. Applicant's representative: Arthur J. Diskin, Attorney at Law, 806 Frick Building, Pittsburgh, Pa. 15219. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC-138240 and MC-138240 (Sub-No. 1), issued August 24, 1973, and July 21, 1976, respectively, as follows: Feed and feed ingredients, in bags, from Chillicothe, Dundee, and Carpentersville, Ill., and Syracuse, Ind., to the plant site of Young's Inc., in Taylor Township (Blair County), Pa., and from that plant site to points in New York, New Jersey, Maryland, Virginia, and Pennsylvania, and from Dundee, Ill., to points in Pennsylvania, New Jersey, and New York. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-25857 Filed 9-2-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., September 6, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Foreign trader policy.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey (254-6314).

[S-1231-77 Filed 8-31-77;4:36 pm]

2

FEDERAL MARITIME COMMISSION:

TIME AND DATE: September 8, 1977, 10 a.m.

PLACE: Room 12126, 1100 L Street NW., Washington D.C. 20573.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Monthly of actions taken by Managing Director pursuant to delegated authority.

2. Agreements Nos. T-3481 between Massachusetts Port Authority (MPA) and Zim Container Service, and T-3842 between MPA and Mitsui O.S.K. Line, Ltd., Japan Line, Ltd., Kawasaki Kisen Kaishi, Ltd.; Nippon Yusen Kaisha and Wamashita-Shinnihon Steamship Co., Ltd., providing for stevedoring services at the Moran container facility.

Portions closed to the public:

1. Agreement Nos. 9847-3 and 10028-5, pooling agreements in U.S. Atlantic/Brazilian trades—Modifications regarding parties, transshipment of cargo, accounting, minimum sailings, and duration of the agreements.

2. Docket No. 75-3, *Chevron Chemical Co.* v. *Mitsui O.S.K. Lines, Ltd.* (overcharge claim), petition for reconsideration of order of adoption of initial decision.

3. Docket No. 77-22, actions to adjust or meet conditions unfavorable to shipping in the foreign trade of the United States (Guatemalan Decree No. 41-71); consideration of comments on proposed rule.

CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Acting Secretary (202-523-5727).

[S-1232-77 Filed 8-31-77;4:39 pm]

3

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of September 5, 1977.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

WEDNESDAY, SEPTEMBER 7

2:30 p.m.—1. Policy statement on alternative site evaluations, under NEPA for nuclear generating stations (approx. 1 hr.) (public meeting). 2. SECY-77-413—Mandatory licensee participation in the nuclear plan reliability data system (approx. 1½ hrs.) (public meeting). 3. Affirmation item (5 min.) (public meeting)—ALAB-425—Exxon (tentative). The affirmation will consist of votes on matters previously reviewed individually by the Commissioners and are expected to take no more than 5 minutes.

THURSDAY, SEPTEMBER 8

9:00 a.m.—1. Discussion of proposed testimony on export legislation (closed—exemption 9) (tentative). 2. New Mexico uranium mill lawsuit (closed—exemption 10). 3. Commission review of Director's denial of petition for revocation of bailly construction permit (closed—exemption 10).

1:30 p.m—Draft order in Seabrook (continued from August 26, 1977) (closed—exemption 10).

FRIDAY, SEPTEMBER 9

9:30 a.m.—Joint NRC/ACRS meeting (approx. 1 hr.) (public meeting).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee (202-634-1410).

Dated: August 31, 1977.

WALTER MAGEE,
Office of the Secretary.

[S-1233-77 Filed 9-1-77;10:17 am]

4

RENOGIATION BOARD.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 41522 August 17, 1977.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Monday, September 19, 1977, 9:30 a.m.

CHANGE IN MEETING: Date of previously announced meeting changed to Friday, September 16, 1977, 9:30 a.m.

MATTER TO BE CONSIDERED: Division meeting concerning ABC Management Services, Inc., fiscal year ended June 30, 1974; ABC Management Services, Inc., fiscal year ended June 30, 1975; ABC Food Service, Inc., fiscal year ended June 30, 1975.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446 (202-254-8277).

Dated: August 31, 1977.

GOODWIN CHASE,
Chairman.

[S-1230-77 Filed 8-31-77;2:30 pm]

5

SECURITIES AND EXCHANGE COMMISSION.

TIME AND DATE: September 1, 1977, 10 a.m.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

STATUS: Open meeting. Closed meeting.

SUBJECT MATTER: The subject matter of the open meeting scheduled for September 1, 1977, at 10 a.m. will be:

1. Consideration of proposed amendments to article XXIV, rule 8 and article XXI, rule 15, of the Midwest Stock Exchange rules, which relate to summary suspension of certain registrants.

2. Request for a waiver of disqualification for the law firm of Skadden, Arps, Slate, Meagher & Flom to allow the firm to continue to represent certain persons associated with Gulf and Western Industries while Neal McCoy, who is disqualified from participating in the matter because of prior involvement when on the staff, joins the Washington office of the firm.

3. Proposed letter of comment regarding H.R. 6952 and H.R. 6954, Ethics in Government Act of 1977, to be transmit-

ted to the House Committee on the Judiciary, the House Committee on Post Office and Civil Service, and the Office of Management and Budget.

The subject matter of the closed meeting scheduled for September 1, 1977, immediately following the open meeting will be:

Litigation matter.

Institution of injunctive action.

Formal order of investigation.

Referral of files to Federal, State, or self-regulatory authorities.

Authorization of staff member to testify.

Chairman Williams, Commissioners Loomis, Evans, and Pollack voted to close the aforesaid portions of the agenda and determined that no earlier notice thereof was possible.

SEPTEMBER 1, 1977.

[S-1235-77 Filed 9-1-77;11:38 am]

federal register

TUESDAY, SEPTEMBER 6, 1977

PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

NATIONAL FLOOD INSURANCE PROGRAM

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2606]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Tonasket, Okanogan County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

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

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Town of Tonasket, Okanogan County, Wash.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The Federal Insurance Administrator given notice of his final determinations of flood elevations for the Town of Tonasket, Okanogan County, Wash.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Tonasket, Okanogan County, Wash., are available for review at the City Hall on the Bulletin Board, Tonasket, Wash.

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

Source of flooding	Location	Elevation in feet above mean sea level
Okanogan River	Downstream corporate limits (extended).	898.2
	Fourth Street Bridge	898.6
	Confluence with Siwash Creek.	902.5
Bonaparte Creek	Downstream corporate limits.	898.1
	Burlingon Northern RR bridge.	904.5
	Whitcomb Ave. bridge.	916.0
	Upstream corporate limits.	926.5
Siwash Creek	Downstream corporate limits.	902.4
	Burlington Northern RR bridge.	902.8
	Upstream corporate limits.	925.6

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24741 Filed 9-2-77;8:45 am]

[Docket No. FI-2819]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the County of Pacific, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

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

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for Pacific County, Wash.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The Federal Insurance Administrator given notice of his final determinations of flood elevations for Pacific County, Wash.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII or the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Pacific County, Wash., are available for review at the County Courthouse, 300 Memorial Avenue, South Bend, Wash.

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

Source of flooding	Location	Elevation in feet above mean sea level
Willapa Bay at Tokeland Peninsula.	NE side of peninsula	10.0
	SW side of peninsula	11.0
Willapa Bay at North Beach Peninsula.	From Oysterville approach road to approximately 2,800 ft south of Klispan Rd.	11.0
	From 2,800 ft south of Klispan Rd. to 200 ft north of Olson Rd.	10.0
Willapa River	South Bend to Raymond.	11.0
	Raymond to Willapa	11.0
Pacific Ocean North Beach Peninsula.	From Oysterville approach road to Oceanside.	21.0
	From Oceanside to approximately 1,000 ft south of Knowles Slough.	19.0
Columbia River at Chinook.	1,200 ft north of Prest Rd. to about 700 ft northwest of Houchen St.	8.0
	Houchen St. to the limit of study.	10.0
Naselle River	Confluence with Dell Creek.	13.0
	At Highway 401 crossing.	15.0
	Confluence of Salmon Creek.	21.0
	At State Highway 4	22.0
	Limit of detailed study.	31.0
South Fork Naselle River.	County road	15.0
	Private road	20.0
	Davis Creek confluence.	35.0
	Burnham Creek confluence.	45.0
Salmon Creek	Upper Naselle Rd.	21.0
	State Highway 4	40.0
Willapa River at Lebam.	Lebam Rd.	173.0
	State Highway 6	173.0
	Confluence of Half Moon Creek.	176.0
	200 ft downstream of Penny Creek confluence.	184.0

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4011-4128; and Secretary's delegation

of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24742 Filed 9-2-77;8:45 am]

[Docket No. FI-2820]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Leavenworth, Chelan County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

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

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Leavenworth, Chelan County, Wash.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line, 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

The Federal Insurance Administrator given notice of his final determinations of flood elevations for the City of Leavenworth, Chelan County, Wash.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Leavenworth, Chelan County, Wash., are available for review at the Council Chambers, 815 Front Street, Leavenworth, Wash.

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

Source of flooding	Location	Elevation in feet above mean sea level
Wenatchee River...	Confluence with Chumstick Creek.	1,078
	U.S. Highway 2	1,097
	Downstream corporate limits (extended).	1,100
Chumstick Creek...	Mouth	1,073
	Limit of flooding affecting the community.	1,099

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24743 Filed 9-2-77;8:45 am]

[Docket No. FI-2836]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Chelan, Chelan County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

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

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Chelan, Chelan County, Wash.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, DC. 20410.

The Federal Insurance Administrator given notice of his final determinations of flood elevations for the City of Chelan, Chelan County, Wash.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Chelan, Chelan County, Wash., are available for review at City Hall, Chelan.

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

Source of flooding	Location	Elevation in feet above mean sea level
Lake Chelan.....	Emerson Street (extended).	1,100
	Woodin St.....	1,100
	Corporate limits.....	1,100

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24744 Filed 9-2-77;8:45 am]

[Docket No. FI-2853]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Clarksburg, W. Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

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

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Clarksburg, W. Va.

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

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Clarksburg.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (9) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Fork River	Route 50	942
	Route 19	942
	Abandoned B&O tracks.	948
	B&O tracks	949
Elk Creek	Routes 19 and 20	944
	Sycamore St	947
	4th St	950
	Pike St	953
	Haymond St	958
	East Main St	961
	Approach to Route 50.	963

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24745 Filed 9-2-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR PART 1917]

[Docket No. FI-3255]

Proposed Flood Elevation Determinations for the Town of Buffalo, Wyo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, 46 North Main Street, Buffalo, Wyo.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Sam Rosenthal, Town Hall, P.O. Box 430, 46 North Main Street, Buffalo, Wyo. 82834.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Buffalo, Wyo., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Clear Creek.....	Burritt Avenue Bridge.	4,633
	Main Street Bridge....	4,629
	Footbridge.....	4,627
	Loban Avenue Bridge.	4,623
	County road No. 252 bridge.	4,581

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24739 Filed 9-2-77;8:45 am]

[24 CFR PART 1917]

[Docket No. FI-3256]

Proposed Flood Elevation Determinations for the Town of Kemmerer, Wyo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed based flood elevations (100-year flood) listed below for selected locations in the Town of Kemmerer, Wyo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

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

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, 700 Cedar Street, Kemmerer, Wyo.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Warren H. Capellen, Town Hall, 700 Cedar Street, Kemmerer, Wyo. 83101.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Kemmerer, Wyo., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hams Fork.....	U.S. Highway No. 189 Bridge.	6,857
	Aspen Avenue Bridge.	6,836

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24740 Filed 9-2-77;8:45 am]

Federal Register

TUESDAY, SEPTEMBER 6, 1977

PART III

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

■

LOAN PROGRAMS

Redesignation, Consolidation, and Revision

Title 7—Agriculture

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

[FmHA Instructions 441.1, 441.2, 441.3, 443.1, 443.2, 443.3, 452.1, and 1904–C]

REDESIGNATION, REVISION, CONSOLIDATION

AGENCY: Farmers Home Administration, USDA.

ACTION: Final Rule with comments requested.

SUMMARY: The Farmers Home Administration (FmHA) establishes new regulations for Farmer Program insured loans as a part of a general administrative restructuring of all insured loan regulations. This rule redesignates, clarifies, consolidates and revises the regulations concerning insured Farmer Program loans.

DATES: Effective September 6, 1977. Comments must be received on or before October 6, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Denton E. Sprague, 202–447–4597.

SUPPLEMENTARY INFORMATION: The FmHA amends its regulations by adding a new Subpart C to Part 1904, Chapter XVIII, Title 7, Code of Federal Regulations by deleting those regulations incorporated into Part 1904, Subpart C and by making all appropriate cross-reference changes. Subpart C, "Farmer Program Loans," (§§ 1904.101–1904.200) of this Part 1904 redesignates, clarifies, consolidates and revises the regulations concerning insured Farmer Program loans. Most of the new Subpart C was taken from Subchapter B—Loans and Grants Primarily for Real Estate Purposes, Part 1821, Subparts A and B, Subchapter C—Loans Primarily for Production Purposes, Part 1831, Subparts A and B, Part 1832, Subpart A, and Subchapter E—Account Servicing, Part 1867.

This new Subpart C of Part 1904 sets forth regulations for recreation loans and for making loans to entrymen on unpatented public lands which have previously been in effect but not published in the FEDERAL REGISTER. Section 1904.180 of Subpart C contains the regulations for recreation loans which allows FmHA to make loans to assist eligible farmers in increasing their incomes by converting all or portions of their farms and ranches to income-producing outdoor recreation enterprises. Exhibit A to Subpart C, "Farmers Home Administration Loans to Entrymen on Unpatented Public Lands;" provides additional policies and procedures applicable to FmHA loans to homestead and desertland entrymen which are to be secured by real estate, and the taking of real estate mortgages on entries to secure such loans. Since these regulations have been in existence for several years the FmHA requests that comments be submitted for consideration and substantive comments will be considered for incorporation in future revisions.

It is the policy of this Agency that rules relating to loans shall be published for prior comment. This regulation, however, is not published for proposed rulemaking although comments are requested, since the purpose of the change is to restructure the insured loan regulations to be consistent with the guaranteed loan regulations for Farmer Program loans. This is being accomplished through the reorganization, transferring and redesignation of the existing insured loan regulations. Any substantive changes or revisions found in Subpart C of Part 1904 are nearly identical to the approved amendments to Subpart B, "Farmer Program Loans," of Part 1980, Subchapter N, Chapter XVIII, Title 7, Code of Federal Regulations, published on March 28, 1977, in the FEDERAL REGISTER (42 FR 16424–16444) as a notice of proposed rulemaking and being published simultaneously with this notice as a final rule. Comments to Subpart B of Part 1980 were received and considered. Because of the above reasons, publication of Subpart C of Part 1904 in proposed rulemaking form is unnecessary.

The regulations are written in a form which should improve the overall administration of the insured loan program as a result of the consolidation and clarification of loan regulations.

The Agency is interested in receiving public comments which should be submitted to the address given above.

The major revisions of the new Subpart C of Part 1904 are described in four categories as follows:

A. General Provisions (§§ 1904.101–1904.169):

1. Provides a new definition of a family farm which removes the requirement that the operator and his family provide a major portion of the labor.

2. Removes the requirement that an operating and emergency loan either must be delinquent or have had an extra payment applied in order to be renewed or reamortized.

3. Provides that the principal and interest balance on a loan note may be renewed or reamortized.

B. Emergency Loans (§ 1904.170):

1. Provides that a member of a partnership may either be a citizen(s) of the United States or reside in the United States after being legally admitted for permanent residence or on indefinite parole as long as the partner who manages the farming, ranching, or acquaculture operation is a citizen of the United States or any State thereof, and the stockholder who manages the farming, ranching or aquaculture operation must be a citizen of the United States, and more than 50 percent of the outstanding stock in the corporation must be owned by citizens of the United States.

2. Provides that crops not planted may be considered as a physical loss when the applicant was unable to plant crops due to the disaster.

3. Provides for the refinancing of a modest amount of debt(s) with annual operating funds when the debt must be paid in order for the applicant to continue farming.

4. Increases the allowable loan for depreciation from 15 to 20 percent of appraised market value or amount owed.

5. Inserts "managerial competence" as an eligibility requirement.

6. Provides for the calculation of losses when applicants are precluded from producing or harvesting crops (including perennial crops such as fruits and nuts) by determining the gross farm income and then adding together any income that may be derived from the disaster affected enterprise(s) and the variable and fixed costs which will not be incurred because of the disaster and subtracting this combined figure from the normal gross income.

7. Provides for exceeding the annual loan limit of $50,000 or one-half the estimated gross farm income when a subsequent EM production loan is needed to complete the year's farming operations and protect the Government's financial interest secured only by crops.

8. Provides when a loan for major adjustments to the operation is made the resulting operation must be one which only realizes a net farm income equivalent to that of the operation conducted before the disaster.

9. Provides for the augmentation and improvement of an existing water system which has been affected by the natural disaster.

10. Provides for extending the termination dates for physical losses from 60 days to 180 days and production losses from 9 months to 12 months.

11. Provides that no appraisal report will be required where real estate is taken for additional security.

C. Operating Loans (§ 1904.175):

1. Inserts "managerial competence" as an eligibility requirement.

2. Deletes the eligibility requirement that the applicant *cannot* be earning sufficient income to have a reasonable standard of living.

3. Clarifies loan purpose language.

4. Eliminates reference to prohibited loan purposes.

5. Increases allowable amount of loan for depreciation from 15 to 20 percent of appraised market value or amount owed.

6. Clarifies the action on loans to individuals involved in joint farming operations.

7. Increases amount of loan for real estate improvements from $2,500 to $3,500.

8. Permits loans for annual production expenses to be scheduled for repayment beyond 1 year, if justified.

9. Institutes limitation that the total outstanding principal may not exceed $50,000 at loan closing, rather than at loan approval.

10. Deletes the requirement for a cosigner for youth loans greater than $2,500.

D. Individual Farm Ownership (FO), and Soil and Water (SW) (§ 1904.180):

1. Eliminates reference to prohibited loan purposes.

2. Increases the amount that may be loaned for improvements on land with defective title from $2,500 to $5,000.

3. In the case of a life estate, provides for loans to remainderman and life estate holder or to the remainderman only if the remainderman is otherwise eligible.

4. Provides for loans for pollution control.

5. Revises and simplifies the objectives of FO, SW and RL loans.

6. Eliminates reference to minimum terms of a prior lien in cases of participating, particularly where balloon payments are involved. This leaves the decision as to what are "reasonable terms" up to the approval official.

For FO loans only:

7. Adds "managerial competence" as an eligibility requirement.

8. Eliminates section on special requirements.

9. Deletes the restriction on other employment as an eligibility requirement.

10. Allows additional space for food preparation and storage, vehicle storage, laundry, and office space for newly constructed or improved dwellings.

For SW loans only:

11. Clarifies language dealing with eligibility of corporations and partnerships.

12. Broadens refinancing purposes to include any debt incurred for authorized SW purposes.

Accordingly, 7 CFR Chapter XVIII is amended to add Part 1904, Subpart C, delete those portions of the regulations incorporated into the new Subpart C, and make all cross-reference changes as follows:

SUBCHAPTER A—GENERAL REGULATIONS

PART 1804—PLANNING AND PERFORMING DEVELOPMENT WORK

§ 1804.3 [Amended]

1. In § 1804.3, paragraph (f) (1) (ii) (c), change the reference from "Subparts A and B of Part 1821" to "Subpart C of Part 1904".

§ 1804.4 [Amended]

2. In § 1804.4(b) change the reference from "1821.9(b) (4)" to "Subpart C of Part 1904".

PART 1809—APPRAISALS

§ 1809.1 [Amended]

3. In § 1809.1(b) change the reference from "Subpart A of Part 1821" to "Subpart C of Part 1904".

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

PART 1821—FARM PURCHASE AND DEVELOPMENT LOANS TO INDIVIDUALS

4. In 7 CFR, Chapter XVIII, Part 1821, Subparts A and B are deleted and reserved.

§ 1821.32 [Amended]

5. In § 1821.32 change the reference from "Subpart B of this Part" to "Subpart C of Part 1904".

§ 1821.35 [Amended]

6. In § 1821.35 change the reference from "§ 1821.56 of this Part" to "Subpart C of Part 1904".

§ 1821.36 [Amended]

7. In § 1821.36 change the reference from "Subpart B of this part" to "Subpart C of Part 1904".

PART 1822—RURAL HOUSING LOANS AND GRANTS

§ 1822.63 [Amended]

8. In § 1822.63(a) change the reference from "§ 1832.3(d)" to "Subpart C of Part 1904".

§ 1822.90 [Amended]

9. In § 1822.90(i) change the reference from "§ 1821.15" to "Subpart C of Part 1904".

§ 1822.203 [Amended]

10. In § 1822.203(a) change the reference from "§ 1832.3(d)" to "Subpart C of Part 1904".

§ 1822.213 [Amended]

11. In § 1822.213 change the reference from "§ 1821.15" to "Subpart C of Part 1904".

§ 1822.267 [Amended]

12. In § 1822.267(h) change the reference from "§ 1821.15" to "Subpart C of Part 1904".

SUBCHAPTER C—LOANS PRIMARILY FOR PRODUCTION PURPOSES

PART 1831—OPERATING LOANS

13. In 7 CFR, Chapter XVIII, Part 1831, Subparts A and B are deleted and reserved.

PART 1832—EMERGENCY LOANS

14. In 7 CFR, Chapter XVIII, Part 1832, Subpart A is deleted and reserved.

SUBCHAPTER E—ACCOUNT SERVICING

PART 1861—ROUTINE

§ 1861.2 [Amended]

15. In § 1861.2(b), change the reference from "§ 1821.53(e), § 1831.21(a) (8), and § 1821.7(c) of this Chapter" to "Subpart C of Part 1904 of this Chapter".

§ 1861.9 [Amended]

16. In § 1861.9, paragraph (e) (1) (i), change the reference from "Subpart A or B of Part 1821" to "Subpart C of Part 1904".

PART 1867—REAMORTIZING AND RENEWING OPERATING LOANS

17. In 7 CFR, Chapter XVIII, Part 1867 is deleted and reserved.

SUBCHAPTER F—SECURITY SERVICING AND LIQUIDATIONS

PART 1872—REAL ESTATE SECURITY

§ 1872.4 [Amended]

18. In § 1872.4(f), change the reference from "Subpart A of Part 1821" to "Subpart C of Part 1904".

§ 1872.18 [Amended]

19. In § 1872.18(b) (14) change the reference from "§ 1821.7(a) (2)" to "Subpart C of Part 1904".

SUBCHAPTER G—MISCELLANEOUS REGULATIONS

PART 1888—SPECIAL ASSISTANCE TO DROUGHT STRICKEN AREAS

§ 1888.4 [Amended]

20. In § 1888.4(b) change the reference from "§ 1832.10" to "Subpart C of Part 1904".

§ 1888.12 [Amended]

21. In § 1888.12 paragraphs (a) (2), (3), (4), (5), (b), and (c), change the reference from "Subpart A of Part 1832" to "Subpart C of Part 1904".

SUBCHAPTER I—LOANS AND GRANT PROGRAMS (INDIVIDUAL)

PART 1904—LOAN AND GRANT PROGRAMS (INDIVIDUAL)

22. 7 CFR, Part 1904, Subpart C reads as follows:

* * * * * *

SUBPART C—FARMER PROGRAM LOANS

Sec.

EXHIBITS

D—Emergency Loans—Support Teams, Reporting Natural Disasters, and Making Loans Available.
E—Memorandum of Understanding—FmHA—FCA.
F—Bureau of Reclamation Loans to Irrigators and Administered by Farmers Home Administration.

Subpart C—Farmer Program Loans

§ 1904.101 Introduction.

(a) This Subpart contains regulations for making Insured Farmer Program (IFP) loans. Operating (OL) loans, Youth (OL–Y) loans, Farm Ownership (FO) loans, Soil and Water (SW) loans (individual), Recreation (RL) loans, and Emergency (EM) loans may be made to farmers, ranchers, and rural youths (Operating loans only) unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms.

(b) The IFP loan program, like other Farmers Home Administration (FmHA) programs, is administered by the Administrator through a State Director serving each State through a District Director to the County Supervisor. The County Supervisor is the focal point for the program and the local contact person for processing and servicing activities.

§§ 1904.102–1904.106 [Reserved]

§ 1904.107 Definitions and abbreviations.

(a) *Definitions.*—(1) *Approval officials.* These are field officials who have been delegated loan and grant approval authorities within applicable loan programs, subject to the dollar limitations contained in Tables available in any FmHA State or County Office, or from the National Office, 14th Street and Independence Avenue SW., Washington, D.C. 20250. Field officials having loan and grant approval authorities are State Directors, District Directors, County Supervisors and Assistant County Supervisors. Refer to Subpart A of Part 1901 of this Chapter for authorities and responsibilities delegated to field officials for all programs of FmHA.

(2) *Aquaculture.* (For EM loans only.) The husbandry of aquatic organisms by an applicant or borrower under a controlled or selected environment. Aquaculture operations are considered to be farming operations. Aquatic organisms may consist of any species of finfish, mollusk, or crustacean (or other invertebrate) amphibian, reptile, or aquatic plant.

(3) *Borrower.* All parties liable for the loan or any part thereof.

(4) *Family farm.* A farm which:

(i) Produces agricultural commodities for sale in sufficient quantities so that it is recognized as a farm rather than a rural residence;

(ii) Provides substantial income by itself which, together with any other dependable income, enables the family to pay family living and operating expenses, including maintenance of chattel and real property and payment of debts; and

(iii) Is managed and operated by the family with a reasonable amount of hired labor.

(5) *Farm.* The term "farm" includes a tract or tracts of land, improvements, and other appurtenances considered to be farm property which is or will be owned or operated by the applicant, and used or to be used in the production of crops or livestock, including the production of fish under controlled conditions. For EM loans this includes the production of aquatic organisms under a controlled or selected environment owned or operated by the applicant or borrower. The term "farm" also includes any such land and improvements and facilities used in a nonfarm enterprise. It will also include a residence which, although physically separate from the farm acreage, is ordinarily treated as part of the farm in the local community.

(6) *Farming or farm enterprises.* (Applies to EM loans only.) These terms are defined as the business of producing crops, livestock products, and aquatic organisms through the management of land, water, labor, capital, and basic raw materials, including seed, feed, fertilizer, and fuel. Farming and farm enterprises consist of a total farming or aquaculture operation, or a portion thereof, which produces different types of products, including crops, livestock, livestock products, and aquatic organisms.

(i) *Single enterprise.* An enterprise which constitutes part of the applicant's farming, ranching, or aquaculture operation. The following are examples of "single enterprises."

(A) All cash field crops; (B) all cash vegetable crops; (C) all cash fruit crops; (D) all crops to be fed to livestock; (E) all pasture to be grazed by livestock; (F) beef operations; (G) dairy operations; (H) poultry operations; and (I) aquaculture operations.

(ii) *Basic enterprise.* This term means any single enterprise which constitutes not less than 25 percent of the applicant's normal year's total farming operations gross income. To qualify crops to be fed to or pasture to be grazed by livestock as a basic enterprise the value of the crops or pasture for livestock use must be at least equal to 25 percent of the value of the total feed fed to the livestock annually. However, for crops to be fed to or pasture to be grazed by livestock to be considered a basic enterprise one or more (individually or collectively) of the livestock enterprises must qualify as a basic enterprise.

(7) *Farming corporation.* It is a legal entity incorporated under the laws of the United States or of a State and authorized to carry on farming, ranching, or acquaculture operations in the State where the corporation has applied for a loan.

(8) *FmHA.* The United States of America, acting through the Farmers Home Administration, an Agency of the United States Department of Agriculture. References to the National Office, Finance Office, State Office, County Office, State Director, District Director, County Supervisor, or other FmHA office or official should be read as prefaced by "FmHA."

(9) *Hazard insurance.* Includes fire, windstorm, lightning, hail, explosion, riot, civil commotion, aircraft, vehicles, smoke, builder's risk, public liability, property damage, flood or mudslide, workmen's compensation, or any similar insurance that is available and needed to protect the security, or that is required by law.

(10) *Market value.* The amount for which property would sell for its highest and best use at voluntary sale.

(11) *Mortgage.* The term "mortgage" includes any form of security interest or lien upon any rights or interest in real property of any kind. In Louisiana and Puerto Rico the term "mortgage" also refers to any security interest in chattel property.

(12) *Nonfarm enterprise.* This is any business enterprise whose income supplements farm income. It must provide goods or services for which there is a need and a reasonably reliable market.

(13) *Reamortize.* To extend an FO, SW, RL, OL and EM loan payment to its maximum repayment period or to rearrange the payments within the remaining years of the original repayment period.

(14) *Reasonable standard of living.* The level of income obtained by reasonably successful family farmers and rural residents in the community taking into consideration the size of the family.

(15) *Recreation enterprise.* An outdoor, income producing enterprise which will supplement or supplant farm or ranch income.

(16) *Renew.* To reschedule the payment of an OL and EM loan (made for operating purposes) after the end of the maximum repayment period.

(17) *Rural youth.* A person who has reached the age of 10 but has not reached the age of 21 and does not reside in any area in any city or town that has a population of more than 10,000 inhabitants.

(18) *Rural youth projects.* Projects initiated, developed, and carried out by rural youths participating in organizations such as 4–H or Future Farmers of America. Projects must produce enough income to meet expenses and debt repayment.

(19) *Security.* The term "security" (sometimes referred to as "collateral" or "security property") includes any rights or interests in property of any kind subject to a real or personal property lien.

(i) *Basic security.* All real estate and fixtures and personal property such as foundation herds, flocks, aquatic animal and plant organisms, machinery, and equipment serving as security and crops when crops are the only security.

(ii) *Normal income security.* All security property planned to be marketed in the regular course of business unless liquidation is approved. If liquidation is approved, such security becomes basic security.

(20) *State.* Any of the fifty states, Puerto Rico, or the Virgin Islands (and

Guam for EM loans under a Presidential Declaration).

(21) *Termination dates.* (Applies to EM loans.) (i) Termination dates are those dates specified in disaster declarations, designations, or State Director authorizations which establish the final dates after which EM loan applications may no longer be received. However, applications will be accepted for EM loans after the termination date(s) have passed if the applicant filed an application for disaster assistance with the SBA during the period SBA would accept applications and not more than 6 months has elapsed since the FmHA's termination date(s).

(ii) For physical losses, termination dates are 180 days from the date the State Director is notified of the declaration, designation, or State Director authorization, and for production losses, 12 months from such date. The 180-day and 12-month periods will commence on the first workday following the designation or declaration. The final day for accepting applications will always be on a workday. Therefore, if the last day falls on a Saturday, Sunday, or Federal holiday, the next workday will be the final day.

(22) *United States.* The term "United States" means the United States itself, any of the 50 States, Puerto Rico, the Virgin Islands (and Guam for EM loans under a Presidential declaration).

(b) *Abbreviations.* The following abbreviations are applicable:

(1) *EM*—Emergency Loans.
(2) *FmHA*—Farmers Home Administration.
(3) *FMI*—Forms Manual Insert.
(4) *FO*—Farm Ownership Loans.
(5) *OGC*—Office of the General Counsel.
(6) *OL*—Operating Loans.
(7) *OL-Y*—Operating Loans—Youth.
(8) *RH*—Rural Housing Loans.
(9) *RL*—Recreation Loans.
(10) *SW*—Soil and Water Loans.
(11) *USDA*—United States Department of Agriculture.

§ 1904.108 General provisions.

(a) *Credit elsewhere.* The applicant shall certify in writing, and the County Supervisor shall determine, that he is unable to obtain sufficient credit elsewhere to finance his actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

(1) If the County Supervisor's review of the applicant's application indicates that there is no possibility for the applicant to obtain the credit he needs from other lender(s) he will record this conclusion and the basis for it in the running record and it will not be necessary for him to check further.

(2) If the County Supervisor questions whether the applicant may be able to obtain the credit he needs from another lender in the area he will contact that lender and record his findings in the running case record.

(3) Any letters from a lender(s) or other evidence which may have been obtained indicating that the applicant is unable to obtain satisfactory terms with present creditors or from other creditors will be included in the loan docket.

(b) *Committee certification.* Before a loan is approved, the County Committee serving the county in which the borrower will reside following loan closing will certify on Form FmHA 440-2, "County Committee Certification or Recommendation," that the applicant is eligible for a loan in accordance with this Subpart. The County Committee will establish the maximum amount of credit that may be extended under the certification to meet the applicant's actual needs during the crop or operating year. The applicant will not be notified of the maximum credit as certified by the County Committee for the crop year, but will be notified of the committee's determination as to eligibility in accordance with Part 1801 of this Chapter (FmHA Instruction 410.1). The County Committee may recertify the applicant on the basis of changed circumstances by preparing and executing a new Form FmHA 440-2. If the County Committee rejects the application, reasons for unfavorable action will be given in the space provided on Form FmHA 440-2 above their signature.

(c) *Program requirements.* In addition to paragraph (b) the following specific program requirements must be met:

(1) *For Operating loans.* The County Committee may, when an application is being acted upon during the latter part of a crop or operating year, establish the maximum amount of credit for both the current crop or operating year and the next crop or operating year.

(2) *For FO, RL and SW loans.* Ordinarily, the amount of the loan plus any other debts against the security will not be in excess of the recommended market value of the security as shown on the appraisal report(s). A loan docket will not be developed when a loan plus any other debts against the security will be significantly in excess of the recommended market value of the security. In an unusual case when the amount of a loan needed for success plus any other debts that will be against the security is slightly above the recommended market value of the security and the County Committee and the County Supervisor believe that the loan should be made, Form FmHA 440-2 may be completed. In such a case, the completed loan docket will be submitted to the State Office for a determination as to whether it is feasible to establish the market value of the security above the appraiser's recommended market value. If the loan approval official determines that the market value is in excess of the appraiser's recommended market value, he will record his determination of the market value of the security in the comments section of Form FmHA 422-1, "Appraisal Report (Farm Tract)." Federal Land Bank (FLB) Association stock is required to be purchased by FLB Association borrowers and has security value provided it is assigned to FmHA as security. Therefore, when FmHA and FLB simultaneous loans are being made, the loan approval official may consider the market value of the real estate plus the value of FLB Association stock in determining the market value of the security. He will record his determination of the market value of the security in such a case in the comments section of Form FmHA 422-1.

(d) *State supplements.* State supplements will be issued as necessary to implement this Subpart.

(e) *Compliance requirements.* Refer to the instructions opposite the following items for the appropriate actions to be taken in each case:

(1) *Environmental impact assessments and statements.* Refer to § 1930.40 of this Chapter, except that in the third sentence of that section disregard the words "and lenders".

(2) *Equal opportunity and nondiscrimination requirements.* Refer to § 1930.41 (b) of this Chapter, except that for the purposes of this section:

(i) In §§ 1930.41(b)(1) and 1930.41 (b)(4)(ii), disregard the word "guaranteed".

(ii) In § 1930.41(b)(6), disregard the words "or lender."

(3) *Flood and mudslide hazard area cautions.* Refer to § 1930.42 of this Chapter.

(4) *Clean Air Act and Water Pollution Control Act requirements.* Refer to § 1930.43 of this Chapter, except that:

(i) In § 1930.43(a), disregard the words "or guaranteeing".

(ii) In § 1930.43(b), the word "lender" will be read to mean "FmHA."

(5) *National Historic Preservation Act of 1966.* Refer to § 1930.44 of this Chapter, except that in the first sentence of that section, disregard the words "or guaranteeing".

§§ 1904.109–1904.112 [Reserved]

§ 1904.113 Receiving and processing applications.

Applications will be received and processed in accordance with Part 1801 of this Chapter (FmHA Instruction 410.1).

§§ 1904.114–1904.122 [Reserved]

§ 1904.123 Transfers and assumptions.

Refer to § 1872.18 of this Chapter (FmHA Instruction 465.1 paragraph XVIII) for transfers and assumptions involving real estate security and to § 1930.34 of this Chapter for transfers and assumptions involving chattel security.

§ 1904.124 Renewal and reamortization.

All borrowers are expected to repay their Farmer Program loans according to the planned repayment scheduled. However, circumstances may occur which will not permit them to pay as scheduled or to refinance their loans. This section prescribes the policies and procedures for reamortizing and/or renewing such loans.

(a) *Eligibility requirements.* (1) For OL and EM (made for operating purposes) loans the principal and interest balance on a loan note may be reamortized or renewed, as appropriate, when it is determined it will be in the best interest of the borrower and the Govern-

ment to do so. The justification for the action being taken will be recorded in the running record of the borrower's case file and will include documentation that the borrower is unable to refinance the loan through another creditor, is making satisfactory progress under prevailing conditions, the need for the action is due to conditions beyond the borrower's control and the farm operating plan shows the borrower can reasonably expect to meet the revised repayment schedule.

(2) For FO, SW, and RL loans, a loan to be reamortized will be processed in accordance with Part 1861 of this Chapter (FmHA Instruction 451.1).

(3) Farmer Program loan notes will not be reamortized or renewed when the account is being serviced or may be serviced in the near future by the State Office, has been referred to the Office of the General Counsel or to the U.S. Attorney.

(b) *Rates and terms.* (1) The interest rate will be the current rate in effect for the type of loan involved at the time the renewal or reamortization promissory note is signed by the borrower.

(2) *Reamortization.* The County Supervisor may agree to reamortize the balance of a Farm Program loan provided:

(i) For OL and EM loans (made for operating purposes), the reamortized repayment period for an operating type loan does not exceed 7 years from the date of the initial note.

(ii) For FO, SW, RL and EM loans (made for real estate purposes) secured by real estate, the repayment period for the real estate loan, initially scheduled for repayment in not more than 40 years, may be reamortized for a repayment period that will not extend the repayment period beyond 40 years from the date of the original note.

(iii) The security instrument and note will secure the reamortized loan.

(3) *Renewal.* An OL and EM loan (made for operating purposes), initially scheduled or reamortized for repayment in not more than 7 years, may be renewed for up to 5 additional years at the end of the 7-year period. The renewal and any combination of initial and subsequent renewals will not extend the repayment period beyond 12 years from the date of the original note.

(4) For OL and EM loans (made for operating purposes), the repayment terms may include installments which are either equal or unequal and may also include a balloon installment.

(5) The repayment period on a renewed or reamortized note will not exceed the useful life of the security.

(c) *Security instruments.* Will be required as necessary when a loan is renewed or reamortized.

(d) *Processing the renewal and/or reamortization promissory note.*—(1) *Operating loans.* A separate Form FmHA 452–1, "Renewal Promissory Note," will be prepared for each OL and EM (made for operating purposes) loan note being renewed or reamortized. All parties who executed the note being renewed or reamortized will be required to execute Form FmHA 452–1, unless otherwise authorized by the State Director.

(i) If the County Office is in possession of the original note being reamortized or renewed, Form FmHA 452–1 will be processed in accordance with the provisions of the Forms Manual Insert (FMI) and this Subpart.

(ii) If the County Office is not in possession of the original note being reamortized or renewed, the County Supervisor will request the Finance Office to have the note assigned to the insurance fund and returned to the County Office before processing Form FmHA 452–1.

(2) *Real estate loans.* When an FO, SW, RL, or EM (made for real estate purposes) loan note is to be reamortized, it will be processed in accordance with Part 1861 of this Chapter (FmHA Instruction 451.1).

(e) *Approval authority.* Loan approval officials are hereby authorized to approve the renewal or reamortization subject to their approval authority in Subpart A of Part 1901 of this Chapter.

(f) *Disposition of promissory notes.* The original and County Office copy of all notes that are renewed or reamortized will be stamped "RENEWED, NOT PAID" or "REAMORTIZED, NOT PAID," as appropriate, by the County Office. The original note will be filed with the renewal or reamortized note and the copy filed in the borrower's case file. When a renewed or reamortized note has been paid in full or otherwise satisfied, it will be handled in accordance with the provisions of Part 1861 and Part 1864 of this Chapter (FmHA Instructions 451.1 and 456.1 respectively).

§ 1904.125 Cancellation of loan checks and advances.

(a) If a loan check is to be canceled follow FMHA Instruction 102.1, paragraph IV C.

(b) When an advance is to be canceled, the following actions must be taken:

(1) Complete Form FmHA 440–10, "Cancellation of Loan or Grant Check and/or Obligation" in accordance with the FMI.

(2) When necessary prepare and execute a substitute promissory note reflecting the revised total of the loan and the revised schedule. When it is not possible to obtain a substitute promissory note, the County Supervisor will show on Form FmHA 440–10 the revised amount of the loan and the revised repayment schedule.

(3) Transmit to the Finance Office Form FmHA 440–10 and Form FmHA 440–57, "Acknowledgement of Obligated Funds/Check Request," reflecting the revised repayment schedule.

§ 1904.126 Increase or decrease in amount of loan.

If it becomes necessary that the amount of the loan be increased or decreased prior to loan closing, the County Supervisor will request that all distributed docket forms be returned to the County Office for reprocessing unless the change is minor and replacement forms can readily be completed and submitted. In the latter case, a memorandum to that effect will be attached to the revised forms for referral to the Finance Office. A new Committee certification will not be necessary unless the revised loan amount is higher than the original certification.

§ 1904.127 Closing loans with real estate security.

(a) *General.* Loans secured by real estate are considered closed on the date the mortgage is filed for record. Such loans will be closed in accordance with the applicable provisions of Part 1807 of this chapter (FmHa Instruction 427.1).

(b) *Security instruments.* Security instruments referred to in this section are real estate mortgages or deeds of trust.

(1) *Joint security instruments.* Joint security instruments will be taken to secure a joint loan to individuals jointly engaged in an enterprise. Each individual will execute the real estate mortgage or deed of trust, assignment of income, promissory note, and any other security instruments required to secure the loan. When the individuals are members of a partnership, the security instruments will be executed by the partnership and all partners in accordance with the advice of the Regional Attorney or Attorney-in-Charge, as necessary, to close the loan and obtain the desired liens and liability.

(2) *Separate security instruments.* (i) Separate security instruments will be taken to secure a separate loan to an individual who is individually or jointly engaged in an operation.

(ii) Each applicant obtaining a separate loan for financing an undivided interest in security property or for refinancing debts on an undivided interest in such property will secure the loan by a lien on his undivided interest in the property. Each individual having an undivided interest in the security property will execute Form FmHA 441–12, "Agreement for Disposition of Jointly-Owned Property." Form FmHA 441–12 will not be required when a tenant and landlord own property jointly and the lease provides for satisfactory division of such property and the proceeds from its sale or a joint security instrument is taken to secure a loan in accordance with paragraph (b) (1) of this section.

(c) *Security instrument forms.* (1) FmHA real estate mortgage or deed of trust Form FmHA 427–1 _____ (State) will be used in all cases.

(2) For assignment of income, Form FmHA 443–16, "Assignment of Income from Real Estate Security," will be used, except that if the form is legally inadequate in a particular State it may be adapted with the approval of the OGC.

(3) When water stock certificates or similar collateral are a part of the security, they will be retained in the County Office. A notation will be made on Form FmHA 405–1, "Management System Card-Individual," showing that such security has been retained.

(4) Form FmHA 440–16, "Promissory Note," will be prepared and completed at the time of loan closing in accordance with the Forms Manual Insert. If insured RH funds are advanced simultaneously, the RH loan will be evidenced by a separate note on the proper form as provided in Subpart A of Part 1822 of this Chapter (FmHA Instruction 444.1). However, both notes will be described in the same security instruments.

(i) When a loan is closed between December 1 and January 1, the first installment will be collected at the time of loan closing unless deferment is approved. Also, funds included in the loan for payment of interest will be collected on the date of loan closing. The receipt should indicate "For deferred installment interest."

(ii) The promissory note will be signed by the borrower and his or her spouse, unless under the provisions of Part 1807 of this Chapter (FmHA Instruction 427.1) the spouse's signature is unnecessary.

(5) When subsequent loans are made a new security instrument will be required only when such existing instruments do not cover all required security property or will not secure the subsequent loan.

(6) A subsequent loan for any authorized purpose may be made without taking new security instruments in any case in which the existing security instruments cover all of the property required to serve as security for the subsequent loan, the State law and the language of the existing security instruments will permit the future loan advance to be secured by the existing security instruments, and the existing security instruments will provide the same lien priority for the subsequent loan as for the initial loan. If the existing recorded security instrument does not cover all the property required to serve as security for the subsequent loan or if it does not contain a future advance clause which is sufficient to include the subsequent loan, a new security instrument will be taken.

(d) *Leaseholds.* Security instruments for loans secured by mortgage on leaseholds will describe security property in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1), and the following provisions will also apply:

(1) The following language, or similar language which in the opinion of the OGC is legally adequate, will be inserted just before the legal description of the real estate:

All Borrower's right, title, and interest in and to the leasehold estate for a term of __ years beginning on _____, 19__, created and established by a certain Lease dated _____, 19__, executed by _____ as lessor(s), recorded on _____, 19__, in Book _____, page ____ of the _____ Records of said County and State, and any renewals and extensions thereof, and all Borrower's right, title, and interest in and to said Lease, covering the following real estate:

(2) An additional covenant will be inserted in the mortgage to read as follows:

Borrower will pay when due all rents and any and all other charges required by said Lease, will comply with all other requirements of said Lease, and will not surrender or relinquish, without the Government's written consent, any of the Borrower's right, title, or interest in or to said leasehold estate or under said Lease while this instrument remains in effect.

(3) A copy of the lease will be obtained for the case file.

(e) *Filing or recording security instruments.* The following appropriate actions will be taken after loan closing:

(1) If the original security instrument is returned by the recording official, it will be retained in the borrower's case folder. If the original is retained by the recording official, a conformed copy, including the recording date showing the date and place of recordation and the book and page number, will be prepared and filed in the borrower's case folder. A conformed copy of the security instrument will be sent to a prior lienholder if a substantial interest is held by that lienholder or if it is required by a working agreement provision with that lender.

(2) The original deed of conveyance, if any, and a copy of the security instrument will be delivered to the borrower.

(3) A borrower's owner's title insurance policy mistakenly sent to the County Office will be immediately delivered to the borrower.

(f) *Abstracts of Title.* Any abstract of title will be delivered to the borrower for safekeeping, and Form FmHA 140–4, "Transmittal of Documents," will be prepared and a receipt obtained in accordance with the Forms Manual Insert. However, when an abstract is obtained from a third party with the understanding it will be returned, such abstract will be sent directly to the third party and a memorandum receipt will be obtained.

(g) *Requesting title service and accepting option.* When the loan is approved, the County Supervisor will (1) see that title service is requested in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1), if this has not already been done, and (2) when land is being acquired also see that Form FmHA 440–35, "Acceptance of Option," is completed, signed, and mailed to the seller. However, in connection with the acceptance of an option on a subdivision, Form FmHA 443–10, "Acceptance of Option by Assignee (Land to be Subdivided)," and Form FmHA 443–11, "Acceptance of Option by Buyer (Land to be Subdivided)," will be used, as appropriate. When the acceptance of option letter has been mailed to the seller, the borrower will arrange with the seller, in consultation with the County Supervisor, to occupy and operate the farm as soon as practicable. Agreements will be in writing and cover such subjects as disposition of growing crops, rentals, payment of maintenance cost, and other pertinent points.

(h) *Fees.* The borrower will pay all filing, recording, notary and lien search fees incident to loan transactions from personal or loan funds. When FmHA employees accept cash for these purposes Form FmHA 440–12, "Acknowledgment of Payment for Recording, Lien Search, and Releasing Fees," will be executed. FmHA employees will make it clear to the borrower that any fee so accepted is only for paying fees on behalf of the borrower.

(i) *Supervised bank accounts.* If a supervised bank account is required, loan funds usually will be deposited following loan closing. Supervised bank accounts will be established in accordance with Part 1803 of this Chapter (FmHA Instruction 402.1). If a depository bank does not require the borrower's endorsement for deposit, the loan check may be deposited in the supervised bank account and the borrower given a copy of the deposit slip.

(j) *Loan closing with participating lenders.* (1) The FmHA and participating lenders will agree on the method and the period to be covered by the title search. If there are any deviations in connection with title search from either lender's regulations, such deviations must be approved by the appropriate supervisory officials.

(2) The FmHA and participating lender representatives will mutually approve any land and building development plans when the improvements are to be projected in loan values. Each will supervise the disbursement of its share of funds for these items.

(3) The selection of representative(s) to be present for loan closing will be by mutual agreement.

(4) The standard loan mortgage forms used by the FmHA and the participating lender will be exchanged by the local representatives. Any additional covenants or deviations from the standard forms in individual cases will be called to the attention of the local representatives before the loan is closed.

§ 1904.128 Options, planning and appraisals.

Refer to Parts 1804 and 1809 of this Chapter (FmHA Instructions 424.1 and 422.1, respectively) for the appropriate procedures dealing with options, planning, and appraisals.

§ 1904.129 Planning and performing development.

All development including construction and land treatment will be planned and completed in accordance with Part 1804 of this Chapter (FmHA Instruction 424.1). The provisions of Subpart E of Part 1901 of this Chapter apply in connection with loans involving recreational enterprises and the construction of buildings. Adequate development to place the farm and any nonfarm enterprise in condition for a successful operation will be provided at the outset.

§ 1904.130 Loan servicing.

Loans will be serviced in accordance with Parts 1806, 1863 and 1872 of this Chapter (FmHA Instructions 426.1, and 465.1 respectively) and Subpart A of Part 1930 of this Chapter.

§ 1904.131 Revision of the use of loan funds.

(a) *Requirements.* Loan approval officials or delegates are authorized to approve changes in the purposes for which loan funds are to be used provided:

(1) The loan was within the respective loan approval official's authority.

(2) Such a change is for an authorized purpose and within applicable limitations.

(3) Such a change will not adversely affect the feasibility of the operation for the Government's interest.

(4) Such a change is consistent with authorities, policies, and limitations for the type of Farmer Program loan involved.

(b) *Additional authority.* The State Director may delegate additional authority to approval officials to approve certain kinds of changes in the use of loan funds by issuing a State supplement describing such changes, provided prior approval is obtained from the National Office.

(c) *Revisions.* When changes are made in the use of loan funds, no revision will be made in the repayment schedule on the promissory note. Appropriate changes with respect to the repayment will be made in Table K of Form FmHA 431–2 and they will be initialed by the borrower. The County Supervisor will also make appropriate notations in the "Supervisory and Servicing Actions" section of the Management System Card-Individual for followup.

§§ 1904.132–1904.145 [Reserved]

§ 1904.146 Liquidation.

Refer to § 1872.17 (FmHA Instruction 465.1, paragraph XVII) and Subpart A of Part 1955 of this Chapter for the appropriate instructions concerning the liquidation of real estate, and to § 1930.40 of this Chapter for liquidation procedures covering chattel property.

§ 1904.147 Graduation.

Borrowers will be expected to graduate to other credit in accordance with the requirements of Part 1865 of this Chapter (FmHA Instruction 451.6).

§§ 1904.148–1904.153 [Reserved]

§ 1904.154 Memoranda of Understanding.

Refer to § 1980.154 of this Chapter for a listing of memoranda pertaining to Farmer Programs. The following items also apply to this Subpart.

(a) Memorandum of Understanding Between Commodity Credit Corp. and FmHA (Exhibit A to Subpart A of Part 1930 of this Chapter).

(b) Memorandum of Understanding and Blanket Commodity Lien Waiver (Exhibit B to Subpart A of Part 1930 of this Chapter).

(c) Memorandum of Understanding Between the Department of Agriculture and the Department of the Interior (Attachment to Exhibit A to this Subpart).

(d) Memorandum of Understanding Between FmHA and the Farm Credit Administration (Exhibit E of this Subpart).

§§ 1904.155–1904.169 [Reserved]

§ 1904.170 Emergency loans.

(a) *Program objectives.* The basic objectives of EM loans are to provide financial assistance to eligible farmers, ranchers, and aquaculture operators to cover losses, make major adjustments, pay operating expenses, and provide for other essential needs so that they may maintain sound farming, livestock, or aquaculture operations.

(b) *Eligibility.* (1) Refer to § 1980.170 (b) of this Chapter for applicable EM eligibility requirements, except that for purposes of this section:

(i) In § 1980.170(b), disregard the word "guaranteed," and

(ii) In § 1980.170(b)(1), disregard the words "without a guarantee."

(2) No ceiling has been established on the size of operations that may be financed with EM loans nor on the size of loans that may be made. Therefore, subject to the eligibility requirements and other provisions of this regulation, EM loans may be made to finance larger than family farm operations.

(3) Refer to Exhibit D of this Subpart for the procedures governing designations and reporting of disasters.

(c) *Determining losses and maximum amount of loan for actual losses.* Losses and maximum amount of the EM loan for actual losses will be determined as set forth in § 1980.170(c) of this Chapter except that:

(1) In § 1980.170(c)(1) and (c)(1)(ii), the word "lender" should be read to mean "County Supervisor" and,

(2) In § 1980.170(c)(1)(ii), disregard the words, "The County Supervisor will provide lenders with these prices".

(d) *Loans purposes.* Refer to § 1980.170(d) of this Chapter for authorized EM loan purposes except that the word "guaranteed" in § 1980.170(d) shall be read as "made" for purposes of this section. In addition, the following limitations will apply:

(1) An insured loan will not be used to supplement a guaranteed loan.

(2) An insured loan will not be made to refinance a guaranteed loan, except when the following conditions are met:

(i) The circumstances causing the need to refinance were beyond the borrower's control.

(ii) Refinancing is to the best interest of the Government and borrower.

(iii) The State Director and his staff determine that the objectives of the loan can be accomplished with an insured loan.

(iv) Eligibility requirements are otherwise met.

(e) *Rates and terms.* (1) *Interest rates.* Interest on the initial advance will accrue from the date of the promissory note. Interest on other advances will accrue from the date of the loan check for each such advance. Interest rates are as follows:

(i) Except for disasters occurring on or after July 1, 1976, and prior to October 1, 1978, EM loans for actual losses will be 5 percent.

(ii) For disasters occurring on or after July 1, 1976, and prior to October 1, 1978, EM loans for actual losses will be as follows:

(A) For repair or replacement of the primary residence and personal property, 1 percent on the first $10,000, 3 percent on the balance not to exceed $40,000, and 5 percent above $40,000.

(B) For other actual loss loans, 3 percent up to $250,000 and 5 percent above $250,000.

(iii) The interest rate for loans for other than actual losses will be the interest rate prevailing in the private market for similar loans, as determined by the Secretary of Agriculture. These interest rates, for other than actual losses, will be reviewed periodically by the Secretary and new rates may be established. The prevailing market rates are specified in Part 1810, Subpart A of this Chapter (FmHA Instruction 440.1, Exhibit B). The interest rates in effect can be obtained from any FmHA State or County Office or from the National Office, 14th and Independence Avenue, SW., Washington, D.C. 20250.

(2) *Establishing repayment terms and delay of principal payments.* EM loans for actual losses where different interest rates are authorized as set forth in paragraph (e)(1)(ii) will be scheduled for repayment of the principal and interest on that portion of the loan bearing the lowest interest rate before principal payments are scheduled for portions of the loan bearing higher interest rates. However, interest must be collected on the portion of the principal deferred during the period principal payments are not scheduled. The portion of the loan bearing the lower interest rate should be repaid as soon as possible, consistent with the applicant's repayment ability. This deferral of principal does not apply to EM annual production or major adjustment loans.

(3) *Terms of loans.* EM loans will be scheduled for repayment in annual installments as set forth below, consistent with the applicant's reasonable ability to pay. This will be determined by his operation as reflected in the completed Form FmHA 431–2, "Farm and Home Plan," or other acceptable format for presenting the proposed plan of operation.

(i) Loan terms for actual losses to crops, livestock, supplies, harvested or stored crops, livestock products on hand, and equipment will be in accordance with the useful life of the security and the repayment ability of the applicant but not to exceed 7 years. When conditions warrant, installments may vary in amount. However, the final installment will not be larger than the amount which could usually be refinanced with private lenders or be repaid within a renewal period of not to exceed 5 years. The applicant must be advised before the loan is closed that FmHA will review each case at the end of the initial loan term to determine if a renewal is warranted. For any disaster occurring after January

1, 1975, loans made as a result of these disasters may be scheduled for repayment in more than 7 years, but not more than 20 years if the State Director determines in writing, after a recommendation by the County Committee that the needs of the applicant justifies such a longer repayment period. Generally, real estate will be needed as security when more than 7 years is authorized. Experience indicates that the need of most applicants can be met with a repayment period of 7 years and if necessary up to a 5-year renewal. Therefore, State Directors will grant the longer repayment periods only in unusual cases. When the longer period is used, renewal is not authorized.

(ii) The terms for actual losses to real estate will be in accordance with the useful life of the security and the repayment ability of the applicant not to exceed 40 years.

(iii) The term for loans for annual operating expenses will be as follows:

(A) Advances for annual recurring operating expenses or for paying bills incurred for such purposes for the operating or crop year being financed will be scheduled for payment when the principal income from the year's operations normally would be received.

(B) Advances to purchase or produce feed for productive livestock or livestock to be fed for the market, or to pay bills incurred for such purposes for the crop year being financed will be scheduled for payment when the principal income from the sale of such livestock or livestock products can be expected.

(iv) Loans for the same purposes as are provided under § 1980.170(d) (3) (ii) of this Chapter, will be in accordance with the useful life of the security and the repayment ability of the applicant but not to exceed 7 years. When conditions warrant installments may vary in amount. However, the final installment will not be larger than the amount which could usually be refinanced with private lenders or be repaid within a renewal period of not to exceed 5 years. The applicant must be advised before the loan is closed that FmHA will review each case at the end of the initial loan term to determine if a renewal is warranted.

(v) Loans for the same purposes as are provided under § 1980.170(d) (3) (i) of this Chapter will be in accordance with the useful life of the security but not to exceed 40 years.

(4) *Deferment of principal installments.* Interest will not be deferred. However, initial principal installments (for EM loans other than for annual operating expenses) may be deferred in whole or in part to the second or third installment due date, as appropriate, following the date of note:

(i) When the year's income will be sufficient to meet the payment but will not be received in full that year because of the type of farming or the method of marketing, or

(ii) When the total planned income is less than planned annual recurring expenses because the productive capacity of the farm has been adversely affected by a qualifying disaster.

During the deferment period, each installment will include the total amount of interest accruing to the date of the installment plus the estimated principal amount the applicant will be able to pay. Principal deferments will not be granted for the purpose of enabling applicants to use income to make payments on old bills before paying annual recurring expenses. When the payment of principal is deferred to the second installment due date following the date of the note, the first scheduled installment will be the amount of accrued interest from the date of the note to installment due date. When the payment of principal is deferred to the third installment due date following the date of the note, the second scheduled installment will be the amount of accrued interest for a full year.

(f) *Security.* EM loans will be adequately secured to protect the interests of the Government.

(1) *Security Requirements.* (i) Annual Operating loans will be secured by a first lien on the crop or livestock, or both, being financed with EM loan funds plus enough other security, including personal property, real estate, and crop insurance, to assure that the Government's financial interest will be protected. When the applicant can provide no collateral other than a first lien on crop and/or livestock production, or both, the amount of the loan will be limited to the greater of $50,000 or one-half the estimated gross farm income planned as shown on Form FmHA 431-2, or other acceptable plan of operation which will be based on normal production and prices authorized by the State Director for developing annual farm plans within the State. When an EM borrower who is indebted for an annual operating loan must have a subsequent EM loan for annual operating purposes during the current crop year to complete that year's farming operation and protect the Government's financial interest which is secured only by the crop, the $50,000 or 50 percent gross income requirement will not apply provided the loan is otherwise sound and proper.

(ii) Loans for the same purposes as authorized for loans made under § 1980.170(d) (3) (ii) of this Chapter will be secured by a lien on sufficient equity in livestock, equipment and machinery, and other personal property if necessary to protect the Government's interest, plus when necessary, a lien on equity in part or all of the real estate owned by the applicant. When the applicant can provide no collateral other than a first lien on crops and/or livestock production, or both, then the policy outlined in § 1980.170(f) (2) (i) of this Chapter will apply. If the applicant has enough equity in real estate, no additional security need be taken. A second crop lien may be taken when deemed necessary to assure repayment of the loan.

(iii) Loans for the same purposes as authorized for loans made under § 1980.170(d) (3) (i) of this Chapter will be secured by equity in real estate. However, if there is not sufficient equity in the real estate, a lien also will be taken on personal property, plus, if necessary, a second lien on the crops. An EM loan made to a tenant with a long-term lease will be secured by a lien on a transferable leasehold.

(iv) The loan approval official may make an exception to the security requirements if all of the following conditions are met:

(A) Adequate security property is not available because of the disaster.

(B) The applicant offers all available security property, some or all of which may have depreciated in value due to the disaster.

(C) The security property and the applicant's repayment ability as assessed by the loan approval official are adequate security for the loan.

(v) EM loans may be approved with abbreviated appraisals of the property being taken as security for the loan provided:

(A) The loan approval official determines that equity in the security property will fully secure the EM loan(s).

(B) When abbreviated appraisals are prepared:

(*1*) For real estate, the following portions of Form FmHA 422-1, "Appraisal Report—Farm Tract," will be completed: The heading of the report; Item A of Part 1; Part 2; Part 3; Part 7; and Part 8. The report will be signed and dated by an FmHA authorized appraiser.

(2) For chattel property, Form FmHA 440-221, "Appraisal of Chattel Property," will list and identify each chattel item, and items A through E will be completed.

(vi) When an EM loan, for whatever purpose, is to be secured by a lien on real estate or a combination of real estate and chattels, the security will be considered "basic security." For all loans over $10,000 title clearance is required except that when a reputable long-term lender has a first mortgage on the property the search need only be made after the recordation date for such mortgage. For loans of $10,000 or less, only certification of ownership and verification of equity in real estate is required. Certification of ownership may be accepted in the form of a notarized affidavit from the applicant stating who is the owner of record of the real estate in question and acknowledging all known debts, with balances owed, against the real estate. Whenever the County Supervisor is uncertain of the ownership of or debts against the real estate security, he will require title search.

(vii) If the real estate offered as security is held under a purchase contract, the following conditions will prevail:

(A) The applicant must be able to provide mortgageable interest in the real estate concerned.

(B) The applicant and the purchase contract holder will agree in writing that all insurance claim settlements received for real estate losses will be used in their entirety to replace or repair the damaged real estate. The applicant will renego-

tiate with the purchase contract holder to arrive at a new contract without any provisions objectionable to FmHA.

(C) If a satisfactory contract of sale cannot be renegotiated or the purchase contract holder refuses to apply the insurance proceeds toward the repair or replacement of the real estate losses, but chooses to retain some of the proceeds as an extra payment on the balance owed, the applicant will make every effort to refinance the existing purchase contract. If the applicant cannot obtain refinancing from another source, an EM loan will be considered to include funds to pay off the contract and improve the property. If the applicant can get the contract refinanced, an EM loan will be considered to restore the property to its predisaster condition.

(D) If the conditions provided for in paragraph (f) (1) (vii) (A), (B), and (C) of this section can be met and an EM loan is approved, it can be closed provided the FmHA escrow agent or designated attorney determines that:

(*1*) The applicant has mortgageable interest in the property under a long-term purchase contract.

(2) The purchase contract is not subject to summary cancellation on default and does not contain other provisions which might jeopardize the Government's security position or the borrower's ability to repay the loan.

(3) The contract holder will agree in writing to give the FmHA notice of any breach by the purchasers, and further agrees to give FmHA 30 days from notice of such breach to rectify said conditions.

(viii) If any of the prior liens against real estate offered as security contain future advance provisions, or other provisions which might jeopardize the security position of the Government or the applicant's ability to meet his obligations under these prior liens and to pay the EM loan, the prior lienholders involved must agree in writing, before the loan is closed, to modify, waive, or subordinate such objectionable provisions.

(ix) When a junior lien on real estate is to be taken as security for the loan in States where a prior lienholder may foreclose his security instrument under power of sale or otherwise and extinguish junior liens of private parties without giving junior lienholders actual notice, the prior lienholder must agree in writing to give FmHA advance notice of foreclosure or assignment of the mortgage.

(x) If essential insurable buildings are located on the property, or if new buildings are to be erected or major improvements are to be made to existing buildings, the applicant will provide adequate property insurance coverage at the time of the loan closing or as of the date materials are delivered to the property, whichever is appropriate. However, when the real estate appraisal report shows that the present market value of the land after deducting the value of buildings shown on the report exceeds the amount of the debt including the EM loan and the owner has equity equal to or exceeding the amount of the debt including the EM loan, real property insurance will not be required. However, the applicant will be encouraged to obtain such insurance if he does not already have it to protect his interest. If insurance claims for loss or damage to buildings to be replaced or repaired with loan funds are outstanding at the time the loan is approved, the applicant will be required to agree in writing that when settlement is made the proceeds of such claims will be used for replacement or repair of buildings, application on debts secured by prior liens, or application on the EM loan.

(xi) Loan amounts borrowed for repair or replacement of personal possessions and home equipment or furnishings will be secured by a lien(s) on crops, aquatic organisms, livestock, farm machinery, essential trucks or automobiles, and/or farm real estate.

(xii) Loan approval officials may require *Federal or other types of Crop Insurance* with an assignment to FmHA during the repayment period of the EM loan if such insurance is available in the county. This determination is a judgment factor and the decision should be based on the amount and type of security, other than crops, that the applicant can provide. *However, when only a crop lien is taken as security for EM loans, the borrower will be required to carry Federal or other type of Crop Insurance during the repayment period of such loans if such insurance is available.*

(xiii) EM loans to Indians which are secured by trust or restricted land will be handled as follows: The United States Department of Agriculture (USDA) and the Department of the Interior have mutually agreed that FmHA loans which are to be secured by real estate liens may be made to Indians holding land in severalty under trust patents or deeds containing restriction against alienation subject to statutes under which they may, with the approval of the Secretary of the Interior, give mortgages on their land which are valid and enforceable. These statutes include, but may not be limited to, the Act of March 29, 1956 (70 Stat. 62).

(A) When a lien is to be taken on trust or restricted property in connection with a loan to be made or insured by FmHA, the local representatives of the Bureau of Indian Affairs (BIA) will furnish requested advice and information with respect to the property and each applicant.

(B) The FmHA State Director should arrange with the Area Director or other appropriate local official of the BIA as to the manner in which the information will be requested and furnished. A State supplement will be issued to prescribe the actions to be taken by FmHA personnel to implement the making of loans under such conditions.

(xiv) EM loans secured by real estate on homestead and desertland entries will be made, serviced, and liquidated in accordance with Exhibit A of this Subpart.

(2) *Taking security instruments.* The taking and filing of security instruments will be in accordance with Subpart C of Part 1921 of this Chapter (chattels and crops) and with § 1904.127(d) (real estate).

(g) *Receiving applications.* (1) Applications for EM loans will be received as outlined in Subpart A of Part 1901 of this Chapter (FmHA Instruction 410.1) only in designated counties, except as provided in Exhibit D of this Subpart, paragraph IV B 6 a 3. Form FmHA 410-1, "Application for FmHA Services," will be used for this purpose.

(2) If the applicant is a partnership, personal financial statements will be obtained from each of the partners and included in the loan docket, in addition to the partnership's financial statement.

(3) If the applicant is a corporation, the following additional information will be obtained and included in the loan docket:

(i) A complete list of stockholders, showing the address, citizenship, principal occupation, and the number of shares of stock held in the corporation by each.

(ii) A current personal financial statement from each of the principal stockholders. For this purpose a principal stockholder is one owning or controlling as much as 20 percent of the outstanding stock of the corporation, or if no stockholder owns or controls as much as 20 percent, all stockholders will be considered principal stockholders. Any other stockholder whose financial statement, in the judgment of the loan approval official, would be pertinent to a consideration of the financial strength of the corporation and its stockholders will also provide personal financial statements.

(iii) A copy of the corporation's charter, articles of incorporation and bylaws, and a resolution(s) adopted by the Board of Directors or stockholders authorizing specified officers of the corporation to apply for and obtain the desired EM loan and execute required debt, security, and other instruments and agreements.

(iv) A copy of any lease, contract, or agreement entered into by the corporation which may be pertinent to a consideration of its application.

(4) The applicant's statement of loss or damage will be obtained in support of his application on Form FmHA 441-22, "Certification of Disaster Losses."

(i) Production losses will be shown on Form FmHA 441-22, by listing the estimated or actual crop yields or livestock production for the disaster year; the 5-year history of crop yields and animal units produced for all farm enterprises and information stating when and how the designated disaster caused the production losses.

(ii) Physical losses will also be shown on Form FmHA 441-22.

(h) *Additional EM loans.* Additional EM loans may be made for the same purposes and under the same conditions as an initial EM loan under the following conditions.

(1) When the applicant did not obtain a loan for the full amount of the actual loss authorized as reflected by the loss statement he filed, the applicant may, within one year after the state-

ment is filed be considered for an additional loan, based on his initial application, for all or a portion of the loss balance not requested initially.

(2) Additional loans for reorganization of the farming operation made under § 1980.170(d)(3) of this Chapter must be made within one full crop year after the designation date.

(3) Borrowers who obtained loans for actual production losses, as reflected by the loss statement filed concerning their 1976 farming operations will upon request have their actual losses recalculated using the method provided for in § 1980.170(c)(1) of this Chapter and may receive an additional loan for any additional amount at a 5 percent interest rate.

(4) New appraisal reports of real estate will not be required if the appraisal report in the file is not over 2 years old unless the approval official requests a new appraisal report. Any changes in the value of real or chattel security will be recorded, dated and initialed by the authorized appraiser on the appropriate appraisal reports in the file.

(i) *Docket preparation.* Refer to Exhibit C of this Subpart for Insured Farmer Program (IFP) Processing Guide.

(1) A separate Form FmHA 440–1, "Request for Obligation of Funds," will be prepared for each amount of the total loan which is at a different interest rate or repayment period as established in accordance with paragraph (e)(1) and (3). The full amount of the loan as obligated on the Form FmHA 440–1 will be be rounded to the nearest $10. Also, on Form FmHA 440–1 for EM loans approved for borrowers presently indebted for an EM loan, but having NEW qualifying losses from a subsequent major or natural disaster for which a Major Disaster Declaration Number (MDDN), Presidential Emergency Declaration Number (PEDN), SDDN, or SDAN has been assigned, the new appropriate disaster designation number will be shown. This number will be used for all subsequent EM loans approved unless the borrower has new qualifying losses from a different disaster for which another disaster designation number has been assigned.

(2) A separate promissory note will be prepared for each Form FmHA 440–1 used in obligating the total amount of the EM loan. Each scheduled installment will include interest in addition to principal unless deferment of principal is authorized in accordance with paragraph (e)(4). The first installment may not be less than the amount equal to interest on the loan from the estimated date or actual date of closing to installment due date.

(i) Form FmHA 441–1, "Promissory Note," will be used when a loan is scheduled for payment in unequal annual installments, or within one full crop year after loan closing.

(ii) Form FmHA 440–16, "Promissory Note," will be used when a loan is scheduled for payment in equal annual installments of three years or more. Also, this note may be used when the first two installments are unequal and the balance consists of equal installments.

(j) *Approval and closing.* Loans will be approved in accordance with the authorities and provisions contained in this Subpart and the loan approval conditions and authorities contained in Subpart A of Part 1901 of this Chapter. Refer to Subpart C of Part 1921 of this Chapter and § 1904.127 for the appropriate instructions on closing loans. Also applications for EM loans may be approved after expiration of the period for receiving such applications under a designation provided they were filed in the County Office before the termination date for receiving applications had expired.

(k) *Options, planning and appraisals.* Refer to Parts 1804 and 1809 of this Chapter (FmHA Instructions 424.1 and 422.1, respectively) for the appropriate instructions dealing with options, planning and appraisals.

(l) Form FmHA 431–2 and Form FmHA 431–4, "Business Analysis—Nonagriculture Enterprise," if applicable, will be prepared in accordance with Subpart B of Part 1924 of this Chapter. This planning process with the applicant is essential to making sound loans and, therefore, must receive careful attention in development of the loan docket.

(2) In instances where real estate is taken for additional security (for loans in which the primary security is subject to rapid depreciation or is of a high risk nature, such as crops) no appraisal report will be required for the additional security. For loans of not more than $10,000, an appraisal report will not be completed. In both instances the County Supervisor will determine that security is adequate and record his estimate of value in the running case record.

§§ 1904.171–1904.174 [Reserved]

§ 1904.175 Operating loans.

(a) *Program objectives.* The basic objective of an operating loan is to provide the credit necessary for eligible family farmers, ranchers, and rural youths to conduct successful operations.

(b) *Eligibility.* Insured OL eligibility requirements will be the same as are provided in § 1980.175 (b) and (c) of this Chapter except that § 1980.175(c)(3)(iii) will be disregarded.

(c) *Loan purposes and limitations.* Insured OL loan purposes and limitations will be the same as are provided in § 1980.175(d) of this Chapter, except that in § 1980.175(d)(1)(ix)(D) the cross-reference to § 1980.129 should be disregarded and the references found in § 1904.129 substituted instead. In addition, the following limitations will apply:

(1) An insured loan will not be used to supplement a guaranteed loan.

(2) An insured loan will not be made to refinance a guaranteed loan, except when the following conditions are met:

(i) The circumstances resulting in the need to refinance were beyond the borrower's control.

(ii) Refinancing is to the best interest of the Government and borrower.

(iii) The State Director and his staff determine that the objectives of the loan can be accomplished with an insured loan.

(3) FmHA may refinance a debt incurred under the terms of a formal subordination agreement even though the amount advanced may exceed the borrower's equity in chattels provided:

(i) The borrower will not receive sufficient income to repay the creditor, and the creditor has demanded payment.

(ii) The borrower's inability to pay the full amount is due to circumstances beyond his control such as depressed prices, accident, illness, pestilence, or catastrophe.

(iii) The creditor is contacted and the need for refinancing is documented in the County Office case folder.

(iv) The borrower is making satisfactory progress under prevailing conditions in becoming established in farming.

(v) An appraisal is completed on Form FmHA 440–21 to assist in evaluating the borrower's present financial status.

(d) *Rates and terms.* Refer to Part 1801 of this Chapter (FmHA Instruction 440.1) for the applicable interest rate. Refer to § 1980.175(e)(2)(i), (ii), (iii) and (v) of this Chapter for applicable terms. The following also apply:

(1) Repayment of principal may be deferred to the second or third January 1, following the date of the note.

(2) Advances for annual recurring production expenses or for paying bills incurred for such purposes for the crop year being financed ordinarily will be scheduled for payment on the first January 1 following the date the income from the year's operations would be received.

(3) The County Supervisor may use Form FmHA 440–9, "Supplementary Payment Agreement" for borrowers who receive substantial income from which payment is to be made before their installment due date.

(e) *Security.* The loan must be secured by a first lien on all property or products acquired, produced, or refinanced with loan funds and by any additional security needed to adequately secure the loan. Such additional security may consist of the best lien obtainable on real estate or other property. In justifiable cases the loan approval official may require a cosigner for youth loans.

(1) *Exceptions.* A lien will not be taken on:

(i) Property that cannot be made subject to a valid lien.

(ii) Subsistence livestock, household goods, small tools and equipment.

(2) *Relationship with other lenders.* The Government's lien may be subject only to the lien of another creditor for amounts advanced or to be advanced for annual operating and family living expenses for the operating or crop year. The County Supervisor will determine if the creditor will be required to execute Form FmHA 441–13, "Division of Income and Nondisturbance Agreement," or a similar form approved by OGC.

(3) *Title held by a contractor.* When title to a livestock or crop enterprise is held by a contractor under a written contract or the enterprise is to be managed

by the applicant, under a share lease, or share agreement, an assignment of all or part of the applicant's share of the income will be taken. The form used to obtain the assignment will be approved by OGC.

(4) *Assignment on income in UCC States*, an assignment on livestock or crop income constitutes a security agreement on income. The share lease, share agreement or contract will be described specifically as "Contract Rights" or "Contract Rights in Livestock or Crops," (or as "Accounts" or "Accounts in Livestock or Crops," if required by a State supplement), and so forth, in paragraph 1(b) of the financing statement.

(5) *Feed crop lien.* A lien on feed crops does not have to be taken when the crops are produced by the borrower and are used to feed livestock other than livestock being fed for market purposes when the loan is otherwise reasonably well secured.

(6) *Assignment of crop insurance.* Assignment of all or a part of Crop insurance proceeds may be taken to protect FmHA's interests.

(i) To obtain a claim on Federal crop insurance proceeds, an assignment will be prepared on Form FCI–20, "Collateral Assignment," furnished by the local representative of the Federal Crop Insurance Program. The assignment must be approved by the Federal Crop Insurance Corporation.

(ii) An assignment of other crop insurance proceeds is not required when the crop insurance policy contains a standard mortgage clause naming FmHA as mortgagee or secured party.

(7) *Income from products and program payments.* Assignments and Consents relating to income from products and program payments will be used when necessary to protect FmHA's interest as follows:

(i) Form FmHA 441–18, "Consent to Payment of Proceeds from Sale of Farm Products." For products or income except dairy products in which FmHA has a security interest under UCC.

(ii) Form FmHA 441–8, "Assignment of Proceeds from the Sale of Agricultural Products." For products or income in which FmHA does not have a security interest under UCC. Other forms approved by OGC may be used when this form is not adequate.

(iii) Form FmHA 441–25, "Assignment of Proceeds from the Sale of Dairy Products and Release of Security Interest." For dairy products in which FmHA has a security interest under UCC.

(iv) Assignment of incentive and agricultural program payments. Forms provided by Agricultural Stabilization and Conservation Service.

(8) *Real estate.* In individual cases, the loan approval official may recommend to the State Director that a lien on real estate be taken for additional security. Such a lien will be taken only when the chattel security is not adequate to protect FmHA interests, and the borrower has substantial equity in the real estate to be mortgaged, and taking such mortgage will not prevent making an FmHA real estate loan, if needed, later. The following items will be put in the case record before taking real estate for security:

(i) The facts justifying the real estate lien;

(ii) An estimate of the present market value of the real estate to be mortgaged;

(iii) A list of any existing liens on such property and unpaid balance on the debts secured by such existing liens;

(iv) The amount of the applicant's equity in the real estate to be mortgaged;

(v) The name of the title holder and the manner in which title of the property is held. (Title evidence is not required);

(vi) Each real estate lien taken as additional security for FmHA loans will be taken on Form FmHA 427–1 (State), "Real Estate Mortgage for_____," unless a State supplement requires the use of a form of mortgage comparable to that which secures the existing loan(s) to be additionally secured. The notes evidencing the FmHA loans for which the additional security will be taken will be described in the same mortgage.

(9) *Fixtures.* An item is generally considered a fixture if it is attached to a building or other structure or to land in such a way that it cannot be removed without defacing or dismantling the structure, or substantially damaging the item itself. When determined necessary by OGC, a State supplement will be issued to further explain the taking of a security interest in fixtures.

(i) A security interest taken in goods *before* they become fixtures has priority over real estate interest holders.

(ii) A security interest taken in goods *after* they become fixtures is valid against all persons subsequently acquiring an interest in the real estate. However, it is not valid against persons who had an interest in the real estate when the goods become fixtures, unless they execute Form FmHA 440–26, "Consent and Subordination Agreement," or Form FmHA 440–6, "Severance Agreement."

(10) *Milkbase and grazing permits.* The advice of OGC will be obtained as to how to perfect a security interest when these items are financed or otherwise taken as security.

(11) *Stock in cooperative associations.* Loans only for the acquisition of memberships or the purchase of stock in cooperative associations may be made on the basis of the borrower's promissory note without taking security except as follows:

(i) An assignment, pledge, or other security interest in stock or other evidence of membership will be obtained provided it has security value. Such security interest also may be taken on significant amounts of dividends to be received from stock, memberships, or patronage, or on undivided profits and other retainages. The security interest will be in the form of an assignment, pledge, or other instrument and will be taken on forms and in the manner approved by the OGC. County Offices will retain water stock certificates and similar collateral. A notation will be made on Form FmHA 405–1 showing that such security has been retained.

(ii) In individual cases, loan approval officials may require a lien on crops or chattels as security for a loan made for the acquisition of a membreship or stock if they determine that such action is necessary to protect the interest of FmHA due to such reasons as the amount of the advance or the borrower's financial situation.

(f) *Other Considerations.* (1) Applicants will be advised that they are expected to comply with any applicable special laws and regulations.

(2) Applicants receiving loans for a nonfarm enterprise will be advised of the possibilities of incurring liability and encouraged to obtain public liability and property damage insurance.

(3) FmHA employees will not guarantee repayment of advances from other credit sources personally or on behalf of applicants, borrowers, or FmHA.

(4) Applicants and borrowers will be encouraged to supplement operating loans with credit from other credit sources to the extent economically feasible and in accordance with sound management practices. The County Supervisor will document in the case file the reasons why the applicant is not obtaining such credit.

(5) Applicants will make acceptable tenure arrangements. Ordinarily, the applicant will obtain a satisfactory written lease and a copy will be filed in the County Office case file.

(6) Borrowers will receive assistance to achieve the objectives of the loan and to protect FmHA's interests. Such assistance consists of planning, recordkeeping, and analysis and will be provided in accordance with Subpart B of Part 1924 of this Chapter.

(7) Veterans, as defined in Subpart A of Part 1801 of this Chapter (FmHA Instruction 410.1) will be given preference over nonveterans. When available funds are inadequate to meet the needs of all applicants, applications from veterans will be processed first.

(g) *Docket preparation.* Refer to Exhibit C of this Subpart for IFP Processing Guide.

(h) *Approval and closing.* (1) The loan approval official's approval authority stated in Subpart A of Part 1901 of this Chapter is subject to the total principal balance of the proposed operating loan and any outstanding operating loans.

(2) Refer to subpart C of Part 1921 for loan closing instructions.

(i) *Subsequent loans.* Subsequent loans will be processed and closed in the same manner as initial operating loans.

(j) *Appraisals.* An appraisal on Form FmHA 440–21 will be required to determine the market value of security property and the borrower's equity position in the following instances:

(1) When an OL loan is made for refinancing purposes.

(2) When an OL loan is made for real estate purposes.

(3) When the County Supervisor determines it is necessary to assist in evaluating the borrower's financial status.

§§ 1904.176–1904.179 [Reserved]

§ 1904.180 Individual Farm Ownership (FO), Soil and Water (SW) and Recreation (RL) loans.

(a) *Program objectives.* The basic objectives of the FmHA in making FO, SW, and RL loans are:

(1) *For FO loans.* To assist eligible farmers and ranchers to become owner-operators of not larger than family farms.

(2) *For SW loans.* To encourage better conservation and use of soil and water resources on farms and ranches.

(3) *For R loans.* To assist eligible owners or tenants to convert all or a portion of their farms or ranches to outdoor income-producing recreation enterprises.

(b) *Eligibility.* The eligibility requirements for insured FO, SW, and RL loans will be the same as provided in § 1980.180 (b) of this Chapter.

(c) *Loan purposes and limitations.* (1) The loan purposes for insured FO, SW, and RL loans will be the same as set forth in § 1980.180(c) of this Chapter except that:

(i) In § 1980.180(c) the cross-reference to § 1980.129 should be disregarded and the references found in § 1904.129 substituted instead.

(ii) In § 1980.180(c) (4)(iv) and (5), the word "lender" should be read to mean "FmHA".

(iii) In § 1980.180(c)(6), disregard the phrase "and loan fees as authorized in § 1980.22 of this Chapter."

(iv) § 1980.80(c)(7) should be disregarded.

(2) In addition, the following limitations will apply:

(i) An insured loan will not be used to supplement a guaranteed loan.

(ii) An insured loan will not be made to refinance a guaranteed loan, except when the following conditions are met:

(A) The circumstances resulting in the need to refinance were beyond the borrower's control.

(B) Refinancing is to the best interest of the Government and borrower.

(C) The State Director and his staff determine that the objectives of the loan can be accomplished with an insured loan.

(3) *For FO, SW, and RL loans.* The combined total of individual farm real estate loans to a borrower cannot exceed $100,000, the market value of the farm and any other security, or the amount certified by the County Committee, whichever is less. The maximum debt (unpaid principal and past due interest) against the security will not exceed $225,000 or the market value of the security, whichever is less. Debts against other real estate an applicant owns or against real estate in which he has an undivided interest are not included in the $225,000 debt limitation unless the property will be security for the loan.

(4) *For SW loans only.* Exhibit F of this Subpart prescribes the procedure and authority for making Bureau of Reclamation loans to irrigators.

(d) *Rates and terms.* (1) *For FO, SW, and RL loans.* The interest rate is 5 percent.

(2) *For FO, SW, and RL loans.* Each loan will be scheduled for repayment over a period not to exceed 40 years from the date of the note or such shorter period as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security. The following exceptions will also be followed:

(i) An FO loan of $5,000 or less that is not secured by real estate will be scheduled for payment in 10 years or less from the date of the note.

(ii) An SW loan not secured by real estate or leasehold will be scheduled for payment in 20 years or less from the date of the note.

(iii) The initial principal payment may be deferred until the end of the second full crop year from the date of the loan. Such payments may be deferred only when the Form FmHA 431–2, covering the first full crop year indicates that there is not sufficient income to meet a regular annual installment on the loan after operating, family living, and other essential expenses are paid during the first or first and second full crop years. Further, in the judgment of the loan approval official, there must be adequate evidence that income in subsequent years will be sufficient to meet the requirements of the loan. Deferred payments should not be used to permit the accelerated repayment of other debts or to purchase an usually large amount of capital goods. Deferment will be justified only when adequate returns will be delayed on two full crop years and:

(A) A substantial reorganization of the farming system and any nonfarm enterprise is being made; or

(B) A new system of farming or nonfarm enterprise is being established that will require substantial improvements, such as land clearing, draining, leveling, irrigating, basic fertilizing, seeding, other land development, soil improvement, and development of extensive nonfarm facilities.

(iv) When an RH loan is made with an FO loan, interest credit may be applicable to the RH loan. Refer to Subpart A of Part 1822 of this Chapter (Fm HA Instruction 444.1).

(e) *Security.* (1) *For FO, SW, and RL loans.* FO loans will generally be secured by real estate only, except in Texas nonreal estate security may be used due to unusual homestead laws. RL and SW loans will generally be secured by real estate except as provided in paragraph (e)(2) of this section. When real estate is taken as security for a loan the following requirements will be met:

(i) A mortgage on the entire farm owned by the applicant will be obtained except if the applicant's title to any part of the farm is defective and cannot be cured at a reasonable cost, or if State law will not recognize a mortgage upon it. The part of the farm to which the title is defective will be omitted from the appraisal. The maximum amount of loan funds which can be used to improve property which has a defective title or property not owned by the applicant is $5,000.

(ii) Except as stated in § 1980.180(c)(2) of this Chapter, if the applicant owns other real estate which is not a part of the farm, he will normally be required to dispose of the property before or simultaneously with the closing of the loan. If this is not feasible the loan can still be closed if the applicant agrees to dispose of the property as quickly as possible but not later than 2 years after loan closing. Form FmHA 443–17, "Agreement to Sell Nonessential Real Estate," will be executed at loan closing when this is the case. The security instrument will not include real estate that is to be sold. The FmHA State Director may permit an applicant to retain real estate that is not a part of the farm when any of the following conditions exist:

(A) The real estate provides employment or income which together with farm income is essential to the applicant's success.

(B) The real estate is the applicant's residence.

(C) A sale of the property would not materially reduce the applicant's need for a real estate loan or for operating credit; and provided further, in the case of an FO loan, retention of the real estate will not allow the borrower to operate larger than a family farm or own a farm for rental purposes.

(2) *For SW and RL loans.* Any loan of more than $60,000 and any loan to be paid in more than 20 years from the date of the note will be secured by a mortgage on the applicant's entire farm or leasehold unless an exception is made in accordance with paragraph (e)(1) (i) and (ii), of this section. A loan of less than $60,000, to be paid in 20 years or less may be secured by any combination of real estate, chattels or other miscellaneous security that cannot be converted to cash without jeopardizing the borrower's farming operations or means of livelihood. A chattel lien need not be taken when real estate is taken as security and such security is adequate. When other than real estate is taken as security the following conditions and requirements will be met:

(i) Whenever both real estate and chattel security are taken and the payment period of the loan will exceed the maximum life of the chattel security, the loan approval official will determine whether the real estate security will be adequate to secure the scheduled unpaid balance of the loan when the chattel security fully depreciates.

(ii) When the loan includes funds for items of equipment upon which a chattel lien is necessary to adequately secure the loan, a severance or subordination agreement will be obtained when appropriate.

(iii) In a State in which a chattel lien is not valid for as long as needed by applicants for the repayment of the loan, instructions for making loans se-

cured by chattel liens will be included in a State supplement.

(iv) When a lien on equipment, other personal property, or a fixture is necessary to adequately secure the loan, it will be taken and kept effective as outlined in Subpart A of Part 1930 of this Chapter.

(v) When a loan is made only for the purchase of shares of water stock, such stock will be pledged or assigned as security for the loans and will be retained in the County Office. A notation will be made on Form FmHA 405–1 showing that such security has been retained. No other security is required if the stock represents the right to receive water for irrigation purposes and if the water right is transferable separately from the land and the stock can be resold readily by the pledgee or assignee, or if the purchase price is not greater than the price at which the stock in the particular company is normally sold.

(vi) A lien will be taken on the rights-of-way and easements owned or acquired by the borrower for use in connection with the proposed improvements or facility if it is necessary to do so in order to protect adequately the Government's financial or security interests.

(vii) A loan may be secured by a mortgage on a leasehold if it has negotiable value that is mortgageable. The mortgage on the leasehold may be supplemented by additional security. The unexpired term of the lease should extend beyond the repayment period of the loan to provide reasonable prospects that the objectives of the loan will be achieved. If the loan repayment period is equal to the period covered by the lease, the borrower must give other security of sufficient value to adequately secure the loan or the lessor must agree in writing to compensate the borrower at the expiration of the lease, or if the lease is terminated, for any unexhausted value of the improvements made with the loan. Loans secured by leaseholds will be subject to the following provisions:

(A) The lessor must own good and marketable title in the real estate. There may be a lien on it or the lessor may be acquiring it under contract providing the lien instruments or contract do not contain covenants that may jeopardize the Government's security, or providing any adverse covenants are waived.

(B) The lessor's consent to the mortgage will be acquired.

(C) The lessor must be required to give advance notice to the FmHA of his intention to cancel, terminate or foreclose upon the lease. Such advance notice will be long enough to permit the FmHA to ascertain the amount of delinquencies, the total amount of the lessor's interest and any other prior interest, the market value of the leasehold interest and, if litigation is involved, time enough to refer the case to OGC and to permit FmHA to take appropriate action.

(D) In any State in which real estate or chattel liens may be taken on leasehold interest in farmland and recorded so as to protect the mortgagee, a State supplement will be issued in regard to making loans to holders of such interests.

(3) *For SW loans only.* When a loan is made to a corporation, the note and mortgage will be executed by the appropriate officials on behalf of the corporation. The loan approval official may require principal stockholders to be personally liable for the debt when needed to protect the Government's interest. Each principal stockholder will sign the note as an individual in such cases.

(4) *For FO loans only.* (i) A loan of more than $5,000 and any loan to be paid in more than 10 years from the date of the note will be secured by a mortgage on the applicant's entire farm, except as provided in paragraph (e) (1) of this section.

(ii) A loan of not more than $5,000 to be paid in less than 10 years from the date of the note may be secured by real estate, equipment, livestock or other security that cannot be converted to cash without jeopardizing the borrower's farming operation or means of livelihood.

(iii) A loan of not more than $5,000 to be secured by real estate will be secured by the best real estate lien obtainable without the title clearance or legal services required in Part 1807 of this Chapter (FmHA Instrurtion 427.1), provided the County Supervisor believes from a search of the county records that the applicant can give a mortgage on his farm. However, the requirements of Part 1807 of this Chapter will be adhered to when the loan is being made simultaneously with that of another lender and when land is to be purchased.

(iv) *Personal property security—FO.* In addition to the requirement set forth in subparagraph (e) (4) (ii) of this section, selected items of personal property may be taken as security if such a lien will not interfere with the applicant's obtaining needed operating credit. Whenever a lien is taken on personal property as security for a loan, it ordinarily will be a first lien. Any equipment, personal property, or fixtures purchased with loan funds will be included in security instruments for the loan.

(5) *Junior liens.* A junior mortgage may be taken as security for a loan under the following circumstances:

(i) A junior mortgage may be taken as security if the prior lien(s) do not contain provisions for future advances, summary forfeiture, cancellation, or other provisions that may jeopardize the Government's security position or the borrower's ability to repay the loan such as payment schedules involving installments that the borrower cannot pay in an orderly manner. However, if such provisions of the prior mortgage(s) or lien(s) are satisfactorily limited, modified, waived, or subordinated, then the taking of a junior mortgage as security is permissible, provided:

(A) Agreements with prior lienholders regarding enforcement of objectionable provisions of their liens, or giving notice of foreclosure or assignment of their liens or both, will be obtained in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1), except as modified by the "Memorandum of Understanding—FmHA-FCA," Exhibit E of this Subpart.

(B) The applicant will be required to furnish the County Supervisor a copy of each mortgage held by the prior lienholder(s) and, if available, a copy of the note or other obligation before the docket is assembled, so a proper determination can be made as to whether it should be refinanced. In addition, the County Supervisor will be furnished a current statement from the mortgagee showing:

(*1*) The amount of unpaid principal secured by the mortgage(s),

(*2*) The amount of any accrued interest,

(*3*) Whether the account(s) is current or the amount of any delinquency with principal and interest shown separately, and

(*4*) If a copy of the note(s) is not provided, its maturity date repayment schedule, interest rate, and a summary of any other provisions of the note. This information will be included in the docket for the information of the loan approval official. Any cost incidental to obtaining the information will be paid by the applicant.

(ii) When junior liens are taken as a result of a loan made simultaneously with other lenders the following conditions will apply:

(A) The "Memorandum of Understanding—FmHA—FCA," Exhibit E of this Subpart, will serve as a guide in processing loans to be made simultaneously with loans by Federal Land Banks (FLB) to common applicants. The State Director may work out agreements for simultaneous loans by long-term lenders other than Federal Land Banks for eligible loan purposes. Such an agreement should prohibit future advances by the first mortgage holder except for taxes, property insurance, reasonable maintenance expenditures, and reasonable foreclosure costs, but should not prohibit subsequent FmHA loans. It should also cover items such as appraisal methods, title clearance, loan closing, the disbursement of funds, and, when appropriate, advance notices of foreclosure. It may also cover other items considered necessary or advisable for a sound FmHA second mortgage loan.

(B) The County Supervisor and the local representative of another lender should maintain a close relationship in processing loans to mutual applicants or borrowers. A realistic determination must be made of the extent to which FmHA and the other lender can assist the applicant or borrower before either lender makes a firm commitment on the assistance that can be given. The following determinations must be made before the County Supervisor and representative of the other lender are able to determine the amount of each loan: eligibility, applicant's total real estate needs, market value of the property, and the applicant's ability to pay his total obligations.

(C) When an initial loan is made at the same time as a loan from another

lender, that lender's lien will have priority over the FmHA lien unless otherwise agreed upon. The lender's priority of lien can cover the following in addition to principal and interest: advances for payment of taxes, property insurance, reasonable maintenance to protect his interest, and reasonable foreclosure costs including attorney's fees.

(6) *Mineral rights.* Borrowers should obtain, to the extent practicable, all the mineral rights in any land being acquired. If it is questionable whether a sound loan can be made on property when all or part of the mineral rights are held by a third party, the County Supervisor will obtain the advice of the State Director before proceeding with development of the loan.

(7) *Miscellaneous security items.* Ordinarily, the applicant's farm is considered to include the land, buildings, fences, water, water stock, water facilities, and any other improvements and easements, rights-of-way, or other appurtenances which by custom pass with farms in the change of ownership. However, in some instances certain improvement items or facilities which usually pass with the farm in a change of ownership are considered personal property and would not be conveyed to the purchaser. In other instances items not generally considered to be a part of the real estate pass with the farm in a change of ownership. When the loan approval official determines the items involved are a part of the farm and necessary for its efficient operation, funds may be included in the FO loan to purchase such items. The County Supervisor, with the advice of the designated attorney, title insurance company, or the OGC, will ascertain that such items are free from any liens or encumbrances and are specifically included in the proper security instrument. Memberships in cooperative organizations purchased with loan funds will be assigned to the FmHA in a form acceptable to OGC.

(8) *FO loans to Indians secured by trust or restricted land.* The Department of Agriculture and the Department of the Interior have mutually agreed that FmHA loans which are to be secured by real estate liens may be made to Indians holding land in severalty under trust patents or deeds containing restrictions against alienation subject to statutes under which they may, with the approval of the Secretary of the Interior, give mortgages on their land which are valid and enforceable. Land in trust or restricted status purchased with FmHA loan funds may be acquired and held by the Indian in trust or restricted status.

(i) When a lien is to be taken on trust or restricted property in connection with a loan, the BIA will furnish requested information about the property and each applicant.

(ii) The FmHA State Director should arrange with the appropriate BIA official as to the manner in which the information will be requested and furnished. A State supplement will be issued to prescribe the actions to be taken by FmHA personnel to implement the making of loans under such conditions.

(f) *Other considerations.*—(1) *For FO, RL, and SW loans.* (i) It will be the responsibility of the State Director to determine if there are any areas in the State where the development of ground water for irrigation or recreational purposes, or the drainage of farmland is not recommended. A State supplement will be issued specifying the area in which available information indicates that the further development of ground water or drainage is not advisable without a further analysis of pertinent economic and physical data. If such areas exist, the State supplement will limit the making of loans within the areas to the repair or rehabilitation of existing irrigation facilities which will not result in the development of additional ground water in excess of the amount previously used, or contain such other restrictions as the State Director determines to be necessary.

(ii) When the soundness of the loan depends on income from the farm and other sources, the County Supervisor must determine that all of the sources of the applicant's income will likely be available to him on a continuing basis.

(iii) Income from nonfarm enterprises is considered to be "other income" rather than farm income. Form FmHA 431-2 will have sufficient information attached to determine the feasibility and soundness of the applicant's request for FmHA assistance in conducting nonfarm enterprises in conjunction with his farm operation. Such information will indicate whether the enterprise provides sufficient income to meet its operating expenses, depreciation, proportionate share of the debt, and makes a reasonable contribution to the family's income.

(iv) Form FmHA 440-9 should be used for each applicant who regularly (such as weekly, monthly, or quarterly) receives substantial income from off-farm source or from a nonfarm enterprise.

(v) Applicants receiving loans for nonfarm enterprises will be advised of the possibilities of incurring liability and encouraged to obtain public liability and property damage insurance.

(2) *For FO loans.* (i) When construction of a dwelling is planned and an applicant is eligible for an RH loan, an RH loan will be processed simultaneously with the FO docket. Dwellings will meet the requirements for RH loans required in Subpart A of Part 1822 of this Chapter (FmHA Instruction 444.1), except that consideration may be given to additional space requirements for facilities used for food preparation and storage, vehicle storage, laundry and office space, the size and cost of which will not exceed that owned by typical family farmers in the area.

(ii) If a farm is situated in more than one State, county, parish, or locality, the loan will be processed and serviced in the State, county, parish, or locality in which the borrower's residence on the farm is located. However, if the borrower's residence is not part of his farm, the FO loan will be serviced by the County Office serving the county in which the farm or a major portion of the farm is located unless otherwise approved by the State Office because of transportation difficulties for FmHA employees.

(3) *For SW loans.* (i) When the construction, repair, or use of a facility best can be accomplished through joint ownership by several individuals, a loan may be made to an individual applicant to participate in the joint ownership of the facility. Such a jointly-owned facility will be referred to as "group service," and will be limited to *not more* than 20 individuals, unless a larger group is authorized by the Administrator.

(ii) An operating agreement will be prepared which will outline the decisions of the group regarding the conditions of the ownership and use of the facility, the rights and responsibilities of the users. A simple written agreement usually will be sufficient; however, if the group service involves a complex operation an agreement similar to the "Operating Agreement" attached as Exhibit B may be used. Group service loans will be subject to the same general policies as other loans to individuals, except that:

(A) If a lien is taken on any group service borrower's real estate, and the jointly-owned facility is an essential part of his farm whether or not physically located on the farm, the lien taken will also cover such borrower's undivided interest in the facility.

(B) Borrowers who obtain loans to participate in a group service which involves acquisition of chattel property will secure their respective loans in accordance with the policies applicable to securing SW loans to individuals. If an individual loan cannot be adequately secured without taking a mortgage on the property to be purchased, a first mortgage executed by all participants in the group service may be taken on the purchased property as additional security.

(g) *Docket preparation.* Refer to Exhibit C of this Subpart for IFP Processing Guide.

(1) *Loans for irrigation purposes.* It is useful to have evidence or documentation of the following when loan funds are used for irrigation purposes:

(i) The land to be irrigated is suitable for irrigation.

(ii) The applicant has a right to use water for irrigation.

(iii) The water is suited for irrigation and of sufficient quantity for the amount of land to be irrigated.

(iv) Feasibility studies prepared by irrigation specialists should be included.

(2) *Other loan docket items.* The loan docket will also include title evidence or report of lien search, if available, foreclosure notice agreement, original or certified copy of deed, purchase contract or other instrument of ownership, the running case record, and the items required in § 1904.180(e) (5) (i). When the County Supervisor is the loan approval official, he may, in lieu of including the document evidencing ownership, include a statement in the docket indicating that he has seen and reviewed the document. If applicable, an explanation of the need for refinancing should also be included.

(h) *Approval and closing.* Refer to Part 1807 of this Chapter (FmHA In-

struction 427.1), Subpart A of Part 1901 of this Chapter, Subpart C of 1921 of this Chapter, and § 1904.127 for the appropriate instructions for loan approval and closing, in addition to the following:

(1) *Applicant's financial condition.* The County Supervisor will review with the applicant the financial statement which was prepared at the time the docket was developed. If there have been significant changes in the applicant's financial condition, the financial statement will be revised and initialed by the applicant and the County Supervisor. When an applicant's financial condition has changed to the extent that it appears that the loan would be unsound or improper, the loan will not be closed.

(2) *Change in use of funds planned for refinancing.* (i) When funds are included in the loan to refinance debts, the County Supervisor is authorized to transfer funds planned for refinancing between debts, provided all debts for which loan funds were planned are paid and the amount of loan funds to be used for refinancing does not exceed the amount planned for such purpose. Nevertheless, the County Supervisor is authorized to use funds planned for other purposes to pay small deficiencies in estimates of the amount needed for refinancing, if he determines that sufficient funds will remain available to complete the planned farm development or land purchase.

(ii) When the total amount of debts planned to be paid have increased so that they cannot be met within the authorities in the above paragraph (h) (2) (i) of this section or the applicant desires to transfer funds to pay debts for which loan funds were not planned, a revised loan docket will be developed. If the County Supervisor is not authorized to approve the loan, it will be submitted to the loan approval official for reconsideration. If Form FmHA 443-12, "Farm Ownership and Individual Soil and Water Fund Analysis," has been revised and the loan is approved, the loan approval official will send a copy of the revised form to the Finance Office.

(3) *Assignment of income from real estate to be mortgaged.* Unless otherwise authorized by the State Director in an individual case, income to be received by the borrower from royalties, leases, or other existing agreements under which the value of the real estate security will be depreciated will be assigned and disposed of in accordance with Part 1871 of this Chapter (FmHA Instruction 465.1) including provisions for written consent of any prior lienholder. Authorization may be given by the State Director to refrain from taking an assignment of such income when the security is otherwise adequate, payment of the loan is reasonably assured from other sources, and the income has already been committed for other purposes or must be relied on by the applicant for essential living or operating expenses. When the County Supervisor deems it advisable, assignments also may be taken on all or a portion of income to be derived from nondepleting transactions such as income from bonus payments or annual delay rentals which will be assigned and disposed of in accordance with Part 1871 of this Chapter (FmHA Instruction 465.1).

(i) For assignment of income, Form FmHA 443-16 will be used, except that if the form is legally inadequate in a particular State it may be adapted with the approval of the OGC.

(ii) The County Supervisor, upon the advice of the designated attorney, title insurance company, or OGC, as appropriate, may require acknowledgment and recordation of the assignment. Any cost incident thereto will be paid by the borrower.

(iii) At the time Form FmHA 443-16 is executed, appropriate notations will be made on Form FmHA 405-1 to insure that the proceeds, or the specified portion of the proceeds, assigned to FmHA from the transactions are remitted at the proper time.

(4) *Obtaining insurance.* Buildings on the property which are to be taken as security for the loan will be insured in accordance with Subparts A and B of Part 1806 of this Chapter (FmHA Instructions 426.1 and 426.2, respectively).

(i) *Subsequent loans.* Subsequent FO, RL, and SW loans are made and closed in the same manner as initial FO, RL, and SW loans, except as follows:

(1) *For FO and SW loans.* A new appraisal of real estate will be required only when real estate is taken as security and one or more of the following exists:

(i) Subsequent loan funds will be used to purchase land or the mortgage will include additional land that is not presently covered by the FmHA real estate mortgage.

(ii) The County Supervisor or loan approval official requests a new appraisal report.

(iii) The latest appraisal report on the farm is over 2 years old.

(iv) The physical characteristics of the farm have changed significantly.

(v) The subsequent loan will be over $5,000.

(vi) In the case of an SW loan the SW debt after the subsequent loan is closed will exceed $60,000 and the previous balance was secured by chattels.

(2) *For recreation loans.* The borrower need not be engaged in farming, and new security instruments will not be required when the subsequent loan advance will be secured by the existing security instruments. If the borrower is no longer engaged in farming when the subsequent loan is made, the term "farm" will be construed to mean the tract or tracts of land, improvements, and facilities used in whole or in part for outdoor recreational enterprises.

(i) A subsequent loan for any RL purpose may be made without taking new security instruments when: (A) the existing security instruments cover all of the property required to serve as security for the subsequent loan; and (B) State law and the language of the existing security instrument will permit the future loan advance to be secured by the existing security instruments; and (C) the existing security instruments will provide the same lien priority for the subsequent loan as for the initial loan; and (D) the amount of the subsequent loan will be evidenced by a note; and (E) the amount of the subsequent loan will not cause the secured indebtedness to exceed the market value of the security or the total debt limitation provided in § 1904.180(c) or any amount stated as a limit in any future advance provision in the recorded mortgage.

(ii) If the existing recorded real estate mortgage does not cover all the property required to serve as security for the subsequent loan or if it does not contain a future advance clause which is sufficient to include the subsequent loan, a new real estate mortgage will be taken.

(iii) If the existing financing statement and security agreement, including the future advance and after acquired property provisions, do not provide the required coverage in all respects, a new financing statement and security agreement will be taken.

(iv) The market value used as a basis will be determined in the same manner as prescribed in § 1904.180(j).

(v) A new appraisal of real estate will be required only when one or more of the following conditions exist:

(A) Subsequent loan funds will be used to purchase land or when a mortgage on additional land is to be taken to adequately secure the loan.

(B) The loan approval official requests a new appraisal report.

(C) The latest appraisal report on the land is over 2 years old.

(D) The physical characteristics or values of the land have changed sufficiently to warrant a new appraisal.

(E) The real property was not appraised in connection with the initial loan.

(j) *Appraisals.* When real estate will be taken as security for the loan, the real estate will be appraised by an FmHA employee authorized to appraise farms in accordance with Subpart A of Part 1809 of this Chapter (FmHA Instruction 422.1).

(1) For a loan not exceeding $5,000 an appraisal of the farm to be given as security will not be made unless the County Supervisor or loan approval official is uncertain as to the adequacy of the security. If an appraisal is not made, the County Supervisor will indicate on a separate sheet his estimate of the market value of the real estate to be given as security. This sheet should be attached to the appraisal report.

(2) When nonreal estate items will be taken as security for a loan, a list of such items will be made on Form FmHA 440-21 or State form (if such a form has been developed) with an estimate of the market value of the security. In determining the market value of the chattel security, the County Supervisor will take into consideration the length of time the property will serve as security and its useful life. In the case of other security, the County Supervisor will include a supporting statement with his estimated value of such security. Such a statement

will include a narrative description of the security, its current cash value, the relative stability of its value, and the manner in which the property is to be given as security.

§§ 1904.181–1904.200 [Reserved]

EXHIBIT A

(Supplements Subpart C of Part 1904, Part 1807 (FmHA Instruction 427.1), Subpart A of Part 1822 (FmHA Instruction 444.1), Subpart C of Part 1822 (FmHA Instruction 444.4), Subpart A of Part 1872 (FmHA Instruction 465.1), and Subparts A, B, C and D of Part 1955 of this Chapter.)

FARMERS HOME ADMINISTRATION LOANS TO ENTRYMEN ON UNPATENTED PUBLIC LANDS

I. *General.* This Exhibit provides additional policies and procedures applicable to (1) insured Farmers Home Administration (FmHA) loans to homestead and desertland entrymen which are to be secured by real estate, and (2) taking of real estate mortgages on entries to secure Farm Ownership, Soil and Water, Individual Recreation, Operating, Emergency, Single Family Housing, and Farm Labor Housing loans in connection with loan making and servicing.

A. *Authority.* The authorizations contained in this Exhibit clarify security and servicing for loans to entrymen and are based on Public Law 361. Attachment 1 is a Memorandum of Understanding between the Department of the Interior and the Department of Agriculture and outlines the general procedures to be followed when loans are made to entrymen. Reference to Guaranteed Loans in the Memorandum of Understanding is not applicable.

B. *Cooperation Between the Department of Agriculture and the Department of the Interior.* The extension of financial assistance and taking of real estate mortgages authorized in paragraph I A will be facilitated through the cooperation of the FmHA, the Bureau of Land Management (BLM), and the Bureau of Reclamation (BR), as provided in the Memorandum of Understanding.

C. *Special Policies Applicable to Dwellings, Land Improvement and Ownership.* An FmHA loan will not be made to an applicant who lacks the capital or who cannot obtain credit to provide (1) any required habitable dwellings within the statutory period specified in paragraph I D for the establishment of residence, and (2) land development sufficient for success but in no case less than that necessary to meet the entry requirements. The Notice of Allowance of Entry is adequate to meet the ownership requirement until the patent is issued.

D. *Patent Requirements.* All entrymen will be expected to keep in contact with appropriate officials of the BLM, and BR and comply with pertinent laws and regulations of these Agencies relating to the issuance of patents for homestead or desertland entries. When applicable, reclamation proof must be filed by the borrower at the earliest possible date. Likewise, FmHA personnel concerned with making and securing FmHA loans to entrymen should acquaint themselves with BLM and BR representatives and keep informed of their regulations relating to the issuance of patents for homestead or desertland entries, including but not limited to the following:

1. Residence and Development Requirements. A homestead entryman must establish residence upon the tract entered within 6 months after date of the entry unless an extension of time is allowed and must maintain a residence there for 3 years. He should notify the authorized officer of the BLM upon establishing residence. When an FmHA loan is made for any purpose, the requirements of the applicable FmHA regulations must be met. Likewise any residence or development requirements of BLM or BR will be met.

2. Final Proof. Specific requirements for final proof for homestead entrymen is found in 43 CFR § 2515.7 and final proof for desertland entrymen is found in 43 CFR § 2521.6.

a. Homestead Entryman. Final proof must be filed within 5 years from the date of allowance of entry. A patent will not be issued until the entryman has submitted final proof. Final proof must show that (1) a habitable dwelling is on the land at the time proof is submitted, (2) residence requirements have been met, (3) the improvements are of such character as to show good faith, and (4) the entryman is a citizen of the United States. When the entryman is ready to submit final proof he should notify the BR and request instructions regarding the procedure to be followed.

b. Desertland Entryman. Final proof must be made within 4 years from the date of entry. General requirements of the BLM that must be met include: (1) Filing a map at the initiation of the entry showing the method of irrigation and the proposed source of water supply, (2) an annual expenditure for 3 years of not less than $1 for each acre in the necessary development of the land, (3) filing a map at the end of the third year showing the character and extent of improvements, and (4) yearly proof of expenditures containing statements of two or more credible witnesses who have knowledge that the expenditures were made. The County Supervisor should consult the BLM official for any additional requirements of the entryman such as preparing a notice of intention to make final proof, publication of final proof and submission of final proof.

3. Reclamation Proof. Reclamation proof for homestead entryman may be submitted with, or at any time after, the submission of homestead proof. In addition to the final homestead proof mentioned in paragraph I D 2, the filing of reclamation proof is required as a condition for obtaining a patent to any entry within a reclamation project. Reclamation proof must show reclamation and cultivation of at least one-half of the irrigable area in the entry for 2 years immediately preceding the date of submission of proof and the payment of all reclamation charges due at that time. Reclamation proof, in proper form, must be submitted to the official in charge of the project accompanied by the payment of final homestead commissions.

II. *Loan Processing.* When making an FmHA loan to be secured by the entryman's land, existing FmHA policies, procedures, and loan authorities applicable to the particular type of loan will be met, except as follows:

A. *Applications.* 1. Applications From Entrymen Not in a Federal Reclamation Project. An application for an FmHA loan from an entryman with respect to public land not within a Federal reclamation project will be considered only after the entryman has selected a farm and received his Notice of Allowance of Entry from BLM. The original or a copy of the document showing allowance of entry must be attached to Form FmHA 410–1, "Application for FmHA Services."

2. Applications From Entrymen in a Federal Reclamation Project. An application for an FmHA loan from an entryman with respect to public land within a Federal reclamation project will not be considered until after the entryman has received a Certificate of Eligibility from BR and has selected a farm. If at the time of making application the entryman has received his Notice of Allowance of Entry from BLM, he will attach the original or a copy of such document to Form FmHA 410–1. If the entryman has not received his Notice of Allowance of Entry, a copy of his Certificate of Eligibility must be attached to the FmHA application. However, the docket will not be approved until the original or a copy of the document showing Notice of Allowance of Entry has been received from the applicant and placed in the loan docket.

3. Supplemental Information on Applicant. At the time of making application for an FmHA loan to be secured by real estate, the entryman may be requested to authorize the FmHA to obtain from BLM or BR any available information concerning his application for homestead, desertland, or reclamation entry for use by the FmHA in determining his eligibility for the loan as provided in the Memorandum of Understanding.

B. *Special Items in Development of Loan Dockets for Loans to be Secured by the Entryman's Land.* Loan dockets for loans to entrymen will be prepared and distributed in accordance with the applicable FmHA regulations, except as modified by this paragraph.

1. Development Plan. An extra copy of Form FmHA 424–1, "Farm Development Plan" will be prepared and sent to BLM in each case. When the entryman's farm is located in a Federal reclamation project, any development items listed on Form FmHA 424–1 must be consistent with the overall plans for development of the reclamation project. Consequently, when Form FmHA 424–1 provides for the leveling of land or the installation of farm distribution and surface drainage systems, another extra copy will be prepared and sent to the Reclamation Project Officer as soon as the County Supervisor determines that there is a reasonable likelihood that the loan will be made. If Form FmHA 424–1 conflicts with the overall BR plans for the development of the Federal reclamation project, officials of the BR will so advise the County Supervisor. The processing of the loan will not be delayed while awaiting such advice from BR but the FmHA loan will not be closed until Form FmHA 424–1 is revised to make it consistent with the BR plans. The County Supervisor will advise the Project Officer or Authorized Officer in writing whenever changes are made in the plans approved by the FmHA.

C. *Title Clearance.* 1. The entryman applicant will be required to furnish and pay for a certified statement prepared by a qualified title examiner or abstractor or as otherwise required by a State supplement which will include findings with respect to any outstanding land leveling contracts and any other claims of any kind on record against the entry. This certified statement will be included in the loan docket. Where there is an outstanding land leveling contract, the applicant's copy of such contract also will be included in the loan docket and returned to the borrower when the loan is closed.

2. The State Director, upon advice from the Office of the General Counsel, will inform the County Supervisor regarding the acceptable form of certified statement required in paragraph IIC1.

D. *Loan Closing.* Except as provided by this Exhibit, FmHA loans will closed in accordance with the applicable FmHA regulation.

1. Real Estate Mortgage Forms. Whenever the entry is located within a Federal reclamation project two extra copies of Form FmHA 427–1, "Real Estate Mortgage," will be prepared. If the entry is not within a Federal reclamation project, one extra copy of the real estate mortgage will be prepared. After the loan has been closed, a conformed copy of the real estate mortgage will be sent to BLM and, if the entry is located in a Federal reclamation project, a conformed copy of the mortgage also will be sent to the BR. The entryman's serial number which appears on the original document showing Notice of

Allowance of Entry will be typed on the original, and the conformed copies of the mortgage for BLM and BR will indicate the date and place of recordation and the book and page numbers.

2. County Office Record of Allowance of Entry. When the loan is closed a copy will be made of the original document showing Notice of Allowance of Entry for the borrower's county office case folder, unless a copy was furnished. The County Supervisor will sign the following certification which will be typed on this copy:

"I hereby certify that this is an exact copy of the Notice of Allowance of Entry issued by the BLM to _____ residing
(Entryman's Name)
at _____.
(Entryman's Address)

_____
(County Supervisor)

When the original document showing allowance of entry is furnished, it will be returned to the borrower.

3. Entries Required on Management System Cards. Upon closing the loan, the County Supervisor will enter a notation on the borrower's Management System Card (Form FmHA 405–1) as to the date when the borrower must submit final proof to the BLM in fulfillment of the requirements to obtain a patent. If residence has not been established, a notation also will be made on the Management System Card of the date such residence must be commenced. It will be the responsibility of the County Supervisor to follow through to see that the borrower completes these actions.

III. *Mortgage on Real Estate for Additional Security.* When it is deemed advisable to take a mortgage on the homestead or desertland entry as additional security or to otherwise protect the interests of the FmHA, a real estate mortgage will be taken on such entry. The mortgage will be taken as authorized in Subpart A of Part 1872 of this Chapter (FmHA Instruction 465.1). In such a case, a copy of the real estate mortgage will be sent to BLM and, if the farm is located in a Federal reclamation project, a copy of the mortgage also will be sent to the BR.

IV. *Default and Disposal of Units.* The County Supervisor will coordinate with the local BLM and BR representatives and keep the State Director currently advised on any cases in default or where default is anticipated. The State Director will be guided by Attachment I and advice of the Office of the General Counsel in fulfilling FmHA's responsibilities for disposal of any units on which a patent has not been issued. Units on which a patent has been issued will be serviced by applicable FmHA procedures.

Memorandum of understanding between the Department of Agriculture and the Department of the Interior relating to financial assistance by the Farmers Home Administration to entrymen on public lands.

PART I

PURPOSE AND DEFINITIONS

A. *Purpose.* The purpose of this memorandum is to outline the general procedure to be followed by the Farmers Home Administration (FHA), the Bureau of Land Management (BLM), and the Bureau of Reclamation (BR), when FHA extends financial assistance to entrymen on unpatented public lands, including public land in reclamation projects.

B. *Definitions.* Unless otherwise indicated in this memorandum:

(1) The term "unit" will be used to describe an adequate family farm, less than adequate family farm, a portion of a farm or any other tract of land.

(2) The term "FHA" also includes its insured lenders and guaranteed lenders.

(3) The term "outstanding balance" includes (a) the unpaid indebtedness under the FHA mortgage, (b) any unpaid costs owed to BR for construction by it of a special distribution system to serve a unit where such costs have been allocated to the unit as a separate item, and (c) any portion of an SW association loan made by FHA for construction of a domestic water system to serve the unit and secured by a lien on the unit. It does not include any portion of an SW association loan made by the FHA for construction of a domestic water system to serve the unit and not secured by a lien on the unit, nor project construction costs charged to the unit.

(4) Public Law 361, 81st Congress (7 U.S.C. 1006a and 1006b), is referred to as "P.L. 361." It applies to Farm Ownership (FO), Operating (OL), Soil and Water Conservation (SW) loans made to individuals and Recreation (RL) loans to individuals under the Consolidated Farm and Rural Development Act of 1972 (7 U.S.C. 1921) and prior laws. It does not apply to Emergency (EM) loans made under that act or prior laws, nor to Housing (RH) loans made under Title V of the Housing Act of 1949 (42 U.S.C. 1471), or to any other loans made or administered by FHA.

(5) Public Law 419 (86 Stat. 675) amended P.L. 361 to add desertland entrymen as eligible for the same loans as indicated in (4) above.

(6) The term "Project Officer" refers to the BR Officer who may properly hold the requisite responsibility for the project or area in question.

(7) The term "authorized officer" refers to the BLM Officer to whom has been delegated the required responsibility for the area in question.

(8) The term "County Supervisor" means County Supervisor for FHA.

(9) The term "State Director" means State Director for FHA.

PART II

GENERAL PROVISIONS

A. FHA regulations will govern making and servicing FHA loans, including the taking of mortgages as additional security for existing FHA loans.

B. In connection with applications for FHA loans or credit sales to eligible applicants, the Project Officer of BR or the authorized officer of BLM, upon written request of the County Supervisor, will furnish the following:

1. Written consent to make the applicant an FHA loan or to secure an existing FHA loan.

2. Any information which BR or BLM has concerning the applicant, provided, in the case of BR information, the request has the following authorizations attached to it.

"Date _____, 19__

I hereby authorize the Bureau of Reclamation to make available to the Farmers Home Administration any information the Bureau may have concerning my transactions with it. This information may be used by the Farmers Home Administration in determining my eligibility and qualifications for a loan, and is to be treated as confidential.

(Type name of applicant below signature.)

(signed _____
(applicant)

(signed _____
(spouse)

3. A statement of account, showing the applicant's outstanding balance if there is a debt owed to BR (principal balance, accrued unpaid interest, and daily interest accrual rate, any other charges and any unpaid special distribution system costs, and the amount delinquency).

4. A report on any development and residence requirements which have not been completed and on eligibility of the unit for water, including full information on the status of any excess land.

5. Advice as to whether the applicant is in default because of failure to pay water charges, or because of breach of any other agreements with the Bureau of Reclamation.

C. A homestead entryman or desert land entryman on public land not in a reclamation project may apply to the County Supervisor for an FHA loan when his entry has been allowed. The original or a copy of the Notice of Allowance of Entry from BLM must be attached to the application for a loan from FHA. Upon request of the County Supervisor, the authorized officer of the BLM, to the extent applicable will furnish any information that office has with respect to the applicant entryman.

An applicant for a homestead on a reclamation project likewise may apply to the County Supervisor for an FHA loan when he has received from the BR a Certificate of Eligibility and has selected a unit. A copy of the Certificate of Eligibility must be attached to the application for a loan from the FHA unless the unit has been entered, in which case the Notice of Allowance of Entry will be attached to the application for a loan. Each application for such a loan filed by an entryman will be processed in substantially the same manner as other application of a similar character, including the preparation of the loan docket, certifications by the FHA County Committee, and approval by the duly authorized loan approving official. If any conflict exists between the development plans of FHA and BR or BLM, the difference must be reconciled prior to loan closing. A copy of the Notice of Allowance of the Entry will be required in the loan docket before a loan is closed.

D. Upon closing of a loan to an entryman, when real estate security is taken, the County Supervisor will send copies of the real estate mortgage to the authorized officer of BLM, and to BR if appropriate. The County Supervisor will indicate on the mortgage the date such instrument was filed for record and the entryman's homestead or desert land entry serial number. Copies of these instruments will serve as notification to BLM or BR that a loan has been made by FHA and may be used in connection with the servicing of such loans as indicated herein.

PART III

LOAN SERVICING

A. If the entryman-borrower repays his indebtedness in full to FHA before a patent is issued to him by BLM, the County Supervisor will promptly notify the BLM authorized officer of the release of the mortgage lien.

B. When final homestead or desert land entry proof or homestead proof and reclamation proof submitted by an entryman-borrower is accepted by the BLM and a patent is issued before BLM is notified of the full repayment of the indebtedness to FHA, the patent issued will make reference to the FHA mortgage as follows:

"This patent is issued subject to the rights of the United States under a certain mortgage or deed of trust executed by _____ and _____ under date of _____, 19__, recorded in Book _____, Page _____ of the records of the Recorder of Deeds for _____."

In such cases, if the patent is issued to a person other than the mortgagor or the purchaser at foreclosure of the mortgage,

there shall also be inserted after the recital of recordation of the mortgage the following words: "which the patentee assumes and agrees to pay."

C. Upon issuance of the patent to the entryman-borrower, the authorized officer of BLM will notify the State Director that the patent has been issued and mailed to the entryman-borrower. Upon such notification, the County Supervisor will advise the entryman-borrower to record the patent promptly in the real estate records in the county in which his unit is located, and will check the records to determine that the recordation has been accomplished. The issuance of the patent will terminate any further relationship between BLM and FHA insofar as the entryman-borrower is concerned.

D. In the event that an entryman-borrower has not submitted Final Proof within the statutory period from the date of allowance of his entry, BLM will send to the County Supervisor a copy of the Notice of Expiration of the statutory period of entry when it is mailed to the entryman-borrower. The copy of the notice will be used by the County Supervisor in urging the entryman-borrower to submit Final Proof with appropriate explanation of his failure to do so before the expiration of the statutory period.

PART IV

DEFAULTS

When an entryman-borrower is in default in the terms of his mortgage to FHA, in complying with requirements to obtain a patent, or in meeting the requirements to make reclamation proof, the following procedures will apply:

A. *Default on Mortgage.* BLM will issue a decision cancelling any entry upon which there is an FHA mortgage when so requested in writing by the State Director. FHA may request a cancellation whenever any default occurs in the terms, conditions, covenants, and obligations contained in the mortgage. Included among the terms, conditions, covenants, and obligations in the mortgage taken by FHA will be the provision that the entryman-borrower must comply with the legal and administrative regulations for the issuance of a patent and, if the entry is located in a reclamation project, with the legal and administrative regulations for making reclamation proof.

1. The State Director will furnish the authorized officer of BLM with an explanation of the need for cancellation. When the entry is located in a reclamation project, the State Director also will notify the BR Regional Director and furnish him with an explanation of the need for cancellation.

2. The BR Regional Director may request the State Director to reconsider the necessity for cancellation of the entry when (a) BR can furnish information which may not have been considered by FHA, (b) there is an outstanding contract between BR and the entryman-borrower for the repayment of charges for land leveling, or (c) the entryman-borrower has not made reclamation proof. If such a request is made, a copy will be furnished to the BLM which shall suspend action on the FHA request until further notified by the FHA. Ordinarily, BR will not request a reconsideration of the necessity for cancellation unless there appears to be a reasonable basis upon which a solution can be worked out so that the entryman-borrower may retain possession of his unit.

3. If BR does not ask the State Director to reconsider his request to cancel within thirty days, BLM will issue a decision cancelling the entry.

4. If BR asks for a reconsideration of the request to cancel, it will furnish the State Director immediately new information which it believes should be considered by FHA in reaching a decision. When FHA has reached a final decision, it will notify the BLM and the BR of the decision reached. Within thirty days after receiving notice of the final decision of the State Director that the entry should be cancelled, BLM will notify the entryman-borrower of the cancellation of his entry in accordance with the usual procedure. A copy of the notice of the cancellation will be mailed to the State Director at the same time.

B. *Default in Meeting Entry Requirements.* If BLM proposes to take any action toward cancellation of an entryman-borrower's entry, it will notify the State Director and the BR Regional Director if the unit is located in a reclamation project, in writing at least thirty days before any action is commenced. The notification will be accompanied by an explanation as to why cancellation will be made. Within the thirty-day period either or both FHA and BR may present any new information for the consideration of the BLM in reaching a decision to, or not to, cancel the entry. When BLM has reached a final decision, it will inform the State Director and the BR Regional Director.

C. *Default in Meeting Reclamation Requirements.* In the event BR intends to recommend cancellation of an entryman-borrower's entry, the Superintendent of the Reclamation Project will notify the State Director in writing at least thirty days before such recommendation is to be submitted to BLM for cancellation. The notification will be accompanied by an explanation as to why cancellation of entry is to be requested. FHA may request a reconsideration of BR's intended recommendation to cancel within the thirty-day period and will furnish any new information which it believes should be considered by BR when reaching a final decision. When BR has reached a final decision, it will notify the State Director.

PART V

DISPOSAL OF UNITS AFTER CANCELLATION OR RELINQUISHMENT

After cancellation or relinquishment of an entry upon land on which FHA holds a mortgage, such land shall be opened to reentry only to persons eligible for an original entry, and eligible for an FHA loan unless the FHA loan is paid in full. Any unit disposed of hereunder shall be subject to the outstanding balance owed to FHA and BR, or to that portion of the outstanding balance as agreed upon by the FHA and BR or BLM, as appropriate, if the entryman is eligible for an FHA loan.

A. *One Year Limit.* Under Pub. L. 361, BLM or BR can permit a new entry only during one year after cancellation or relinquishment of the old entry where the FHA mortgage is subject to Pub. L. 361 (FO, OL & SW). In other cases such as RH and EM, the one-year limitation does not apply, but BLM or BR will nevertheless arrange for a new entry within the one-year period if it is practicable to do so.

B. *Custody and Expenses.* While BLM or BR has disposal authority it will assume custodial responsibility for the unit, but the County Supervisor and the Project Officer will determine the actions necessary to protect the interests of both FHA and BLM or BR. Any expenses incurred for protection of FHA's interest will be paid by FHA and added to the mortgage debt.

C. *Disposal of Units.* 1. *Within a Reclamation Project.* As soon as possible, after cancellation or relinquishment, FHA will make an appraisal to determine the value of the property and will report its findings to BR on appropriate FHA appraisal forms. The State Director and the BR Regional Director after receipt of the report by BR will jointly participate in determining the amount of indebtedness owed to the United States which shall be required in accordance with existing law to be paid and the terms under which repayment will be made.

a. BR will, thereafter, for that particular unit, proceed to inform the public of the availability of the unit in accordance with its established procedures. However, before BR issues a Certificate of Eligibility to any applicant for re-entry it will submit to the County Supervisor (a) a list of the names of the applicants who can qualify for a Certificate of Eligibility and the order in which such applicants shall be considered, and (b) the information submitted by each of the qualified applicants in support of his application for the entry.

b. The County Supervisor and the County Committee will examine the list and the information to determine which of the applicants are eligible for an FHA loan. The list of any documentary information furnished will be returned to BR with a written statement setting forth the names in the list which are eligible for FHA assistance. Upon receiving such information from FHA, BR will proceed to select, in accordance with established procedures, from among the applicants determined to be eligible for a Certificate of Eligibility and an FHA loan, one applicant and not to exceed two alternate applicants, to whom the unit may be awarded upon qualifying to assume the indebtedness.

c. BR will issue a Certificate of Eligibility to the selected applicant. The Certificate of Eligibility will be sent to the FHA County Supervisor who will instruct the applicant to file his Certificate of Eligibility and application for entry with BLM which will issue a Notice of Allowance of Entry if the applicant is qualified to make entry. The applicant will be allowed to occupy the unit when he has received the Notice of Allowance of Entry and has completed arrangements to assume the required amount of indebtedness owed to FHA or to refinance such indebtedness. FHA will send a copy of the assumption agreement or note and mortgage, if any, executed by the new occupant to BR and BLM.

d. FHA may permit an eligible person to whom the unit is awarded to assume that part of the indebtedness determined to be within the value of the property.

2. *Units Not Within a Reclamation Project.* As soon as possible, after cancellation or relinquishment, FHA will make an appraisal to determine the value of the property and to determine the amount of indebtedness owed on FHA loans that is to be paid by the new entryman. The FHA will report the amount of the FHA debt to be assumed to the BLM.

a. The BLM will, thereafter, for that particular entry, proceed to inform the public of the availability of the land in accordance with its established procedures. BLM will, following the opening of the land to application, submit to the County Supervisor (a) a list of the names of the applicants who can qualify for the allowance and the order in which such applicants shall be considered, and (b) the information submitted by each of the applicants in support of his application.

b. Thereafter the FHA will select from the list the first applicant for the entry who can qualify for an FHA loan.

c. FHA will then notify BLM of the applicant selected. The authorized Officer will, as soon as possible after notification, issue the Notice of Allowance. The Allowance of Entry or an attachment thereto will show that entry is conditioned upon payment or assumption of the FHA debt. A copy of appropriate notice will be mailed to the State Director.

d. Upon receipt of the Notice of Allowance of Entry by the applicant, FHA will instruct him to occupy the unit and will complete arrangements for him to assume or refinance

the indebtedness or the part thereof determined to be within the value of the property. FHA will send a copy of the assumption agreement or note and the mortgage, if any, executed by the new occupant to BLM.

c. FHA may permit an eligible person to whom the entry is allowed to assume that part of the indebtedness determined to be within the value of the property.

D. *Disposal of Units by Farmers Home Administration.* 1. If no entry is allowed within one year after cancellation or relinquishment of a prior entry on which FHA holds a mortgage and the property was security for an FHA loan subject to P.L. 361 even though it also was security for a loan not subject to that law, FHA will dispose of the unit in accordance with FHA regulations. If the unit is located on a reclamation project, such disposition shall be subject, however, to outstanding reclamation charges on the land due the United States.

2. If the property cannot be sold immediately, the FHA will arrange for a lease or caretaker agreement as necessary to protect the Government's interests.

3. When FHA prepares to sell a unit, it will also advise BLM or BR, as appropriate, of the name of the purchaser and will request issuance of a patent to the purchaser. If the unit is in a reclamation project, BR will furnish, as soon as possible to FHA, information concerning any outstanding reclamation charges on the land due the United States.

4. The sale may be for cash or on credit. In the event the sale is on credit, FHA will furnish a copy of the mortgage to BLM or BR, as appropriate, which shall make reference, in any patent issued thereafter, to the outstanding mortage of FHA.

This memorandum of understanding supersedes the earlier memorandum of understanding signed on February 17, 1950, and March 25, 1950, respectively, by the Secretaries of Agriculture and Interior.

Approved:
Dated: October 22, 1974.

JACK O. HORTON,
Assistant Secretary of the Interior.

Approved:
Dated: December 16, 1974.

WILLIAM ERWIN,
Assistant Secretary of Agriculture.

EXHIBIT B

OPERATING AGREEMENT

This Agreement, made this ____ day of _____, 19____, by and between _____, _____, _____, _____, _____, _____, and _____, (hereinafter referred to as "users"), constituting all the users of that certain water facility situated in the County of _____, State of _____, and more particularly described in item 2 of this agreement.

Witnesseth: In order to define more specifically the rights and duties of the users, it is mutually agreed as follows:

1. This agreement shall not become effective until signed and acknowledged by all the users; but when so signed and acknowledged it shall become effective as of the date hereinabove specified.

2. The facility consists of the following: [1]

a. The main conduits, such as canals, ditches, pipelines, flumes, and siphons and the rights-of-way and easements described as follows:

_____
_____
_____

b. The sites for pumping plant, diversion works, or storage works, being a certain parcel(s) of land situated in the County of _____, State of _____, containing _____ acres, more or less, and more particularly described as follows:

c. Pumping plant, diversion works, or storage works (specify and describe):

_____
_____
_____

d. Source of water supply: _____
_____

e. Water right (description and references to filing, permit, decree, or other means of identification and quantity of water:):

_____
_____
_____

3. Said facility is owned by the users in the proportionate interest specified on their respective signature pages hereto attached, and the users are entitled to have services from said facility to the lands described on the respective signature pages in the proportion that the interest of each user bears to the total of the interests of all the users.[2]

4. Except as hereinafter provided in item 6, said facility shall be operated only for services on the lands of the users. When only a part of the tract of land described on any signature page hereto is transferred, the interests of the users shall be redetermined by written agreement if the party to whom such tract portion is transferred wishes to become a user of said facility.

5. Each user agrees to pay his proportionate part of the cost of constructing, altering, improving, repairing, maintaining, operating, and supervising said facility in the ratio that his interest in the facility bears to the total interest of all users.[2] Payments for initial construction, alteration, improvements, or repair of said facility shall be due and payable when this agreement becomes effective. Payments for the annual costs of maintaining, operating, and supervising said facility shall be due on or before the ____ day of _____ of each year unless a different date of payment is agreed upon by the users owning the majority of the interests and annual payments shall become delinquent 15 days thereafter. If the holder of any lien on the land of any user shall have filed with the manager appointed under this agreement a written request for notice of unpaid delinquent charges apportioned to such user, no action shall be commenced by the group for the unpaid amount due from such user until 15 days after written notice of the amount of such unpaid charges is mailed to such lienholder. No user shall be entitled to services when delinquent in such payments. The costs of installing, operating, and maintaining branch conduits and rights-of-way from the main conduits of the facility described in paragraph 2 as to the lands of one or more users shall be borne by the respective user or users.

6. Services may be provided to persons who are not parties to this agreement only upon the following conditions:

a. When the facility has a capacity in excess of the reasonable needs of the users, when needed by such persons not users during an emergency shortage, or when such persons are neighboring landowners to whom no. other source of like service is equally available; and

b. When such service is made pursuant to a written contract consented to in writing by all the users and such service is paid for at rates specified in said contract.

7. Each user hereby grants and confirms to every other user named herein such rights-of-way across any of the lands hereinafter described as may be necessary to enable every user to convey to his respective lands his proportionate share of service from said facility, or from any facility that may be constructed to replace the present facility, together with a right of ingress and egress for the purpose of operating and maintaining the facility now or hereafter installed.[3]

8. A manager of the facility shall be elected by a majority of the users at the regular annual meeting and shall serve in such capacity for a period of one year, or until his successor is elected. A meeting for the election of the first manager shall be held within 30 days after the effective date of this agreement. The manager shall receive $_____ per _____ as compensation. It shall be the duty of the manager to keep all minutes, books, accounts, papers, and records in connection with the facility; to supervise the operation, maintenance, repair, and improvement of the facility, and to apportion the costs thereof and notify the users in writing of the charges payable by them respectively; to collect such charges; and to regulate the distribution of services among the users. A manager may be removed from office before the expiration of his term and a successor elected for the unexpired portion of his term by vote of a majority of the users.

9. The regular annual meeting of the users shall be held on the ____ day of _____. The manager shall notify all users of the time and place thereof, by written notice to each, mailed or delivered personally at least 48 hours before the annual meeting. Special meetings may be called at any time by written notices thereof signed by the manager or by at least two users and delivered personally or by mail to all users at least 48 hours before the time of the meeting. At each meeting, a majority of the users shall constitute a quorum, and at each meeting the manager shall preside.

10. This agreement may be amended by a majority of the users at a regular annual meeting or at any special meeting called for such purpose.

In witness whereof, the owners of interest in said facility have signed their names hereto and have specified their interests in the facility as shown on the signature pages attached hereto, numbered as pages ____, ____, ____, ____, and ____.

SIGNATURE PAGE

Party No.

(a) Proportionate interest: _____ percent

(b) Land which is to be benefited by the facility is that certain parcel or parcels of land situated in the County of _____, State of _____, consisting of _____ acres, more or less, and more particularly described as follows:

_____, 19 ____.
(Dated)

_____
(User)

_____
(His Wife)

ACKNOWLEDGMENT

PROCESSING GUIDE

INSURED FARMER PROGRAM (IFP) LOANS

This Exhibit outlines the basic steps involved in processing a loan application and

[1] Include only applicable descriptive material and, when necessary, substitute statements that more adequately describe the facility.

[2] If this language does not express the decisions of the parties, substitute more appropriate language regarding their pro-rata interests and their responsibilities.

[3] This term will be deleted when easements cannot or will not be granted by execution of the Operating Agreement.

identifies the FmHA forms which should be considered for use at each step as appropriate for the different Farmer Program loans.

Consult the appropriate Forms Manual Insert (FMI) for instructions for completion, distribution, and procedural reference for each form.

Application Processing

A. Application interview

Review applicant's proposed plan of operation in relation to FmHA farmer program loan purposes and limitations.

Begin running case record.

Provide applicant with FmHA forms to be completed and returned which are needed to determine eligibility.

Advise applicant of other information he must obtain and provide to FmHA.

Have applicant contact other creditors as possible credit sources for financing, or participating in the financing, of the proposed operation.

The following FmHA forms will be made available to the applicant, or used by the County Supervisor. Forms designated with an "x" are required and those designated with an "•" are used when applicable.

Form No.	Name	EM	OL	FO	SW	RL
410-1	Application for FmHA Services	x	x	x	x	x
410-5	Request for Verification of Employment	•	•	•	•	•
410-8	Applicant Reference Letter	•	•	•	•	•
410-10	Privacy Act Statement to References	•	•	•	•	•
431-1	Long-Time Farm and Home Plan	•	•	•	•	•
431-2	Farm and Home Plan	x	x	x	x	x
431-4	Business Analysis, Nonagricultural Enterprise	•	•	•	---	•
440-32	Request for Statement of Debts and Collaterals	•	•	•	•	•
440-34	Option to Purchase Real Property	•	---	•	•	•
440-50	Crop-Share-Cash Farm Lease	•	•	---		
440-51	Crop-Share-Cash Farm Lease (With Subordination Agreement)	•	•	---		
440-52	Cash Farm Lease	•	•	---		
440-53	Cash Farm Lease (With Subordination Agreement)	•	•	---		
440-54	Livestock-Share Farm Lease	•	•	---		
440-55	Livestock-Share-Farm Lease (With Subordination Agreement)	•	•	---		
440-56	Annual Supplement to Farm Lease	•	•	---		
440-58	Estimate of Settlement Costs—"Settlement Costs" Booklet	---	---	•	---	
441-22	Certification of Disaster Losses	x	---	---	---	
441-29	ASCS Verification of Farm Production History and Payments	x	---	---	---	
443-2	Option for Purchase of Farm, Land To Be Subdivided	•	---	•	---	
443-3	Assignment of Interest in Option (Land To Be Subdivided)	•	---	•	---	
443-4	Designation of Assignee of Interest in Option (Land To Be Subdivided)	•	---	•	---	

B. Field visit

Notify applicant of planned visit and its purpose.

Evaluate the resources available to the applicant and their adequacy in fulfilling the requirements of the proposed plan of operation, taking into consideration development work planned.

Obtain information needed to complete required appraisals (chattel and real estate).

If development is planned, discuss plans, specifications, and estimates.

Hold landlord-tenant meeting, if necessary, to reach an agreement on the terms of the lease, resolve any problems, etc.; record in running case record.

Determine security requirements and record in running case record.

The following FmHA forms will be used as appropriate.

Form No.	Name	EM	OL	FO	SW	RL
400-2	Notice of Visit	x	•	•	•	•
422-1	Appraisal Report (Farm Tract)	x	---	x	•	•
422-2	Supplemental Report	•	---	•	•	•
422-3	Map of Property	x	---	x	•	•
422-10	Appraiser's Worksheet-Farm Tracts	•	---	•	•	•
424-1	Development Plan	•	---	•	•	•
424-2	Description of Materials	•	---	•		
440-13	Reprot of Lien Search	•	---		---	
440-21	Appraisal of Chattel Property	•	•	---	•	•
441-28	County Supervisor's Calculations and Verification of Qualifying Production Losses.	x	---			

C. Eligibility determination

Obtain all needed application forms, and other information from the applicant; assist the applicant in completing these forms and/or in obtaining needed information, as necessary.

Request deed or other evidence of title.

Schedule meeting for county committee, review application and determine eligibility.

Inform applicant of the results of committee action.

The following FmHA forms will be used as appropriate in accomplishing the above actions:

Form No.	Name	EM	OL	FO	SW	RL
403-1	Debt Adjustment Agreement	•	•	•	---	
440-2	County Committee Certification or Recommendation	x	x	x	x	x

Docket Preparation

Obtain all information from the applicant, prior lienholder(s), landlord(s), etc., needed for the loan docket to be prepared.

Check to assure all security requirements have been or will be met by loan closing.

Prepare a loan narrative, and enter it into the running case record.

The following FmHA forms will be completed and utilized as necessary in preparing the loan docket for approval:

Form No.	Name	EM	OL	FO	SW	RL
400-4	Nondiscrimination Agreement		•	•		x
427-8	Agreement With Prior Lienholder	x	•	•	•	•
440-1	Request for Obligation of Funds	x	x	x	x	x
440-4	Security Agreement (Chattels and Crops)	x	x	•	•	•
440-4A	Security Agreement (Crops)	x	x			
440-6	Severance Agreement	•	•	•	•	•
440-9	Supplementary Payment Agreement	•	•	•	•	•
440-15	Security Agreement (Insured Loans to Individuals)			•	•	•
440-25/ 440A25	Financing Statement	x	x	•	•	•
440-26	Consent and Subordination Agreement	•	•			
440-41	Disclosure Statement for Loans Secured by Real Estate	•		•	•	•
440-41A	Disclosure Statement for Loans Not Secured by Real Estate	x	x		•	•
440-43	Notice of Right To Rescind	x	x	•	•	•
440-46	Environment Impact Assessment	•		•	•	•
441-5	Subordination Agreement	•	•			
441-7	OL-EM and Other Credit Analysis		x			
441-8	Assignment of Proceeds From the Sale of Agricultural Products	•	•	•	•	•
441-10	Nondisturbance Agreement	•	•			
441-12	Agreement for Disposition of Jointly Owned Property	•	•			
441-13	Division of Income and Nondisturbance Agreement	•	•			
441-17	Certification of Obligation to Landlord	•	•			
441-18	Consent to Payment of Proceeds From Sale of Farm Products	•	•			
441-25	Assignment of Proceeds from the Sale of Dairy Products and Release of Security Interest.	•	•	•	•	
443-12	Farm Ownership and Individual Soil and Water Fund Analysis			x	x	
443-17	Agreement To Sell Nonessential Real Estate	•		•	•	•
443-18	Recreation Loan Fund Analysis					x
492-19	Characteristics of Approved Applicants		•	•	•	

Loan Approval and Closing

A. Loan approval

For chattel loan—file financing statement or chattel mortgage, and obtain a lien search.

For real estate loan—request preliminary title opinion.

Establish loan closing conditions and enter them in the running case record.

Execute and distribute all forms necessary for loan approval.

B. Loan closing

Request needed legal services.

Arrange for loan closing by escrow agent, designated attorney, or other authorized loan closing agent; furnish loan closing agent with appropriate instructions, forms, and other needed information for loan closing.

The following FmHA forms will be provided to and used by the appropriate loan closing agent, in addition to those forms listed under docket preparation which must be executed by the borrower or other party:

Form No.	Name	EM	OL	FO	SW	RL
140-4	Transmittal of Documents			•	•	•
400-1	Equal Opportunity Agreement			•	•	•
400-3	Notice to Contractors and Applicants	•		•	•	•
400-6	Compliance Statement	•	•	•	•	•
402-1	Deposit Agreement	•	•	•	•	•
402-2	Statement of Deposits and Withdrawals	•	•	•	•	•
402-5	Deposit Agreement (Non-FmHA Funds)	•	•	•	•	•
426-2	Property Insurance Mortgage Clause	•		•	•	•
427-1	Real Estate Mortgage or Deed of Trust	•		x	•	•
427-4	Transmittal of Title Information	•		x	•	•
427-5	Affidavit of Borrowers (or Transferees)	•		x	•	•
427-6	Affidavit of Sellers (or Transferors)	•		•	•	•
427-9	Preliminary Title Opinion	•		x	•	•
427-11	Warranty Deed	•		•	•	•
440-16	Promissory Note	•		•	•	•
440-45	Nondiscrimination Certificate (Individual Housing)	•	•	•		
440-59	Settlement Statement			•		
441-1	Promissory Note	•	x			
443-9	Acceptance of Option			•	•	•

EXHIBIT D

EMERGENCY LOANS SUPPORT TEAMS, REPORTING NATURAL DISASTERS, AND MAKING LOANS AVAILABLE

I. *Purpose.* This Exhibit prescribes the policies, procedures, and guidelines of the Farmers Home Administration (FmHA) for Emergency Loan Support Teams (ELST), reporting natural disasters, and making Emergency (EM) loans available.

II. *Definitions.* The following definitions are applicable to the terms used in this Exhibit.

A. *Designated counties or similar areas.* (Applies to EM loans only). This term means a county or similar political subdivision in which EM loans are authorized to be made under designation by the Federal Disaster Assistance Administration (FDAA) pursuant to a Presidential declaration of a major disaster or emergency; under designation by the Secretary of Agriculture based on damage caused by a natural disaster which substantially affect farming, ranching, or aquaculture operations; and when authorized by the State Director without a formal designation when 25 or less farming, ranching, or aquaculture operations are substantially affected by a natural disaster.

B. *Disasters.* 1. *Major disaster.* Any disaster in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance above and beyond normal emergency services by the Federal Government, to supplement the efforts and available resources of States, local government, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

2. *Natural disaster.* A natural disaster as determined by the Secretary of Agriculture when designating EM loan areas, or by an FmHA State Director when he authorizes the making of EM loans. Natural disasters can be caused by such natural phenomena as hurricanes, tornadoes, cyclones, excessive rainfall, floods, earthquakes, blizzards, freezes, electrical storms, snowstorms, drought, excessively high temperatures, and hail; insects where abnormal weather contributed substantially to the spreading and flourishing of such insects; fires resulting from lightning, and fires of other origins which could not be controlled because of abnormal weather; and plant and animal diseases where abnormal weather contributed substantially to such diseases spreading into epidemic stages.

3. *Presidential Emergency.* Any disaster in any part of the United States which is of such magnitude that the President makes a declaration which requires Federal emergency assistance to supplement State and local efforts to save lives and protect property, public health and safety, or to avert or lessen the threat of a disaster.

4. *Qualifying disaster.* A major disaster, Presidential Emergency, or natural disaster declared by the Secretary of Agriculture, or the State Director, including designations made for an emergency drought impact area for which EM loans are made available.

C. *Incidence period.* This term means the specific time frame established for the occurrence of the qualifying disaster.

D. *USDA Emergency Board.* This term means State (SEB) and County (CEB) Emergency Board. There is a United States Department of Agriculture (USDA) Emergency Board to serve every State and County (or comparable subdivision) in the United States, Puerto Rico, and the Virgin Islands. The boards coordinate USDA State or County activities relating to defense preparedness and natural disaster programs. Members of the SEBs represent those USDA agencies which have major emergency responsibilities in the field; Agricultural Stabilization and Conservation Service (ASCS); Cooperative Extension Service, FmHA, Soil Conservation Service, Animal and Plant Health Inspection Service, Forest Service, and Statistical Reporting Service. The CEBs are composed of representatives of the first four of these Agencies, with additional representation as available or warranted. The ASCS member usually chairs the board. The SEB's and the CEB's natural disaster responsibilities are contained in "USDA EMERGENCY OPERATIONS HANDBOOK (EOH)." A copy of the EOH is available for inspection at any State and County Office of the FmHA or ASCS and in the National Office of FmHA at 14th and Independence Avenue, SW., Washington, DC 20250.

E. *Substantially affected.* This term means a natural disaster that has had an impact on farming, ranching, or aquaculture operations to the extent that Federal assistance is necessary to supplement normal assistance available in the area to permit such operators to continue their operations on a sound basis. This judgment determination will be made after studying the number of farmers affected and the dollar amount of physical and/or production losses reflected on the Damage Assessment Report (DAR).

III. *FmHA Emergency Loan Support Teams (ELST).* A. Purpose and use. Each State Director shall form an ELST to be deployed, when needed, in areas affected by a major disaster, Presidential emergency, or a natural disaster. Such ELST shall assist the State Director in expediting the administration of his responsibilities in making EM loans available to victims of disasters.

1. An ELST is to be used when a disaster is of such a nature as to warrant immediate attention by FmHA in implementing the EM loan program or when such unusually large numbers of EM loan applications are received that personnel from other areas are required to be temporarily assigned to assist in rendering prompt service to the affected area.

2. State Directors shall use the ELST formed in their State(s) and all other State personnel to meet the conditions described in paragraph IIIA1 of this Exhibit. If help is needed in addition to that available in

the State, including temporary personnel, the State Director shall advise the National Office of his needs.

3. Upon request of a State Director, the Administrator will consider detailing an ELST from other States to assist in the making of EM loans.

B. *Composition.* An ELST will consist of a team leader and team members.

1. The team leader and individual members shall be FmHA employees selected by the State Director.

2. In order that no one person or County Office unit bears an unfair burden, team members will be rotated from time to time. This will also provide training in EM loan making to all County Supervisors. The District Director is responsible for notifying the State Director of any need to change a team member within his district for any reason.

C. *Training.* ELST will be trained as follows:

1. The National Office will hold a training meeting or workshop for ELST leaders as needed.

2. State ELST leaders are responsible for training and keeping the State team and all other personnel in the State current and informed on all phases of EM loan making.

D. *State supplements.* Each State Director will issue a State supplement establishing an ELST for his State(s). This supplement will name the team leader and all members. A copy of this supplement will be sent to the National Office, Attention: Director, Emergency Loan Division.

IV. *Reporting natural disasters.* A. *Purpose.* The purpose of reporting natural disasters is to provide a systematic procedure for rapid reporting of natural disasters which may result in a need for EM loans in an area.

B. *Action.* Immediately after the occurrence of a natural disaster the following action will be taken:

1. The County Supervisor will report immediately to the CEB, the occurrence of any natural disaster causing property loss, damage, or injury, including production losses, in his County Office area, regardless of whether EM loans will be needed. He will assist the CEB in preparing the report required in paragraph IVB2 of this Exhibit. If the CEB has not completed a 24-hour report within two workdays after a disaster, the County Supervisor will report to the State Director on Form FmHA 441-27, "Report of Natural Disaster." In urgent situations the report may be made by telephone followed by the CEB report or Form FmHA 441-27. The CEB report or Form FmHA 441-27 will be based on information obtained from personal knowledge and from farmers, agricultural and community leaders, representatives of other agricultural agencies, agricultural lenders, and from any other reliable source. The County Supervisor will advise the Chairman of the CEB of any information he has on the disaster, and also provide him with a copy of Form FmHA 441-27, if prepared.

2. The CEB will report the natural disaster in accordance with paragraphs 68 and 70 of the EOH to:

a. The SEB, and

b. Appropriate County government representative.

3. The SEB provides copies of the report to:

a. USDA Washington—(ASCS, FmHA, and Office of Intergovernmental Affairs).

b. Governor's Emergency Coordinator and State Department of Agriculture.

c. SEB members.

4. The State Director will inform the National Office of each natural disaster as soon as possible. He will forward copies of the CEB report on Form FmHA 441-27, with any attachments to the National Office. The CEB report or Form FmHA 441-27 will be supplemented by his comments, including any additional information he may have, and his recommendation as to the number of farmers, ranchers, or aquaculture operators affected by the disaster. In urgent situations he should report to the National Office by telephone and immediately thereafter send a written report. The State Director will advise the SEB Chairman of any additional information he receives on the natural disaster.

5. When the National Office is advised by a State Director of the occurrence of a natural disaster, the FmHA Administrator will advise the Office of the Secretary of Agriculture of the natural disaster and of any action taken or planned by the FmHA. The National Office will also provide the same information to members of Congress and the FDAA, if so requested.

6. When inquiries are received from victims of natural disasters before the area is designated by the Secretary of Agriculture or before EM loans are authorized by a State Director, the following actions will be taken:

a. Victims of natural disasters whose inquiries are received by the county offices will be advised:

(1) That EM loans are not available at this time.

(2) As to what assistance would be available if EM loans are authorized for the area.

(3) That they may file an application for an EM loan or wait to file if EM loans are authorized at a later date. However, they must understand that the application cannot be processed until EM loans are authorized. Frequently, the credit needs of an individual can be met under regular FmHA programs if EM loans are not authorized.

b. If the inquiry is received in either a State or the National Office, the individual will be advised in accordance with paragraph IV B 6 a of this Exhibit and referred to the appropriate county office.

7. The action stated in paragraph IV B of this Exhibit will be taken even if the Governor of the State has requested the President to declare the county a major disaster or emergency area.

8. When county governing bodies or Indian Tribal Councils inquire concerning the designation of an area, they will be advised of the procedure for making EM loans available as contained in paragraph V of this Exhibit. Individuals will be advised of the procedure for designation and asked to discuss the need for emergency designation of the area with his representative of the local governing body which includes Indian Tribal Councils.

V. *Making EM loans available.* EM loans will be made available in counties named by FDAA as eligible for Federal assistance under a major disaster or emergency declaration by the President, in counties designated by the Secretary of Agriculture including designations made for an emergency drought impact area, and in counties authorized by the State Director.

A. *Declaration by the President.* Designation by the Secretary of Agriculture is not necessary for making EM loans available in counties determined by FDAA to be eligible for Federal assistance under a major disaster or emergency declaration by the President. Therefore, when there is a Presidential major disaster or emergency declaration, the National Office will notify the State Director and the Director of the Finance Office. The notification will specify the type of disaster; the names of the county or counties determined by the FDAA to be eligible for Federal assistance; the termination dates for receiving EM applications; the incidence period for the disaster or emergency; the major disaster (MDDN—Example: M501) or Presidential emergency (PEDN—Example: P102) declaration number; and the date loan activity reporting will commence. Each Senator and Congressman representing the area involved will be notified simultaneously of the action taken.

1. *State Director.* The State Director will notify the appropriate County Supervisor immediately and instruct him to make EM loans available. Notification will be confirmed by a State supplement or a revision thereof. The State Director will also notify the SEB Chairman in writing and will make such public announcements as appear to be appropriate, including notification of Indian Tribal Council's news media.

2. *County Supervisor.* Immediately upon receiving notice about counties under his jurisdiction, the County Supervisor will notify the appropriate CEB Chairman and make such public announcements as appear to be appropriate, including notification of the Indian Tribal Council's news media. Also, the County Supervisor will explain the assistance available under the EM loan program to agricultural lenders and leaders in the area, including Indian agricultural lenders and leaders.

3. *408 Grant.* This is an agreement between the State and Federal Government to provide grants for those suffering damages and losses to housing and personal property who are ineligible for disaster loan assistance through the FmHA and/or SBA.

a. The State Director will provide the County Supervisor with the address and phone number of the nearest FDAA office in the supervisor's area.

b. At the close of business each week the County Supervisor will forward a list of applicants with physical losses that do not qualify for EM loans to the FDAA office in his area.

B. *Designation by the Secretary of Agriculture.* 1. The Secretary of Agriculture may designate a county as an EM loan area when:

a. Unusual and adverse weather conditions have resulted in severe production losses and/or damage or losses to livestock, farm machinery, farmland, buildings, or aquaculture operations;

b. A natural disaster has substantially affected farming, ranching, or aquaculture operations and more than 25 farmers have been affected;

c. He receives a formal request for designation from the Governor of the State or without such request when he has sufficient information to warrant a designation; and

d. The request for designation has been made within 6 months from the last day of the occurrence of the natural disaster.

2. A Governor's request for EM loan area designation will be sent to the Secretary of Agriculture with a copy of the request to the FmHA State Director. Upon receiving the Governor's request, the Administrator, FmHA, will immediately take the following actions:

a. Acknowledge the Governor's letter on behalf of the Secretary.

b. Advise the FmHA State Director of the request by phone. The State Director shall thereafter send the Administrator, Attention: Director, Emergency Loan Division, a monthly report of the action taken on the request, an estimate of the situation, and the estimated time in which complete information will be available. The Governor will be advised by the National Office if there will be any delay in processing his request, the reason for the delay, and when action will be taken.

3. Upon reviewing his copy of the Governor's request or notification from the National Office, the State Director will immediately take the following actions:

a. Advise the SEB Chairman that a DAR is needed in accordance with the EOH, for the requested county or counties. The State Director will request the SEB Chairman to ask the CEB Chairman to invite the county governing body members of Indian Tribal Councils, or the Tribal Councils' designated representative to participate in the CEB meeting. The SEB Chairman will ask the CEB Chairman to have his DAR in by a specific date.

b. Advise the County Supervisor(s) of the request and remind him of his responsibility to assist the CEB in preparing the DAR.

4. The CEB meets and prepares the DAR in accordance with the EOH. The county governing body, and members of Indian Tribal Councils or their designated representative will be encouraged to attend the CEB meeting. The completed DAR will be sent to the SEB Chairman.

5. When a DAR has been prepared by a CEB and sent to the SEB, the County Supervisor will also provide the following additional information to the State Director, as agreed upon by the CEB.

Attachment to DAR dated: _____ 19 ____
State: _____ County: _____

Number of Farms with Production Loss:
100% loss—_____
90 to 99 % loss—_____
80 to 89 % loss—_____
70 to 79 % loss—_____
60 to 69 % loss—_____
50 to 59 % loss—_____
40 to 49 % loss—_____
30 to 39 % loss—_____
20 to 29 % loss—_____
less than 20 % loss—_____

Number of Farms with Physical Loss:
Major Loss—_____
Minor Loss—_____
_____
(County Supervisor)

6. The SEB Chairman shall edit each county DAR as necessary in cooperation with FmHA and other board members as appropriate and sign the form. The SEB Chairman will provide the State Director a copy of the completed DAR.

7. When the State Director receives a copy of the completed DAR from the SEB Chairman, he will attach the additional information received from the County Supervisor in accordance with paragraph V B 5 of this Exhibit, review each DAR with attachment, and take one of the following actions:

a. Refer the DAR to the National Office, Attention: Director, Emergency Loan Division, by letter, recommending the county for designation and providing his comments. These comments should indicate his views on the entire situation as it relates to the need for EM loans as a direct result of the natural disaster.

b. Refer the DAR to the National Office, Attention: Director, Emergency Loan Division, by letter, recommending that a designation not be made and the reasons for the recommendation. The National Office will advise the Secretary of Agriculture of the reasons for not recommending the area. The Secretary will advise the Governor of the rejection.

c. When loans are needed and not more than 25 farmers in a county have been affected, the State Director may authorize EM loans in accordance with paragraph V C of this Exhibit.

8. The National Office will review the information furnished by the State Director and send it to the Secretary with the recommendation for designation or rejection.

9. When a county is designated by the Secretary of Agriculture, the National Office will notify the State Director and the Director of the Finance Office. The notification will specify the type of disaster; the county or counties designated; the termination dates for receiving EM loan applications; the incidence period for the disaster; the Secretarial Disaster Designation Number (SDDN) (Example: A205); and the date loan activity reporting will commence. The Governor of of the State and each Senator and Congressman representing the area involved will be notified simultaneously of the action taken.

a. The State Director will immediately notify the appropriate County Supervisors. This notification will be confirmed by a State supplement or a revision thereof. The State Director will also notify the SEB Chairman, in writing, and make such public announcements as appear to be appropriate.

b. Immediately upon receiving notice of the designation of the county or counties under his jurisdiction, the County Supervisor will notify the appropriate CEB Chairman and make appropriate public announcements including notification of the Indian Tribal Council's news media. Also, the County Supervisor will explain the assistance available under the EM loan program to agricultural lenders and leaders in the area including Indian agricultural lenders and leaders.

C. *State Director authorizations.* If the State Director finds in any county that the requirements of paragraphs V B 1 a, b, and d of this Exhibit are met, except that 25 or less farmers have been substantially affected by the natural disaster, EM loans may be authorized by the State Director. The authority to make EM loans available by the State Director will only be exercised after the Governor, or the county governing body or its authorized representative, or an Indian Tribal Council or its authorized representative has made a formal written request for such action to the State Director and he has given prior notice to the National Office by telephone. This authorization may not be used to make EM loans available immediately in anticipation of a later designation by the Secretary of Agriculture based on the same natural disaster.

1. The State Director Authorization Number (SDAN). (Example: N186, termination dates for receiving EM loan applications, the date loan reporting will commence, and the incidence period for the disaster will be established by the National Office when the prior telephone notice is given.

2. Applications for EM loans will be received by County Supervisors only after authorization by the State Director except as provided in paragraph IV B 6 a (3) of this Exhibit.

3. The State Director will send to the National Office a copy of this authorization letter written to the County Supervisor; the DAR and attachment; and the formal written request from the Governor, or the county governing body or its authorized representative, or an Indian Tribal Council.

4. The National Office will notify the Secretary of Agriculture and the Director, Finance Office, of the action taken by the State Director.

5. The State Director will direct appropriate County Supervisors to take EM loan applications in the county or counties he has authorized. Simultaneously, he will notify the SEB Chairman. The State Director will also make appropriate public announcements.

6. Immediately upon receiving notice of the State Director's authorization of loans for a county or counties under his jurisdiction, the County Supervisor will notify the appropriate CEB Chairman and make appropriate public announcements. He will also explain the assistance available under the EM loan program to agricultural lenders and leaders in the area.

D. *Continuing disaster conditions.* When a need occurs for EM loans resulting from a subsequent natural disaster, or the continuation of a natural disaster in any area presently designated for EM loans under paragraphs V A, B, or C of this Exhibit, such need may be met by completing one of the following actions:

1. *Declaration by the President.* EM loans are made available in counties determined by FDAA to be eligible for Federal assistance under a major disaster or emergency declaration by the President without establishing that a substantial number of farmers, ranchers, or aquaculture operations have been affected. The conditions which led to the major disaster or emergency declaration may extend beyond the incidence period established by FDAA or have been prolonged in the same area by a new natural disaster which affects the same crops, livestock, or aquaculture operations during the same crop year. Under such circumstances, the Secretary of Agriculture may designate the area as a natural disaster area under paragraph VB of this Exhibit and establish an incidence period commencing on, or subsequent to, the date of the commencement of the incidence period for the major disaster or emergency declaration, provided the requirements of paragraph VB of this Exhibit are met. In those cases, the Secretary will establish a new termination date for the incidence period for the natural disaster extending beyond the termination date originally established for the major disaster or emergency declaration. He may also establish new termination dates for accepting applications in connection with a designation under paragraph VD of this Exhibit.

2. *Designation by the Secretary of Agriculture and State Director authorization.* Certain types of natural disasters which affect farming such as drought, floods, and insect infestation, may extend beyond the incidence period established in connection with a Secretarial designation pursuant to paragraph VB of this Exhibit or a State Director's authorization pursuant to paragraph VC of this Exhibit. Furthermore, the disaster conditions which led to the original designation may be prolonged inthe same area by a new natural disaster *which affects the same farming operation during the same crop year.* Under these circumstances, additional authorization by the Secretary is not necessary to extend the incidence period and/or termination dates to cover the continuing or subsequent natural disaster. To extend the designation and/or termination dates the following actions must be taken:

a. The County Supervisor will advise the State Director of any continuing or subsequent natural disaster and provide him with the CEB report or Form FmHA 441-27.

b. The State Director will request the National Office by letter for an extension of the designation and/or termination dates.

c. If the request is justified, the National Office can, by letter or telegram, authorize the extension of the incidence period for the designation and establish a new termination date(s) for receiving applications or authorize establishment of new termination date(s). However, in areas authorized by State Directors, extensions may not be authorized if such extensions will result in more than 25 farmers in any one county having had losses from the same disasters.

E. *Designation of an Emergency Drought Impact Area (EDIA).* 1. The Interagency Drought Emergency Coordinating Committee, pursuant to a Memorandum of Agreement, may designate an EDIA as eligible for EM loan assistance.

2. FmHA is authorized to make EM loans under such an EDIA designation. EM loans may be made under this Subpart (except for the provisions of § 904.107 (a) (21) and Part

1888 of this Chapter (FmHA Instruction 440.3). A drought designation number will be assigned for each separate designation.

3. When an EDIA is designated, the methods for designation under paragraphs V A, B, C and D of this Exhibit will not apply.

EXHIBIT E

MEMORANDUM OF UNDERSTANDING—FHA-FCA

I. *Introduction.* The capital requirements in agriculture in the future necessitate finding every means possible to provide adequate credit for farmers—particularly young farmers—many of whom are now unable to obtain long-term real estate loans. The Farmers Home Administration over the years has broadened its farm ownership loan policies so that private or cooperative lenders and the Farmers Home Administration can make loans to the same borrower on the same security. The experience of the Farmers Home Administration (FHA) and the Federal Land Bank (FLB) has been favorable when FHA farm ownership loans have been made to farmers and ranchers on liens junior to long-term real estate loans held by the FLBs. A thorough understanding by all of the principals involved of the lending policies and objectives of the FHA, FLB and Federal Land Bank Association (FLBA) is essential to better serve farmers and ranchers who seek agricultural credit. Many farm families are unable to obtain adequate credit because of the general tightening of availability of long-term real estate loans. The demand for long-term, low equity loans far exceeds the supply of funds available.

The Farmers Home Administration and the Farm Credit Administration hereby agree that FLBs and FHA State Directors may enter into memorandums of understanding concerning the simultaneous processing of initial farm ownership loans by the FHA and long-term real estate loans by the FLB to a mutual borrower. It is further agreed that the FLB will make first lien loans on farm real estate which it considers sound to farmers who are or will be FHA borrowers. The FHA will subordinate its mortgage to the FLB lien when the FLB loan is made for purposes which are authorized for FHA real estate loans. It is agreed that in such cases of loans by each lender, neither lender will make future advances to the borrower without the consent of the other-lender, except that advances may be made by the FLB as are necessary for the payment of taxes, insurance, necessary repairs to the secured property, and reasonable foreclosure costs including attorney's fees. If such advances are made, the FHA will not assert the priority of its lien over such advances on the ground that the FHA mortgage was definite and fixed before the additional advance or advances were made by the land bank. Each lender, of course, will make only those loans which are within its existing laws and regulations.

II. *Policies.* The basic policies of each lender will continue to apply when processing each individual loan except as modified in paragraph I. When these policies preclude making individual loans simultaneously to a mutual borrower, the appropriate lender will provide the financing needed when practical.

A. *Eligibility determination must be made by each lender.* 1. Applications filed with FHA will be analyzed to determine whether there is a possibility of participating with the FLB and other lenders. The County Supervisor will review with the local FLBA manager or other private lender any application that might appear to be suitable for participation.

2. Applications filed with the FLBA will be analyzed by the manager for possible FHA assistance when it is agreeable with the applicant.

B. *Loan Processing.* 1. An FHA representative will make the appraisals for FHA farm ownership loans.

2. An appraiser designated by the FLB will make the appraisals for land bank loans.

3. Each lender will determine the applicant's ability to repay his total indebtedness as part of its loan approval.

4. The borrower will be required to meet the minimum legal and regulatory requirements of each lender. This includes stock ownership and membership in the FLBA, property insurance, etc.

C. *Loan Closing.* 1. The FHA and the FLB will agree on the method and the period to be covered by the title search. If there are any deviations from either lender's regulations, such deviations must be approved by the appropriate supervisory officials.

2. The FHA and FLB representatives will mutually approve any land and building development plans when the improvements are to be projected in loan values. Each will supervise the disbursement of its share of funds for these items.

3. The representative(s) to be present for loan closing will be by mutual agreement.

4. The standard loan mortgage forms used by the FHA and the FLB will be exchanged by the local representatives. Any additional covenants or deviations in individual cases will be called to the attention of the local representatives before the loan is closed.

D. *Supervision.* FHA's policy of supervision and counseling will be carried out in accordance with current policy.

1. The loan(s) made by each lender will be serviced in the usual manner by its respective representative unless special problems develop that require consideration by both representatives.

2. A spirit of mutual cooperation will be followed in servicing each loan in the interests of the borrower, the FLB and the Government.

E. *Graduation.* It will be the policy to continue to emphasize the graduation policy of the FHA to encourage borrowers to use non-FHA credit as soon as possible.

III. *Administration.* A. Special initial sessions will be held by State FHA and FLB regional representatives with FHA field staffs and FLBA personnel concerning this program to clearly outline the objectives of joint participation in making loans.

B. Subsequently, periodic meetings will be held to assure uniformity of policy and practices.

C. Other considerations. 1. Informal visits between field personnel to discuss problems, applications, servicing of loans and graduation should be made periodically.

2. Occasional joint field visits to borrower's farms would establish a basis for observing the practical application of policies and practices of each lender.

3. Each lender should advise the other of basic policy changes to guide FHA County Supervisors and FLBA managers in reviewing applications.

4. County Supervisors and FLBA managers should exchange the names of FHA County Committeemen and FLBA Directors for their respective areas as sources for reference for applications being considered.

5. Whenever there is a substantial adverse change in the credit position of the mutual borrower, the FHA County Supervisor and FLBA manager will need to discuss the new developments to determine the effect on both loans.

6. The acceptability of property insurance policies will be in accordance with each lender's requirements and mutually agreed upon by representatives of both lenders. The use of any loss proceeds will be in accordance with lien priorities and requirements of each agency for essential buildings. If any buildings are not to be replaced or repaired and the proceeds are not required to be applied on the FLB lien, FHA will have the responsibility for determining the use of the loss proceeds from essential or nonessential buildings.

7. Each lender will notify the other in ample time if it becomes necessary to foreclose its mortgage. This notification will replace the individual requirement of signing the notice of foreclosure agreement when the loans are closed.

8. Each applicant is privileged to select the long-term private lender he prefers to have join with FHA in making his real estate loan when his need exceeds the amount a private lender (FLB or other) will make.

FRANK B. ELLIOTT,
Acting Administrator,
Farmers Home Administration.

E. A. JAENICKE,
Governor,
Farm Credit Administration.

MAY 15, 1973.

EXHIBIT F

BUREAU OF RECLAMATION LOANS TO IRRIGATORS AND ADMINISTERED BY FARMERS HOME ADMINISTRATION

I. *General.* This Exhibit provides additional procedures for making and servicing Soil and Water (SW) type loans to individuals located within Reclamation Projects. Attachment 1 is a Memorandum of Understanding Between the Bureau of Reclamation (BR) and the Farmers Home Administration (FmHA) outlining the working relationship between the agencies for these loans. The Memorandum of Understanding establishes eligibility requirements, sets loan terms, and indicates the purposes for which these loans may be made. The FmHA County Supervisors can resolve any question about project boundaries, acreage limitations, loan purposes, or eligibility requirements by contacting the BR office having jurisdiction over the project area. County Supervisors are authorized to accept applications and consider loans for applicants whose development work was started or completed prior to issuance of Exhibit F but after enactment of the Emergency Drought Act of 1977 on April 7, 1977, under the following conditions:

1. The development work is for an authorized purpose under that Exhibit, and

2. The work is or has been completed in accordance with the requirements of Subpart C of Part 1904 of this Chapter.

3. All other requirements of this Exhibit apply.

II. *Objectives.* Provide BR financial assistance to irrigators as defined in Attachment 1 and for the purposes outlined therein.

III. *Procedures.* This Instruction and other related FmHA Instructions will be used in processing and securing the BR loans. Applicable FmHA forms will be used. The following modifications will be required:

Form FmHA 410-1, "Application for FmHA Services"—In section 24 and after "Type of Loan Applied for" complete "other" by inserting "SW-BR".

Form FmHA 427-1, "Real Estate Mortgage"—Wherever reference is made to "the Consolidated Farm and Rural Development Act" insert "and Public Law 95-18".

Form FmHA 440-1, "Request for Obligation of Funds"—Loans will be identified by typing "43" in block 7 of Part I.

Form FmHA 440-2, "County Committee Certification or Recommendation"—In the block entitled "type of assistance" check the block "other" and specify "SW-BR".

Form FmHA 440-15, (State), "Security Agreement (Insured Loans for Individuals)"—Where reference is made to rates of interest, insert "zero". In the center of page 1,

strike "the Consolidated Farmers Home Administration Act, 1961, or Title V of the Housing Act of 1949; and" and insert "Pub. L. 95–18 and".

Form FmHA 440–16, "Promissory Note"—In the block "Kind of Loan" and after "type" insert "SW–BR"; after "Pursuant to" insert "Pub. L. 95–18". Where reference is made to the percent of interest, insert "zero". In the last paragraph on page 2, delete "the Consolidated Farm and Rural Development Act or Title V of the Housing Act of 1949" and insert "Pub. L. 95–18".

Form FmHA 441–1 "Promissory Note"—In the block "Kind of Loan" insert "SW–BR". Where reference is made to the rate of interest, insert "zero". In the next to the last paragraph on page 2, delete "substitle B or C of the Consolidated Farm and Rural Development Act" and insert "Pub. L. 95–18".

IV. *Servicing.* These loans will be serviced by FmHA in accordance with servicing instructions applicable to Individual SW loans.

V. *Reimbursements.* BR shall pay to FmHA a charge of 5 percent of principal of each loan. The 5 percent charge shall be disbursed to FmHA by the Finance Office at the time of each loan advance.

Memorandum of understanding between the Bureau of Reclamation, Department, of the Interior and the Farmers Home Administration, Department of Agriculture.

Whereas, under section 8 of the 1977 Drought Emergency Act (Pub. L. 95–18), hereafter referred to as "the Act," the Bureau of Reclamation (BR) is authorized to make loans to irrigators for the purpose of undertaking construction, management, conservation activities, or the acquisition and transportation of water, which can be expected to have an effect in mitigating losses and damages resulting from the 1976–1977 drought period;

Whereas, the Farmers Home Administration (FmHA) has an existing soil and water program (SW) authorized by section 304 of the Consolidated Farm and Rural Development Act for loans to individuals that accomplish purposes similar to those in the Act:

Whereas, it is more efficient and in the best interests of the United States, and in accordance with section 6 of the Act, for BR to procure the services of FmHA pursuant to the terms of the Economy Act of 1932 (31 U.S.C. 686) to make and service loans to individual irrigators as authorized by the Act.

Now Therefore the parties agree:

1. For purposes of this Memorandum the term "irrigators" shall mean any person or legal entity who holds a valid existing water right for irrigation purposes within Federal reclamation projects. Federal reclamation projects means any project constructed or funded under Federal reclamation law and specifically including projects having approved loans under the Small Reclamation Projects Act of 1956, as amended.

2. FmHA shall make and service loans to individual irrigators as authorized by the Act pursuant to its SW program and applicable FmHA regulations except as modified hereby.

3. The loans shall be only for the purposes relating specifically to irrigation and set forth in FmHA Instruction 443.2, IV A1, A8, B1, B2, and C. The loans shall be interest free. Loans for water acquisition and transportation shall be repaid over a period not to exceed 5 years. Other loans shall be repaid over a period not to exceed 5 years except such loans which generate benefits which are usable beyond 1977 shall be repaid within a period which shall be the shorter of the estimated useful life of the facilities or the reasonable payment capacity of the irrigator but in no event to exceed 40 years. All loans shall be obligated not later than September 30, 1977, and any construction related to any loan must be completed by November 30, 1977.

4. Services rendered by FmHA pursuant to this Memorandum of Understanding shall be on a nonreimbursable basis to the irrigator. For services rendered, BR shall pay to FmHA a charge of 5 percent of principal of each loan. BR directs that FmHA disburse such service charge to itself directly upon the closing of each loan.

5. Three million dollars shall be transferred to FmHA by Standard Form 1151, which amount shall be available for construction, management, and conservation activities. An additional sum of $5 million may be made available upon request of FmHA for the acquisition and transportation of water.

6. *Monthly Report.* FmHA shall submit a Standard Form 133, "Report on Budget Execution", in accordance with OMB Circular A–34, to the Bureau of Reclamation, Washington, D.C. 20240, attention code 370.

7. *Accomplishment.* FmHA shall submit to the Bureau of Reclamation, Washington, D.C. 20240, attention code 400, a complete report on expenditures and accomplishments under this Memorandum on January 16, 1978.

Dated: June 29, 1977.

Bureau of Reclamation, Department of the Interior.

R. KEITH HIGGINSON,
Commissioner.

Farmers Home Administration, Department of Agriculture.

Dated: July 15, 1977.

MARTY HOLLERAN,
Acting Administrator.

(7 U.S.C. 1989; 5 U.S.C. 301; Sec. 10 P.L. 93–357, 88 Stat 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

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

Dated: August 11, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77–25312 Filed 9–2–77;8:45 am]

REDESIGNATION—CONSOLIDATION—REVISION

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulations to redesignate, consolidate and revise regulations concerning closing chattel loans. The circumstances requiring this action are an effort on the part of FmHA to consolidate and revise its regulations. The consolidation and revision will result in simplified procedures.

EFFECTIVE DATE: September 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Darrow Strain, 202–447–2331.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration (FmHA) amends its regulations to establish under Subchapter I, Chapter XVIII, Title 7, of the Code of Federal Regulations, a new Part 1921 "Approval and Closing (Individual)." Subpart C, "Closing Chattel Loans," (§§ 1921.101–1921.150) of this new Part 1921 is redesignated, consolidated, and revised from Subpart B and certain sections of Subpart A of Part 1831 of Subchapter C of this Chapter. In transferring and redesignating the new sections, editorial changes have been made for clarity, and revisions have been made in order to consolidate these regulations into a more suitable order. However, no substantive changes have been made to these regulations. 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. These amendments, however, are not published for proposed rulemaking since the purpose of this change is to clarify and consolidate these regulations and, therefore, publication for proposed rulemaking is unnecessary.

PART 1831—OPERATING LOANS

1. As amended, Subpart B and certain sections of Subpart A of Part 1831 of Title 7 CFR Chapter XVIII are redesignated as Subpart C of Part 1921. Subpart B of Part 1831 is hereby reserved. The remaining Sections of Subpart A are being incorporated in new Part 1904 being published concurrently with this document.

PART 1861—ROUTINE

§ 1861.4 [Amended]

2. In Part 1861 of this Chapter, § 1861.4, paragraph (a)(1) change the reference to "§ 1831.37" to read "Part 1921 Subpart C."

PART 1921—APPROVAL AND CLOSING (INDIVIDUAL)

3. As amended, Subpart C of Part 1921 as revised, transferred, consolidated and redesignated, reads as follows:

* * * * *

SUBPART C—CLOSING CHATTEL LOANS

Sec.

Subpart C—Closing Chattel Loans

§ 1921.101 Purpose.

This Subpart prescribes the policies, procedures, and authorizations of the Farmers Home Administration (FmHA) for closing insured Operating (OL) loans and Emergency (EM) loans secured by chattels and crops to farmers, ranchers, and rural youths. These loans are considered closed on the date the promissory note is executed.

§§ 1921.102–1921.103 [Reserved]

§ 1921.104 Promissory Note.

(a) The "Promissory Note" Form FmHA 441–1, will be executed and dated following receipt of the loan check in the county office and prior to the first withdrawal of loan funds from the supervised bank account or delivery of the loan check to the borrower.

(b) One note will be prepared showing the full amount of the loan regardless of the number of advances involved. The first installment may not be less than the amount equal to interest on the advances planned from the estimated date of closing to January 1 of the next calendar year. No installment will be made payable later than seven years from the date of the note.

(c) The applicant's spouse will be required to execute Form FmHA 441–1 when:

(1) Legally required by State law.

(2) The loan approval official determines that the signature is needed because of the spouse's interest in the farm being operated or in property offered as security.

(d) In all cases in which the wife joins with her husband in executing a promissory note or other evidence of indebtedness, the purpose and effect of the wife's signature will be, in addition to any other purpose and effect for which her signature is obtained, to engage her separate and individual personal liability regardless of any State law to the contrary.

A youth executing the promissory note shall incur full personal liability for the indebtedness evidenced by such note.

§ 1921.105 Security instruments.

Security instruments referred to in this Subpart are financing statements, security agreements, chattel mortgages, and similar lien instruments. To obtain a security interest in chattels and crops in Uniform Commercial Code (UCC) States both a financing statement and a security agreement are required, although only the financing statement must be filed or recorded in public records. Refer to § 1921.105(g) for filing or recording instructions. In Louisiana a Chattel Mortgage and Crop Pledge or Crop Pledge, as appropriate, is required to obtain a security interest in chattels and crops.

(a) *Joint security instruments.* Joint security instruments will be taken to secure a joint loan to individuals jointly engaged in an enterprise. Each individual will execute the financing statement, security agreement, promissory note, and any other security instrument required to secure the loan. When the individuals are members of a partnership, the security instruments will be executed by the partnership and all partners in accordance with the advice of the Regional Attorney or Attorney in Charge, as necessary, to close the loan and obtain the desired liens and liability.

(b) *Separate security instruments.* (1) Separate security instruments will be taken to secure a separate loan to an individual who is individually or jointly engaged in an operation.

(2) Each applicant obtaining a separate loan for financing an undivided interest in security property or for refinancing debts on an undivided interest in such property will secure the loan by a lien on his or her undivided interest in the property. Each individual having an undivided interest in the security property will execute Form FmHA 441–12, "Agreement for Disposition of Jointly-Owned Property". Form FmHA 441–12 will not be required when a tenant and landlord own property jointly and the lease provides for satisfactory division of such property and the proceeds from its sale or a joint security instrument is taken to secure a loan in accordance with paragraph (a) of this section.

(c) *Security instrument forms.* (1) Form FmHA 440–25, "Financing Statement," or Form FmHA 440A–25, "Financing Statement (Carbon-Interleaved)," and Form FmHA 440–4, "Security Agreement (Chattels and Crops)," or Form FmHA 440–4A, "Security Agreement (Crops)," as appropriate, will be used to obtain security interests in chattel property in Uniform Commercial Code (UCC) States unless a State supplement requires the use of other forms.

(2) Form FmHA 440–4 LA, "Chattel Mortgage and Crop Pledge (Louisiana)," or Form FmHA 440–4A LA, "Crop Pledge (Louisiana)," as appropriate, will be used in the State of Louisiana.

(d) *Taking security instruments.* (1) *Financing statement.* A financing statement is effective for 5 years from the date of filing and as long thereafter as it is continued.

(i) *Initial loan.* A financing statement will be taken for every initial loan except when a filed financing statement obtained for a paid-in-full borrower is still effective, covers all types of chattel property that will serve as security for the initial loan, and describes the land on which crops and fixtures are or will be located.

(ii) *Subsequent loan.* A financing statement will not be taken unless the filed financing statement is not effective, does not cover all types of chattel property that will serve as security for the subsequent loan, or does not describe the land on which crops or fixtures are or will be located. If the loan debt is being secured for the first time, however, the procedure for securing initial loans stated in paragraph (d)(1)(i) of this section will be followed.

(2) *Security Agreements.* (i) *Initial loan.* When an initial loan is made to an applicant, including a paid-in-full borrower, a new security agreement will be taken in all cases. The security agreement will be executed not later than the first withdrawal of loan funds from the supervised bank account or delivery of the loan check to the borrower.

(ii) *Subsequent loan.* An additional security agreement will be taken if property not covered by specific description or language of the previous security agreement is to serve as security for the debt, or if it is necessary to obtain or maintain a security interest in crops.

(A) An additional security agreement also will be taken to assist in accounting for security property, but normally only when there are significant changes in security.

(B) An additional security agreement is not necessary if the existing security agreement covers all types of chattel property that will serve as security for the subsequent loan, describes the land on which the crops or fixtures are or will be located, and was taken within 1 year before the crops became growing crops. When determined necessary by OGC, a State supplement will be issued to further explain how often a security agreement covering crops will be taken.

(e) *Describing security property on security instruments.* (1) Financing statements describe certain types of collateral. If items of collateral not covered in the printed form of the financing statement are to serve as security, they should be described by types or individual items in the space provided.

(2) Generally, animals, birds, fish, etc., should be described by groups on the security agreement. The serial or motor number should be shown for major items of equipment. If a security interest is to be taken in property such as inventory, supplies, recreation, or other nonfarm equipment or fixtures that cannot be readily described under the column headings of items 2 or 3 of Form FmHA 440–4, an appropriate description of such property will be inserted in item 2 or 3, below the other property without regard to the column headings.

(3) The advice of the Office of the General Counsel (OGC) will be obtained as to how to describe in the financing statement and security agreement items such as grazing permits, milk bases, membership or stock in cooperative associations. The property to be described on security instruments should be reconciled with any existing security instruments and Form FmHA 462–1, "Record of the Disposition of Security Property."

(4) When the initial security agreement does not describe individually or by groups all the collateral that is to serve as security, an all inclusive security agreement will be taken as soon as all the security property has been acquired.

(f) *Executing security instruments.* The County Supervisor and any County Office employee determined by the County Supervisor to be qualified is authorized to execute on behalf of the Government any legal instruments necessary to obtain or preserve security for loans. This includes financing statements, security agreements, chattel

mortgages, and similar lien instruments as well as severance agreements, consent and subordination agreements, affidavits, and acknowledgments.

(g) *Filing or recording security instruments.* (1) Ordinarily, in UCC States, financing statements may be delivered by hand or mailed to the filing officers for filing or recording when the loan is approved. However, when this is not practical, the financing statement may be filed at a later date, but not later than the first withdrawal of loan funds from the supervised bank account or delivery of the loan check to the borrower. If crops or other property of the borrower are or are to be located in a State other than that of a borrower's residence, the County Office servicing the loan will contact the County Office in the other State for information as to the security instruments to be used and the places of filing or recording in the other State. The financing statement will be filed or recorded as required by State supplements.

(2) Security agreements will not be filed or recorded unless authorized by State supplements. Form FmHA 440–4 LA or Form FmHA 440–4A LA will be filed or recorded in Louisiana as provided by State supplements.

§ 1921.106 Purchase money security interest.

A purchase money security interest in security property will take priority over an earlier perfected security interest if a security agreement is taken and a financing statement is filed before the purchaser receives possession of the property or within 10 days thereafter, subject to the following limitations:

(a) *Motor vehicles.* For motor vehicles required to be licensed, any action necessary to obtain perfection in the particular State, such as having the security interest noted on the certificate of title, must be taken before the purchaser receives possession or within 10 days. In some States, it is not necessary to file a financing statement to perfect a security interest in such motor vehicles; however, FmHA will always take a security agreement and a financing statement. State supplements will be issued as necessary for taking a lien on a motor vehicle, motorboat, and any special type of security.

(b) *Farm equipment.* A purchase money security interest in farm equipment costing $2,500 or less, (other than fixtures or motor vehicles required to be licensed), will take priority over an earlier perfected security interest if a security agreement is obtained, even though a financing statement is not taken or filed. FmHA, however, will always file a financing statement. State supplements will be issued, as necessary.

(c) *Inventory.* A purchase money security interest in inventory will take priority over an earlier perfected security interest provided a security agreement is taken and a financing statement is filed not later than the time the purchaser receives possession of the property. Also before the purchaser receives possession of the property, the purchase money creditor must notify the party with an earlier perfected security interest, in writing, that he or she has acquired or expects to acquire a purchase money security interest in the inventory described by item or type. When determined necessary by OGC, a State supplement will be issued to further explain the requirements for perfecting a purchase money security interest in inventory.

(d) *Fixtures.* A security interest taken in goods before they become fixtures has priority over holders of a real estate interest. A security interest taken in goods after they become fixtures is valid against all persons later acquiring an interest in the real estate. It is not valid against persons who had an interest in the real estate when the goods became fixtures, unless they execute a consent disclaimer or Form FmHA 440–26, "Consent and Subordination Agreement," or Form FmHA 440–6, "Severence Agreement."

(e) *Crops.* A security interest taken in and to finance crops not more than 3 months before they are planted or otherwise become growing crops has priority over an earlier perfected security interest for obligations that were due more than 6 months before the crops became growing crops.

§ 1921.107 Lien search.

(a) *Required lien searches.* (1) A lien search will be obtained at a time that will assure that the security instruments give the Government the required security, usually at the time the financing statement (mortgage or crop pledge in Louisiana) is filed or recorded. Lien searches may be obtained after the financing statement is filed but in no case later than delivery of the loan check or the first withdrawal of loan funds from the supervised bank account. Form FmHA 440–13, "Report of Lien Search," or other lien search forms will be used.

(2) Under the UCC, lien searches are necessary in making subsequent loans if an additional financing statement is required; i.e., when crops or fixtures to be taken as security are or will be located on land not described on the existing financing statement or property not otherwise covered by the financing statement is to be taken as security for the loan.

(3) Lien searches also may be obtained in connection with processing applications when such searches are determined necessary on an individual case basis.

(4) Although a lien search is not required for youths who have not reached their majority as defined in State supplements, the loan approval official may determine that a search is necessary to assure that the Government obtains the required security interest.

(b) *Responsibility for obtaining lien searches.* (1) Applicants must obtain and pay for lien searches except as follows:

(i) In exceptional cases, State Directors may authorize County Office employees to make lien searches for loan closing without cost to applicants if the cost of the search is not reasonable, such service is not available, or experience has shown that the service available will cause undue delay in the closing of loans or make it difficult to comply with the provisions of loan closing.

(ii) County Office employees are authorized to make lien searches for information purposes.

(2) State Directors will issue State supplements setting forth the minimum requirements for lien searches, including the records to be searched and the periods to be covered.

(3) Applicants should be informed of available sources such as County Clerks or local attorneys from whom satisfactory lien searches can be obtained at reasonable cost. Applicants, however, should select the source. They may pay the cost of lien searches from the proceeds of loan checks.

§ 1921.108 Additional requirements for perfecting security interests.

If necessary because of provisions in State statutes, leases, land purchase contracts, and real estate mortgages commonly in use, State Directors will issue State supplements for obtaining a subordination agreement, certification of obligation to landlord, severance agreement, disclaimer, and consent and subordination agreement to perfect security interest.

(a) *Form FmHA 441–5, "Subordination Agreement."* This form will be used if a subordination agreement is required by FmHA on crops, livestock, farm equipment, and other chattel property, including items that have become chattel property through execution of a "Consent and Subordination Agreement" or a "Severance Agreement." If Form FmHA 441–5 is not legally sufficient, a form recommended by OGC will be used. The years to be covered by the subordination generally will be for the period of the loan or the unexpired period of the lease if the borrower is a tenant, but as a minimum will be for the year for which the loan is made.

(b) *Form FmHA 441–17, "Certification of Obligation To Landlord."* This form may be used instead of obtaining a subordination agreement if: (1) It appears that the applicant is not financially obligated to the landlord except for rent for the lease year and will not incur other obligations to the landlord during such year, and

(2) A State supplement authorizing the use of Form FmHA 441–17 in such cases has been issued.

(c) *Form FmHA 440–6, "Severance Agreement."* In Louisiana, and in those UCC States in which State supplements so provide, Form FmHA 440–6, will be obtained when loan funds are used to purchase or refinance debts on property that is or may become a fixture, and it is necessary to sever such property from real estate.

(1) State Directors will issue State supplements to specify the situation in which severance agreements are required under State laws, whether the severance agreement should be filed or recorded, and whether the spouse of the borrower and the spouse(s) of the other party(ies)

of interest also will be required to execute the severance agreement. In specifying these situations, actions necessary to prevent the property from becoming part of the real estate will be considered. Actions to sever the property after it has become attached to the real estate will also be considered.

(2) Severance agreements will be executed no later than the date on which the property purchased with loan funds is delivered to the farm, or before the release of loan funds to the creditor if debts on such property are refinanced.

(d) *Form FmHA 440-26, "Consent and Subordination Agreement."* Unless otherwise provided by a State supplement, this form rather than a severance agreement will be used in UCC States when a security interest is taken in property after it has become a fixture.

(1) Consent and subordination agreements will be obtained before releasing loan funds to the creditor, if a debt is being refinanced on an item that already has become a fixture or no later than the time of loan closing in all other cases in which a security interest is being taken on an item that already has become a fixture.

(2) Consent and subordination agreements will be taken only in those cases in which the fixture is placed on the real estate before the financing statement and security agreement covering the fixture have been executed, or before the financing statement is filed, or before the request for obligation of funds is signed by the loan approving official.

§ 1921.109 Fees.

The borrower will pay statutory fees for filing or recording financing statements, mortgages, or other legal instruments and notary and lien search fees incident to loan transactions from personal funds or from the proceeds of the loan. Whenever FmHA employees accept cash to pay the filing or recording fees for security instruments or the cost of making lien searches, Form FmHA 440-12, "Acknowledgment of Payment for Recording, Lien Search, and Releasing Fees," will be executed. FmHA employees will make it clear to the borrower that any fee so accepted is not received by the Government as credit on the borrower's debt but is accepted only for paying the recording, filing, or lien search fees on behalf of the borrower.

§ 1921.110 Retention and use of security agreements.

Original executed security agreements will not be altered or destroyed when new security agreements are taken and will remain in the case file. Changes in security property will be noted only on the work copy. When an additional security agreement covering all collateral for the debt is taken, the work copy of the previous security agreement may be destroyed.

§ 1921.111 Future advance and after-acquired property clauses and State supplements.

The future advance and after-acquired clauses of security agreements in UCC States will be considered valid in all respects unless otherwise provided in a State supplement.

(a) *Future advance clause.* A properly prepared, executed, and filed or recorded FmHA financing statement and a properly prepared and executed FmHA security agreement give FmHA a security interest in the property described in them. This security interest covers future loans, advances, expenditures, and any other FmHA debts evidenced by notes, and any advances or expenditures for debts evidenced by such notes. However, when a borrower's indebtedness is paid in full, a new security agreement must be taken in all cases to secure an initial loan made following the payment in full.

(b) *After-acquired property clause.* Any property acquired after obtaining a security interest, except fixtures, of the same types as described (individually or by groups or specifically or generally), on the financing statement and security agreement will serve as security for the debt covered by them. The after-acquired property clause in the security agreement will encumber crops grown on the land described in the security agreement and financing statement, provided they are planted or otherwise become growing crops within 1 year of the execution date of the security agreement, or such other period as provided by State supplements. FmHA after-acquired security interests take priority over other security interests perfected after the FmHA financing statement was filed, except as stated in § 1921.106.

(c) *State supplements.* A State supplement will supplement paragraphs (a) and (b) with respect to future advance and after-acquired property clauses. It will set forth filing or recording requirements of security instruments if the borrower is not a resident of the State but is conducting some operation in the State. This will assist County Supervisors in other States who request such information in accordance with § 1921.105 (g). A State supplement will also be issued when considered necessary by OGC to reflect any State statutory changes in its version of the UCC.

§ 1921.112 Insurance.

Insurance for property, public liability, and crops should be obtained on or before loan closing.

(a) Applicants should be encouraged to carry insurance on the property including growing crops, serving as security for the loan and on other chattel or real property to protect themselves against substantial losses resulting from hazards existing in an area. It is especially desirable that insurance be obtained by applicants who receive large loans and have considerable chattel property including feed, supplies, and inventory centrally stored over an extended period. Such insurance may be required by the loan approval official in individual cases or by State supplement.

(b) Applicants, including youths, receiving loans for farm, recreational, or nonfarm enterprises should be advised of the possibilities of incurring liability and encouraged to obtain public liability and property damage insurance, including insurance on customer's property in custody of the borrower.

(c) When insurance is required on property serving as security Form FmHA 426-2, "Property Insurance Mortgage Clause (Without Contribution)," or a standard mortgage clause in general use in the area will be attached to or printed in the policy and will show the United States of America (Farmers Home Administration) as mortgagee or secured party.

§ 1921.113 Check delivery.

The County Supervisor will receive and deliver loan checks. On receipt of a loan check, and after arrangements have been completed for loan closing, the applicant will be promptly notified on Form FmHA 440-8, "Notice of Check Delivery." Loan funds will be disbursed in accordance with Part 1803 of this Chapter, (FmHA Instruction 402.1.)

§ 1921.114 Supervised bank accounts.

If a supervised bank account is required, loan funds will be deposited following loan closing. Supervised bank accounts will be established in accordance with Part 1803 of this Chapter, (FmHA Instruction 402.1). If a depository bank does not require the borrower's endorsement for deposit, the loan check may be deposited in the supervised bank account and the borrower given a copy of the deposit slip.

§ 1921.115 Collection of interest-only installments.

Loan funds for the payment of interest-only installments will be collected when the borrower receives the loan funds. The schedule of remittances will indicate "For deferred installment interest."

§ 1921.116 Revision in use of loan funds.

(a) *Approval of changes.* The State Director and other loan approval officials are authorized to approve changes in the purposes for which loan funds are to be used provided:

(1) The loan is within the respective loan approval official's authority,

(2) The change is consistent with authorities, policies, and limitations for making loans, and

(3) The change will not adversely affect the feasibility of the operation or the Government's interest.

(b) *Recording changes.* When changes are made in the use of loan funds, the repayment schedule on Form FmHA 441-1, "Promissory Note," will not be revised nor will a corrected Form FmHA 441-7, "OL-EM 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 ordinarily be repaid in one year. 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 Servic-

ing Actions" section of the Management System Card.

§ 1921.117–1921.150 [Reserved]

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93–357, 88 Stat. 392; delegation of authority by the Sec. of Agriculture, 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegation of authority by Dir., OEO 29 FR 14764, 33 FR 9850.)

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

Dated: August 2, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 77–25313 Filed 9–2–77; 8:45 am]

CONSOLIDATION, REVISION, REDESIGNATION

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulations to redesignate, consolidate, and revise the regulations pertaining to chattel security servicing and liquidation, to delete instructions for converting to forms and procedures used under the Uniform Commercial Code and to add the requirements for providing a loan disclosure statement for assumption. This redesignation—consolidation—revision is intended to unify and [thus] improve the clarity of all chattel loan servicing activities since these regulations are presently contained in various units and sections of the Code of Federal Regulations and is brought about by an administrative decision.

EFFECTIVE DATE: September 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Darrow Strain, 202–447–2331.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration (FmHA) amends its regulations to establish under Chapter XVIII, Subchapter I—"Loan and Grant Programs (Individual)," Title 7, a new Part 1930, "Borrower Property Security Servicing (Individual)," Subparts A through D (§§ 1930.1 through 1930.200) in the Code of Federal Regulations. Subpart A, "Chattel Security," (§§ 1930.1–1933.50) of this New Part 1930 will redesignate, consolidate, and revise the regulations concerning servicing chattel security and liquidation. Most of Subpart A was taken from various units and sections of Subchapter F, Security Servicing and Liquidations, Part 1871, "Chattel Security" (36 FR 1110, and as amended) and Part 1871 is hereby deleted and reserved. This new Subpart A revises the current regulations by making more explicit and detailed the policies and procedures to be followed by FmHA in connection with the Uniform Commercial Code. In this regard a requirement to provide for a loan disclosure statement for assumptions is added by Subpart A. However, no substantial changes have been made to these regulations. 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. The amendments, however, are not published for proposed rulemaking since the purpose of this change is to clarify and consolidate these regulations and publication is unnecessary.

Various Parts are amended, Part 1871 is deleted and reserved, and Part 1930, Subpart A is added as follows:

SUBCHAPTER E—ACCOUNT SERVICING

PART 1861—ROUTINE

§ 1861.1 [Amended]

(1) In § 1861.1, paragraph (b)(2), change the reference from "§ 1871.41(c) of this Chapter" to "Part 1930, Subpart A of this Chapter."

§ 1861.8 [Amended]

(2) In § 1861.8, paragraph (a), change the reference from "§ 1871.13 of this Chapter" to "Part 1930, Subpart A of this Chapter."

PART 1864—DEBT SETTLEMENT

§ 1864.2 [Amended]

(3) In § 1864.2, paragraph (d), change the reference from "Subpart B of Part 1871" to "Part 1930, Subpart A of this Chapter", and in paragraph (k), change the reference from "§ 1871.19" to "Part 1930, Subpart A of this Chapter."

§ 1864.17 [Amended]

(4) In § 1864.17, paragraph (a)(1), change the reference from "Subpart A of Part 1871 of this Chapter", to "Part 1930, Subpart A of this Chapter."

PART 1866—FINAL PAYMENT ON LOANS SECURED BY REAL ESTATE

§ 1866.1 [Amended]

(5) In § 1866.1(b), change the reference from "Subpart A of Part 1871 of this Chapter" to "Subpart A of Part 1930 of this Chapter."

SUBCHAPTER F—SECURITY SERVICING AND LIQUIDATIONS

PART 1871—CHATTEL SECURITY

(6) Part 1871 is "deleted" and "reserved."

PART 1872—REAL ESTATE SECURITY

§ 1872.11 [Amended]

(7) In § 1872.11(b), change the reference from "Subpart A, Part 1871, Subchapter F of this Chapter" to "Subpart A of Part 1930 of this Chapter."

§ 1872.14 [Amended]

(8) In § 1872.14, change the reference from "§ 1871.38 of Subpart B, Part 1871, Subchapter F of this Chapter" to "Subpart A of Part 1930 of this Chapter."

§ 1872.15 [Amended]

(9) In § 1872.15(c), change the reference from "Subpart B, Part 1871, Subchapter F of this Chapter" to "Subpart A of Part 1930 of this Chapter."

§ 1872.17 [Amended]

(10) In § 1872.17(e), change the reference from "Subpart B, Part 1871 of Subchapter F" to "Subpart A of Part 1930 of this Chapter."

§ 1872.22 [Amended]

(11) In § 1872.22 change the reference from "Subpart A, Part 1871, Subchapter F of this Chapter" to "Subpart A of Part 1930 of this Chapter."

SUBCHAPTER I—LOAN AND GRANT PROGRAMS (INDIVIDUAL)

(12) In Subchapter I, Part 1930, Subpart A is added:

PART 1930—BORROWER PROPERTY SECURITY SERVICING (INDIVIDUAL)

Subpart A—Chattel Security *C*

Sec.

Subpart A—Chattel Security *C*

§ 1930.1 Purpose.

This Subpart delegates authorities and gives procedures for servicing, care, and liquidation of Farmers Home Administration (FmHA) chattel security, Economic Opportunity loan (EO) property, and note only loans.

§ 1930.2 Policy.

(a) Chattel security and EO property, and note only loans will be serviced to accomplish the loan objectives and protect FmHA's financial interest. To accomplish these objectives, security will be serviced in accordance with the security instruments and related agreements, including any authorized modifications, provided the borrower has reasonable propects of accomplishing the loan objectives, properly maintains and accounts for the security, and otherwise satisfactorily meets the loan obligation, including repayment.

(b) If these conditions are not met, or the chattel security must be liquidated for other reasons, the security will be liquidated promptly to protect FmHA's financial interest. Normally, the borrower will dispose of chattel security and EO property at a public or private sale. However, when this cannot be done, the County Supervisor will take possession and sell chattel security in accordance with this Subpart.

§ 1930.3 Authorities and responsibilities.

(a) *Redelegation of authority.* Authority will be redelegated to the maximum extent possible consistent with program requirements and available resources. The State Director, District Director, and County Supervisor are authorized to redelegate, in writing, any authority delegated to them in this Subpart to any employee determined by them to be qualified.

(b) *Responsibilities.* (1) *FmHA personnel.* The State Director, District Director and County Supervisor are responsible for carrying out the policy and procedures in this Subpart.

(2) *Borrower.* The borrower is responsible for repaying his or her loans, maintaining, protecting, and accounting to FmHA for all chattel security, and complying with all other requirements specified in promissory notes, security instruments, and related documents.

§ 1930.4 Definitions.

(a) *FmHA* means the United States of America, acting through the Farmers Home Administration and its predecessor administrative agencies.

(b) *Chattel property.* Crops; livestock; fish; farm, business, and recreational equipment; supplies; farm products; other personal property; and fixtures.

(c) *Chattel security and security property.* Chattel property covered by FmHA financing statements and security agreements, chattel mortgages, and other security instruments.

(d) *EO property.* Nonsecurity chattel property purchased, refinanced, or improved with EO loan funds.

(e) *EO property essential for minimum family living needs.* Nonsecurity chattel or real property required to provide food, shelter, or other necessities for the family or to produce income without which the family would not have such necessities. This includes livestock, poultry, or other animals used as food or to produce food for the family or produce income for minimum essential family living needs; modest amounts of real property needed for family shelter or to produce food or income for minimum essential family living needs, and items such as equipment, tools, and motor vehicles, which are of minimum value and are essential for family living needs or to produce income for that purpose. Any such item of a value in excess of the minimum need may be sold and a portion of the sale proceeds used to purchase a similar item of less value to meet such need. The remainder of the proceeds will be paid on the EO loan.

(f) *Default.* Failure of the borrower to observe his or her agreements with FmHA as contained in notes, security instruments, and similar or related instruments. Some examples of default or factors to consider in determining whether a borrower is in default are when a borrower:

(1) Is delinquent, and the borrower's refusal or inability to pay on schedule, or as agreed upon, is due to lack of diligence, lack of sound farming or other operation, or other circumstances within the borrower's control.

(2) Ceases to conduct farming or other operations for which the loan was made or to carry out approved changed operations.

(3) Has disposed of security or EO property without FmHA approval, has not cared properly for such property, has not accounted properly for such property or the proceeds from its sale, or taken some action which resulted in bad faith or other violations in connection with the loan.

(4) Has progressed to the point to be able to obtain credit from other sources, and has agreed in the note or other instrument to do so but refuses to comply with that agreement.

(g) *Liquidation.* The act of selling security or EO property to close the loan in those cases in which no further assistance will be given; or instituting civil suit against a borrower to recover security or EO property or against third parties to recover security property or its value or to recover amounts owed to FmHA; or filing claims in bankruptcy or similar proceedings or in probate or administration proceedings to close the loan.

(h) *Civil action.* Court proceedings to protect FmHA's financial interests such as obtaining possession of property from borrowers or third parties, judgments on indebtedness evidenced by notes or other contracts or judgments for the value of converted property, or judicial foreclosure of security instruments. Bankruptcy and similar proceedings to impound and distribute the bankrupt's assets to creditors and probate and similar proceedings to settle and distribute estates of incompetents or of decedents under a will, or otherwise, and pay claims of creditors are not included.

(i) *Criminal action.* Court prosecution by the United States to exact punishment in the form of fines or imprisonment for alleged violations of criminal statutes. These include but are not limited to violations such as:

(1) Unauthorized sale of security property with intent to defraud.

(2) Purchase of security property with intent to defraud and without payment of the purchase price to FmHA;

(3) Falsification of assets or liabilities in loan applications;

(4) Application for a loan for an authorized purpose with intent to use and use of loan funds for an unauthorized purpose;

(5) Decision after obtaining a loan to use and using the funds for an unauthorized purpose and then making false statements regarding their use; or

(6) By scheme, trick, or other device, covering up or concealing misuse of funds or unauthorized dispositions of security or EO property or other illegal actions; or

(7) Any other false statements or representation relating to FmHA matters. In order to establish that a criminal act was committed by selling EO property, it is necessary to show that the borrower, at the time he signed the loan agreement or the check on the supervised bank account, intended to sell the property in violation of his loan agreement. The Federal criminal statute of limitations bars institution of criminal action five years after the date the act was committed. When actions by borrowers represent minor deviations from the policies expressed in FmHA regulations, such actions are not considered as criminal violations for the purposes of this Subpart. Examples of such minor deviations are failure of the borrower to account properly for nominal amounts derived from the sale of security property or for minor items of security. However, repeated unauthorized disposition of even minor items by the borrower will be considered criminal violations.

(j) *Abandonment.* Voluntary relinquishment by the borrower of control of security or EO property without providing for its care.

(k) *Repossessed property.* Security or EO property in FmHA's custody, but still owned by the borrower.

(l) *Purchase money security interest.* Special type of security interest which, if properly perfected, takes priority over an earlier-perfected security interest. A security interest is a purchase money security interest to the extent that it is taken by the seller of the collateral to secure all or part of its purchase price or by a lender who makes loans or is obligated to make loans or otherwise gives value to enable the debtor to acquire the particular collateral or obtain rights in it and if such value is given not later than the time the debtor acquires the collateral or obtains rights in it.

(m) *Foreclosure sale.* Act of selling security property either under the "Power of Sale" in the security instrument or through court proceedings.

(n) *Acquired chattel property.* Former security or EO property of which FmHA has become the owner (Refer to § 1955.20 of this Chapter).

(o) *Office of the General Counsel (OGC).* The Regional Attorneys and Attorneys in charge of the Office of the General Counsel of the United States Department of Agriculture.

§ 1930.5 Security instruments.

County Supervisors are responsible for maintaining security instruments that will cover all security property, including replacements, increases, and other after-acquired property, and for obtaining additional security as needed. They will execute continuation, extension, or renewal of security instruments as needed to protect FmHA's security interests.

(a) *Financing statement.* An FmHA Financing Statement is effective as notice for 5 years from the date of filing. A new statement needs to be taken and filed only if the debt is to be secured by property not described specifically or by type, or by crops growing or to be grown, or fixtures located or to be located on land not described on the filed statement.

(1) However, the filed statement must be continued to notify third parties after the original 5-year period. Either Form FmHA 462–7, "Continuation Statement," or Form FmHA 462–12, "Continuation or Termination Statement" must be filed within 6 months before the end of the original 5-year period. On filing Form FmHA 462–7 or Form FmHA 462–12, the filed Financing Statement is effective for 5 more years after the date to which the original filing was effective. Successive Continuation Statements may be filed to continue the notice to third parties. A lien search is unnecessary provided the Continuation Statement is properly filed.

(2) Form FmHA 462–11, "Request for Continuation Statement Filing Fee," may be used to notify the borrower to continue the Financing Statement and to submit the amount of the filing fee.

(b) *Security agreement.* When an initial Operating Loan (OL) or Emergency Loan (EM) is made to an applicant, including a paid-in-full OL or EM borrower, a new security agreement will be taken when:

(1) Property not covered by specific description or the printed language of the previous security agreement is to serve as security for the debt;

(2) It is necessary to obtain or maintain a security interest in crops; or

(3) It is necessary to supplement the security agreement to obtain an asset for security property. A State supplement will be issued when considered necessary by the State Director and OGC to further explain the situations requiring the taking of an additional security agreement. Such additional security agreement usually will be taken at about the time of the annual inspection of security property required by § 1930.18.

(c) *Chattel mortgage.* A chattel mortgage may be extended or renewed by obtaining a new chattel mortgage or by using a form approved for this purpose by OGC. However, it is preferable to renew or extend chattel mortgages by obtaining new ones unless there are intervening liens or other legal reasons. A State supplement will be issued stating the actions to follow to assure that:

(1) FmHA liens and their priority are maintained by renewing or extending security instruments or by obtaining new instruments.

(2) Lien searches are made as necessary to determine that FmHA will obtain the required priority of liens.

§ 1930.6 Liens and assignments on chattel property.

(a) *Chattel property not covered by FmHA lien.* (1) When additional chattel property not presently covered by an FmHA lien is available and needed to protect FmHA's interest, the County Supervisor will obtain one or more of the following:

(i) A lien on such property; or

(ii) An assignment of the proceeds from the sale of agricultural products when such proceeds are not covered by the lien instruments, or

(iii) An assignment of other income, including Agricultural Conservation Program payments.

(2) When a current loan is not being made to a borrower, a crop lien will be taken as additional security when the County Supervisor determines in individual cases that it is needed to protect FmHA interests. However, a crop lien will not be taken as additional security for Farm Ownership (FO), Rural Housing (RH), Labor Housing (LH), and Soil and Water (SW) loans. When a new security agreement or chattel mortgage is taken, all existing security items will be described on it.

(b) *Lien search.* When a lien is taken on chattel property not covered by an FmHA lien, a lien search will be made. It will not be needed, however, if crops or other chattel property are covered by a filed FmHA Financing Statement but not by an FmHA security agreement or assignment of income. The search will be made at a time which will assure that FmHA obtains the desired lien on chattel property as set forth by a State supplement.

(c) *Assignment of wheat certificates payments and feed grain payments.* Borrowers may assign Agricultural Stabilization and Conservation Service (ASCS) price support and certificate payments under ASCS wheat and feed grain programs.

(1) *Obtaining assignments.* Assignments will be obtained as follows:

(i) In selected cases in counties agreed to by FmHA State Directors and ASCS State Committees,

(ii) Only when it appears necessary to collect the FmHA operating-type loans,

(iii) Only for the crop year for which FmHA operating-type loans are made, and

(iv) For the full amount of the wheat certificate payment and an advance and/or final feed grain payment.

(2) *Selecting counties.* State Directors will inform ASCS State Committees of the counties in which FmHA desires to obtain assignments from borrowers. When counties have been agreed to by FmHA State Directors and ASCS State Committees, the State Directors will notify the appropriate County Supervisors about obtaining the assignments. The County Supervisors then will:

(i) Determine, at the time of loan processing for indebted borrowers and new applicants, who must give assignments and obtain them not later than loan closing. Special efforts will be made to obtain the bulk of assignments before the sign-up period for enrolling in the annual Feed Grain and Wheat set aside programs.

(ii) Obtain assignments from selected borrowers on Form FmHA 462–8, "Wheat and Feed Grain Programs—Assignments."

(3) *Determining payments.* Under the Agricultural Act of 1970, the per bushel rates of payments to participating producers are determined in part by the average market prices for corn, grain sorghums, barley, and wheat during the first 5 months of the respective marketing years. Preliminary payments, at specified rates for corn, grain sorghums, and barley and at 75 percent of the estimated final rate for wheat, will be made promptly after July 1. Final payments, if any, will be made after determining the rates of payment.

(4) *Releasing assignments and handling checks.* (i) The County Supervisor will inform the ASCS County Office that it is releasing its assignment whenever a borrower pays FmHA the amount due for the year on the operating-type loan debt or pays the debt in full.

(ii) Checks obtained as a result of an assignment will be made jointly to the producer and FmHA. Such checks may be endorsed by both parties and scheduled as a payment or payments to FmHA, or endorsed and released, including partial release, to the borrower if the borrower has paid FmHA the amount due for the year on the operating-type loan or has paid the debt in full.

§ 1930.7 Securing unpaid balances on unsecured loans.

The County Supervisor will take a lien on a borrower's chattel property in accordance with § 1930.6 if it is necessary to rely on such property for the collection of the borrower's unsecured indebtedness, or it will assist in accomplishing loan objectives.

§ 1930.8 Liens on real estate for additional security.

The best lien obtainable may be taken on any real estate owned by the borrower, including any real estate which already serves as security for another loan. Such liens will be taken only when the existing security is not adequate to protect FmHA interests, and the borrower has substantial equity in the real estate to be mortgaged, and taking such mortgage will not prevent making an FmHA real estate loan, if needed, later.

(a) *Documentation.* Before taking real estate as additional security for an FmHA loan, the following information will be put in the running record:

(1) Facts justifying the real estate lien;

(2) An estimate of the present market value of the real estate to be mortgaged (no appraisal of the property to be mortgaged is needed);

(3) A brief description of any existing liens on the property and the unpaid balance on the debts secured by such existing liens; and

(4) Name of the titleholder and how title of the property is held. (Title evidence is not required.)

(b) *Forms.* Form FmHA 427-1 (State), "Real Estate Mortgage for _____" will be used for each real estate lien taken as additional security unless a State supplement requires a form of mortgage comparable to that which secures the existing loans to be additionally secured. The notes evidencing the FmHA loans for which the additional security will be taken will be described in the same mortgage.

§ 1930.9 Lien on chattel property as security for a real estate loan.

Form FmHA 440-15, "Security Agreement (Insured Loans to Individuals)" and Form FmHA 440A25, "Financing Statement," or Form FmHA 440-25, "Financing Statement," as appropriate, will be used in Uniform Commercial Code (UCC) States, and Form FmHA 440-15, "Chattel Mortgage (Insured Loans to Individuals)" will be used in non-UCC States unless State supplements provide for using other forms.

§§ 1930.10–1930.11 [Reserved]

§ 1930.12 Marking ASCS peanut and tobacco marketing cards.

The County Supervisor will mark ASCS marketing cards for all borrowers who have peanut or tobacco crops under lien to FmHA.

(a) *Marketing cards.* Just before ASCS prepares the cards, the FmHA County Office will give the appropriate ASCS County Office lists of the names and addresses of FmHA borrowers whose cards are to be marked and inform the office that FmHA will mark the cards of each borrower whose name is on the list before delivery. After FmHA determines that the cards are ready for delivery, the County Supervisor or his designate will go to the ASCS County Office and;

(1) Stamp or insert "FmHA lien" in script in indelible ink on the cards for peanuts and tobacco, except flue-cured and burley tobacco, wherever decided by the FmHA County Supervisor and the ASCS County Office Manager.

(2) Stamp or insert "FmHA lien" in script in indelible ink on borrower's Form MQ 76, "Tobacco Marketing Card," for flue-cured and burley tobacco. The stamp will be placed on the left at the bottom of the signature strip under "Tobacco Marketing Card."

(3) If the borrower satisfies the lien or repays the amount due the current year, stamp "canceled" across "FmHA lien" followed on the same line by the name of the official making the cancellation and the date.

(b) *Notice to borrowers.* The County Supervisor will inform borrowers of marketing arrangements, including the requirements for canceling the lien notice on the card.

(c) *Notice to buyers.* Whenever possible, the County Supervisor will explain these arrangements personally to buyers (warehousemen and dealers in the case of tobacco) in the area. He will also explain that the lien notice on the cards is not in place of the notice given by filed or recorded lien instruments but is a courtesy and is to provide them with readily available current information. However, this information may not always be accurate and commodities covered by a card not stamped "FmHA lien" may still be subject to an FmHA lien. If too many buyers are in the area, the County Supervisor may write them a letter explaining the arrangements to them.

§ 1930.13 Lists of borrowers given to business firms.

The County Supervisor may give lists of borrowers whose chattels or crops are subject to an FmHA lien to business firms in a trade area, such as salesbarns and warehouses, that buy chattels or crops or sell them for a commission. However, the County Supervisor will give these lists to any such firm on its request. These lists will exclude those borrowers whose only crops for sale require ASCS marketing cards.

(a) The list will contain the statement: "The crop and chattel liens of financing statements of the Farmers Home Administration are recorded or filed as required by law. This list of borrowers is furnished only as a convenience. It may be incomplete or inaccurate as of any particular date. The fact that a person's name is not on this list does not necessarily mean that the Farmers Home Administration does not have security interest in or lien on his/her crops, livestock, and other chattels."

(b) Lists will be sent by Form FmHA 462-3, "List of Farmers Home Administration Borrowers," or the County Supervisor may consider it advisable to personally deliver and explain the form and list to the buyers. The County Supervisor will update all lists that have been distributed by notifying buyers in writing, on Form FmHA 462-14, "Change in List of Farmers Home Administration Borrowers," at least every 3 months, of the names of borrowers to add and of paid-up or transferred borrowers to delete.

§ 1930.14 Account and security information in UCC cases.

Within 2 weeks after receipt of a written request from the borrower, FmHA must inform the borrower as to the security and the total unpaid balance of the FmHA indebtedness covered by the Financing Statement.

(a) If FmHA fails to provide the information, it is liable for any loss caused the borrower and, in some States, other parties, and also may lose some of its security rights. The UCC provides that the borrower is entitled to such information once every 6 months without charge, and that FmHA may ask up to $10 for each additional statement. However, FmHA provides them without charge. The requested information goes on Form FmHA 462-10, "Farmers Home Administration's Answer to Request for Information."

(b) Although the UCC only requires FmHA to give information pursuant to the borrower's written request, FmHA will also answer oral requests. Furthermore, the UCC does not prohibit giving this information to others who have a proper need for it, such as a bank or another creditor contemplating advancing additional credit to the borrower.

§§ 1930.15–1930.16 [Reserved]

§ 1930.17 Releasing chattel security.

Chattel security may be released only when release will not be to the financial detriment of FmHA. Borrowers will be strictly accountable to FmHA for the proper use of proceeds from the sale of security property. Insurance proceeds derived from the loss of security property will be treated the same as sale proceeds. The authority to release security for FmHA loans is different for basic security and normal income security as follows:

(a) *Basic security.* Basic security is all equipment (including fixtures in UCC States) and foundation herds and flocks securing FmHA loans which serve as a basis for the farming or other operation outlined in Form FmHA 431-2, "Farm and Home Plan," Form FmHA 431-3, "Family Budget," or Form FmHA 431-4, "Business Analysis Nonagricultural Enterprise," and replacement of such property. It also includes animals sold as a result of the normal culling process, unless the borrower has replacements that will keep numbers and production up to planned levels and animals or birds sold when a borrower plans to significantly reduce the basic livestock herd or flocks. County Supervisors may release basic security when the property has been sold

or exchanged for its present market value, and the proceeds are used for one or more of the following purposes:

(1) To apply to the debts owed to FmHA which are secured by liens on the property sold.

(2) To purchase from the proceeds of the sale, or to acquire through exchange, property more suitable to the borrower's needs. The new property, together with any proceeds applied to the indebtedness, will have security value to FmHA at least equal to that of the lien formerly held by FmHA on the old property and subject to the following:

(i) *UCC cases.* Under the after-acquired property provisions of the security agreement, the new property, except fixtures, will be subject to the security interest of FmHA provided the financing statement on file and the security agreement cover the class of property. Therefore, new security instruments will not be needed.

(A) However, if either the financing statement or security agreement does not cover such property, a new instrument will be taken.

(B) Since the after-acquired property clause in the security agreement does not cover fixtures, a new security agreement would have to be taken for them. A new financing statement also will have to be taken and filed unless the existing filed financing statement covers fixtures by class and describes the land on which the new fixtures are or are to be located.

(ii) *Chattel mortgage cases.* The new property is made subject to a lien in favor of FmHA by the execution of a new security instrument (or by operation of the "replacement" or "after-acquired property" clauses in lien instruments in accordance with State supplements).

(iii) *Time of taking new security instruments.* New security instruments are taken at the time of the acquisition of the new property referred to in paragraph (a) (2) (i) and (ii) of this section. In individual cases, however, County Supervisors may delay as long as 1 year or until new instruments are necessary for other reasons, whichever is earlier, when adequate security will continue to exist. Security is considered adequate if its value, as determined by a chattel appraisal of the borrower's chattel property remaining under lien to FmHA, is substantially greater than the amount of the debt.

(3) To make payments to other creditors having liens on the property sold which are superior to the liens of FmHA. However, any amount remaining after payments to the other creditors will be used in accordance with paragraphs (a) (1) and (2) of this section.

(4) To pay costs to preserve security property because of an emergency or catastrophe, when the need for funds cannot be met through an FmHA loan, or an FmHA loan cannot be made in time to prevent the borrower or FmHA from suffering a substantial loss.

(b) *Normal income security.* This is all security property not considered as basic security including crops, livestock, poultry, products, and other property covered by FmHA liens which are sold in operating the farm or other business. County Supervisors may release normal income security when the property has been sold for its present market value and the proceeds are used in accordance with the following requirements or the property is disposed of without sale under one or more of the following conditions in this paragraph:

(1) To pay debts owed to FmHA.

(2) To pay farm and home or other operating expenses provided for in tables of Form FmHA 431-2, Form FmHA 431-3, or Form FmHA 431-4.

(3) To pay necessary farm and home or other operating expenses shown as debts in the financial statement on Form FmHA 431-2 or Form FmHA 431-3 and to be paid during the year as shown by the debt payment table, provided these debts were incurred in the production, harvesting, or marketing of crops, livestock, poultry or products sold during the year, or were for family subsistence for that year.

(4) To pay an amount not more than the equivalent of 1 year's income taxes and social-security taxes.

(5) To make payments to other creditors having liens on the property sold which are superior to FmHA liens.

(6) To pay annual installments on debts owed on essential real estate to creditors other than FmHA. These amounts must be reasonable when related to the normal rental charge for similar real estate in the area, and there should be assurance that the borrower will keep the real estate at least for the next year.

(7) To make reasonable payments on debts owed to other creditors for essential home equipment and passenger automobiles provided for in the debt payment tables of Form FmHA 431-2 or Form FmHA 431-3 or approved revisions. Such debts ordinarily will be considered for payment only after the full amount agreed on for the year has been paid to FmHA. However, reasonable amounts may be paid to other creditors first if failure to make payments to other creditors when due would result in the borrower's losing possession of essential home equipment or passenger automobile, and the loss would require the borrower to replace the property or to go to substantial additional expense in order to continue his operation.

(8) To make payments on debts on harvesting equipment such as cotton pickers, corn pickers, combines, forage paying essential harvesting expenses provided an OL loan or EM loan for the crop year did not include funds for the payment of depreciation on such equipment, and the total amount released for such payments and harvesting costs, plus any loan funds advanced for harvesting costs, is not more than the amount that would be required during the crop year on a custom basis to harvest the crops using the harvesting equipment.

(9) To make payments on debts owed to other creditors and to make purchases or to meet expenses not otherwise covered in this section provided:

(i) Debt payments, purchases, or expenses are included in Form FmHA 431-2, Form FmHA 431-3, or Form FmHA 431-4;

(ii) Sufficient income will be available to pay an amount equivalent to that scheduled on the notes to fall due during the year, plus the amount agreed on for any delinquencies, on FmHA debts secured by liens on chattel property; and

(iii) Debt payments, purchases, or expenses are essential for the borrower to obtain or keep necessary equipment or to continue a sound operation.

(10) To pay costs required to preserve security property because of an emergency or catastrophe, when the need for funds cannot be met through an FmHA loan or an FmHA loan cannot be made in time to prevent the borrower or FmHA from suffering a substantial loss.

(11) To permit crops serving as security for FmHA loans to be fed to livestock when the County Supervisor determines that this disposal is preferable to direct marketing of the crops, provided a lien or assignment is obtained on the livestock or livestock products.

(12) When livestock is consumed by the borrower family for subsistence.

(c) *Distribution of income from normal income security.* On finding that the amount of income originally planned for the year will not be received, the County Supervisor will determine, in consultation with the borrower, how to use income that is available or will become available during the remainder of the planned year as shown on Forms FmHA 431-2 or FmHA 431-4. If other creditors have liens on the property from which the normal income is received, they also must be consulted. Priorities in distributing the income that will be available are as follows:

(1) Pay necessary farm, home, and other expenses planned for payment by cash as incurred.

(2) Prorate repayments on credit advanced for necessary farm, home, and other operating expenses to FmHA and other creditors.

(3) Make planned payments on other debts as shown in Table K of Form FmHA 431-2 or Table H of Form FmHA 431-3. However, minimum payments may be made on such debts along with the payment of cash farm, home, and other operating expenses on credit advanced for such purposes when necessary to enable the borrower to keep essential property.

(d) *Plans as basis for releasing chattel security.* Release of both basic and normal income security will be based on information about the borrower's operations as shown on Form FmHA 431-2, Form FmHA 431-3, or Form FmHA 431-4, as appropriate.

(1) If plans have been developed for the borrower's current crop or business year, the release will be based on them.

(2) If no recent plans have been made with the borrower, the release will be based on the County Supervisor's knowledge of the borrower's current operations, plus inquiry and documentation of

the facts about the borrower's present operation in the running case record.

(e) *Release forms.* The County Supervisor may execute releases covering specific items of property. If security interest under the UCC is involved, Form FmHA 460–6, "Release (UCC States)," will be used in accordance with the Forms Manual Insert (FMI) to release such property from financing statements and security agreements. If chattel mortgages are involved, Form FmHA 460–1, "Partial Release," or other approved form will be used. Releases need not be executed unless requested by a borrower or by an interested third party.

(f) *Release of valueless junior lien.* State Directors may release chattels and crops serving as security for FmHA loans when such property has no present or prospective security value or enforcement of the FmHA lien would be ineffectual or uneconomical. Forms FmHA 460–6 and FmHA 460–1 will be used as appropriate. The following information will be documented in the running case record:

(1) The present market value of the chattels or crops, as determined by the County Supervisor, on which FmHA has a valueless junior lien.

(2) The names of the prior lienholders, amount secured by each prior lien, and the present market value of any property which serves as security for the amount. The value of all property serving as security for amounts owed to prior lienholders must be considered to determine whether the junior FmHA lien has any present or prospective value.

§ 1930.18 Accounting for security property.

(a) *Accounting by County Supervisor.* The County Supervisor is responsible for maintaining a current record of each borrower's security property. When the borrower acquires additional items of chattel property which will be described on subsequent security instruments, descriptions of these items will be recorded on the work copy of the security agreement or the file copy of the chattel mortgage, as appropriate. The original of the security agreement should not be altered. Chattel security should be inspected annually for borrowers who are delinquent or who have been indebted for less than 1 full crop year. The County Supervisor will make other inspections as needed to:

(1) Verify the borrower possesses all the security,

(2) Determine security is properly maintained, and

(3) Supplement security instruments.

(b) *Accounting by borrower.* The borrower must account for all security property and will be instructed regarding its care, maintenance, and disposition when a loan is made and as often afterwards as necessary. When borrowers sell security property, the sale will be made subject to the FmHA lien. The property and proceeds will remain subject to the lien until the lien is released or the sale approved by the County Supervisor and the proceeds are used for one or more of the purposes stated in § 1930.17. Purchasers of security property who inquire should be informed that the property is subject to FmHA's lien and will remain subject to it until they deliver any proceeds in cash to the County Supervisor or make checks payable jointly to the borrower and FmHA and the check has cleared. Form FmHA 462–2, "Written Consent to Sell and Statement of Conditions on Which Lien Will be Released," may be used by the County Supervisor to give written consent to sell when borrowers or purchasers request such a statement before the date of sale.

(c) *Recording dispositions of security property.* Dispositions of basic and normal income security will be recorded on Form FmHA 462–1, "Record of the Disposition of Security Property," as soon as information is available. Security will include items sold, exchanged or lost through death, theft, destruction, or deterioration, and livestock consumed by the family.

(1) For normal income security, the uses made of the sale proceeds will be recorded in sufficient detail to relate them readily to the appropriate tables in Form FmHA 431–2, Form FmHA 431–3, or Form FmHA 431–4. However, these entries are not required on Form FmHA 462–1 when:

(i) The borrower is not delinquent on any FmHA debts and has paid the amount agreed on for the year; or

(ii) Farm products such as milk, eggs, or wool are sold and are accounted for on Form FmHA 441–18, "Consent to Payment of Proceeds from Sale of Farm Products," Form FmHA 441–25, "Assignment of Proceeds from the Sale of Dairy Products and Release of Security Interest," Form FmHA 441–8, "Assignment of Proceeds from the Sale of Products," or the farm and home plan shows that no payments are to be made on FmHA debts from the farm product(s) listed on the named forms.

(2) Employees having release authority will approve or disapprove the release on Form FmHA 462–1.

(3) Recording or not recording disposition of security property does not release the FmHA lien on the security property.

(d) *Reporting improper dispositions of security property.* When the borrower fails to account properly for security property, the County Supervisor will report the facts in writing promptly to the State Office.

§ 1930.19 Claims against Commodity Credit Corporation.

This section is based on a Memorandum of Understanding between the Commodity Credit Corporation (CCC) and FmHA (see Exhibit A). The memorandum sets forth the procedure to follow when producers sell or pledge to CCC as loan collateral under the Price Support Program, commodities on which FmHA holds a prior lien, and when the proceeds, or an agreed amount from them, are not remitted to FmHA to apply against the producer's indebtedness to FmHA. In addition to the procedures outlined in Exhibit A, the following will apply:

(a) *County office action.* (1) Claims will not be filed with CCC until it is determined that the amount involved cannot be collected from the borrower. Therefore, after preliminary notice is given of this fact to CCC by the State Director the County Supervisor will make immediate demand on the borrower for the amount of the CCC loan or the portion of it which should have been applied to the borrower's account. If payment is made, the State Director will be notified.

(i) If payment is not made, the County Supervisor will determine whether or not the case should be liquidated in accordance with § 1930.40. Any liquidation action will be taken immediately. If the borrower has no property from which recovery can be made through liquidation or, if after liquidation, an unpaid balance remains on the indebtedness secured by the commodity pledged or sold to CCC, the County Supervisor will make a full report to the State Director on Form FmHA 455–1, "Request for Legal Action," with a recommendation that a claim be filed against CCC. However, if the indebtedness is paid through liquidation action, the State Director will be notified by memorandum.

(ii) If the facts do not warrant liquidation action, the State Director will be notified, and a recommendation will be made that no claim be filed against CCC.

(2) On receiving information from the State Director that CCC has called the borrower's loan, the County Supervisor will act to protect FmHA's interest with respect to the commodity if CCC is repaid.

(b) *State office action.* (1) The State Director, on receipt of reports and recommendations from the County Supervisor, will:

(i) Forward notice to CCC if he concurs in the County Supervisor's recommendation not to file a claim against CCC or if notice is received that the indebtedness has been paid.

(ii) Refer the case to OGC with a statement of facts if he concurs in the County Supervisor's recommendation to file a claim against CCC.

(iii) Send CCC, if OGC determines that FmHA holds a prior lien on the commodity and the amount due on its loan is not collectible from the borrower, a copy of the OGC memorandum with a complete statement of facts supporting the claim through the applicable ASCS office or notify CCC if the OGC memorandum does not support FmHA's claim.

(2) The State Director will notify the County Supervisor promptly on receiving information from CCC that the borrower's loan is being called.

(3) If collection cannot be made from the borrower or other party (see paragraph 5 of Exhibit A) the State Director will give CCC the reasons. FmHA will then be paid by CCC through the applicable ASCS office.

§§ 1930.20–1930.21 [Reserved]

§ 1930.22 Amendments of consents and releases or suspensions of assignments.

(a) *Amendment of Form FmHA 441–18.* The County Supervisor may temporarily amend this form to permit borrowers to use all or a part of proceeds from the sale of products in emergencies and in other justifiable circumstances. Such action, however, must not be to the financial detriment of FmHA and the funds must be used for the purposes stated in § 1930.17 (a) and (b). Form FmHA 462–9, "Temporary Amendment of Consent to Payment of Proceeds From Sale of Farm Products," will be used for this purpose. The borrower's file will show the purpose and justification for the amendment. The County Supervisor will see that payments are made in accordance with the original consent when the temporary amendment period expires.

(1) When a Form FmHA 441–18 has been executed and the amount of the payment to FmHA needs to be decreased for other than a temporary period, or increased for any period, a new Form FmHA 441–18 will be executed.

(2) If Form FmHA 441–18 has been executed for a particular product and FmHA is no longer looking to the proceeds from that product for payment on the FmHA indebtedness, the purchaser should be advised by letter as follows: "The Farmers Home Administration (FmHA) is not presently looking to the proceeds from the sale of (name of product) covered by the 'Consent to Payment of Proceeds from the Sale of Farm Products' executed by (name and address of borrower) and accepted by you on (date). Therefore, until further notice, you may discontinue making payments to FmHA for such product."

(3) If Form FmHA 441–18 has not been executed for a particular product because FmHA is not expecting payment from the proceeds of such product, but the purchaser of the product inquires about payment, a letter should be written to the purchaser as follows: "The Farmers Home Administration (FmHA) has a security interest in the (name of product) being sold to you by (name and address of borrower), but at the present time is not looking to the proceeds from the sale of that product for payment on the debt owed to this agency. Therefore, until further notice, it will not be necessary for you to make payment to FmHA for such product."

(b) *Assignments.* (1) The County Supervisor may release, reduce, or temporarily suspend assignments including crop insurance assignments and permit borrowers to use such proceeds including those received as checks made payable jointly to the borrower and FmHA. This authority is the same as that provided in paragraph (a) of this section. The County Supervisor will see that suspended, reduced, or released assignments are reinstated, or new assignments are obtained when needed.

(2) All suspensions, reductions, or releases of assignments will be made on forms approved by OGC. The original will be forwarded directly to the person or firm making the payment against which the assignment is effective, and a copy will be kept in the borrower's case file. In each case, the borrower's file will show the purposes and justification for the suspension, reduction, or release.

(3) The State Director may in justifiable cases approve requests for suspension, release, or reduction of assignments other than those specified in paragraph (b) (1) of this section, provided such action will not be detrimental to FmHA's interest.

§ 1930.23 Releases of liens on wool and mohair marketed by consignment.

(a) *Conditions.* Liens on wool and mohair may be released when the security property is marketed by consignment, provided all the following conditions are met:

(1) The producer assigns to FmHA the proceeds of any advances made, or to be made, on the wool or mohair by the broker, less shipping, handling, processing, and marketing costs.

(2) The producer assigns to FmHA the proceeds of the sale of the wool or mohair, less any remaining costs in shipping, handling, processing, and marketing, and less the amount of any advance (including any interest which may have accrued on the advance) made by the broker against the wool or mohair.

(3) The producer and broker agree that the net proceeds of any advances on, or sale of, the wool or mohair will be paid by checks made payable jointly to the producer and FmHA.

(b) *Authority.* The County Supervisor may execute releases of the Government's lien on wool and mohair on Form FmHA 462–4, "Assignment, Acceptance, and Release." Since Form FmHA 462–4 is not a binding agreement until executed by all parties in interest, including the producer and the broker as well as the Government, the County Supervisor may execute it before other parties sign it.

§ 1930.24 Notice of termination of security interest to purchasers of farm products under consents or assignments upon payment in full.

County Supervisors will notify purchasers of farm products as soon as the FmHA has received payment in full of indebtedness for collection of which it has accepted assignments or consents to payment of proceeds from the sale of the farm products. In cases in which Form FmHA 441–18, is in effect under the UCC, the notice to purchaser will be made on Form FmHA 460–8, "Notice of Termination of Security Interest in Farm Products." In cases where assignments have been used, the notice to the purchaser will be by letter or by forms prescribed by State supplements.

§ 1930.25 Release of FmHA's interest in insurance policies.

When liens on property covered by insurance have been released, the County Supervisor is authorized hereby to notify the insurance company that FmHA has released its lien on the property covered by the insurance.

§ 1930.26 Errors in security instruments and executing special releases.

(a) When security instruments have been taken covering chattel security property that the borrower did not own or could not give a lien for, the County Supervisor may release such property from the instrument, except when there was bad faith by the borrower in including the property in the security instrument. Likewise, when items not intended to serve as security for the loan are covered by the broad language in the financing statement, or in the financing statement and security agreement, the County Supervisor may release such property. In addition, the State Director may release chattel security property taken as additional security for types of real estate loans under § 1930.9.

(b) Form FmHA 460–1 for chattel mortgages or other similar instruments or Form FmHA 460–6 for financing statements, or if these forms are not legally sufficient, other forms approved by OGC will be used.

§ 1930.27 Termination or satisfaction of chattel security instruments.

(a) *Conditions.* The County Supervisor may terminate financing statements and satisfy chattel mortgages, chattel deeds of trust, assignments, severance agreements, and other security instruments when:

(1) Payment in full of all debts secured by collateral covered by the security instruments has been received; and

(2) All security property has been liquidated or released and the proceeds properly accounted for, including collection or settlement of all claims against third party converters of security property, even though the secured debts are not paid in full. This includes collection-only and debt settlement cases; or

(3) The U.S. Attorney has accepted a compromise offer in full settlement of the indebtedness and has asked that action be taken to satisfy or terminate such instruments, or

(4) When FmHA has a financing statement or other lien instrument which describes the real estate upon which crops are located but neither the borrower nor FmHA has an interest in the crops because the borrower no longer occupies or farms the premises described in the lien instrument.

(b) *Form of payment.* (1) Security instruments may be satisfied or the financing statements may be terminated on receipt of final payment in currency, coin, U.S. Treasury check, cashier's or certified check, bank draft, postal or bank money order, or a check issued by a party known to be financially responsible.

(2) When the final payment is tendered in a form other than those mentioned above, the security instruments will not be satisfied until 15 days after the date of the final payment. However, in UCC States the termination statement will be signed and sent to the borrower within 10 days after receipt of the borrower's written request but not until the 10th day unless it previously has been

ascertained that the payment check or other instrument has been paid by the bank on which it was drawn. (See paragraph (c) of this section for the reason for the 10-day requirement.)

(c) *Filing or recording termination statements.* Financing statements will be terminated by use of Form FmHA 460–7, "Termination Statement," or Form FmHA 462–12 if provided by a State supplement.

(1) Under UCC provisions if FmHA fails to give a termination statement to the borrower within 10 days after written demand, it will be liable to the borrower for $100 and, in addition, for any loss caused to the borrower by such failure unless otherwise provided by a State supplement. In the absence of demand for a termination statement by the borrower, a termination statement will be delivered to him/her when the notes have been paid in full.

(2) However, if FmHA has been meeting the borrower's annual operating credit needs in the past and expects to do so the next year, the Financing Statements need not be terminated in the absence of such demand unless a loan for the succeeding year will not be made or earlier termination is required by a State Supplement.

(d) *Filing or recording.* Satisfactions of chattel mortgages and similar instruments will be made on Form FmHA 460–4, "Satisfaction," or other form approved by the State Director. The original of the satisfaction form will be delivered to the borrower for recording or filing and the copy will be retained in the borrower's case file. However, if the State supplement based on State law requires recording or filing by the mortgagee, a second copy will be prepared for the borrower and the original will be recorded or filed by the County Supervisor. When State statutes provide that satisfactions may be accomplished by marginal entry on the records of the recording office, or when Form FmHA 460–4 is not legally sufficient because special circumstances require some other form of satisfaction, County Supervisors, are authorized to make such satisfactions according to State supplements. In such cases, Form FmHA 460–4 will not be prepared but a notation of the satisfaction will be made on the copy of Form FmHA 451–1, "Acknowledgment of Cash Payment," or Form FmHA 456–3, "Journal Voucher for Write-Off or Judgment," which will be retained in the borrower's case folder.

(e) *Satisfaction or termination of lien when old loans cannot be identified.* When a request is received for the satisfaction of a crop or chattel lien or for the termination of a financing statement and the status of the account secured by the lien cannot be ascertained from County Office records, the County Supervisor will prepare a letter to the Finance Office reflecting all the pertinent information available in his office regarding the account. The letter will request the Finance Office to inform him as to whether the borrower is still indebted to FmHA and, if so, the status of the account. If the Finance Office reports to the County Supervisor that the account has been paid in full or otherwise satisfied or that there is no record of an indebtedness in the name of the borrower, the County Supervisor is authorized to issue a satisfaction of the security instruments on Form FmHA 460–4 or other approved form or to effect the satisfaction by marginal release, or a termination statement on Form FmHA 460–7 as appropriate.

§ 1930.28 Assignment of notes and security instruments.

(a) The State Director may accept from third parties payment in full of a borrower's notes held by FmHA and to assign the notes to third parties without recourse against FmHA and to assign related security instruments including finance statements without warranty by FmHA in the following situations:

(1) The borrower requests or gives written consent to such an assignment.

(2) The borrower has not requested or given written consent to such an assignment but has demonstrated an unwillingness to cooperate voluntarily with FmHA in the servicing and orderly retirement of his/her accounts which otherwise would be liquidated.

(3) An insurer has made full payment of the borrower's indebtedness as stated in Form FmHA 426-2, "Property Insurance Mortgage Clause (Without Contribution)," or other such clause outlined in § 1806.2(g) of this chapter (FmHA Instruction 426.1, paragraph II G).

(b) The State Director will request OGC's review of the legal matters in each proposed assignment and will request approval of the form of assignment. (Refer to § 1872.22 of this Chapter, FmHA Instruction 465.1, paragraph XXII for additional provisions of assigning real estate security instruments and to § 1955.6 of this Chapter for special provisions on assigning insured notes.)

§ 1930.29 Payment of fees and insurance premiums.

(a) *Fees.* (1) *Security instruments.* Borrowers must pay statutory fees for filing or recording financing statements or other security instruments (including Form FmHA 462–7, or other renewal statements) and any notary fees for executing these instruments. They also must pay costs of obtaining lien search reports needed in properly servicing security as outlined in this Subpart. Whenever possible, borrowers should pay these fees directly to the officials giving the service. When cash is accepted by FmHA employees to pay these fees, Form FmHA 440–12, "Acknowledgment of Payment for Recording, Lien Seach and Releasing Fees," will be executed. If the borrower cannot pay the fees, or if there are fees referred to in paragraphs (a) (2) and (3) of this section that must be paid by FmHA, the County Supervisor may pay them as a petty purchase or as the bill of a creditor of FmHA in accordance with Subpart E of Part 2024 and Subpart A of Part 2075 of this Chapter, available in any FmHA office.

(2) *Satisfactions.* The borrower must pay fees for filing or recording satisfactions or termination statements unless a State supplement based on State law requires FmHA to pay them.

(3) *Notary fees.* FmHA will pay fees for notary service for executing releases, subordinations, and related documents for and on behalf of FmHA if the service cannot be obtained without cost.

(b) *Insurance premiums.* County Supervisors are authorized to approve bills or invoices for payment of insurance premiums on chattel security for FmHA loans when:

(1) A borrower cannot pay the premiums from his or her own resources at the time due;

(2) It is not practical to process a loan for that purpose;

(3) It is necessary to protect FmHA's interests; and

(4) The amount advanced can be charged to the borrower under the provisions of the security instrument.

§ 1930.30 Subordination and waiver of FmHA liens on chattel security.

(a) *Annual operating expenses.* FmHA liens on chattels and crops may be subordinated to permit applicants and borrowers to obtain all or part of the credit they need for annual operating expenses from other sources, provided any junior lienholders consent in writing to the subordination and to their liens remaining subordinated to FmHA liens.

(b) *Other expenses.* FmHA chattel liens may be subordinated to obtain credit from other sources for expenses that are not ordinarily considered annual operating expenses such as major repairs and parts for essential equipment for which FmHA chattel loans would otherwise be required.

(c) *Authorized operating and EM loan purposes.* (1) FmHA may subordinate chattel liens securing an operating loan to a creditor to permit that creditor to lend for any authorized operating loan purpose including capital purchases under the following conditions:

(i) The borrower has had substantial financial losses as a result of contamination of food crops, animal feed, livestock or livestock products by toxic chemicals and has not been fully compensated for them.

(ii) The borrower has a reasonable chance to accomplish the loan objective.

(iii) The Administrator approves the subordination.

(2) The FmHA may subordinate chattel liens securing EM loans to another creditor to permit that creditor to lend for any authorized EM loan purpose including capital purchases provided:

(i) The borrower needs the loan to continue farming operations.

(ii) The loan will help the borrower to accomplish the objectives of his/her FmHA loans.

(iii) FmHA's financial interest will not be adversely affected.

(d) *Limitations.* (1) When credit is obtained by subordination for expenses directly related to particular crops or livestock enterprises, the subordination should cover only crops, livestock increase, or feeder livestock, or other nor-

mal farm income security. However, the minimum amount of basic chattel security necessary may be subordinated to enable borrowers to obtain credit from other sources for the expenses listed in the first sentence.

(2) When an obligation secured by a lien prior to that of FmHA is about to mature or has matured and the prior lienholder desires to extend or renew the obligation, or the obligation can be refinanced, the FmHA lien may be subordinated. However, the relative lien position of FmHA must be maintained.

(3) The subordination will be limited to a specific amount.

(4) A subordination in favor of only one creditor will be outstanding at any one time in connection with the same security. A subordination also may be executed to enable a borrower to obtain necessary crop insurance if the creditor to whom a subordination has been given on that crop consents in writing to payment of the insurance premiums from the crop or insurance proceeds.

(5) When a subordination is executed to enable the borrower to obtain insurance on crops under lien to FmHA, the borrower will assign the insurance proceeds to FmHA or name FmHA in the loss-payable clause of the policy.

(6) FmHA chattel liens will not be subordinated to enable a borrower to obtain credit for making payment on FmHA accounts, paying taxes on real estate securing FmHA loans other than OL and EM loans, making principal payments on real estate debts, or purchasing capital goods, except feeder livestock and as provided in paragraph (c) of this section. The Administrator in an exceptional case, however, may authorize such subordinations.

(7) Waivers of FmHA lien priority, instead of subordinations, may be executed in favor of a creditor who has made or will make advances to produce, harvest, process, or market crops under written contract to that creditor. Such waivers are limited to the purposes for which a subordination may be made under this subpart. When the waiver includes other purposes such as principal repayments for the purchase of equipment, the State Director must concur before the waiver is executed.

(e) *Approval.* Loan approval officials may approve subordinations and waivers of FmHA lien priority if the amount of the proposed subordination or waiver, plus the principal balance of existing subordinations or waivers, are not more than their loan approval authority for the type of loan being subordinated stated in tables which are available from any County or State Office of FmHA or from its National Office at 14th Street and Independence Avenue SW., Washington, D.C. 20250. When the lien priority for more than one type of loan is subordinated or waived, the total amount of the approval official's authority will be limited to the loan with the lowest approval authority for that official. However, the State Director may approve subordinations or waivers regardless of the amount, except as stated in paragraph (c)(1) of this section. State Directors may redelegate their authority for approving subordinations to qualified State Office employees and District Directors.

(f) *Forms.* (1) Subordinations or lien waivers authorized in this Subpart will be made on Form FmHA 460-2, "Subordination by the Government," or on other forms approved by the State Director with OGC's advice. If Form FmHA 460-2 does not conform to a State's recording requirements, a State supplement may be used on approval by OGC, to modify the form.

(2) Form FmHA 431-2 will show the subordination or lien waiver and repayment.

(g) *Loans under CCC program.* Refer to Exhibit B of this subpart, "Memorandum of Understanding and Blanket Commodity Lien Waiver."

(1) When the ASCS County Office makes CCC loans to the borrower, FmHA will not execute a form of subordination or lien waiver.

(2) When the full value of a CCC loan on cotton is to be advanced to the borrower by a bank or a ginner or warehouseman whom the County Supervisor considers financially responsible, and when a check or draft issued by the bank, ginner, or warehouseman is made payable to FmHA, or jointly to FmHA and the borrower and is delivered to the County Supervisor, the County Supervisor may then execute the lienholder's waiver on Form CCC Cotton A even though item 2 of that form shows that the CCC loan will be distributed to such a bank, ginner, or warehouseman.

(3) Loan approval officials may approve subordinations and waivers of crop liens in accordance with paragraph (e) of this section.

(4) If the commodity covered by the CCC loan, is released by CCC or redeemed by the borrower, the FmHA lien will be restored to the priority it held before the CCC loan was made.

§ 1930.31 Reporting use of other credit.

The use of other credit will be documented on Form FmHA 441-7, "OL-EM and Other Credit Analysis." This form will be prepared and forwarded to the Finance Office for each active operating loan borrower who does not receive an operating loan during the crop year but will receive operating credit from other sources.

§§ 1930.32-1930.33 [Reserved]

§ 1930.34 Transfer of chattel security and EO property and assumption of debts.

Transfer of chattel security and EO property and assumption of chattel debts may be done when one or more of the joint borrowers or the former spouse and co-obligor of a divorced borrower withdraws from the operation or dies. The transfer of accounts secured by real estate will be processed in accordance with Subpart A of Part 1872 of this Chapter (FmHA Instruction 465.1).

(a) *Transfer to eligibles.* Transfers of the chattel security and EO property to a transferee who is eligible for the kind of loan being assumed or who will become eligible after the transfer may be approved provided:

(1) The transferee assumes the total outstanding balance of the FmHA debts or that portion of the outstanding balance equal to the present market value of the chattel security or EO property, less any prior liens, if the property is worth less than the entire debt.

(2) Generally the debts assumed will be paid in accordance with the rates and terms of the existing notes or assumption agreements. Any delinquency will be scheduled for payment on or before the date the transfer is closed. Form FmHA 460-9, "Assumption Agreement (Same Terms—Eligible Transferee)," will be used. However, if the existing loan repayment period is extended, the debt being assumed may be rescheduled using Form FmHA 460-5, "Assumption Agreement (New Terms)." The new repayment period may not exceed that for a new loan of the same type. In such cases, the current interest rate for such loans will be used if it is higher than the rate specified in the notes being assumed.

(3) The transfer of Emergency actual loss loans, or EM loans made before September 12, 1975, will be made as provided under paragraph (b) of this section. However, when one or more of the joint borrowers or jointly obligated partners withdraw from the operation and those remaining desire to assume the total indebtedness and continue the operation, a transfer to the remaining borrowers or partners may be made as an eligible transferee.

(b) *Transfer to ineligibles.* Transfer of the chattel security and EO property to a transferee who is not eligible for the kind of loan being assumed may be approved, provided:

(1) It is to FmHA's financial interest to approve the transfer of security or EO property and assumption of the debts rather than to liquidate the security or EO property immediately.

(2) The transferee assumes the total outstanding balance of the FmHA debt, or an amount substantially more than the present market value of the security or EO property as determined by the County Supervisor, less any prior liens, if the value is less than the entire debts.

(3) FmHA debts assumed will be repaid in amortized installments not to exceed 5 years using Form FmHA 460-5. The transferred property, including EO property, will be subject to any existing FmHA lien. In the absence of an existing FmHA lien, new lien instruments will be executed. Interest rates to the transferee will be as follows:

(i) For operating loans, the current interest rate in effect at the time of approval of the transfer or the rate specified in the note for the loan being assumed, whichever is greater.

(ii) For EO loans, 6 percent.

(iii) For EM loans, the current prevailing market rate as established by the Secretary in effect at the time of the transfer or the rate specified in the note for the loan being assumed, whichever is greater.

(4) The transferee can repay the FmHA debt in accordance with the assumption agreement and can legally enter into the contract.

(c) *Effect of wife's signature.* If a wife executes an assumption agreement or other evidence of indebtedness with her husband, her signature will, in addition to any other purpose and effect for which it is obtained, make her individually liable regardless of any State law to the contrary.

(d) *Release of transferor from liability.* The borrower and any cosigner may be released from personal liability to FmHA when all the chattel security is transferred to an eligible or ineligible applicant and the total outstanding debt or that portion of the debt equal to the present market value of the security is assumed.

(e) *County Committee actions.* (1) *Transfer to eligible applicant.* The County Committee will certify the types and amounts of loans to be assumed on Form FmHA 440–2, "County Committee Certification or Recommendation."

(2) *Transfer to ineligible applicant.* The County Committee will execute a memorandum statement as follows: "In our opinion, the transferee (name of transferee), will honestly endeavor to make payments in accordance with the assumption agreement, maintain the security, and carry out the other obligations in connection with the loan."

(3) *Release from liability.* If the total outstanding debt is not assumed the County Committee will execute a memorandum statement when they recommend the transferor be released from personal liability, as follows: "(Name of transferor and any cosigner) in our opinion do not have reasonable ability to pay all or a substantial part of the balance of the debt not assumed after considering their assets and income at the time of transfer. Transferors have cooperated in good faith, used due diligence to maintain the security against loss, and otherwise fulfilled the covenants incident to the loan to the best of their ability. Therefore, we recommend that the transferor and any cosigner be released of personal liability on the transferees' assumption of a portion of the indebtedness at least equal to the present market value of the security." If the total outstanding debt is assumed, the statement is not required.

(f) *Transfer and assumption docket.* The County Supervisor will assemble the following statements and forms for transfer and assumption:

(1) A statement of the current amount of the indebtedness.

(2) A description of the security or EO property to be transferred and a statement about its value.

(3) Form FmHA 410–1, "Application for FmHA Services."

(4) Form FmHA 440–2 for an eligible transferee, with the memorandum statement of the County Committee if the transferor is to be released from liability.

(5) County Committee memorandum statement for ineligible transferee with the additional memorandum statement if the transferor is to be released from liability.

(6) Statement of justification for the transfer, including a plan of repayment, if not otherwise shown in the docket.

(7) Transferee's plan of operation shown on Form FmHA 431–2, or Form FmHA 431–3, or Form FmHA 431–4.

(8) Form FmHA 460–5 or Form FmHA 460–9, as appropriate.

(9) Form FmHA 465–8, "Release from Personal Liability," when appropriate.

(10) Form FmHA 440–41A, "Disclosure Statement for Loans Not Secured by Real Estate."

(11) Form FmHA 440–41, "Disclosure Statement for Loans Secured by Real Estate."

(12) Form FmHA 440–1, "Request for Obligation of Funds."

(13) Form FmHA 465–5, "Transfer of Real Estate Security," will be used to transfer real estate security.

(g) *Processing assumption agreements.* Additional security instruments will be obtained in accordance with advice from OGC.

(1) On receipt of Form FmHA 460–5 or Form FmHA 460–9, the Finance Office will establish an account in the name of the assuming transferee and will notify the County Supervisor.

(2) Form FmHA 405–1, "Management System Card—Individual," will be prepared for the transferee, and the loan record cards of the transferor will be attached.

(3) If a collection is received from the transferee after the assumption agreement is approved but before Finance Office notification to the County Office, Form FmHA 451–2, "Schedule of Remittances," will be prepared as follows:

(i) During the period that a transfer is pending in the County Office, payments received by the Finance Office will continue to be applied to the transferor's account, and Form FmHA 451–26, "Transaction Record," or Form FmHA 451–31, "Borrower Transaction Record," will be forwarded to the County Office. This includes any downpayments made in connection with the transfer for reducing the amount of the debt to be assumed. On receiving a payment on the account not included in the latest transaction record or monthly payment account status report, the County Supervisor should deduct such amounts from the total amount of principal and interest calculated from the latest information available before completing the assumption agreement and having it signed.

(ii) When the borrower has made a direct payment to the Finance Office and there is no record of it in the County Office, the account will be assumed based on the latest record in the County Office. The application of the direct payment will be reversed from the account, and the assumption agreement will be processed in the Finance Office. The Director, Finance Office, will contact the County Supervisor to determine how to dispose of the proceeds from the direct payment.

(iii) For payments received on the date of transfer, Form FmHA 451–2 will be prepared to show "Transfer in process for account owed by (borrower's name and case number) to be transferred to (name of transferee and case number, if known)." If the borrower number portion of the case number has not yet been assigned for a transferee, only the State and County portion of the case number will be shown. A statement for the information of the Finance Office will be attached to the assumption agreement showing the date of Form FmHA 451–2 and the amount paid.

(iv) When a payment is due on the assumption agreement shortly after the transfer is completed, it should be collected if possible, at the time of transfer and remitted in the transferee's name.

(h) *Approval.* Loan approval officials are authorized to approve transfer and assumption of FmHA accounts to eligible or ineligible transferees and releases from liability when the debts are within their respective loan approval authorities stated in tables which are available from any FmHA County or State Office or from its National Office at 14th Street and Independence Avenue SW., Washington, D.C. 20250.

(1) Loan approval officials may also approve transfers and assumptions of EO loans and releases from liability. State Directors may also approve transfers to and assumptions by ineligible transferees and releases from liability regardless of the amount of the outstanding FmHA debts.

(2) The Administrator will review for approval proposed transfers to and assumptions by eligible transferees that exceed the approval authorities of State Directors.

§§ 190.35—1930.39 [Reserved]

§ 1930.40 *Liquidation.*

FmHA will continue with borrowers if they make payments in accordance with their ability; account properly for security or EO property; and otherwise meet their loan obligations. When liquidation is begun, it is FmHA policy to liquidate all security property and EO property except that determined essential for minimum family living needs. However, only so much of the security and EO property will be liquidated as is necessary to pay the indebtedness. Ordinarily, before beginning liquidation, the facts will be presented to the District Director and the County Committee for recommendations. Liquidation will be undertaken when no further assistance will be given to a borrower and the borrower is in default.

(a) *Approval of liquidation.* The County Supervisor may approve liquidation of chattel security and nonsecurity property. Cases involving legal problems not covered by this Subpart or related State supplements and cases in which real estate services as security for any FmHA loan will be referred to the State Director for advice before approval. When liquidation is approved without referral to the State Director, a statement of facts with reasons for the action will be recorded in the running case file. Liquidation will be considered approved on the date the County Supervisor executes one of the following forms:

(1) Form FmHA 455–4, "Agreement for Voluntary Liquidation of Chattel Security."

(2) Form FmHA 455–3, "Agreement for Public Sale by Borrower."

(3) Form FmHA 462–2, "Statement of Conditions on Which Lien will be Released."

(4) Form FmHA 455–6, "Agreement for Temporary Custody of Property."

(5) Form FmHA 455–21, "Notice of Acceleration and Demand for Payment," when security property is to be liquidated under the "Power of Sale" except in the State of Louisiana.

(i) Possession of property is taken under a security instrument or EO Loan Agreement to exercise the power of sale contained in it.

(ii) The borrower or another party is requested to sell EO property under the loan agreement, or

(iii) The State Director notifies the County Supervisor that liquidation is approved in cases submitted to the State Office.

(b) *Lien searches.* Before liquidation is approved, the County Supervisor will obtain a current lien search report to determine the effect that liens of other parties will have on liquidation, the record lienholders to whom notices of sale will be given, and the distribution that will be made of the sale's proceeds. Normally, lien searches should be obtained from the same source as for loan making purposes. If obtaining the searches from third party sources would cause undue delay which would interfere with orderly liquidation, searches may be made by the County Supervisor. If the lien search is made by third parties, the borrower will pay the cost from personal funds or if the borrower refuses, FmHA will pay the cost and charge it to the borrower's account in accordance with the security instrument or EO Loan Agreement. The records to be searched and the period covered by the search will be in accordance with a State supplement.

(c) *Acceleration of unmatured installments.* (1) When liquidation has been approved, the County Supervisor will accelerate all unmatured installments by using Form FmHA 455–21, except as follows:

(i) In cases referred to OGC for civil action, a notice of acceleration is not necessary if the notice has previously been given. However, when security property is to be liquidated under the "Power of Sale" in the lien instrument without referral to OGC, the County Supervisor will use Form FmHA 455–21.

(ii) In cases in which Form FmHA 455–13, "Report of Sale of Chattel Security," is used, the statement in it declaring unmatured installments immediately due and payable will suffice for loan servicing purposes. However, the County Supervisor may use Form FmHA 455–21 when it will assist in collecting any remaining indebtedness.

(2) Form FmHA 455–21 will be sent to the last known address of each obligor, with a copy to the Finance Office in those cases referred to OGC for civil action. County Office and Finance Office loan records will be adjusted to mature the entire indebtedness only in such cases.

(d) *Assignment of insured loans.* When liquidation of an insured loan is approved, the State Director will immediately obtain an assignment of the loan to FmHA. If the County Supervisor approves the liquidation, the County Supervisor will immediately refer the case to the State Office with a request to obtain assignment of the loan. Pending the assignment, preliminary steps to effect liquidation should be taken, but civil or other court action will not be started and claims will not be filed in bankruptcy or similar proceedings or in probate or administration proceedings with respect to the insured loan claim, unless essential to protect FmHA's interests and OGC recommends such action. However, other steps need not be held up pending assignment.

(e) *Protective advances.* (1) When liquidation has been approved and security property is in danger of loss or deterioration, the State Director will protect FmHA's interest and approve advances in payment of:

(i) Delinquent taxes or assessments that constitute prior liens and would be paid ahead of FmHA under §1930.44(a) and;

(ii) Premiums on insurance essential to protect FmHA's interest, and

(iii) Other costs including transportation necessary to protect or preserve security property.

(2) However, such advances may not be made unless the amount advanced becomes a part of the debt secured by FmHA's lien, or is for expenses of administration of estates or for litigation. If a case is in the hands of the U.S. Attorney, such advances may not be made without his concurrence. Moreover, such advances may not be made in any case to pay expenses incurred by a U.S. Marshal or other similar official such as a local sheriff. However, if the official seizes the property and delivers it to FmHA for sale by FmHA, costs incurred by FmHA after delivery to FmHA will be paid. Costs provided for in Form FmHA 441–19, "Loan Agreement," also may be paid to protect FmHA's interests in EO property.

(3) The County Supervisor will submit a report on the need for such advances to the State Director, including:

(i) Borrower's County Office case file;

(ii) Current lien search report;

(iii) Statement of the type and value of the property and of the circumstances which may result in the loss or deterioration of such property, and

(iv) Recommendations.

(4) Costs incurred by FmHA in protecting its interest in security or EO property may be paid by means of Standard Form 1034, "Public Voucher for Purchases and Services Other Than Personal," and may be charged to the borrower's loan account, or paid from proceeds of the sale of security or EO property.

§ 1930.41 Sale of chattel security or EO property by borrowers.

(a) *Public sale.* Because it is to the best interest of the borrower and FmHA, when liquidation has been approved, FmHA usually will encourage the borrower to sell security or EO property at public auction in his or her own name. Form FmHA 455–3 will be executed by the borrower, all lienholders, and the clerk of the sale or other person who will receive the sale proceeds before execution by the County Supervisor. When EO property is involved, delete from the Form the reference to the FmHA lien in the first "Whereas" clause, the second sentence in item 5, and all of item 8. No FmHA official is authorized to bid at such sales. The County Supervisor will arrange to promptly receive the proceeds of the sale due FmHA for application on the borrower's indebtedness.

(b) *Private sale.* (1) The borrower may sell chattel security or EO property at a private sale if:

(i) The borrower has ready purchasers and can sell all the property for its present market value; or

(ii) The property is perishable; or

(iii) The property is of a type customarily sold on a recognized market; or

(iv) The property consists of items of small value or a limited number of items which do not justify public sale.

(2) Form FmHA 462–2 may be used to approve liquidation of such security property. The County Supervisor will document in the running case record the reasons that a public sale was not justified. If security property is not sold within 30 days after executing Form FmHA 462–2, it will be liquidated in accordance with paragraph (a) of this section or § 1930.42.

§ 1930.42 Repossession, care, and sale of chattel security or EO property by the County Supervisor.

(a) *Repossession.* The County Supervisor will take possession of security or EO property for FmHA when the value of the propetry, based on appraisal, is substantially more than the estimated sale expenses and the amount of any prior liens and when the prior lienholder does not intend to enforce their liens. The property will not be repossessed if FmHA's estimated recovery will be small in relation to the amount of its claim, or to the amount it must pay on prior liens and sale expenses if it bids on the property in accordance with § 1955.20 of this Chapter.

(1) *Conditions.* The County Supervisor will take possession under any of the following conditions:

(i) When Form FmHA 455–4 has been executed. For EO property this Form will be revised by placing a period after "interest" in the first "Whereas" paragraph and deleting the remainder of that clause; delete the words "collateral covered by the aforesaid security instruments" in the second "Whereas" paragraph and insert in lieu thereof "property covered by the debtor's loan agreement which is hereinafter referred to as the collateral."

(ii) When the borrower has abandoned the property.

(iii) When peaceable possession can be obtained, but the borrower has not executed Form FmHA 455–4.

(iv) When the property is delivered to FmHA as a result of court action.

(v) When Form FmHA 455–5, "Agreement of Secured Parties to Sale of Security Property" is executed by all prior lienholders. If prior lienholders will not agree to liquidate the property, their liens may be paid if their notes and liens are assigned to FmHA on forms prepared or approved by OGC. When prior liens are paid, the payment will be made on Standard Form 1034 and charged to the borrower's account.

(vi) When arrangements cannot be made with the borrower or a member of the family to sell EO property in accordance with the loan agreement.

(2) *Recording.* A list, dated and signed by the County Supervisor, of all security or EO property repossessed except for those items on Form FmHA 455–4, Form FmHA 455–6, or Form FmHA 455–7, "Agreement for Cultivating, Harvesting, and Delivering Crops," will be maintained in the borrower's case file. Whenever the County Supervisor is transferred to another position or leaves FmHA or there is a change in jurisdiction, the District Director will give the succeeding County Supervisor in writing, the names of such borrowers and a list of the property repossessed in the custody of the County Supervisor and caretakers, its location, and the names and addresses of the caretakers.

(b) *Care.* The County Supervisor will arrange for the custody and care of repossessed property as follows:

(1) *Livestock.* Livestock will be delivered to a person who can care for and feed it for compensation agreed on in advance. Whenever practicable, animal products will be computed as a part or all of the caretaker's compensation. Delivery, however, will be made only after Form FmHA 455–6 is executed. Space also may be leased using Form FmHA 455–6. When more time is needed due to circumstances in paragraph (c) (4) (i) of this section, the State Director may authorize Form FmHA 455–6 to be amended as appropriate and initiated by the parties or a new agreement executed covering the extension. If a more favorable arrangement cannot be obtained, custody agreements may provide that FmHA will supply feed necessary to maintain livestock.

(2) *Machinery, equipment, tools, harvested crops, and other chattels.* Property will be stored and cared for pending sale. Space may be leased for this purpose, if necessary, or property may be stored and cared for by agreement on Form FmHA 455–6. This type of property will not be used by the caretaker but will be held in storage only.

(3) *Crops.* Form FmHA 455–7 will be used for the custody, care, and disposition of growing crops and for unharvested matured crops unless the crops are to be sold in place. The form will be executed by the caretaker and the landlord unless the landlord gives consent otherwise in writing. If the written consent of the landlord cannot be obtained or if the procedures in this subpart do not cover a situation, the circumstances should be reported to the State Director for advice.

(c) *Sale.* Repossessed property may be sold by FmHA at public or private sale for cash under Form FmHA 455–4, Form FmHA 441–19, the power of sale in security agreements under the UCC, or in crop and chattel mortgages and similar instruments if authorized by a State supplement. Also, repossessed property may be sold at private sale when the borrower executes Form FmHA 455–11, "Bill of Sale 'B' (Sale by Private Party)."

(1) *Tests and inspections of livestock.* If required by State law as a condition of sale, livestock will be tested or inspected before sale. A State supplement will be issued for those States.

(2) *Public sales.* Such sales will be made to the highest bidder. They may be held on the borrower's farm or other premises, at public sale barns, pavillons, or at other advantageous sales locations. No FmHA employee will bid on or acquire property at public sales except on behalf of FmHA in accordance with § 1955.20 of this Chapter. The County Supervisor will attend all public sales of repossessed property.

(3) *Private sales.* FmHA will sell perishable property such as fresh fruits and vegetables for the best price obtainable. FmHA will sell staple crops such as wheat, rye, oats, corn, cotton, and tobacco for a price in line with current market quotations for products of similar grade, type, or other recognized classification. Chattel property sold under Form FmHA 455–4, other than perishable property and staple crops, will not be sold for less than the minimum price in the agreement. FmHA will sell other property, including that sold when the borrower executes Form FmHA 455–11, for its present market value.

(4) *Selling period.* Repossessed property will be sold as soon as possible. However, when notice is required by paragraph (c) (5) of this section, the sale will not be held until the notice period has expired.

(i) The sale will be made within 60 days unless a shorter period is indicated by a State supplement because of State law. Crops will be sold when the maximum return can be realized but not later than 60 days after harvesting, or the normal marketing time for such crops. The State Director may extend the sale time within State law limits.

(ii) These requirements do not apply to irrigation or other equipment and fixtures which, together with real estate, serve as security for FmHA real estate loans and will be sold or transferred with the real estate. However, a State supplement will be issued for any State having a time limit within which such items must be sold along with or as a part of the real estate.

(5) *Notice.* (i) *Notice of sale to borrowers and lienholders.* Notice of public or private sale of repossessed property when required will be given to the borrower and to any party who has filed a financing statement or who is known by the County Supervisor to have a security interest in the property, except as set forth below. The notice will be delivered or mailed so that it will reach the borrower and any lienholder at least 5 days (or longer time if specified by a State supplement) before the time of any public sale or the time after which any private sale will be held. Form FmHA 455–8, "Notice of Sale," may be used for public or private sales.

(A) Notice to the borrower or lienholder is not required when the property is sold under Form FmHA 455–4 because the parties are placed on notice when they execute the form. When the sale involves only collateral which is perishable or will decline quickly in value or is a type customarily sold on a recognized market, notice is not required but may be given if time permits to maintain good public relations.

(B) Notice only to lienholder is required when repossessed property is sold at private sale and the borrower executes Form FmHA 455–11.

(C) If the property is to be sold under a chattel mortgage, the manner of notice will be set forth in a State supplement or on an individual case basis.

(ii) *Notice to Internal Revenue Service (IRS).* If a Federal tax lien notice has been filed in the local records more than 30 days before the sale of the repossessed security property, notice to the District Director of IRS must be given at least 25 days before the sale. It should be given by sending a copy of Form FmHA 455–8 and a copy of the filed Notice of Federal Tax Lien (Form IRS 668). If the security property is perishable, the full 25 days' notice to the District Director is not required, but notice must be given to the District Director by registered or certified mail or by personal service before the sale. Also, the sale proceeds must be held for 30 days after the sale so that they may be claimed by IRS on the basis of its tax lien priority. In such perishable property cases, the proceeds or an amount large enough to pay the IRS tax lien will be forwarded to the Finance Office with a notation "Hold in suspense 30 days because of Federal Tax Lien." OGC will advise the Finance Office about disposing of the funds.

(6) *Advertising.* (i) *Private sales and sales at established public auctions.* These sales will be advertised by FmHA only if required by a State supplement based on State law.

(ii) *Other public sales.* These sales, whether under power of sale in the lien instrument or under Form FmHA 455–4 will be widely publicized to assure large attendance and a fair sale by one or more of the following methods customarily used in the area.

(A) *Handbills or notices.* The sale may be advertised by posting or distributing handbills, posting Form FmHA 455–8, or a revision of it approved by OGC to meet State law requirements, or by a combination of these methods. The length of

time and place of giving notice will be covered by a State supplement.

(B) *Newspapers, radio, and TV advertising.* Advertising in newspapers or spot advertising on local radio or TV stations may be used depending on the amount of property to be sold and the cost in relation to the value sold and the cost in relation to the value of the property, the customs in the area, and State law requirements. When newspaper advertising is required, a State supplement will indicate the types of newspapers to be used, the number and times of insertions of the advertisement, and the form of notice of sale.

(7) *Payment of costs and prior lienholders.* If expenses must be paid before the sale or if cash proceeds are not available from the sale of the property to pay costs referred to in § 1930.44 (b) or to pay prior lienholders, such costs or prior liens will be paid by voucher on Standard Form 1934 or by invoice Standard Form 1143, "Advertising Order," for newspaper or publisher's invoice for newspaper advertising under Subpart F of Part 2024 of this Chapter available in any FmHA Office.

(i) The amount of the voucher will be charge to the borrower's account, except as limited by State law in a State supplement. No costs in the repossession and sale of security property should be incurred unless they can be charged to the borrower's account, and in no event will the Government pay them. However, if costs are not legally chargeable to the borrower, they may be paid as provided in this subpart, and charged to an account set up for the officials or other persons found responsible for them.

(ii) Each invoice or voucher will be approved by the County Supervisor, signed by the payee or supported by signed invoices, and submitted to the Finance Office for payment. An original and one copy of Form FmHA 455–6 or Form FmHA 455–7 will be attached to invoices or vouchers in payment of such costs as custody, care, storage, harvesting, and marketing.

(8) *Bill of sale or transfer of title.* If a purchaser requests a written conveyance of repossessed property sold by FmHA at public or private sale, the County Supervisor will execute and deliver to the purchaser Form FmHA 455–12, "Bill of Sale 'C' (Sale Through Government as Liquidating Agent)," or other necessary instruments to convey all the rights, title, and interests of the borrower and FmHA. A State supplement will be issued as necessary for conveying title to motor vehicles and boats.

§ 1930.43 Liquidation of chattel security or EO property by other parties.

(a) *Sale by prior lienholders and other parties.* Refer to § 1955.20 of this chapter for the County Supervisor's authority to bid at such sales.

(b) *Sale by junior lienholders.* On learning through formal notice or otherwise that a junior lienholder has begun foreclosure, the County Supervisor will consider whether FmHA should start liquidation. If the County Supervisor decides on liquidation, the County Supervisor will inform the junior lienholder and arrange for voluntary liquidation.

(1) If the junior lienholder has already begun foreclosure action and if voluntary liquidation cannot be effected, FmHA will foreclose its lien so that a single foreclosure sale may be held under both liens. If insufficient time or other reasons prevent holding a joint foreclosure sale, the County Supervisor will inform the foreclosing junior lienholder in writing as to the property on which FmHA holds a prior lien; and that

(i) If the junior lineholder's foreclosure sale is held, the County Supervisor will announce at the sale that FmHA holds a prior lien on each item of such property as security for an indebtedness of $—— (total principal and interest), and that any such property sold will continue to be subject to FmHA's prior lien; and that

(ii) The County Supervisor will immediately start foreclosure or other legal action to obtain the full value of each item of this property to apply on its prior lien until its lien is satisfied.

(c) *Retention by other lienholders without sale.* If another lienholder notifies FmHA that it has taken possession of security property after default and proposes to keep it in satisfaction of its secured claim, the County Supervisor will promptly reply in writing that FmHA objects and insists that the property be sold in accordance with law. This will be done only when FmHA's estimated recovery will be small in relation to the amount of the claim or the amount it must pay on prior liens or for sale expenses. After such notice, the case will be referred to the State Director for advice.

§ 1930.44 Distribution of liquidation sale proceeds.

This section applies to proceeds of nonjudicial liquidation sales conducted under the power of sale in lien instruments or under Form FmHA 455–4, Form FmHA 455–3, or Form FmHA 462–2.

(a) *Lien priorities.* (1) *Federal liens.* For Federal income, social security, or other Federal tax liens, or liens of other Federal agencies, OGC's advise will be obtained as to lien priorities.

(2) *State and local tax liens.* A State supplement, if considered necessary by the State Director and OGC, will list priorities of these liens or may provide for referral of these cases to the State Office.

(3) *Chattel mortgages and other liens of private parties.* A State supplement, if considered necessary by the State Director and OGC, will list priorities of chattel mortgages, landlord's liens, mechanics and materialmen liens, and other liens of private parties.

(4) *Security interests under UCC.* Liens on the same collateral that are perfected by filing a financing statement under the UCC and that are still effective as constructive notice, unless otherwise provided by a State Supplement, will be paid in the order of their perfection. Exceptions to this rule are listed below. A State supplement will be issued whenever necessary to explain any State deviations from these listed exceptions.

(i) A purchase money security interest in personal property will take priority over an earlier perfected security interest if a security agreement is taken and a financing statement is filed before the purchaser receives possession of the collateral or within 10 days thereafter. However:

(A) *Motor vehicles.* For motor vehicles required to be licensed, any action necessary to obtain perfection, in the particular State, such as having the security interest noted on the certificate of title, must be taken before the purchaser receives possession of the collateral or within 10 days thereafter. In some States, filing a financing statement to perfect a security interest is not required. A State Supplement will be issued as necessary.

(B) *Farm equipment.* A purchase money security interest in farm equipment, other than fixtures or motor vehicles required to be licensed, costing $2,500 or less, will take priority over an earlier perfected security interest if a security agreement is obtained, even though a financing statement is not taken or filed.

(C) *Inventory.* A purchase money security interest in inventory will take priority over an earlier perfected security interest provided a security agreement is taken and a financing statement is filed not later than the time the purchaser receives possession of the property. Also, before the purchaser receives possession, the purchase money creditor will notify the earlier perfected secured party, in writing, that he or she has, or expects to acquire, a purchase money security interest in inventory described by item or type.

(ii) A security interest taken in goods before they become fixtures has priority over real estate interest holders. A security interest taken in goods after they become fixtures is valid against all persons subsequently acquiring an interest in the real estate. It is not valid, however, against persons who had an interest in the real estate when the goods became fixtures, unless they execute a consent disclaimer or subordination agreement.

(iii) A security interest taken in and to finance crops not more than 3 months before they are planted or otherwise become growing crops, has priority over an earlier perfected security interest for obligations that were due more than 6 months before the crops became growing crops.

(b) *Order of payment.* Sales proceeds will be distributed in the following order of priority.

(1) To pay expenses of sale including advertising, lien searches, tests and inspection of livestock, and transportation, custody, care, storage, harvesting, marketing, and other expenses chargeable to the borrower, including reimbursement of amounts already paid by FmHA and charged to the borrower's account. Bills can be paid, after liquidation has been approved, for essential repairs and parts of machinery and equipment to place it in reasonable condition for sale, provided written agreements from any holders of liens which

are prior to those of FmHA state that such bills may be paid from the sales proceeds ahead of their liens.

(i) However, any such expenses incurred by the U.S. Marshal or other similar official such as a local sheriff, may not be paid from sale proceeds turned over to FmHA.

(ii) On the other hand, if the U.S. Marshal or other similar official such as a local sheriff has taken possession of the property and delivered it to FmHA for sale, such costs incurred by FmHA after delivery of the property to it may be paid from the proceeds of the sale.

(2) To pay liens which are prior to FmHA liens provided that:

(i) State and local tax liens on security or EO property which are prior to the liens of FmHA will be paid only when demand is made by tax collecting officials before distributing the sale proceeds. The sale proceeds will not be used to pay real estate, income, or other taxes which are not a lien against the security property, or to pay substantial amounts of personal property taxes against nonsecurity personal property.

(ii) If action is threatened or taken by the sheriff or other official to collect taxes not authorized in paragraph (b) (2) (i) of this section to be paid out of the security property or the sale proceeds, the sale will be postponed unless an arrangement can be made to deposit in escrow with a responsible disinterested party an amount equal to the tax claim, pending determination of priority rights. When the sale is postponed, or an escrow arrangement is made, the matter will be reported promptly to the State Director for referral to OGC.

(iii) If FmHA subordinations have been approved, their intent will be recognized in the use of sale proceeds even though the creditor in whose favor the FmHA lien was subordinated did not obtain a lien. If there are other third party liens on the property, however, the lienholders must agree to the use of the sale proceeds to pay such creditor first.

(3) To pay rent for the current crop year from the sale proceeds of other than basic security or EO property. However, there must be no liens junior to FmHA's other than the landlord's lien, if any, and the borrower must consent in writing to the payment.

(4) To pay debts owed FmHA which are secured by liens on the property sold.

(5) To pay liens junior to those of FmHA in accordance with their priorities on the property sold, including any landlord's liens for rent unless such liens already have been paid. Junior liens will not be paid unless, on request, the lienholder gives proof of the existence and the amount of his or her lien.

(6) To pay on any EO unsecured debt.

(7) To pay rent for the current crop year if the borrower consents in writing to payment and if such rent has not already been paid as provided in paragraphs (b) (2), (3), or (5) of this section.

(8) To pay on any other debts owed to FmHA unsecured or secured by liens on property which is not being sold. However, in justifiable circumstances, the State Director may approve the use of a part of or all the remainder of such sale proceeds by the borrower for other purposes, provided the other FmHA debts are adequately secured, or the borrower arranges to pay the other debts from income or other sources and these payments can likely be depended upon.

(9) To pay the remainder to the borrower.

(c) *Receipts.* Receipts are required for all amounts paid from the sale proceeds and are kept in the borrower's case file. Form FmHA 451-2 will be prepared only for the total amount remitted to FmHA for credit to the borrower's indebtedness.

§ 1930.45 Reporting sales.

(a) Form FmHA 455-13 will be prepared in all cases in which:

(1) Property is repossessed by FmHA; or

(2) The borrower sells the property under Form FmHA 455-3 or Form FmHA 462-2 and the FmHA debt is not paid in full; or

(3) The property is sold by prior or junior lienholders or other parties. It will not be prepared when the borrower holds the sale using Form FmHA 455-3 or Form FmHA 462-2 and the borrower's FmHA indebtedness is paid in full.

(b) Form FmHA 455-13 will be completed as soon as all the property is sold. In completing Part I of this form, the names of the purchasers need not be shown if there are numerous purchasers and the clerk's report of sale is filed in the borrower's case file, or liquidation is effected by using Form FmHA 462-2.

§ 1930.46 Deceased borrowers.

Immediately on learning of the death of any person liable to FmHA, the County Supervisor will prepare Form FmHA 455-17, "Report on Deceased Borrower," to determine whether any special servicing action is necessary unless the County Supervisor recommends settlement of the indebtedness under Part 1864 of this Chapter (FmHA Instruction 456.1). If a survivor will not continue with the loan, it may be necessary to make immediate arrangements with a survivor, executor, or administrator, or other interested parties to complete the year's operations or to otherwise protect or preserve the security.

(a) *Reporting.* The borrower's case files including Form FmHA 455-17 will be forwarded promptly to the State Director for use in deciding the action to take if any of the following conditions exist: (When it is necessary to send an incomplete Form FmHA 455-17, any additional information which may affect the State Director's decision will be sent as soon as available on a supplemental Form FmHA 455-17 or in a memorandum.)

(1) Probate or other administration proceedings have been started or are contemplated.

(2) The debts owed to FmHA are inadequately secured and the estate has other assets from which collection could be made.

(3) FmHA's security has a value in excess of the indebtedness it secures, and the deceased obligor owes other debts to FmHA which are unsecured or inadequately secured.

(4) The County Supervisor recommends continuation with a survivor who is not liable for the indebtedness or recommends transfer to, and assumption by, another party.

(5) The County Supervisor recommends, but does not have authority to approve, liquidation.

(6) The County Supervisor wants advice on servicing the case.

(b) *Probate or administration proceedings.* Generally, probate or administration proceedings are started by relatives or heirs of the deceased or by other creditors. Ordinarily, FmHA will not start these proceedings because of the problems of designating an administrator or other similar official, posting bond, and paying costs. However, when it appears that:

(1) Such proceedings will not be started by other parties;

(2) FmHA's interests could best be protected by filing a proof of claim in such proceedings, and

(3) Public administrators or other similar officials or private parties, including banks and trust companies, are eligible to, and will serve as administrator or other similar official and will provide the required bond, the State Director may request OGC to recommend beginning probate or administration proceedings by the U.S. Attorney. If probate or administration proceedings are started by other parties or at FmHA's request, and any security is to be liquidated by FmHA instead of by the administrator or executor or other similar official, it will be liquidated in accordance with the advice of OGC.

(c) *Filing proof of claim.* When a proof of claim is to be filed, it will be prepared on a form approved by OGC, executed by the State Director, and transmitted to OGC. It will be filed by OGC or by an FmHA official as directed by OGC or it will be referred by OGC to the U.S. Attorney for filing if representation of FmHA by counsel may be required. If a judgment claim is involved, the notification to the U.S. Attorney will be the same as for judgment claims in bankruptcy. If an insured loan is involved, the proof of claim will not be prepared until the note has been assigned to the Government. A proof of claim will be filed in any case in which probate or administration proceedings are started, unless:

(1) After considering liens and priority rights of FmHA and other parties, costs of administration, and charges against the estate, FmHA cannot reach the assets in the estate except for FmHA's own

security and FmHA will liquidate the security by foreclosure or otherwise if necessary to collect its claim, or

(2) Continuation with an individual or transfer to and assumption by another party is approved, and either the debt owed to FmHA is fully secured, or the amount of the debt in excess of the value of the security which could be collected by filing a claim is obtained in cash or additional security, or

(3) The debt owed to FmHA by the estate is settled under Part 1864 of this chapter (FmHA Instruction 456.1) well ahead of the deadline for filing proof of claim.

(d) *Priority of claims.*—(1) *Secured claims.* Each secured claim will take its relative lien priority to the extent of the value of the property serving as security for it. These claims include those secured by mortgages, deeds of trust, landroad's contractual liens, and other contractual liens or security instruments executed by the borrower on real or personal property. However, tax, judgment, attachment, garnishment, laborer's, mechanic's, materialsmen's, landlord's statutory liens, and other noncontractual lien claims may or may not be secured claims. Therefore, if any noncontractual claims are allowed as secured claims and the FmHA claim is not paid in full, the advice of OGC will be obtained as to whether they constitute secured claims and as to their relative priorities.

(2) *Unsecured claims.* (i) The remaining assets of the estate, including any value of security property for more than the amount of the secured claims against it, are to be applied first to payment of administration costs and charges against the estate, and second to unsecured debts of the deceased.

(ii) If the total of the remaining assets in the estate being administered is not enough to pay all administration costs, charges against the estate, and unsecured debts of the deceased, the Government's unsecured claims against the remaining assets will have priority over all other unsecured claims, except the costs of administration and charges against the estate. Under such circumstances unsecured claims are payable in the following order of priority:

(A) Costs of administration and charges against the estate unless under State law they are payable after the Government's unsecured claims, and such costs and charges include costs of administration of the estate, allowable funeral expenses, allowances of minor children and surviving spouse, and dower and curtesy rights.

(B) The Government's unsecured claims.

(3) *State supplement.* A State supplement will be issued as needed taking into consideration the Federal priority statute, lien waivers and subordinations, and notice and other statutory provisions which affect lien priorities.

(e) *Withdrawal of claim.* It may not be necessary to withdraw a claim when it is paid in full by someone other than the estate or when compromised. However, when it is necessary to permit closing of an estate, compromise of a claim, or for other justifiable reasons, the State Director will recommend to OGC that the claim be withdrawn on receipt of cash or security, or both, of a value at least equal to the amount that could be recovered under the claim against the estate. When FmHA keeps existing security, arrangements must be made to assure that withdrawal of the claim will not affect FmHA's rights under the existing notes or security instruments with respect to the retained security. In some cases, with OGC's advice, the claim may be properly handled without filing a formal petition for withdrawal of the claim. However, if the claim has been referred to the U.S. Attorney, or if a formal withdrawal of the claim is necessary, the matter will be referred by OGC to the U.S. Attorney.

(f) *Liquidation of security property.* When probate or administration proceedings have not been started and continuation with a survivor or transfer and assumption by another party will not be approved, chattel security and real estate security will be liquidated promptly in accordance with this Subpart and Subpart B of this Part (FmHA Instruction 465.1), respectively. If the proceeds from the sale of security are insufficient to pay in full the indebtedness owed to FmHA, and other assets are available in the estate or in the hands of heirs from which to collect, the State Director will request OGC to effect collection.

(g) *Continuation of secured debt and transfer of security property.* When a surviving member of a deceased borrower's family, or other person is interested in continuing the loan and taking over the security property for the benefit of all or a part of the deceased borrower's family who were directly dependent on the borrower for their support at the time of his or her death, continuation may be approved subject to the following:

(1) *Individuals who are joint debtors.* Any individual who is liable for the indebtedness of the deceased borrower may continue with the loan provided that individual can comply with the obligations of the notes or other evidence of debt and chattel or real estate security instruments, and so long as liquidation is not necessary to protect the interest of FmHA. When an individual who is liable for the indebtedness is to continue with the account, Form FmHA 450-10, "Advice of Borrower's Change of Address or Name," will be sent to the Finance Office to change the account to that individual's name. A new case number will be assigned or, if the continuing individual already has a case number, that number will be used regardless of whether of the amount of the debt owed by the estate of the deceased.

(2) *Individuals who are not joint debtors.* When a surviving member of a deceased borrower's family, a joint operator with the deceased borrower, a relative or other individual who is not liable for the indebtedness desires to continue with the farming or other operations and the loan, the State Director may approve the transfer of chattel or real estate security or both to the individual and the assumption of the debt secured by such property without regard to whether the transferee is eligible for the type of loan being assumed, subject to the following conditions:

(i) The transferee will continue the farming or other operations for the benefit of all or a part of the deceased borrower's family who were directly dependent on the borrower for their support at the time of death.

(ii) The amount to be assumed and the repayment rates and terms will be the same as provided in § 1930.34(a).

(iii) The State Director determines that the continuation will not adversely affect repayment of the loan.

(3) *Considerations in continuing with joint debtors and transferees.* In determining whether to continue with individuals, whether they are already liable or assume the indebtedness, all pertinent factors will be considered including whether:

(i) Probate or administration proceedings have been or will be started and, with OGC's advice, whether the filing of a claim on the debt owed to FmHA in such proceedings is necessary to protect FmHA's interests.

(ii) Arrangements can be made with the heirs, creditors, executors, administrators, and other interested parties to transfer title to the security property to the continuing individual and to avoid liquidating the assets so that the individual can continue with the loan on a feasible basis.

(4) *Vesting title in joint debtors or transferees.* If continuation is approved, all reasonable and practical steps, short of foreclosure or other litigation, will be taken to vest title to the security property in the joint debtor or transferee.

(5) *Release from liability.* The deceased borrower's estate may be released from liability for the FmHA indebtedness if title to the security property is vested in the joint debtor or transferee, and:

(i) The full amount of the debt is assumed, or

(ii) If only a portion of the debt is assumed, the amount assumed equals the amount as determined by OGC which could be collected from the assets of the estate of the deceased borrower, including the value of any security or EO property, and the County Committee recommends release of liability.

(h) *Special servicing of deceased EO borrower cases.* If the EO loan is secured all paragraphs in this section will be followed. If the EO loan is unsecured, paragraphs (a), (b), (c), (d), and (e) of this section will be followed along with the following requirements:

(1) An individual who is liable for the indebtedness of the deceased borrower and wishes to continue with the EO debt and the EO property, may do so in accordance with paragraph (g)(1) of this section.

(2) A surviving member of the deceased borrower's family, a joint operator with the deceased borrower, or a relative or other individual who is not liable

for the EO debt who desires to continue with the farming or other operation, may do so in accordance with paragraph (g) (2) of this section. This individual must execute a loan agreement in addition to the assumption agreement, and secure the EO debt with a lien on the remaining EO property when title to the property is vested in the individual and the County Supervisor determines that security is necessary to protect the interests of the deceased borrower's family or FmHA.

(3) If no individual listed in paragraphs (h) (1) and (2) of this section wishes to continue, but a member of the borrower's family turns over to FmHA the EO property in which the estate has an equity and which is not essential for minimum family living needs, the County Supervisor will take possession of EO property and sell it in accordance with § 1930.42. If this cannot be done, or if real property is involved, the case will be referred to OGC. If the property is sold, notice will be delivered to any of the borrower's heirs who are in possession of the property and to any administrator or executor of the borrower's estate.

§ 1930.47 *Bankruptcy and insolvency.*

If a borrower becomes a debtor in proceedings under any State or Federal bankruptcy or State insolvency law, the County Supervisor will promptly report the facts and forward the borrower's case file and other pertinent information and documents to the State Director for appropriate handling. The County Supervisor will keep the State Director informed of further developments, but will take no other action unless directed by the State Director or OGC. Under the Federal Bankruptcy law, after payment of fees and costs, unsecured FmHA claims and the amount of any claim in excess of any security with interest to the date of filing the petition in bankruptcy, are entitled to priority of payment over unsecured claims of other creditors. On receipt of the file and related material, the State Director will determine whether the case is a "no asset" or "asset" case or, if uncertain, obtain OGC's adice. A "no asset" case is one in which FmHA has no security for the debt and the debtor has no other assets from which FmHA could make a substantial collection, considering its priority rights. An "asset" case is one in which FmHA has security or the debtor has other assets, or both, from which FmHA could make a substantial collection, considering its priority rights.

(a) *No asset cases.* The State Director will return the file and related material to the County Office with a memorandum indicating his determination and advising that a proof of claim will not be filed unless the County Supervisor learns that the debtor has assets not previously known to exist. If assets are found before the time for filing claims has expired (within 6 months from the first date set for the first meeting of creditors), the County Supervisor will resubmit the case to the State Director.

(b) *Asset cases.*—(1) *Liquidation without filing proof of claim.* (i) If the value of FmHA's security is not more than the amount of its secured debt and the borrower has no other assets from which FmHA can substantially collect considering its priority right, the security property may be liquidated by foreclosure sale in the usual manner without preparing proof of claim if the referee in bankruptcy has no objection to foreclosure by FmHA.

(ii) If FmHA has no security or has security from which full collection cannot be expected, but the borrower has other assets from which FmHA can make a substantial collection considering its priority rights, any security property may be liquidated by foreclosure sale under the same conditions as set forth in subparagraph (b) (1) (i) of this section if the sale is held in time to file a proof of claim for the deficiency.

(2) *Filing proof of claim.* A proof of claim on an insured loan will not be executed or filed and foreclosure proceedings will not be started unless the note is held by FmHA or has been assigned to it.

(i) The State Director will execute Form FmHA 455–18, "Proof of Claim of the United States of America Entitled to Priority of Payment," or other form approved by OGC covering all indebtedness to FmHA, except any judgments obtained by a United States Attorney and send it to OGC with attachments that are required by a State supplement. OGC will refer the claim and any necessary petition for abandonment of security property to the United States Attorney or to the Department of Justice, as appropriate, for handling.

(ii) If the County Supervisor or the State Director know that a judgment has been obtained by a United States Attorney, even though charged off, the State Director will notify OGC. OGC will inform the United States Attorney so that he may prepare and file a proof of claim on the other action on the judgment.

(iii) The State Director, on OGC's advice, will instruct the County Supervisor about actions to take with respect to meetings of creditors.

(3) *Security released to FmHA.* Ordinarily, when the value of security is not more than the amount of FmHA liens and any prior liens against it plus any homestead or other exemptions that apply to it as specified in a State supplement or as determined by OGC, an effort will be made to get the security released to FmHA. A petition for abandonment may be referred by OGC to the United States Attorney or to the Department of Justice, as appropriate, for filing in any such case, with or without filing a proof of claim, as determined by OGC. When the referee orders security released to FmHA, it will be liquidated unless the State Director approves continuation with the borrower.

(i) *Liquidation.* When security property is liquidated, the proceeds, after payment of costs, will be applied first to the interest accrued to the date of filing the petition in bankruptcy and then to the principal of the debt. Additional proceeds will be applied to the interest accrued from the date of filing the petition in bankruptcy to the date of payment. When the payments are sent to the Finance Office, the County Supervisor will give the date of filing the petition in bankruptcy.

(ii) *Continuation with borrower.* If the State Director approves continuing the loan and the borrower is keeping the security, the borrower must execute:

(A) Form FmHA 460–10, "New Promise to Pay," promising to pay all indebtedness to FmHA which is secured by the property released to FmHA in accordance with the existing instrument(s) evidencing such indebtedness; and

(B) Any security or other instruments required by OGC. The new promise and other required instruments will be executed promptly after release of the security to FmHA and the borrower's adjudication in bankruptcy unless, under State law, the new promise to be effective must be made after discharge in bankruptcy.

(c) *Other parties liable.* When a joint obligor has been discharged in bankruptcy and continuation has been disapproved, but other parties remain liable, the County Supervisor will notify the Finance Office which parties remain liable and the address to mail the statement of account by using Form FmHA 450–10.

§ 1930.48 *Setoffs.*

Generally, FmHA will request setoffs only when all security has been liquidated, when ordinary collection efforts, including assignments, have not been effective and, if the borrower has cooperated with FmHA in the servicing of the loan, the setoff would not cause undue hardship on the borrower and the borrower's family. The filing of a setoff request will not decrease other collection efforts. Debts of nominal amounts and debts discharged in bankruptcy, will not be collected by setoff under this Subpart. Cases will not be referred for civil action until after any possible setoff actions are taken. However, there may be situations in which funds become available against which setoffs might be possible after referring the case for court action. Setoffs will not be requested in cases referred to the United States Attorney for collection or on which he has obtained a judgment without prior approval of the United States Attorney.

(a) *ASCS setoff.* The Secretary's Order on setoffs authorizes the collection of debts owed to FmHA by setoff against amounts approved for payment to the debtor by ASCS committees.

(1) *County Office actions.* (i) FmHA's County Office staff may ask the ASCS County Office staff whether the debtor has shown an intention, with respect to a particular crop year, to participate in one or more of the programs administered by ASCS under which funds might be available for setoff.

(ii) The County Supervisor will forward recommendations for such setoffs to the State Director, including information about efforts to collect by other means and any other pertinent information.

(iii) If, after a recommendation for a setoff has been made the borrower pays the indebtedness to FmHA, moves to a new location or the borrower's circumstances change so as to affect the setoff, such information will be sent to the State Director.

(2) *State Office actions.* The State Director will consider recommendations for setoffs to determine if the setoff is justified and if it accords with this Subpart.

(i) The State Director will prepare requests for setoffs in memorandum form. The original and a signed copy of the request will be submitted to the ASCS State Office and a copy forwarded to the County Supervisor for the borrower's case file. The request will contain the following information.

(A) Full name, address, and FmHA case number of the debtor.

(B) County and State under which the amount of the indebtedness should be set up on the debt register.

(C) Principal amount of the indebtedness, the accrued interest, the date through which interest was computed, and the daily interest factor to be applied afterwards.

(D) Address of the FmHA County Office for delivery of check.

(E) Identification of any court judgment.

(F) The following certification:

The undersigned hereby certifies that the above-described indebtedness of _____ to the United States (Farmers Home Administration) is subject to setoff under the Secretary's Order.

_____
(Date)

_____
(Signature of Authorized Representative)

_____
(Title)

(ii) The State Director may withdraw a request for setoff by notifying the ASCS State Office at any time before processing a setoff voucher and sending a copy of the request for withdrawal to the County Supervisor. However, setoffs may be withdrawn only if the borrower pays the indebtedness fully or substantially, or the debt is settled, or future collections can be made by other methods.

(iii) If the account of the borrower for whom a request for setoff has been submitted is transferred to another FmHA County Office jurisdiction, either within or outside the State, the State Director will notify the ASCS State Office of the address of that FmHA County Office in order that any payments may be sent there.

(3) *Check delivery.* Setoffs will be made by checks or sight drafts payable to FmHA and delivered to the County Supervisor. If the claim has been forwarded to OGC, the remittance will be sent to OGC. OGC instructions as to application will be followed.

(4) *Deletion from debt registers.* (i) The names of FmHA borrowers for whom requests for setoffs have been submitted and who have quit farming, or cannot be located in the counties for which the debts were reported, will be deleted by the ASCS County Office from their debt registers without a request from FmHA. Notices of such deletions will be furnished to the FmHA State Office originating the setoff request.

(ii) On receipt of notice, the State Director will inform the appropriate FmHA County Office of the deletions.

(iii) If the borrowers whose names have been deleted resume farming operations or can be located, the County Supervisor may submit to the State Director a recommendation for a new request for setoff.

(b) *Federal employee setoff.* Salary and lump sum payments due borrowers on separation or retirement from Federal Government employment may be set off against debts owed to FmHA. Any sum a borrower has in the Civil Service Commission retirement fund also may be set off.

(1) *County Office actions.* If efforts to collect the debt from current income from Federal employment fail, the County Supervisor will submit the case to the State Director with information necessary to report the case to the National Office.

(2) *State Office actions.* If the facts justify a setoff against the borrower's salary and lump sum payments or Civil Service retirement the State Director will submit the case to the National Office, including:

(i) Full name, address, and FmHA case number of the borrower and if the borrower is a member of the military establishment or Coast Guard, title and serial number.

(ii) Date of birth of borrower.

(iii) Name and address of the employing agency, military establishment, or Coast Guard.

(iv) Approximate income of borrower and spouse.

(v) Financial circumstances of the borrower documented on Form FmHA 456-1, "Application for Settlement of Indebtedness."

(vi) Number of dependents.

(vii) Information about FmHA efforts to collect.

(viii) Statement of account.

(ix) Identification of any court judgment.

(x) A recommendation if the borrower is retired, based on financial circumstances, as to whether all or part of the monthly annuity check should be set off.

§ 1930.49 Civil and criminal cases.

All cases in which court actions to effect collection or to enforce FmHA rights are recommended, as well as actions relating to apparent violations of Federal criminal statutes, will be handled in accordance with this section.

(a) *Civil action.* Court action or other judicial process will be recommended to OGC when all other reasonable and proper efforts and methods to obtain payment, to remove other defaults, and to protect FmHA's interests have been exhausted. However, if an emergency situation exists or criminal action is to be recommended, the case will be submitted to OGC without taking the actions necessary to report the information required by Part II of Form FmHA 455-22, "Information for Litigation." This is because delay in submitting cases in emergency situations may affect the financial interests of FmHA and making collection efforts may affect the recommended criminal action.

(1) Civil action will be recommended when one or more of the following conditions exist:

(i) There is a need to repossess security or EO property, or to foreclose a lien, and such action cannot be accomplished by other means authorized in this Subpart.

(ii) There is a need for filing claims against third parties arising out of conversion of other action.

(iii) The borrower fails to make payments due on his debts in accordance with his reasonable ability to pay and has assets or income from which collection can be made.

(iv) The borrower has progressed to the point that he is able to obtain credit from other sources, has agreed in his note or other instrument to do so, but refuses to comply with that agreement.

(v) FmHA or its security property becomes involved in court action through foreclosure by a third-party lienholder or through some other action.

(vi) Other conditions exist which indicate that court action may be necessary to protect FmHA's interests.

(2) Debts of less than $400 principal will not be referred to OGC for court action unless:

(i) A statement of facts is submitted as to the exact manner in which the interest of FmHA, other than recovery of the amount involved, would be adversely affected if suit were not filed; and

(ii) Collection of a substantial part of the claim can be made from assets and income that are not exempt under State or Federal law. A State supplement will be issued to set forth such exemptions or a summary of those exemptions with respect to property to which FmHA normally would look for payment such as real estate, livestock, equipment and income.

(3) If criminal action will not be recommended before civil action is recommended, the following actions will be taken or determinations made:

(i) It must be determined on the basis of reasonably current credit data that there is a reasonable prospect of collection now or in the near future of all the debt or a substantial amount on the debt from assets and income that are not exempt under State or Federal law.

(ii) The debtor must be contacted personally and requested to pay the debt in full, unless one or more such contacts have been made recently without success, or such contact is not feasible considering the distance of the debtor from the County Office or other relevant factors.

(iii) Form FmHA 455-21, "Notice of Acceleration and Demand for Payment,"

will be used to accelerate the borrower's indebtedness, give him at least 15 days but not more than 30 days within which to make payment, and inform him of the consequences of his failure to make payment as demanded. However, this form will not be sent to the borrower unless the facts are first reviewed thoroughly with the District Director and he is of the opinion that it would be appropriate to refer the case to the United States Attorney if the borrower does not comply with the demand.

(iv) It must be determined that collection cannot be made by ASCS setoff in accordance with the provisions of § 1930.48(a), or by setoff or other agreement if the debtor is employed by another Federal agency or has a judgment against the United States.

(v) The current address of the debtor will be determined or efforts will be made to locate him in accordance with § 1864.5(b) of this Chapter (FmHA) Instruction 456.1 paragraph VB).

(vi) If the debtor advises that he is unable to pay the claim in full and if the County Supervisor believes that this may be the situation and that there has been no fraud or misrepresentation in the case, he will suggest that the debtor submit promptly an application for compromise or adjustment on Form FmHA 456–1, in order that it may be considered and the debt disposed of by such debt settlement, if possible.

(4) When a borrower has not properly accounted for the proceeds of the sale of security property, it is the general policy to look first to him for restitution rather than to third-party purchasers. In line with this policy the remaining chattel security property on which FmHA holds a first lien usually will be liquidated before demand is made or civil action taken to recover from third-party purchasers.

(i) In those cases in which the District Director determines that full collection cannot be made from the borrower and that it will be necessary to collect the full value of the security property purchased by a converter, a demand (refer to Guide Letter 1930–A–1 available in all FmHA County Offices) will be sent to the converter at the same time that Form FmHA 455–21 is sent to the borrower.

(ii) In all other cases in which the District Director determines that action likely will have to be taken to collect from third-party purchasers, the County Supervisor will notify such purchasers by letter (refer to Guide Letter 1930–A2 available in all FmHA County Offices) that FmHA security property has been purchased by them and that they may be called upon to return the property or pay the value thereof in the event restitution is not made by the borrower. If it later becomes necessary to make demand on such third-party purchasers, FmHA will do so unless the case already has been referred to OGC or the United States Attorney, in which event the demand will be made by one of those offices.

(iii) When restitution is made by the borrower, or a determination is made, with the advice of OGC, that the facts in the case do not support the claim against the third-party purchaser, he will be informed by the County Supervisor that FmHA will take no action against him (refer to Guide Letter 1930–A3 available in all FmHA County Offices). However, if OGC determines that the facts support the claim against the third-party purchaser but it is determined that no substantial part of the claim can be collected from him, he will not be notified of that decision unless he makes inquiry. If he makes such an inquiry, he will be advised that no further action is to be taken on the claim "at this time."

(iv) If court action is recommended against a converter, the applicable provisions of paragraphs (a) (2) and (a) (3) of this section will be followed with respect to such converter the same as with respect to the borrower. In addition, unless personal contacts with the converter or other efforts to collect demonstrate that further demand would be futile, and a satisfactory compromise offer has not been received, a followup letter (refer to Guide letter 1930–A–4 available in all FmHA County Offices) will be sent to him by the State Director as soon as possible after the 15-day period set forth in the demand letter has expired. Unless response to the State Director's followup letter or personal contacts or other efforts indicate that further demand would be futile, an additional followup letter will be sent to the converter by OGC after the case has been referred to that office.

(v) The loan programs administered by FmHA are authorized by law of Congress to carry out national purposes and policies throughout the entire United States and its territories and possessions. Therefore, the liability of an auctioneer for conversion of personal property mortgaged to FmHA shall be determined and enforced in accordance with the applicable Federal law. "Auctioneer" for the purposes of this Subpart includes a commission merchant, market agency, factor, or agent. In all cases in which there has been a disposition without authorization by FmHA of personal property mortgaged to that agency, any auctioneer involved in said disposition shall be liable to the Government for conversion—notwithstanding any State statute or decisional rule to the contrary

(b) *Criminal action.* When factual information has been obtained indicating that criminal violations may have been committed and the violations are of such a nature that criminal action will be recommended, the facts will be immediately reported to OGC without taking collection actions necessary to report the information required by Part II of Form FmHA 455–22. In all other cases in which it appears that criminal violations may have been committed, but in which criminal action will not be recommended, the factual situation will be reported to OGC as soon as collection action has been completed in accordance with paragraphs (a) (3) and (a) (4) of this section. Cases in which there are minor deviations as referred to in § 1930.4(i)(7) need not be reported.

(c) *Handling civil and criminal cases.* All cases in which court actions to effect collection or to enforce the rights of FmHA are recommended, as well as actions relating to apparent violations of Federal criminals statutes, will be forwarded to OGC for submission to the appropriate United States Attorney.

(1) *County Office actions.* Forms FmHA 455–1, "Request for Legal Action," and FmHA 455–22 will be prepared. Form FmHA 455–2, "Evidence of Conversion," will be prepared for each conversion. The original and two copies of Forms FmHA 455–1, FmHA 455–22 and, where applicable, Form FmHA 455–2, together with the borrower's case file, will be submitted to the State Office. Signed statements should be obtained, if possible, from the borrower, any third party purchasers or others to support the information contained on Forms FmHA 455–1. Appropriate recommendations will be made on Forms FmHA 455–1 and FmHA 455–22 against the borrower or others. When a case is referred to the State Office, the County Supervisor will keep that office informed of any future developments in the case.

(2) *State Office actions.* (i) Upon receipt of Form FmHA 455–1 and, when applicable, Form FmHA 455–2, the State Director will analyze each case to determine whether all necessary facts have been established and, if not, whether appropriate efforts have been made to establish them. If the analysis discloses that such efforts have not been made, the State Director will return the case to the County Supervisor with appropriate instructions. When the County Supervisor, after diligent effort is unable to obtain the facts, the State Director will refer the case to the Regional Director, Office of Investigation (ROI) when required under the provisions of FmHA Instruction 2012–B.

(ii) After all of the pertinent information available has been obtained, the State Director will refer the case to OGC if referral is required under the policy expressed in this section. If such referral is not required, the State Director will set forth in Item 19 of Form FmHA 455–1 the basis for his determination not to refer the case as well as his instructions for followup servicing action. Cases which have been investigated by the Office of Investigation (OI) will be referred to OGC in accordance with the provisions of FmHA Instruction 2012–B. Demands on third-party purchasers will be made in accordance with paragraph (a) (4) of this section. In cases referred to OGC, the State Director will make his comments and recommendations regarding the civil and criminal aspects of the case on Form FmHA 445–1. With respect to the criminal aspects of the case, the State Director, in making his recommendations, will take into consideration

the nature and gravity of the offense, the restitution made or undertaken, and all other extenuating circumstances.

(A) In all cases which are referred to OGC the County Office case file, Form FmHA 455–1, and when appropriate, Form FmHA 455–2 will be transmitted. In addition, those cases in which the institution of court proceedings by FmHA is recommended, the notes, financing statements, security agreements, other security instruments, loan agreements, and other legal instruments and copies thereof as required by OGC, and Form FmHA 451–11, "Statement of Account," or Form FmHA 451–25, "Status of Account," and Form FmHA 455–22 will be submitted to OGC. The State Director, with the advice of OGC, will determine the number of copies of such instruments needed and the information required on the certified statement of account. Each request for a certified statement of account will specify the type of information needed.

(B) Notes, statements of account, files, or other documents and copies thereof needed in referring cases to OGC for court or other action will be obtained from the Finance Office or County Office by the State Director. When the time required for obtaining the above material or documents may jeopardize FmHA's interest permitting the diversion or dissipation of assets which otherwise could be expected as a source of payment, the Finance Office, upon the request of the State Director, will forward such material or documents directly to OGC or at his direction to the United States Attorney.

(d) *Action on cases referred to OGC.* When a case is refered to OGC, the State Director will notify the County Supervisor and the Finance Office of the referral and will return the County Office case file when it is no longer needed. After notice of the referral is received by the County Supervisor no collection or servicing action will be taken except upon specific instrutions from the State Director or OGC. However, when the borrower voluntarily proposes to make a payment on his account, the County Supervisor will receive the collection in accordance with established procedure unless he has received notice that the case has been referred to the United States Attorney. The County Supervisor immediately will notify OGC direct by memorandum, with a copy sent to the State Director, of any such collections received. The County Supervisor also will notify the State Director and OGC of any developments which may affect any case which has been referred to OGC.

(e) *Actions on cases referred to the United States Attorney and on judgment cases (including third-party judgments).* OGC will notify the State Director, the Finance Office, and the County Supervisor when a case is referred to the United States Attorney, or a case is otherwise disposed of. When a case is referred to the United States Attorney the Finance Office will discontinue mailing Forms FmHA 450–1, "Statement of Account," to such borrowers. The OGC will also notify the State Director when a judgment (including third-party) is obtained.

(1) When the County Supervisor receives notice from OGC that a judgment (including third-party) has been obtained, he will notify the Finance Office to establish a judgment account by submitting Form FmHA 455–20, "Notice of Judgment."

(2) After notice has been received that a case has been referred to the United States Attorney or a judgment has been obtained and has not been returned to FmHA by the United States Attorney, no action will be taken by the County Supervisor except upon specific instructions from the State Director, OGC, or the United States Attorney. However, the County Supervisor will keep the State Director informed of any developments which may affect the FmHA security interest or any pending court action to enforce collection. If information is obtained indicating that such debtors have assets or income not previously reported by the County Supervisor to the State Director from which collection of such judgment accounts can be obtained, the facts will be reported to the State Director. The State Director immediately will notify OGC of any developments which might have a bearing on cases referred to the United States Attorney, including such judgment cases.

(i) If the debtor proposes to make a payment, FmHA employees will not accept such payment, but will offer to assist in preparing a letter for the debtor's signature to be used in transmitting the payment to the United States Attorney. In such case, the debtor will be advised to make payment by check or money order payable to the Treasurer of the United States.

(ii) Collection items received through the mail from the debtor or from other sources by the County Office to be applied to such accounts will be forwarded by the County Supervisor through OGC to the appropriate United States Attorney. Likewise, collections received by the District Director or the State Office will be forwarded through OGC to the appropriate United States Attorney. Such items will be forwarded in the form received except that cash will be converted into money orders made payable to the Treasurer of the United States. The money order receipts will remain attached to the money orders. Form FmHA 451–1 will not be issued in any such case. The debtor will be informed in writing by the County Supervisor of the disposition of the amount received.

(3) When the United States Attorney has returned a judgment case to FmHA, it will be the responsibility of the County Supervisor to service it as follows:

(i) In cases in which the judgment debtor has the ability to make periodic payments, action will be taken by the County Supervisor to make arrangements for the judgment debtor to do so.

(ii) Any payments received from such debtor by FmHA will be handled by issuing Form FmHA 451–1 and converting and transmitting such payments as provided in Part 1862 of this Chapter (FmHA Instruction 451.2). The United States Attorney will be informed through OGC of payments received only when the debtor pays a judgment in full.

(iii) At the time of the annual review of collection-only or delinquent and problem cases, the County Supervisor will determine whether such judgment debtors, whose judgments have not been charged off and who are not making regular and satisfactory payments, have assets or income from which the judgment can be collected. If such debtors have either assets or income from which collection can be made and they decline to make satisfactory arrangements for payment, the facts will be reported by the County Supervisor to the State Director. The State Director will notify the OGC in such cases of developments when it appears that collections can be enforced out of income or assets.

(iv) Such judgments will either be renewed or revived unless there is a reason to believe that substantial assets have or may become subject thereto.

(v) Such judgments may be released only by the United States Attorney when they are paid in full or compromised.

(4) If the debtor proposes a compromise or adjustment offer to FmHA when the case is in the hands of the OGC before referral to the United States Attorney, such proposal will be handled in accordance with § 1864.11 of this Chapter (FmHA Instruction 456.1, paragraph XI.) In all judgment cases, any proposed compromise or adjustment will be handled in accordance with § 1864.12 of this Chapter (FmHA Instruction 456.1, paragraph XII.)

(5) If the debtor requests information as to the amount of his indebtedness, such information, including court costs, should be obtained from the Finance Office if the County Supervisor does not have that information. If questions arise as to the payment of court costs, information as to such costs will be obtained through the State Office from the OGC.

§ 1930.50 [Reserved]

EXHIBIT A

MEMORANDUM OF UNDERSTANDING BETWEEN COMMODITY CREDIT CORPORATION AND FARMERS HOME ADMINISTRATION

It is hereby agreed by and between the Farmers Home Administration (hereinafter referred to as "FHA) and the Commodity Credit Corporation (hereinafter referred to as "CCC") that the following procedure will be observed in those cases where producers sell to CCC or pledge to CCC as loan collateral under the Price Support Program, agricultural commodities such as, but not limited to, cotton, tobacco, peanuts, rice, soybeans, grains, on which FHA holds a prior lien and the proceeds from such sales or loans are not remitted to FHA for application against the loan(s) secured by such lien:

1. When an FHA County Supervisor learns that an FHA borrower has obtained a loan from CCC on a commodity or sold a commodity to CCC under such circumstances, he shall immediately notify his State Director. The State Director, immediately upon receipt of the notice, shall furnish CCC (see Appendix 1) with the name and address of such borrower, the county of his location at the time the commodity was placed under

loan or sold, and the amount of the FHA loan secured by the lien.

2. When CCC receives such a notice from FHA, CCC shall take steps to prevent the making of any further loans on or purchases of the commodity of the borrower. If the CCC loan is still outstanding and CCC calls the loan, CCC shall notify the FHA State Director of the demand.

3. If the CCC loan is repaid, whether prior to or after the receipt by CCC of the notice from FHA, the FHA State Director shall be notified immediately, at which time CCC will have discharged its responsibility under this agreement.

4. FHA shall, in each case in which the CCC loan is not repaid or the commodity has been sold to CCC, endeavor to collect from the borrower the amount due on the FHA loan. Such collection efforts shal linclude the making of demand on the borrower and the following of FHA's normal administrative policies with respect to the collection of debts, but shall not include the making of demand for payment upon the area peanut producer cooperative marketing associations through which CCC makes price support available to producers. If collection efforts are not successful, the FHA County Supervisor shall make a complete report on the matter to his State Director. If the State Director determines that the amount due on the FHA lien is not collectable by administrative action, he shall refer the matter to the appropriate local office of the General Counsel, with a full statement of the facts, for a determination of the validity of the FHA lien. If it is determined by the General Counsel's Office that FHA holds a valid prior lien on the commodity, the State Director shall furnish CCC with a copy of such determination, together with all other pertinent information, and shall request payment to FHA of the lesser of (1) the amount due on its loan, or (2) the value of the commodity at the time CCC loan or purchase was made (based on the market value of the commodity on the local market nearest to the place where the comomdity was stored). The information to be furnished CCC shall include (a) the principal balance plus interest due FHA on the date of the request, (b) the amount due on the FHA loan at the time the CCC loan or purchase was made, and (c) the amount of the CCC loan or purchase proceeds, if any, applied by the producer against the FHA loan. FHA shall continue to make collection efforts and shall notify CCC of any amount collected from the producer or any other party.

5. Upon receipt of evidence, including a copy of the determination of the Office of the General Counsel, from the State Director of FHA that the proceeds from the CCC loan or purchase have not been received by FHA from the borrower, and that collection cannot be made by FHA, CCC will if the CCC loan has not been repaid or if CCC has purchased the commodity, pay FHA the amount specified in paragraph 4 above or deliver the commodity (or warehouse receipts representing the commodity) to FHA: *Provided*, That if CCC has any information indicating that collection may be made by FHA from the borrower or any other party, it may notify FHA and delay payment pending additional collection efforts by FHA.

6. It is the desire of both FHA and CCC that claims to be processed under this agreement receive prompt attention by both parties and be disposed of as soon as possible. Instructions for the implementation of these procedures at the field office level will be developed and issued by the Washington offices of FHA and CCC.

7. Any question with regard to the handling of any claim hereunder shall be reported by the applicable ASCS office to ASCS in Washington and by the FHA State Director to the National Office of FHA.

This Memorandum of Understanding supersedes the agreement entered into between FmHA and CCC on November 5, 1951.

Entered into as of this 29th day of May, 1973.

COMMODITY CREDIT CORPORATION,
KENNETH E. FRICK,
Executive-Vice President.
FARMERS HOME ADMINISTRATION,
FRANK B. ELLIOTT,
Acting Administrator.

EXHIBIT B

MEMORANDUM OF UNDERSTANDING AND BLANKET COMMODITY LIEN WAIVER

The Farmers Home Administration (FHA) sometimes makes loans to farmers on the security of agricultural commodities that are eligible for price support under loan and purchase programs conducted by the Commodity Credit Corporation (CCC). FHA and CCC desire that price support be made available to farmers without unnecessarily impairing or undermining the respective security interests of FHA and CCC in and without undue inconvenience to producers and FHA and CCC in securing lien waivers on such commodities.

Now, therefore, it is agreed as follows: (1) Upon request of an official of an ASCS State Office, the FHA State Director in such State shall furnish designated ASCS County Offices with the names of producers in the trade area from whom FHA holds currently effective liens on commodities with respect to which CCC conducts price support programs. FHA will try to furnish a complete and current list of the names of such producers; however, FHA's liens with respect to any commodity will not be affected by an error in or omission from such lists.

(2) For a loan disbursed by an ASCS County Office, CCC will issue a draft in the amount (less fees and charges due under CCC program regulations) of the loan on, or purchase price of, the commodity payable jointly to FHA and the producer if (a) his name is on the list furnished by FHA, or (b) he names FHA as lienholder. The draft will indicate the commodity covered by the loan or purchase.

(3) On issuance of the draft, the security interest of FHA shall be subordinated to the rights of CCC in the commodity with respect to which the loan or purchase is made. The word "subordinated" means that, in the case of a loan, CCC's security interest in the commodity shall be superior and prior in right to that of FHA and that, on purchase of a commodity by CCC or its acquisition by CCC in satisfaction of a loan, the security interest of FHA in such commodity shall terminate.

(4) Nothing contained in this Memorandum of Understanding shall be construed to affect the rights and obligations of the parties except as specifically provided herein.

(5) This agreement may be terminated by either party on 30 days' written notice to the other party.

Dated: July 20, 1967.

H. D. GODFREY,
Executive Vice President, CCC.

Dated: July 14, 1967.

HOWARD BERTSCH,
Administrator, FmHA.

APPENDIX 1

FURNISHING NOTICE OR INFORMATION TO COMMODITY CREDIT CORPORATION

Commodity	*Direct to*
Cotton	Prairie Village, Kansas, ASCS Commodity Office.
Tobacco	Applicable tobacco association.
Peanuts	Applicable peanut association.
All other commodities.	Applicable State ASCS office.

SUBCHAPTER K—PROPERTY MANAGEMENT

PART 1955—REAL ESTATE AND CHATTEL PROPERTIES

§ 1955.15 [Amended]

13. In Subpart A, § 1955.15, paragraph (d) (15) (i), change the reference from "§ 1871.35(d) of this Chapter (FmHA Instruction 455.1, paragraph XV D" to "Subpart A of Part 1930 of this Chapter."

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 P.L. 93-357, 88 Stat 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850.)

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

Dated: August 2, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77-25314 Filed 9-2-77;8:45 am]

SUBCHAPTER D—GUARANTEED LOANS
SUBCHAPTER N—OTHER LOAN PROGRAMS

[FmHA Instruction 449.1 and 1980-B]

FARMER PROGRAM GUARANTEED LOANS

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration adds regulations as part of a general administrative restructuring of all guaranteed loan regulations. This addition is intended to allow greater secondary market participation and to redesignate, clarify, consolidate and revise the regulations concerning Farmer Program guaranteed loans.

EFFECTIVE DATE: September 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Denton E. Sprague, 202-447-4597.

SUPPLEMENTARY INFORMATION: On March 28, 1977, there was published in the FEDERAL REGISTER (42 FR 16424-16444) a notice of proposed rulemaking involving the addition of Subpart B, "Farmer Program Loans" of Part 1980, Subchapter N, Chapter XVIII, Title 7,

Code of Federal Regulations. This Subpart B (§§ 1980.101–1980.200) redesignates, consolidates, and revises various sections of the regulations now contained in Subchapter D, Parts 1841 and 1843. The following sections are hereby deleted and reserved from Part 1841, Title 7, Code of Federal Regulations: §§ 1841.1–1841.45; 1841.47–1841.59; and 1841.76. The following sections are hereby deleted and reserved from Part 1843, Title 7, Code of Federal Regulations: §§ 1843.1–1843.9; and 1843.31–1843.92. The loan servicing and liquidation provisions contained in Part 1841 and Part 1843 are retained and will remain in effect in their respective Parts. Interested parties were given the opportunity to submit on or before April 27, 1977, all comments, suggestions, or objections regarding the proposed addition.

Comments have been received and considered and appropriate changes have been incorporated. The incorporated changes, plus the major changes originally proposed are described in four categories as follows:

A. General Provisions (§§ 1980.101–1980.169):

1. All definitions not contained in Subpart A of Part 1980–A are contained in § 1980.107. Note new definition of a family farm which removes the requirement that the operator and his family provide a major portion of the labor.

2. Eliminates authority to transfer guaranteed loans to ineligible applicants.

3. Establishes a one-time 1 percent guarantee fee.

4. Provides for the Finance Office to calculate loan subsidy payments.

5. Provides for the use of Form FmHA 449–23, "Guaranteed Loan Evaluation (Farmer Programs);" Form FmHA 449–12, "Request for Loan Note Guarantee;" and Form FmHA 449–30 "Report of Loss."

6. Provides for secondary marketing of Loan Note Guarantees.

7. Provides for substituting Loan Note Guarantees for existing Contracts of Guarantee.

B. Emergency Loans (§ 1980.170):

1. Provides that a member of a partnership may either be a citizen(s) of the United States or reside in the United States after being legally admitted for permanent residence or on indefinite parole as long as the partner who manages the farming, ranching, or aquaculture operation is a citizen of the United States. A corporation must be incorporated under the laws of the United States or any State thereof, and the stockholder who manages the farming, ranching or aquaculture operation must be a citizen of the United States, and more than 50 percent of the outstanding stock in the corporation must be owned by citizens of the United States.

2. Provides that crops not planted may be considered as a physical loss when the applicant was unable to plant crops due to the disaster.

3. Provides for the refinancing of a modest amount of debt for annual operating purposes where the debt must be paid in order for the applicant to continue farming.

4. Provides for the initial advances for annual operating expenses to be scheduled for repayment up to 7 years and up to 20 years if justified.

5. Increases the allowable loan for depreciation from 15 to 20 percent of appraisal market value or amount owed.

6. Allows deferment of interest as well as principal.

7. Inserts "managerial competence" as an eligibility requirement.

8. Provides as a physical loss, supplies on hand, harvested or stored crops, and livestock products lost or destroyed by or as a result of the disaster.

9. Provides for the calculation of losses when applicants are precluded from producing or harvesting crops (including perennial crops such as fruits and nuts) by determining the gross farm income and then adding together any income that may be derived from the disaster affected enterprise(s) and the variable and fixed costs which will not be incurred because of the disaster and subtracting this combined figure from the normal gross income.

10. Provides for deducting the amount of any crop, livestock or livestock product physical loss loan from any production loss loan based on losses to the same enterprise(s) for which an applicant later qualifies.

11. Provides for scheduling the repayment period of actual losses to crops and other chattel property resulting from any disaster occurring after January 1, 1975, for a period not exceeding 20 years if the FmHA approval official determines that the needs of the applicant justify a longer repayment period than 7 years initially with a possible 5-year renewal.

12. Provides for exceeding the annual loan limit of $50,000 or one-half the estimated gross farm income when a subsequent EM production loan is needed to complete the year's farming operation and protect the Government's financial interest which is secured only by the crop.

13. Provides for taking into consideration the applicant's repayment ability if adequate security is not available because of the disaster.

14. Provides for calculating "normal year's production" by using county averages of production as provided by the State Crop and Livestock Reporting Service, State Statistical Office of the Statistical Reporting Service (SRS) or similar State or Federal body. If neither State or County averages are available, county average will be established by the State Director.

15. Provides when a loan for major adjustments to the operation is made the resulting operation must be one which only realizes a net farm income equivalent to that of the operation conducted before the disaster.

16. Provides for the augmentation and improvement of existing water systems that have gone dry as a result of any natural disaster.

17. Provides for extending the termination dates for physical losses from 60 days to 180 days and production losses from 9 months to 12 months.

C. Operating Loans (§ 1980.175):

1. Inserts "managerial competence" as an eligibility requirement.

2. Provides for modest rural youth loans to persons between 10 and 21 years of age and requires a cosigner on loans in justifiable cases.

3. Clarifies loan purpose language.

4. Eliminates reference to prohibited loan purposes.

5. Increases allowable amount of loan for depreciation from 15 to 20 percent of appraised market value of amount owed.

6. Clarifies the action on loans to partnerships and individuals involved in joint farming operations.

7. Increases amount of loan for real estate improvements from $2,500 to $3,500.

8. Allows deferment of interest as well as principal.

9. Permits loans for annual production expenses to be scheduled for repayment beyond 1 year if justified.

10. Institutes limitation that the total outstanding principal balance may not exceed $50,000 at loan closing, rather than loan approval.

D. Individual Farm Ownership (FO), Soil and Water (SW), and Recreation (RL) Loans (§ 1980.180):

1. Eliminates reference to prohibited loan purposes.

2. Increases the amount that may be loaned for improvements on land with defective title from $2,500 to $5,000.

3. In the case of a life estate, provides for loans to remainderman and life estate holder or to the remainderman only if the remainderman is eligible.

4. Provides for loans for pollution control.

For SW and RL:

5. Increases the amount that may be loaned when other than real estate is taken as security from $25,000 to $60,000.

For FO loans only:

6. Adds "managerial competence" as an eligibility requirement.

7. Provides loans for houses physically separate from the farm.

8. Allows additional space for food preparation and storage, vehicle storage, laundry and office space for newly constructed or improved dwellings.

9. Provides for loans where the applicant already owns a mobile home.

10. Deletes the provision for loans of less than $2,500 that will be paid in less than 10 years to be secured by nonreal estate items. All guaranteed FO loans must be secured by real estate, except in Texas where nonreal estate items may be used as security because of unusual homestead laws.

For SW loans only:

11. Clarifies language dealing with eligibility of corporations and partnerships.

12. Broadens refinancing purposes to include any debt incurred for authorized SW purposes.

For RL loans only:

13. Removes the restriction that a borrower indebted for an FO loan must con-

vert his entire farm to recreation to be eligible.

§§ 1841.60 and 1843.10 are amended and Part 1980 Subpart B is added and reads as follows:

PART 1841—GENERAL PROVISIONS

§ 1841.60 [Amended]

1. Section 1841.60 of Part 1841 of this Chapter is amended as follows: In the sixth sentence change "1841.3" to "1980.6."

PART 1843—FARMER LOANS

§ 1843.10 [Amended]

2. Section 1843.10 of Part 1843 of this Chapter is amended to read as follows: In the third line change "1843.10" to "1980.113".

PART 1980—GUARANTEED LOAN PROGRAMS

3. Subpart B of Part 1980 as added is set forth below:

* * * * *

Subpart B—Farmer Program Loans

Subpart B—Farmer Program Loans

§ 1980.101 Introduction.

(a) *Policy.* This Subpart supplemented by Subpart A of this Part, contains regulations for making the following Farmer Program loans: Operating (OL), Farm Ownership (FO), Soil and Water (Individual) (SW), Recreation (Individual) (RL), and Emergency (EM) loans guaranteed by the Farmers Home Administration (FmHA), and applies to lenders, holders, borrowers, FmHA personnel, and other parties involved in making, guaranteeing, holding, servicing, or liquidating such loans.

(b) *Program administration.* The Farmer Program, like other FmHA programs, is administered by the Administrator through a State Director, serving each State through a District Director to the County Supervisor. The County Supervisor is the focal point for the program and the local contact person for processing and servicing activities even though this subpart refers in various places to the duties and responsibilities of other FmHA employees.

(c) *Administrative provisions.* Throughout this Subpart there appears administrative provisions for the State Director, District Director, and County Supervisor. These provisions establish the internal duties, responsibilities, and procedures to carry out the requirements of the program and are identified as "ADMINISTRATIVE" and follow the appropriate sections of this Subpart.

(d) *References.* §§ 1980.101–1980.109 pertain to FO, EM, OL, RL and SW loan programs. Refer to § 1980.170 for EM loans, § 1980.175 for OL loans, and § 1980.180 for FO, RL and SW loans.

§ 1980.102–1980.105 [Reserved]

§ 1980.106 Definitions.

(a) Refer to § 1980.6 of this Chapter for abbreviations.

(b) The following definitions are applicable to the terms used in this Subpart. Additional definitions may be found in § 1980.6 of this Chapter.

(1) *Applicant.* The party applying for a guaranteed loan.

(2) *Approval officials.* These are field officials who have been delegated loan and grant approval authorities within applicable loan programs, subject to the dollar limitations contained in Tables available in any FmHA State or County Office, or from the National Office, 14th Street and Independence Avenue SW., Washington, D.C. 20250. Field officials having loan and grant approval authorities are State Directors, District Directors, County Supervisors, and Assistant County Supervisors. Refer to Subpart A of Part 1901 of this Chapter for authorities and responsibilities delegated to field officials for all programs of FmHA. These approved authorities also apply to § 1980.123 of this Chapter.

(3) *Aquaculture.* (For EM loans only.) The husbandry of aquatic organisms by an applicant or borrower under a controlled or selected environment. Aquaculture operations are considered to be farming operations. Aquatic organisms may consist of any species of finfish, mollusk, or crustacean (or other invertebrate) amphibian, reptile, or aquatic plant.

(4) *Borrower.* All parties liable for the loan or any part thereof.

(5) *Designated counties or similar areas.* (Applies to EM loans only.) This term means a county or similar political subdivision in which EM loans are authorized to be made under designation by the Federal Disaster Assistance Administration (FDAA) pursuant to a Presidential declaration of a major disaster or emergency; under designation by the Secretary of Agriculture based on damage caused by a natural disaster which substantially affects farming, ranching, or aquaculture opertions; and when authorized by the State Director without a formal designation when 25 or less farming, ranching, or aquaculture operations are substantially affected by a natural disaster.

(6) *Disasters.* (Applies to EM loans only.) (i) *Major disaster.* Any disaster in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance above and beyond normal emergency services by the Federal Government to supplement the efforts and available resources of States, local government and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

(ii) *Natural disaster.* A natural disaster as determined by the Secretary of Agriculture when designating EM loan areas, or by an FmHA State Director when he authorizes the making of EM loans. Natural disaster can be cause by such natural phenomena as hurricanes, tornadoes, cyclones, excessive rainfall, floods, earthquakes, blizzards, freezes, electrical storms, snowstorms, drought, excessively high temperatures, and hail; insects where abnormal weather contributed substantially to the spreading and flourishing of such insects; fires resulting from lightning, and fires of other origins which could not be controlled because of abnormal weather; and plant and animal diseases where abnormal weather contributed substantially to such diseases spreading into epidemic stages.

(iii) *Presidential Emergency.* Any disaster in any part of the United States which is of such magnitude that the President makes a declaration which requires Federal emergency assistance to supplement State and local efforts to save lives and protect property, public health and safety, or to avert or lessen the threat of a disaster.

(iv) *Qualifying disaster.* A major disaster, Presidential Emergency, or natural disaster declared by the Secretary of Agriculture or State Director for which EM loans are made available.

(7) *Family farm.* A farm which:

(i) Produces agricultural commodities for sale in sufficient quantities so that it is recognized as a farm rather than a rural residence;

(ii) Provides substantial income by itself which, together with any other de-

pendable income, enables the family to pay family living and operating expenses, including maintenance of chattel and real property and payment of debts; and

(iii) Is managed and operated by the family with a reasonable amount of hired labor.

(8) *Farm.* The term "farm" includes a tract or tracts of land, improvements, and other appurtenances considered to be farm property which is or will be owned or operated by the applicant, and used or to be used in the production of crops or livestock, including the production of fish under controlled conditions. For EM loans this includes the production of aquatic organisms under a controlled or selected environment owned or operated by the applicant or borrower. The term "farm" also includes any such land and improvement and facilities used in a nonfarm enterprise. It will also include a residence which, although physically separate from the farm, acreage, is ordinarily treated as part of the farm in the local community.

(9) *Farming or farm enterprises.* (Applies to EM loans only) These terms are defined as the business of producing crops, livestock products, and aquatic organisms through the management of land water, labor, capital, and basic raw materials, including seed, feed, fertilizer, and fuel. Farming and farm enterprises consist of a total farming or aquaculture operation, or a portion thereof, which produces different types of products, including crops, livestock, livestock products, and aquatic organisms.

(i) *Basic enterprise.* This term means any single enterprise which constitutes not less than 25 percent of the applicant's normal year's total farming operations gross income. To qualify crops to be fed to or pasture to be grazed by livestock as a basic enterprise the value of the crops or pasture for livestock use must be at least equal to 25 percent of the value of the total feed fed to the livestock annually. However, for crops to be fed to or pasture to be grazed by livestock to be considered a basic enterprise one or more (individually or collectively) of the livestock enterprises must qualify as a basic enterprise.

(ii) *Single enterprise.* An enterprise which constitutes part of the applicant's farming, ranching, or aquaculture operation. The following are examples of "single enterprises":

(A) All cash field crops;
(B) All cash vegetable crops;
(C) All cash fruit crops;
(D) All crops to be fed to livestock;
(E) All pasture to be grazed by livestock;
(F) Beef operations;
(G) Dairy operations;
(H) Poultry operations; and
(I) Aquaculture operations.

(10) *Farming corporation.* It is a legal entity incorporated under the laws of the United States or of a State and authorized to carry on farming, ranching, or aquaculture operations in the State where the corporation has applied for a loan.

(11) *Incidence period.* (Applies to EM loans only). This term means the specific time frame established for the occurrence of the qualifying disaster.

(12) *Mortgage.* The term "mortgage" includes any form of security interest or lien upon any rights or interest in real property of any kind. In Louisiana and Puerto Rico the term "mortgage" also refers to any security interest in chattel property.

(13) *Nonfarm enterprise.* This is any business enterprise whose income supplements farm income. It must provide goods or services for which there is a need and a reasonably reliable market.

(14) *Reamortize.* To extend an FO, SW, RL, OL and EM loan payment to its maximum repayment period or to rearrange the payments within the remaining years of the original repayment period.

(15) *Reasonable standard of living.* The level of income obtained by reasonably successful family farmers and rural residents in the community taking into consideration the size of the family.

(16) *Recreation enterprise.* An outdoor, income producing enterprise which will supplement or supplant farm or ranch income.

(17) *Renew.* To reschedule the payment of an OL and EM loan for operating purposes after the end of the original repayment period.

(18) *Rural youth.* A person who has reached the age of 10 but has not reached the age of 21 and does not reside in any area in any city or town that has a population of more than 10,000 inhabitants.

(19) *Rural youth projects.* Projects initiated, developed, and carried out by rural youth participating in organizations such as 4-H or Future Farmers of America. Projects must produce enough income to meet expenses and debt repayment.

(20) *Security.* The term "security" (sometimes referred to as "collateral" or "security property") includes any rights or interests in property of any kind subject to a real or personal property lien.

(i) *Basic security.* All real estate and fixtures and personal property such as foundation herds, flocks, aquatic animal and plant organisms, machinery, and equipment serving as security and crops when crops are the only security.

(ii) *Normal income security.* All normal income security property planned to be marketed in the regular course of business unless liquidation is approved. If liquidation is approved, such security becomes basic security.

(21) *State.* Any of the fifty states, Puerto Rico, or the Virgin Islands (and Guam for EM loans under a Presidential Declaration).

(22) *Termination dates.* (Applies to EM loans) (i) Termination dates are those dates specified in disaster declarations, designations, or State Director authorizations which establish the final dates after which EM loan applications may no longer be received. However, applications will be accepted for EM loans after the termination date(s) have passed if the applicant filed an application for disaster assistance with the SBA during the period SBA would accept applications and not more than 6 months has elapsed since the FmHA's termination date(s).

(ii) For physical losses, termination dates are 180 days from the date the State Director is notified of the declaration, designation, or State Director authorization, and for production losses, 12 months from such date. The 180-day and 12-month periods will commence on the first workday following the designation or declaration. The final day for accepting applications will always be on a workday. Therefore, if the last day falls on a Saturday, Sunday, or Federal holiday, the next workday will be the final day.

(23) *United States.* The term "United States" means the United States itself, any of the 50 States, Puerto Rico, the Virgin Islands (and Guam for EM loans under a Presidential declaration).

§ 1980.107 Full faith and credit.

Refer to § 1980.11 of this Chapter.

§ 1980.108 General provisions.

(a) *Security, personal and corporate guarantees, and other requirements.* See §§ 1980.170(f), 1980.175(f), and 1980.180 (e) for security requirements for the type of loan being considered.

(1) *Security.* (i) The lender is responsible for seeing that proper and adequate security is obtained and maintained in existence and of record to protect the interest of the lender, the holder, and FmHA.

(ii) All security must secure the entire loan. The lender may not take separate security to secure only that portion of the loan or loss not covered by the guarantee. The lender may not require compensating balances or certificates of deposit as a means of eliminating the lender's exposure on the unguaranteed portion of the loan. However, compensating balances or certificates of deposit as used in the ordinary course of business may be used.

(2) *Personal and corporate guarantees.* (i) Personal guarantees from principal stockholders in a corporation and all partners of partnerships usually will be required. Guarantees of parent, subsidiaries, or affiliated companies may also be required. Guarantees will be required in sufficient amounts depending on the credit factors in each loan to reasonably assure repayment of the loan and provide adequate security.

(ii) The requirement for personal guarantees or corporate guarantees may be waived by FmHA if the proposed guarantors cannot provide such guarantee due to other existing contractual obligations or legal restrictions. For those applicants providing documented evidence of successful operations for the past three years, guarantees will be obtained as determined by FmHA.

(iii) If a review of all credit factors indicates the need for additional security, FmHA may require additional personal and corporate guarantees. FmHA also may require that such guarantees be secured.

(iv) *Guarantors of applicants will:* (A) In the case of personal guarantees, provide current financial statements

(not over 60 days old at time of filing) signed by the guarantors, and disclosing community or homestead property.

(B) In the case of corporate guarantees, provide current financial statements (not over 90 days old at time of filing) certified by an officer of the corporation.

(C) Provide written evidence through the lender to FmHA of their inability to provide a guarantee because of existing contractual arrangements or legal restrictions.

(3) *Other requirements.* (i) The lender must ascertain that there are no claims or liens of laborers, materialmen, contractors, subcontractors, suppliers of machinery and equipment or other parties against the security of the borrower, and that no suits are pending or threatened that would adversely affect the collateral of the borrower when the security instruments are filed.

(ii) Hazard insurance with a standard mortgage clause naming the lender as beneficiary will be required on every loan in an amount that is at least the lesser of the depreciated replacement value of the property being insured or the amount of the loan. Hazard insurance includes fire, windstorm, lightning, hail, business interruption, explosion, riot, civil commotion, aircraft, vehicle, marine, smoke, builder's risk, public liability, property damage, flood or mudslide, or any other hazard insurance that may be required to protect the collateral.

(iii) Life insurance, which may be decreasing term insurance, may be required for principals of corporate borrowers. When required it will be assigned or pledged to the lender and a schedule of life insurance available for the benefit of the loan will be included as part of the application.

(iv) Workmen's compensation insurance is required in accordance with State law.

Administrative: The County Supervisor will review and determine whether the lender has required the necessary security to be taken. If necessary, he will seek the advice and assistance of the District Director.

(b) *Relationship with other FmHA insured or guaranteed loans.* If an applicant for FmHA assistance will qualify for an OL or real estate insured or guaranteed loan and an EM guarantee for the same purpose, it is FmHA policy to process an EM guarantee for that purpose, so long as the repayment and security requirements for the EM guarantee will not preclude furnishing the credit necessary to enable the applicant to carry out sound farming, ranching, or aquaculture operations.

(c) *Person entitled to veteran's preference.* Applications on hand from veterans will be given preference by the lender over applications of nonveterans on file at the same time for any person applying for an FO, SW, RL, or OL loan who has been discharged or released from the active forces of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard under conditions other than dishonorable, who served on active duty in such forces: (1) During the period of April 6, 1917, through March 31, 1921; (2) during the period of December 7, 1941, through December 31, 1946; (3) during the period of June 27, 1950, through January 31, 1955; or (4) for a period of more than 180 days, any part of which occurred after January 31, 1955, but on or before May 7, 1975. Discharges under conditions other than dishonorable include "elementary discharges."

(d) *Determining whether credit elsewhere is available.* (1) If the County Supervisor's review of the applicant's application indicates that there is no possibility for the applicant to obtain the credit he needs without a guarantee, he will record the reasons in the running record.

(2) If the County Supervisor questions whether the applicant may be able to obtain the credit he needs from another lender in the area without a guarantee, he will contact that lender and record his findings in the Running Case Record.

(3) Any letters from a lender(s) or other evidence which may have been obtained indicating that the applicant is unable to obtain satisfactory terms with present creditors or from other creditors will be included in the loan docket.

§ 1980.109 Promissory notes, security instruments, and financing statements.

(a) *Promissory notes, mortgages, and security agreements.* The lender may use its forms or promissory notes, real estate mortgages (including deeds of trust and similar instruments), and security agreements (including chattel mortgages in Louisiana and Puerto Rico), provided such forms do not contain any provisions that are in conflict or are inconsistent with the provisions of this regulation. The lender will advise the borrower at loan closing that he will be expected to graduate to other credit as required in § 1980.147 of this Subpart and see that the following provisions are inserted in the above mentioned forms as applicable:

(1) *In real estate and chattel mortgages. "Guarantee by Government.* Mortgagor understands that the loan evidenced by the Note secured hereby is being made or allowed to remain extant by Lender only on the condition that repayment thereof or any loss theron will be guaranteed in whole or in part to Lender by the United States of America or an agency thereof (herein called the 'Government'). Therefore, in consideration of such guarantee, mortgagor agrees that if at any time it shall appear to the Government that Mortgagor may be able to obtain a loan without a guarantee from a bank, a production credit association, a Federal land bank, or other responsible cooperative or private credit source, at reasonable rates and terms for loans for similar purposes and periods of time without such guarantee, Mortgagor will, upon the Government's request, apply for and accept such loan in sufficient amount to pay the indebtedness secured hereby and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan."

(2) *In security agreements. "Guarantee by Government.* Debtor understands that the loan secured hereby is being made or allowed to remain extant only on the condition that repayment thereof or any loss thereon will be guaranteed in whole or in part to Secured Party by the United States of America or any agency thereof (herein called the "Government"). Therefore, in consideration of such guarantee, Debtor agrees that if at any time it shall appear to the Government that Debtor may be able to obtain a loan without a guarantee from a bank, a production credit association, a Federal land bank, or other responsible cooperative or private credit source, at reasonable rates and terms for loans for similar purposes and periods of time without such guarantee, Debtor will, upon the Government's request, apply for an accept such loan in sufficient amount to pay the indebtedness secured hereby and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan."

(b) *Financing statements.* Commercial financing statement forms that comply with State laws and regulations may be used. They must be adapted to meet FmHA requirements by inserting provisions:

(1) Covering the "proceeds and products" of the collateral described, and

(2) Stating that "disposition of the collateral is not authorized hereby."

§ 1980.110 Loan subsidy rates, claims and payments.

Loan subsidies are payments made by FmHA to lenders to induce them to make, service, and collect guaranteed Farmer Program loans.

(a) *Subsidy rates.* FmHA will establish subsidy rates periodically. Thus the subsidy rate for the same type loan may vary from time to time. However, the subsidy rate set forth in the Loan Note Guarantee will remain constant during the life of the loan guarantee. The subsidy rate for each type of loan will be a rate equal to the difference, if any, between the interest rate charged to the borrower and any higher per annum rate prevailing in the private market for similar loans as determined by the Secretary of Agriculture. The lender may contact the local County Supervisor servicing his area to obtain the current subsidy rate.

(b) *Subsidy payments.* Loan subsidy payments will be calculated by FmHA using a 360 or 365 day year method on a declining balance. The lender will indicate on FmHA Form 449–19, "Guarantee Fee Report," the method he prefers which, once established, cannot be changed.

(c) *Annual subsidy claims and payments.* The initial subsidy claim will be prepared by the lender using Form FmHA 449–24, "Loan Subsidy Claim," on or about a date 12 months from the date of the note and the original mailed by the lender to the Finance Office with a copy to the appropriate County Supervisor. The subsequent subsidy claims will be filed by the lender on or about a date 12

months thereafter but no later than the anniversary date of the filing of the initial subsidy claim. The Finance Office will mail the loan subsidy payment to the lender within 10 days after receipt of the claim. Upon full payment of a note the lender will immediately prepare Form FmHA 449–24 and mail a copy to the County Supervisor and the original to the Finance Office.

(d) *When subsidy payments cease.* When the FmHA purchases a guaranteed portion of a loan, subsidy payments on that portion will cease. Loan subsidy payments will also cease when the Loan Note Guarantee terminates.

§§ 1980.11–1980.12 [Reserved]

§ 1980.113 Receiving and processing applications.

Applicants and/or lenders may file either a preliminary application or complete application. A preliminary application may be used when applicant or lender wants a determination from FmHA on eligibility, feasibility, or availability of guaranteed authority before proceeding with completed application. The County Supervisor will cooperate with lender and applicant and provide appropriate assistance in connection with loan application processes. The degree of this assistance will be guided by the lender's experience with FmHA Guaranteed Loan processing, the lender's farm lending experience, and the complexity of the proposal.

(a) *Preliminary application.* This will consist of:

(1) Form FmHA 449–6, "Application for Guaranteed Loan (Farmer Programs)."

(2) Verification of off-farm employment, if any.

(3) Credit report.

(4) Form FmHA 440–32, "Request for Statement of Debts and Collaterals."

(5) For an EM loan, Form FmHA 441–22, "Certification of Disaster Losses."

(b) *Preliminary determination by FmHA.* If the preliminary application indicates the proposal will not meet FmHA's minimum credit standards for a sound loan, or the applicant appears to be ineligible, or funds or guarantee authority are not available the County Supervisor will so inform the lender using Form FmHA 449–13, "Denial Letter." The lender will notify the applicant in writing of all the reasons for the decision indicated. If it appears that the proposal is economically feasible, the applicant is eligible, and loan guarantee authority is available, the County Supervisor will inform the lender in writing within 15 days unless unusual circumstances exist and request the formal application be prepared.

(c) *Completed application.* This will consist of:

(1) Those items listed in § 1980.113 (a).

(2) Applicable items required by §§ 1980.40, 1980.41, 1980.42, 1980.43, 1980.44, and 1980.45 of this Chapter.

(3) Form FmHA 449–12, "Request for Loan Note Guarantee." (Exhibit A)

(4) A copy of the lease agreement between tenant applicants and their landlords. When a written lease is not obtainable a statement setting forth the terms and conditions of the agreement will be included in the loan docket.

(5) (For EM loans only) Form FmHA 441–29, "ASCS Verification of Farm Production History and Payments," if needed, and Form FmHA 441–26, "County Supervisor Calculations and Verification of Qualifying Production Losses."

(6) Proposed loan agreements between the borrower and lender. (Refer to paragraph VIII of Form FmHA 449–35 "Lender's Agreement.") Ordinarily agreements will include information such as the following:

(i) Improved management practices to be implemented, if any.

(ii) Requirements for accounting and recordkeeping and periodic financial reporting.

(iii) A list of security property for the loan and periodic accounting of security property (at least annually).

(iv) Prohibitions against assuming liabilities or obligations of others.

(v) Restrictions on dividend payments if a corporate entity.

(vi) Limitations on purchase or sale of equipment and/or fixed assets.

(vii) Limitations on compensation of officers and/or owners if not a sole proprietorship.

(viii) Minimum working capital requirements.

(ix) Minimum debt to net worth ratio.

(x) Restrictions concerning consolidation, mergers, or other circumstances if a corporate entity.

(xi) Repayment and reamortization of the loan.

(7) Production history and operation forecast provided by lender and/or applicant. This will indicate a production history (up to 5 years for EM loans), current financial condition, projected production, income and expenses, and loan repayment plan. Forms ordinarily used by the lender or Form FmHA 431–2, "Farm and Home Plan," Form FmHA 431–1, "Long-Time Farm and Home Plan," or Form FmHA 424–1, "Development Plan," may be used to project proposed development and construction.

(8) *Appraisal report.* (i) A real estate appraisal will be required when real estate is purchased, or taken as security, or both, for loans for FO, SW, RL or EM loan purposes, (except that for EM loans, where a long-term reputable lender is involved and the loan will be $10,000 or less, no appraisal is required but a verification of ownership and determination of equity in real estate by the County Supervisor is required). For EM loans only in instances where real estate is taken for additional security (for loans in which the primary security is subject to rapid depreciation or is of a high risk nature such as crops) no appraisal report will be required for the additional security.

(ii) A chattel appraisal will be required when chattel is taken as security for FO, SW, RL, OL and EM loans.

(iii) For real estate security, an acceptable appraisal not over 3 years old and for chattel security not over 6 months old, may be used in lieu of a new appraisal providing the appraisal was completed by FmHA or similarly qualified appraiser.

(iv) Appraisals will be made by a qualified appraiser selected by the lender. A real estate appraisal report will be based on at least two comparable sales. Appraisal reports may be on forms approved by the lender of Forms FmHA 442–1, "Appraisal Report (Farm Tract)" and FmHA 440–21, "Appraisal of Chattel Property."

(v) The lender will be responsible for determining that appraisers have the necessary qualifications and experience to make appraisals. If the lender has any questions in this regard, it should consult with FmHA before having an appraisal made.

(9) The lender's plan for servicing the loan and providing management assistance to the borrower should include the steps necessary to see that the requirements of the loan agreement are met.

(10) Notices of compliance with the privacy Act of 1974.

(i) If the applicant is acting in a personal capacity and not as a representative of a partnership or a corporation, and FmHA solicits personal information from him, the individual will be provided Form FmHA 410–9, "Statement Required by the Privacy Act."

(ii) If FmHA desires to obtain information concerning an individual from any source, FmHA will provide such source with Form FmHA 410–10, "Privacy Act Statement to References."

§ 1980.114 FmHA evaluation of applications.

When the County Supervisor receives a completed application, he will make the proper independent investigations, inspections, and appraisal reviews necessary to determine whether the applicant is eligible, the proposed loan is for an eligible purpose, and there is reasonable assurance of repayment ability and sufficient collateral and equity. The determinations will be recorded on Form FmHA 449–23, "Guaranteed Loan Evaluation." This evaluation is for the benefit of FmHA and not the lender.

(a) *Indication of unacceptability.* If the evaluation indicates that the guarantee cannot be approved (for reasons that would not be affected by the County Committee certification), the County Supervisor will inform the lender on Form FmHA 449–13 of the reasons and will discuss with the lender the items necessary to overcome any objections and will record such discussion in the County Office file.

(b) *Indication of acceptability.* If the evaluation indicates that the guarantee may be approved, the County Supervisor will present the application to the County Committee for certification or rejection.

Administrative: The County Supervisor will:

1. Determine if the material and information submitted is complete. If he determines that the lenders appraisal(s) of security property appears inadequate he will make a formal appraisal of the required security property.

2. Determine that §§ 1980.40 through 1980.45 of this Chapter are complied with.

3. Review Form FmHA 449–10, "Applicant's Environmental Impact Evaluation," submitted by the applicant and follow the requirements of Subpart 1901–G of this Chapter.

§ 1980.115 County Committee review.

The County Committee will review the application and determine whether the applicant meets the FmHA eligibility requirements.

(a) *Rejection.* If the County Committee rejects the application, the County Supervisor will inform the lender of the reasons for the rejection using Form FmHA 449–13. Such notification will include the reasons for denial of the guarantee.

b. *Certification.* If the County Committee finds the applicant eligible, it will sign Form FmHA 440–2, "County Committee Certification or Recommendation." This form will be retained in the County Office file.

Administrative: A. After County Committee certification is obtained, the County Supervisor will:

1. Prepare Form FmHA 449–14, "Conditional Commitment for Guarantee." If the loan is within his approval authority, he will list any special conditions of approval in the space provided on the form, including requirements for security, improved management practices, type and frequency of financial reports required but not proposed by the lender, and the loan subsidy rate. An attachment to the form may be used if necessary. The County Supervisor is authorized to execute Form FmHA 449–14.

2. Prepare and distribute Form FmHA 440–1, "Request for Obligation of Funds," in accordance with the Forms Manual Insert (FMI). The Finance Office will obligate funds and so notify the County Supervisor by forwarding the original and one copy of Form FmHA 440–57, "Acknowledgment of Obligated Funds/Check Request." When the County Supervisor receives notice that funds have been obligated, he will notify the lender by providing him a copy of Form FmHA 449–14. The County Supervisor will record the actual date of lender notification on the remaining copy of Form FmHA 440–1 and make such copy a permanent part of the County Office loan file.

3. Determine if a project is located in a special flood or mudslide hazard area. (Refer to Subpart B of Part 1806 of this Chapter, FmHA Instruction 426.2.)

4. Assure that equal opportunity and nondiscrimination requirements are met. (Refer to § 1980.41 of this Chapter.)

5. Contact the District Director if he needs any assistance.

6. Forward the loan docket to the appropriate approval official if above his approval authority.

B. *The appropriate approval official within his authority whether Assistant County Supervisor, County Supervisor, District Director, or State Director will:*

1. Set forth any special conditions of approval, including requirements for security, improved management practices, type and frequency of financial reports required but not proposed by the lender in the space provided in Form FmHA 449–14 and return to the County Supervisor for execution and proper distribution.

2. Sign original and one copy of Form FmHA 440–1 distributing copies in accordance with the FMI being sure the lender receives a signed copy.

3. Forward the loan docket to the National Office for approval when the loan exceeds the State Director's authority or when he needs assistance in handling any complaints of noncompliance.

§ 1980.116 Review of requirements.

The lender and applicant, after reviewing approval conditions and security requirements as set forth in Form FmHA 449–14, should complete and execute the "Acceptance or Rejection of Conditions" and return a copy to the County Supervisor. If the conditions cannot be met, the lender and applicant may propose alternate conditions to the County Supervisor. These alternatives will be considered by the County Supervisor and the lender will be advised of his decision. If altered conditions are acceptable, Form FmHA 449–14 will be revised.

§ 1980.117 Conditions precedent to issuance of the Loan Note Guarantee.

(a) Refer to § 1980.60 of this Chapter.

(b) The provisions under § 1980.60(a)(2) are not applicable to Farmer Program loans.

Administrative: A. For purposes of this Subpart, Form FmHA 449–14 should be modified to provide that any change in the interest rate must be approved by the FmHA County Supervisor.

B. The County Supervisor will:

1. Consult with the lender and applicant concerning any changes made to the initially issued or proposed Form FmHA 449–14. A copy of Form FmHA 449–14 and any amendments thereto will be included in the loan file.

2. Review the loan agreement between the borrower and lender which provides for the frequency of submission of financial statements to the County Supervisor. Quarterly financial statements should be required on new loans needing close monitoring. However, an annual analysis report will always be required.

3. Review plans for inspection on construction projects.

4. Review cost overruns, if any, and how they will be met.

5. Review basic credit requirements of all loans.

§ 1980.118 Issuance of Lender's Agreement, Loan Note Guarantee, and Assignment Guarantee Agreement.

(a) Refer to § 1980.60 of this Chapter.

(b) Disposition of a guaranteed portion of the loan may be made only after a like amount of guaranteed loan funds have been disbursed to the borrower.

(c) The amount to be entered in the blank on Form FmHA 449–35, paragraph X(c)(5) for a loan secured by chattels will be the lessor of $10,000 or 20 percent of the loan for OL loan purposes and the lessor of $25,000 or 20 percent of the loan for EM loan purposes.

(d) Paragraph X(c)(10) of Form FmHA 449–35 will be changed by striking the word "semiannually," inserting the word "annually" in its place and eliminating the words "and December 31."

Administrative: A. *par. (a) of § 1980.61* The original Form FmHA 449–35 will be kept in the County Office.

B. *par. (b) 1 of § 1980.61* Copy(ies) of the Loan Note Guarantee(s) will be kept in the County Office. Additional copy(ies) may be retained by the State Office. Copies of all issued Loan Note Guarantees will be kept in the loan file.

C. *par. (b)(3) of § 1980.61* For reporting purposes where multi-notes are issued, the loan to the borrower will be counted as one loan regardless of the number of notes issued.

§ 1980.119 Substitution of Loan Note Guarantee for Contract of Guarantee issued.

Refer to § 1980.61 of this Chapter. As used in § 1980.61(b)(2), the term "State Director" will be construed to mean "County Supervisor."

Administrative: County Supervisor will:

1. Verify that the approval requirements have been met.

2. Review the submitted request and, if in order, send the guarantee fee and guarantee fee report to the Finance Office with a notation of the date the new Loan Note Guarantee will be issued. (Note: The substitution of a Loan Note Guarantee for the Contract of Guarantee is not to be considered as a new loan for recordkeeping purposes.)

3. Execute Form FmHA 449–35.

4. Complete Form FmHA 449–34, "Loan Note Guarantee," (appropriate number for attachment to each note), date and sign the instrument. The following statement will be entered at the top of the form: "This Loan Note Guarantee is issued in substitution of Contract of Guarantee dated _____ _____." The County Supervisor will transfer from the Contract of Guarantee all information pertaining to the Loan Note Guarantee.

5. Cancel the original Contract of Guarantee.

6. Transmit to the lender the original Loan Note Guarantee and a copy of executed Lender's Agreement. Retain in the loan file copies of the Loan Note Guarantee with attached original cancelled Contract of Guarantee, copy of a Guarantee Fee Report, and the original Lender's Agreement.

7. Forward the guarantee fee and the original of Form FmHA 449–19 "Guarantee Fee Report," to the Finance Office. A copy of Form FmHA 449–19 will be retained in the FmHA loan file.

§§ 1980.120–1980.122 [Reserved]

§ 1980.123 Transfer and assumption of Farmer Program loans.

(a) All transfers and assumptions must be approved in writing by FmHA (refer to § 1980.106(b)(2) of this Chapter for approved authorities). Such transfers and assumptions must be to an eligible applicant. For EM loans, only the surviving spouse, who is a co-obligor, or the former spouse, who is a co-obligor, of a divorced spouse, or the remaining partner(s) in a partnership from which one or more of the jointly obligated partners have withdrawn may be considered for a transfer.

(b) The applicant will submit Form FmHA 449–4, "Statement of Personal History," to FmHA for the required character evaluation prior to the execution of the Assumption Agreement.

(c) Available transfer and assumption options to eligible applicants include the following:

(1) The total indebtedness may be transferred to another borrower on the same terms.

(2) The total indebtedness may be transferred to another borrower on different terms not to exceed those terms for which an initial loan can be made.

(3) A part of the total indebtedness may be transferred to another borrower on the same terms.

(4) A part of the total indebtedness may be transferred to another borrower on different terms.

(d) In any transfer and assumption case, the transferor, including any guarantor(s) may be released from liability by the lender with FmHA written concurrence only when the value of the collateral being transferred is at least equal to the amount of the loan or part of the loan being assumed. If the transfer is for less than the entire debt:

(1) FmHA must determine that the transferor has no reasonable debt-paying ability considering his assets and income at the time of the transfer.

(2) The FmHA County Committee must certify that the transferor has cooperated in good faith, used due diligence to maintain the collateral against loss, and has otherwise fulfilled all of the regulations of this Subpart to the best of his ability.

(e) Any proceeds received from the sale of secured property before a transfer and assumption will be credited on the transferor's guaranteed loan debt in inverse order of maturity before the transfer and assumption transaction is closed.

(f) When the transferee makes any cash downpayment in connection with the transfer and assumption.

(1) The lender will employ an independent appraiser, subject to concurrence of both the transferor and transferee, to make an appraisal to determine the fair market value of all the collateral securing the loan. Such appraisal report fee and any other costs related thereto will be paid by the transferor and the transferee as they mutually agree.

(2) The market value of the secured property being acquired by the transferee, plus any additional security the transferee proposes to give to secure the debt must be adequate to secure the balance of the total guaranteed loan owed, plus any prior liens. If any cash downpayment is made, it may be paid directly to the transferor as payment for his equity in the project provided:

(i) The lender recommends and FmHA approves the cash downpayment be released to the transferor. The lender and FmHA may require that an amount be retained for an established period of time in escrow as a reserve account as security for use against any future default on the loan. Any interest accruing on such an escrow amount may be paid periodically to the transferor.

(ii) Any payments that are to be made by the transferee to the transferor in respect to the downpayment do not suspend the transferee's obligation to continue to meet the guaranteed loan payments as they come due under the terms of the assumption.

(iii) The transferor must agree not to take any actions against the transferee in connection with such transfer in the future without first obtaining the approval of FmHA and the lender.

(iv) The lender determines that there is repayment ability for the guaranteed debt assumed and any other indebtedness of the transferee.

(g) The lender will issue a statement to FmHA that the transaction can be properly transferred and the conveyance instruments will be filed, registered, or recorded, as appropriate, and legally permissible.

(h) FmHA will not guarantee any additional loans to provide equity funds for a transfer and assumption.

(i) The assumption will be made on the lender's form of assumption agreement.

(j) The assumption agreement must contain the FmHA case number of the transferor and transferee.

(k) The assumption agreement may change loan terms only if the changes:

(1) Have been previously approved in writing by FmHA.

(2) Have been consented to by any holder(s).

(3) Have been consented to by the transferor(s) (or guarantor(s)) who have not been released from personal liability.

(l) The interest rate to be paid by the assuming parties shall be the same as the interest rate paid by the transferor. Any new repayment schedule needed to meet the repayment ability of the transferee may cover a period not to exceed that authorized in this subpart for the type of loan being transferred. The lender's request for approval to FmHA will be accompanied by:

(1) An explanation of the reasons for the proposed change in the loan terms.

(2) Certification that the lien position securing the guaranteed loan be maintained or improved, proper hazard insurance will be continued in effect, and all applicable Truth in Lending requirements will be met.

(m) In the case of a transfer and assumption, it is the lender's responsibility to see that all such transfer and assumptions will be noted on all originals of the Loan Note Guarantee(s). The lender will provide FmHA a copy of the transfer and assumption agreement.

(n) The holder(s), if any, need not be consulted on a transfer and assumption case unless there is a change in loan terms.

Administrative: A. *Loan approval officials, consistent with their authority to approve guarantees, may consent:*

(1) To all transfer and assumption cases.

(2) To the releases of the transferor and guarantor(s) from liability on the loan and will notify the lender and the appropriate parties of the decision in writing.

(3) To any changes in the loan terms provided the holder(s), if any, and lender agree.

B. The Loan Note Guarantee will be endorsed in the space provided on the form.

C. A copy of the Assumption Agreement will be retained in the County Office file. The County Supervisor will notify the Finance Office of all approved transfer and assumption cases so that Finance Office records may be adjusted accordingly.

§ 1980.124 Renewal and reamortization.

All borrowers are expected to repay their guaranteed Farmer Program loans according to the planned repayment schedules. However, circumstances may occur which will not permit them to pay as scheduled or to refinance their loans without a guarantee. This section prescribes the policies and procedures for reamortizing and/or renewing such loans.

(a) *Reamortization.* The lender with the concurrence of FmHA and any holder may agree to reamortize the balance of a Farmer Program loan provided:

(1) For OL and EM loans (made for operating purposes), the reamortized repayment period for an operating type loan does not exceed seven years from the date of the initial note.

(2) The security instrument and note will secure the reamortized loan.

(3) For FO, SW, RL, and EM loans (made for Real Estate purposes) secured by real estate, the repayment period for the real estate loan, initially scheduled for repayment in not more than 40 years, may be reamortized for a repayment period that will not extend the repayment period beyond 40 years from the date of the original note.

(b) *Renewal.* An OL and EM operating type loan, initially scheduled or reamortized for repayment in not more than 7 years, may be renewed with the concurrence of FmHA and any holders for up to 5 additional years at the end of the 7-year period. The renewal and any combination of initial and subsequent renewals will not extend the repayment period beyond 12 years from the date of the original note.

(c) *The renewed or reamortized promissory note will:* (1) Not increase the amount of principal which the borrower would have been required to pay if the reamortization or renewal had not been made.

(2) Require the borrower to pay the interest rate to the lender in effect at the time of renewal or reamortization, except for EM loans at 5-percent interest rate.

(3) Describe the note being reamortized or renewed and state that the indebtedness evidenced by said note is reamortized or renewed but not satisfied. The original note must be retained for identification purposes.

(d) *Security instruments will* be required as necessary when a loan is renewed or reamortized.

§§ 1980.125–1980.128 [Reserved]

§ 1980.129 Planning and performing development.

The lender is responsible for seeing that any buildings or other improvements or major land development to be provided with loan funds are properly completed within a reasonable period of time, and that they are free of any mechanics, materialmen's or other liens that would affect the lien priority which the lender advised FmHA that the

lender's security instruments would have. All major construction, major repairs, and major land development must be performed under contract. As soon as such construction, repair, or land development involving use of loan funds has been completed in accordance with the plans and specifications submitted to FmHA in connection with the Request for Loan Note Guarantee, Form FmHA 449–11, "Certificate of Acquisition or Construction," will be provided by the County Supervisor. This form will be used by a lender, borrower, and/or contractor to certify that security property has been acquired or construction performed as previously agreed by the lender and concurred in by FmHA. The lender's responsibility in connection with construction includes but is not limited to:

(a) Compliance with applicable laws, ordinances, codes, and regulations.

(b) Adequacy of plans, specifications, and estimates.

(c) Sufficiency, quality, and rights to adequate water supply.

(d) Method of construction or development.

(e) Awarding, execution, and provisions of construction or development contracts, and bonding of contractors when necessary.

(f) Seeing that all equal opportunity and nondiscrimination requirements are met. (Refer to § 1980.41 of this Chapter.)

(g) Seeing that construction or development is performed expeditiously and properly, including inspection of sites and construction or development in various stages of completion to determine that the work and material conform with the plans and specifications and any other requirements.

(h) Limiting periodic or partial payments for construction or development to a reasonable percentage of the actual value of work and material in place.

(i) Making final payment only after final inspection has been made and the construction or development has been found proper in all respects.

(j) Ascertaining that after planned development is completed, the development is free of any claims or liens from laborers, materialmen, contractors, subcontractors, or other parties.

Administrative: A. The County Supervisor will:

(1) Determine that the construction, repair or land development has been satisfactorily completed.

(2) Forward to the lender for completion and execution by the lender, borrower and contractor, Form FmHA 449–11.

§ 1980.130 Loan servicing.

The lender is responsible for loan servicing. Refer to paragraph X of Form FmHA 449–35, Appendix B of Subpart A of this Part.

Administrative: A. While the lender has the responsibility for loan servicing and protecting the collateral, the County Supervisor is responsible for seeing that required servicing is properly accomplished. Loan servicing is a preventive rather than a curative action. Prompt followup on delinquent payments and early recognition and solution of problems are keys to resolving many delinquent loan cases.

B. *The County Supervisor will:* (1) Make timely investigations during acquisition or development and at least annually thereafter to determine whether any security property that was to be acquired or constructed after issuance of the Loan Note Guarantee has been acquired or constructed, and whether the guaranteed loan is being properly serviced. If a problem develops the County Supervisor will promptly contact the lender to resolve it.

(2) Review all borrowers financial statements furnished by the Lender and will take the appropriate servicing action reminding the lender of his servicing responsibilities. Refer to paragraph X of Form FmHA 449–35.

(3) Immediately contact the District Director when notified by the lender of borrower's failure to fulfill any conditions of the loan approval conditions to determine the action to be taken.

(4) Notify the District Director in writing upon receipt of notice from the lender when any guaranteed loan is delinquent more than 30 days or when the loan otherwise appears to be developing into a problem case. Refer to paragraph XI of Form FmHA 449–35.

(5) Establish an office management system for guaranteed loans in accordance with guidelines available in all FmHA offices (FmHA Instruction 405.1) to insure timely followup on all required financial statements, and any special requirements for loan servicing conditions.

(6) Notify the Finance Office when the lender makes any protective advances.

(7) Submit to the Finance Office annually, immediately after June 30 of each year, the lender's statement required in paragraph X C 10 of Form FmHA 449–35, reflecting the unpaid principal balances on the loan.

C. *District Director will:* (1) Assure that the County Supervisor carries out his duties properly.

(2) Accompany the County Supervisor on initial field visits to the borrower's place of business and at least annually thereafter. Such visits should be coordinated with the lender.

(3) Provide guidance and assistance to the County Supervisor if a loan develops into a problem case.

(4) Review all Field Visit Reports and make recommendations or comments and transmit them to the State Director, if necessary.

D. *FmHA servicing authorizations.* For loans in amounts not in excess of their loan approval authority, FmHA officials are authorized to approve or concur in:

(1) Alterations in the loan approval conditions which will not prejudice the Governments' interest.

(2) Any replacement or collateral for the loan.

(3) All lien coverage and lien priorities on the collateral established by the lender before issuance of the Loan Note Guarantee.

(4) Any deferment and reamortization of the loan in concurrence with the lender.

(5) Use of proceeds from disposition of collateral meeting the provisions of paragraph X of Form FmHA 449–35.

E. *National Office assistance.* State Directors may consult with the National Office on any servicing problem, and if it cannot be handled at the State level, the file will be forwarded to the National Office with proposed recommendations.

§§ 1980.131–1980.135 [Reserved]

§ 1980.136 Protective advances.

Refer to paragraph XIII of Form FmHA 449–35.

Administrative: A. It is not intended that protective advances be made in lieu of additional loans.

B. The County Supervisor is authorized to approve all protective advances and will consider the following when approving such advances:

(1) The total amount of outstanding advances, the amount of those for which approval is requested, the outstanding loan balance, whether the account is current, and, if not, the extent of the delinquencies.

(2) The borrower's ability to pay the remaining loan balance and any future advances in accordance with the existing repayment schedule.

§§ 1980.137–1980.138 [Reserved]

§ 1980.139 Termination of Loan Note Guarantee.

Refer to paragraph 12 of Form FmHA 449–34.

Administrative: The County Supervisor will advise the Finance Office when a Loan Note Guarantee is terminated.

§§ 1980.140–1980.144 [Reserved]

§ 1980.145 Defaults by borrower.

(a) Refer to paragraph XI of Form FmHA 449–35, Appendix B of Subpart A of this Part.

(b) The lender will arrange with the County Supervisor a meeting with the borrower to resolve the problems.

(c) A memorandum of the meeting, a list of the individuals who attend, a summary of the problem and proposed solutions will be retained in the lender's loan file and a copy will be submitted to the County Supervisor.

Administrative: A. The County Supervisor monitoring the loan will coordinate and process any request for FmHA to purchase when the holder(s) are located in close proximity to the local lender. If several holders are located outside the area, the State Director will handle the transaction and notify the County Supervisor.

B. The County Supervisor will review the material submitted, verify the amounts due the holder(s), and transmit the request by memorandum to the State Director. Copies of evidence of ownership will be included. Any original evidence of ownership will be retained in the County Office. A proposed payment date will be established in order to calculate the interest due the holder(s).

C. The County Supervisor will verify the amounts payable to the holder and assure that all necessary material has been obtained. The County Supervisor will request a check to pay the holder(s) on the appropriate date entry form. The Finance Office will forward the check within 10 days after receipt of the request.

D. Any evidence of ownership retained in the County Office will be considered in any future report of loss calculations. A record of any purchase will be maintained in the loan file.

§ 1980.146 Liquidation.

Refer to paragraph XII of Form FmHA 449–35.

Administrative: A. District Director determines which FmHA personnel will attend meetings with the lender.

B. *Form FmHA 449–35, paragraph XII B.* FmHA will exercise the option to liquidate only when there is no reason to believe the lender's liquidation plan will likely not result in maximum recovery. District Directors are authorized to approve lender liquidation

plans or exercise the FmHA option to liquidate.

C. *Form FmHA 449-35, paragraph XII D.* County Supervisors are responsible for seeing that the lender complies with the requirements of paragraph X-II D. The concurrence of the District Director will be necessary before the County Supervisor may accept the accounting reports as submitted by the lender before submission of such reports to the lender when FmHA is conducting liquidation.

D. *Form FmHA 449-35, paragraph XII E 2.* County Supervisors are authorized to accept Report of Loss determinations on Form FmHA 449-30 "Loan Note Guarantee Report of Loss," in those cases where loss will not exceed $35,000; District Directors for loss not to exceed $100,000; and State Directors for all others. The State Director will submit Form FmHA 449-30 to the Finance Office for payment of any losses. The Finance Office will forward loss payment checks within 10 days of the receipt of the request to the County Supervisor for delivery to lender.

E. *Form FmHA 449-35, paragraph XII E 3.* Final loss payments will be made within the 60 days required but only after a review has been made to assure all collateral for the loan has been properly accounted for. State Directors are responsible for seeing that such reviews are accomplished in time to be evaluated and accepted or otherwise resolved within the 60-day period. County Supervisors may conduct such reviews when the loss does not exceed $35,000; District Directors $100,000; and State Directors for amounts not to exceed their loan approval authority. All reviews involving losses in excess of the amounts equal to the State Director's loan approval authority will be submitted to the National Office for review. If the State Director wishes National Office assistance in the conduct of any review, he may so request.

§ 1980.147 Graduation.

(a) All borrowers will be advised that their loans will be reviewed for "graduation" by the lender and FmHA, 5 years (for OL and EM loans for operating purposes or 10 years for FO, RL, SW, and EM loans for real estate purposes) after they are received and every other year thereafter. They will also be advised that they are required to refinance if other credit is available even though their loans have not fully matured.

(b) When the lender and/or FmHA determine that the borrower is clearly eligible to graduate to conventional credit without a guarantee and the borrower is so informed and given adequate time to graduate, but refuses to do so, the lender will accelerate the loan and carry out liquidation proceedings against the borrower.

Administrative: A. The County Supervisor:

1. Is responsible for seeing that the graduation policies are carried out.

2. Should contact the District Director if further assistance is needed.

§§ 1980.148–1980.152 [Reserved]

§ 1980.153 FmHA forms.

Refer to § 1980.83 of this Chapter.

§ 1980.154 Memorandas of Understanding or other items.

The following items also apply to this Subpart.

(a) FmHA and Extension Service (Subpart B of Part 2000).

(b) FmHA and SCS (Subpart D of Part 2000).

(c) FmHA and SCS, ASCS, and FCIC (Subpart M of Part 2000).

(d) FmHA and FCIC (Subpart N of Part 2000).

(e) FmHA and Farm Credit Administration (Appendix I to Subpart A of Part 1821 of this Chapter; FmHA Instruction 443.1, Exhibit A).

(f) FmHA and SBA (Appendix II to Subpart A of Part 1832 of this Chapter and Subpart O of Part 2000 of this Chapter; FmHA Instruction 441.2).

(g) FmHA and FDAA (Appendix I to Subpart A of Part 1832 of this Chapter; FmHA Instruction 441.2).

(h) FmHA and ASCS (Appendix III to Subpart A of Part 1832 of this Chapter; FmHA Instruction 441.2).

General Administrative: A. *Office of the General Counsel (OGS):* In performing the FmHA functions with respect to Farmer Program loans, the advice and assistance of OGC may be sought and followed on any legal matter. However, in loan making, it is the responsibility of the lender to ascertain that all requirements for making, securing, and servicing the loan are duly met. If FmHA has any questions concerning the lender's resolution of these matters, it should consult with OGC.

B. *Delegation of authority:* The State Director may delegate to his staff those administrative duties and responsibilities stipulated in the Administrative sections of this Subpart.

§§ 1980.155–1980.169 [Reserved]

§ 1980.170 Emergency loans.

This section contains procedures for all Emergency (EM) loans guaranteed by the FmHA.

(a) *Objectives.* The basic objectives of EM loan guarantees are to provide financial assistance to eligible farmers, ranchers, and aquaculture operators to cover losses, make major adjustments, pay operating expenses, and provide for other essential needs so that they may maintain sound farming, livestock, or aquaculture operations. No ceiling has been established on the size of operations that may be financed with EM loans or on the size of loans that may be made.

(b) *Eligibility.* To be eligible for a guaranteed EM loan, an applicant must:

(1) Be unable to obtain sufficient credit elsewhere to finance his actual needs at reasonable rates and terms taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time. The applicant's equity in real estate, chattels, and other assets will be considered in determining his ability to obtain such credit from other sources without a guarantee. For partnerships or corporations, the principal partners or principal stockholders, either individually or collectively, must be unable to obtain the required funds with their own resources or with credit obtained by them from other sources. Any partner or stockholder owning or controlling a 20 percent interest in a partnership or a corporation's stock is considered a principal partner or stockholder. If no partner or stockholder owns or controls at least a 20 percent interest, all partners or stockholders will be considered as principal partners or stockholders. The facts concerning the findings in either case must be documented.

(2) Be a citizen of the United States, if an individual. If a partnership, the partner who manages the farming, ranching, or aquaculture operation must be a citizen of the United States and the other partner(s) must be either a citizen(s) of the United States or reside in the United States after being legally admitted for permanent residence or on indefinite parole. If a corporation, the corporation must be incorporated under the laws of the United States or any State thereof, and the stockholder who manages the farming, ranching, or aquaculture operation must be a citizen of the United States, and more than 50 percent of the outstanding stock in the corporation must be owned by citizens of the United States. If any of the corporation's stock is owned by non-citizens they must reside in the United States after being legally admitted for permanent residence or on indefinite parole. Also, the corporation must be authorized to conduct farming operations in the State in which the farming operation is conducted.

(i) One or more of the following sources of information should be used in determining whether applicants qualify for EM loans as a partnership.

(A) Written partnership agreements that set forth the farming arrangements and ownership of property before the start of operation.

(B) Agricultural Stabilization and Conservation Service (ASCS) County Office Records.

(C) Local bank and Production Credit Association records.

(D) Invoices and receipts showing purchase of farm supplies, livestock, and machinery.

(E) Records or receipts from sale of farm production products or commodities.

(F) Written farm rental agreements.

(G) Income tax returns and personal property tax records.

(H) Financial statements.

(ii) When an EM loan is made to a corporation or partnership, only one EM loan can be made to the entity constituting the farming operation. However, an individual stockholder or partner may obtain a separate EM loan to cover losses in a *separate farming operation* which he is conducting as an individual on a different farm tract.

(iii) Individual members of a partnership will not receive individual loans to finance their interest in the joint or partnership farming operation. The partnership will be considered for one loan to cover the loss in its farming operation. If the members of a partnership change after the disaster, the new partnership may be considered for a loan

provided no substitutes other than heirs or remaining partners are involved.

(3) Be an established farmer doing business as an individual, partnership, or corporation, either as an owner-operator or tenant, who manages the farming operations. If the applicant is a partnership or corporation, it must be engaged primarily in farming operations and the operation(s) must be managed by one of the partners or stockholders. An applicant who does not devote full time to his farming operation may be considered as the manager provided he (or the managing partner or stockholder) visits the farm at sufficiently frequent intervals to exercise control and see that the operations are being carried on properly pursuant to his direction. Any operation that involves a full-time hired manager or management service does not qualify regardless of the number of visits made.

(4) Operate in a county or counties in which EM loans are authorized to be made under:

(i) A designation by the Federal Disaster Assistance Administration (FDAA) pursuant to a Presidential declaration of a major disaster or emergency.

(ii) A natural disaster designated by the Secretary of Agriculture.

(iii) A State Director's authorization when 25 or less farmers, ranchers or aquaculture operators are substantially affected by the natural disaster.

(5) Have suffered qualifying production losses or property damage in a declared or designated county or counties. Such losses or damages must be a direct result of the qualifying disaster and the losses or damages must have occurred during the incidence period. A statement of loss or damage will be obtained from the applicant on Form FmHA 441–22, "Certification of Disaster Losses."

(i) For production losses the applicant must have actually suffered at least a 20 percent loss of a normal per acre production or animal production in one or more basic single farming enterprises as a direct result of the designated disaster. Compensation for losses to an enterprise from a disaster through Insurance or Government program(s) benefits which the applicant is not obligated to repay reduces the applicant's actual loss by the amount of such compensation for purposes of this 20 percent loss test. Losses to farming enterprises located in a county or counties which have not been designated cannot be used in determining the amount of the loss. However, production in a non-designated county(ies) must be included in the computation of normal year's production as part of the total farming operation. Production loans will be shown on Form FmHA 441–22 in accordance with the FMI.

(ii) Physical damages or losses, not compensated by insurance or otherwise, to farm dwellings including home equipment, furnishings, personal possessions, farm service buildings, and facilities, land and water resources, farm supplies including harvested or stored crops, and livestock essential to normal farm operations qualify an applicant for a loan to repair, replace, or restore such property or to reimburse the applicant for costs incurred for such purposes. Physical losses in a non-designated county(ies) are not eligible for a EM loan. Sheet erosion does not qualify as a physical loss. The physical losses will be shown on Form FmHA 441–22.

(6) Show an intent to continue operations after the disaster. Those applicants who may have stopped temporarily because of the disaster loss or damage to their operation but intend to continue with EM loan assistance will be considered to meet this requirement.

(7) Possess the legal capacity to contract for the loan.

(8) Have the character, managerial competence, ability, industry, and experience necessary to carry out the proposed farming operations to assure a reasonable prospect for success with the assistance of the loan, and will honestly endeavor to carry out the undertakings and obligations required in connection with the loan.

(c) *Determining losses and maximum amount of loan for actual losses.* (1) *Production loss.* To determine eligibility for a loan based on production losses, the lender must determine first which single enterprises are basic enterprises (Refer to § 1980.106(b)(9)(i)). Production loss is defined as a reduction in the normal level of production of crops, livestock, or acquatic organisms. Livestock increases (i.e., calves, pigs, etc.) are considered in determining production. Reductions in the production of livestock products due to losses resulting to crops to be fed to or pastures to be grazed by livestock will not be considered as production losses when feed is available for purchase, regardless of the cost of the feed. When the disaster has severely disrupted the usual feeding pattern of a livestock enterprise because of an extended utility failure or inaccessability to the livestock, a loss in production (i.e. milk, eggs, weight loss, etc.) may be calculated based on the reduction from normal production for the disruption period and the period needed to bring production to the normal level. When the gross farm income has been determined and one or more basic enterprises (as defined in § 1980.106(b)(9)(i)) has suffered at least a 20 percent loss of normal production for the disaster year, the amount of the production loss can be determined by subtracting the disaster year's gross income from the normal gross income and/or adding to that result the amount of any losses resulting to crops to be fed to or pastures to be grazed by livestock determined as provided in § 1980.170(c)(1)(iv) to establish the amount of actual loss which will establish the maximum production loss loan. All calculations will be recorded by the lender on Form FmHA 441–26. Any claims for production losses that seem to be unreasonable will be checked carefully.

(i) Normal year's production will be determined on the basis of the per acre or animal production for the highest 4 out of 5 years immediately preceding the year in which the disaster occurred. The applicant may select and eliminate one year out of the 5 years immediately preceding the disaster and the average of those remaining 4 years will be his normal year's production.

(A) Such production will be that as provided by the State Crop and Livestock Report Service, State Statistical Office of the Statistical Reporting Service (SRS) or similar State or Federal body. When such information is published by county, county averages will be used. If published only in a State, the State average shall be used.

(B) In those States where neither a county or State average is published, the State Director, with the advice of representatives of other Federal and State agricultural agencies, will establish and advise county offices by state instruction of the county averages.

(C) If an applicant presents factual records for at least 4 of the 5 years immediately preceding the disaster which results in a higher normal production than that in paragraphs (c)(1)(i) and (c)(1)(i)(A) of this section, the higher production may be used in calculating the loss.

(ii) The normal gross farm income will be calculated by multiplying the acreage of crops or number of livestock, or both, which constituted the farming operation during the disaster year by the average yield per acre or units of production for each farming enterprise as determined in paragraph (c)(1)(i) of this section and by the average market price for the commodity as established by the State Director. The State Director will prepare and distribute to all County Offices, a list of the average market price for commodities during the past calendar year, if available, or otherwise use the crop year or harvest season average market price. These prices will be based on the State Crop and Livestock Report Service, State Statistical Office of the Statistical Reporting Service or similar State or Federal body. The County Supervisor will provide lenders with these prices. The lender will total each single enterprise separately and then add together to determine the applicant's normal gross farm income.

(iii) Gross income for the disaster year will be calculated by multiplying: the same acreages and/or number of livestock used in the calculation in paragraph (c)(1)(ii) of this section by the actual or estimated yields (this estimate cannot be greater than his established normal) per acre or units of production for each crop and farming enterprise conducted in the disaster year by the average market price as established in paragraph (c)(1)(ii) of this section.

(iv) Losses to crops to be fed to and pastures to be grazed by livestock will be determined as follows:

(A) Production history for crops to be fed to livestock will be established by using the county average for the previous 5 years provided by the State Crop and Livestock Report Service, State Statistical Office of the Statistical Reporting Service (SRS) or similar State or Federal body unless the applicant has records which prove higher production than such

average. To establish normal production, the applicant will select the county averages (or his actual production if he supplies records) for the highest 4 out of 5 years immediately preceding the disaster. He will then multiply the number of acres grown for crops to be fed to livestock during the disaster year by the average yield for the 4 years by the unit price as established by the State Director to establish the normal year's gross dollar value of feed produced for livestock. He will then subtract the disaster year's gross dollar value of feed produced for livestock from the normal year's gross dollar value of feed produced for livestock to obtain the disaster year's gross dollar loss. Disaster year's gross dollar value of feed produced for livestock is determined by multiplying the acres of feed produced for livestock in the disaster year by the disaster year yield per acre by the unit price. The difference between normal year's production and disaster year's production represents the total dollar loss to crops to be fed to livestock for which the applicant is entitled.

(B) In calculating losses to pasture to be grazed by livestock either the established seasonal or yearly price per acre for rent for normal pasture or the usual seasonal or yearly charge per head or animal unit may be used. The method used should be established by the State Director to assure uniformity throughout the State. In either case, the gross dollar value for a disaster year is subtracted from the gross dollar value of a normal year to determine the gross dollar loss for the disaster year. The gross dollar value of pasture for a normal year is determined by multiplying the number of acres grazed in the disaster year by the average rental charge per acre for the highest 4 out of 5 years immediately preceding the disaster or by multiplying the number of animal units grazed in the disaster year by the average charge per head or animal unit for the highest 4 out of 5 years immediately preceding the disaster. If the rental rate per acre is used for the disaster year, multiply the number of acres by the established normal rental charge by the percentage pasture loss to arrive at disaster year gross dollar value. If animal units are used, multiply the animal units grazed by the rental charge per animal unit by the percentage of pasture loss to arrive at disaster year gross dollar value. The percentage pasture loss will be determined by dividing the number of months in which livestock could not be grazed because of damage to pasture resulting from the disaster by the number of months in the normal grazing season.

(v) When an applicant was able to plant all or a portion of his normal crops during the disaster year, the production for that portion of the planted crops will be shown as zero on Form FmHA 441–22 if no part of the crop can be harvested, and provided that a substitute or different crop could not be planted.

(vi) When an applicant is unable to plant all or a portion of his normal crops, including feed crops, or is unable to produce all or a portion of the normal perennial crops already growing such as fruits and nuts (due to the disaster) such applicant will have the choice of having the loss treated as a physical loss (see § 1980.170(c)(2)(vii), or as a production loss. If the applicant desires to consider it a production loss, the production loss will be calculated as follows: The amount of disaster production loss will be calculated by determining the normal gross farm income in accordance with § 1980.170(c)(1)(ii) and then adding together any income that may be derived from the disaster affected enterprise(s) and the variable and fixed costs which will not be incurred because of the disaster and subtracting this combined figure from the normal gross income. Such costs will be derived from current crop enterprise budgets prepared by State Agricultural Extension Service economists which are based on normal farming conditions in the designated disaster area.

(vii) When acreage for crops that were destroyed by a qualifying disaster are replanted with a substitute crop during the same crop year, the substitute crop's income will be subtracted from the normal year's income in arriving at the disaster year's income loss.

(viii) When an applicant elects to sell livestock at an earlier date or lighter weight than usual rather than purchase feed to replace that lost as a result of the disaster, the difference between the sale price and an estimate of what the sale price would have been if the livestock had been fed for the normal period may not be claimed as a loss.

(ix) When the loss from the disaster is due to a reduction in quality that can be substantiated, rather than production, the applicant will be given credit for his loss by adjusting actual production downward to compensate for any loss in value resulting from poor quality.

(x) Claims of production losses from the applicant will be verified by the lender and FmHA when the applicant's claims appear to be unreasonable.

(2) *Physical loss.* This is damage to or destruction of physical property including farmland (except sheet erosion); structures on the land such as buildings, fences, dams, etc.; machinery, equipment, and tools; basic livestock; crops; and supplies; (and actual expenses incurred for crops not planted or to be replanted). As a general rule, losses of a physical nature will be shown by the applicant on Form FmHA 441–22 by indicating the actual loss as the market value of the property at the time it was lost or damaged by the disaster; except that in case of repair or restoration, the actual cost of such repair or restoration may be used provided it does not exceed the market value of the property at the time of the disaster. The amount of loan made for this purpose will be determined as follows:

(i) For basic livestock, the market value of the livestock lost at the time of the disaster will be considered the actual loss.

(ii) For farm dwellings for the operator and existing labor, the amount of actual loss will be the lesser of the amount required to permit the repair or replacement of the dwelling with one of like quality and size, as necessary to meet local codes and to provide permanent, adequate but modest, decent, safe, and sanitary living conditions for the family or the market value of the property at the time it was damaged or destroyed. If the financing required exceeds the actual loss, a loan for any amount above the actual loss will bear interest at the market rate.

(iii) For farm service buildings and farm real estate other than buildings, the amount of the actual loss will be an amount sufficient to permit the repair or replacement of the damaged property with a building or property of like quality and capacity that will meet local codes and be adequate to meet the needs of the farming operation provided the cost does not exceed the market value of the property at the time of the disaster. If the financing required exceeds the actual loss, the amount in excess of the actual loss may be loaned at the market rate.

(iv) For supplies on hand, harvested or stored crops, and livestock products lost or destroyed by or as a result of the disaster the market value at the time of the disaster will be considered the actual loss.

(v) The actual physical loss to income producing trees will be the cost of removing the damaged or destroyed trees, clearing debris, preparing the land for replanting, the cost of suitable replacement trees, and other necessary expenses to re-establish the income producing trees.

(vi) The actual physical loss to crops or pasture will be the cost of cleaning debris, preparing the land for replanting, seed, fertilizer, and other expense necessary to re-establish the crops or pasture whether or not such costs exceed the market value of the crop or pasture at the time of the disaster.

(vii) When an applicant that is unable to plant a crop during the disaster year (due to the disaster), desires to have the loss treated as physical loss, the loan will be limited to the cost of land preparation and other expenses incurred to the date of the disaster for the crop(s) that could not be planted except that a pro rata share of fixed costs such as rent, taxes, and insurance charged to the total operation will be included. Since an EM loan will be used to cover the applicant's actual losses sustained, the County Supervisor will request an itemized list from the applicant verifying the claimed expenditures incurred in the disaster year for those enterprises for which disaster losses are claimed. This portion of the EM loan will be limited to the amount of expenditures that are shown on the list and will be a physical loss. In all cases, the applicant must furnish a signed statement itemizing all expenditures he claims were incurred in the disaster year. The County Supervisor will document his verification in the applicant's case file.

(3) *Compensation to FmHA for losses.* Compensation for losses from a disaster

through insurance or government program(s) benefits reduces the applicant's actual loss by the amount of such compensation and this reduces the amount of the EM actual loss loan. The amount of any benefits from ASCS programs including the Emergency Livestock Feed Program (LFP), Emergency Conservation Measures (ECM) payments, Sugar Abandonment or Deficiency payments, and Disaster payments will be considered as compensation for losses. Also, the amount of any crop, livestock or livestock product physical loss loan must be deducted from any production loss loan based on losses to the same enterprise(s) for which an applicant later qualifies.

(d) *Loan purposes.* EM loans may be guaranteed for the following purposes:

(1) *Actual loss loans.* (i) Loans may be made to applicants for the amount of actual losses and expenses for disaster damaged or destroyed farm property, or production enterprises or both resulting from the disaster. Actual loss loan funds may be used for any authorized EM loan purpose. Applications for actual losses must be processed within 1 calendar year after they are filed.

(ii) EM loans will not be made to flood and mudslide victims to repair or replace damaged or destroyed farm dwellings or farm service buildings and their contents in areas where "National Flood Insurance" is available, except as authorized in Subpart B of Part 1806 of this Chapter (FmHA Instruction 426.2).

NOTE.—Refer to § 1980.42 (a) and (b) of this Chapter for flood or mudslide hazard area precautions.

(2) *Annual operating purposes.* After the initial EM loan for any purpose, five *annual* subsequent EM loans may be made for annual operating purposes, provided they are made within 5 full calendar years after the disaster, to permit the borrower to return to his normal credit sources without a guarantee. If additional disaster(s) occur(s), 5 annual subsequent loans for annual operating purposes may be made after the initial EM loan has been made for each disaster. The initial loan for annual operating purposes may be scheduled for repayment for a period up to 7 years, and if it meets the conditions of paragraph (e) (2) (i) (A) (2) it may be scheduled for repayment up to 20 years. In the event a borrower who has paid his EM loan in full is unable to obtain sufficient credit elsewhere he may obtain an EM loan for annual operating purposes to satisfy his operating needs, provided the loan is made within the first five full calendar years after the disaster. Annual loans for operating purposes may be made for:

(i) Annual production expenses and the purchase of feeder livestock, farm and other supplies including inventory, the repair or rental of equipment; and the payment of essential expenses for the operation or paying bills incurred for any items in this subparagraph for the crop or operating year being financed.

(ii) Payment of customary cash rent or cash charges for the use of essential buildings, pasture, crops, hay, land, and grazing permits or bills for such purposes for the operating or crop year being financed, subject to the following:

(A) The applicant is obligated under a written lease or other agreement to pay such rent or charges in advance of the time income will be available from the operations to make such payment. For grazing fees an invoice showing the number of livestock to be grazed, the grazing period, the cost per head and the total cost may be used in lieu of a written lease. However, when relatively small amounts of funds are involved, an invoice will not be required if the applicant's explanation of a satisfactory grazing agreement is recorded in the loan docket.

(B) Arrangements cannot be made for the rent or charges to become due when income will be available from the operations to make such payment.

(C) Not more than one year's cash rent or cash charges will be paid with loan funds in any one lease year, except that if a loan is approved near the end of the current lease year, funds for payment of such rent or charges for the succeeding lease year may be included in the loan.

(D) The terms of the rental agreement provide the applicant with reasonably satisfactory tenure.

(iii) Payment of: (A) Personal (chattel and equipment) and real property taxes due or about to become due and water or drainage charges or assessments.

(B) Applicant's share of Social Security taxes for hired labor for the operation.

(C) Premiums for insurance on real estate and personal (chattel and equipment) property including premiums for public liability and property damage insurance on farm and other essential equipment, including farm trucks. When a loan is secured by chattels and the loss of such chattels would jeopardize the interest of the Government, the lender may require the borrower to insure the chattels against hazards customarily covered by insurance in the area.

(iv) Payment of not more than a year's interest that is due or about to become due on debts secured by liens of other creditors on property essential for the farm or other income producing nonfarm enterprises located on the farm.

(v) Payment to a creditor in any one year not to exceed 20 percent of the market value of the essential farm equipment under prior lien to that creditor or 20 percent of the principal amount owed to such creditor, whichever is less.

(vi) Meeting modest family subsistence needs, including premiums on reasonable amounts of health and life insurance, and expenses for medical care or for paying bills incurred for any of these purposes during the crop year being financed.

(vii) Refinancing a modest debt that must be paid for an applicant to continue farming.

(3) *Major adjustments to the operation.* An EM loan may be made to an applicant for the following purposes to enable him to change his operation because of economic conditions and to overcome the financial difficulties caused by the disaster. The resulting operation must be one which only realizes a net farm income equivalent to that of the operation conducted before the disaster. Applications for loans may not be received for such purposes later than one full calendar year after the designation date.

(i) *Real estate purposes (Subtitle A).* The following are authorized real estate purposes:

(A) The purchase of *additional* essential real estate necessary for an effective operation provided the resulting operation will not provide more net income annually than the normal operation before the disaster. Depreciation will be disregarded in computing net income in both cases.

(B) The construction, improvement, alteration, repair, relocation, purchase or moving of essential but modest dwellings and service buildings, facilities and structures on the applicant's real estate, including the purchase and/or installation or augmentation and improvement of essential farmstead water and sewage systems, and other equipment or facilities necessary to the operation.

(C) Providing land and water development, acquiring water supplies, rights, use, and providing conservation essential to the operation. This includes but is not limited to fencing, land clearing, forestry practices, establishment and improvement of permanent hay or pasture, drainage and irrigation facilities, basic application of lime and fertilizer, and development of fish ponds, trails, and lakes.

(D) Refinancing secured and unsecured debts.

(E) Payment of reasonable expenses customary to obtaining, planning, and making the loan such as the guarantee fee, loan fee and fees for legal, architectural, and other services which are required to be paid by the borrower and which he cannot pay from other funds. Loan funds also may be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making the planned building or land improvements.

(F) Payment of the first-year premium for required insurance on buildings on the property which are to serve as security for the loan. Buildings will be insured in accordance with Subpart A of Part 1806 of this Chapter (FmHA Instruction 426.1), except when the appraisal report shows that the land alone will adequately secure the loan. However, the applicant will be encouraged to take property insurance on essential buildings to protect his own interest. Borrowers eligible for insurance under the National Flood Insurance Act of 1968 will be advised of its availability in accordance with Subpart B of Part 1806 of this Chapter (FmHA Instruction 426.2).

(G) EM loans may be made to tenants to finance real estate improvements or repairs provided:

(1) The lender determines that the applicant has reasonably secure tenure for a long enough period to enable him

to realize adequate benefits to justify the expenditures.

(2) A written lease is obtained providing for compensating the tenant for any unexhausted value of the improvement upon termination of the lease.

(3) Not more than $50,000 may be loaned to a tenant for real estate improvement, repairs, or for refinancing unsecured debts clearly incurred for such purposes.

(4) Before a loan is made for real estate improvements to a tenant, the following determinations must be made:

(*i*) EM loans will not be needed or made year after year to make substantial real estate improvements.

(*ii*) The applicant will likely continue to operate the farm for a sufficient period of time and under such terms that will enable him to obtain a reasonable return on his investment.

(ii) *Operating purposes (Subtitle B).* The following are authorized operating purposes.

(A) Purchase of livestock, poultry, fur bearing and other farm animals, aquatic organisms, bees, farm equipment, and paying costs incident to reorganizing the farming system for a sound operation.

(B) Purchase and repair of essential home equipment and furnishings, and the payment for home equipment repairs required by the applicant family to sustain itself in a reasonably satisfactory manner.

(C) Refinancing secured and unsecured debts.

(D) Purchase of milk base either with or without cows when such action is necessary to assure the borrower a satisfactory market for his dairy production.

(E) Purchase of grazing license or permit rights of private parties which can be validly sold and transferred.

(F) Augment and improve existing water supplies in order to alleviate the adverse effects of drought and other natural disasters.

(4) *General purposes.* In addition to the purposes authorized in paragraphs (d) (1), (2), and (3) of this section, loans may also include funds for:

(i) Expenses incident to loan closing.

(ii) Payment of interest-only installment(s) scheduled for the first installment due date and the second installment due date when a borrower will not otherwise be able to meet the initial interest payment(s) on his loan because income from crops, livestock, or other sources is not available.

(iii) Payment of fees, including the guarantee fee.

(e) *Interest rates and terms.* (1) The interest rate which the lender may charge borrowers obtaining EM loans for actual losses is 5 percent. The interest rate for other than actual losses will be the interest rate prevailing in the private market for similar loans as determined by the Secretary of Agriculture. The Secretary will review the interest rates periodically and may establish new rates. Lenders may ascertain the current established market rates for EM loans by telephoning any FmHA office. Interest will be charged only on the actual amount of loan funds borrowed and for the actual time the loan is outstanding. The interest rate initially established for each loan will remain constant during the existence of the FmHA Guarantee thereon. Interest on protective advances made by the lender to protect the security may be charged at the rate specified in the security instruments.

(2) *Terms of loan repayment.* (i) EM loans will be scheduled for repayment at such time and periods as the lender may determine, consistent with the purpose of the loan as set forth below, and in accordance with the useful life of the security and the reasonable repayment ability of the applicant as determined by his plan of operation. However, there must be at least an annual installment unless a deferment of principal and/or interest is authorized in accordance with paragraph (e) (3) of this section.

(A) Loan terms for actual losses to crops, livestock, supplies, harvested or stored crops, livestock products on hand, and equipment; and items financed under § 1980.170(d) (3) (ii) will be for a period not to exceed 7 years.

(*1*) When conditions warrant, installments may vary in amounts. However, the final installment will not be larger than the amount which can then be financed by the lender without a guarantee or be repaid within a renewal period of not to exceed 5 years. The applicant must be advised before the loan is closed that the lender will review each case at the end of the initial loan term and, together with FmHA will determine if a renewal is warranted. (Refer to § 1980.-124.)

(2) Loans made for actual losses to crops and other property listed in § 1980.170(e) (2) (i) (A) resulting from any disaster occurring after January 1, 1975, may be scheduled for a longer repayment period if the FmHA approval official determines the the needs of the applicant justify a longer repayment period than that scheduled for repayment within 7 years initially with a possible 5-year renewal. Such period may be approved as warranted but for not more than 20 years. Generally real estate will be needed as security when the longer repayment period is authorized. When the longer period is used, renewal is not authorized.

(ii) The terms for actual losses to real estate and items financed under paragraph (d) (3) (i) will be for a period not to exceed 40 years.

(iii) The term for loans for annual operating expenses financed under paragraph (d) (2) will be as follows:

(A) Advances for annual recurring operating expenses or for paying bills incurred for such purposes for the operating or crop year being financed will be scheduled for payment when the principal income from the year's operations normally would be received.

(B) Advances to purchase or produce feed for productive livestock or livestock to be fed for the market, or to pay bills incurred for such purposes for the crop year being financed, will be scheduled for repayment when the principal income from the sale of such livestock or livestock products can be expected.

(3) *Deferment of Installment.* When income sufficient to meet the scheduled installment will not be received by the borrower until the second or third year following the due date, the payment may be deferred to the second or third year as appropriate providing any holders agree. The lender and FmHA must agree that the borrower can reasonably be expected to pay the total debt with a deferment.

(f) *Security requirements.* The lender is responsible for seeing that proper and adequate security is obtained and maintained in existence and of record to protect the interests of the lender and FmHA.

(1) *Lien priority.* When the same lender is involved in a guaranteed loan and an unguaranteed loan, the guaranteed loan must be adequately secured by a lien on separate security property that is clearly identifiable or by a lien of a higher priority if the same property is used to secure both loans. The lender must agree in writing that the guarantee loan will be paid first.

(2) *Security for EM loans.* (i) Annual operating loans will be secured by a first lien on the crop or livestock or both, being financed with EM loan funds plus enough other security, including personal property, real estate, and crop insurance, to assure that the lender's and FmHA's financial interest will be protected. When the applicant can provide no collateral other than a first lien on crop and/or livestock production, or both, the amount of the loan will be limited to the greater of $50,000 or one-half the estimated gross farm income planned as shown on the plan of operation which will be based on normal production and prices authorized by the State Director for developing annual farm plans within the State. When an EM borrower who is indebted for an annual operating loan must have a subsequent EM operating loan during the current crop year to complete that year's farming operation and protect the Government's financial interest which is secured only by the crop, the $50,000 or 50 percent gross income requirement will not apply provided the loan is otherwise sound and proper.

(ii) Actual loss loans for the same same purposes as authorized for loans under § 1980.170(d) (3) (ii) and loans made under § 1980.170(d) (3) (ii) will be secured by a lien on sufficient equity in livestock, equipment and machinery, and other personal property if necessary to protect the lender's and FmHA's interest, plus when necessary, a lien on equity in part or all of the real estate owned by the applicant. When the applicant can provide no collateral other than a first lien on crops and/or livestock production or both, then the policy outlined in § 1980.170(f) (2) (i) will apply. If the applicant has enough equity in real estate, no additional security need be taken. A second crop lien may be taken when deemed necessary to assure repayment of the loan.

(iii) Actual loss loans for the same purposes as authorized for loans under § 1980.170(d)(3)(i) and loans made under § 1980.170(d)(3)(i) will be secured by equity in real estate. However, if there is not sufficient equity in the real estate, a lien also will be taken on personal property, plus if necessary, a second lien on the crops. An EM loan made to a tenant with a long-term lease will be secured by a lien on a transferable leasehold.

(iv) The FmHA loan approval official may make an exception to the security requirements if all of the following conditions are met:

(A) Adequate security property is not available because of the disaster.

(B) The applicant offers all available security property, some or all of which may have depreciated in value due to the disaster.

(C) The security property, and the applicant's repayment ability as assessed by the FmHA loan approval official and lender are adequate security for the loan.

(v) When an EM loan, for whatever purpose, is to be secured by a lien on real estate or a combination of real estate and chattels, the security will be considered "basic security." For all loans over $10,000 title clearance is required except that, when a reputable long-term lender has a first mortgage on the property, the search need only be made after the recordation date for such mortgage. For loans of $10,000 or less, only certification of ownership and verification of equity in real estate is required. Certification of ownership may be accepted in the form of a notarized affidavit from the applicant stating who is the owner of record of the real estate in question and acknowledging all known debts, with balances owed, against the real estate. Whenever the lender is uncertain of the ownership or debts against the real estate security, he will require title clearance.

(vi) If the real estate offered as security is held under a purchase contract, the following conditions will prevail:

(A) The applicant must be able to provide mortgageable interest in the real estate concerned.

(B) The applicant and the purchase contract holder will agree in writing that all insurance claim settlements received for real estate losses will be used in their entirety to replace or repair the damaged real estate. The applicant will renegotiate with the purchase contract holder to arrive at a new contract without any provisions objectionable to FmHA and the lender.

(C) If a satisfactory contract of sale cannot be renegotiated or the purchase contract holder refuses to apply the insurance proceeds toward the repair or replacement of the real estate losses, but chooses to retain some of the proceeds as an extra payment on the balance owed, the applicant will make every effort to refinance the existing purchase contract. If the applicant cannot obtain refinancing from another source, an EM loan will be considered to include funds to pay off the contract and improve the property. If the applicant can get the contract refinanced, an EM loan will be considered to restore the property to its predisaster condition.

(D) If the conditions provided for in paragraph (f)(2)(vi)(A), (B), and (C) of this section can be met and an EM loan is approved, it can be closed provided the lender's attorney determines that:

(1) The applicant has mortgageable interest in the property under a long term purchase contract.

(2) The purchase contract is not subject to summary cancellation on default and does not contain other provisions which might jeopardize the lender's security position or the borrower's ability to repay the loan.

(3) The contract holder will agree in writing to give the lender notice of any breach by the purchasers, and further agrees to give the lender 30 days from notice of such breach to rectify said conditions.

(vii) If any of the prior liens against real estate offered as security contain future advance provisions, or other provisions which might jeopardize the security position of the lender or the applicant's ability to meet his obligations under these prior liens and to pay the EM loan, the prior lienholders involved must agree in writing, before the loan is closed, to modify, waive, or subordinate such objectionable provisions.

(viii) In States where a prior lienholder may foreclose his security instrument under power of sale or otherwise and extinguish junior liens of private parties without giving junior lienholders actual notice, when a junior lien on real estate is to be taken as security for the loan, the prior lienholder must agree in writing to give the lender advance notice of foreclosure or assignment of the mortgage.

(ix) If essential insurable buildings are located on the property, or if new buildings are to be erected or major improvements are to be made to existing buildings, the applicant will provide adequate property insurance coverage at the time of the loan closing or as of the date materials are delivered to the property, whichever is appropriate. However, when the real estate appraisal report shows that the present market value of the land after deducting the value of buildings shown on the report exceeds the amount of the debt on the land including the loan and the owner has equity equal to or exceeding the amount of the debt including the loan, real property insurance will not be required. However, the applicant will be encouraged to obtain such insurance if he does not already have it to protect his interest. If insurance claims for loss or damage to buildings to be replaced or repaired with loan funds are outstanding at the time the loan is approved, the applicant will be required to agree in writing that when settlement is made the proceeds of such claims will be used for replacement or repair of buildings; application on debts secured by prior liens or application on the EM loan.

(x) Loan amounts borrowed for repair or replacement of personal possessions and home equipment or furnishings will be secured by a lien(s) on crops, aquatic organisms, livestock, farm machinery, essential trucks or automobiles, and/or farm real estate.

(xi) Lenders may require Federal or other types of Crop Insurance, with an assignment to the lender during the repayment period of the EM loan if such insurance is available in the county. This determination is a judgment factor and the decision should be based on the amount and type of security, other than crops, that the applicant can provide. However, when only a crop lien is taken as security for EM loans, the borrower will be required to carry Federal or other type of Crop Insurance during the repayment period of such loan(s) if such insurance is available.

(g) *Receiving applications.* (1) Applications for EM loans will be received only in designated counties.

(2) *Information needed from partnership applicant.* If the applicant is a partnership, personal financial statements will be obtained from each of the partners and included in the loan docket in addition to the partnership's financial statement.

(3) *Information needed from corporation applicant.* If the applicant is a corporation, the following additional information will be obtained and included in the loan docket.

(i) A complete list of stockholders, showing the address, citizenship, principal occupation, and the number of shares of stock held in the corporation by each.

(ii) A current personal financial statement from each of the principal stockholders. Any other stockholder whose financial statement, in the judgment of the County Supervisor or the loan approval official, would be pertinent to consideration of the financial strength of the corporation and its stockholders will also provide a personal financial statement. (Refer to § 1980.170(b)(1) for a definition of principal stockholder.)

(iii) A copy of the corporation's charter, articles of incorporation and bylaws, and a resolution(s) adopted by the Board of Directors or stockholders authorizing specified officers of the corporation to apply for and obtain the desired EM loan and execute required debt, security, and other instruments and agreements.

(iv) A copy of any lease, contract, or agreement entered into by the corporation which may be pertinent to consideration of its application.

(h) *Additional EM loan guarantees.* Guarantee of additional EM loans at the prevailing rate may be made for the same purposes and under the same conditions as an initial EM loan under the following conditions.

(1) When the applicant did not obtain a loan for the full amount of the actual loss authorized as shown by the loss statement filed, the applicant may, within 1 year after the date of the request for

Loan Note Guarantee, be considered for an additional loan, based on the initial application, for all or a portion of the loss balance not requested initially.

(2) Additional loans for major adjustments of the farming operation made under § 1980.170(d)(3) of this Subpart must be made within 1 full calendar year after the designation date.

(3) New appraisal reports for real estate will not be required if the appraisal report in the file is not over 3 years old unless the approval official requests a new appraisal report. Any changes in the value of real or chattel security will be recorded, dated, and initialed by the authorized appraiser on the appropriate appraisal reports in the file.

Administrative: The County Office will make reports in accordance with guidelines for reporting EM loan disaster activity in all FmHA offices (FmHA Instruction 492.7) except as follows:

A. Receipt of Form FmHA 449-12, "Request for Loan Note Guarantee," from the lender will be shown in item 1 of Form FmHA 492-7, "Report of EM Loan Applications," as a loan approved.

B. Signing of the Loan Note Guarantee will be shown in item 2 of Form FmHA 492-7 as a loan approved.

C. If the guarantee cannot be approved, item 3 on Form FmHA 492-7 will show this as a rejected application.

D. Receipt of Form FmHA 449-12 before the signing of the Loan Note Guarantee will be shown in item 4 of Form FmHA 492-7 as an unprocessed EM application.

E. Where security property will be taken under the conditions of § 1980.170(f)(2)(iv), the FmHA official will determine whether an insured loan will be made to the applicant instead of a guaranteed loan.

F. The County Supervisor will give written notice to eligible lenders in his service area when FmHA will guarantee loans. This notification will specify the type of disaster, the designated county or counties, the termination date for receiving EM loan applications, the incidence period for the disaster, and the Disaster Designation Number.

§§ 1980.171–1980.174 [Reserved]

§ 1980.175 Operating loans.

(a) *Objectives.* The basic objective of an Operating loan is to provide the credit necessary for eligible family farmers, ranchers and rural youths to conduct successful operations.

(b) *Eligibility.* To be eligible for an Operating loan each applicant must:

(1) Be a citizen of the United States.

(2) Possess the legal capacity to incur the obligations of the loan.

(3) Have a farm background and sufficient experience or training to assure reasonable prospects of success. (Except for youth loans)

(4) Have the character, managerial competence, ability, and industry to carry out the proposed enterprise and obligation.

(5) Be unable to obtain sufficient credit elsewhere to finance his actual needs at rates and terms he could reasonably expect to meet, taking into consideration prevailing private and cooperative rates and terms in the community in or near which he resides for loans for similar purposes and periods of time.

(6) Be an individual owner operator or tenant operator of not larger than a family farm after the loan is closed. (Except for youth loans)

(7) Rely on farm income for a reasonable standard of living after the loan is closed. (Except for youth loans)

(c) *Special cases.* (1) If they are otherwise eligible, individuals jointly engaged in farming, recreation and nonfarm enterprises may obtain an Operating loan under the following conditions:

(i) A joint loan not to exceed $50,000 may be made to two eligible applicants to operate not larger than the equivalent of one family farming operation. For a joint loan, both individuals wil lexecute all documents required to be signed for the loan.

(ii) Separate loans may be made to eligible applicants engaged in an operation, provided not more than three individuals have an interest in the operation; the operation provides the equivalent of not larger than one family farming operation for each individual; and the amount of the loan to each individual does not exceed $50,000. Each individual will execute separate documents.

(2) Although a partnership is ineligible for a loan, individual applicants are not ineligible because they are partners, even though title to property may be vested in the partnership and the farming operations are conducted by the partnership. Separate loans will not be made to individual members of a partnership. A joint loan not to exceed $50,000 may be made to not more than three partners as individuals provided:

(i) The applicants are the only partners and each member of the partnership is an eligible applicant.

(ii) The partnership is not engaged in any other business or enterprise other than operation of the farm.

(iii) Personal participation in the management of the farming operations by the applicants meets the conditions that would be required for a loan to them if the partnership did not exist.

(iv) The financial resources and borrowing capacity of the partnership are treated as the financial resources and borrowing capacity of the individual partners in determining whether they can obtain the necessary credit elsewhere.

(v) The note, mortgages, and any other required instruments are executed by the partnership as well as by all the partners as individuals as necessary to close the loan and obtain the desired liens and liability.

(3) If otherwise eligible, rural youths may obtain an Operating loan under the following conditions:

(i) Rural youth applicants include persons who have reached the age of 10 but have not reached the age of 21 and do not reside in any area, city or town than has a population of more than 10,000 inhabitants.

(ii) Loans made to rural youths must be recommended by their project advisors who are 4-H club advisors, vocational agricultural teachers, home economics teachers, county extension agents, or similar sponsors or advisors. In addition, youths who have not reached their majority under State law must obtain the written recommendations of their parent or guardian. All recommendations will be filed with the application in the County Office case file.

(iii) Youth loan funds will not be dispersed until the Loan Note Guarantee is executed by FmHA.

(d) *Loan purposes and limitations.* (1) Loan purposes. Loans may be made for farm, recreation, forestry and nonfarm enterprises or modest rural youth projects for the following purposes, when such purposes are essential to the operation:

(i) Purchase of livestock, poultry, fur bearing and other farm animals, fish, birds, bees, tools, inventories and equipment.

(ii) Purchase of an undivided interest in the items included and paragraph (d)(1)(i) of this section which would be operated under a joint arrangement or as a group service.

(iii) Payment of annual production expenses.

(iv) Payment of family living expenses.

(v) Refinancing debts. The amount advanced for refinancing will not exceed the value of the property which will serve as security for the loan, less any prior liens not to be refinanced.

(vi) Purchase of membership and stock in cooperatives.

(A) Purchase of membership or stock in farm purchasing, marketing, and service-type cooperative association, including a grazing association, to help provide capital for improvement of services to farmer members.

(B) Purchase of membership or stock in recreation or other nonfarm purchasing, marketing, service or promotional type cooperative association organized to produce additional income for its members.

(C) Loans will not be made for membership in production cooperative associations or in associations that will acquire, lease, or improve land not otherwise under the control of the members.

(vii) Purchase and repair of essential home equipment.

(viii) Purchase of milk base or milk quota with or without cows.

(ix) Up to $3,500 in a fiscal year for real estate improvement, repairs or for refinancing unsecured debts clearly incurred for such purposes. In unusual cases, loans above $3,500 may be forwarded to the National Office for consideration. The following determinations must be made before an Operating loan is made for real estate improvements:

(A) An Operating loan will not be needed or made year after year for this purpose.

(B) A real estate loan would not be better suited for needed improvements.

(C) The applicant will likely continue to operate the farm for a sufficient period of time and under such terms to obtain reasonable returns on the investment.

A tenant must have reasonably secure tenure for a sufficient period to realize adequate benefits to justify the expenditures.

(D) Funds used for real estate purposes will be planned and developed in accordance with §1980.129.

(x) Payment of an amount to a creditor in any one year not to exceed 20 percent of the appraised market value of the essential farm and nonfarm equipment under prior lien to that creditor, or 20 percent of the amount owed to such creditors, whichever is less.

(xi) Purchase of franchise, contract, or privilege when necessary to the operation of the planned enterprise.

(xii) Partial payment on grain or other storage and drying facilities when the Commodity Credit Corporation, through the Agricultural Stabilization and Conservation Service (ASCS), is providing the rest of the credit under the Commodity Credit Corporation Farm Storage and Drying Equipment Loan Program.

(2) Loan limitations. The total outstanding Operating loan principal balance may not exceed $50,000 at loan closing. The amount of each loan will be limited to the applicant's needs and ability to pay. Loans may not be made for the purchase of real estate, making principal payment on, or refinancing any debts incurred for the purchase of real estate. In addition, loans may not be made to pay land lease costs under any program other than cash rent.

(e) *Rates and terms.* (1) The interest rate to borrowers is fixed pursuant to statutory formula. FmHA will determine the rate periodically. However, the rate initially established for each loan will remain constant during the existence of the FmHA guarantee. The lender may ascertain the rate by telephoning any FmHA office. Interest will be charged only on the actual amount of funds loaned and for the actual time the loan is outstanding. Interest on protective advances made by the lender to protect the security may be charged at the rate specified in the security instruments.

(2) Loan installments will be determined as follows:

(i) Advances for annual recurring production expenses or for paying bills incurred for such purposes for the production or crop year being financed ordinarily will be scheduled for payment no later than one year following the date of the promissory note.

(ii) Advances for purposes other than those for annual production expenses will be scheduled for payment over the minimum period necessary considering the applicant's ability to pay and the useful life of the security for the loan.

(iii) When conditions warrant, installments scheduled in accordance with paragraph (e) (2) (ii) of this section may include equal, unequal, or balloon installments, as appropriate to the borrower's financial situation.

(iv) When income sufficient to meet the scheduled installment will not be received by the borrower until the second or third year following the due date, the payment may be deferred to the second or third year as appropriate providing any holder(s) agree. The lender and FmHA must agree that the borrower can reasonably be expected to pay the total debt with a deferment.

(v) The final maturity of the loan cannot exceed 7 years from the date of the promissory note.

(f) *Security.* The entire loan must be secured by a first lien on all property or products acquired, produced, or refinanced and by any additional security needed to adequately secure the loan. Such additional security may consist of the best lien obtainable on real estate or other property. In justifiable cases the loan approval officials may require a cosigner for youth loans.

(g) *Other considerations.* (1) Applicants will be advised by the lender that they are expected to comply with any applicable special laws and regulations.

(2) Applicants receiving loans for a nonfarm enterprise will be advised of the possibilities of incurring liability and encouraged to obtain public liability and property damage insurance.

§§ 1980.176–1980.179 [Reserved]

§ 1980.180 Individual Farm Ownership (FO), Soil and Water (SW), and Recreation (RL) loans.

(a) *Objectives.* The basic objectives of the FmHA in guaranteeing FO, SW and RL loans are:

(1) For FO loans—To assist eligible farmers and ranchers to become successful owner-operators of not larger than family farms.

(2) For SW loans—To encourage better conservation and use of soil and water resources on farms and ranches.

(3) For RL loans—To assist eligible owners or tenants to convert all or a portion of their farms or ranches to outdoor income-producing recreation enterprises.

(b) *Eligibility requirements.* To be eligible for an FO, RL, SW, or any combination thereof of an applicant must:

(1) For FO and RL loans—Be a citizen of the United States.

(2) For FO, SW, and RL loans—Possess the legal capacity to incur the obligations of the loan.

(3) For FO and RL loans—Have a farm background (except for veterans) and sufficient experience or training to assure reasonable prospects of success.

(4) For FO, SW, and RL loans—Have the character, managerial competence, ability, and industry to carry out the proposed enterprise and obligation.

(5) For FO, SW, and RL loans—Be unable to obtain sufficient credit to finance his actual needs at rates and terms he could reasonably expect to meet, taking into consideration prevailing private and cooperative rates and terms in the community in or near which he resides for loans for similar purposes and periods of time.

(6) For FO, SW (Individuals), and RL loans—For FO loans be an individual owner-operator of a family farm after the loan is closed. For SW be a farm owner or operator. For an RL be an individual owner or operator regularly engaged in farming at the time of application, and be the manage and operator of the recreation enterprise after the loan is made. Loans may be made to other than individual owners or operators under the following circumstances:

(i) Whenever it is not feasible to divide the land into family farms with individual ownership, a loan may be made to two applicants constituting a family group such as father-son, mother-son or grandfather-grandson who own or will own a farm jointly and conduct a joint operation if each of the applicants is individually eligible and the family group likewise meets all eligibility requirements, provided that for FO loans the total operation will not be larger than a family farming operation. The participation of a member of such family in the operation without an ownership interest in the farm is not prohibited, but the responsibility of management must be in the owner or owners. In any case, it must be determined that because of previous experience in working together, such a family group likely will succeed in the proposed joint farming operation. All joint owners of the land will execute all loan forms.

(ii) A loan may be made to an eligible applicant who will own a farm and will conduct a joint operation with another individual or individuals provided that:

(A) Not more than three individuals have an interest in the operation.

(B) Because of previous experience in working together as farmers, they will likely succeed in the proposed joint operation; and

(C) For FO loans the joint operation will not be larger than the equivalent of a family farm operation for each full-time operator involved. However, such operation will not exceed a single family operation whenever the individual who has an interest in the applicant's operation does not personally perform labor in an amount at least equal to his respective interest in the operation.

(iii) When a life estate is involved, a loan may be made to the life estate holder and the remainderman jointly. A loan may be made to the remainderman only, when he holds title to the property except for a small tract set aside for the life estate holder, and the remainderman can legally execute a lien on the property and can provide the necessary security.

(7) For SW loans only—If a corporation or partnership:

(i) Be a farm owner or operator.

(ii) Be organized under the laws of the United States or of a State.

(iii) Be authorized to own or operate a farm in the State where the loan is made.

(iv) The corporation or partnership and the principal stockholder or partners as individuals are unable to provide the necessary improvements with its and their own resources, or obtain sufficient credit at rates and terms they could reasonably expect to fulfill. A principal stockholder is one who owns 20 percent or more of the corporation's stock. If no person owns as much as 20 percent, then

all stockholders are considered principal.

(8) For SW and RL loans—If a tenant, have a satisfactory written lease for a sufficient period of time and under terms that will enable the obtaining of reasonable returns on the improvements made with the loan. In addition, the lease or a separate agreement must provide for compensating the tenant for any unexhausted value of the improvements upon termination of the lease, unless the loan is secured by a leasehold.

(c) *Loan purposes.* When an RL is made, the purposes listed in this paragraph must be in connection with an outdoor recreation enterprise. Land which has been designated for retirement from agriculture by Federal, State or local Agencies will not be acquired or developed with loan funds unless the applicant will retain the farm for a period long enough to recover the amount invested. When loan funds are used for development, the work must be planned and performed in accordance with § 1980.129.

(1) For FO and RL loans—Purchase land, easements and rights-of-way for a farm, nonfarm or recreation enterprise. This purpose is subject to the following special requirements:

(i) Preference will be given to persons who are married or have dependent families and, wherever practicable to persons who are able to make initial downpayments, or who are owners of livestock and farm implements necessary to successfully carry on farming operations.

(ii) Adequate development to place the farm and any nonfarm enterprise in condition for a successful operation will be provided at the outset in connection with each loan.

(iv) If the farm contains two or more noncontiguous tracts, they must be so located that the farming operation and any nonfarm enterprise can be efficiently conducted, considering the distance and adequacy of rights-of-way or public roads between the tracts.

(2) For FO and RL loans—To construct, improve, repair or relocate an essential but modest dwelling (FO only), service buildings and facilities which become a permanent part of the farm. This includes items for use in nonfarm enterprises. For dwelling improvement or construction, consideration may be given to additional space requirements for facilities used for food preparation and storage, vehicle storage, laundry and office space, the size and cost of which will not exceed that owned by typical family farmers in the area.

(i) Special Requirement. Buildings adequate for the planned operation of the farm, including any nonfarm enterprise, must be available for the applicant's use after the loan is made. The necessary buildings ordinarily will be located on the applicant's farm. However, if an applicant already owns an adequate, decent, safe, and sanitary dwelling suitable for the family's needs, which is located close enough to the farm so the farm may be operated successfully, it will not be necessary to provide a dwelling on the farm. A real estate lien will be taken on such dwelling.

(ii) Exception. An exception to the requirement that the farm include a suitable dwelling may be made when the applicant has a long-term lease on acceptable rented buildings that are adjacent to or near the farm, or when the applicant occupies suitable buildings of relatives that he will eventually inherit or be permitted to purchase. The applicant will not be required to build a dwelling if the farm being purchased has an existing mobile home which is suitable, or the applicant may retain for his residence a suitable mobile home which he already possesses provided the farm he owns or plans to purchase does not have an adequate dwelling.

(3) For SW loans only—To construct, improve, or relocate essential buildings and structures that will be used primarily for pollution abatement or control.

(4) For FO, SW, and RL loans—Land and Water Development:

(i) Pay cash costs for materials, supplies and services related to: land and water development, use and conservation; the purchase and/or installation of water and sewage disposal systems necessary to the operation of the farm or nonfarm enterprise; and for pollution abatement and control that is related to soil and water conservation. This includes the planting of fruit trees when they relate to conservation of soil or water.

(ii) To acquire a source of water to be used on land the applicant owns or is acquiring, including:

(A) The purchase of water stock or membership in an incorporated water users' association.

(B) The acquisition of a water right through appropriation, agreement, permit, or decree.

(C) The acquisition of a water supply or water right, and the land on which it is presently being used, when the water supply or water right cannot be purchased without the land, provided:

(*1*) The value of the land without the water supply or water right is only an incidental part of the total price, and

(2) The water supply and water right will be transferred to, and used more effectively on other land owned by the applicant.

(iii) Purchase or repair special-purpose equipment necessary to perform land and water development subject to the following requirements:

(A) Such equipment is needed for, and will facilitate the completion or maintenance of the planned improvement, and

(B) The cost of the equipment plus other costs related to the improvement will not be more than if performed by contract or other methods.

(iv) To pay that part of the cost of facilities, improvements, and practices to be earned by participation in programs administered by Agencies such as the Agricultural Stabilization and Conservation Service or the Soil Conservation Service only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of payment for which the funds were advanced likely will exceed $1,000, the applicant will assign the payment to the lender.

(5) For FO, SW, and RL loans—To refinance secured and unsecured debts when the lender determines that the applicant's present creditors will not give him rates and terms on his existing debts which he can reasonably be expected to meet, *except* that SW loan funds may only be used to refinance debts that were incurred for authorized SW loan purposes.

(6) For FO, SW, and RL loans—Pay expenses incident to obtaining plans and making the loan, such as fees for legal, architectural, appraisal, and other technical services, hazard insurance premiums, closing costs, social security taxes for labor hired by the borrower in connection with making the planned improvement, and loan fees as authorized in §1980.22 of this Chapter which the borrower cannot pay from other funds.

(7) For FO, SW and RL loans—Purchase any stock in a cooperative lending agency that is necessary to obtain the loan.

(8) For SW loans only—Purchase stock or membership in, or pay assessments to, a corporation, association or organized group service which will help such association or group service to finance facilities and improvements for which loan funds may be used.

(9) For RL loans only—(i) Purchase and install materials, supplies, equipment, fixtures, animals, fish and birds necessary for the efficient operation of a recreation enterprise.

(ii) Pay operating expenses necessary to the efficient operation of the recreation enterprise. When the loan includes funds for operating expenses the borrower will agree to repay that amount as expeditiously as feasible, usually within the first year or two but in no case longer than 5 years.

(d) *Rates and terms.* (1) For FO, SW, and RL loans—The interest rate which the lender may charge is 5 percent.

(2) For FO, SW and RL loans—Each loan will be scheduled for repayment over a period not to exceed 40 years from the date of the note or such shorter period as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security.

(3) For FO, SW and RL loans—The combined total of individual farm real estate loans to a borrower cannot exceed $100,000, the market value of the farm and any other security, or the amount certified by the County Committee, whichever is less.

(e) *Security.* (1) For FO, SW, and RL loans—FO loans will be secured by real estate only, except in Texas nonreal estate security may be used due to unusual homestead laws. RL and SW loans will generally be secured by real estate except as provided in paragraph (e) (2) of this section. When real estate is taken

as security for a loan the following requirements will be met:

(i) A first mortgage on the entire farm owned by the applicant will be obtained except if the applicant's title to any part of the farm is defective and cannot be cured at a reasonable cost, or if State law will not recognize a mortgage upon it. The part of the farm to which the title is defective will be omitted from the appraisal. The maximum amount of loan funds which can be used to improve property which has a defective title or property not owned by the applicant is $5,000. The first lien requirement can be met in subsequent loan cases by obtaining:

(A) A first lien on new property acquired or refinanced with the subsequent loan or other property not servicing as security for the existing loan or

(B) A lien on the same property to secure both the existing loan and the subsequent loan if there are no liens intervening between the first lien securing the existing loan and the new lien taken to secure both the existing loan and the subsequent loan, or

(C) Liens meeting the requirements of both subparagraphs (A) and (B) of this paragraph.

(ii) Except as stated in § 1980.180(c)(2), if the applicant owns other real estate which is not a part of the farm, he will normally be required to dispose of the property before or simultaneously with the closing of the loan. If this is not feasible the loan can still be closed if the applicant agrees to dispose of the property as quickly as possible but not later than two years after loan closing. Form FmHA 443–17, "Agreement to Sell Nonessential Real Estate," will be executed at loan closing when this is the case. The security instrument will not include real estate that is to be sold. The FmHA State Director may permit an applicant to retain real estate that is not a part of the farm when any of the following conditions exist:

(A) The real estate provides employment or income which together with farm income is essential to the applicant's success.

(B) The real estate is the applicant's residence.

(C) A sale of the property would not materially reduce the applicant's need for a real estate loan or for operating credit; and provided further, in the case of an FO loan, retention of the real estate will not allow the borrower to operate larger than a family farm or own a farm for rental purposes.

(iii) Loans of $5,000 or less may be secured by the best lien obtainable without title clearance or legal services normally required, provide the lender believes from a search of the county records that the applicant can give a mortgage on his farm.

(2) For SW and RL loans—Any loan of more than $60,000 and any loan to be paid in more than 20 years from the date of the note will be secured by a first mortgage on the applicant's entire farm or leasehold unless an exception is made in accordance with paragraph (e)(1)(i) and (ii), of this section. A loan of less than $60,000, to be paid in 20 years or less may be secured by any combination of real estate, chattels or other miscellaneous security that cannot be converted to cash without jeopardizing the borrower's farming operations or means of livelihood. When other than real estate is taken as security the following conditions and requirements will be met:

(i) Whenever both real estate and chattel security are taken and the payment period of the loan will exceed the maximum period for which the chattel lien may be valid under State law, the loan guarantee approval official will determine whether the real estate security will be adequate to secure the scheduled unpaid balance of the loan when the chattel lien expires.

(ii) A chattel lien need not be taken when real estate is taken as security and such security is adequate.

(iii) When the loan includes funds for items of equipment upon which a chattel lien is necessary to adequately secure the loan, a severance or subordination agreement will be obtained when appropriate.

(iv) In a State in which a chattel lien is not valid for as long as needed by applicants for the repayment of the loan, instructions for making loans secured by chattel liens will be included in a State supplement.

(v) When a lien on equipment, other personal property, or a fixture is necessary to adequately secure the loan, a security agreement and financing statement will be taken and kept effective.

(vi) When a loan is made only for the purchase of shares of water stock, such stock will be pledged or assigned as security for the loans. No other security is required if the stock represents the right to receive water for irrigation purposes and if the water right is transferable separately from the land and the stock can be resold readily by the pledgee or assignee, or if the purchase price is not greater than the price at which the stock in the particular company is normally sold.

(vii) A lien will be taken on the rights-of-way and easements owned or acquired by the borrower for use in connection with the proposed improvements or facility if it is necessary to do so in order to protect adequately the lender's financial or security interests.

(viii) A loan may be secured by a mortgage on a leasehold if it has negotiable value that is mortgageable. The mortgage on the leasehold may be supplemented by additional security. The unexpired term of the lease should extend beyond the repayment period of the loan to provide reasonable prospects that the objectives of the loan will be achieved. If the loan repayment period is equal to the period covered by the lease, the borrower must give other security of sufficient value to adequately secure the loan or the lessor must agree in writing to compensate the borrower at the expiration of the lease for any unexhausted value of the improvements made with the loan. Loans secured by leaseholds will be subject to the following provisions:

(A) The lessor must own good and marketable title in the real estate. There may be a lien on it or the lessor may be acquiring it under contract providing the lien instruments or contract do not contain covenants that may jeopardize the lender's security, or providing any adverse covenants are waived.

(B) The lessor's consent to the mortgage will be acquired.

(C) The lessor must be required to give advance notice to the lender of his intention to cancel, terminate or foreclose upon the lease. Such advance notice will be long enough to permit the lender to ascertain the amount of delinquencies, the total amount of the lessor's interest and any other prior interest, the market value of the leasehold interest and, if litigation is involved, time enough to refer the case to their attorney and permit him to take appropriate action.

(D) In any State in which real estate or chattel liens may be taken on leasehold interest in farmland and recorded so as to protect the mortgagee, a State Instruction will be issued in regard to making loans to holders of such interests.

(3) For SW loans only—When a loan is made to a corporation, the note and mortgage will be executed by the appropriate officials in behalf of the corporation. The loan guarantee approval official may require principal stockholders to be personally liable for the debt when needed to protect the lender's interest. Each principal stockholder will sign the note as an individual in such cases.

§§ 1980.181–1980.200 [Reserved]

Position 3

1980-B
Exhibit A

USDA-FmHA
Form FmHA 449-12
(3-16-77)

REQUEST FOR LOAN NOTE GUARANTEE
(Farmer Programs Loans)

TO: Farmers Home Administration (FmHA)	Case No. (Borrower's Soc. Sec. or IRS Tax No.)	Principal Amount of Loan $
Type of Loan	State	County
Applicant's Name	Applicant's Address	

The undersigned Lender hereby request issuance of a Loan Note Guarantee in subject case:

THE FOLLOWING INFORMATION AND DOCUMENTS ARE SUBMITTED FOR YOUR CONSIDERATION:

1. Copy of Application for Loan with enclosures.
2. Cash flow sheet.
3. Any drawings and specifications for: ☐ construction ☐ major repairs ☐ major land development
4. Appraisal report on any real estate security.
5. For Emergency Loans only, Form FmHA 441-22, "Certification of Disaster Losses" and Form FmHA 441-26, "County Supervisor's Calculations and Verification of Qualifying Production Losses."
6. Purposes for which guarantee loan funds will be used and the amounts to be used for such purposes, are:

Purposes	Amounts
	$

7. Interest rate to borrower is _____% per annum.
8. Loan fee payable by loan applicant is _____ % of principal amount of loan or $ _____. a/
9. Repayment period for the loan is _____ year(s).
10. Proposed loan guarantee is _____% of the principal and interest.
11. Escrow account is required for: ☐ Taxes ☐ Insurance premiums ☐ Other (Specify) _____
12. The undersigned Lender is subject to examination and supervision by

_____

(Insert name of agency of United States or State, or "None")

a/ Insert "None;" or if Lender charges a loan fee, insert percentage or dollars.

13. Loan(s) will be ☐ made, and/or ☐ serviced, by the undersigned's:

☐ Main office address: _____

☐ Branch office: _____
(Name of office)

Branch office address: _____

☐ Agent: _____
(Name of Agent)

Agent's address: _____

14. Loan is scheduled for repayment: _____
(Dates of monthly, annual, or other installments)

15. Late payment charges, if any, are made on the following basis pursuant to a written agreement between the applicant and the undersigned lender _____

16. Types and amounts of insurance required are:

Types	Amounts
	$
	$
	$
	$

17. List of Required Security Property
(Including That on Hand and to be Acquired)

DESCRIPTION OF PROPERTY A. ON HAND *	APPRAISED VALUE	AMT. ANY PRIOR LIENS	EQUITY
	$	$	$
TOTAL	$	$	$

Appraiser's Certificate on Personal Property

Personal property listed above, if any, was appraised by me at the values set forth opposite the description thereof.

_____ _____
(Date) (Appraiser)

*Quantity and brief description. For example: "Smith farm 160 acres," (based on separate appraisale report) "1 -1972 John Deere 2520 Tractor," "25 Hereford range cows, 3-6 years."

B. TO BE ACQUIRED -- FIRST LIEN IS REQUIRED*	VALUE**
	$
TOTAL	$

18. The loan will be properly closed and the required security obtained. The construction, relocation, repairs, or other development will be completed in accordance with approved drawings and specifications.

19. The borrower has title marketable in fact to security property now owned (and will obtain such title to any additional property to be acquired with loan funds), subject only to the instruments securing the loan to be guaranteed and any other exceptions set forth below:

20. Security property now owned (and any to be acquired) is considered adequate security for the loan to be guaranteed. If inadequate, state in item 29 of this form why you believe the borrower's farm or ranch operating plans will permit him to pay all guaranteed loan advances in full within the period stated in item 9 of this form. The security instruments will be properly filed or recorded prior to or simultaneously with issuance of the Loan Note Guarantee; except that if security property is yet to be acquired in a jurisdiction in which an after acquired property clause is not valid, a security instrument covering such property will be obtained as soon as possible and filed or recorded, as appropriate and legally permissible. Loan funds will be used only for FmHA-approved purposes.

21. Truth in Lending requirements will be met.

22. All Equal Opportunity and Nondiscrimination requirements will be met (or any that cannot yet be met will be met at the appropriate time).

23. If loan funds are to be used at or after the time of loan closing for acquisition of substantial amounts of property, or for construction or substantial repairs or major land development, certification(s) on Form FmHA 449-11, "Certificate of Acquisition or Construction," will be furnished on that part acquired at loan closing, and will be furnished to FmHA as soon as possible on such subsequent acquisitions, construction, repair or land development.

24. Proper hazard and any other required insurance will be obtained or is now in effect.

**Value of Real Estate based on separate appraisal report.

25. Plan of Operation agreed upon by Lender and loan applicant for first full operating year

a. PLANNED CROPS, PASTURE, ETC. - PRODUCTION AND SALES

CROPS, PASTURE, ETC.	ACRES	YIELD PER ACRE	OPERATOR'S SHARE	OPERATOR'S SHARE FOR SALE AMOUNT	OPERATOR'S SHARE FOR SALE VALUE
1.					$
2.					
3.					
4.					
5.					
				TOTAL	$

b. PLANNED LIVESTOCK AND PRODUCTS PRODUCTION AND SALES

KIND	PRODUCTION PER ANIMAL	NUMBER	OPERATOR'S SHARE	OPERATOR'S SHARE FOR SALE AMOUNT	OPERATOR'S SHARE FOR SALE VALUE
1.					$
2.					
3.					
4.					
5.					
				TOTAL	$

26. CASH OPERATING EXPENSES	TOTAL CREDIT NEEDED	TOTAL PLANNED EXPENSES
Hired Labor	$	$
Machinery Repair	$	$
Interest	$	$
Cash Rent	$	$
Feed	$	$
Seed	$	$
Fertilizer	$	$
Pesticides & Spray Materials	$	$
Livestock Expense	$	$
Machinery Hire	$	$
Fuel and Oil	$	$
Personal Prop. Tax	$	$
Real Estate Taxes	$	$
Water Charges	$	$
Property Insurance	$	$
Auto & Truck Expense (Farm)	$	$
Utilities	$	$
Feeder Livestock (Bought & sold during year)	$	$
Family Living Expenses	$	$
Other	$	$
TOTAL	$	$

27. Financial Summary of First Full Years Operation

A.	Livestock Income	$
B.	Crop Income	$
C.	Other Farm Income	$
D.	Off-Farm Income (net)	$
E.	Total Gross Income (A+B+C+D)	$
F.	Total Cash Expenses (Table 19)	$
G.	Net Cash Income (E minus F)	$
H.	Loans and Other Credit	$
I.	Interest	$
J.	Balance Available for Debt Payment (G+H+I)	$

28. DEBT REPAYMENT

TO WHOM OWNED	AMOUNT DUE FIRST YEAR (PRIN. & INT.)	PLAN		
		PRIN. & INT. TO BE PAID	DATE	SOURCE OF FUNDS
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
Income and Social Security Taxes	$	$		
TOTAL	$	$		

29. Other Relevant Information:

30. Lenders Planned Loan Servicing:

31. A Guarantee Fee Report on Form FmHA 449-19 and a check for the amount of the guarantee fee will be provided at the time the Loan Note Guarantee is issued.

32. The undersigned (a) considers the proposed loan to be sound and within the borrower's repayment ability, (b) believes that all applicable requirements in 7 CFR Part 1980 Subpart B have been or will be met, (c) will not make the loan without an FmHA guarantee, and (d) does not believe the needed financing can be provided by the applicant from his or its own resources or obtained by him from other sources at rates and terms he or it could reasonably be expected to meet without an FmHA guarantee. If the applicant is a partnership or corporation, the undersigned does not believe that the principal partners or principal stockholders, either individually or collectively, will be able to provide the needed funds, either with their own resources or with credit obtained by them from other sources without an FmHA guarantee. A principal partner or principal stockholder is one who owns 20% or more of the interest in the partnership or corporation. If no person owns or controls as much as 20%, all partners and stockholders will be considered principal partners or stockholders.

_____
(Name of Lender)

_____ BY: _____
(Date)

TITLE: _____

_____
(Lender's IRS ID Tax No.)

33. From an examination of information supplied by the Lender on the above proposed loan, the county committee certification or recommendation and other relevant information deemed necessary, it appears that the transaction can properly be completed.

Therefore, the United States of America acting through the FmHA hereby agrees that, in accordance with applicable provisions of the FmHA regulations published in the Federal Register and related forms, it will execute Form FmHA 449-34, "Loan Note Guarantee," on the above loan at the time, subject to the conditions and requirements specified in said regulations and Form FmHA 449-14, "Conditional Commitment for Guarantee," attached.

If the Loan Note Guarantee is executed and the guarantee fee is paid by the Lender to FmHA, the loan subsidy rate, if any, payable by FmHA to the Lender, and the interest rate payable by the borrower in cases which that rate is limited by statute or is fixed from time to time pursuant to statute, will be those rates in effect on the date of this approval.

Rate payable by borrower _____% per annum. Subsidy rate _____% per annum.*

This approval will expire _____ days from the date hereof unless the time is extended in writing by FmHA, or upon the Lender's earlier notification in writing to FmHA that it does not desire to obtain an FmHA guarantee.

UNITED STATES OF AMERICA

FARMERS HOME ADMINISTRATION

_____ BY: _____
(Date)

TITLE: _____

*If none, insert "none" in blank.

(7 U.S.C. 1989; 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.)

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

Dated: July 14, 1977.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc.77-25315 Filed 9-2-77;8:45 am]

Federal Register

TUESDAY, SEPTEMBER 6, 1977

PART IV

COMMODITY FUTURES TRADING COMMISSION

■

COMMODITY FUTURES TRADING PROFESSIONALS

Customer Protection Rules

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Parts 1, 166]

PROTECTION OF COMMODITY CUSTOMERS

Standards of Conduct for Commodity Trading Professionals

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes customer protection rules which are designed to provide increased protections to members of the public who deal with commodity futures trading professionals. The proposed rules implement many of the recommendations of the Commission's advisory committee on commodity futures trading professionals.

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

ADDRESSES: Comments should be sent to: Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, attention of the Secretariat.

FOR FURTHER INFORMATION CONTACT:

Frederick L. White, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone 202-254-6220.

SUPPLEMENTARY INFORMATION: These proposed customer protection rules consist of a new Part 166 and amendments to existing rules under the Commodity Exchange Act. They are designed to provide increased protections to members of the public who deal with commodity futures trading professionals. Under the proposed rules, commodity professionals would be required to supervise their employees; "know their customers" and have reason to believe that commodity recommendations made to customers are "suitable"; commodity brokerage firms would be required to confirm all customer trades and provide customers with a risk disclosure statement; commodity professionals would be prohibited from advertising the results of simulated or hypothetical trades (and other restrictions on the advertising of trading performance might be expressly imposed); commodity professionals would be subject to certain requirements in the handling of discretionary accounts; and the "churning" of commodity accounts would be expressly outlawed. Finally, certain record-keeping requirements would be imposed.

The proposed rules apply to commodity option and "leverage" (see infra) transactions as well as commodity futures trades, and to employees of Commission registrants as well as the registrants themselves. The rules implement many of the recommendations of the Commission's advisory committee on Commodity Futures Trading Professionals.

The Commission is requesting comments on whether industry self-regulatory organizations (the exchanges and any futures association that registers with the Commission under section 17 of the Commodity Exchange Act) should be required to adopt customer protection rules that are the same as or stricter than those of the Commission.

A list of specific questions is set forth in Part 10 of this release as a guide to commentators.

1. Introduction and Summary of the Proposed Rules

The Commodity Futures Trading Commission ("Commission") is proposing to adopt a series of rules (new part 166) and rule changes under the Commodity Exchange Act[1] ("Act") that are designed to protect, in various respects, members of the public who deal with commodity trading professionals. Those proposed customer protection rules will implement numerous specific recommendations of the Commission's Advisory Committee on Commodity Futures Trading Professionals ("Advisory Committee"), and will effectuate the Committee's general view—with which the Commission concurs—that the "raising standards for professionals in the commodities industry" is "essential."[2] The strict standards that would be established by the proposed rules also reflect the Congressional recognition of the fiduciary nature of the commodity professional's relationship with his customer.[3] As was recently stated in *Commodity Futures Trading Commission* v. *J.S. Love & Associates Option, Ltd.*, 442 F. Supp. 652, 659 (S.D.N.Y 1976) " 'it is essential * * * that the highest ethical standards prevail' " highest ethical standards prevail' " in "every facet of the * * * commodity options industry * * *"[4] This statement is applicable to the commodity futures industry as well

The scope of the proposed rules is purposely broad—both as to the types of persons and the types of transactions that would be covered. Most of the rules apply to (1) all "Commission registrants"—a term defined in the rules as any person who is or "is required to be" registered with the Commission[5]—and (2) the "representatives" thereof—defined to include any officer, partner, employee or agent of a registrant.[6] (The term "commodity professionals" will be used herein to refer to Commission registrants and their representatives.) In addition, most of the rules apply to all transactions subject to the Commission's regulatory authority. This is accomplished by the use of the term, "commodity interest," which is defined to cover not only commodity futures contracts but also commodity options and "leverage contracts" (i.e., contracts subject to regulation by the Commission under section 217 of the Commodity Futures Trading Commission Act of 1974).[7]

The Commission's customer protection proposals can be summarized briefly as follows:

1. *Definitions.* Proposed § 166.1 defines the terms, "Commission registrant," "representative" (of a Commission registrant), "commodity interest," "customer," "commodity account," and "discretionary authority." These definitions apply only to new Part 166.

2. *Suitability.* Commodity professionals must "know their customers" (proposed § 166.2(a)(1)) and have reason to believe that each commodity interest they recommend to a customer—and commodity trade they effect for a customer pursuant to discretionary authority—is suitable for the customer in view of the risk of loss involved in the trade and the customer's financial condition and trading objectives (proposed § 166.2(a)(2)).

3. *Churning.* The rule makes explicit that it is unlawful for a commodity professional to cause excessive transactions in any commodity account over which he has discretionary authority or which he controls in fact (proposed § 166.3).

4. *Supervision.* Commodity firms must supervise the handling of all commodity accounts maintained with the firm. FCMs must meet specific supervision standards, such as the establishment of written supervisory procedures, the appointment of a supervisor for certain associated persons and the same-day review by a supervisor of all trades effected for customers pursuant to discretionary authority (proposed § 166.5). Comments are requested on the adoption of a rule expressly requiring FCMs to investigate the background of the individuals they hire to serve in associated person capacities.

5. *Trading.*—a. *Confirmation of trades.* FCMs must promptly confirm in writing all customer trades of futures contracts (proposed § 1.33b).

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[1] 7 U.S.C. § 2-22, as amended.

[2] Report of the Commodity Futures Trading Commission Advisory Committee on Commodity Futures Trading Professionals ("Advisory Committee Report"), August 5, 1976, p. 1 (CCH Commodity Futures L. Rep., Report No. 29, Part II, August 20, 1976).

[3] See, e.g., sections 4b, 4l and 4o of the Act, 7 U.S.C. 6b, 6l and 6o; S. Rep. No. 93-1131, 93d Cong., 2d Sess. 14-15, 21 (1974); H. Rep. No. 93-975, 93d Cong., 2d Sess. 35 (1974).

[4] The court was quoting in part from *SEC* v. *Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 186-7 (1963).

[5] The "is required to be" language makes clear that the requirements of the rules may not be evaded by failure to register.

[6] Currently, registration is generally required of futures commission merchants ("FCMs")—a category that now includes persons who accept commodity option premiums from customers (see § 32.3 of the Commission's regulations)—associated persons, floor brokers, commodity trading advisors and commodity pool operators.

Since associated persons are employees of FCMs, they are excluded from the definition of "representative" in order to avoid a possibly confusing overlap.

[7] Pub. L. 93-463, 88 Stat. 1405.

"No person shall offer to enter into, or confirm the execution of any transaction for the delivery of silver bullion, gold bullion, or bulk silver coins or bulk gold coins pursuant to standardized contract commonly known to the trade as a margin account, margin contract, leverage contract contrary to any rule, regulation, or order of the Commodity Futures Trading Commission designed to insure the financial solvency of the transaction or prevent manipulation or fraud * * *"

The "commodity interest" definition is identical to the definition of that term in the Commission's recently-proposed rules for commodity pool operators and commodity trading advisors. 41 Fed. Reg. 9278 (Feb. 15, 1977). Comments are requested on whether the definition should be expanded to cover futures contracts traded on foreign exchanges.

b. *Discretionary trades.* Commodity professionals may not exercise discretionary power over customer accounts without prior written authorization from the customer. The authorization must be limited to a one-year period (proposed § 166.4).

6. *Disclosure by FCMs regarding risk of loss.* FCMs must furnish each customer with a written statement that explains the risk of loss inherent in trading commodity futures contracts (proposed § 1.55). Comments are requested on whether the risk disclosure statement should also disclose whether the firm engages in "dual trading" (trading futures for its own account in addition to effecting trades for customers), whether the firm permits its employees to trade futures for their own accounts, and whether the floor brokers to whom the FCM transmits orders for execution dual trade.

7. *Advertising of commodity trading results.*—a. *Simulated results.* Commodity professionals may not advertise the results of simulated commodity portfolios or hypothetical or theoretical commodity trades (proposed § 166.6).

b. *Short-term performance.* The Commission requests comments on the Advisory Committee's recommendation that commodity professionals be prohibited from "advertising performance that covers less than one year's trading".[8]

c. *Selective disclosure of performance.* Comments are requested on the need for and appropriateness of a rule establishing specific minimum requirements regarding performance advertising by professionals who manage multiple accounts or pools.

8. *Diligent handling of orders.* FCMs and their associated persons must use due diligence in the handling of customers' orders so as to obtain the best possible price for the customer (proposed § 1.56).

9. *Recordkeeping.* FCMs must make and keep a record of the financial condition and trading objectives of each customer to whom they recommend commodity interests or for whom they effect discretionary trades (proposed amendment of § 1.37).[9] FCMs must also keep a record of all grants of discretionary authority and approvals by supervisors of discretionary trades (proposed amendment of § 1.35(a)).

The Commission emphasizes that a number of provisions in the proposed rules merely make explicit what is impliedly required of commodity trading professionals and others under the various antifraud provisions of the Act and the Commission's rules. Accordingly, it should be clearly understood that the inclusion of a standard in the proposed rules does not mean that a commodity professional's failure to adhere to that standard would not presently be actionable in an enforcement proceeding. For example, the churning of a customer's commodity futures account by an FCM or associated person thereof is clearly a violation of section 4b of the Act.[10]

In addition to the customer protection rules themselves, the Commission also requests comments on whether it should require all commodity self-regulatory organizations[11] to adopt customer protection rules that provide the safeguards contained in the Commission's equivalent rules.[12] This requirement seems necessary in view of the desirability of increased industry self-regulation and the limited nature of the Commission's compliance and enforcement resources. This proposal is similar to proposed § 1.52(a), which would require the self-regulatory organizations to adopt certain financial and reporting requirements that are the same as or stricter than the Commission's.[13] As with § 1.52, the Commission requests comments on permitting the self-regulatory organizations to apportion among themselves the responsibility for regulating commodity firms that are members of more than one self-regulatory organization.

Comments are also requested on how, until a futures association becomes registered with the Commission as such, the many commodity firms that are not members of any self-regulatory organization could be made subject to industry self-regulation in the customer protection area. Specifically, the Commission seeks comments on whether it should require each commodity exchange to prohibit its members from transacting commodity business with nonmembers that do not (a) comply with the exchange's customer protections standards and (b) permit the exchange to inspect the nonmember to determine whether it is complying. Under this approach, the Commission would oversee each exchange to determine that it was taking affirmative action to secure compliance with its customer protection standards by the exchange members and the nonmembers with whom the exchange members deal.

2. Suitability.

(a) *Introduction; Nature of the Rule.* Proposed § 166.2 prohibits commodity professionals from issuing any commodity interest "recommendation" to their customers, or effecting any commodity interest trade for their customers pursuant to discretionary authority, unless:

(1) (*The suitability inquiry*) the professional obtained from the customer, before the recommendation or trade, the essential facts about the customer's financial condition and trading objectives (FCMs would be required to make and keep a record of this information under the proposed amendment of § 1.37); and

(2) (*The suitability determination*) the professional had reason to believe, at the time of the recommendation or trade, that the position would be "suitable" for the customer based on the information known to the professional. The suitability of a position would depend on whether the risk of loss involved was (a) one that the customer could safely assume in light of his financial condition and (b) consistent with the customer's trading objectives.

If the customer declined to furnish the professional with sufficient information upon which to base the suitability determination, the professional could not issue recommendations to, or effect discretionary trades for, the customer.[14] However, the professional could effect non-discretionary trades for a customer provided no recommendation was issued by him in connection with the trade.[15]

"Recommendation." This term includes not only express buy-sell recommendations but also any advice, suggestion or other statement (written or oral) that is intended, or can reasonably be expected, to influence a customer to trade a commodity interest.

The term does not include statements that merely describe in an objective fashion the general nature of commodity interests, the manner in which they are traded, or the operations of the commodity professional, nor would it include the dissemination of price quotations. Thus, professionals could make initial contact with potential customers to determine whether they might be interested in trading commodity interests.

Recommendations contained in publications of wide-spread distribution (such as market letters, research reports and brochures) are excluded from the definition, as are recommendations issued by means of television, radio or commodity seminars. Without this exclusion, it would be impossible in many cases for commodity professionals to dispense advice through wide-spread communications; recipients of the communications would be "customers" of the professional within the meaning of the rule but the professional often would not be able to "know" them—or even their identity.

Comments are requested, however, on requiring wide-spread communications that contain commodity recommendations to include a conspicuous warning that commodities trading is not suitable for many individuals.

(b) *The need for and appropriateness of a suitability Rule for Commodity Professionals.* Commodity customers are often unaware of, or inattentive to, the substantial risk of loss in commodity trading. Since futures contracts can be purchased on relatively small margins (thus giving customers a high degree of

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[8] Advisory Committee Report, p. 6.

[9] Comments are requested as to whether commodity trading advisors and commodity pool operators should be subject to a similar requirement.

[10] 7 U.S.C. 6b. That section, *inter alia*, makes it unlawful for any person to "cheat or defraud" or "willfully to deceive" any other person in connection with any commodity futures transaction effected for that other person on a contract market.

[11] All contract markets and any registered futures association.

[12] The contract markets would be required by section 5a(8) of the Act and § 1.51 to maintain an affirmative action program to secure compliance with these rules.

[13] 42 FR 39030 (August 1, 1977).

[14] In this respect, the rule would differ from the SEC's suitability rule (17 CFR 240.15b10–4) which evidently permits the securities professional to issue recommendations to a customer who declines to furnish suitability-type information if the professional made a good faith effort to know his customer. See Securities Exchange Act Release No. 8135 (July 27, 1967). Comments are specifically invited on this issue.

The sentence in the text is subject to the qualification discussed in footnote 15.

[15] While the FCM should of course "know his customer" in this situation because of the firm's potential liability for trading losses in customer accounts, the application of the rule in this area might unduly restrict the activities of financially responsible customers who do not receive trading advice from the FCM and who decline to furnish suitability information. Comments are sought on this issue.

leverage) and the market prices of futures contracts are subject to large and rapid fluctuations, futures traders can lose substantially more than the amount of funds deposited as original margin. This is particularly true in situations where, because of daily price limits, customers become "locked in" to losing positions. There is need for a rule that will prohibit commodity professionals from encouraging or causing their customers to take risks in the commodities market that are beyond their capacity to bear. Futures trading may be unsuitable for customers who do not possess risk capital or who are seeking production of income or preservation of capital.

(c) *Nature of the suitability inquiry.* A commodity professional cannot determine whether commodity trading in general, or a particular commodity trade, is suitable for a customer unless the professional has a basic understanding of the customer's risk capacity and trading objectives. Since risk capacity depends upon the customer's financial condition, the professional must know the essential facts about his customer in that regard—e.g., the customer's net worth and income (or at least whether those figures are above an appropriate minimum amount), the number of dependents he has and his financial obligations.

The Professional should also ascertain whether the customer is already speculating heavily in commodities, or in some other area such as securities or real estate.[16] For while the customer may have risk capital, that capital may be committed to other forms of speculation, thus making him a poor candidate for further risk-taking.

After the professional has obtained the above-discussed information from the customer, he would then be able to determine whether commodity trading is suitable for the customer and, if so, the amount of risk-taking that will be appropriate.[17] Since the suitability of a given recommendation or trade will depend upon a wide mix of factors it does not appear feasible to formulate specific standards as to when a risk would be suitable. Comments are nevertheless requested as to whether some type of guideline could and should be devised.

The proposed rule states that the professional must have reason to believe that his recommendations are suitable in light of the information "obtained from the customer" and otherwise known by the professional. The professional would not be required to obtain information from persons other than the customer in conducting the suitability inquiry, nor would he be required to verify the accuracy of the information furnished by the customer. The professional would be entitled to rely on the information furnished by the customer unless he had good cause to believe that the information was materially inaccurate. In that case, the professional would either have to conduct a further inquiry or else refrain from issuing recommendations or effecting discretionary trades.

Under no circumstances would the professional be permitted to evade his obligations under the rule by attempting to learn as little as possible about the customer's financial condition and objectives. The rule would affirmatively require the professional to "know his customer" before issuing any recommendation or effecting any discretionary trade. Merely asking the customer whether he can risk a particular amount of money would not constitute an adequate suitability inquiry.

(d) *The Suitability determination.* The suitability determination consists of two different judgments: (1) Whether commodity trading in general is suitable for the customer in view of his trading objectives and financial condition and, (2) if so, whether the particular position that is the subject of the recommendation or discretionary trade is suitable. The latter requirement reflects the fact that the risk of loss can vary widely depending on the size of the trade, the volatility and market liquidity of the commodity involved, and the amount of margin required. Thus, in recommending to a customer the purchase of 10 futures contracts of a particular commodity the professional would be required to have a reasonable basis for believing that the risk of loss from an adverse price movement could be absorbed by the customer without undue hardship. If the professional thought the risk of buying 10 contracts was too great, the proper recommendation might be to purchase fewer contracts.

(e) *Relationship between suitability and disclosure.* Suitability and disclosure are separate concepts. The professional's disclosure to his customer of the risk of loss involved in a particular trade would not satisfy the professional's obligations under the suitability rules to ascertain the customer's risk-bearing capacity and have reason to believe that the risk was suitable. The Commission is considering the adoption of a suitability rule precisely because disclosure alone does not sufficiently protect some customers from high-pressure sales tactics. For example, commodity option salesmen have been able to induce customers on small fixed incomes to make clearly unsuitable purchases of speculative options notwithstanding the salesman's disclosure in some instances of all material facts.

In addition, the proposed rule is predicated in substantial measure on the principle that, as a market professional, the associated person, trading advisor, etc. has the special skill and background to assess the degree of risk involved in a trade. The professional is presumed to understand such risk-related matters as the price volatility of futures contracts, liquidity of trading, limit trading and margin requirements. It would be inconsistent with the purpose of the rule to permit the professional to shift completely to the customer the responsibility for assessing the risks of a trade.

(f) *Relationship between suitability and churning.* While the proposed churning rule (§ 166.3) is designed to protect those commodity customers who rely substantially upon the professional with whom they deal, the proposed suitability rule applies to all customer accounts (except those in which the professional neither issues recommendations nor effects discretionary trades). Under the suitability rule, the professional would be required to have a reasonable basis for his recommendations and discretionary trades, regardless of the degree to which the customer relied on the professional.

(g) *Request for comment upon specific suitability standards.* The Commission requests comments upon the appropriateness of specific suitability standards, such as a requirement that commodity customers have a minimum net worth (e.g., $50,000), annual gross income (e.g., $25,000), account equity (e.g., $10,000) or some combination of those factors. While specific standards would no doubt be easier to administer and enforce than the general standard embodied in the proposed rule, they do not seem to take into account the varying circumstances of individual customers and the many other factors that affect suitability. An individual with a relatively large net worth might have little capacity for risk-taking if he has many dependents and large financial commitments. Conversely, an individual with a relatively small net worth may be in a position to take comparatively large risks—for example, a person with no dependents and a steadily rising income.

(h) *Professional's knowledge of customer's financial condition must be reasonably current.* Since a customer's financial situation can materially change in a relatively brief period of time, it is insufficient for a commodity professional to base his recommendations solely upon the information he obtained from the customer when the account was opened. While the rule would not require the professional to conduct the required suitability inquiry immediately before each recommendation or discretionary trade, the professional would be required to have a reasonably current knowledge of the customer's financial condition. Thus, the rule states that "within a reasonable period of time before the recommendation" the professional must have either conducted a suitability inquiry of the customer or verified the accuracy of the information obtained in his most re-

[16] The Commission recognizes that a customer may be reluctant to discuss with the professional his commodity trading activities with other firms. Accordingly, the Commission would not interpret the suitability rule to prohibit the issuance of recommendations to (or effecting of discretionary trades for) a customer who declined to furnish this information so long as the professional made a good faith attempt to learn from the customer the extent of his trading activities.

[17] To reiterate, if the professional was unable to obtain this information, the rule would prohibit him from making a commodity recommendation to, or effecting a discretionary commodity trade for, the customer. The rule would not, however, prohibit the professional from merely executing orders for the customer.

cent suitability inquiry. What constitutes a reasonable period of time depends on the circumstances of each customer. If the customer's financial situation is subject to fluctuations, the inquiry or verification should be made frequently, perhaps once each month. For customers with ample risk capital the inquiry or verification could perhaps be conducted every six months. The verification could often consist simply of asking the customer whether any material change has occurred since the professional's most recent inquiry regarding the customer's financial condition.

(i) *Trades effected pursuant to discretionary authority.* The rule applies not only to commodity "recommendations" but also to "any transaction in a commodity interest for a customer pursuant to discretionary power or authority * * * ." A commodity professional who effects a discretionary trade is recommending the commodity interest to his customer—albeit impliedly—and should be no less subject to suitability standards than the professional who makes express recommendations. Indeed, the need for suitability standards is even greater in the case of discretionary trades since the customer does not have an opportunity before the trade to assess the degree of risk involved. By conferring discretionary authority upon the professional, the customer is often depending completely upon that person to determine whether the risk involved in the trade is suitable for him.

(j) *Relationship of suitability to trading performance.* The Commission emphasizes that the suitability of a commodity trade will be determined without regard to the subsequent performance of the trade. The customer's incurring of a large loss would have no bearing on the suitability of the recommendation that led to the trade. Suitability would depend on the customer's financial condition at the time of the recommendation. In applying the rule, the Commission will not "second guess" the market judgment of the commodity professional.

3. EXCESSIVE TRADING ("CHURNING")

(a) *Introduction.* Proposed § 166.3 states that a commodity professional who has discretionary authority over or otherwise controls a customer's account in which commodity interests are traded may not effect trades in the account that are excessive in size or frequency in light of the nature of the account and the commodity interest involved. The proposed rule merely codifies the established principle that the "churning" of commodity accounts is outlawed by the antifraud provisions of the Commodity Exchange Act.[18] The proposed rule is in no way intended to narrow the scope of the Act or the rules thereunder.

While no precise guidelines can be established as to what constitutes churning[19] and each situation must be judged on its own facts, the principal elements of the offense are (1) control of the account by the professional and (2) excessive trading.

(b) *Control.* Control exists where (i) the customer has expressly authorized the professional, through a power of attorney, trading authorization or otherwise, to effect trades for his account or (ii) the professional in fact exercises control over the account even though no grant of discretion had been made.[20] Factual control exists where the professional—by reason of the trust and confidence placed in him by the customer, the customer's lack of sophistication in commodity trading, or some combination of these factors—significantly influences the trading in the account.[21] The mere fact that the customer occasionally initiates his own trades or rejects the professional's advice would not preclude the existence of factual control, nor would the customer's sophistication in commodity trading.

(c) *Excessive trading.* No precise mathematical test can be formulated for determining whether a commodity account has been excessively traded. Listed below are some of the factors that the Commission would consider in determining if an account has been so traded. The Commission emphasizes that this is not an exhaustive list; other factors could be relevant in particular situations. And, the absence of a particular factor or factors would not preclude a finding of churning.

(i) *The turn-over rate.* This is the ratio of the total cost of purchases made for the account during a given period of time to the average month-end net equity in the account during the period. The amount of permissible turn-over will depend upon such factors as market conditions, the commodity interest involved and the trading objectives of the customer.

(ii) *The nature of the account.* As indicated in (i) above, the stated objective of the customer is an important factor. A turn-over rate that is acceptable in the account of an individual who wishes to trade especially actively may be unacceptable in the account of an average trader.

(iii) *"In-and-out" trading.* Since the establishment of market positions for periods of less than a day (such trades are commonly known as "day trades" or "in-and-out trades") can generate substantial commission revenues, this type of trading—although clearly not inherently improper—could be a factor in determining whether an account has been churned.

(iv) *Ration of commissions to net equity.* The ratio of the commissions generated by the account during a particular period to the average, month-end net equity in the account during the period is also a significant factor, particularly when it can be compared to the commission-equity ratio in other similar accounts maintained with the commodity professional.

(d) *Relationship between Suitability and Churning.* While churning is of course unsuitable for any customers, an important distinction between these two concepts is that suitability can apply to individual transactions while churning usually involves a series of transactions.[22] The fact that each transaction in a series of transactions might—when viewed alone—be suitable for the customer would not prevent the series of transactions from constituting churning. In short, a series of suitable transactions could constitute churning.

(e) *Application of the rule to pool operators and trading advisors.* The churning rule would apply not only to FCMs and their associated persons but also to pool operators and trading advisors (and their employees). The possibility of churning by a pool operator exists where, for example, the operator benefits financially from the brokerage commissions generated by the pool. Similarly, the potential for churning by trading advisors exists where the advisor (1) exercises influence over the client's trades and (2) benefits from the commissions generated by the customer's trades—for example, if the trading advisor has a reciprocal fee arrangement with the FCM through which the client trades.

(f) *The relationship between the churning of commodity accounts and churning of securities accounts.* Proposed §166.3 is quite similar to rule 15cl-7(a) of the Securities and Exchange Commission, which basically prohibits (in the over-the-counter market) the churning of a customer's securities account by a broker-dealer.[23] The similar-

[18] Booth v. Peavey Company Commodity Services, 430 F. 2d 132 (8th Cir. 1970); Johnson v. Espey, 341 F. Supp. 764, 766 (S.D.N.Y., 1972). Hecht v. Harris, Upham & Co., 283 F. Supp. 417, 437 (N.D. Cal. 1968), modified as to damages, 430 F 2d 1202 (9th Cir. 1970) [hereinafter referred to as "Hecht"].

Since these cases involved commodity futures accounts, it should be noted that the churning of a commodity option account would violate the Commission's antifraud rule (§ 32.9) relating to these commodity interests.

[19] Advisory Committee Report, p. 13.

[20] "* * * [C]ontrol need not amount to a formal vesting of discretion in the representative * * *." Hecht at 433.

[21] A number of commodity firms currently operate trading programs in which customers who maintain accounts with the firm regularly receive recommendations or "signals" generated by a technical trading system. Although the accounts of the participating customers may not, by their terms, be discretionary, these programs are designed to provide best results when the signals are regularly followed, and the Commission understands that participants do in fact follow a high proportion of the signals. For this reason, and because the possibility of churning exists in the operation of these programs, the Commission will tend to regard accounts maintained by program participants as controlled by the program operator for purposes of the rule. Indeed, the Chicago Board of Trade has recommended that its members treat trading program accounts as discretionary accounts unless the member can be certain that the customer has given specific price instructions.

[22] "* * * [C]hurning * * * has to do * * * not with single transactions, but with the volume and frequency of a series of transactions * * *." Hecht at 437.

[23] "The term manipulative, deceptive, or other fraudulent device or contrivance, as used in section 15(c) of the Act (the Securities Exchange Act of 1934), is hereby defined to include any act of any broker or dealer designed to effect with or for any customer's account in respect to which such broker or dealer or his agent or employee is vested with any discretionary power any transactions of purchase or sale which are excessive in view of the financial resources and character of such account." 17 CFR 240.15cl-7(a).

ity of the rules is understandable since in both industries (i) customers trade through professionals whose remuneration usually depends on the volume of transactions in the customer's account, (ii) there is a temptation for the professional to cause an excessive number of transactions in order "to derive profit for himself while disregarding the interests of the customer," [24] and (iii) the professional often occupies the dual role of advisor to the customer and agent for effecting trades. Thus, because the motive and opportunity for churning are basically the same in securities and commodities trading, the various factors that have been considered by the SEC and the courts in determining whether a securities account has been churned are generally relevant to commodity churning situations. The Commission emphasizes, however, that there are certain fundamental differences between securities and commodities trading, which it will consider in applying its churning rule. For example, commodity futures and options are inherently "short-term" whereas most securities can be held for indefinite periods. In addition, since futures contracts can usually be purchased on much smaller margins than securities, the ratio of total purchases to account equity may be greater in a commodity account than in a similar securities account. Also, brokerage commissions are computed differently in the two industries.

4. UNAUTHORIZED TRADING

Unauthorized trading by FCMs is a frequent customer complaint. These complaints usually relate to (1) disputes as to whether a trade was in accordance with the customers' instructions as to price, quantity, etc.; (2) disputes as to whether a trade was authorized at all; and (3) disputes as to whether the customer had granted the FCM or other person discretionary authority to effect trades for his account.

The Commission is proposing two measures to facilitate the resolution of these disputes and reduce unauthorized trading. As discussed more fully below, FCMs would be required to confirm all customer trades and FCMs and associated persons would be prohibited from exercising discretionary authority over any customer account unless they had prior written authorization from the customer.

(a) *Confirmation requirement.* The Commission proposes to require FCMs promptly to send a written confirmation statement to the customer upon the execution of each order for a commodity futures contract. Currently, the Commission's regulations require confirmation statements to be sent only upon the execution of futures orders for controlled accounts that are submitted by the controller of the account (§ 1.33a(a)).[25] Under the Commission's regulations, the only notice that customers are required to receive of other trades is the monthly statement, and the only trades required to be shown on that statement are those which represent positions that were open as of the month end.[26] Since a customer is more likely to detect an unauthorized trade if he receives prompt confirmation statements than if he receives only a monthly statement, the proposed confirmation requirement should help to discourage unauthorized trading. The Commission does not believe the confirmation requirement would impose a significant burden since most FCMs already send confirmation statements to their customers.

(b) *Discretionary accounts.* Proposed § 166.4 prohibits FCMs and their associated persons from effecting commodity trades for customers unless the customer or person controlling the account had either (1) "specifically authorized" the FCM or associated person to purchase or sell a specified amount of the commodity interest, or (ii) authorized the FCM or associated person, by means of a written power of attorney or similar trading authorization, to effect trades for the account without the customer's prior approval. A trade would be deemed "specifically authorized" notwithstanding the fact that the customer or account controller gave the FCM or associated person discretion as to price; so long as the customer's instructions related to a specified amount of a specified commodity interest, a power of attorney or similar authorization would not be required.

The rule also provides that the power of attorney or trading authorization would be invalid if it permitted the FCM or associated person to exercise discretionary authority over the account for more than one year, although written renewals of the authorization would be permitted.

In addition to the requirements of proposed § 166.4, proposed § 166.5 (supervision) requires each delegation of discretionary authority to be approved by a supervisor of the firm and each trade in a discretionary account to be reviewed by a supervisor on the day of execution.

The Commission requests comments on the Advisory Committee's recommendation that FCMs be prohibited from maintaining discretionary accounts for customers whose account equity is below a certain size (for example, $5,000). Since several exchanges already have such requirements, the Commission's adoption of such a rule would promote uniformity. On the other hand the rule might force small traders to place their own orders or join pools—a result that they may not desire and that may not always be desirable.

5. SUPERVISION

Proposed § 166.5 would supplement section 5a(8) of the Act and § 1.51 of the Commission's rules—which basically require contract markets to oversee the activities of their members [27]—by extending directly to all commodity firms the principle of supervised self-regulation that is embodied in those provisions. Under the rule, all Commission registrants other than associated persons must "diligently supervise" the handling of all commodity accounts maintained with the registrant and all other activities of the registrant's employees relating to the firm's commodity-interest activities. In addition, the rule establishes specific supervision requirements for FCMs, as they handle the bulk of the commodity customer business.

The need for a supervision rule is evident from, among other things, the high rate of employee turnover in the commodities industry. Historically, approximately 20% of the associated persons do not apply for re-registration and the Commission receives hundreds of associated person applications each month from individuals not previously registered with the Commission. This high proportion of inexperienced employees makes close supervision particularly important.

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[24] Hecht at 435.

[25] Section 1.33a(a), which would be replaced by § 1.33b, provides in pertinent part: "With respect to any account controlled by any person other than the customer for whom such account is carried, each futures commission merchant shall * * * promptly confirm in writing directly to the customer for whom such account is carried the execution of any trade originated by the controller of the account * * *."

Only two of the exchanges require confirmation of all trades and there are more than 100 FCMs that are not members of one or both of those exchanges.

All commodity option transactions effected by FCMs for their customers must be confirmed in writing. § 32.5(d).

[26] Section 1.33 reads: "Each futures commission merchant shall promptly furnish in writing directly to each customer, as of the close of the last business day of each calendar month or as of any regular monthly date selected: (a) A statement which clearly shows the *open* contracts with prices at which acquired, and the ledger balance carried for the customer's account; (b) a statement which clearly shows the net unrealized profit or loss in all *open* contracts figured to the market * * *" (Emphasis added.)

[27] Section 5a(8) of the Act, 7 U.S.C. 7a(8), basically requires each contract market to enforce all bylaws, rules, regulations and resolutions which relate to terms and conditions in contracts of sale, or to other trading requirements, and which have been approved by the Commission.

Section 1.51 of the Commission's rules, 17 CFR 1.51, requires each contract market to use "due diligence" in maintaining a rule enforcement program. The program must include: investigation of customer complaints and of all other alleged or apparent violations of the contract market's bylaws, rules, etc.; surveillance of members to detect and prevent such violations; and the taking of prompt disciplinary action for any violation. Thus, just as contract markets are required by § 1.51 to "use due diligence" in supervising members to ensure their compliance with certain provisions of the Act and with the contract market's bylaws, rules, regulations and resolutions, all commodity firms would be required under § 166.5 to supervise their employees diligently.

(a) *FCM Duties.* Under § 166.5, FCM's must designate a supervisor for each associated person whose duties are not wholly supervisory. The supervisor must be a partner, officer, branch manager or other qualified supervisory associated person of the FCM. If the FCM has designated more than one supervisor (which would be the case with firms having multiple offices) the firm must designate a partner or officer to supervise those middle-level supervisors. Also, FCMs must establish, maintain and enforce written procedures that provide for compliance with various duties specified in the rule. A copy of the procedures must be kept in each business office of the firm and is subject to Commission inspection. The required procedures are as follows:

(i) *Opening of accounts.* The FCM must provide for the approval by a supervisor of the opening of each commodity customer account. The approval must be in writing and must be obtained before the opening of the account. In approving a new account, the supervisor should determine whether any restrictions should be imposed upon the account (such as limiting the number of contracts that may be purchased for the customer or requiring a certain level of margin).

(ii) *Grant of discretionary authority.* The FCM must provide for the supervisor's prior writen approval of any grant of discretionary authority to an associated person. The supervisor should determine whether the associated person has had sufficient experience to handle this type of account.

(iii) *Discretionary trades.* Each commodity transaction effected pursuant to discretionary authority must be approved in writing by a supervisor on the day of the transaction. The approval is not required to be obtained before the trade, as this might make it difficult for the associated person to execute an advantageous trade in a volatile market. Approval could be shown by the supervisor's initialing of the order ticket or by any other method that would demonstrate a proper review of the trade by the supervisor.

(iv) *Frequent review of all commodity accounts.* The supervisor must frequently examine the trading in each account under his supervision to detect and prevent any violation of the Act or the Commission's rules (particularly churning of the account and unsuitable trades) and any violation of the rules of any contract market to which the firm belongs.

(v) *Customer complaints.* The supervisor must promptly review—and act upon, where appropriate—all customer complaints, whether written or oral, concerning the associated persons under his supervision.

(vi) *Correspondence.* The supervisor must also review all correspondence sent or received by associated persons pertaining to the solicitation or acceptance of commodity orders. Correspondence should be inspected for unsuitable recommendations and other misconduct.

In establishing supervisory procedures to comply with the Commission's proposal, FCMs would be permitted to use such automated systems as may be appropriate to carry out required supervisory procedures.

The Commission recognizes that the performnace of a wrongful act by an employee of a commodity firm in the course of his employment does not necessarily mean that the employee was improperly supervised, although it is often a strong indication of a lack of proper supervision.

(b) *Relationship of § 166.5 to the supervision requirements applicable to securities broker-dealers.* The Commission's proposed supervision rule is similar in many respects to the supervision requirements applicable to securities broker-dealers. These requirements are contained in the rules of various self-regulatory organizations[23] and the Securities and Exchange Commission.[24] This similarity should facilitate compliance with § 166.5 by the approximately 55 FCMs that are also securities broker-dealers.

(c) *Relationship of § 166.5 to the supervision rules of contract markets and registered futures associations.* Several contract markets have adopted rules requiring their members to meet supervision requirements similar in some respects to those set forth in § 166.5 for FCMs.[25] But not all FCMs are members of contract markets with such rules and a significant number of FCMs are not members of any contract market. The Commission emphasizes that § 166.5 is not intended to supplant contract market supervision rules or to discourage contract markets from proposing new supervision rules that are consistent with § 166.5.

(d) *Impact upon small firms.* The Commission recognizes that smaller commodity firms cannot economically maintain the type of extensive supervision programs and systems that larger firms can support. Thus, the specific supervision requirements applicable to FCMs are designed so that they can feasibly be implemented by the smaller firms. At the same time, however, the Commission believes these requirements are sufficiently strict to provide meaningful and effective protections to the customers of all FCMs.

(e) *Pool operators and trading advisors.* An account carried by a commodity pool with an FCM would be considered as "maintained with" the pool operator (as well as with the FCM) for purposes of the rule.[26] Thus, if a pool operator has delegated to its employees or an outside trading advisor the handling of the pool, the operator, would be required to supervise them in that regard. For example, the pool operator would be required to conduct a frequent review of the pool's trades to detect any evidence of churning or mishandling of pool funds, and to take appropriate action if he suspected misconduct.

Similarly, an account maintained with an FCM over which a trading advisor has a power of attorney would be viewed as "maintained with" the advisor as well as the FCM. The advisor would be required to supervise the handling of the account by its employees.

(f) *Request for comments upon pre-employment inquiry requirement.* In conducting fitness checks of applicants for registration as associated person, the Commission has on a number of occasions discovered information about the applicant's background that clearly demonstrated a lack of fitness to be registered. In these cases, it is highly doubtful that the FCM would have employed the individual if it had known the information. This suggests the need for a rule expressly requiring FCMs to ascertain by investigation the fitness of any person they propose to employ as an associated person. Comments are requested on the need for an appropriateness of such a rule.

6. FCM Disclosure Statement

Proposed § 1.55 would require FCM's to furnish each commodity customer with a disclosure document containing an explanation of the risk of loss inherent in trading commodity futures contracts.[27] In addition, comments are requested on whether the statement should also disclose (i) whether the FCM dual trades (i.e., maintains a house account), (ii) whether the associated persons of the FCM and its other employees are permitted to trade futures for their own accounts, and (iii) whether the floor brokers to whom the FCM transmits its customers' orders trade for their own accounts.

(a) *Risk disclosure.* It is essential that commodity customers be aware of the substantial risk of loss inherent in futures trading. As the Advisory Committee stated in its report (p. 2):

> Attracted to futures trading by low margins, high leverage and volatile prices, the new and inexperienced commodity trader often fails to realize that these same factors can lead to sharp losses as well as large and rapid gains. Accordingly, it is absolutely essential that commodity futures professionals who deal with the public be required to disclose to each new customer the substantial risk of loss that generally exists in futures trading. This disclosure must be in writing; it must be concise and understandable to the inexperienced trader; and the disclosure document must be conspicuously brought to the customer's full attention when it is transmitted to him.

Proposed § 1.55 would implement this recommendation. The risk disclosure statement should explain, among other things, that the high degree of leverage available in futures trading creates the potential for large and rapid losses as well as gains, and that successive days of

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[23] E.g., art. III section 27 of the Rules of Fair Practice of the National Association of Securities Dealers, Inc. (CCH NASD Manual Par. 2177); Rule 405 of the New York Stock Exchange.

[24] 17 CFR 240.15b10-4.

[25] E.g., rule 942 of the Chicago Mercantile Exchange; rule 151 of the Chicago Board of Trade.

[26] The rule states that "each Commission registrant other than an associated person must diligently supervise the handling of all commodity accounts 'maintained with' the registrant" * * *."

[27] The rule does not require disclosure of the risks of trading commodity interests other than futures contracts, as such disclosure is presently required in the case of options (§ 32.5). Similarly, the rule does not apply to trading advisors and pool operators because the Commission expects to adopt a series of rules for those registrants that will include risk disclosure requirements.

limit trading can render stop-loss orders ineffective.

(b) *Dual trading.* While the Commission's dual trading regulations (Part 155) will substantially minimize dual trading abuses, some customers may prefer to maintain accounts with FCMs that (i) do not dual trade, (ii) do not permit their employees to trade for their own accounts and—in particular—(iii) do not deal with floor brokers who dual trade. A requirement that FCMs disclose these matters to each customer might simplify the process of ascertaining the FCM's policies on dual trading.

The Commission recognizes that the risk disclosure document will be of limited effectiveness if it is lengthy and complex. As the Advisory Committee needed, "(a) lengthy document simply will not be carefully read by many customers" (Report, p. 2). If the disclosure documents become overly lengthy or overly complex, the Commission would consider drafting a uniform disclosure document, as the Committee suggested.

7. Advertising of Commodity Trading Performance

Proposed § 166.6 prohibits Commission registrants and their representatives from advertising the performance of simulated or hypothetical commodity interest trades or accounts. The rule is identical to recently-proposed §§ 4.6 and 5.5 (which would bar commodity pool operators and commodity trading advisors from advertising simulated or hypothetical results) except that it would apply to all commodity professionals; the reason for extending the prohibition is that the serious problems that are posed by a pool operator's or trading advisor's use of a simulated program[23] are equally present where an FCM or other professional uses such a device. If adopted, § 166.6 would replace §§ 4.6 and 5.5.

The Commission also requests comments on the Advisory Committee's recommendation that commodity professionals be prohibited from advertising the performance of any commodity account that had not been actively traded for at least one year. The Committee recognized that this prohibition—like the ban on advertising simulated results—might create difficulties for new entrants into the commodity industry, but nevertheless felt that the measure was justified by the "highly misleading" nature of short-term results. (Report, p. 34.)

A possible alternative to a prohibition would be a rule requiring advertisements of short-term performance to be accompanied by a conspicuous statement that short-term results can be misleading. Comments are requested on this approach.

The rationale for § 5.5 was the same. *See* 42 FR 9270 (February 15, 1977).

In proposing the pool operator and trading advisor rules, the Commission requested comment on restricting the ability of those professionals to "advertise selectively the performance of only certain commodity accounts or of only certain periods of trading or trading sequences in such accounts." 42 FR 9281 (February 15, 1977). The Commission hereby requests comments on the same or similar restrictions for the other commodity professionals.

8. Due Diligence

Proposed § 1.56 requires FCMs and their associated persons to use due diligence in the handling of customers' orders so as to obtain the best price for the customer. The rule imposes no new obligations upon FCMs or their associated persons, since as agents for their customers they are impliedly obligated to handle orders in this manner. The codification of this implicit obligation will promote greater awareness on the part of FCMs and their associated persons of their obligation and will provide customers with an express right to diligent handling of their orders.

As part of their due diligence responsibility, FCMs and associated persons must strictly adhere to the principle of "customer first" in any situation where their own trades might adversely affect the execution of the customer's order.[24] For example, if an FCM is intending to purchase a large number of contracts of a particular commodity for its house account, it must execute its customers' purchase orders for those contracts first. The "customer first" responsibility applies to both discretionary and nondiscretionary customer accounts.

Due diligence also means the careful and efficient handling of customers' orders. For example, orders should be transmitted in a timely fashion to the trading floor, FCMs should exercise care in the choice of floor brokers and associated persons who handle orders should be properly trained.

Rule 1.56 does not apply to floor brokers since they do not ordinarily deal directly with commodity customers. In any event, floor brokers have an implied obligation—just as do FCMs and their associated persons—to use due diligence in handling customers' order as agents for others.

9. Recording

(a) *Supervision.* As described above, proposed § 166.5 (supervision) requires FCMs to provide for the written approval by a designated supervisor of: (1) The opening of each commodity account; (2) the delegation by any customer of discretionary authority to an associated person of the firm; and (3) each transaction in a discretionary account. In order to monitor compliance with these requirements, the Commission proposes to amend § 1.35—the central FCM recordkeeping provision—expressly to require FCMs to retain these approvals. The section currently requires FCMs to retain all orders, trading cards, signature cards, etc., and "all other records, data, and memoranda which have been prepared in the course of his (the FCM's) business of dealing in commodity futures and cash commodities * * *." While the three types of approvals required under § 166.5 would come within this residual category of "all other records * * *," in the interest of clarity the Commission proposes to include these approvals among the documents specifically listed in the rule.

(b) *Suitability.* The proposed suitability rule (§ 166.2) requires FCMs and their associated persons (among others) to obtain basic financial information about each customer to whom they issue commodity recommendations or for whom they effect discretionary trades. In order to monitor compliance with this requirement, the Commission proposes to amend § 1.37—which provides among other things for the keeping of a record of each customer's name and address—to require FCMs to maintain a record of the information they obtain as a result of their suitability inquiries. Specifically, the amendment would require each FCM who recommends any commodity interest to a customer, or effects a discretionary commodity trade for a customer, to keep a record showing the financial information regarding the customer that the FCM considered in making the recommendation or effecting the trade. A separate record would not be required for each recommendation or discretionary trade.

As a further means of monitoring compliance with the suitability rule, the Commission may require FCMs to maintain a record for each customer order of whether the order was solicited by the firm. Comments are requested on such a requirement.

10. Questions for Comment

In order to assist interested persons in commenting on the proposals, a list of specific questions on most of the proposals is set forth below. These questions are merely a guide for commentators; they do not address every issue raised by each proposal. Comments are welcome on any relevant matter not addressed by the questions. Of course, a general issue raised by each rule is whether the pro-

[23] For example, in proposing § 4.6 the Commission stated (42 FR 9281, February 15, 1977): It may be relatively easy, through hindsight, to design a successful simulated account. However, since a commodity pool operator cannot be required to maintain a record of the "trades" in a simulated account, because such "trades" never actually took place, it would be difficult, time-consuming and frequently impossible for a prospective pool participant, or the Commission, to obtain sufficiently detailed records to verify the accuracy and legitimacy of statements regarding such accounts. The validity of simulated accounts is also questionable because of the uncertainties of order execution. There may be instances in which the hypothetical trade that was "executed" for the simulated account could not have taken place in actual trading. For example, if the market in a particular contract were relatively inactive, only a portion of the "order" may have been executable at the assumed price.

[24] Rule 1.56 will thus supplement the specific requirements of § 155.3(a), under which FCMs must establish, maintain and enforce *procedures* to insure that orders for customers' accounts are transmitted for execution before any order in the same commodity for a proprietary account or certain other accounts. *See* 42 FR 56138 (Dec. 23, 1976).

tections afforded to customers by the rule outweigh the burdens imposed on commodity professionals.

SUITABILITY

1. Should the Commission establish specific suitability standards, such as a net worth standard?

2. Should the rule be changed to permit recommendations to be made to, and discretionary trades executed for, customers who refuse to furnish information about their financial condition after a good faith attempt by the professional to obtain the information?

3. Should professionals be required to verify the accuracy of the suitability information obtained from customers?

4. Should the rule specify how frequently the professional should update the suitability information obtained from the customer when the account was opened?[*] If so, how frequently?

5. Should the suitability rule apply to seminar presentations?

6. Should market letters and other uniform communications be required to contain a notice that commodity trading may not be suitable for the reader of the material?

7. Should FCMs be required to maintain a record of whether the customer's order was solicated by the firm?

CHURNING

1. Is it possible to develop objective standards or guidelines as to what constitutes churning? If so, how should they be formulated?

2. Are the factors used in determining whether a securities account has been churned inappropriate in the commodity area? If so, which factors?

UNAUTHORIZED TRADING—DISCRETIONARY ACCOUNTS

1. Should the rule be changed to prohibit FCMs from exercising discretion as to price unless they have written authorization to execute discretionary trade for the customer?

2. Should the Commission delete the provision of the proposal that requires discretionary authorizations to be renewed yearly?

3. Should the Commission, as do some exchanges, prohibit FCMs from maintaining discretionary accounts that are below a certain equity size? If so, what should be the minimum account equity.

SUPERVISION

1. Should specific supervision standards be established for registrants other than FCMs? If so, which registrants and what types of standards?

2. Are the supervision standards that would be established by the rule too high for the smaller firms? Too low for the larger firms?

3. Should the rule require prior instead of same-day approval by the supervisor of discretionary trades effected for customers by the FCM's account executives?

4. Should the Commission require FCMs to investigate the background of individuals they intend to employ as associated persons?

FCM DISCLOSURE STATEMENT

1. Would the furnishing of a risk-disclosure document be unduly costly?

2. Should the Commission prepare a uniform risk-disclosure document, as in the commodity options area (*see* § 32.5(a)(5))?

3. Will the risk-disclosure documents prepared by FCMs be brief and understandable?

4. Should the risk-disclosure document include disclosure about dual trading (e.g., whether the FCM trades for its own account)?

5. Should the rule require FCMs to obtain a signed acknowledgement from each customer that the risk disclosure document was received?

ADVERTISING OF COMMODITY TRADING PERFORMANCE

1. Should commodity professionals that currently advertise the performance of simulated accounts be exempted from the prohibition by way of a "grandfather" provision?

2. Should the advertising of short-term results be prohibited? If so, how short a term? Should such advertising be required to contain a warning that short-term results can be misleading?

3. Should the Commission ban the selective disclosure of trading performance? If so, how should such a rule be formulated?

INVITATION TO PARTICIPATE

Interested persons may participate in this proposed rulemaking proceeding by submitting comments in written form to the Commodity Futures Trading Commission, 2033 K St. NW., Washington, D.C. 20581: Attention Secretariat. All comments received on or before January 3, 1978, will be considered before the Commission takes final action on the proposal. Copies of all comments received respecting the proposal will be available for inspection at the Commission's Washington, D.C. office.

The Commission is mindful of the cost to registrants and others of its proposals and recognizes its responsibilities to weigh with care the costs and benefits which result from its rules. Accordingly, the Commission specifically invites comments on the cost to registrants and others of the adoption of the proposals published in this release.

AUTHORITY FOR THE PROPOSED RULES

Sections 2a, 4b–d, 4f–4k, 4m–p, 5a, 8a and 17(e) of the Commodity Exchange Act, as amended, 7 U.S.C. 2, 6b–d, 6f–k, 6m–p, 7a, 12a, and 21(e), and section 217 of the Commodity Futures Trading Commission Act of 1974, 88 Stat. 1405, 7 U.S.C. 15a.

In consideration of the foregoing, the Commission proposes to amend Chapter I of Title 17 of the Code of Federal Regulations by amending §§ 1.35(a) and 1.37, adopting new §§ 1.33b, 1.55 and 1.56 and adopting new Part 166.

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. Section 1.35(a) would be amended as follows:

§ 1.35 Records of cash commodity and futures transactions.

(a) "Futures commission merchants and members of contract markets": Each futures commission merchant and each member of a contract market shall keep full, complete, and systematic records, together with all pertinent data and memoranda, of all transactions relating to his business of dealing in commodity futures and cash commodities. He shall retain the required records, data and memoranda in accordance with the requirements of § 1.31, and sall produce them for inspection and shall furnish true and correct information and reports as to the contents or the meaning thereof, when and as requested by any authorized representative of the Commission or the United States Department of Justice. Included among such records shall be all orders (filled, unfilled, or cancelled), trading cards, signature cards, street books, journals, ledgers, cancelled checks, powers of attorney and other authorizations to exercise discretionary authority over a customer account, the written approvals of supervisors pursuant to § 166.5, copies of confirmations, copies of statements of purchase and sale, copies of the written supervisory procedures required under § 166.5, copies of all written complaints by or on behalf of customers and memoranda of all oral complaints together with the record of such action taken with respect thereto, and all other records, data and memoranda which have been prepared in the course of his business of dealing in commodity futures and cash commodities.

2. Section 1.37 would be amended as follows:

§ 1.37 Customer's name, address, and occupation recorded; record of guarantor or controller of account; customer's suitability.

Each futures commission merchant and each member of a contract market shall show for each commodity futures account carried by him the true name and address of the person for whom such account is carried and the principal occupation or business of such person as well as the name of any other person guaranteeing such account or exercising any trading control with respect to such account. Each futures commission merchant shall keep a record in permanent form which shall show for each person for whom a commodity futures or commodity option account is carried all information concerning the person's financial condition and trading objectives that the futures commission merchant or associated person thereof considered in recommending any transaction for the account or in effecting any transaction for the account pursuant to discretionary power or authority. Such records shall be open for inspection by any authorized representative of the Commission.

3. New § 1.33b would read as follows:

§ 1.33b Confirmation of transactions.

Each futures commission merchant must confirm every transaction in a commodity future contract effected by it, directly or indirectly, for a customer by promptly giving or sending written notification of the transaction directly to the customer.

4. New § 1.55 would read as follows:

§ 1.55 Disclosure by futures commission merchants regarding risk of loss.

No futures commission merchant may effect a commodity futures transaction for a customer unless and until the futures commission merchant furnishes

[*] As written, the proposed rule requires the suitability information to be reasonably current.

the customer with a written statement containing an explanation of the risk of loss that exists in trading commodity futures contracts, including disclosure about initial and maintenance margin, leverage, daily price limits, and the volatility of futures market prices.

5. New § 1.56 would read as follows:

§ 1.56 Diligent handling of customer orders.

Each futures commission merchant and associated person thereof must use due diligence in the handling of customers' orders for commodity interests so as to obtain the best possible price or prices for the customer.

PART 166—CUSTOMERS PROTECTION RULES

6. Part 166 would read as follows:

Sec.
166.1 Definitions.
166.2 Suitability of recommendations and discretionary trades.
166.3 Churning.
166.4 Authorization to trade.
166.5 Supervision.
166.6 Simulated or hypothetical accounts or transactions.

AUTHORITY: Secs. 2a, 4b–d, 4f–4k, 4m–p 5a, 8a, 17(e), Commodity Exchange Act, as amended (7 U.S.C. 2, 6b–d, 6f–k, 6m–p, 7a, 12a, 21(e)) sec. 217, Commodity Futures Trading Commission Act of 1974, 88 Stat. 1405 (7 U.S.C. 15a).

§ 166.1 Definitions.

(a) The term "Commission registrant" as used in this part means any person who is or is required to be registered with the Commission pursuant to the Act or any rule thereunder.

(b) The term "representative" as used in this part means any partner, officer, employee or agent (or any person occupying a similar status or performing similar functions) of a Commission registrant acting in a capacity as such partner, officer, employee or agent, but does not include an associated person.

(c) The term "commodity interest" as used in this part means

(1) Any contract for the purchase or sale of any commodity for future delivery, traded on or subject to the rules of a contract market;

(2) Any agreement or transaction in interstate commerce which is or is held out to be of the character of, or is commonly known to the trade as, an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty" involving any commodity regulated under the Act other than wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, onions, Solanum tuberosum (Irish potatoes), wool, wool tops, fats and oils (including lard, tallow, cottonseed oil, peaunt oil, soybean oil and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products and frozen concentrated orange juice;

(3) Any standardized contract for the delivery of silver bullion, gold bullion, or bulk silver coins or bulk gold coin, commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract.

(d) The term "customer" as used in this part means any person trading or intending to trade any commodity interest, including any existing or prospective client or subscriber of a commodity trading advisor or existing or prospective participant in a commodity pool, but the term does not include a person who is acting in the capacity of a Commission registrant or representative with respect to the trade.

(e) The term "commodity account" as used in this part means the account of a customer in which any commodity interest is, or is intended to be, traded.

(f) the term "discretionary power or authority" as used in this part refers to the power or authority of a Commission registrant or representative thereof pursuant to § 166.4(b) to effect transactions for a customer without the customer's prior specific authorization as described in § 166.4(a).

§ 166.2 Suitability of recommendations and discretionary trades.

(a) No Commission registrant or representative thereof may, directly or indirectly, make any recommendation to any customer concerning the purchase, sale or continued holding of any commodity interest, or may effect, directly or indirectly, any transaction in a commodity interest for a customer pursuant to discretionary power or authority as provided in § 166.4(b), unless the Commission registrant or representative thereof—

(1) Within a reasonable period of time before the recommendation or transaction,

(i) Obtained from the customer the essential facts about the customer's financial condition and trading obpectives, and

(ii) Verified with the customer the accuracy of that information if previously obtained and

(2) At the time of the recommendation or transaction, had reason to believe that the recommendation or transaction was suitable for the customer in light of

(i) The information obtained from the customer and otherwise known about the customer by the Commission registrant or representative thereof, and

(ii) The risk of loss involved therein.

(b) For purposes of this section, the term "recommendation" means any advice, suggestion or other statement that is intended, or can reasonably be expected, to influence a customer to purchase, sell or hold a commodity interest, but does not include any statement that merely describes in an objective fashion the commodity interest, the manner in which it is traded or the services of the Commission registrant or representative thereof.

(c) This section does not apply to recommendations furnished solely through—

(1) Uniform publications distributed to subscribers thereto,

(2) Books,

(3) Television or radio communications, or

(4) Seminar or lecture presentations.

§ 166.3 Churning.

No Commission registrant, or representative thereof, who is vested with discretionary power or authority over a customer's account, or otherwise controls the account, may, directly or indirectly, effect for that account transactions in any commodity interest that are excessive in size or frequency in light of the nature of (a) the account and (b) the commodity interest involved.

§ 166.4 Authorization of trade.

No futures commission merchant or associated person thereof may, directly or indirectly, effect a transaction in a commodity interest for the account or any customer unless the customer, or person designated by the customer as the controller of the account, before the transaction—

(a) Specifically authorized the registrant or representative thereof, to purchase or sell a specified amount of that commodity interest; or

(b) Authorized the registrant or representative thereof, by means of a power of attorney or other written trading authorization, to effect transactions in commodity interests for the account without the customer's specific authorization; and

(1) The transaction is effected in accordance with the terms and conditions of the authorization and with §166.5(b)(2)(ii) and all provisions of the Act and the other rules thereunder;

(2) The authorization is set forth in a prominent fashion in a document that is conspicuous to the customer;

(3) The authorization defines precisely the terms of the discretionary power or authority;

(4) The authorization, by its terms, terminates no later than one year after the first day of the authorization period and is not renewable except in writing.

§ 166.5 Supervision.

(a) Each Commission registrant other than an associated person must diligently supervise

(1) The handling of all commodity accounts maintained with the registrant and

(2) All other activities of its representatives and associated persons relating to the registrant's business as such.

(b) As part of its duties under paragraph (a) of this section, each futures commission merchant must

(1) Provide for the supervision of each of its associated persons whose duties are not wholly supervisory. The supervisor designated pursuant to this section must be a partner, officer, branch manager or other qualified-supervisory associated person of the futures commission merchant; and

(2) Establish, maintain and enforce written procedures, a copy of which must be kept in each business office of the futures commission merchant, that provide for

(i) The prior written approval by the designated supervisor of

(A) The opening of each commodity account;

(B) The delegation by any customer of discretionary power or authority to an associated person under his supervision to effect transactions in commodity

(C) All correspondence sent by any associated person under his supervision to a customer concerning the solicitation, acceptance or execution of orders for commodity interests;

(ii) The written approval by the designated supervisor of each transaction in a commodity interest effected pursuant to discretionary power or authority in an account under his supervision. The approval must be obtained on the day the transaction is effected;

(iii) The frequent examination by the designated supervisor of the commodity accounts under his supervision to detect and prevent any violation of the Act or rules thereunder or of any bylaw, rule, regulation or resolution of each contract market and registered futures association of which the futures commission merchant is a member;

(iv) The prompt review of all customer complaints, whether written or oral, concerning the handling of commodity accounts.

(c) Each futures commission merchant that has designated more than one supervisor under paragraph (b) of this section must designate one or more partners or officers of the futures commission merchant to supervise those supervisors.

§ 166.6 Simulated or hypothetical accounts or transactions.

No Commission registrant or representative thereof may publish, distribute or broadcast any report, letter, circular, memorandum, publication, writing, advertisement or other literature or advice (including any television or radio announcement, seminar presentation or telephonic, telegraphic or face-to-face communication) that refers, directly or indirectly, to the performance of any simulated or hypothetical commodity interest account, transaction in a commodity interest or series of transactions in a commodity interest.

Issued in Washington, D.C., August 25, 1977.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.77-25748 Filed 9-2-77;8:45 am]

Federal Register

TUESDAY, SEPTEMBER 6, 1977

PART V

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco, and Firearms

■

RECORDS AND REPORTS FOR DISTILLED SPIRITS PLANT BOTTLING PREMISES, TRANSFER OF RESPONSIBILITY FOR SEALING CONVEYANCES, AND CHANGES IN THE PREPARATION AND DISPOSITION OF DISTILLED SPIRITS PLANT TRANSACTION FORMS

Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

[T.D. ATF-46; Re: Notice No. 303]

RECORDS AND REPORTS FOR DISTILLED SPIRITS PLANT BOTTLING PREMISES, TRANSFER OF RESPONSIBILITY FOR SEALING CONVEYANCES, AND CHANGES IN THE PREPARATION AND DISPOSITION OF DISTLILLED SPIRITS PLANT TRANSACTION FORMS

AGENCY: Bureau of Alcohol, Tobacco and Firearms.

ACTION: Final rule.

SUMMARY: The rule resulted from an extensive study concerning (1) revision of the records and reports systems for distilled spirits plant bottling premises, (2) amendment of provisions concerning the sealing of conveyances of distilled spirits, and (3) the preparation and disposition of certain distilled spirits plant transaction forms. The regulatory changes made in this Treasury decision will create a more modern system of records and reports for distilled spirits plants that is compatible with sound business practice and efficient government administration, and at the same time provide adequate protection to the revenue and to the interests of the consumer.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Norris Alford, Specialist, Rulings Branch, Bureau of Alcohol, Tobacco and Firearms, Federal Building, 1200 Pennsylvania Avenue NW., Washington, D.C. 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Bureau of Alcohol, Tobacco and Firearms (ATF) published a notice of proposed rulemaking in the FEDERAL REGISTER of September 17, 1976 (41 FR 40118). The notice proposed revision of the records and reports system for distilled spirits bottling premises, and amendment of provisions concerning the sealing of conveyances of distilled spirits and the preparation and disposition of certain distilled spirits plant transaction forms. Comments or suggestions on the proposed regulations were invited.

In response to the notice of proposed rulemaking, written comments were submitted by 14 distilled spirits industry members, three industry trade associations, one agency of the Federal Government, one agency associated with a state government, and a Federal Government employees union. Additional input was also received from ATF regional offices. The following summaries of the proposed regulations and comments are organized as to subject area:

SUMMARY OF PROPOSED REGULATIONS, COMMENTS, AND CHANGES PURSUANT TO COMMENTS

1. *Part 170—Miscellaneous Regulations Relating to Liquors.*—The proposals provided for more flexibility in scheduling physical inventories of controlled stock by amending regulations to (1) provide for waiver of one of the two required physical inventories upon application to the regional regulatory administrator and pursuant to a finding that two such inventories are not necessary to law enforcement or protection of the revenue; and (2) permit the required inventories to be taken on dates other than June 30 and December 31, on approval of an application filed with the regional regulatory administrator.

Controlled Stock Inventories. Two industry members commented on the proposed amendment of regulations concerning controlled stock physical inventories. The proposed regulations provide for waiver of one of the required controlled stock physical inventories on application to the regional regulatory administrator, and also, on application to the regional regulatory administrator, the required inventories may be taken on dates other than June 30 and December 31. One commenter indicated that the proposed requirement that inventories be six months apart is too restrictive. The commenter added that it may be to the proprietor's and ATF's advantage to take an inventory at a time other than exactly at a six month interval, due to availability of personnel, low inventories, or holidays. The Bureau did not intend that physical inventories be taken at exact six-month intervals. Therefore, the regulations are amended to clarify that the inventories should be taken at intervals approximately six months apart. This will provide regional regulatory administrators greater discretion when approving alternate dates for inventories.

The second comment we received on this subject suggested that it should not be mandatory to adjust controlled stock gallonage when other inventories (whether complete or partial) are taken, to check counts and to help maintain reliability status of inventories. Although the comment is beyond the scope of the proposed regulations, we point out the provisions of Revenue Ruling 68-219, which provides that whenever any gains or losses of controlled stock are discovered by any inventory, whether it be a complete inventory or only a partial inventory, such gains or losses should be entered into the daily summary of removals from controlled stock. The Bureau maintains that recording of gains or losses disclosed by any inventory is necessary to maintain the accuracy of controlled stock records.

(§ 170.59 further amended.)

2. *Part 173—Returns of Substances, Articles, or Containers, Part 250—Liquors and Articles from Puerto Rico and the Virgin Islands,* and *Part 251—Importation of Distilled Spirits, Wines, and Beer.*—Revised procedures for the approval and use of distinctive liquor bottles were proposed. The proposed changes would eliminate the requirement for submission of ATF Form 4329, "Application and Authorization to Use Distinctive Liquor Bottles," but would incorporate pertinent information appearing on that form into the letterhead application currently submitted to the Director.

Distinctive liquor bottles. Several comments were received concerning the proposal to eliminate ATF Form 4329, "Application and Authorization to Use Distinctive Liquor Bottles," and incorporate pertinent information that appears on that form into a letterhead application submitted to the Director. The United States Customs Service found that elimination of Form 4329 would not cause them any difficulties, since the proposed regulations would require Customs officials at each affected port of entry to be furnished with a copy of the approved letterhead application to authorize the release of the imported bottles, whether empty or filled, from Customs custody. The Customs service indicated, however, that the approved application, without a photograph, would not sufficiently identify to Customs the approved exceptions to the marking requirements for distinctive bottles. They proposed that an approved copy of both the letterhead application and a photograph of the bottle be submitted to Customs at each port where the merchandise will be examined. Finally, the Customs service commented that merchandise may be entered, for example, for immediate transportation under bond which normally does not involve examination. Therefore, they recommended the regulations provide that Customs officials be furnished a copy of the approved application and photograph at each affected port of entry "where the merchandise is examined." The Bureau agrees with these suggestions; and the final regulations contained in this document incorporate the recommendations. DSP proprietors and importers should note that the new regulations will require applications for distinctive liquor bottles to be accompanied by ten photographs rather than nine photographs. This will permit the Bureau to return an approved photograph to the proprietor or importer for subsequent forwarding to Customs.

Several comments were received concerning the requirement that the letterhead application for approval contain the location of the ports of entry for distinctive bottles imported or brought into the United States. All of the commenters on this subject suggested that the letterhead application not be required to show the location of the ports of entry. Instances were cited where, due to unforeseen circumstances, the importer would have to use ports of entry not listed in his original application, thereby necessitating submission of a new or amended application. The Bu-

reau agrees that this information will not need to be shown on the application, since other regulatory requirements will provide that the importer or bottler is responsible for furnishing Customs officials a copy of the application at all ports of entry where the merchandise will be examined. The applicable regulations note this change.

(§§ 173.34, 201.540d, 250.314, and 251.204 further amended.)

3. *Part 186—Gauging Manual.*—Procedures for the proper testing of bottle fill were proposed to be added to the "Gauging Manual". The proposed regulations prescribed methods to be used in determining bottle fill (e.g., volumetrically, by weight), equipment to be used in measuring bottle fill, and precautions to be observed in testing bottle fill.

Proof and Fill Tests of Bottled Spirits. The Bureau's proposals (1) requiring maintenance of daily records of proof and fill tests of bottled spirits, (2) requiring proprietors to submit a description of their proof and fill test procedures to their regional regulatory administrator for his evaluation and approval, and (3) establishing procedures in the "Gauging Manual" (27 CFR Part 186) which describe proper methods for testing bottle quantity (fill), elicited numerous comments. The majority of the commenters addressing this proposal indicated that existing regulations are adequate to both safeguard the revenue and protect the consumer; and the proposals are so detailed, rigid and specific that an additional and unnecessary workload would be placed on the proprietor. Several commenters indicated that commercial records of proof and fill tests are maintained; however, the format of the records may vary even among plants operated by the same proprietor. In addition, several commenters stated that the procedures for conducting proof and fill tests may vary from plant to plant due to mechanical variations, types and sizes of products bottled, and different plant personnel who record the tests. Several industry members who utilize graduated glass flasks for conducting fill tests indicated that the proposals in Part 186 concerning the permissible proof tolerance for flasks were too rigid and would require the acquisition of additional expensive equipment.

The Bureau carefully evaluated all comments on the proof and fill test proposals and determined that certain changes in our proposals are feasible and justifiable. We found that the detailed testing guidelines proposed in Part 186 would not be feasible due to the wide variation of procedures currently utilized by the industry. The Bureau is also aware that these variations could create difficulty in the administration of detailed testing procedures. For these reasons the Bureau is withdrawing the proposals requiring submission of a description of proof and fill test procedures to regional regulatory administrators for evaluation and approval, and the proposals establishing guidelines in Part 186 which describe proper methods for testing bottle fill. The regulations being adopted instead will provide simply that the regional regulatory administrator may require corrective measures if he finds that a proprietor's testing procedures do not protect the revenue and ensure the label accuracy of the bottled product. In consideration of the proposed requirement for maintenance of proof and fill test records, the Bureau recognizes that many industry members currently maintain records that adequately reflect test information. However, there are some that do not. The Bureau feels that such records are necessary to reflect compliance with existing regulations and indicate that bottle filling operations are being monitored by the proprietors through the performance of proof and fill tests. For these reasons, the regulation being adopted will retain the requirement for daily maintenance of proof and fill test records however, the format of the records will not be prescribed by regulations. Where the format or arrangement of the daily records do not indicate whether the proprietor is conducting tests in an acceptable manner, the regional regulatory administrator may require a format or arrangement which will clearly and accurately reflect proof and fill test information.

(Proposed §§ 186.52–.58 deleted; §§ 201.333, 201.459, 201.470k further amended.)

4. *Part 194—Liquor Dealers.*—A. The proposed regulations deleted the regulations that require wholesale liquor dealers to record the serial numbers of distilled spirits cases received.

Serial Numbering Cases of Distilled Spirits. Another commenter suggested that sections 27 CFR 194.225 and 194.226 be clarified concerning the proposed requirement that both records of receipt and disposition show package identification numbers. The recording requirement for package identification numbers applies only to wholesale liquor dealers who package and sell alcohol for industrial purposes, as provided in Part 194, Subpart R. The commenter indicated that the introduction of a new term, "package identification number," is confusing since the majority of wholesale liquor dealers receive distilled spirits in cases and not in packages (e.g., barrels, drums).

The Bureau realizes that this term could be confusing for wholesalers who do not conduct activities in this area, and could, therefore, create problems in recordkeeping. Therefore, the regulations in Part 194 are amended to clarify this possible problem.

(§§ 194.225, 194.226, and 194.237 further amended.)

B. The proposed changes also provided that wholesalers could be relieved of the requirement of preparing and submitting Form 338, "Wholesale Liquor Dealer's Semiannual Report." No comments were received concerning this proposal.

5. *Part 201—Distilled Spirits Plants.*—A. The proposed regulatory revisions included:

(1) Addition of the provision for relief from recording case serial numbers of dispositions by distilled spirits plant proprietors who conduct wholesale liquor dealer operations, upon approval of a written application submitted to their regional regulatory administrator.

Serial numbering cases of distilled spirits. The regulations in the notice proposed elimination of the requirement for wholesale liquor dealers (other than those connected with the operation of a distilled spirits plant) to record the serial numbers of cases of bottled distilled spirits in their daily records of receipt and disposition. The proposals also provided for elimination of the requirement for distilled spirits plant proprietors (who conduct wholesale liquor dealer operations in connection with their plant) to record case serial numbers of receipts. The requirement for recording case serial numbers of cases of bottle distilled spirits plant wholesalers was, however, proposed to be retained, with the proviso that proprietors may be relieved from this requirement pursuant to approval of a written application submitted to their regional regulatory administrator.

Several industry members commented that no distinction should be made between wholesalers and distilled spirits plant wholesalers with respect to the recording requirement. The commenters recommended that the recording requirement be eliminated for all wholesalers without any requirement for approval by the regional regulatory administrator.

The Bureau believes that a distinction is necessary between wholesalers and distilled spirits plant proprietors who conduct wholesale liquor dealer operations for this reason: distilled spirits plant wholesalers, unlike other wholesalers, maintain inventories of cased distilled spirits (controlled stock) on which the internal revenue tax has been determined, but not paid. The availability of case serial numbers assists ATF inspectors in making a spot check or a complete audit to determine the validity of a proprietor's controlled stock inventory. For this reason, the regulations are adopted as proposed.

(2) Elimination of the requirement for submission of Form 338, "Wholesale Liquor Dealer's Semiannual Report", by distilled spirits plant proprietors who conduct wholesale liquor dealer operations, operate taxpaid storerooms, or operate other storage premises from which distilled spirits are not sold at wholesale.

Form 338. The Bureau received a comment from an industry trade association concerning our proposal for waiver of the requirement for submission of ATF Form 338, "Wholesale Liquor Dealer's Semiannual Report." The commenter suggested that the proposed requirement in § 194.231, which requires wholesalers to apply for waiver of the submission of Form 338, should parallel the proposed required in § 201.634 for distilled spirits plant proprietors who conduct wholesale liquor dealer operations, thereby providing for automatic waiver of the submission requirement The Bureau agrees that providing for automatic waiver of the submission requirement would avoid a measure of unnecessary paperwork for both the industry and the Bureau. The

regulations in Part 194 are amended to make this change.

(§§ 194.231, 194.233, and 194.238 further amended.)

(3) Transfer, from ATF officers to plant proprietors, the responsibility for sealing conveyances used to transport spirits, and

(4) Changes involving distilled spirits plant transaction forms that would convert certain application-type forms to notice-type forms, require submission of advance copies of transaction forms to an ATF officer to inform him of an operation or transaction before it commences, and require the proprietor to distribute completed copies of transaction forms or reports in accordance with instructions on the form.

Sealing of conveyances by proprietors/preparation and distribution of transaction forms. The Bureau received numerous comments concerning proposals to transfer from ATF officers to distilled spirits plant proprietors the responsibility for sealing conveyances of spirits and to amend requirements for the preparation and distribution of transaction forms. The majority of the comments objected to the proposed amendments and suggested their implementation be postponed pending resolution of "joint custody" statutory provisions by the Advisory Committee on Distilled Spirits Plant Supervision. The Advisory Committee was chartered in 1975, for the purpose of formulating recommendations to the Director concerning possible statutory changes governing ATF supervision at distilled spirits plants.

Both proposed changes involve, in essence, transferring from the Bureau to DSP proprietors responsibility for ensuring that various plant operations and related records meet regulatory requirements. This is part of a process of eliminating direct Government supervision of proprietors' operations, and substituting instead post-audits of proprietors' records, that has been under way for many years. The changes proposed may be made, however, without statutory changes. The Advisory Committee was, of course, considering whether or not the Bureau should seek legislation allowing it to eliminate certain types of direct supervision currently required by law (an affirmative recommendation was recently forwarded to the Director by the Advisory Committee). For these reasons the regulatory changes are adopted as proposed in the notice.

(5) Providing for use of commercial dump and batch records in lieu of Form 122, "Bottlers Dump and Batch Record".

Dump and Batch Records. One industry member commented that the additional requirement for the listing of quantities of non-alcoholic ingredients in commercial dump and batch records (which will replace ATF Form 122, "Bottler's Dump and Batch Record") is an extra and unnecessary paperwork burden. The commenter stated that products which are rectified are covered by approved formulas which specify the amount of each ingredient, usually in terms of percentage, which is to be added to the product; therefore, they could see no reason to duplicate this information on the batch record. The Bureau believes that the listing of non-alcoholic ingredients in batch records is a necessary and justifiable requirement. Although non-alcoholic ingredients are not required to be recorded on Form 122, this information is necessary to determine compliance with approved formulas. Non-alcoholic ingredients such as harmless colorings, flavorings and blending materials are limited to not more than 2½% by volume of the finished product; otherwise the class and type of the distilled spirits product would be altered. In addition, the presence of coloring, flavoring, and blending materials must be stated on the brand label or on a back label of distilled spirits products. These factors clearly indicate the importance of entering non-alcoholic ingredients on batch records, since they may be used by ATF officers when performing product integrity inspections. The proposal for requiring batch records to identify quantities of non-alcoholic ingredients is, therefore, adopted.

(6) Transfer of custody of distilled spirits stamps from ATF officers to proprietors.

Distilled Spirits Stamps. One comment was received concerning the proposal to transfer custody of distilled spirits stamps from ATF officers to proprietors. The commenter indicated that the requirement for proprietors to maintain inventories and control of distilled spirits stamps is reasonable. Another portion of this comment was, however, beyond the scope of the proposed regulations. The commenter proposed that the use of distilled spirits stamps be restricted to containers removed from the distilled spirits plant. This proposal will be considered in future Bureau studies.

(7) Changes that would require proprietors of bottling premises to maintain daily records of proof and fill tests for bottled distilled spirits and to submit descriptions of their proof and fill test procedures to their regional regulatory administrator for evaluation and approval. Comments and changes made pursuant to this proposal are summarized under item 3 (Proof and Fill Tests of Bottled Spirits).

(8) Revised procedures for approval and use of distinctive liquor bottles. Comments and changes made pursuant to this proposal are summarized under item 2 (Distinctive Liquor Bottles).

(9) Elimination of the requirement for attaching copies of labels or code symbols to bottling forms.

Recording of case serial numbers by trade name. In conjunction with the proposal to eliminate the need for attaching labels to bottling tank transaction forms, the requirement for listing case serial numbers by trade name on the bottling tank transaction form was retained with the proviso that such information could be listed instead on commercial records. An industry member objected to retention of the requirement to record trade names by serial number. The industry member indicated that supporting records are normally maintained by daily production, by brand name, or by customer order, but not by trade name. The commenter added that the listing of case serials by trade name is an exceedingly burdensome and time consuming requirement which serves no useful purpose.

The Bureau has reevaluated the proposal that would continue to require recording of case serial numbers by trade name, and determined that the requirement can be eliminated. The final regulations simply provide that bottling tank forms bear the serial numbers of cases bottled from a specific lot of spirits.

(§§ 201.342, 201.470, and 201.470p further amended.)

B. *Form 244, Tank Certificate.* One comment was received regarding the proposal to eliminate Form 244, "Tank Certificate," and require instead a statement of certification of accurate calibration describing the tanks to appear in the proprietor's notice of registration. The commenter interpreted the proposed amendment to require a change in the plant registration within 60 days of a change in calibration, instead of the current letterhead application regarding certification of accuracy of tanks. The commenter added that changes in tank calibration or installation of new tanks should be covered by letterhead notices where this is the only change taking place. The Bureau did not anticipate the necessity for proprietors to immediately file an amendment to their notice of registration. Pursuant to § 201.174, changes with respect to plant equipment may be reflected in the next amendment of the notice of registration, unless immediate amendment is required by the regional regulatory administrator. This procedure should provide minimum inconvenience for proprietors.

6. *Part 252—Exportation of Liquors.* A. Proposals included revision of the procedures for preparation and submission of Form 206, "Withdrawal of Spirits for Exportation," similar to changes in other distilled spirits plant transaction forms (as discussed in the paragraph concerning amendments to Part 201).

B. Form 1583, "Certificate of Director of Customs of Collection of Internal Revenue Tax on Distilled Spirits or Wines," was also proposed to be eliminated. No comments were received concerning this proposal.

TECHNICAL, CLARIFYING AND CONFORMING CHANGES

Regional regulatory administrator. Treasury decision ATF-32 (41 FR 44038), announced a basic reorganization of the Bureau of Alcohol, Tobacco and Firearms effective December 1, 1976. One of the major features of the reorganization was elimination of the position of regional director, with assumption of his duties by other regional and field officials. The regional official who assumed the regulatory enforcement duties of the regional director was designated as the "regional regulatory administrator" (formerly the assistant regional direc-

tor—regulatory enforcement). Therefore, the term "regional regulatory administrator" is inserted in the sections referring to the "regional director".

(§§ 170.59, 186.11, 194.225, 194.226, 194.231, 194.233, 194.237, 201.100, 201.120, 201.312, 201.368, 201.368a, 201.432, 201.466, 201.487, 201.532, 201.540d, 201.543, 201.550, 201.551, 201.551a, 201.625, 201.631, 201.634, 250.314, 251.204, 252.11, 252.118, 252.163, and 252.195a, further amended.)

Definitions of Customs officials. The Bureau is adopting updated definitions for officials and officers of the U.S. Customs Service, pursuant to recommendations made by the Customs Service.

(§ 252.11 further amended.)

Determining date of original entry for mingled spirits. Section 201.303 provides criteria for determining the date of original entry for spirits mingled on bonded premises. That section establishes (1) the date of original entry (date of production gauge of spirits) for spirits consolidated for further storage in bond to be the date of original entry for the youngest spirits mingled in that lot; (2) the date of original entry for the mingling of homogeneous spirits to be the date of original entry of the oldest spirits mingled in that lot; (3) that appropriate transaction forms shall show the dates of original entry of both the oldest and youngest spirits in the lot; and (4) that transaction records for the mingled spirits in a tank be examined at least once a calendar year to update the date of the oldest spirits.

The Bureau is clarifying the provisions of § 201.303 due to apparent confusion on the part of many industry members as to the applicability of this section. The use of the words "oldest" and "youngest", which carry connotations of age, has caused several proprietors to anticipate more than § 201.303 actually intends. The primary purpose for determining the date of original entry and necessary updating of warehouse records for mingled spirits is for ensuring compliance with the 20-year bonding period ("force-out") requirements of 26 U.S.C. 5006; therefore, the Bureau believes that using the terms "earliest produced" and "latest produced", rather than "oldest" and "youngest" would avoid this age connotation and fulfill the intent of the "force-out" provision of the law and regulations.

(§ 201.303 amended.)

Marks on tanks. The Bureau is liberalizing the provisions in 27 CFR 201.522, with respect to marks required to appear on tanks containing spirits and wines. We have received several comments stating that the requirement for tanks to be marked to show the kind of product contained therein is too restrictive. The Bureau agrees that permanent marking of tanks is unnecessarily restrictive, particularly as to the kind of spirits (*e.g.*, bourbon whisky, rye whisky, scotch whisky) since many tanks are used for multiple purposes and it would pose a burden for proprietors to change the permanent marks each time the tank was used for different kinds of spirits. Therefore, the revised regulations require that the tanks be marked, but provide that such marks may consist of attachment of or reference to a transaction form or memorandum describing the contents of the tank.

(§ 201.522 amended.)

Filing of Forms 2610 and 1577. Proprietors of distilled spirits plants are required to provide notice on Form 2610 of suspension, commencement, or resumption of production operations. The form is filed with the assigned officer, if any; otherwise the form is filed with the regional regulatory administrator. The purpose of the notice is to provide the Bureau with an opportunity to arrange for supervision of operations. In addition, application to destroy spirits which have been withdrawn from bond is required to be filed with the assigned officer, if one is regularly assigned; otherwise the application is filed with the regional regulatory administrator. The Bureau believes that it would be more beneficial for both DSP proprietors and ATF to provide for submission of these forms to their area supervisors rather than regional regulatory administrators when an officer is not regularly assigned to a DSP. This will provide for more expeditious handling of the forms and the resultant approval of specific operations.

(§§ 201.261, 201.561 further amended.)

Miscellaneous changes. Several changes to correct typographical errors are made in this document.

(§§ 173.34, 201.243, 201.342, 201.369 amended.)

(Sec. 26 U.S.C. 7805 (68A Stat. 917).)

The Bureau is establishing a 116-day period prior to implementation of these regulations to permit proprietors to make necessary changes in their record-keeping systems to prepare for the revised regulatory requirements, to provide ample time for approval of seals to be used on bulk conveyances of distilled spirits, and to provide ample time for approval of application for variations from certain regulatory requirements (e.g., alternate date for controlled stock inventories). The Bureau will publish an Industry Circular providing additional information regarding implementation of the revised regulations, forms, and procedures.

Drafting information: The principal author of this document is Norris Alford of the Rulings Branch, Bureau of Alcohol, Tobacco and Firearms. However, personnel from other offices of the Bureau participated in developing the regulation in matters of substance.

Authority and issuance: Except as otherwise noted, these regulations are issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917).

Signed: August 2, 1977.

REX D. DAVIS,
Director.

Approved: August 24, 1977.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

PART 170—MISCELLANEOUS REGULATIONS RELATIVE TO LIQUOR

PARAGRAPH 1. Section 170.59 is revised to provide for flexible scheduling of physical inventories of controlled stock. As amended, § 170.59 reads as follows:

§ 170.59 Inventories of controlled stock.

(a) *Inventories.* (1) Each proprietor of bottling premises shall establish an inventory, in proof gallons, of his controlled stock on hand as of the close of each return period.

(2) The inventory shall differentiate between stocks of mixtures and products which derive less than half of their proof gallon content from tax-determined spirits and other controlled stocks.

(b) *Physical inventories.* (1) Physical inventories shall be taken for the return periods ending June 30, and December 31, each year, and for other return periods as may be required by the regional regulatory administrator.

(2) On approval of an application filed in duplicate with the regional director, required physical inventories may be taken on dates other than June 30, and December 31, if the dates established for taking such inventories:

(i) Coincide with the end of a return period, and

(ii) Are approximately six months apart.

(3) On approval of the application, the designated inventory dates shall take effect with the first inventory scheduled to be taken within six months of the previous June 30, or December 31, inventory.

(4) Physical inventories may be taken within a period of a few days before or after June 30, or December 31 (or other dates approved by the regional regulatory administrator), if:

(i) Such period does not include more than one complete weekend; and

(ii) Necessary adjustments are made to reflect pertinent transactions, so that the recorded inventories will agree with the actual quantities of controlled stock on hand at the prescribed times.

(c) *Waiver of physical inventory.* (1) The regional regulatory administrator, on receipt of an application filed in duplicate, may relieve a proprietor of the requirement of taking the June 30, or December 31 (or other date as approved under the provisions of paragraph (b) of this section) physical inventory, if he finds that only one such inventory during any 24 consecutive return periods is necessary to law enforcement or protection of the revenue.

(2) The regional regulatory administrator may reimpose the requirement for the waived inventory if he finds that it is necessary to law enforcement or protection of the revenue.

(d) *Notification of physical inventory.* Whenever a physical inventory of controlled stock is to be taken, the proprietor shall, at least 5 business days in advance, notify the assigned alcohol, tobacco and firearms officer, if any, otherwise the area supervisor, of the date and time he will take such inventory.

(e) *Supervision of physical inventories.* Physical inventories required

under the provisions of this section shall be taken under such supervision, or verified in such manner, as the regional regulatory administrator may require.

PART 173—RETURNS OF SUBSTANCES, ARTICLES, OR CONTAINERS

PAR. 2. Section 173.33 is revised to (1) eliminate reference to Form 4329, and (2) provide for the application to be made in letter form. As revised, § 173.33 reads as follows:

§ 173.33 Indicia for domestic liquor bottles.

There shall be legibly blown, etched, sand-blasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the Director, on each liquor bottle (a) the words "Liquor Bottle" and (b) the bottle manufacturer's number assigned under § 173.-32: *Provided,* That distinctive liquor bottles not bearing the indicia required by this section may be manufactured on receipt from a bottler or importer of a copy of an application, in letter form, approved by the Director. Additional information, such as the bottler's or importer's permit number, may also be permanently placed on the liquor bottles by the manufacturer thereof provided such information does not conflict with information required to be placed on labels and is so located as not to obscure indicia required by this section or interfere with the labeling or stamping of the bottle, when filled, as provided in Parts 201, 250, and 251 of this chapter.

PAR. 3. Paragraphs (a) and (b) of § 173.34 are revised to (1) eliminate reference to Form 4329, and (2) provide for the application to be made in letter form. As revised paragraphs (a) and (b) read as follows:

§ 173.34 Indicia for imported liquor bottles.

(a) *Empty liquor bottles.* There shall be legibly blown, etched, sand-blasted, marked by underglaze coloring, or otherwise permanently marked by any other method approved by the Director, on each imported empty liquor bottle (1) the words "Liquor Bottle" and (2) the city or country of address of the bottle manufacturer (either in the language of such country or in English): *Provided,* That empty distinctive liquor bottles not bearing such indicia may be released from customs custody, as excepted from the marking requirements of this paragraph, on receipt by the customs officer at the port of entry where the merchandise is examined of a copy of the application, in letter form (accompanied by an approved photograph of the distinctive bottle), approved by the Director, covering the use of such bottles.

(b) *Filled liquor bottles.* There shall be legibly blown, etched, sand-blasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the Director, on each imported filled liquor bottle (1) the words "Liquor Bottle" and (2) the city or country of address of the manufacturer of the spirits, or of the exporter abroad, or the city of address of the importer in the United States; or, in the case of domestic bottles exported and filled abroad, the indicia required under § 173.33: *Provided,* That filled distinctive liquor bottles not bearing such indicia may be imported pursuant to an application (in letter form and approved by the Director) filed by the importer, as excepted from the marking requirements of this paragraph. The city or country of address of the manufacturer of the spirits or of the exporter abroad may be in the language of such country or in English.

* * * * *

PART 186—GAUGING MANUAL

PAR. 4. Section 186.11 is amended, in alphabetical order, by revising the definition of "Director", and by adding the definition of "Regional regulatory administrator". As amended, § 186.11 reads as follows:

§ 186.11 Meaning of terms.

* * * * *

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

* * * * *

Regional regulatory administrator. The principal regional official responsible for administering regulations in this part.

* * * * *

PAR. 5. Section 186.41 is revised to provide for the multiple gauging of spirits. As revised, § 186.41 reads as follows:

§ 186.41 Bulk spirits.

When spirits (including denatured spirits) are to be gauged by weight in bulk quantities, the weight shall be determined by means of weighing tanks, mounted on accurate scales. Before each use, the scales shall be balanced at zero load; thereupon the spirits shall be run into the weighing tank and proofed as prescribed in § 186.31: *Provided,* That with regard to proofing, bulk spirits being withdrawn on multiple gauges in accordance with the provisions of § 201.-374a of this chapter, from tanks approved for such withdrawals, may be withdrawn on the basis of the proof determined for the first such gauge that day: *Provided,* That where the spirits are to be reduced in proof as authorized by this chapter, the spirits shall be so reduced before final determination of the proof. The scales shall then be brought to a balanced condition and the weight of the spirits determined by reading the beam to the nearest graduation mark. From the weight and the proof thus ascertained, the quantity of the spirits in proof gallons shall be determined by reference to table No. 4: *Provided,* That in the case of spirits which contain solids in excess of 600 milligrams per 100 milliliters, the quantity in proof gallons shall be determined by first ascertaining the wine gallons per pound of the spirits and multiplying the wine gallons per pound by the weight, in pounds, of the spirits being gauged and by the true proof (determined as prescribed in § 186.31) and dividing the result by 100. The wine gallons per pound of spirits containing solids in excess of 600 milligrams per 100 milliliters shall be ascertained by:

(a) Use of a precision hydrometer and thermometer, in accordance with the provisions of § 186.23, to determine the apparent proof of the spirits (if the specific gravity at the temperature of the spirits is not more than 1.0) and reference to table No. 4 for the wine gallons per pound; or

(b) Use of a specific gravity hydrometer, in accordance with the provisions of § 186.24b, to determine the specific gravity of the spirits (if the specific gravity at the temperature of the spirits is more than 1.0) and dividing that specific gravity (corrected to 60° F.) into the factor 0.120074 (the wine gallons per pound for water at 60° F.).

When it is desired to withdraw a portion of the contents of a weighing tank, the difference between the quantity (ascertained by proofing and weighing) in the tank immediately before the removal of the spirits and the quantity (ascertained by proofing and weighing) in the tank immediately after the removal of the spirits shall be the quantity considered to be withdrawn.

(72 Stat. 1357, 1358 (26 U.S.C. 5202, 5204).)

PART 194—LIQUOR DEALERS

PAR. 6. Section 194.225 is revised to eliminate the requirement in paragraph (a) for recording the serial numbers of cases, and to make an editorial change in paragraph (b). As revised, § 194.225 reads as follows:

§ 194.225 Records of receipt.

(a) *Information required.* Every wholesale dealer in liquors shall maintain a daily record of the physical receipt of each individual lot or shipment of distilled spirits, which record shall show (1) name and address of consignor, (2) date of receipt, (3) brand name, (4) name of producer or bottler; except that this may be omitted if the dealer keeps available for inspection a separate list or record identifying the producer or bottler with the brand name, (5) kind of spirits, except that this may be omitted if the dealer keeps available for inspection a separate list or record identifying "kind" with the brand name, (6) quantity actually received (showing number of packages, if any, and number of cases by size of bottle, and explaining any difference from the quantity shown on the commercial papers covering the shipment), and (7) package identification numbers of containers of alcohol received for repackaging for industrial use pursuant to Subpart R of this part. Additional information may also be shown.

(b) *Form of record.* The record prescribed by paragraph (a) of this section shall consist of consignors' invoices (or, where such invoices are not available on the day the shipment is received, memorandum receiving records prepared on the day of receipt of the distilled spirits),

and credit memorandums covering distilled spirits returned to the dealer, which contain all required information. Each such invoice (or memorandum receiving record) and credit memorandum shall be numbered by the consignee dealer in the sequence of the physical receipt of the spirits covered thereby. The consignee dealer may start a new series of such numbers annually, or on approval of the regional regulatory administrator, more frequently.

(72 Stat. 1342, 1395 (26 U.S.C. 5114, 5555).)

PAR. 7. Section 194.226 is revised to eliminate the requirement in paragraph (a) *(deleted)* for recording the serial numbers of cases, and to make an editorial change in paragraph (b). As revised, § 194.226 reads as follows:

§ 194.226 Records of disposition.

(a) *Information required.* Every wholesale dealer in liquors shall prepare a daily record of the physical disposition of each individual lot of distilled spirits, which record shall show (1) name and address of consignee, (2) date of disposition, (3) brand name, (4) kind of spirits, except that this may be omitted if the dealer keeps available for inspection a separate list or record identifying "kind" with the brand name, (5) number of packages, if any, and number of cases by size of bottle, and (6) package identification numbers of containers of alcohol repackaged for industrial use pursuant to Subpart R of this part. Additional information may also be shown.

(b) *Form of record.* The record prescribed by paragraph (a) of this section shall consist of the wholesale dealer's invoices (or, where such invoices are not available at the time the spirits are removed, memorandum shipping records prepared at the time of removal of the distilled spirits) which contain all required information. Each such invoice (or memorandum shipping record) shall be preprinted with the name and address of the wholesale dealer in liquors and shall be serially numbered in consecutive order. The wholesaler may start a new series of such numbers annually, or on approval of the regional regulatory administrator, more frequently.

(72 Stat. 1342, 1395 (26 U.S.C. 5114, 5555).)

PAR. 8. Section 194.231 is amended to revise the requirements for preparation of Form 338, and to make an editorial change. As revised, § 194.231 reads as follows:

§ 194.231 Wholesale liquor dealer's semiannual report, Form 338.

As of the close of business on June 30 and December 31 of each year, every wholesale dealer in liquors shall, when required in writing by the regional regulatory administrator, prepare, on Form 338, in duplicate, a report showing the total quantities of distilled spirits received and disposed of during the 6-month period ending on such day. If there were no receipts or disposals of distilled spirits during the period, Form 338 shall be prepared showing the quantity on hand the first day of the period and the quantity on hand the last day of the period and marked "No transactions during period". The original of Form 338 shall be filed with the regional regulatory administrator not later than the 15th day of the month succeeding the period for which rendered, and the copy shall be retained by the dealer.

(72 Stat. 1342 (26 U.S.C. 5114).)

PAR. 9. Section 194.233 is amended to revise the requirements for preparation of Form 338 and to make an editorial change. As revised, § 194.233 reads as follows:

§ 194.233 Discontinuance of business.

When a wholesale dealer in liquors discontinues business as such, he shall render Form 338, covering transactions from the first day of the 6-month period (referred to in § 194.231) in which business is discontinued, through the date of such discontinuance, mark such report "Final", and file the form with the regional regulatory administrator within 15 days of the date of such discontinuance if submission is required by the regional regulatory administrator pursuant to § 194.231.

(72 Stat. 1342 (26 U.S.C. 5114).)

PAR. 10. Section 194.237 is amended by deleting the requirement for serial numbers of cases received and disposed of, and by making an editorial change. As revised § 194.237 reads as follows:

§ 194.237 Package identification numbers.

The package identification numbers of distilled spirits received, or disposed of (for the repackaging of alcohol for industrial use), shall be reported on Form 52A or Form 52B unless the emission of such numbers is specifically authorized by the regional regulatory administrator.

PAR. 11. Paragraph (b) of § 194.238 is amended to revise the requirements for the filing of Form 338. As amended, paragraph (b) reads as follows:

§ 194.238 Requirements when wholesale dealer in liquors maintains a retail department.

* * * * *

(b) Where retail sales of distilled spirits normally represent 90 percent or more of the volume of distilled spirits sold, the dealer may, in lieu of the records required by § 194.225, keep records as prescribed in § 194.239 for all retail dealers in liquors, and all distilled spirits at the premises may be considered as having been received in the dealer's retail department. In addition, as prescribed by § 194.226, he shall prepare records of disposition on all distilled spirits sold at wholesale, and shall prepare recapitulation records of such spirits, as prescribed in § 194.230. Distilled spirits which have been considered as having been received in the retail department, and which are involved in a wholesale transaction, shall be considered as having been transferred to the wholesale department at the time of sale. The semiannual report on Form 338 shall be submitted in accordance with the provisions of § 194.231 (when submission is required by the regional regulatory administrator) even if there have been no wholesale transactions in distilled spirits. Unless relieved of the requirement, pursuant to application under § 194.234, the dealer shall submit daily or periodic reports on Forms 52A and 52B of all his wholesale liquor dealer transactions in distilled spirits. The dealer's wholesale department need not be maintained in a separate room or be partitioned off from the retail department.

(72 Stat. 1342, 1345, 1395 (26 U.S.C. 5114, 5124, 5555).)

PART 201—DISTILLED SPIRITS PLANTS

PAR. 12. Section 201.11 is amended, in alphabetical order by adding a definition of "Area supervisor" and "Kind," and deleting the definition of "Sealed conveyance". As amended, § 201.11 reads as follows:

§ 201.11 Meaning of terms.

* * * * *

Area supervisor. The supervisory officer of a Bureau of Alcohol, Tobacco and Firearms area office.

* * * * *

Kind. Except as otherwise provided in this part, "kind" in the phrase "kind of spirits" shall mean the class and type of the spirits, as provided in Part 5 of this chapter.

* * * * *

PAR. 13. The center heading, heading and text of § 201.100 are revised to read as follows:

SEALING OF CONVEYANCES USED FOR TRANSPORTING SPIRITS

§ 201.100 Sealing of conveyances.

(a) *Construction for sealing.* If a conveyance is required by this part to be sealed, the conveyance shall be constructed in such manner that all openings, including valves (if any) on bulk conveyances, may be closed and secured.

(b) *Approval of certain sealing devices.* (1) All seals, locks, or other devices that are to be used on conveyances in which spirits are: (i) Transferred in bond, (ii) withdrawn free of tax, or (iii) withdrawn without payment of tax, shall be approved by the Director prior to use.

(2) Seals, locks or other devices that are used on conveyances to transport: (i) Taxpaid spirits, or (ii) denatured spirits transferred in bond or withdrawn free of tax, need not be approved.

(c) *Furnishing and affixing seals.* (1) Seals, locks, or other devices for use on conveyances shall be furnished and affixed by the proprietor.

(2) The regional regulatory administrator may, if he deems necessary, require conveyances in which spirits are: (i) Transferred in bond, (ii) withdrawn free of tax, or (iii) withdrawn without payment of tax, to be secured by seals, locks, or other devices approved and

furnished by the Bureau and affixed by an alcohol, tobacco and firearms officer.

(3) Seals, locks, or other devices shall be affixed: (i) As soon as the conveyance is loaded for shipment, and (ii) in such a manner that access to the contents of the conveyance cannot be gained without showing evidence of tampering.

(d) *Numbers and marks on proprietor's seals.* Seals, locks, or other devices that are furnished by the proprietor for use on conveyances shall be serially numbered and dissimilar in markings from those furnished by the Bureau.

(72 Stat 1360 (26 U.S.C. 5206).)

PAR. 14. Section 201.120 is amended to revise the requirements for establishing and operating denaturing facilities. As revised, § 201.120 reads as follows:

§ 201.120 Denaturing facilities.

Facilities for denaturing spirits may be established only on the bonded premises of a plant operated by a proprietor who is authorized to produce spirits, by a controlled or wholly-owned subsidiary (as defined in § 201.206) of such a proprietor, or by a proprietor whose controlled or wholly-owned subsidiary is authorized to produce spirits. If a proprietor (or his parent or subsidiary corporation) discontinues production operations and surrenders his authority to produce spirits, the proprietor (or his parent or subsidiary corporation, as applicable) authorized to denature spirits may be permitted to continue denaturing operations at those denaturing facilities he then has in existence, pursuant to approval of a written application, filed in duplicate with the regional regulatory administrator.

(72 Stat. 1369 (26 U.S.C. 5241).)

PAR. 15. Section 201.147 is revised to provide a statement of certification of accurate calibration for certain tanks on distilled spirits plant premises. As revised, § 201.147 reads as follows:

§ 201.147 Major equipment.

The following items of major equipment, if on the plant premises, shall be described in the application for registration:

(a) Mash tubs and cookers (serial number and capacity).

(b) Fermenters (serial number and capacity.

(c) Tanks used in the production, storage, denaturation, rectification, bottling, and measurement of spirits and tanks used in the storage and the measurement of denatured spirits (designated use (or uses), serial number, capacity, and method of gauging or measurement).

(d) Permanently installed scales and other measuring equipment (including meters).

(e) Bottling lines (list separately as to use and serial number.)

(f) Stills (serial number, kind, capacity, and intended use). (The capacity shall be stated as the estimated maximum proof gallons of spirits capable of being produced every 24 hours, or (for column stills) may be represented by a statement of the diameter of the base and number of plates.)

(g) Other items of fixed equipment used in the production, storage, rectification and/or bottling of spirits, if valued at $5,000 or more (description and use). The description shall show, as to each item of equipment, the location thereof in the plant, and the premises (bonded or bottling) and the facility (production, storage, denaturation, or bottling on bonded premises, and rectification or bottling on bottling premises) in which it is to be used. A statement of certification of accurate calibration shall be included in the description of receiving tanks that are part of production facilities, tanks in storage facilities from which packages are filled, and bottling tanks. Such certification may be executed for all tanks in a specific category (e.g., a blanket certification for all bottling tanks) or for individual tanks. Where any equipment is to be used in two or more facilities, it shall be identified as for multiple use, and its use in each facility shall be shown.

(72 Stat. 1349 (26 U.S.C. 5172).)

PAR. 16. Paragraph (a) of § 201.243 is amended to delete the requirement for Form 244 and to make conforming changes. As revised, paragraph (a) reads as follows:

§ 201.243 Tanks.

(a) *General:* All tanks used as receptacles for spirits (including denatured spirits) or wines shall be located, constructed, and equipped so as to be suitable for the intended purpose and to permit ready examination. An accurate means of measuring the contents of each such tank shall be provided by the proprietor; in any case where such means of measuring is not a permanent fixture of the tank, the tank shall be equipped with a fixed device which will enable the approximate contents to be determined readily. Tanks used for determining the tax imposed by 26 U.S.C. 5001 shall be mounted on scales; and in addition thereto shall be provided with another suitable device for quickly and accurately determining the contents. Storage tanks used for multiple withdrawals for tax determination purposes as provided in § 201.374a, must be equipped with a suitable agitation device. The proprietor shall install walkways, landings, and stairways to afford safe access to all parts of tanks where the presence of an alcohol, tobacco and firearms officer is required. Tanks may be equipped with vents, flame arresters, foam devices, or other safety devices, if the construction is such to prevent extraction of the spirits. The proprietor shall be responsible for establishing and maintaining accurate calibration of all tanks. Receiving tanks which are part of the production facilities, tanks in the storage facilities from which packages are to be filled in the manner provided in paragraph (c) (2) or (3) of § 201.269 as authorized by § 201.294, and bottling tanks shall not be used until they have been accurately calibrated and a statement of certification of accurate calibration included in the notice of registration, as provided in § 201.147. If such tanks or their fixed gauging devices are to be moved in location or position subsequent to original calibration, the alcohol, tobacco and firearms officer shall be notified in writing of such change. After the change has been made, the tank shall not be used until it is recalibrated. Pursuant to tax determination, spirits in a tank may be removed from bonded premises, and received on bottling premises, in the tank in which they are contained, if (1) the bonded premises are alternated to bottling premises in the manner provided in § 201.175, (2) the tank and/or all necessary connections thereto are locked or sealed in such manner as to prevent the mingling of spirits in bond with tax determined spirits, (3) the tank is properly redesignated, and (4) the structural separation of bonded and bottling premises required by § 201.231 is maintained.

* * * * *

PAR. 17a. Section 201.261 is amended to make editorial and conforming changes for the preparation of Form 2610. As revised, § 201.261 reads as follows:

§ 201.261 Notice by proprietor.

(a) *Commencement of operations.* The proprietor shall, before commencing production operations or resuming production operations after having given notice of suspension, file notice on Form 2610 with the assigned officer, if any, otherwise with the area supervisor, specifying the date on which he desires to commence or resume operations for the production of spirits. The notice shall be filed in accordance with the instructions on the form, and sufficiently in advance to afford the area supervisor an opportunity to make arrangements for supervision of the operations. The proprietor may not commence or resume operations until the time specified in the notice.

(b) *Suspension of operations.* Any proprietor desiring to suspend production operations for a period of 30 days or more shall file notice on Form 2610 with the assigned officer, if any, otherwise with the regional director, specifying the date on which he will suspend operations. The notice shall be filed in accordance with instructions on the form and (where no officer is available) shall be filed sufficiently in advance to afford the area supervisor an opportunity to detail an officer to the plant. In case of an accident which makes it apparent that operations cannot be conducted for 30 days or more, the proprietor shall give immediate notice of suspension on Form 2610.

(72 Stat. 1364 (26 U.S.C. 5221).)

Par. 17b. Section 201.303 is revised by making clarifying changes to read as follows:

§ 201.303 Determining date of original entry.

(a) *Date of original entry.* (1) When spirits are mingled in accordance with the provisions of § 201.301, the date of original entry for the entire lot shall be that of the latest produced spirits that were mingled.

(2) When spirits are mingled as provided in § 201.297 or are blended as provided in § 201.307, the date of original entry for the entire lot shall be that of the earliest produced spirits that were mingled or blended.

(3) The appropriate transaction forms shall show the original entry dates of both the earliest and latest produced spirits contained in the lot.

(b) *Age of spirits.* The appropriate transaction forms shall show the actual ages (in years, months, and days) of both the oldest and youngest spirits in the lot.

(c) *Updating.* (1) When mingled or blended spirits are held in a tank, the proprietor shall, at least once each calendar year, reexamine the records of deposits and withdrawals for the tank for the purpose of updating the date of original entry (but not the age) of the earliest produced spirits in the mixture.

(2) Updating of the date of original entry shall be made on the basis that the lot with the earliest date of original entry will be the first lot shown in the warehouse records as having been withdrawn.

PAR. 18. Section 201.312 is amended by adding in item (3) of the first proviso, the words "either tax-exempt or" before the words "taxable rectification", and by making editorial and conforming changes. As revised § 201.312 reads as follows:

§ 201.312 Importation of spirits.

The proprietor may withdraw from customs custody, without payment of the internal revenue tax imposed on imported spirits by 26 U.S.C. 5001, imported spirits in bulk containers and transfer such spirits to his bonded premises in such bulk containers or by pipeline. A proprietor intending to receive imported spirits from customs custody shall obtain an approved application, Form 2609, in the manner provided in § 251.172 of this chapter. Imported spirits transferred to bonded premises, as provided in this section, (a) may not be bottled in bond under 26 U.S.C. 5233, (b) may be redistilled or denatured only if of 185 degrees or more of proof, and (c) may be withdrawn for any purpose authorized by chapter 51, 26 U.S.C., in the same manner as domestic spirits. Imported spirits shall be kept separate at the bonded premises and shall not be mixed with domestic spirits or with other imported spirits, except as follows: Imported spirits (1) may, if of 185 degrees or more of proof, be mingled with domestic spirits or with other such imported spirits if the mingled spirits are to be immediately denatured, (2) may, if eligible under § 201.296, be mingled with other imported spirits similarly eligible which have been duty paid at the same rate, (3) may, if imported as beverage spirits, be mingled with heteorogeneous spirits if the mingled spirits are for immediate removal to bottling premises exclusively for use in either tax-exempt or taxable rectification, or blended pursuant to § 201.307, and (4) may, if eligible under § 201.297, be mingled with other distilled spirits similarly eligible: *Provided,* That if the spirits to be so mingled have been treated, compounded, or blended prior to importation, the proprietor must establish to the satisfaction of the regional regulatory administrator that the spirits to be mingled were treated, compounded, or blended at the same foreign plant by the same person, are of the same formulation, and are in fact homogenous: *Provided further,* That the preceding proviso shall not be applicable to the mingling of spirits of the same kind, imported under the same customs entry, and treated, compounded, blended, or produced at the same foreign plant by the same person. Imported spirits shall not be filled into packages, or subjected to treatment, which would modify the taste, aroma, or other characteristics generally attributed to that class and type of spirits. The provisions of this section with respect to the separation from other spirits and of §§ 201.312a and 201.312b are applicable to imported spirits received on bonded premises under this section, whether or not redistilled. Imported spirits to be redistilled shall be appropriately identified on Form 2629.

(72 Stat. 1367, 82 Stat. 1328 (26 U.S.C. 5234, 5232).)

PAR. 19. Section 201.327 is amended to delete the requirement for the assigned officer's verification and release of spirits. As revised § 201.327 reads as follows:

§ 201.327 Bottling.

Spirits may be bottled in bond only from approved bottling tanks. The proprietor shall determine the quantity and proof of the spirits deposited in each bottling tank and make entry thereof on Form 1515, and shall then attach a copy of Form 1515 to the bottling tank. Where two or more bottling tanks are used for one lot of spirits, Form 1515 shall be attached to one tank and the other tanks shall be marked to bear a reference to the tank to which the Form 1515 is attached. Where two or more lots of spirits are to be bottled at the same time, the bottling shall be conducted in such manner as to prevent any mingling of the different lots. Where part of a lot of spirits is to be bottled for export and the proof of such spirits is further reduced, the proprietor shall determine the quantity and proof of the spirits after such further reduction and make entry therof on Form 1515. Bottling tanks and pipelines shall be so equipped that the flow of spirits through the tanks may be controlled by Government locks. Tanks containing spirits deposited for bottling-in-bond, or the rooms or building in which such tanks are located shall be locked at all times except when bottling-in-bond operations, or activities related thereto, are being conducted as provided in this part and the assigned officer is on the premises. Where bottling facilities are alternated as provided in § 201.175, operations shall be conducted in such manner as to prevent the mingling of tax determined spirits and spirits in bond.

(72 Stat. 1366 (26 U.S.C. 5233).)

PAR. 20. Section 201.330 is revised in its entirety to read as follows:

§ 201.330 Labels to agree with contents of tanks and bottles.

Labels affixed to bottles shall agree in every respect with the spirits in the tanks from which the bottles are filled. The proprietor's records shall be such that they will enable alcohol, tobacco and firearms officers to readily determine, by case serial number, which label was used on any given filled bottle. If an alcohol, tobacco and firearms officer finds that the label and spirits do not agree in every respect, he shall not permit the spirits to be bottled, or if the bottles are labeled with labels which do not agree with the spirits in every respect, he shall require the proprietor to relabel the bottles with proper labels.

(72 Stat. 1366, 1374 (26 U. S. C. 5233, 5301).)

PAR. 21. Section 201.333 is revised in its entirety to read as follows:

§ 201.333 Filling of bottles.

(a) *Proof and fill tests.* (1) Proprietors shall test and examine bottles of bottled-in-bond spirits at frequent intervals during bottling operations to determine whether the spirits contained in such bottles agree in proof and quantity (fill) with that stated on the label or bottle. (2) If the regional regulatory administrator finds that a proprietor's test procedures do not protect the revenue and insure the label accuracy of the bottled product, he may require corrective measures.

(b) *Variations in proof and fill.* If the contents do not agree with the respective data on the label or bottle as to—

(1) *Quantity* (fill), except for such variations in measuring as may occur in filling conducted in compliance with good commercial practice and there is substantially as much overfill as underfill for each lot of spirits bottled on Form 1515, and/or

(2) Proof, subject to a normal drop in proof occurring during bottling operations not to exceed three-tenths of a degree—

the proprietor shall rebottle, recondition, or relabel the spirits in such manner that the label will correctly describe the contents.

(c) *Proof and fill test records.* (1) Proprietors shall record the results of all proof and fill tests made.

(2) The daily record shall be maintained in a manner and provide information that will enable alcohol, tobacco and firearms officers to determine whether the proprietor—

(i) Monitors filling operations by conducting proof and fill tests, and

(ii) Employs procedures to correct variations in proof and fill described in paragraph (b).

(3) Proof and fill test records shall contain, at a minimum, the following information—

(i) Date and time of test,
(ii) Form 1515 number,
(iii) Size of bottle,
(iv) Label proof,

(v) Test proof,

(vi) Percentage of overfill/underfill, and

(vii) Corrective action taken (if any).

(4) Where the content, format or arrangement of the daily records does not comply with the provisions of paragraph (c)(2) and (c)(3), the regional regulatory administrator may require a format or arrangement which will clearly and accurately reflect proof and fill test information.

(72 Stat. 1361, 1395 (26 U.S.C. 5207, 5555).)

PAR. 22 § 201.342 is amended to provided for the separate listing of case serial numbers by trade name on commercial records. As revised, § 201.342 reads as follows:

§ 201.342 Trade names.

Before a proprietor may bottle or label bottled-in-bond spirits under a trade name, he shall secure approval of such name in the maner prescribed by Subpart F of this part.

(72 Stat. 1366 (26 U.S.C. 5233).)

PAR. 23. Section 201.368 is amended to change the function of Form 236 from an application to a notice for transfers in bond and to transfer responsibilities for sealing conveyances from alcohol, tobacco and firearms officers to proprietors. As revised, § 201.368 reads as follows:

§ 201.368 Consignor premises.

(a) *General.* (1) Notice on Form 236 shall be prepared by the consignor proprietor to cover the transfer of spirits or denatured spirits in bond, pursuant to an approved application on Form 2609. Except as otherwise provided herein, a Form 236 shall be prepared for each conveyance. Each Form 236 shall show the real name (or the basic operating name as provided in § 201.235) of the producer (or the name of the importer in the case of imported spirits or the name of the packaging or bottling proprietor in the case of spirits of 190° of proof or more) and, if the spirits were produced under a trade name, shall also show the trade name under which produced. Prior to lading of spirits aboard any conveyance (or commencement of pumping operations in the case of pipeline transfers) for transfer from bonded premises, the proprietor shall submit a notice copy of Form 236 to the alcohol, tobacco and firearms officer. In the case of transfers made in accordance with the provisions of paragraph (a)(2) of this section, the proprietor shall submit the authorized shipment and delivery orders to the alcohol, tobacco and firearms officer prior to commencing transfer operations. The serial numbers of any seals or other devices affixed to a conveyance used for shipment of spirits or denatured spirits in bond shall be entered on Form 236 by the proprietor. On completion of lading (or completion of transfer by pipeline), the proprietor shall dispose of the remaining copies of Form 236 as provided in the instructions on the form.

(2) The proprietor may, on approval of the regional regulatory administrator, cover on one Form 236 all packages of spirits shipped by truck on the same day from his production facilities or storage facilities for deposit for storage in bond in another distilled spirits plant located in the same region. In such case, the proprietor shall deliver, to the alcohol, tobacco and firearms officer at the shipping and delivery premises, a shipment and delivery order for each shipment, showing the number of barrels, their package identification numbers, the name of the producer, and the serial numbers of the seals or other devices (if any) applied to the truck. Such shipping and delivery shall be properly authenticated, and shall constitute a complete record of the spirits so transferred in each truck each day. On completion of lading of the last truck for the day, the Form 236 shall be disposed of as provided in the instructions on the form.

(b) *Packages.* When spirits are to be transferred in bond in packages, the consignor proprietor shall weigh each package, except (1) when the transfer is to be made in a sealed conveyance, (2) when the individual packages have been securely sealed by the proprietor in a manner satisfactory to the alcohol, tobacco and firearms officer, or (3) when this requirement has been waived by the regional regulatory administrator on a finding that, because of the locotion of the premises and the proposed method of operation, the transfer can be made under the control of the alcohol, tobacco and firearms officer, and there will be no jeopardy to the revenue. The proprietor shall load and seal the conveyance, if it is to be sealed, except, that the regional regulatory administrator may require sealing by an alcohol, tobacco and firearms officer (see § 201.100.) When packages are weighed at the time of shipment, the proprietor shall list the package identification number of each package and its gross shipping weight on Form 2630. A copy of Form 2630 shall accompany each copy of Form 236.

(c) *Bulk conveyances and pipelines.* When spirits are to be transferred in bond in bulk conveyances or by pipelines, the consignor shall gauge the spirits under the direct supervision of the alcohol, tobacco and firearms officers and record the quantity so determined on Form 236. Bulk conveyances of spirits shall be sealed by the proprietor except that the regional regulatory administrator may require sealing by an alcohol, tobacco and firearms officer. (See § 201.100.)

(72 Stat. 1367 (26 U.S.C. 5222).)

PAR. 24. A new section, § 201.368a., concerning reconsignments of spirits in transit, is inserted, immediately following § 201.368, to read as follows:

§ 201.368a Reconsignment in transit.

Where, prior to or on arrival at the premises of a consignee, spirits transferred in bond (including denatured spirits) are found to be unsuitable for the purpose for which intended, were shipped in error, or, for any other bona fide reason, are not accepted by such consignee, or are not accepted by a carrier, they may be reconsigned, by the consignor, to himself, or to another consignee on notification to the regional regulatory administrator of the consignor's region of such reconsignment. In such case, application to receive spirits by transfer in bond (on Form 2600) shall have been previously approved for the consignee and the bond of the proprietor to whom the spirits are reconsigned shall cover such spirits while in transit after reconsignment. Notice of cancellation of the Form 236 covering the shipment to the original consignee shall be made by the consignor to each person receiving a copy of such Form 236. Where the reconsignment is to another proprietor, a new Form 236 shall be prepared and prominently marked with the word "Reconsignment".

PAR. 25. Paragraphs (a) and (b) of § 201.369 are amended to require the proprietor to determine and report losses in transit and to make procedural changes concerning disposition of Form 236. As revised, paragraphs (a) and (b) read as follows:

§ 201.369 Consignee premises.

(a) *General.* When spirits are received by transfer in bond, the consignee proprietor shall notify the alcohol, tobacco and firearms officer of their delivery. The proprietor shall examine each sealed conveyance to determine whether the seals are intact upon arrival at his premises. If the seals are not intact, he shall immediately, before removal of any spirits from the conveyance, notify the alcohol, tobacco and firearms officer. The proprietor shall examine all containers, and any container bearing evidence of loss in transit or of loss due to theft shall be held until released by the alcohol, tobacco and firearms officer. Spirits after examination (and, if held, after release by the alcohol, tobacco and firearms officer) shall be deposited in the warehouse immediately, or, if the spirits are to be redistilled, they shall be deposited in the production facilities immediately. Losses shall be determined and reported on Form 236 by the proprietor, with a written notation (by package identification number for packages or serial numbers for cases) as to the cause of the loss. Losses in excess of normal transit losses or as a result of theft or unauthorized destruction shall be reported in accordance with § 201.311. After execution on the transfer forms of his receipt of the shipment of spirits (including denatured spirits), the consignee shall dispose of Form 236 as provided in the instructions on the form.

(b) *Packages.* When spirits are received in packages, the consignee proprietor shall weigh each package, except (1) when the transfer is made in a sealed conveyance and the seals or other devices are intact on arrival, (2) when the individual packages have been sealed by the consignor proprietor and are intact on arrival, or (3) when the requirement for weighing the packages at the consignor premises has been waived under the provisions of § 201.368(b)(3). If Form 2630 accompanies the shipment, the consignee proprietor shall record the receiving weight of each package on the

Form 2630. If no Form 2630 accompanies the shipment, the consignee proprietor shall prepare a list showing the package identification number of each package and its receiving weight and attach one copy to each copy of Form 236 in his possession. All packages in a sealed conveyance on which the seals or other devices are not intact on arrival, and all packages not intact on receipt, shall be segregated, after weighing, and held until released by the alcohol, tobacco and firearms officer. When denatured spirits are received in packages, the consignee proprietor shall prepare Form 1467, appropriately modified, to record their deposit on bonded premises; a separate sheet shall be used for each formula.

* * * * *

(72 Stat. 1358, 1362 (26 U.S.C. 5204, 5213).)

PAR. 26. Section 201.370 is revised to (1) provide for submission of a notice copy of Form 2629, (2) provide for reporting of losses, and (3) delete the assigned officer's approval of Form 2629. As revised, § 201.370 reads as follows:

§ 201.370 Removal of spirits from storage for redistillation.

A proprietor intending to remove spirits (including denatured spirits) from storage to production facilities on the same bonded premises for redistillation, in accordance with the provisions of §§ 201.272 and 201.273, shall prepare Form 2629 to cover such removal and shall submit a copy of the form to the alcohol, tobacco and firearms officer before commencing the dumping and gauging operations. Each lot of spirits (except bottled spiirts) shall be gauged by the proprietor under the direct supervision of the alcohol, tobacco and firearms officer. Such gauge may be made either in the storage or the production facilities and shall be reported on Form 2629. The packages or cases shall be examined by the proprietor, and if any package or case bears evidence of loss due to theft or unauthorized destruction, or loss in excess of normal storage losses, such loss shall be reported to the alcohol, tobacco and firearms officer and the package or case shall not be dumped until released by him; Form 2629 shall be amended when necessary.

PAR. 27. A new section, § 201.374a, authorizing multiple gauges of spiirts withdrawn for tax determination, is added immediately following § 201.374, to read as follows:

§ 201.374a Multiple bulk gauge for tax determination.

(a) *Procedure.* (1) Spirits may be withdrawn for tax determination on a multiple gauge basis only if the spirits are withdrawn from a storage tank equipped with a suitable agitation device.

(2) The multiple gauge concept shall be optional at each plant.

(b) *Withdrawal and gauging of spirits.* (1) Prior to the initial withdrawal from the storage tank the spirits shall be thoroughly agitated.

(2) The alcohol, tobacco and firearms officer shall determine the proof of the first withdrawal of spirits from the storage tank and shall calculate the tax due based on the established proof and weight of the spirits in the gauge tank for that withdrawal.

(3) Subsequent withdrawals from the storage tank need only be weighed in the gauge tank by the alcohol, tobacco and firearms officer, using the proof established at the first withdrawal to calculate the tax due.

(4) One Form 179 shall cover all tax determinations for one day for each storage tank.

(c) *Restrictions.* The addition of spirits to a storage tank from which a multiple gauge withdrawal has been made will require, prior to the next withdrawal of spirits from such tank:

(1) Thorough agitation of spirits in the storage tank.

(2) Determination of a new proof of the spirits in the gauge tank by the alcohol, tobacco and firearms officer, and

(3) Preparation of a new Form 179 to cover any multiple gauge withdrawal made subsequent to the addition of spirits to the storage tank.

(72 Stat. 1320, 1358 (26 U.S.C. 5006, 5204).)

PAR. 28. Section 201.378 is amended by designating the existing language as paragraph (a) and revising it, and by establishing a new paragraph (b) for multiple gauging. As revised, § 201.378 reads as follows:

§ 201.378 Withdrawal procedures; bonded premises.

(a) *General.* Except as provided in paragraph (b) of this section, the spirits to be taxpaid shall be inspected or gauged and the amount of tax found due shall be entered on Form 179 by the assigned officer. If the tax is to be prepaid, as indicated by the withdrawing proprietor on Form 179, the assigned officer will inform the proprietor from whose premises the spirits are being withdrawn of the amount of tax determined. The proprietor will deliver to the assigned officer the prepayment return, Form 2521, with remittance, or when prepayment is made in cash to the district director, the proprietor will deliver a receipted Form 2521 to the assigned officer. Once the tax is prepaid, or, if the tax is not to be prepaid, and the bond of the withdrawing proprietor is adequate, the assigned officer will execute his statement of tax determination, release the spirits in accordance with § 201.385, retain one copy of Form 179, and return the original and remaining copies and any accompanying reports to the proprietor as authority to remove the spirits from bonded premises. At the time of removal the proprietor will assign to and enter on each Form 179 a release number, assigned in serial order, starting with "1" for the first such form each calendar year. Distribution of Form 179 will be made according to instructions on the form.

(b) *Multiple Gauge.* When spirits are withdrawn in a series of multiple bulk gauges, they shall be inspected or gauged in accordance with § 201.374a. In addition to entering the tax gallons and amount of tax due for each withdrawal on Form 179 at the time of gauging, the alcohol, tobacco and firearms officer shall enter the total for all withdrawals on the form when he executes his statement of tax determination. The release number for Form 179 shall be assigned to and entered on the form at the time of the first removal of spirits.

PAR. 29. Section 201.385 is revised to (1) add a reference to multiple bulk gauging, (2) delete the reference to the assigned officer's issuance of distilled spirit stamps, and (3) make editorial changes. As revised, § 201.385 reads as follows:

§ 201.385 Removal of spirits on tax determination.

No spirits shall be removed from bonded premises, except as otherwise provided by law, unless the tax theron has been determined. If the Form 179, and Form 2521 (if required) with remittance, are in order and cover the full amount of the tax on the spirits to be withdrawn, the assigned officer shall execute his statement of tax determination authorizing the removal of the spirits. The assigned officer shall not execute his statement or certification of tax determination where a proprietor of bottling premises, whose bond on Form 2614 or 2615 is not in the maximum penal sum, has assumed liability for the tax on the spirits, and the tax is greater than the amount shown as chargeable against his bond on Form 179. If Form 2521 has been filed with the district director, as required by § 201.383(b), the statement regarding tax determination shall not be executed before the assiged officer has received a receipted copy of the return from the district director. When a proprietor of bottling premises has made application for withdrawal of spirits for bottling in bond after tax determination, the assigned officer shall not execute his statement or certification of tax determination unless the spirits to be withdrawn meet the aging and packaging requirements prescribed for spirits to be bottled in bond and are otherwise eligible. On execution of the statement or certification of tax determination authorizing removal of the spirits, the proprietor shall apply distilled spirits stamps to the packages or bulk conveyances of spirits to be removed from bonded premises. Distilled spirits stamps shall be affixed, canceled, and protected in the manner provided in Subpart Q of this part. When the distilled spirits stamps have been affixed by the proprietor to the containers and the containers have been properly marked, they shall be immediately removed from the bonded premises. When spirits are to be removed by pipeline, the appropriate Form 179, after execution of the statement or certification of tax determination shall be attached to the gauge tank, and shall remain thereon until the spirits have been removed from the tank. Spirits bottled in bond before determination of tax which are to be withdrawn from bonded premises on determination of tax may be so withdrawn subsequent to bottling, without

being returned to the storage portion of the bonded warehouse, if the proprietor executes Form 179 in advance of withdrawal to cover a specific quantity of such spirits that shall be equal to or more than the quantity of spirits that he expected to withdraw. In such case the assigned officer shall execute the statement of tax determination only if he is satisfied that adequate means and methods are provided for accurately ascertaining the quantities of spirits to be so withdrawn at the time of bottling and that Form 179 is otherwise in order. On completion of the withdrawal covered by Form 179, the proprietor shall complete the forms, identifying the cases and showing the actual quantity of spirits so withdrawn (and any adjustments); such information shall be verified by the assigned officer. When any spirits have been removed from the bonded premises as provided in this section, the proprietor shall execute, under the penalties of perjury, the statement of removal on all copies of Form 179 and distribute them in accordance with the instructions on the form. However, when spirits are withdrawn in a series of multiple bulk gauges as provided in § 2041.374a, the proprietor shall execute the statement of removal when all spirits covered by the appropriate Form 179 have been removed from bonded premises. Bulk conveyances used to transport tax-paid spirits withdrawn from bonded premises shall be sealed. (See § 201.100.)

PAR. 30. Section 201.387 is revised to (1) provide for an advance copy of Form 2629 for the alcohol, tobacco and firearms officer, (2) provide for sealing of conveyances by the proprietor, and (3) delete the requirement for written release of spirits by the officer. As revised, § 201.387 reads as follows:

§ 201.387 Withdrawals of spirits for use in wine production.

Wine spirits withdrawn without payment of tax for use in wine production may be removed in approved containers for shipment to a bonded wine cellar on receipt of an approved application, Form 257, submitted by the proprietor of the bonded wine cellar in accordance with the provisions of Part 240 of this chapter. Each package of wine spirits (unless withdrawn on the original gauge) and each lot of wine spirits transferred by pipeline or by bulk conveyance shall be gauged by the proprietor under the direct supervision of the assigned officer: *Provided,* That spirits transferred by pipeline may be so gauged on the bonded wine cellar premises. Form 2629 shall be prepared by the consignor to cover each removal of wine spirits pursuant to an approved Form 257. Prior to the lading of spirits aboard any conveyance (or commencement of pumping operations in the case of pipeline transfers) for removal from the bonded premises, the proprietor shall submit a copy of Form 2629 to the alcohol, tobacco and firearms officer as notice of the operation. When wine spirits in packages are to be removed (unless to be withdrawn on the original gauge), the consignor shall also gauge the packages and prepare Form 2630. Bulk conveyance shall be sealed (see § 201.100) and the conveyance shall bear a label, dated and signed by the proprietor, showing the intended use of the wine spirits and the name and plant number of the consignor and the name and registry number of the consignee.

(72 Stat. 1362, 1382 (26 U.S.C. 5214, 5373).)

PAR. 31. Section 201.390 is revised to (1) designate Form 2633 as a notice, and (2) delete from its provisions the requirement for written release of spirits by the assigned officer. As revised, § 201.390 reads as follows:

§ 201.390 Withdrawal of spirits free of tax.

Spirits withdrawn free of tax under § 201.389 (a), (b), and (c) shall be withdrawn in approved containers and shipped to the consignee designated in the permit. The proprietor shall submit a copy of the notice of withdrawal, Form 2633, to the assigned officer prior to the lading of the spirits aboard the transfer conveyance. Unless the spirits are in cases or are to be withdrawn on the original gauge, the proprietor shall gauge each container under the direct supervision of the assigned officer. For each shipment, the proprietor shall prepare Form 1473 and distribute the form in accordance with the instructions thereon. Bulk conveyances used to transport spirits withdrawn free of tax under this section shall be sealed. (See § 201.100.)

(72 Stat. 1362 (26 U.S.C. 5214).)

PAR. 32. Paragraph (a) of § 201.393 is amended by adding the requirement for the sealing of bulk conveyances. As revised, paragraph (a) reads as follows:

§ 201.393 Removal of denatured spirits.

(a) *Specially denatured spirits.* Specially denatured spirits withdrawn free of tax under § 201.389(d) shall be shipped in approved containers to the consignee designated in the permit. If such spirits are for export or for transfer to a foreign-trade zone, they shall be withdrawn under the applicable provisions of Part 252 of this chapter. If such spirits are for shipment to a qualified user or a bonded dealer, the proprietor shall prepare notice of shipment on Form 1473 and distribute the copies of the form in accordance with the instructions thereon. Bulk conveyances used to transport specially denatured spirits shall be sealed in accordance with the provisions of § 201.100.

* * * * *

PAR. 33. Section 201.407 is revised to delete the provisions for the assigned officer's written verification of denaturation. As revised, § 201.407 reads as follows:

§ 201.407 Notice and gauge for denaturation.

The proprietor, when he wishes to denature, shall execute his notice of intent on Form 2634, in triplicate, in accordance with the instructions thereon and deliver one copy, as a notice, to the alcohol, tobacco and firearms officer before any spirits are released for denaturation. The guage of the spirits, when required, and the denaturation thereof, shall be under the direct supervision of the alcohol, tobacco and firearms officer. On completion of denaturation, the proprietor shall execute his report of denaturation on Form 2634 and dispose of the forms in accordance with the instructions on the form. All spirits shall be gauged by the proprietor: *Provided,* That spirits dumped from previously gauged containers or spirits transferred directly to mixing tanks from gauge tanks where they were gauged, need not be again gauged. Measurements of spirits and denaturants shall be made by volume or by weight or, when approved by the Director, by meter or other device.

(72 Stat. 1358, 1369 (26 U.S.C. 5204, 5241).)

PAR. 34. Par. (a) of § 201.411 is amended by providing for specific denaturants for conversion of specially denatured alcohol. As revised, paragraph (a) reads as follows:

§ 201.411 Conversion of specially denatured alcohol.

(a) *Conversion to Formula No. 1.* Any specially denatured alcohol, except Formulas No. 3–A and No. 30, may be converted into specially denatured alcohol, Formula No. 1, by the addition of methyl alcohol and denatonium benzoate, N.F. (Bitrex) or methyl isobutyl ketone in accordance with the formulations prescribed in § 212.16 of this chapter. For specially denatured alcohol Formulas No. 3–A and No. 30, the methyl alcohol content shall be reduced to the level prescribed for specially denatured alcohol Formula No. 1 by the addition of ethyl alcohol before adding the other ingredient prescribed in § 212.16 of this chapter.

* * * * *

(72 Stat. 1369 (26 U.S.C. 5242).)

§ 201.412 [Revoked]

PAR. 35. Section 201.412 is revoked.

PAR. 36. Section 201.432 is revised in its entirety to eliminate the requirement for preparation of Forms 122 by proprietors, and to provide for the preparation of dump and batch records. As revised, § 201.432 reads as follows:

§ 201.432 Record of use.

(a) *Dump record.* Whenever any spirits or wines are to be dumped for use in rectification, or are to be dumped for bottling or packaging without rectification (or are to be reduced in proof, filtered, or otherwise manipulated for such bottling or packaging), or are to be removed from the bottling premises by pipeline or bulk conveyance, the proprietor shall prepare a dump record. Spirits or wines received by pipeline or bulk conveyance and deposited in a tank for storage shall be considered as "dumped" when they are removed from such tank for rectification or bottling; spirits or wines so received but not so deposited shall be considered "dumped" immediately on receipt. Each dump record shall be serially numbered and shall identify the spirits or wines dumped for use. The proprietor shall, at the time of

dumping, gauge spirits (1) where required in § 201.494, and (2) whenever it is necessary to insure that the quantity used is within the limitation of the approved formula. The proof gallon content of wines and alcoholic flavoring materials (contained ineligible spirits) shall be determined, at the time of dumping, by the proprietor.

(b) *Batch record.* A rectifier shall prepare a batch record (1) to report the dumping of spirits which are to be used immediately and in their entirety in preparing a batch of a rectified product (in this instance one record may serve both as a dump and batch record), (2) to report the use of spirits or wines previously dumped (and reported on dump records) and retained in processing tanks or receptacles, and (3) to report any combination of paragraph (b) (1) and (2) of this section used in preparing a batch of a rectified product. The proprietor shall also record on batch records the use of alcoholic flavoring materials manufactured on premises other than a bottling premises. Materials covered by a manufacturer's affidavit (see § 201.424) that drawback has not been, and will not be claimed thereon, must be reported and separately identified from materials not so covered. Each batch record shall be serially numbered and shall identify the spirits, wines, alcoholic flavoring materials, and nonalcoholic flavoring materials and ingredients used in the batch.

(c) *Format of dump and batch records.* Proprietor's dump and batch records shall contain, as applicable, the following:

(1) General information:

(i) Serial number;

(ii) Name and address of bottler; and

(iii) Distilled spirits plant number.

(2) Information relating to preparation of dumps:

(i) Kind of spirits (indicate if treated with oak chips and specially identify imported spirits and spirits from Puerto Rico and the Virgin Islands);

(ii) Serial or identification number of tank or container from which spirits were removed;

(iii) Proof gallons dumped, distinguishing between ingredients eligible and ineligible for operating losses, as provided in § 201.482(b);

(iv) Serial number of source transaction record (e.g., tax determination record or commercial record);

(v) Date spirits were dumped;

(vi) Quantity, by ingredient, of other ingredients dumped (both alcoholic and non-alcoholic); and

(vii) Total proof gallon dumped (listing separately ineligible, eligible, and grand totals).

(3) Information relating to preparation of a batch:

(i) Formula number;

(ii) Trade name(s), if any, under which the product is rectified;

(iii) Kind of spirits (indicate if treated with oak chips and identify imported spirits and spirits from Puerto Rico and the Virgin Islands);

(iv) Serial or identification number of tank or container from which spirits were removed;

(v) Serial number of the dump record from which the spirits were received for preparation of a batch;

(vi) Proof gallons entered into the batch, distinguishing between ingredients eligible and ineligible for operating losses, as provided in § 201.482(b);

(vii) Proof gallons used in the batch that have been previously dumped (and reported on dump records) and retained in processing tanks or receptacles;

(viii) Quantity, by ingredient, of other ingredients entered into the batch (both alcoholic and non-alcoholic); and

(ix) Total proof gallons entered into the batch (listing separately ineligible, eligible, and grand totals).

(4) Disposition information:

(i) Serial number of form (e.g., bottling tank report or another dump/batch record) to which the spirits were transferred; (ii) Proof gallons transferred; (iii) Total proof gallons disposed of; (iv) Gain or loss in proof gallons; and (v) Date of each disposition of spirits.

(d) *Time and manner for making entries.* The proprietor shall keep the required entries on dump and batch records current with the operations covered by such records, and shall maintain such records in a manner that will enable alcohol, tobacco and firearms officers (1) to verify and trace the quantity and movement of spirits, flavoring materials and ingredients (both alcoholic and nonalcoholic), or wines used in each operation or transaction, (2) to verify claims and statements of losses affecting claims, and (3) to verify compliance with law and regulations. Where the format or contents of the proprietor's dump and batch records is such that the required information is not clearly or accurately reflected, the regional regulatory administrator shall require the proprietor to modify such records so that the format and contents clearly and accurately reflect the required information.

(72 Stat. 1370 (26 U.S.C. 5251).)

PAR. 37. Section 201.433 is revised to delete the reference to Form 122 and insert a reference to dump and batch records. As revised, § 201.433 reads as follows:

§ 201.433 Identifying spirits and wines in process.

The proprietor shall mark or otherwise indicate (for example, by attachment of a dump or batch record) on each tank or receptacle on bottling premises containing spirits or wines in process the kind and quantity of the contents and the serial number of the dump or batch record under which the spirits or wines are held.

(72 Stat. 1356, 1358, 1360 (26 U.S.C. 5201, 5204, 5206).)

PAR. 38. Section 201.444 is revised to delete the reference to Form 122 and insert a reference to dump and batch records. As revised, § 201.444 reads as follows:

§ 201.444 Blending of straight whiskies, rums, and pure fruit brandies differing as to type.

The rectification tax (as provided in § 201.29(l) and (m)) does not attach to blends made exclusively of two or more pure straight whiskies, differing as to type, aged in wood for a period of not less than four years and without the addition of coloring or flavoring matter or any other substance than pure water and if not reduced below 80 proof; nor to blends made exclusively of two or more pure fruit brandies, differing as to type, distilled from the same kind of fruit, or blends made exclusively of two or more rums, differing as to type, where the brandies or rums have been aged in wood for a period of not less than two years and without the addition of coloring or flavoring matter (other than caramel added in bond, under Subpart I or J of this Part) or any other substance than pure water and if not reduced below 80 proof. In addition to the information required to be recorded on dump and batch records as provided by § 201.432, the proprietor shall show the age of each package of whisky, brandy, or rum to be blended, the proof to which the blended whisky, brandy, or rum is to be reduced, and the tank in which the spirits will be blended; he shall also include a statement that no coloring, flavoring, or other substance will be added except pure water necessary to reduce the spirits to the desired proof. Blending operations shall be under the general supervision of the assigned officer. The addition of any coloring, flavoring, or other substance, or the reduction of the spirits below 80 proof, will subject the blended whisky, brandy, or rum to the rectification tax.

(72 Stat. 1328, as amended (26 U.S.C. 5025).)

PAR. 39. Section 201.448 is amended by eliminating the requirement for submission of a copy of Form 2367 to the regional regulatory administrator and by making conforming changes. As revised, § 201.443 reads as follows:

§ 201.448 Gauge of rectified products.

On completion of the process of rectification, the rectifier shall gauge the spirits or wines in accordance with the provisions of Subpart D of this part, determine the applicable taxes under 26 U.S.C. 5021, 5022, and/or 5041, and report such gauge and determination of tax on Form 2637. Each Form 2637 shall be serially numbered.

(72 Stat. 1330, 1335, 1358 (26 U.S.C 5026 5061, 5204).)

PAR. 40. Section 201.456 is revised in its entirety to read as follows:

§ 201.456 Labels to agree with contents of tanks and containers.

Labels affixed to bottles (and packages in the case of wine) shall agree in every respect with the spirits or wines in the tanks from which the containers were filled. The proprietor's records shall be such that they will enable alcohol, tobacco and firearms officers to readily determine, by case serial number, which

label was used on any given filled container. If an alcohol, tobacco and firearms officer finds that the label and the spirits do not agree in every respect, he shall not permit the spirits or wines to be bottled, or if the spirits or wines are labeled with labels which do not agree in every respect, he shall require the proprietor to relabel the spirits or wines with a proper label.

(72 Stat. 1356 (26 U.S.C. 5201).)

PAR. 41. Section 201.459 is revised in its entirety to read as follows:

§ 201.459 Filling of bottles.

(a) *Proof and fill tests.* (1) Proprietors shall test and examine bottles of spirits bottled on bottling premises at frequent intervals during bottling operations to determine whether the spirits contained in such bottles agree in proof and quantity (fill) with that stated on the label or bottle. (2) If the regional regulatory administrator finds that a proprietor's test procedures do not protect the revenue and insure the label accuracy of the bottled product, he may require corrective measures.

(b) *Variations in proof and fill.* If the contents do not agree with the respective data on the label or bottle as to—

(1) Quantity (fill), except for such variations in measuring as may occur in filling conducted in compliance with good commercial practice and there is substantially as much overfill as underfill for each lot of spirits bottled on Form 2637, and/or

(2) Proof, subject to a normal drop in proof occurring during bottling operations not to exceed three-tenths of a degree—

the proprietor shall rebottle, recondition, or relabel the spirits in such manner that the label will correctly describe the contents.

(c) *Proof and fill test records.* (1) Proprietors shall record the results of all proof and fill tests made.

(2) The daily record shall be maintained in a manner and provide information that will enable alcohol, tobacco and firearms officers to determine whether the proprietor—

(i) Monitors filling operations by conducting proof and fill tests, and

(ii) Employs procedures to correct variations in proof and fill described in paragraph (b).

(3) Proof and fill test records shall contain, at a minimum, the following information—

(i) Date and time of test,

(ii) Form 2637 number,

(iii) Size of bottle,

(iv) Label proof,

(v) Test proof,

(vi) Percentage of overfill/underfill, and

(vii) Corrective action taken (if any).

(4) Where the content, format and arrangement of the daily records does not comply with the provisions of paragraph (c)(2)(c)(3), the regional regulatory administrator may require a format or arrangement which will clearly and accurately reflect proof and fill test information.

(72 Stat. 1356, 1361, 1374, 1395 (26 U.S.C. 5201, 5207, 5301, 5555).)

PAR. 42. Section 201.460 is revised to extend the deadline for making entries on Form 2637. As revised § 201.460 reads as follows:

§ 201.460 Completion of bottling.

When the contents of a bottling tank are not completely bottled at the close of the day, the bottler shall make entries on Form 2637 covering the total quantity bottled that day from the tank. Entries shall be made not later than the morning of the following business day unless the bottler maintains auxiliary or supplemental records as provided in § 201.617, in which case entries may be made not later than the close of the following business day. He may elect to make such daily entries only on the original of the form but shall complete the bottling tank copy when the tank has been emptied. When the tank has been emptied, he shall complete the Form 2637, deliver the original to the assigned officer, and file the copy.

(72 Stat. 1356 (26 U.S.C. 5201).)

PAR. 43. Section 201.464 is amended by deleting the reference to the assigned officer's issuance of distilled spirits stamps, and by making conforming changes. As revised § 201.464 reads as follows:

§ 201.464 Filling packages.

Rectified or unrectified products may be drawn into packages from a tank (conforming to the requirements of § 201.243) on bottling premises. Such packages shall be gauged by the proprietor, and he shall report the details of such gauge on Form 2630 and attach a copy of Form 2630 to each copy of Form 2637 covering the product. Such packages shall be marked as prescribed by Subpart P of this part. On completion of Form 2637 and Form 2630, the proprietor shall affix a distilled spirits stamp to each package of spirits in the manner required by § 201.550a. The stamps shall bear the information required by § 201.549.

(72 Stat. 1356, 1358 (26 U.S.S. 5201, 5205).)

PAR. 44. Section 201.465 is amended by adding the requirement for sealing bulk conveyances. As revised § 201.465 reads as follows:

§ 201.465 Removals in bulk.

Where spirits or wines on bottling premises are to be removed in bulk to other bottling premises, the proprietor shall execute one additional copy of Form 2637 and shall forward it to the proprietor at the receiving premises. In the case of pipeline transfers, the additional copy shall be delivered before the transfer is commenced. Bulk conveyances shall be marked as provided in Subpart P of this part, and distilled spirits stamps shall be issued and affixed to the conveyances as provided in Subpart Q of this part. Bulk conveyances used to transport taxpaid spirits withdrawn from bottling premises shall be sealed. (See § 201.100.)

(72 Stat. 1356 (26 U.S.S. 5201).)

PAR. 45. Section 201.466 is amended by deleting the words "Forms 122 and 2637" and inserting the words "Forms 2637 and dump and batch records". As revised, § 201.466 reads as follows:

§ 201.466 Rebottling, relabeling, and restamping of bottled spirits.

Bottlers desiring to rebottle, restamp, or relabel distilled spirits shall make application, in duplicate, to the assigned officer, if any, at the plant, otherwise, in triplicate, to the regional regulatory administrator. The application shall state specifically (a) the reason for the rebottling, relabeling, or restamping, (b) the serial numbers of the cases, and (c) the name of the original bottler. If the spirits were originally bottled by a bottler other than the applicant, the application shall be accompanied by a statement from the original bottler consenting to the rebottling or relabeling thereof by the applicant. When spirits are rebottled, the strip stamps on the original bottles shall be destroyed and new strip stamps used. Liquor bottles used for rebottling shall comply with the provisions of § 201.457. When spirits are relabeled, the new label shall be covered by an appropriate certificate of label approval or certificate of exemption from label approved issued under the Federal Alcohol Administration Act Form 2637, appropriately modified shall be prepared by the proprietor to cover the relabeling or restamping of spirits, Forms 2637 and dump and batch records shall be prepared in accordance with this part to cover the rebottling of spirits.

(72 Stat. 1356 (26 U.S.C. 5201).)

PAR. 46. Paragraph (c) of § 201.470 is revised to provide for the separate listing of serial numbers by trade name on commercial records. As revised, paragraph (c) reads as follows:

§ 201.470 Changes in name or proprietorship.

* * * * *

(c) *Trade names.* Before a proprietor may rectify, bottle and label, or package spirits or wines under a trade name, he shall secure approval of such name in the manner prescribed by Subpart F of this part.

PAR. 47. Section 201.470c is amended by deleting the words "Form 122" and inserting the words "dump and batch records". As revised, § 201.470c reads as follows:

§ 201.470c Handling of spirits.

The proprietor shall inspect containers of spirits at the time of their receipt in accordance with § 201.430. Unless spirits are held under the provisions of § 201.430, spirits to be bottled in bond which are received on bottling premises shall be promptly dumped for bottling. No more spirits shall be received and

dumped at any one time than can be bottled expeditiously. If the proprietor intends to bottle as other than bottled in bond, or to package or otherwise remove, any portion of a lot of spirits which are entered on Form 179 for bottling in bond, he shall indicate in his schedule of operations required by § 201.89 that portion of the lot which is to be otherwise bottled, packaged, or removed and shall make appropriate notations on the Form 179, dump and batch records, and Form 2637, as applicable, which are involved.

PAR. 48. Section 201.470f is amended to delete the references to Form 122 and insert, instead, references to dump and batch records. As revised, § 201.470f reads as follows:

§ 201.470f Record of use.

Whenever any spirits intended for bottling-in-bond are to be dumped or received by pipeline on bottling premises for bottling (or are to be reduced in proof, filtered, or stabilized for such bottling), the proprietor shall prepare a dump record. Each dump record shall (a) identify the spirits to be dumped, (b) show the trade name under which the distiller produced and warehoused the spirits, if any, in addition to the real name of the distiller, (c) be prominently marked in the top margin with the words "Spirits to be bottled in bond", and (d) be serially numbered within the same series as dump and batch records covering spirits dumped for other purposes.

(72 Stat. 1356 (26 U.S.C. 5201).)

PAR. 49. Section 201.470h is revised to delete the requirement for the assigned officer's verification and release of spirits. As revised § 201.470h reads as follows:

§ 201.470h Bottling.

Spirits may be bottled in bond only from approved bottling tanks. On completion of any filtration, stabilization, and reduction of spirits to be bottled in bond, the proprietor shall determine the quantity and proof of the spirits deposited in each bottling tank and shall prepare Part I of Form 2637. Form 2637 shall be attached to the bottling tank. Where two or more lots of spirits are to be bottled in bond at the same time, or where a lot of spirits to be bottled in bond is to be bottled simultaneously with a lot of spirits to be otherwise bottled, the bottling shall be conducted in such manner as to prevent any mingling of the different lots. Where part of a lot of spirits is to be bottled in bond for export and the proof is further reduced, the proprietor shall determine the quantity and proof of the spirits after further reduction and enter the results of the gauge in the first unused line of Part II of Form 2637. Bottling tanks and pipelines shall be so equipped that the flow of spirits through the tanks may be controlled by Government locks. So long as any spirits which are to be bottled in bond remain in a bottling tank, the tank shall be locked with Government locks at all times that the assigned officer is not on the plant premises.

(72 Stat. 1356, 1357 (26 U.S.C. 5201, 5202).)

PAR. 50. Section 201.470j is revised in its entirety to read as follows:

§ 201.470j Labels to agree with contents of tanks and bottles.

Labels affixed to bottles shall agree in every respect with the spirits in the tanks from which the bottles are filled. The proprietor's records shall be such that they will enable alcohol, tobacco and firearms officers to readily determine, by case serial number, which label was used on any given filled bottle. If an alcohol, tobacco and firearms officer finds that the label and spirits do not agree in every respect, he shall not permit the spirits to be bottled, or if the bottles are labeled with labels which do not agree with the spirits in every respect, he shall require the proprietor to relabel the bottles with proper labels.

(72 Stat. 1353, as amended, 1374 (26 U.S.C. 5178, 5301).)

PAR. 51. Section 201.470k is revised in its entirety to read as follows:

§ 201.470k Filling of bottles.

(a) *Proof and fill tests.* (1) Proprietors shall test and examine bottles of bottled-in-bond spirits at frequent intervals during bottling operations to determine whether the spirits contained in such bottles agree in proof and quantity (fill) with that stated on the label or bottle. (2) If the regional regulatory administrator finds that a proprietor's test procedures do not protect the revenue and insure the label accuracy of the bottled product, he may require corrective measures.

(b) *Variations in proof and fill.* If the contents do not agree with the respective data on the label or bottle as to—

(1) Quantity (fill), except for such variations in measuring as may occur in filling conducted in compliance with good commercial practice and there is substantially as much overfill as underfill for each lot of spirits bottled on form 2637, and/or

(2) Proof, subject to a normal drop in proof occuring during bottling operations not to exceed three-tenths of degree—

the proprietor shall rebottle, recondition, or relabel the spirits in such manner that the label will correctly describe the contents.

(c) *Proof and fill test records.* (1) Proprietors shall record the results of all proof and fill tests made.

(2) The daily record shall be maintained in a manner and provide information that will enable alcohol, tobacco and firearms officers to determine whether the proprietor—

(i) Monitors filling operations by conducting proof and fill tests, and

(ii) Employs procedures to correct variations in proof and fill described in paragraph (b).

(3) Proof and fill test records shall contain, at a minimum, the following information—

(i) Date and time of test,
(ii) Form 2637 number,
(iii) Size of bottle,
(iv) Label proof,
(v) Test proof,
(vi) Percentage of overfill/underfill and
(vii) Corrective action taken (if any).

(4) Where the content, format and arrangement of the daily records do not comply with the provisions of paragraphs (c)(2) and (c)(3), the regional regulatory administrator may require a format or arrangement which will clearly and accurately reflect proof and fill test information.

(72 Stat. 1353, as amended, 1361, 1374, 1395, (26 U.S.C. 5178, 5207, 5301, 5555).)

PAR. 52. Section 201.470n is amended by deleting, in the last sentence, the words "Form 122" and inserting the words "dump or batch record". As revised, § 201.407n reads as follows:

§ 201.470n Salvaged spirits.

Spirits to be bottled in bond which are salvaged from the filtering or bottling operation may be added, under the direct supervision of the assigned officer, to a tank on bottling premises containing the same spirits or another lot of spirits of the same kind, produced by the same distiller, at the same distillery during the same distilling season which are also to be bottled in bond. Such spirits may also be mingled with homogeneous spirits or added to heterogeneous spirits in accordance with the provisions of Subpart N of this part. Salvaged spirits shall be reported on the dump or batch record covering the lot to which they were added, unless they are returned to the lot from which they were salvaged.

(72 Stat. 1356, 1366 (26 U.S.C. 5201, 5233).)

PAR. 53. Section 201.470p is amended by providing for the separate listing of case serial numbers by trade name on commercial records. As revised, § 201.470p reads as follows:

§ 201.470p Trade name.

Before a proprietor may bottle or label bottled-in-bond spirits under a trade name, he shall secure approval of such name in the manner prescribed by Subpart F of this part.

(72 Stat. 1366 (26 U.S.C. 5233).)

PAR. 54. Paragraph (d) of § 201.470q is amended by deleting the words "Forms 122 and 2637" and by inserting instead the words "Form 2637 and dump and batch records". As revised, paragraph (d) reads as follows:

§ 201.470q Rebottling, relabeling, or restamping.

* * * * *

(d) *Form 2637 and dump and batch records.* Form 2637 and dump and batch

records shall be prepared in accordance with the provisions of this subpart to cover the rebottling of spirits under this section by the proprietor of bottling premises. Form 2637, appropriately modified, shall be prepared to cover the relabeling or restamping of such spirits by the proprietor of the bottling premises.

PAR. 55. Section 201.487 is revised to require accounting for closed system operations on dump and batch records. As revised, § 201.487 reads as follows:

§ 201.487 Losses in manufacture of gin and vodka.

(a) *General.* Where gin or vodka is manufactured on bottling premises by the proprietor who withdrew the spirits from bond on payment or determination of tax, in a closed system (approved as such by the regional regulatory administrator, in a manner similar to that authorized for bonded premises, the proprietor may be allowed actual determined losses of spirits incurred in such manufacture in addition to being allowed the losses otherwise allowable under this subpart.

(b) *Closed system accounting.* The proprietor shall record on dump or batch records, the quantity of spirits entered into the closed system and the quantity of product removed therefrom. The dump or batch records of closed systems operations shall be prepared and maintained in accordance with the provisions of § 201.432. Dump and batch records shall show the quantities, by actual gauge, entered into and removed from, the closed system, and shall show the losses occurring therein.

(72 Stat. 1323 (26 U.S.C. 5008).)

PAR. 56. Section 201.507 is amended by adding, at the end of the last sentence, a reference to paragraph (f) of § 201.386, to correct an editorial error. As revised, § 201.507 reads as follows:

§ 201.507 Bulk conveyances.

Bulk conveyances which conform to the requirements of § 201.510 may be used (a) on bonded premises for original entry of spirits, and for filling from storage tanks, storing, transferring in bond, and withdrawing from bond of taxpaid spirits and of denatured spirits, and (b) on bottling premises for receiving, storing, and removing taxpaid spirits and wines. Spirits may be withdrawn free of tax, pursuant to the provisions of this part, in a bulk conveyance only for the use of the United States, or if the Director has authorized the proprietor, as provided in § 201.501, to so withdraw such spirits to a specified consignee. Spirits may be withdrawn without payment of tax, pursuant to the provisions of this part, in bulk conveyances for the purposes provided in § 201.386 (a), (b), (c), (e), and (f).

(72 Stat. 1360 (26 U.S.C. 5206).)

PAR. 57. Section 201.510 is amended by deleting paragraph (a) (1), renumbering paragraphs (a) (2) through (a) (8) and deleting the words "internal revenue" in paragraph (b) and inserting the words "alcohol, tobacco and firearms". As revised, § 201.510 reads as follows:

§ 201.510 Construction of bulk conveyances.

(a) *Construction.* All bulk conveyances authorized by this part shall conform to the following:

(1) If the conveyance consists of two of more compartments, each shall be so constructed or arranged that emptying of any compartment will not afford access to the contents of any other compartment.

(2) The conveyance (or in the case of compartmented conveyances, each compartment) shall be so arranged that it can be completely drained.

(3) Each tank car or tank truck shall have permanently and legibly marked thereon its number, capacity in wine gallons, and the name or symbol of its owner.

(4) If the conveyance consists of two or more compartments, each compartment shall be identified and the capacity of each shall be marked thereon.

(5) Permanent facilities shall be provided on tank trucks and tank cars to permit ready examination of manholes or other openings.

(6) A route board, or other suitable device, for carrying required marks, brands, and stamps shall be provided on each bulk conveyance.

(7) Calibrated charts, prepared or certified by competent and recognized authorities or engineers, showing the capacity of each compartment in wine gallons for each inch of depth, shall be carried with each tank truck, tank ship, or barge.

(b) *Proprietor's responsibility.* Before filling any bulk conveyance, the proprietor shall examine it to ascertain that it meets the requirements of this section and is otherwise suitable for receiving the spirits or denatured spirits, and he shall refrain from, or discontinue, using any such conveyance found by him or by an alcohol, tobacco and firearms officer to be unsuitable.

(72 Stat. 1357, 1360, 1362 (26 U.S.C. 5202, 5206, 5212, 5213, 5214).)

§ 201.511 [Revoked]

PAR. 58a. Section 201.511 is revoked.

PAR. 58b. Section 201.522 is amended to provide for alternate means of indicating the contents of tanks, as follows:

§ 201.522 Marks on tanks.

All tanks containing spirits or wines shall be marked to show or shall otherwise indicate (for example, by attachment of, or reference to, the transaction form or memorandum record) the kind of product contained in the tank. When denatured spirits are held in a storage tank or are retained in a mixing tank, the formula of the denatured spirits shall be marked or otherwise indicated on the tank.

PAR. 59. Section 201.532 is amended by deleting reference to submission of the daily stamp report, and by making a conforming change. As revised, § 201.532 reads as follows:

§ 201.532 Relabeling and restamping of bonded or bottling premises.

The proprietor of a distilled spirits plant may relabel, affix brand labels, or restamp bottled taxpaid spirits (including taxpaid bottled-in-bond spirits) on wholesale liquor dealer premises or at a taxpaid storeroom on, contiguous to, adjacent to, or in the immediate vicinity of the plant, if such wholesale liquor dealer premises or taxpaid storeroom is operated in connection with the plant. A proprietor who so desires to relabel, restamp, or affix brand labels shall make application, in duplicate, to the assigned officer, if any, at the plant, otherwise such application shall be submitted in triplicate to the regional regulatory administrator: *Provided,* That individual bottles constituting less than a full case may be relabeled and restamped with labels and stamps without the necessity of prior application. The approving officer may give continuing authority to conduct the operations described in applications submitted under this section.

(72 Stat. 1356, 1866 (26 U.S.C. 5201, 5233).)

PAR. 60. Section 201.540d is revised in its entirety to read as follows:

§ 201.540d Distinctive liquor bottles.

A proprietor desiring approval of a domestic liquor bottle of distinctive shape or design, including bottles of less than one-half pint capacity, whether or not such bottles bear the indicia required under Part 173 of this chapter, or, to use such distinctive liquor bottle, shall submit a letter application to the Director for approval. Each application shall be accompanied by ten 5" x 7" photographs and, if the bottle has not previously been declared distinctive, a specimen bottle or an authentic model or other representation accepable to the Director. Each application shall contain the following information as applicable:

(a) Date of application,

(b) Name, address and permit number of applicant,

(c) Description of the bottle,

(d) Size of the bottle,

(e) Kind of spirits to be contained in the bottle,

(f) A request to have the bottle declared distinctive (if the bottle has not previously been so declared by the Director),

(g) Distinctive container number (if the bottle has been previously declared distinctive by the Director),

(h) A request to use the bottle, and names, addresses and distilled spirits plant numbers of the plants where the bottle will be used,

(i) A request for waiver of headspace requirements, as provided in § 5.48 of this chapter, and

(j) Signature and title of applicant.

Properly submitted applications for approval of a distinctive liquor bottle, or for use of a distinctive liquor bottle, will be approved provided such bottles are found by the Director to meet the requirements of Part 5 of this chapter, to be distinctive, not to jeopardize the revenue, to be suitable for their intended purpose, and not to

be deceptive to consumers. If the application is approved, the Director will send one photocopy of the approved application and one approved photograph of the distinctive bottle to the applicant and to each regional regulatory administrator.

§ 201.540e [Revoked]

PAR. 61. Section 201.540e is revoked.

Par. 62. Paragraph (a) of § 201.543 is revised to delete the requirement for the assigned officer's approval of Form 428. As revised, paragraph (a) reads as follows:

§ 201.513 Procurement of strip stamps.

(a) *General.* Strip stamps may be obtained, without charge, by the proprietor, in reasonable anticipation of current needs, from the regional regulatory administrator of the region in which the plant is located, by requisition on Form 428. Such stamps may not be procured by one proprietor from another or transferred to another plant operated by the same proprietor, except on authorization by the regional regulatory administrator. Requisitions shall be for full sheets of such stamps. On receipt of the stamps the proprietor shall verify the quantity received and acknowledge receipt thereof, noting any discrepancies, on both copies of Form 428 returned by the regional regulatory administrator, forward one copy of the Form 428 to the regional regulatory administrator and retain one copy in his files.

* * * * *

(72 Stat. 1358 (26 U.S.C. 5205).)

PAR. 63. The heading and text of § 201.550 are revised in their entirety to read as follows:

§ 201.550 Procurement of distilled spirits stamps.

(a) *General.* Distilled spirits stamps may be obtained by the proprietor, without charge, in reasonable anticipation of current needs, from the regional regulatory administrator of the region in which the plant is located, by requisition on Form 428. Such stamps may not be procured by one proprietor from another proprietor or transferred between plants operated by the same proprietor, except on authorization by the regional regulatory administrator. On receipt of the stamps from the regional regulatory administrator the proprietor shall (1) verify the quantity received, (2) acknowledge receipt thereof, noting any discrepancies on both copies of Form 428 returned by the regional regulatory administrator, (3) forward one copy of the receipted Form 428 to the regional regulatory administrator, and (4) retain a copy for his files.

(b) *Alternate method.* When the regional regulatory administrator determines that the interests of the government will be served best thereby, the distilled spirits stamps may be supplied to the proprietor from a location other than the office of the regional regulatory administrator. In such case, the regional regulatory administrator shall notify the proprietor that the stamps will be supplied from an alternate location and inform him of the minimum or maximum quantity, if any, which may be requisitioned on any particular Form 428. Upon approval of Form 428, two copies of the form will be returned to the proprietor. Upon receipt of the stamps the proprietor shall (1) verify the quantity received, (2) acknowledge receipt thereof, noting any discrepancies on both copies of Form 428 returned, (3) forward one copy of Form 428 to the regional regulatory administer, and (4) retain a copy for his files.

(72 Stat. 1358 (26 U.S.C. 5205).)

PAR. 64. A new section, § 201.550a, is added immediately following § 201.550 to read as follows:

§ 201.550a Affixing of distilled spirits stamps.

Distilled spirits stamps shall be affixed and canceled by the proprietor before packages or conveyances are removed from the bonded premises or bottling premises, as the case may be. The stamps shall be securely affixed to the government head of the package, or the route board, or other suitable device of the bulk conveyance, or to an appropriate part of any other approved container, and thereupon canceled by drawing or otherwise imprinting a line (not less than one-eighth inch wide) in durable red ink diagonally across the stamp. Such stamps (except in the case of packages to be transferred to contiguous premises) shall be covered with a transparent coating of shellac, lacquer, varnish, or equally suitable material to protect the markings on the stamp. Where the bulk conveyance consists of separate compartments, a separate stamp shall be canceled and affixed to the appropriate route board for each compartment. Distilled spirits stamps shall remain on the containers or conveyances until the spirits therein are emptied. Such stamps shall be destroyed, as provided in § 201.531, when the containers are emptied.

(72 Stat. 1358 (26 U.S.C. 5205).)

PAR. 65. Section 201.551 is amended to require a notice, rather than an application, for the restamping of packages, conveyances, or other containers to which distilled spirits stamps are affixed. As revised § 201.551 reads as follows:

§ 201.551 Restamping packages, conveyances, or other containers.

Any package, conveyance, or other container of spirits which has been duly stamped with a distilled spirits stamp, but from which the stamp has been lost or destroyed by accident, shall, except as otherwise provided in this chapter, be restamped with another distilled spirits stamp. Notice of restamping shall be made in writing, in triplicate, to the assigned officer, if any, otherwise to the regional regulatory administrator for the region in which the package, conveyance or other container to be restamped is located. The notice, which shall be executed under the penalties of perjury, shall set forth the following:

(a) The package identification number or serial number, as applicable, of each package, conveyance or other container (and proprietor's name thereon);

(b) The location of the package, conveyance, or other container;

(c) A description of the contents;

(d) The applicant's interest in the property;

(e) The tax status of the spirits (supported, by certified copies of the withdrawal forms);

(f) Statement by the applicant (or person having knowledge of the facts) that the package, conveyance, or other container was once duly stamped (and evidence thereof); and

(g) The circumstances connected with the destruction or loss of the stamps.

(72 Stat. 1358 (26 U.S.C. 5205).)

PAR. 66. A new section, § 201.551a, is added immediately following § 201.551, to read as follows:

§ 201.551a Distilled spirits stamp accounting.

Proprietors are responsible for proper control of and accounting for all distilled spirits stamps received. Stamps that have been mutilated shall be destroyed under the supervision of an alcohol, tobacco and firearms officer, and unused stamps for which the proprietor has no use shall be disposed of in accordance with the instructions of the regional regulatory administrator. Proprietors shall not transfer or dispose of distilled spirits stamps charged to their account except as provided in this part. Proprietors shall keep records and submit reports relating to such stamps in accordance with the provisions of Subpart U of this part.

(72 Stat. 1358 (26 U.S.C. 5205).)

PAR. 67. Section 201.562 is revised in its entirety to read as follows:

§ 201.562 Application or notice, Form 1577.

(a) *Destruction of spirits withdrawn from bond.* Spirits that have been withdrawn from bond on payment or determination of tax for rectification or bottling may be destroyed pursuant to application on Form 1577, filed in triplicate with the alcohol, tobacco and firearms officer, or if none is regularly assigned, with the area supervisor. The spirits may be destroyed before removal from the bottling premises of the distilled spirits plant to which removed from bond or after return to such bottling premises.

(b) *Destruction of spirits in bond.* Spirits in bond (including denatured spirits) may be destroyed pursuant to notice on Form 1577, prepared in quadruplicate. A copy of the notice shall be delivered to the assigned alcohol, tobacco and firearms officer before dumping spirits for destruction.

(c) *Conditions.* (1) The proprietor shall furnish such supporting documents as the approving officer may request.

(2) If the proprietor desires to destroy spirits at some place other than on bonded or bottling premises, as the case may be, the approving officer may re-

quire that the spirits be moved to a more convenient location.

(3) The quantity of spirits to be destroyed shall be gauged by the proprietor and the result shall be entered on Form 1577 by the proprietor.

(4) The extent of supervision to be provided for the destruction of spirits shall be determined by the approving officer.

(5) The original and copies of the form shall be distributed in accordance with instructions on the form.

(72 Stat. 1323, as amended (26 U.S.C. 5008).)

PAR. 68. Section 201.583 is amended to make changes in the preparation and distribution of Form 2612. As revised, § 201.583 reads as follows:

§ 201.583 Receipt of returned taxpaid spirits.

On receipt of tax paid spirits eligible for return to bonded premises, the proprietor shall gauge the spirits in the presence of the assigned officer. The proprietor shall execute his receipt for the spirits and report of gauge on all copies of the approved Form 2612 and dispose of all copies of the form in accordance with the instructions thereon. When containers of such spirits are emptied, the proprietor shall comply with the applicable provisions of § 201.531.

(72 Stat. 1364, as amended (26 U.S.C. 5215).)

PAR. 69. Section 201.613 is amended to delete the reference to Form 122. As revised, § 201.613 reads as follows:

§ 201.613 Forms to be provided by user at own expense.

Forms 338 and 2637 shall be provided by the users at their own expense and shall be in the form prescribed by the Director.

(72 Stat. 1361 (26 U.S.C. 5207).)

PAR. 70. Section 201.622 is amended by inserting a new paragraph (b)(3)(iii), and by redesignating the present text of paragraphs (b)(3)(iii), (iv), (v), and (vi), as paragraphs (b)(3)(iv), (v), (vi), and (vii), respectively. As amended, paragraph (b) reads as follows:

§ 201.622 Daily bonded storage records.

* * * * *

(b) *Other transactions.* Each proprietor shall also maintain records reflecting:

(1) The mingling of spirits under §§ 201.297 and 201.301;

(2) The blending of beverage rums and brandies under §§ 201.307 and 201.308;

(3) The bottling of spirits under Subpart K of this part, including—

(i) Spirits entered for bottling in bond,

(ii) Spirits bottled and cased for domestic use or for export,

(iii) The results of bottling proof and fill tests (as provided in § 201.333),

(iv) Bottled spirits returned to storage,

(v) The rebottling, relabeling, or restamping of bottled spirits (domestic spirits rebottled, relabeled, or restamped for export shall be appropriately identified on the Form 1515),

(vi) Alcohol bottled, and

(vii) The gains and losses determined during bottling;

(4) The change of packages under § 201.295; and

(5) The quick-aging of spirits, or the addition of oak chips to spirits or burnt sugar or caramel to brandy and rum under § 201.292.

Records for storage tanks on bonded premises which contain spirits of less than 190° of proof shall show the gauge, in tax gallons, of spirits removed from each tank, the purpose for which removed, and the transaction form and its serial number covering the removal from the tank. If the spirits in such tanks are filled into packages, the record for each tank shall also indicate the gauge of the spirits in the tank both before and after the filing operations; the number, average tax gallons per package, and the package identification numbers, of the packages filled; and the serial numbers of the related Form 2323 (Form 1685 in the case of blended rums or brandies) covering spirits deposited in the tank. The disposition of packages so filled shall be recorded by identifying the related transaction form (such as Form 179, 236, or 2629) and its serial number, and the number of packages involved in each transaction. The records shall meet the requirements of § 201.630b.

(72 Stat. 1361 (26 U.S.C. 5207).)

PAR. 71. Section 201.623 is amended by (1) making conforming changes for the elimination of Form 122 in paragraphs (b) and (c), (2) requiring proprietors to maintain proof and fill test records in a new paragraph (g), and (3) redesignating the present texts of paragraphs (g), (h), (i), (j), (k), and (l) as paragraphs (h), (i), (j), (k), (l), and (m) respectively. As amended, § 201.623 reads as follows:

§ 201.623 Daily bottling premises records.

* * * * *

(b) The spirits and wines dumped for rectification, or bottling or packaging without rectification, showing the serial number of the dump or batch record covering such dump.

(c) The spirits, wines, and alcoholic flavoring materials and non-alcoholic flavoring materials and other ingredients used for rectification, showing the serial number of the batch record covering such use.

* * * * *

(g) The results of bottling proof and fill tests (required by §§ 201.459 and 201.470k).

(h) The rebottling, relabeling and restamping of bottled products.

(i) The spirits, wines, an alcoholic flavoring materials removed from the premises. The total removals for each day shall be summarized showing (1) The spirits and wines removed after rectification but without bottling or packaging, (2) Rectified products removed after bottling or packaging, (3) The spirits and wines removed after bottling or packaging without rectification, and (4) The spirits, wines, and alcoholic flavoring materials removed without rectification, bottling, or packaging.

(j) The samples of spirits and rectified products removed from the bottling premises and the name and address of the consignee of such samples.

(k) The accumulation and taxpayment of rinsings on bottling premises.

(l) The voluntary destruction of spirits, showing separately (1) Spirits destroyed before completion (including spirits returned to the bottling premises and dumped for reprocessing or rebottling), and (2) spirits destroyed after completion (including spirits returned to the bottling premises and not dumped for reprocessing or rebottling).

(m) The losses which occur (1) by reason of accident while being removed from bond to bottling premises (where such losses occur, the actual quantity of spirits received shall be reported in the record required by paragraph (a) of this section), (2) by reason of accident while on the bottling premises and that amount to 10 proof gallons or more in respect of any one accident, (3) by theft, or (4) by reason of flood, fire, or other disaster.

* * * * *

(72 Stat. 1361 (26 U.S.C. 5207).)

PAR. 72. A new section, § 201.624a, is added immediately following § 201.624 to read as follows:

§ 201.624a Daily record of distilled spirits stamps.

Each proprietor of bottling premises or bonded premises shall maintain, for each day a transaction in distilled spirits stamps occurs, a daily record of distilled spirits stamps, showing the number received, used, or otherwise disposed of, and on hand at the beginning of the day and at the end of the day. The record shall also show the transaction form and its serial number covering the use of the distilled spirits stamps.

(72 Stat. 1361 (26 U.S.C. 5207).)

PAR. 73. Section 201.625 is amended by revising the requirement for the filing of Form 338, (2) revising the requirement for mandatory information shown on records of receipt and disposition, and (3) making conforming changing. As revised, § 201.625 reads as follows:

§ 201.625 Daily record of wholesale liquor dealer and taxpaid storeroom operations.

Where the proprietor, in connection with his plant, conducts wholesale liquor dealer operations, or operates a taxpaid storeroom, on, contiguous to, adjacent to, or in the immediate vicinity of plant premises, or operates storage premises at another location from which distilled spirits are not sold at wholesale, he shall maintain daily records of the receipt and disposition of all distilled spirits and wines at such premises, and of all restamping operations conducted under the provisions of § 201.532. A separate record

shall be kept for each such premises. The records in respect of the receipt and disposition of distilled spirits and wines shall contain all data necessary to enable alcohol, tobacco and firearms officers to identify and trace such receipts and dispositions, and to ascertain whether there has been compliance with all internal revenue laws and regulations relating thereto, and to provide the proprietor with records from which to compile data for his semiannual report on Form 338 when so required by the regional regulatory administrator. In addition to any other information shown therein, such records shall include:

(a) *As to receipts and dispositions.* (1) The date of the transaction (or date of discovery in the case of casualty or theft),

(2) The name and address of each consignor or consignee, as the case may be,

(3) The brand name,

(4) The kind of spirits,

(5) The actual quantity of distilled spirits involved (proof gallons if in packages, wine gallons or liters if in bottles),

(6) The package identification numbers or serial numbers of packages involved,

(7) The name of the producer, and

(8) The country of origin, if imported spirits.

(b) *As to case dispositions.* In addition to the requirements listed in paragraph (a) of this section, the serial numbers of cases involved; however, the regional regulatory administrator may, upon receipt of an application, in duplicate, and a finding that such recording is not necessary to law enforcement or protection of the revenue, relieve a dealer from the requirement of recording such case serial numbers.

(c) *As to restamping operations.* (1) The date of the transaction,

(2) The serial numbers of the cases involved,

(3) The total number of bottles,

(4) The name of the bottler, and

(5) The number and kind of strip stamps used.

PAR. 74. Paragraphs (b), (d), and (e) of § 201.629 are amended to make conforming changes. As revised, paragraphs (b), (d) and (e) read as follows:

§ 201.629 Warehouse summary accounts.

* * * * *

(b) *Basic accounts of spirits in packages and cases.* Separate basic accounts for spirits in packages and for spirits in cases shall be maintained on Form 1621 for each producer (bonded warehouse proprietor in the case of blended rums or brandies and spirits of 190° or more of proof), by kind of spirits (class), and by season of production, showing the number of packages or cases, and the total tax gallons therein, deposited in, withdrawn from, and remaining in the warehouse. Basic accounts for spirits in packages which have been mingled under the provisions of § 201.301 shall be separately maintained from basic accounts for spirits which have not been so mingled. The basic accounts shall be arranged as follows: (1) For domestic spirits, other than blended rums or brandies and spirits of 190° or more of proof, alphabetically by States and numerically by the plant number of the producer (spirits produced under trade names, for the purpose of this record, shall be treated as being produced under the real name of the producer);

(2) For demestic blended rums or brandies and spirits of 190° or more of proof, alphabetically by States and numerically by the plant number of the bonded warehouse proprietor who blended the rums or brandies or who filled the packages of spirits of 190° or more of proof, as the case may be;

(3) For imported spirits, alphabetically by States and numerically by the plant number of the bonded warehouse proprietor who received the spirits from customs custody; and

(4) For Virgin Islands or Puerto Rican spirits, alphabetically by the name of the producer in the Virgin Islands or in Puerto Rico.

* * * * *

(d) *Basic accounts of spirits of 190° or more of proof in tanks.* A basic account shall be maintained on Form 1621 for each kind (class) of spirits of 190° or more of proof stored in tanks (including tank cars, tank trucks, or similar vessels). The account shall show the total tax gallons deposited in, withdrawn from, and remaining in all tanks covered by such account.

(e) *Summary of containers and kinds.* The basic accounts maintained in accordance with paragraphs (b), (c), and (d) of this section shall, at the end of each month (or such lesser period as required by the regional director) be summarized to show, for each type of container, the total tax gallons deposited in, withdrawn from, and remaining in the warehouse by each kind (class) of spirits, and the total tax gallons deposited in, withdrawn from, and remaining in the warehouse for all kinds (classes) of spirits. Such summaries shall be maintained on Form 1621, and shall include all losses (or gains) such as those disclosed by inventory or on emptying a tank (see § 201.311).

(72 Stat. 1361 (26 U.S.C. 5207).)

§ 201.630 [Revoked]

PAR. 75. Section 201.630 is revoked.

PAR. 76. Section 201.631 is amended to make conforming changes regarding the disposition of copies of transaction forms and reports. As revised, § 201.631 reads as follows:

§ 201.631 Submission of transaction forms and reports.

(a) *Transaction forms.* Completed copies of transaction forms required by this part shall be submitted by the proprietor to the alcohol, tobacco and firearms officer and/or the regional regulatory administrator no later than the close of the business day next succeeding the date of the transaction, as provided by this part and by instructions on the individual forms.

(b) *Timely submission of operational notices.* Where this part requires an advance copy of a notice to be submitted to an alcohol, tobacco and firearms officer before commencing an operation, such notice shall be submitted at such time to provide the officer sufficient opportunity to determine whether such operation should be conducted in his immediate presence.

(c) *Reports.* (1) Semimonthly reports (taxable samples) required by this part shall be submitted to the alcohol, tobacco and firearms officer and/or the regional regulatory administrator on or before the third business day preceding the due date for filing a return covering the period during which the samples were taken, and in accordance with the instructions on the form.

(2) Monthly, quarterly, and semiannual reports required by this part shall be submitted by the proprietor to the alcohol, tobacco and firearms officer and/or the regional regulatory administrator in accordance with the instructions on the form.

(72 Stat. 1361 (26 U.S.C. 5207).)

PAR. 77. The heading and text of § 201.633a are revised as follows:

§ 201.633a Quarterly report of bottle strip stamps and distilled spirits stamps, Form 2260.

As of the close of business March 31, June 30, September 30, and December 31, of each year, each proprietor using strip stamps or distilled spirits stamps shall prepare Form 2260, in accordance with the instructions on the form. A separate report shall be prepared for each kind of stamp used. Copies of the completed report shall be filed as provided in the instructions on the form.

(72 Stat. 1361, 1395 (26 U.S.C. 5207, 5555).)

PAR. 78. Paragraph (d) of § 201.634 is amended to provide for the submission of Form 338 only when required by the regional regulatory administrator. As revised, § 201.634 reads as follows:

§ 201.634 Semiannual reports.

(a) *General.* Semiannual reports required by this section shall be prepared in triplicate; the original and one copy shall be filed as provided in § 201.631, and the remaining copy retained by the proprietor.

(b) *Form 332.* As of the close of business June 30, and December 31, of each year, each proprietor of a bonded warehouse shall prepare, on Form 332, a statement by kind, season, and year of production, of spirits in his bonded warehouse. A separate Form 332 shall be prepared for spirits which have been mingled under § 201.301 and for spirits which have not been so mingled. Spirits of 190° or more of proof (on which a record of age is not kept) shall be reported as a single item on Form 332; however, the quantity of such domestic spirits and of such imported spirits shall be reported separately. Imported spirits of less than 190° of proof shall be reported on a separate line, appropriately identified as "imported," giving the total

quantity of each kind of such imported spirits in the appropriate column on Form 332.

(c) *Form 2546.* As of the close of business June 30, and December 31, of each year, each proprietor of a bonded warehouse shall prepare, on Form 2546, a report of spirits mingled under § 201.301 during the preceding 6-month period. A separate report shall be prepared for each kind of spirits.

(d) *Form 338.* When required in writing by the regional regulatory administrator, each proprietor who, in connection with his plant, conducts wholesale liquor dealer operations, or operates a taxpaid storeroom, on, contiguous to, adjacent to, or in the immediate vicinity of plant premises, or operates storage premises at another location from which distilled spirits are not sold at wholesale, shall prepare, on Form 338, as of the close of business June 30 and December 31, of each year, a report showing the total quantity of distilled spirits received and disposed of during the preceding 6-month period.

(72 Stat. 1361, 1395 (26 U.S.C. 5207, 5555).)

PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

PAR. 79. Section 250.314 is revised in its entirety to read as follows:

§ 250.314 Distinctive liquor bottles.

Liquor bottles of distinctive shape or design, including bottles of less than one-half pint capacity (whether or not such bottles bear the indicia required under Part 173 of this chapter), may be brought into the United States from Puerto Rico or the Virgin Islands by an importer (filled bottles) or a bottler (empty bottles). The importer or bottler, as applicable, shall submit a letter application to the Director for approval prior to bringing such bottles into the United States. Each application shall be accompanied by ten 5" x 7" photographs, and, if the bottle has not previously been declared distinctive, a specimen bottle or an authenic model or representation acceptable to the Director. Each application shall contain the following information as applicable:

(a) Date of application,

(b) Name, address and permit number of applicant,

(c) Description of the bottle,

(d) Size of the bottle,

(e) Kind of spirits to be contained in the bottle,

(f) A request to have the bottle declared distinctive (if the bottle has not previously been so declared by the Director),

(g) Distinctive container number (if the bottle has been previously declared distinctive by the Director),

(h) A request to bring the distilled spirits into the United States in the distinctive liquor bottle,

(i) A request for waiver of headspace requirements, as provided in § 5.48 of this chapter, and

(j) Signature and title of applicant.

Properly submitted applications to bring distinctive liquor bottles, either filled or empty, into the United States from Puerto Rico or the Virgin Islands will be approved, provided such bottles are found by the Director to meet the requirements of Part 5 of this chapter, to be distinctive, not to jeopardize the revenue, to be suitable for their intended purpose, and not to be deceptive to consumers. If the application is approved, the Director will send one photocopy of the approved application and one approved photograph of the distinctive bottle, to the applicant and to each regional regulatory administrator. The applicant is responsible for furnishing a copy of both the approved application and photograph of the distinctive bottle to Customs officials at each affected port of entry where the merchandise is examined.

§ 250.315 [Revoked]

PAR. 80. Section 250.315 is revoked.

PART 251—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

PAR. 81a. Paragraph (a) of § 251.172 is amended by deleting the parenthetical phrase concerning consent of surety. As amended, paragraph (a) reads as follows:

§ 251.172 Application, Form 2609.

(a) *Application for continuing Form 2609.* The proprietor of a distilled spirits plant desiring to withdraw distilled spirits as authorized in § 251.171, shall submit an application on Form 2609, in triplicate, to the alcohol, tobacco and firearms officer. The application shall be modified by the applicant to cover the transfer of distilled spirits from customs custody, by naming the port of entry through which the spirits are to be withdrawn. If spirits are to be withdrawn through more than one port of entry, a separate continuing Form 2609 shall be filed for each port. The application will not be approved unless the applicant's bond on Form 2601 is in the maximum penal sum, or, if in less than the maximum penal sum, is sufficient to cover the tax on the spirits to be transferred in addition to all other liabilities chargeable against such bond, nor shall any application for withdrawal of spirits in bulk containers be approved unless the applicant has provided suitable facilities as provided in § 201.239. When the alcohol, tobacco and firearms officer approves Form 2609, he shall retain one copy for his files and return the original and one copy to the applicant. The applicant shall retain one copy and forward the original of Form 2609 to the importer or other person responsible for the release of the spirits from customs custody, who shall submit the form to the customs officer at the port of entry from which the distilled spirits will be withdrawn. The customs officer shall retain the form in his records.

* * * * *

PAR. 81b. Section 251.204 is revised in its entirety as follows:

§ 251.204 Distinctive liquor bottles.

Liquor bottles of distinctive shape or design, including bottles of less than one-half capacity (whether or not such bottles bear the indicia required under Part 173 of this chapter), may be imported by an importer (filled bottles) or a bottler (empty bottles). The importer or bottler, as applicable, shall submit a letter of application to the Director for approval, prior to importation of the bottles. Each application shall be accompanied by ten 5" x 7" photographs and, if the bottle has not previously been declared distinctive, a specimen bottle or an authentic model or other representation acceptable to the Director. Each application shall contain the following information as applicable:

(a) Date of application,

(b) Name, address and permit number of applicant,

(c) Description of the bottle,

(d) Size of the bottle,

(e) Kind of spirits to be contained in the bottle,

(f) A request to have the bottle declared distinctive (if the bottle has not been so declared by the Director),

(g) Distinctive container number (if the bottle has been previously declared distinctive by the Director).

(h) A request to import the distilled spirits in the distinctive liquor bottles,

(i) A request for waiver of headspace requirements, as provided in § 5.48 of this chapter, and

(j) Signature and title of applicant. Properly submitted applications to import distinctive liquor bottles will be approved, provided such bottles are found by the Director to meet the requirements of Part 5 of this chapter, to be distinctive, not to jeopardize the revenue, to be suitable for their intended purpose, and not to be deceptive to consumers. If the application is approved, the Director will send one photocopy of the approved application and one approved photograph of the distinctive bottle to the applicant and to each regional regulatory administrator. The applicant is responsible for furnishing a copy of both the approved application and photograph of the distinctive bottle to Customs officials at each affected port of entry where the merchandise is examined.

§ 251.205 [Revoked]

PAR. 82. Section 251.205 is revoked.

PART 252—EXPORTATION OF LIQUORS

PAR. 83. Section 252.11 is amended, in alphabetical order, by (1) adding a definition for "Alcohol, tobacco and firearms officer", (2) making conforming changes for the definitions of "Assistant regional commissioner", "Director, Alcohol, Tobacco and Firearms Division", and "Internal revenue officer", and (3) adding a definition for "Regional regulatory administrator". As amended, § 252.11 reads as follows:

§ 252.11 Meaning of terms.

* * * * *

Alcohol, tobacco and firearms officer. An officer or employee of the Bureau of

Alcohol, Tobacco and Firearms duly authorized to perform any function relating to the administration or enforcement of this part.

Assistant regional commissioner. Whenever used in this part shall mean a regional regulatory administrator as defined in this section.

* * * * *

Collector of customs. Wherever used in this part shall mean a District director of customs as defined in this section.

* * * * *

Customs officer. Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

(19 U.S.C. 1401(i))

* * * * *

Director, Bureau of Alcohol, Tobacco and Firearms. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

* * * * *

Director of customs. Wherever used in this part shall mean a District director of customs as defined in this section.

* * * * *

District director of customs. The district director of customs at a headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

* * * * *

Internal revenue officer. Whenever used in this part and in Chapter 51 of 26 U.S.C. shall mean the alcohol, tobacco and firearms officer as defined in this section.

* * * * *

Regional regulatory administrator. The principal regional official responsible for administering regulations in this part.

* * * * *

PAR. 84. Section 252.92 is amended to (1) designate Form 206 as an application or notice, and (2) make conforming changes. As amended, § 252.92 reads as follows:

§ 252.92 Application or notice, Form 206.

(a) *Export, use on vessels and aircraft, and transfer to a foreign-trade zone or a customs bonded warehouse.* Application for or notice of the withdrawal of distilled spirits without payment of tax for exportation from the United States, or for use on vessels and aircraft, or for transfer to a customs bonded warehouse or a foreign-trade zone, shall be made by the exporter on Form 206, in quadruplicate, except that where the shipment is for use on aircraft, an extra copy, marked "Consignee's Copy", shall be prepared. Where the exporter is not the proprietor of the bonded premises of the distilled spirits plant from which the spirits are to be withdrawn, the exporter shall prepare Form 206 as an application in accordance with the instructions on the form and shall forward all copies of the form to such proprietor, except that where the withdrawals are being made under the limitations set forth in § 252.62 (b), all copies of Form 206 shall be submitted to the alcohol, tobacco and firearms officer at the designated distilled spirits plant as provided in that section. Where the exporter is the proprietor of the bonded premises of the distilled spirits plant from which the spirits are withdrawn, the exporter shall prepare Form 206 as a notice in accordance with the instructions on the form.

(b) *Manufacturing bonded warehouse.* Application for the withdrawal of distilled spirits without payment of tax for transportation to and deposit in a manufacturing bonded warehouse shall be made by the proprietor of such warehouse on Form 206, in quadruplicate. The proprietor shall forward all copies of the application to the proprietor of the bonded premises of the distilled spirits plant from which the spirits are to be withdrawn, except that where the withdrawals are being made under the limitations set forth in § 252.64(b), all copies of Form 206 shall be submitted to the alcohol, tobacco and firearms officer at the designated distilled spirits plant as provided in that section and in applicable provisions of § 252.62(b).

(72 Stat. 1362, 1393, 84 Stat. 1965 (26 U.S.C. 5214, 5522, 5066).)

PAR. 85. Section 252.96 is amended to make conforming and editorial changes. As amended, § 252.96 reads as follows:

§ 252.96 Notice of intention to withdraw; approval of application.

(a) *Bond coverage previously approved.* Where Form 206 has been approved as to bond coverage by an alcohol, tobacco and firearms officer at another distilled spirits plant, as provided for in §§ 252.62(b) and 252.64(b), the proprietor shall present all copies of the Form 206 to the alcohol, tobacco and firearms officer at his plant for his information, and notify him of his intention to withdraw distilled spirits without payment of tax pursuant to such Form 206. If the alcohol, tobacco and firearms officer is satisfied that the spirits described on the form are eligible for withdrawal, he shall return all copies of the form to the proprietor.

(b) *Bond coverage not approved.* Where prior approval of bond coverage has not been obtained, the proprietor shall submit all copies of Form 206 to the alcohol, tobacco and firearms officer at his plant for approval of the application. If the alcohol, tobacco and firearms officer is satisfied that the Form 206 has been properly executed, that the required bond has been filed in a sufficient amount, and that described spirits are eligible for withdrawal, he shall indicate his approval of the application on all copies of the form and return them to the proprietor.

(72 Stat. 1362 (26 U.S.C. 5214).)

PAR. 86. Section 252.101 is amended by deleting the reference to the issuance of distilled spirits stamps by the assigned officer. As amended, § 252.101 reads as follows:

§ 252.101 Packages to be stamped.

Every package and authorized bulk conveyance of spirits (including tank cars and tank trucks but not pipelines) withdrawn without payment of tax under the provisions of this subpart shall have a distilled spirits stamp, overprinted with the word "Export", affixed thereto at the time of its removal from the bonded premises. Such stamps shall be overprinted, affixed, and canceled, in accordance with the provisions of Part 201 of this chapter.

(72 Stat. 1358 (26 U.S.C. 5205).)

PAR. 87. The heading and text of § 252.105 are amended to reflect changes in the processing and distribution of Form 206. As amended, § 252.105 reads as follows:

§ 252.105 Report of inspection and tax liability.

When the spirits are ready for shipment, the proprietor shall execute his report of inspection and tax liability on all copies of Form 206.

(72 Stat. 1362 (26 U.S.C. 5214).)

PAR. 88. Section 252.107 is revised in its entirety to read as follows:

§ 252.107 Disposition of forms.

Form 206 (and accompanying Form(s) 2630, if any) shall be distributed by the proprietor in accordance with the instructions on the form.

(72 Stat. 1362 (26 U.S.C. 5214).)

PAR. 89. Section 252.118 is amended to reflect changes in forms disposition. As amended, § 252.118 reads as follows:

§ 252.118 Disposition of forms.

The receipt, gauge, and disposition of the distilled spirits at the distilled spirits plant shall be in accordance with the applicable provisions of Part 201 of this chapter. On receipt of the report of gauge, Form 2630, from the proprietor, the alcohol, tobacco and firearms officer shall endorse, on each copy of the approved application to return the spirits, the date received and the total amount in proof gallons, and affix his signature and title. He shall retain a copy of the endorsed application and Form 2630 for his files and return the remaining copies to the proprietor of the distilled spirits plant receiving the returned spirits. That proprietor shall forward the original Form 206, with attachments, to the regional director designated on the form, the original of the endorsed application (with Form 2630) to the regional regulatory administrator of his region, a copy of the endorsed application to the distilled spirits plant proprietor from which the spirits were withdrawn, and retain a

copy of Form 206 (with attachments) and a copy of Form 2630 for his files.

(72 Stat. 1362, 1365 (26 U.S.C. 5214, 5223).)

PAR. 90. The heading and text of § 252.152 are amended to (1) provide for changes in the disposition of Form 206, and (2) make conforming changes. As amended, § 252.152 reads as follows:

§ 252.152 Notice, Form 206.

Notice of withdrawal of specially denatured spirits, as authorized in § 252.151, shall be made on Form 206, in quadruplicate, by the proprietor of the distilled spirits plant from which the denatured spirits are to be withdrawn. Prior to the lading of spirits aboard any conveyance for removal from the bonded premises, a copy of the form shall be submitted to the alcohol, tobacco and firearms officer.

(48 Stat. 998, as amended, 72 Stat. 1362 (19 U.S.C. 81c, 26 U.S.C. 5214).)

PAR. 91. Section 252.153 is amended to make a conforming change. As amended, § 252.153 reads as follows:

§ 252.153 Withdrawal procedure.

The provisions of §§ 252.93, 252.94, 252.98, 252.105, and 252.117 in respect of method of conveyance, authorized containers, gauging, inspection, approval and shipment, report of removal, and disposition of forms shall be applicable to specially denatured spirits to be withdrawn under the provisions of this subpart.

(48 Stat. 999, as amended, 72 Stat. 1362 (19 U.S.C. 81c, 26 U.S.C. 5214).)

PAR. 92. Section 252.163 is amended to reflect changes in form disposition. As amended, § 252.163 reads as follows:

§ 252.163 Disposition of forms.

The receipt, gauge, and disposition of the specially denatured spirits at the distilled spirits plant shall be in accordance with the applicable provisions of Part 201 of this chapter. On receipt of the report of gauge from the proprietor, the alcohol, tobacco and firearms officer shall endorse, on each copy of the approved application to return the specially denatured spirits, the date received and the total amount in wine gallons, and affix his signature and title. He shall retain a copy of the endorsed application and a report of gauge for his files and return the remaining copies to the proprietor of the distilled spirits plant receiving the returned specially denatured spirits. That proprietor shall forward the original Form 206, with attachments, to the regional regulatory administrator designated on the form, the original of the endorsed application, with Form 2630, to the regional regulatory administrator of his region, a copy of the endorsed application to the distilled spirits plant proprietor from which the specially denatured spirits were withdrawn, and retain a copy of Form 206 (with attachments) for his files.

(72 Stat. 1362, 1365 (26 U.S.C. 5214, 5223).)

§ 252.175 [Revoked]

Par. 93. Section 252.175 is revoked.

§ 252.176 [Revoked]

Par. 94. Section 252.176 is revoked.

§ 252.177 [Revoked]

Par. 95. Section 252.177 is revoked.

Par. 96. Section 252.195a is amended by (1) deleting reference to Form 122 and inserting reference to dump and batch records, (2) providing for submission of evidence of tax payment, when requested by the regional regulatory administrator, for imported distilled spirits or wines that are rectified, and (3) making confirming changes. As amended, § 252.195a reads as follows:

§ 252.195a Claim.

The bottler or packager of the spirits shall compute the drawback rate, unless the regional regulatory administrator has, under the provisions of § 253.178, established a standard drawback rate, and shall complete Parts II and III on both copies of Form 1582. If a standard drawback rate has been established for a rectified product other than gin and vodka produced exempt from rectification tax, the date of approval of the formula and the number shall be shown in any available space in Part II of Form 1582. The bottler or packager shall file one copy as the claim for drawback of tax with the regional director for the region in which the claimant's premises are located, and retain one copy for his files. Each claim on Form 1582 shall be supported, as applicable, by a copy of each related dump and batch record, Form 2630, and Form 2637 covering the dumping and bottling or packaging of the spirits; and in the case of spirits bottled in bond on bonded premises, a copy of each Form 179 covering the taxpayment. Upon application, and a finding by the region regulatory administrator that dumping, bottling, or packaging records are not essential, he may waive the requirement for the filing of supporting forms with each claim for drawback except the requirement for filing Form 179 covering taxpayment of spirits bottled in bond on bonded premises. *Provided*, That in the case of any such waiver, the claimant shall insert in Part II the formula number, if any, or a statement that the alcoholic content of the product is derived solely from fully taxpaid spirits. In lieu of a waiver of the filing of supporting forms, the regional regulatory administrator may approve an alternate method of furnishing information. The authorization shall provide that the authority may be withdrawn if, in the opinion of the regional regulatory administrator, there is a need for the supporting forms. Where distilled spirits stamped and marked, or restamped and marked (if in cases), or marked (if in packages), especially for export with benefit of drawback are manufactured (rectified) in the United States with the use of imported spirits (other than such spirits withdrawn from internal revenue bond) or imported wines, the proprietor shall furnish evidence of tax payment for the distilled spirits or wines such as Customs Forms 7505 or 7501 receipted to indicate payment of taxes) as may be requested by the regional regulatory administrator.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1330, as amended (19 U.S.C. 1309, 81c, 26 U.S.C. 5062).)

[FR Doc.77-25765 Filed 9-2-77;8:45 am]

Federal Register

TUESDAY, SEPTEMBER 6, 1977

PART VI

ENVIRONMENTAL PROTECTION AGENCY

State and Areawide Waste Treatment Management Plants

■

ACCEPTANCE AND APPROVAL OF PLANS AND DESIGNATED MANAGEMENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

[FRL–785–6]

STATE AND AREAWIDE WASTE TREATMENT MANAGEMENT PLANS

Acceptance and Approval of Plans and Designated Management Agencies

This notice is published to advise that the following Program Guidance Memorandum, copy follows, has been distributed to Environmental Protection Agency Regional Offices and became effective upon issuance. This memorandum refines existing Agency policy guidance for EPA plan approval and acceptance of management agency designations under State and areawide waste treatment management plans prepared pursuant to the Federal Water Pollution Control Act as amended. The memorandum sets forth guidance to ensure (1) that management agencies designated to implement the plans possess adequate authority and capability to carry out applicable portions of the plans, (2) that plans identify certain responsibilities assigned to designated management agencies, and (3) that plans include indications of the management agencies' willingness to carry out such responsibilities. Because of the importance of this memorandum, the policy that it establishes will be incorporated in amendments to 40 CFR Parts 130 and 131. Comments on this memorandum are encouraged in light of the upcoming amendments.

For additional information contact: Mr. Walter Groszyk, Deputy Director, Water Planning Division (WH–554), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Dated: August 23, 1977.

JOHN T. RHETT,
Acting Assistant Administrator for Water and Hazardous Materials.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Subject: State and Areawide WQM Agencies—Designation and Acceptance.

From: Albert J. Erickson, Acting Deputy Assistant Administrator for Water Planning and Standards.

To: Regional Administrators.

Attention: Water Division Directors.

Program Guidance Memorandum: SAM–30.

References: Section 208(b)(2)(D), (b)(2)(E), and 208(c), P.L. 92–500; 40 CFR 130.15; 40 CFR 131.1(d)(5), 131.10(c), 131.11(o), 131.20(b), 131.20(f)(1)(iv).

STATEMENT OF POLICY

Designated water quality management ("WQM") management agencies must have the authority and capability to carry out applicable portions of the WQM plans. These authorities and capabilities must be established at the time the plan is submitted to the Regional Administrator ("RA") and prior to the RA's acceptance of the designation.

The WQM plan must specifically list any new, incremental, or critical ongoing responsibilities assigned to each management agency under the plan.

Each plan must indicate each management agency's willingness to proceed to carry out its responsibilities as identified in the plan, prior to the RA's acceptance of designation.

PURPOSE

This Program Guidance Memorandum provides policies in connection with WQM management agency designations and responsibilities. All management agency designations are subject to the policies set forth in section 1, "Selection of Management Agencies," below. Sections 2 and 3, "Management Agency Implementation Statements" and "Management Agency Willingness to Proceed", should be followed wherever possible. Normally all management planning activities which have not been substantially completed as of the date of this memorandum should adhere to all policies set forth herein.

Pursuant to section 208(c) of the Act, all agencies which are responsible for carrying out any portion of a WQM plan must be designated as management agencies. These include agencies responsible for plan implementation by their own direct activities, agencies responsible for overseeing the performance of any person or entity through regulatory or other means, and agencies that review or coordinate overall WQM management agency actions. This memorandum should be applied to individual management agencies in a reasonable fashion that takes into account the nature of their responsibilities under the plan.

The memorandum is being distributed to all Regional Offices. Each regional office should provide a copy to each State and designated planning agency within the region. To assure the widest possible awareness of these policies, the memorandum is simultaneously being published in the FEDERAL REGISTER.

BACKGROUND

An effective management structure is essential to implementation of water quality management plans. Because of the great diversity of plan contents and management options, EPA provides maximum flexibility to States and areawide agencies designing WQM institutional arrangements. Certain general requirements of the law, regulations, and sound program management nonetheless underlie all acceptable arrangements. This memorandum summarizes management agency designation requirements, including the planning agency's responsibility to assure notice to the management agencies and their indications of willingness to undertake any new or incremental responsibilities.

Selection of management agencies to carry out plan elements is a critical aspect of WQM program development. Planning agencies must work closely with the potential managers throughout program development, to establish the best possible structure and climate for program implementation.

POLICY GUIDANCE

1. *Selection of Management Agencies.*—Each designated management agency must have adequate authority and capability to carry out its assigned portions of an approved WQM program. (40 CFR § 131.11(o)(2).) Wastewater treatment management agencies responsible for receiving a construction grant pursuant to sections 201 and 204 of the Act must have all of the authorities and capabilities required in connection with those grants.

Authority. EPA will fully accept management agency designations only when the proposed management agency has existing statutory and regulatory authority to carry out the portions of the plan assigned to it. An individual management agency is not required to have all of the authorities listed in the FWPC Act and regulations, as long as it has authority to carry out its responsibilities under the plan and the plan's proposed management agencies in the aggregate have all of those authorities.

Each agency's authority should be evaluated in relation to its assigned responsibilities. For example, an agency charged with oversight of a program without regulatory controls does not need authorities of a regulatory nature for purposes of WQM designation approval.

If a Governor designates a management agency which has the general statutory and regulatory authority to carry out its assigned responsibilities and is in the process of obtaining the specific necessary authority, the Regional Administrator may conditionally accept the designation. This may occur, for example, if the agency has authority to enact and implement a certain type of ordinance, has drafted the ordinance, and has a schedule for its promulgation. Where such additional steps are required to enable implementation to proceed, the Governor's designation should state the schedule for the additional steps.

Capability. Management agency designations may be fully accepted by EPA only when the proposed management agency has in existence the legal, financial, managerial, and institutional capability to carry out its assigned responsibilities. Where any of these capabilities is in doubt, the Regional Administrator may either accept conditionally or refuse to accept a designation.

2. *Management Agency Implementation Statement.*—Whenever a plan element prescribes new, modified, or critical on-going tasks, the Regional Administrator will not approve that plan element unless such tasks are clearly identified in the plan.[1] (See § 131.1(d)(5).) Ongoing tasks other than those which are critical to the plan or the continuing planning process, and tasks which are adequately covered by another EPA program, may be listed at the option of the planning agency, State, or EPA regional office. However, listing those tasks in the plan is not a national EPA requirement.

The plan's listing of responsibilities may be presented by means of an implementation statement for each management agency whose activities need to be identified. The statement is the responsibility of the planning agency, but it should be prepared jointly by the planning agency and the proposed management agency, to ensure mutual understanding and agreement.

The statement or listing must identify each management agency's proposed responsibilities, schedules for action, existing and any needed additional authorities, and financing. (See sections 208(b)(2)(D) and (E) and 208(c)(2).) The information must be sufficient to give clear notice to the proposed management agency and others as to the specific aspects of the plan that the management agency should implement.

[1] For example, where the plan calls for an identified management agency to operate a new regulatory program for nonpoint sources or to modify or expand another type of program leading to nonpoint source abatement, the agency's major responsibilities and schedule should be stated in the plan. Also, where major reviews of an area's population projections are conducted periodically, this critical undertaking should be set forth. On the other hand, if a plan calls for each of a large number of local jurisdictions to revise its zoning ordinance for a certain purpose, the plan does not need to enumerate each agency's authority, financing, and individual schedule. Further where construction of a municipal waste treatment facility in conformity with the plan is undertaken with Federal assistance under sections 201 and 204 of the Act, the responsibilities may be adequately defined and reviewed in connection with that grant.

The exact nature of the implementation statement will depend on the agency, responsibilities, and schedule. EPA regional offices may participate in defining the contents. The following minimum contents are urged:

Specific identification, by name, of the proposed management agency.

A summary sheet outlining in reasonable detail (1) each proposed major responsibility of the agency, (2) the schedule for major agency actions in the near term (e.g., an appropriate period probably not exceeding five years), (3) detailed reference to the existing and any needed additional authority to the agency to carry out each responsibility, and (4) a description of the financing program for carrying out each responsibility.

Where possible, identification of the specific individual and organizational responsibilities within the management agency, a statement of manpower and budgeting requirements, and provision for reporting and data management may also be provided.

As noted above, effective coordination between the planning agency and proposed management agencies should be maintained to minimize delays or other problems in formalizing the proposed management agencies' assignments and acceptance of responsibilities.

3. *Management Agency Willingness to Proceed.*—Whenever a WQM plan prescribes new or incremental responsibilities for a proposed management agency, the plan should include an indication that the agency is willing to proceed to carry out the responsibilities for which it is being designated. The management agency can most easily indicate its intention to undertake the responsibilities by concurring in the applicable implementation statement, and a sign off sheet may be added to the implementation statement for that purpose.

In the case of significant management agencies whose performance is critical to overall plan implementation, an express acceptance of responsibilities is needed. In other cases (for example, large numbers of smaller municipalities which cause realtively minor water quality impacts in a major metropolitan area), it is less desirable but nonetheless adequate for the planning agency to provide the necessary assurance of their willingness to proceed. In these cases, the plan should include the planning agency's certification that representatives of the planning agency have met with appropriate officials of the affected agencies, have explained the implications to the agencies of plan adoption, and that the agencies' officials have provided the planning agency with assurance of their willingness to proceed with implementation of their responsibilities. The plan must identify each proposed management agency covered by the certification.

Each statement of management agency willingess to proceed, as provided either by the designated management agency or by the WQM planning agency, must be included in the submittal of management agency designation pursuant to § 130.15(a). The Regional Administration will not fully or conditionally accept any designation where no such statement is available. Any proposed management agency that prefers to postpone its commitment on grounds that the WQM plan may be modified prior to the Governor's certification may condition its willingness to proceed on the plan's being certified without change.

[FR Doc.77-25740 Filed 9-2-77;8:45 am]

Federal Register

TUESDAY, SEPTEMBER 6, 1977

PART VII

DEPARTMENT OF LABOR

Employment and Training Administration

■

YOUTH PROGRAM FUNDING ESTIMATES

DEPARTMENT OF LABOR

Employment and Training Administration

YOUTH PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

List of Funding Estimates

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice lists the program funding estimates for certain of the Department's youth programs under the Youth Employment and Demonstration Projects Act (YEDPA) of 1977. The information is provided so that eligible applicants may begin planning for the Youth Community Conservation and Improvement Projects (YCCIP) and the Youth Employment and Training Programs (YETP). In addition, an initial allocation equal to five percent of the YETP amount is being authorized so that early preparation for the program may take place.

FOR FURTHER INFORMATION CONTACT:

Esther Friedman, Director, Youth Programs Task Force, Room 3218, 601 D Street NW., Washington, D.C. 20213; telephone 202-376-6820.

SUPPLEMENTARY INFORMATION:

YOUTH COMMUNITY CONSERVATION AND IMPROVEMENT PROJECTS (YCCIP)

As required by section 333(a) of the Comprehensive Employment and Training Act (CETA), 75 percent of the funds under YCCIP will be distributed among the States based on the number of unemployed residing within each State compared to the number of unemployed nationwide, except that each State and, in the aggregate, Guam, the Virgin Islands, American Samoa, the Northern Marianas, and the Trust Territory of the Pacific Islands will receive a distribution equal to one-half of one percent. Distribution among title I prime sponsors under the Comprehensive Employment and Training Act will be made within each State based on the number of unemployed residing within each prime sponsor's area as compared to the number of unemployed statewide.

YOUTH EMPLOYMENT AND TRAINING PROGRAMS (YETP)

As required by section 343(a), the Department will distribute 75 percent of the funds available under YETP among prime sponsors by the formula contained in section 343(b)(1) of the act. Specifically, the formula calls for distribution to be made according to the following:

(1) Thirty-seven and one-half percent of the funds shall be allocated on the basis of the relative number of unemployed persons within each State as compared to such numbers in all States.

(2) Thirty-seven and one-half percent of the funds shall be allocated on the basis of the relative number of unemployed persons residing in areas of substantial unemployment within each State as compared to the total number of unemployed persons in all such areas in all States, and,

(3) Twenty-five percent of the funds shall be allocated on the basis of the relative number of persons in families with an annual income below the low-income level within each State as compared to such numbers in all States. Similarly distribution among prime sponsors under CETA was made within each State.

STATEWIDE YOUTH SERVICES

Five percent of the funds available for YEDPA youth programs will be made available to Governors for special statewide youth services.

PLANNING GRANTS (ALLOCATIONS)

Initial planning allocations are being provided to prime sponsors consisting of five percent (5%) of the program estimate for the Youth Employment and Training Programs. These funds are to be used for administrative planning purposes as specified below:

1. The construction of a comprehensive inventory of all career development, employment, training and related services to youths age 14-21.

2. The establishment of a youth council which will represent groups and organizations responsive to youth as required by the legislation under section 346(b).

3. The development of appropriate linkages with local education agencies, community based organizations, union organizations, local Federal programs, criminal justice systems, apprenticeship programs, and other organizations serving youth.

4. The identification of model programs for career development, employment and training.

5. Other such administrative planning activities supportive to the intent of the youth legislation.

The program funding estimates and planning grant allocations are as follows: The planning estimates set forth in this notice do not include those for special programs directed to the needs of Native American youth and youth from farmworker families. Planning estimates for these two program categories will be published at a later date.

	PLANNING ESTIMATE
REGION I	6,226,091
CONNECTICUT	1,544,141
BRIDGEPORT CONSORTIUM	196,249
HARTFORD CONSORTIUM	293,074
NEW HAVEN CONSORTIUM	212,312
STAMFORD CONSORTIUM	79,406
WATERBURY CITY	70,952
BALANCE OF CONNECTICUT	692,148
MAINE	466,572
PENOBSCOT/HANCOCK CSRT	69,097
CUMBERLAND COUNTY	63,994
BALANCE OF MAINE	273,256
KENNEBECK CO	40,225
MASSACHUSETTS	2,921,628
BOSTON CITY	375,179
EMBRDA CONSORTIUM	163,900
NEW BEDFORD CONSORTIUM	110,600
HAMPDEN COUNTY CONSORTIUM	229,876
WORCESTER CONSORTIUM	146,692
LOWELL CONSORTIUM	122,975
BROCKTON CONSORTIUM	109,922
FALL RIVER	53,778
BALANCE OF MASSACHUSETTS	1,609,206
NEW HAMPSHIRE	431,250
ROCKINGHAM/STRAFFORD CSRT	116,265
HILLSBOROUGH COUNTY	135,965
BALANCE OF NEW HAMPSHIRE	179,020
RHODE ISLAND	431,250
PROVIDENCE CITY	96,304
BALANCE OF RHODE ISLAND	334,946
VERMONT	431,250
VERMONT STATEWIDE CSRT	431,250

	PLANNING ESTIMATE
REGION II	14,639,484
NEW JERSEY	3,832,565
ATLANTIC COUNTY	109,200
BERGEN COUNTY	431,001
BURLINGTON COUNTY	141,782
BAL OF CAMDEN COUNTY	158,601
CAMDEN CITY	80,361
CUMBERLAND COUNTY	79,917
ELIZABETH CITY	69,064
BAL OF ESSEX COUNTY	261,302
GLOUCESTER COUNTY	86,882
HUDSON CO CRST	393,531
BAL OF MERCER COUNTY	68,653
MIDDLESEX COUNTY	331,133
MONMOUTH COUNTY	222,966
MORRIS COUNTY	142,538
NEWARK CITY	322,734
OCEAN COUNTY	137,028
BAL OF PASSAIC COUNTY	162,900
PATERSON CITY	119,087
SOMERSET COUNTY	62,554
TRENTON CITY	62,410
BAL OF UNION COUNTY	186,051
BALANCE OF NEW JERSEY	202,870
NEW YORK	8,820,444
ALBANY CITY	52,945
ALBANY COUNTY	55,244
BROOME COUNTY	83,605
BUFFALO CITY	294,185
CHAUTAUQUA CONSORTIUM	136,395
CHEMUNG COUNTY	43,113
DUTCHESS COUNTY	72,552
ERIE CONSORTIUM	259,703
ROCHESTER CITY	157,857
MONROE COUNTY	116,288
NASSAU CONSORTIUM	653,545
NIAGARA COUNTY	134,862
ONEIDA COUNTY	139,262
BAL OF ONONDAGA COUNTY	102,579
ORANGE COUNTY	118,665
OSWEGO COUNTY	71,630
RENSSELAER COUNTY	63,309
ROCKLAND COUNTY	89,149
ST. LAWRENCE COUNTY	68,064
SARATOGA COUNTY	52,212

A

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
YOUTH EMPLOYMENT DEMONSTRATION PROJECTS
CETA TITLE III, PART C - SUBPART2

PAGE 6
8/2/77

	PLANNING ESTIMATE
SCHENECTADY COUNTY	63,732
STEUBEN COUNTY	43,036
SUFFOLK CONSORTIUM	568,429
SYRACUSE CITY	100,202
ULSTER COUNTY	89,104
WESTCHESTER CONSORTIUM	329,822
YONKERS CITY	114,266
BALANCE OF NEW YORK	885,809
NEW YORK CITY	3,865,880
PUERTO RICO	1,986,475
BAYAMON MUNICIPIO	79,862
CAGUAS MUNICIPIO	81,550
CAROLINA MUNICIPIO	41,358
MAYAGUEZ MUNICIPIO	49,834
PONCE MUNICIPIO	104,457
SAN JUAN CONSORTIUM	305,560
BALANCE OF PUERTO RICO	1,323,854

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
YOUTH EMPLOYMENT DEMONSTRATION PROJECTS
CETA TITLE III, PART C - SUBPART2

PAGE #7
8/2/77

	PLANNING ESTIMATE
REGION III	8,872,010
DELAWARE	431,250
DELAWARE MANPOWER CSRT	335,550
WILMINGTON CITY	95,700
DIST OF COLUMBIA	431,250
DISTRICT OF COLUMBIA	431,250
MARYLAND	1,421,934
BALANCE OF MARYLAND	165,911
BALTIMORE CONSORTIUM	844,273
MONTGOMERY COUNTY	115,277
PRINCE GEORGES COUNTY	168,121
WESTERN MARYLAND CSRT	128,352
PENNSYLVANIA	4,510,230
LEHIGH VALLEY CONSORTIUM	175,698
LANCASTER CONSORTIUM	134,695
BUCKS COUNTY	160,834
CHESTER COUNTY	80,139
DELAWARE COUNTY	213,634
MONTGOMERY COUNTY	210,902
PHILADELPHIA CITY/COUNTY	855,382
BERKS COUNTY	93,948
BAL OF LACKAWANNA COUNTY	59,866
SCRANTON CITY	46,735
LUZERNE COUNTY	160,345
SCHUYLKILL CONSORTIUM	86,671
ERIE CITY	62,198
BAL OF ERIE COUNTY	62,854
BAL OF ALLEGHENY COUNTY	332,521
PITTSBURGH CITY	246,172
BEAVER COUNTY	70,164
WASHINGTON COUNTY	77,673
WESTMORELAND COUNTY	162,167
TRI-COUNTY CONSORTIUM	100,757
FAYETTE COUNTY	52,945
LAWRENCE COUNTY	41,214
MERCER COUNTY CONSORTIUM	144,182
SOUTHERN ALLEGANY CSRT	174,276
SUSQUEHANNA CONSORTIUM	122,564
YORK COUNTY	88,971
LYCOMING CONSORTIUM	73,152
FRANKLIN COUNTY	33,460
BALANCE OF PENNSYLVANIA	311,736
CENTRE COUNTY	26,406

	PLANNING ESTIMATE
NORTHUMBERLAND COUNTY	47,979
VIRGINIA	1,510,794
PENINSULA CONSORTIUM	116,299
STAMA CONSORTIUM	242,084
RAMPS CONSORTIUM	97,780
HENRICO COUNTY CONSORTIUM	55,511
ROANOKE CONSORTIUM	86,538
ARLINGTON COUNTY	48,779
FAIRFAX COUNTY	100,024
PRINCE WILLIAM COUNTY	20,585
ALEXANDRIA CITY	26,384
BALANCE OF VIRGINIA	716,810
WEST VIRGINIA	566,552
WEST VIRGINIA STATEWIDE	566,552

	PLANNING ESTIMATE
REGION IV	12,130,872
ALABAMA	1,110,886
BALANCE OF ALABAMA	604,966
BIRMINGHAM CONSORTIUM	222,444
HUNTSVILLE CONSORTIUM	65,087
MOBILE CONSORTIUM	125,530
MONTGOMERY CONSORTIUM	60,899
TUSCALOOSA COUNTY	31,960
FLORIDA	3,488,181
BALANCE OF FLORIDA	429,491
ALACHUA COUNTY	39,114
BREVARD COUNTY	115,443
BROWARD CONSORTIUM	428,857
MIAMI/DADE CONSORTIUM	719,621
ESCAMBIA COUNTY	57,044
HEARTLAND MANPOWERCSRT	148,370
LEE COUNTY	61,921
LEON/GADSEN CONSORTIUM	44,780
NF FLORIDA MANPOWER CSRT	182,352
OSKALOOSA COUNTY	33,826
ORANGE COUNTY/ORLANDO CSR	191,028
MANATEE COUNTY	47,168
PALM BEACH COUNTY	221,733
PASCO COUNTY	57,877
SEMINOLE COUNTY	68,442
ST. PETERSBURG CONSORTIUM	210,335
SARASOTA COUNTY	54,000
TAMPA CONSORTIUM	295,062
VOLUSIA COUNTY	81,717
GEORGIA	1,988,486
BALANCE OF GEORGIA	928,734
CSRA CONSORTIUM	118,032
ATLANTA CITY	335,001
CLAYTON COUNTY	40,547
CORR COUNTY	99,413
COLUMBUS AREA CONSORTIUM	61,432
BAL OF DEKALB COUNTY	134,217
FULTON COUNTY	67,375
MID GEORGIA CONSORTIUM	121,820
SAVANNAH/CHATHAM CSRT	69,075
GWINNETT COUNTY	22,840
KENTUCKY	899,818
BLUE GRASS MANPOWER CSRT	68,031

A

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
YOUTH EMPLOYMENT DEMONSTRATION PROJECTS
CETA TITLE III, PART C - SUBPART2

PAGE #10
8/2/77

	PLANNING ESTIMATE
LOUISVILLE/JEFFERSON CSRT	293,270
KENTON COUNTY	48,768
BALANCE OF KENTUCKY	447,365
EASTRN KENTUCKY RURAL CEP	132,384
MISSISSIPPI	688,749
BALANCE OF MISSISSIPPI	572,684
JACKSON CONSORTIUM	79,817
HARRISON COUNTY	36,248
NORTH CAROLINA	3,766,307
BALANCE OF NORTH CAROLINA	1,089,956
ALAMANCE COUNTY	47,779
BUNCOMBE COUNTY	46,646
CUMBERLAND COUNTY	50,967
CHARLOTTE CITY	92,337
DURHAM CONSORTIUM	58,133
GASTON COUNTY	57,277
GREENSBORO CONSORTIUM	94,892
ONSLOW COUNTY	17,563
RALEIGH CONSORTIUM	75,196
BAL OF WAKE COUNTY	29,127
WINSTON SALEM CONSORTIUM	72,363
DAVIDSON COUNTY	34,071
SOUTH CAROLINA	966,470
SOUTH CAROLINA STATEWIDE	966,470
TENNESSEE	1,221,975
BALANCE OF TENNESSEE	705,523
CHATTANOOGA CITY	35,382
MEMPHIS CONSORTIUM	215,367
BAL OF HAMILTON COUNTY	30,872
KNOXVILLE CONSORTIUM	66,998
NASHVILLE/DAVIDSONCNTY	136,717
SULLIVAN COUNTY	31,116

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
YOUTH EMPLOYMENT DEMONSTRATION PROJECTS
CETA TITLE III, PART C - SUBPART2

PAGE #11
8/2/77

	PLANNING ESTIMATE
REGION V	16,163,196
ILLINOIS	3,688,150
CHICAGO CITY	1,266,409
BAL OF COOK COUNTY	643,625
DUPAGE COUNTY	120,542
KANE CO CSRT	106,967
LAKE COUNTY	120,942
MACON COUNTY	49,812
MCHENRY COUNTY	37,937
ROCK ISLAND COUNTY	50,401
TAZEWELL COUNTY	28,050
LA SALLE COUNTY	30,938
ROCKFORD CONSORTIUM	112,655
CHAMPAIGN CONSORTIUM	47,268
WILL/GRUNDY CONSORTIUM	97,103
SANGAMON COUNTY CSRT	54,544
MADISON COUNTY CONSORTIUM	105,623
ST. CLAIR CONSORTIUM	80,561
PEORIA CONSORTIUM	53,200
EAST ST. LOUIS CITY	39,714
SHAWNEE CONSORTIUM	28,383
BALANCE OF ILLINOIS	588,214
MCLEAN COUNTY	25,262
INDIANA	1,643,956
GARY CITY	75,551
HAMMOND CITY	33,860
BAL OF LAKE COUNTY	65,265
ELKHART COUNTY	33,982
SOUTH BEND CITY	37,415
BAL OF ST. JOSEPH COUNTY	31,149
TIPPECANOE COUNTY	27,739
MADISON COUNTY	36,648
VIGO COUNTY	27,939
INDIANAPOLIS CITY	320,368
LA PORTE COUNTY	32,527
FT. WAYNE CONSORTIUM	124,775
DELAWARE CONSORTIUM	40,947
SOUTHWESTERN CONSORTIUM	85,338
BALANCE OF INDIANA	670,453
MICHIGAN	4,154,714
BALANCE OF MICHIGAN	769,066
FLINT/GENESSEE CONSORTIUM	246,661
LANSING CONSORTIUM	174,154
JACKSON CONSORTIUM	138,083

	PLANNING ESTIMATE
KENT CONSORTIUM	269,879
MUSKEGON CONSORTIUM	82,683
DEARBORN CITY	36,137
DETROIT CITY	677,640
LIVONIA CITY	28,072
WARREN CITY	67,375
BAY COUNTY	54,122
BERRIEN COUNTY	93,126
CALHOUN COUNTY	71,397
KALAMAZOO COUNTY	80,350
BAL OF MACOMB COUNTY	188,562
MONROE COUNTY	39,559
OAKLAND COUNTY	424,314
OTTAWA COUNTY	49,468
SAGINAW COUNTY	94,881
ST. CLAIR COUNTY	71,763
BAL OF WAYNE COUNTY	384,000
ANN ARBOR CITY	32,538
BAL OF WASHTENAW COUNTY	80,884
MINNESOTA	1,221,973
DAKOTA COUNTY	42,425
BAL OF RAMSEY COUNTY	51,878
ST. PAUL CITY	131,062
QUAD COUNTIES CSRT	111,844
REGION III CONSORTIUM	62,221
DULUTH CITY	29,027
BALANCE OF MINNESOTA	318,146
MINNESOTA RURAL CEP	104,923
BAL OF HENNEPIN COUNTY	160,345
MINNEAPOLIS CITY	210,102
OHIO	4,099,169
CINCINNATI CITY	231,231
BUTLER COUNTY	100,968
CLARK COUNTY	59,743
BAL OF HAMILTON COUNTY	138,261
LORAIN COUNTY	92,848
AKRON CONSORTIUM	233,019
CANTON CONSORTIUM	189,428
CLEVELAND CONSORTIUM	590,158
COLUMBUS CONSORTIUM	316,169
MIAMI VALLEY CONSORTIUM	208,280
CENTRAL OHIO RURALCSRT	72,452

	PLANNING ESTIMATE
TOLEDO CONSORTIUM	238,674
NORTH EAST OHIO MANPOWER	305,116
BALANCE OF OHIO	934,832
ALLEN COUNTY	48,157
GREENE COUNTY	33,116
CLERMONT COUNTY CSRT	69,297
LAKE/ASHTABULA CSRT	102,513
PORTAGE COUNTY	69,153
RICHLAND/MORROW CSRT	65,753
WISCONSIN	1,355,235
OUTAGAMIE COUNTY	29,516
ROCK COUNTY	38,503
MILWAUKEE COUNTY	383,985
MADISON/DANE CONSORTIUM	71,108
WOW CONSORTIUM	93,725
WINNE/FOND CONSORTIUM	65,987
TRICO CETAC	127,730
BALANCE OF WISCONSIN	459,840
WISCONSIN NORTHWEST CEP	59,221
MARATHON COUNTY	25,650

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
YOUTH EMPLOYMENT DEMONSTRATION PROJECTS
CETA TITLE III, PART C - SUBPART2
8/2/77

	PLANNING ESTIMATE
REGION VI	6,543,118
ARKANSAS	688,749
CENTRAL ARKANSAS CSRT	118,132
TEXARKANA	18,163
BALANCE OF ARKANSAS	552,454
LOUISIANA	1,121,983
RAPIDES PARISH	39,870
BATON ROUGE CITY	85,283
LAFAYETTE PARISH	24,917
CALCASIEU/JEFF CONSORTIUM	60,554
OUACHITA PARISH	40,981
NEW ORLEANS CITY	235,074
JEFFERSON PARISH	86,760
SHREVEPORT CITY	62,254
BALANCE OF LOUISIANA	486,290
NEW MEXICO	477,681
ALBUQUERQUE CONSORTIUM	176,609
BALANCE OF NEW MEXICO	301,072
OKLAHOMA	722,075
COMANCHE COUNTY	22,073
OKLAHOMA COUNTY	46,535
OKLAHOMA CITY CONSORTIUM	132,395
BAL OF CLEVELAND COUNTY	22,773
TULSA CONSORTIUM	138,572
BALANCE OF OKLAHOMA	359,727
TEXAS	3,532,630
TEXARKANA CONSORTIUM	34,782
TEX. PANHANDLE MANP. CSRT	52,412
CAP. AREA MANPOWERCSRT	123,941
S.E. TEXAS COMP. CSRT	132,429
PASADENA CITY	30,983
CAMERON COUNTY	89,360
COASTAL BEND MANP.CSRT	126,174
DALLAS CITY	233,286
BAL OF DALLAS COUNTY	110,300
SOUTH PLAINS CSRT	38,759
WEST CENTRAL TEXASCSRT	55,922
EL PASO CONSORTIUM	191,850
FT. WORTH CONSORTIUM	184,774
BAL OF TARRANT COUNTY	34,026
GALVESTON COUNTY	66,064
HOUSTON CITY	455,463

	PLANNING ESTIMATE
BAL OF HARRIS COUNTY	130,796
CFN, TEXAS MANPOWER CSRT	48,157
HIDALGO COUNTY CONSORTIUM	109,567
ALAMO CONSORTIUM	362,660
REGION XI CONSORTIUM	61,910
NORTH TEXAS STATE CSRT	43,969
WERR COUNTY	49,168
GULF COAST CONSORTIUM	106,245
EAST TEXAS CSRT	132,762
BALANCE OF TEXAS	526,871

	PLANNING ESTIMATE
REGION VII	3,008,815
IOWA	588,769
BALANCE OF IOWA	353,539
BLACKHAWK COUNTY	38,059
CEN. IOWA REGIONALCSRT	110,589
LINN COUNTY MANPOWER CSRT	32,471
SCOTT COUNTY	30,816
WOODBURY COUNTY	23,295
KANSAS	511,007
BALANCE OF KANSAS	255,992
KANSAS CITY CONSORTIUM	66,398
JOHNSON/LEAVENWORTH CSRT	62,654
WICHITA CITY	85,616
TOPEKA CONSORTIUM	40,347
MISSOURI	1,477,489
BALANCE OF MISSOURI	510,230
SPRINGFIELD CITY	40,814
BAL OF JACKSON COUNTY	30,727
KANSAS CITY CONSORTIUM	242,762
JEFFERSON/FRANKLINCSRT	58,533
ST. LOUIS COUNTY	242,006
ST. LOUIS CITY	288,830
INDEPENDENCE CITY	29,827
ST. CHARLES COUNTY	33,760
NEBRASKA	431,250
BALANCE OF NEBRASKA	193,667
LINCOLN CITY	45,012
OMAHA CONSORTIUM	192,571

	PLANNING ESTIMATE
REGION VIII	2,944,991
COLORADO	788,741
ADAMS COUNTY	77,051
ARAPAHOE COUNTY	59,521
BOULDER COUNTY	53,478
COLORADO SPRINGS CRST	79,451
DENVER CITY/COUNTY	198,860
JEFFERSON COUNTY	84,161
LARIMER COUNTY	28,383
PUEBLO COUNTY	36,548
WELD COUNTY	24,662
BALANCE OF COLORADO	144,626
MONTANA	431,250
BUTTE RURAL CEP	70,898
BALANCE OF MONTANA	360,352
NORTH DAKOTA	431,250
N. DAKOTA STATEWIDE CSRT	431,250
SOUTH DAKOTA	431,250
S. DAKOTA STATEWIDE CSRT	431,250
UTAH	431,250
UTAH STATEWIDE CONSORTIUM	431,250
WYOMING	431,250
WYOMING STATEWIDE CSRT	431,250

A

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
YOUTH EMPLOYMENT DEMONSTRATION PROJECTS
CETA TITLE III, PART C - SUBPART2
8/2/77

	PLANNING ESTIMATE
REGION IX	11,772,990
ARIZONA	1,033,135
BALANCE OF ARIZONA	259,792
PHOENIX CITY	383,089
MARICOPA COUNTY	228,298
TUCSON/PIMA CONSORTIUM	161,956
CALIFORNIA	9,875,360
BAL OF ALAMEDA COUNTY	287,042
BERKELEY CITY	103,112
BAL OF CONTRA COSTA CNTY	225,288
MARIN COUNTY	88,571
OAKLAND CITY	266,701
RICHMOND CITY	53,189
SAN FRANCISCO CITY/COUNTY	489,678
SAN MATEO COUNTY	230,509
SONOMA COUNTY	117,754
SANTA BARBARA COUNTY	99,980
GLENDALE CITY	48,646
LONG BEACH CITY	160,756
BAL OF LOS ANGELESCNTY	1,428,120
LOS ANGELES CITY	1,490,940
ORANGE CNTY MANPOWER CSRT	544,334
PASADENA CITY	42,525
TORRANCE CITY	50,579
VENTURA COUNTY	165,522
BALANCE OF CALIFORNIA	485,568
HUMBOLDT COUNTY	62,487
SANTA CLARA VALLEY	445,632
SOLANO COUNTY	61,721
SUNNYVALE CITY	43,158
BUTTE COUNTY	64,709
SACRAMENTO/YOLO CSRT	327,356
STOCKTON/SAN JOAQUIN CSRT	158,301
STANISLAUS COUNTY	173,298
MONTEREY COUNTY	97,758
SANTA CRUZ COUNTY	80,817
FRESNO CITY/COUNTY	211,068
IMPERIAL COUNTY	62,254
KERN COUNTY	139,972
MERCED COUNTY	62,487
INLAND MANPOWER ASSN	533,225
SAN LUIS OBISPO COUNTY	33,882
TULARE COUNTY	71,930
SAN DIEGO RETC	866,491
HAWAII	433,245
HAWAII BAL OF STATE	97,358

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
YOUTH EMPLOYMENT DEMONSTRATION PROJECTS
CETA TITLE III, PART C - SUBPART2
8/2/77

	PLANNING ESTIMATE
HONOLULU CITY/COUNTY	335,887
NEVADA	431,250
BALANCE OF NEVADA	86,761
LAS VEGAS CONSORTIUM	255,859
WASHOE COUNTY	88,630

	PLANNING ESTIMATE
REGION X	3,517,483
ALASKA	431,250
MUNICIPALITY OF ANCHORAGE	154,719
BALANCE OF ALASKA	276,531
IDAHO	431,250
IDAHO STATEWIDE CSRT	431,250
OREGON	1,133,114
PORTLAND CITY	217,222
BAL OF CLACKAMAS COUNTY	79,695
LANE COUNTY	134,662
MULTNOMAH/WASHINGTON CSRT	153,624
MID WILLAMETTE VALLEY CSR	117,776
JACKSON COUNTY CONSORTIUM	88,260
BALANCE OF OREGON	341,875
WASHINGTON	1,521,869
SPOKANE CONSORTIUM	103,623
CLARK COUNTY	49,612
KING/SNOHOMISH CONSORTIUM	699,858
KITSAP COUNTY	38,837
TACOMA CITY	78,262
BAL OF PIERCE COUNTY	88,493
YAKIMA COUNTY	67,686
BALANCE OF WASHINGTON	395,498

	PLANNING ESTIMATE
STATE AND LOCAL TOTAL	85,818,750
VIRGIN ISLANDS	164,250
AMERICAN SAMOA	40,132
GUAM	122,333
TRUST TERR AND N MARIANA	104,535
NATIONAL TOTAL	86,250,000.

A

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
YOUTH EMPLOYMENT DEMONSTRATION PROJECTS
CETA TITLE III, PART C - SUBPART3

PAGE 22 8/2/77

	PLANNING GRANT	PLANNING ESTIMATE
REGION I	1,335,823	26,716,451
CONNECTICUT	335,789	6,715,787
BRIDGEPORT CONSORTIUM	42,721	854,424
HARTFORD CONSORTIUM	63,259	1,265,185
NEW HAVEN CONSORTIUM	46,113	922,256
STAMFORD CONSORTIUM	17,053	341,067
WATERBURY CITY	15,708	314,162
BALANCE OF CONNECTICUT	150,935	3,018,693
MAINE	119,682	2,393,627
PENOBSCOT/HANCOCK CSRT	18,184	363,673
CUMBERLAND COUNTY	20,070	401,397
BALANCE OF MAINE	71,202	1,424,036
KENNEBECK CO	10,226	204,521
MASSACHUSETTS	665,069	13,301,384
BOSTON CITY	86,173	1,723,452
EMHRDA CONSORTIUM	36,984	739,683
NEW BEDFORD CONSORTIUM	26,921	538,428
HAMPDEN COUNTY CONSORTIUM	53,919	1,078,370
WORCESTER CONSORTIUM	34,149	682,986
LOWELL CONSORTIUM	27,179	543,580
BROCKTON CONSORTIUM	23,666	473,327
FALL RIVER CITY	13,521	270,410
BALANCE OF MASSACHUSETTS	362,557	7,251,148
NEW HAMPSHIRE	69,574	1,391,472
ROCKINGHAM/STRAFFORD CSRT	18,573	371,453
HILLSBOROUGH COUNTY	20,842	416,838
BALANCE OF NEW HAMPSHIRE	30,159	603,181
RHODE ISLAND	93,275	1,865,501
PROVIDENCE CITY	21,358	427,168
BALANCE OF RHODE ISLAND	71,917	1,438,333
VERMONT	52,434	1,048,680
VERMONT STATEWIDE CSRT	52,434	1,048,680

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
YOUTH EMPLOYMENT DEMONSTRATION PROJECTS
CETA TITLE III, PART C - SUBPART3

PAGE 23 8/2/77

	PLANNING GRANT	PLANNING ESTIMATE
REGION II	3,336,876	66,737,457
NEW JERSEY	832,889	16,657,782
ATLANTIC COUNTY	26,542	530,831
BERGEN COUNTY	89,802	1,796,049
BURLINGTON COUNTY	30,201	604,019
BAL OF CAMDEN COUNTY	33,593	671,857
CAMDEN CITY	17,648	352,966
CUMBERLAND COUNTY	17,948	358,950
ELIZABETH CITY	15,352	307,048
BAL OF ESSEX COUNTY	56,512	1,130,232
GLOUCESTER COUNTY	18,609	372,184
HUDSON CO CRST	88,189	1,763,771
BAL OF MERCER COUNTY	13,180	263,601
MIDDLESEX COUNTY	67,417	1,348,335
MONMOUTH COUNTY	48,834	976,689
MORRIS COUNTY	29,988	599,757
NEWARK CITY	71,524	1,430,483
OCEAN COUNTY	32,708	654,160
BAL OF PASSAIC COUNTY	35,080	701,599
PATERSON CITY	26,177	523,535
SOMERSET COUNTY	13,567	271,347
TRENTON CITY	14,232	284,649
BAL OF UNION COUNTY	39,803	796,058
BALANCE OF NEW JERSEY	45,983	919,662
NEW YORK	1,976,353	39,527,012
ALBANY CITY	11,810	236,203
ALBANY COUNTY	12,317	246,348
BROOME COUNTY	19,542	390,839
BUFFALO CITY	67,818	1,356,365
CHAUTAUQUA CONSORTIUM	32,330	646,596
CHEMUNG COUNTY	10,107	202,137
DUTCHESS COUNTY	16,246	324,911
ERIE CONSORTIUM	57,783	1,155,651
ROCHESTER CITY	34,881	697,623
MONROE COUNTY	22,761	455,222
NASSAU CONSORTIUM	132,432	2,648,635
NIAGARA COUNTY	29,937	598,732
ONEIDA COUNTY	29,816	596,326
BAL OF ONONDAGA COUNTY	21,992	439,845
ORANGE COUNTY	25,573	511,453
OSWEGO COUNTY	15,269	305,378
RENSSELAER COUNTY	14,320	286,402
ROCKLAND COUNTY	18,310	366,200
ST. LAWRENCE COUNTY	15,517	310,335
SARATOGA COUNTY	11,510	230,202

	PLANNING GRANT	PLANNING ESTIMATE
SCHENECTADY COUNTY	14,427	288,540
STEUBEN COUNTY	10,661	213,218
SUFFOLK CONSORTIUM	117,275	2,345,501
SYRACUSE CITY	22,605	452,091
ULSTER COUNTY	19,378	387,550
WESTCHESTER CONSORTIUM	68,512	1,370,233
YONKERS CITY	23,817	476,349
BALANCE OF NEW YORK	201,867	4,037,333
NEW YORK CITY	897,540	17,950,794
PUERTO RICO	527,634	10,552,663
BAYAMON MUNICIPIO	22,663	453,260
CAGUAS MUNICIPIO	20,498	409,951
CAROLINA MUNICIPIO	12,888	257,752
MAYAGUEZ MUNICIPIO	13,868	277,357
PONCE MUNICIPIO	27,751	555,022
SAN JUAN CONSORTIUM	83,637	1,672,747
BALANCE OF PUERTO RICO	346,329	6,926,574

	PLANNING GRANT	PLANNING ESTIMATE
REGION III	2,049,266	40,985,276
DELAWARE	57,687	1,153,725
DELAWARE MANPOWER CSRT	44,987	899,734
WILMINGTON CITY	12,700	253,991
DIST OF COLUMBIA	75,983	1,519,654
DISTRICT OF COLUMBIA	75,983	1,519,654
MARYLAND	310,727	6,214,564
BALANCE OF MARYLAND	42,891	857,829
BALTIMORE CONSORTIUM	191,860	3,837,204
MONTGOMERY COUNTY	14,241	284,828
PRINCE GEORGES COUNTY	26,488	529,757
WESTERN MARYLAND CSRT	35,247	704,946
PENNSYLVANIA	1,073,938	21,478,725
LEHIGH VALLEY CONSORTIUM	41,653	833,069
LANCASTER CONSORTIUM	34,397	687,937
BUCKS COUNTY	33,638	672,765
CHESTER COUNTY	15,893	317,868
DELAWARE COUNTY	45,404	908,085
MONTGOMERY COUNTY	44,218	884,355
PHILADELPHIA CITY/COUNTY	194,390	3,887,798
BERKS COUNTY	23,462	469,244
BAL OF LACKAWANNA COUNTY	14,766	295,324
SCRANTON CITY	11,603	232,068
LUZERNE COUNTY	39,835	796,691
SCHUYLKILL CONSORTIUM	23,269	465,379
ERIE CITY	14,662	293,243
BAL OF ERIE COUNTY	14,313	286,259
BAL OF ALLEGHENY COUNTY	78,107	1,562,130
PITTSBURGH CITY	57,507	1,150,140
BEAVER COUNTY	16,848	336,952
WASHINGTON COUNTY	19,979	399,579
WESTMORELAND COUNTY	38,252	765,044
TRI-COUNTY CONSORTIUM	27,343	546,852
FAYETTE COUNTY	16,304	326,074
LAWRENCE COUNTY	10,778	215,566
MERCER COUNTY CONSORTIUM	36,123	722,451
SOUTHERN ALLEGANY CSRT	47,814	956,280
SUSQUEHANNA CONSORTIUM	22,656	453,125
YORK COUNTY	22,064	441,272
LYCOMING CONSORTIUM	18,148	362,952
FRANKLIN COUNTY	9,198	183,960
BALANCE OF PENNSYLVANIA	83,709	1,674,178
CENTRE COUNTY	5,093	101,855

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
YOUTH EMPLOYMENT DEMONSTRATION PROJECTS
CETA TITLE III, PART C - SUBPART3

PAGE 326
8/2/77

	PLANNING GRANT	PLANNING ESTIMATE
NORTHUMBERLAND COUNTY	12,512	250,230
VIRGINIA	369,760	7,395,190
PENINSULA CONSORTIUM	27,319	546,374
STAMA CONSORTIUM	60,984	1,219,675
RAMPS CONSORTIUM	21,113	422,257
HENRICO COUNTY CONSORTIUM	9,613	192,266
ROANOKE CONSORTIUM	22,417	448,333
ARLINGTON COUNTY	7,257	145,145
FAIRFAX COUNTY	12,496	249,915
PRINCE WILLIAM COUNTY	3,703	74,058
ALEXANDRIA CITY	3,997	79,942
BALANCE OF VIRGINIA	200,861	4,017,225
WEST VIRGINIA	161,171	3,223,418
WEST VIRGINIA STATEWIDE	161,171	3,223,418

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
YOUTH EMPLOYMENT DEMONSTRATION PROJECTS
CETA TITLE III, PART C - SUBPART3

PAGE 327
8/2/77

	PLANNING GRANT	PLANNING ESTIMATE
REGION IV	3,337,055	66,741,056
ALABAMA	310,685	6,213,706
BALANCE OF ALABAMA	181,713	3,634,250
BIRMINGHAM CONSORTIUM	57,357	1,147,146
HUNTSVILLE CONSORTIUM	15,634	312,685
MOBILE CONSORTIUM	35,028	700,566
MONTGOMERY CONSORTIUM	14,808	296,155
TUSCALOOSA COUNTY	6,145	122,904
FLORIDA	915,125	18,302,507
BALANCE OF FLORIDA	122,086	2,441,729
ALACHUA COUNTY	10,248	204,956
BREVARD COUNTY	27,242	544,833
BROWARD CONSORTIUM	105,057	2,101,130
MIAMI/DADE CONSORTIUM	180,089	3,601,785
ESCAMBIA COUNTY	15,345	306,907
HEARTLAND MANPOWERCSRT	41,594	831,887
LEE COUNTY	17,728	354,557
LEON/GADSDEN CONSORTIUM	10,060	201,203
NF FLORIDA MANPOWER CSRT	49,796	995,920
OKALOOSA COUNTY	9,467	189,339
ORANGE COUNTY/ORLANDO CSR	47,804	956,084
MANATEE COUNTY	14,655	293,096
PALM BEACH COUNTY	53,931	1,078,624
PASCO COUNTY	16,733	334,656
SEMINOLE COUNTY	15,738	314,765
ST. PETERSBURG CONSORTIUM	65,085	1,301,696
SARASOTA COUNTY	16,549	330,973
TAMPA CONSORTIUM	71,735	1,434,706
VOLUSIA COUNTY	24,183	483,661
GEORGIA	516,279	10,325,540
BALANCE OF GEORGIA	263,797	5,275,933
CSRA CONSORTIUM	33,401	668,013
ATLANTA CITY	75,891	1,517,822
CLAYTON COUNTY	9,132	182,637
COBB COUNTY	22,108	442,159
COLUMBUS AREA CONSORTIUM	17,462	349,243
BAL OF DEKALB COUNTY	25,417	508,335
FULTON COUNTY	15,611	312,213
MID GEORGIA CONSORTIUM	30,829	616,574
SAVANNAH/CHATHAM CSRT	18,783	375,657
GWINNETT COUNTY	3,848	76,954
KENTUCKY	286,086	5,721,723
BLUE GRASS MANPOWER CSRT	17,375	347,502

	PLANNING.GRANT	PLANNING.ESTIMATE
LOUISVILLE/JEFFERSON CSRT	54,071	1,081,417
KENTON COUNTY	11,964	239,273
BALANCE OF KENTUCKY	154,396	3,087,923
EASTRN KENTUCKY RURAL CEP	48,280	965,608
MISSISSIPPI	218,807	4,376,145
BALANCE OF MISSISSIPPI	186,671	3,733,424
JACKSON CONSORTIUM	21,123	422,457
HARRISON COUNTY	11,013	220,264
NORTH CAROLINA	475,451	9,509,017
BALANCE OF NORTH CAROLINA	316,562	6,331,233
ALAMANCE COUNTY	11,489	229,771
BUNCOMBE COUNTY	14,365	287,306
CUMBERLAND COUNTY	15,550	311,007
CHARLOTTE CITY	23,060	461,192
DURHAM CONSORTIUM	12,154	243,086
GASTON COUNTY	9,057	181,137
GREENSBORO CONSORTIUM	19,340	386,794
ONSLOW COUNTY	6,519	130,389
RALEIGH CONSORTIUM	19,249	384,987
BAL OF WAKE COUNTY	5,546	110,925
WINSTON SALEM CONSORTIUM	16,826	336,513
DAVIDSON COUNTY	5,734	114,677
SOUTH CAROLINA	266,405	5,328,092
SOUTH CAROLINA STATEWIDE	266,405	5,328,092
TENNESSEE	348,217	6,964,326
BALANCE OF TENNESSEE	228,718	4,574,355
CHATTANOOGA CITY	9,964	199,282
MEMPHIS CONSORTIUM	50,189	1,003,780
BAL OF HAMILTON COUNTY	5,728	114,553
KNOXVILLE CONSORTIUM	18,045	360,900
NASHVILLE/DAVIDSONCNTY	26,320	526,393
SULLIVAN COUNTY	9,253	185,063

	PLANNING.GRANT	PLANNING.ESTIMATE
REGION V	3,852,049	77,040,935
ILLINOIS	849,979	16,999,592
CHICAGO CITY	309,005	6,180,108
BAL OF COOK COUNTY	109,012	2,180,231
DUPAGE COUNTY	15,184	303,680
KANE CO CSRT	21,668	433,360
LAKE COUNTY	25,909	518,180
MACON COUNTY	12,023	240,469
MCHENRY COUNTY	8,460	169,205
ROCK ISLAND COUNTY	11,423	228,451
TAZEWELL COUNTY	4,901	98,022
LA SALLE COUNTY	8,398	167,959
ROCKFORD CONSORTIUM	27,250	544,994
CHAMPAIGN CONSORTIUM	11,777	235,536
WILL COUNTY CONSORTIUM	21,768	435,357
SANGAMON COUNTY CSRT	13,776	275,512
MADISON COUNTY CONSORTIUM	25,203	504,069
ST. CLAIR CONSORTIUM	20,619	412,376
PEORIA CONSORTIUM	11,436	228,718
EAST ST. LOUIS CITY	9,862	197,247
SHAWNEE CONSORTIUM	7,800	156,009
BALANCE OF ILLINOIS	170,195	3,403,909
MCLEAN COUNTY	4,310	86,200
INDIANA	417,446	8,348,899
GARY CITY	17,957	359,144
HAMMOND CITY	8,064	161,284
BAL OF LAKE COUNTY	12,549	250,989
ELKHART COUNTY	5,656	113,116
SOUTH BEND CITY	9,618	192,361
BAL OF ST. JOSEPH COUNTY	5,936	118,720
TIPPECANOE COUNTY	6,310	126,191
MADISON COUNTY	9,889	197,776
VIGO COUNTY	6,205	124,092
INDIANAPOLIS CITY	74,157	1,483,136
LA PORTE COUNTY	8,484	169,684
FT. WAYNE CONSORTIUM	33,371	667,420
DELAWARE CONSORTIUM	11,681	233,612
SOUTHWESTERN CONSORTIUM	24,515	490,297
BALANCE OF INDIANA	183,054	3,661,077
MICHIGAN	955,057	19,101,121
BALANCE OF MICHIGAN	188,610	3,772,194
FLINT/GENESSEE CONSORTIUM	56,150	1,122,996
LANSING CONSORTIUM	39,580	791,590
JACKSON CONSORTIUM	31,803	636,058

	PLANNING GRANT	PLANNING ESTIMATE
KENT CONSORTIUM	62,605	1,252,103
MUSKEGON CONSORTIUM	20,017	400,334
DEARBORN CITY	8,380	167,604
DETROIT CITY	163,682	3,273,641
LIVONIA CITY	4,233	84,665
WARREN CITY	14,184	283,675
BAY COUNTY	12,476	249,528
BERRIEN COUNTY	21,160	423,192
CALHOUN COUNTY	16,492	329,846
KALAMAZOO COUNTY	18,337	366,742
BAL OF MACOMB COUNTY	40,628	812,564
MONROE COUNTY	9,458	189,156
OAKLAND COUNTY	90,460	1,809,200
OTTAWA COUNTY	11,610	232,206
SAGINAW COUNTY	21,394	427,885
ST. CLAIR COUNTY	16,288	325,763
BAL OF WAYNE COUNTY	83,928	1,678,550
ANN ARBOR CITY	6,416	128,319
BAL OF WASHTENAW COUNTY	17,166	343,310
MINNESOTA	300,667	6,013,347
DAKOTA COUNTY	9,159	183,182
BAL OF RAMSEY COUNTY	10,277	205,535
ST. PAUL CITY	29,335	586,708
QUAD COUNTIES CSRT	23,900	478,006
REGION III CONSORTIUM	17,907	358,147
DULUTH CITY	8,279	165,574
BALANCE OF MINNESOTA	89,946	1,798,911
MINNESOTA RURAL CEP	33,680	673,595
BAL OF HENNEPIN COUNTY	31,070	621,409
MINNEAPOLIS CITY	47,114	942,280
OHIO	1,000,405	20,008,057
CINCINNATI CITY	55,287	1,105,741
BUTLER COUNTY	23,738	474,767
CLARK COUNTY	14,727	294,545
BAL OF HAMILTON COUNTY	32,117	642,338
LORAIN COUNTY	20,737	414,730
AKRON CONSORTIUM	55,385	1,107,690
CANTON CONSORTIUM	45,017	900,340
CLEVELAND CONSORTIUM	142,758	2,855,152
COLUMBUS CONSORTIUM	75,008	1,500,153
MIAMI VALLEY CONSORTIUM	51,030	1,020,599
CENTRAL OHIO RURALCSRT	18,781	375,624

	PLANNING GRANT	PLANNING ESTIMATE
TOLEDO CONSORTIUM	55,299	1,105,981
NORTH EAST OHIO MANPOWER	70,087	1,401,737
BALANCE OF OHIO	248,977	4,979,540
ALLEN COUNTY	11,592	231,838
GREENE COUNTY	8,194	163,877
CLERMONT COUNTY CSRT	16,242	324,833
LAKE/ASHTABULA CSRT	24,123	482,452
PORTAGE COUNTY	15,094	301,883
RICHLAND/MORROW CSRT	16,212	324,237
WISCONSIN	328,495	6,569,919
OUTAGAMIE COUNTY	6,570	131,395
ROCK COUNTY	7,732	154,638
MILWAUKEE COUNTY	87,754	1,755,087
MADISON/DANE CONSORTIUM	10,375	207,507
WOW CONSORTIUM	11,578	231,561
WINNE/FOND CONSORTIUM	16,670	333,404
TRICO CETAC	28,628	572,562
BALANCE OF WISCONSIN	134,751	2,695,014
WISCONSIN NORTHWEST CEP	17,377	347,549
MARATHON COUNTY	7,060	141,202

	PLANNING GRANT	PLANNING ESTIMATE
REGION VI	1,688,957	33,779,177
ARKANSAS	206,890	4,137,794
CENTRAL ARKANSAS CSRT	28,283	565,659
TEXARKANA	5,236	104,711
BALANCE OF ARKANSAS	173,371	3,467,424
LOUISIANA	312,835	6,256,710
RAPIDES PARISH	11,482	229,644
BATON ROUGE CITY	20,667	413,339
LAFAYETTE PARISH	5,423	108,466
CALCASIEU/JEFF CONSORTIUM	16,489	329,785
OUACHITA PARISH	11,292	225,831
NEW ORLEANS CITY	61,445	1,228,904
JEFFERSON PARISH	17,622	352,446
SHREVEPORT CITY	16,417	328,343
BALANCE OF LOUISIANA	151,998	3,039,952
NEW MEXICO	124,005	2,480,094
ALBUQUERQUE CONSORTIUM	40,974	819,476
BALANCE OF NEW MEXICO	83,031	1,660,618
OKLAHOMA	187,253	3,744,870
COMANCHE COUNTY	7,101	142,029
OKLAHOMA COUNTY	8,615	172,299
OKLAHOMA CITY CONSORTIUM	34,791	695,814
BAL OF CLEVELAND COUNTY	4,938	98,769
TULSA CONSORTIUM	26,424	528,470
BALANCE OF OKLAHOMA	105,374	2,107,489
TEXAS	857,984	17,159,709
TEXARKANA CONSORTIUM	8,804	176,075
TEX. PANHANDLE MANP. CSRT	12,817	256,347
CAP. AREA MANPOWERCSRT	31,368	627,366
S.E. TEXAS COMP. CSRT	33,518	670,365
PASADENA CITY	4,668	93,360
CAMERON COUNTY	22,961	459,219
COASTAL BEND MANP.CSRT	38,886	777,719
DALLAS CITY	51,800	1,035,997
BAL OF DALLAS COUNTY	16,510	330,200
SOUTH PLAINS CONSORTIUM	9,467	189,345
WEST CENTRAL TEXASCSRT	17,301	346,017
EL PASO CONSORTIUM	48,253	965,065
FT. WORTH CONSORTIUM	33,488	669,754
BAL OF TARRANT COUNTY	5,427	108,543
GALVESTON COUNTY	16,471	329,421
HOUSTON CITY	89,217	1,784,341

	PLANNING GRANT	PLANNING ESTIMATE
BAL OF HARRIS COUNTY	18,612	372,239
CEN. TEXAS MANPOWER CSRT	15,803	316,051
HIDALGO COUNTY CONSORTIUM	30,148	602,959
ALAMO CONSORTIUM	101,294	2,025,889
REGION XI CONSORTIUM	15,666	313,327
NORTH TEXAS STATE CSRT	12,844	256,878
WERB COUNTY	12,788	255,758
GULF COAST CONSORTIUM	24,738	494,759
EAST TEXAS CONSORTIUM	31,136	622,729
BALANCE OF TEXAS	153,999	3,079,986

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
YOUTH EMPLOYMENT DEMONSTRATION PROJECTS
CETA TITLE III, PART C - SUBPART3

	PLANNING GRANT	PLANNING ESTIMATE
REGION VII	652,004	13,040,083
IOWA	119,739	2,394,767
BALANCE OF IOWA	75,936	1,518,720
BLACKHAWK COUNTY	9,044	180,875
CEN. IOWA REGIONALCSRT	19,113	382,258
LINN COUNTY MANPOWER CSRT	6,101	122,014
SCOTT COUNTY	5,521	110,416
WOODBURY COUNTY	4,024	80,484
KANSAS	108,443	2,168,871
BALANCE OF KANSAS	61,328	1,226,566
KANSAS CITY CONSORTIUM	15,939	318,780
JOHNSON/LEAVENWORTH CSRT	8,076	161,514
WICHITA CITY	14,885	297,705
TOPEKA CONSORTIUM	8,215	164,306
MISSOURI	356,836	7,136,724
BALANCE OF MISSOURI	150,549	3,010,971
SPRINGFIELD CITY	8,754	175,074
BAL OF JACKSON COUNTY	4,130	82,606
KANSAS CITY CONSORTIUM	58,301	1,166,014
JEFFERSON/FRANKLINCSRT	14,122	282,447
ST. LOUIS COUNTY	37,900	757,994
ST. LOUIS CITY	69,772	1,395,445
INDEPENDENCE CITY	5,857	117,147
ST. CHARLES COUNTY	7,451	149,026
NEBRASKA	66,986	1,339,721
BALANCE OF NEBRASKA	34,433	688,654
LINCOLN CITY	4,574	91,481
OMAHA CONSORTIUM	27,979	559,586

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
YOUTH EMPLOYMENT DEMONSTRATION PROJECTS
CETA TITLE III, PART C - SUBPART3

	PLANNING GRANT	PLANNING ESTIMATE
REGION VIII	406,983	8,139,644
COLORADO	183,917	3,678,341
ADAMS COUNTY	16,779	335,588
ARAPAHOE COUNTY	10,386	207,713
BOULDER COUNTY	11,666	233,329
COLORADO SPRINGS CRST	19,769	395,379
DENVER CITY/COUNTY	46,672	933,430
JEFFERSON COUNTY	14,324	286,478
LARIMER COUNTY	6,442	128,843
PUEBLO COUNTY	10,453	209,062
WELD COUNTY	5,389	107,786
BALANCE OF COLORADO	42,037	840,733
MONTANA	60,871	1,217,413
BUTTE RURAL CEP	8,979	179,577
BALANCE OF MONTANA	51,892	1,037,836
NORTH DAKOTA	27,562	551,238
N. DAKOTA STATEWIDE CSRT	27,562	551,238
SOUTH DAKOTA	31,469	629,385
S. DAKOTA STATEWIDE CSRT	31,469	629,385
UTAH	86,336	1,726,714
UTAH STATEWIDE CONSORTIUM	86,336	1,726,714
WYOMING	16,828	336,553
WYOMING STATEWIDE CSRT	16,828	336,553

	PLANNING GRANT	PLANNING ESTIMATE
REGION IX	2,705,704	54,114,038
ARIZONA	254,711	5,094,222
BALANCE OF ARIZONA	66,205	1,324,107
PHOENIX CITY	89,931	1,798,628
MARICOPA COUNTY	56,250	1,124,990
TUCSON/PIMA CONSORTIUM	42,325	846,497
CALIFORNIA	2,269,317	45,786,298
BAL OF ALAMEDA COUNTY	61,021	1,220,426
BERKELEY CITY	21,334	426,676
BAL OF CONTRA COSTA CNTY	47,867	957,342
MARIN COUNTY	18,741	374,829
OAKLAND CITY	57,925	1,158,493
RICHMOND CITY	11,508	230,156
SAN FRANCISCO CITY/COUNTY	105,235	2,104,693
SAN MATEO COUNTY	49,024	980,480
SONOMA COUNTY	28,556	571,110
SANTA BARBARA COUNTY	24,477	489,532
GLENDALE CITY	11,709	234,189
LONG BEACH CITY	38,625	772,501
BAL OF LOS ANGELESCNTY	331,339	6,626,774
LOS ANGELES CITY	342,689	6,853,778
ORANGE CNTY MANPOWER CSRT	123,589	2,471,772
PASADENA CITY	10,488	209,750
TORRANCE CITY	10,841	216,813
VENTURA COUNTY	38,663	773,253
BALANCE OF CALIFORNIA	122,923	2,458,462
HUMBOLDT COUNTY	15,985	319,704
SANTA CLARA VALLEY	99,542	1,990,833
SOLANO COUNTY	15,552	311,038
SUNNYVALE CITY	9,429	188,584
BUTTE COUNTY	16,514	330,284
SACRAMENTO/YOLO CSRT	77,135	1,542,691
STOCKTON/SAN JOAQUIN CSRT	38,923	778,466
STANISLAUS COUNTY	30,747	614,948
MONTEREY COUNTY	25,889	509,787
SANTA CRUZ COUNTY	20,357	407,149
FRESNO CITY/COUNTY	54,475	1,089,503
IMPERIAL COUNTY	14,344	286,875
KERN COUNTY	36,387	727,732
MERCED COUNTY	15,939	318,784
INLAND MANPOWER ASSN	131,950	2,638,992
SAN LUIS ORISPO COUNTY	9,683	193,658
TULARE COUNTY	20,921	418,412
SAN DIEGO RETC	189,391	3,787,829
HAWAII	92,805	1,856,105
HAWAII BAL OF STATE	21,716	434,327

	PLANNING GRANT	PLANNING ESTIMATE
HONOLULU CITY/COUNTY	71,089	1,421,778
NEVADA	68,871	1,377,413
BALANCE OF NEVADA	14,160	283,194
LAS VEGAS CONSORTIUM	39,607	792,130
WASHOE COUNTY	15,104	302,089

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
YOUTH EMPLOYMENT DEMONSTRATION PROJECTS
CETA TITLE III, PART C - SUBPART3

PAGE 38
8/2/77

	PLANNING GRANT	PLANNING ESTIMATE
REGION X	715,343	14,306,833
ALASKA	31,015	620,284
MUNICIPALITY OF ANCHORAGE	10,871	217,410
BALANCE OF ALASKA	20,144	402,874
IDAHO	65,010	1,300,209
IDAHO STATEWIDE CSRT	65,010	1,300,209
OREGON	267,695	5,353,911
PORTLAND CITY	48,924	978,486
BAL OF CLACKAMAS COUNTY	17,879	357,587
LANE COUNTY	30,999	619,989
MULTNOMAH/WASHINGTON CSRT	34,126	682,516
MID WILLAMETTE VALLEY CSR	28,927	578,531
JACKSON COUNTY CONSORTIUM	21,325	426,503
BALANCE OF OREGON	85,515	1,710,299
WASHINGTON	351,623	7,032,429
SPOKANE CONSORTIUM	26,323	526,462
CLARK COUNTY	11,787	235,730
KING/SNOHOMISH CONSORTIUM	147,182	2,943,643
KITSAP COUNTY	8,994	179,871
TACOMA CITY	18,039	360,772
BAL OF PIERCE COUNTY	21,183	423,656
YAKIMA COUNTY	17,543	350,854
BALANCE OF WASHINGTON	100,572	2,011,441
STATE AND LOCAL TOTAL	20,080,060	401,600,950
VIRGIN ISLANDS	19,783	395,660
AMERICAN SAMOA	3,886	77,720
GUAM	16,179	323,580
TRUST TERR AND N MARIANA	5,117	102,340
NATIONAL TOTAL	20,125,025	402,500,250

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
YOUTH EMPLOYMENT DEMONSTRATION PROJECTS
CETA TITLE III, PART C - SUBPART3
GOVERNORS GRANTS

PAGE 39
8/2/77

	PLANNING ESTIMATE
REGION I	2,544,424
CONNECTICUT	639,599
MAINE	227,964
MASSACHUSETTS	1,266,798
NEW HAMPSHIRE	132,522
RHODE ISLAND	177,667
VERMONT	99,874
REGION II	6,356,947
NEW JERSEY	1,586,455
NEW YORK	3,764,477
PUERTO RICO	1,005,015
REGION III	3,903,359
DELAWARE	109,878
DIST OF COLUMBIA	144,729
MARYLAND	591,864
PENNSYLVANIA	2,045,593
VIRGINIA	704,303
WEST VIRGINIA	306,992
REGION IV	6,356,287
ALABAMA	591,780
FLORIDA	1,743,096
GEORGIA	983,384
KENTUCKY	544,925
MISSISSIPPI	416,775
NORTH CAROLINA	905,621
SOUTH CAROLINA	507,437
TENNESSEE	663,269
REGION V	7,337,230
ILLINOIS	1,619,009
INDIANA	795,133
MICHIGAN	1,819,154
MINNESOTA	572,700
OHIO	1,905,528
WISCONSIN	625,706
REGION VI	3,217,063
ARKANSAS	394,075
LOUISIANA	595,878
NEW MEXICO	236,199
OKLAHOMA	356,654
TEXAS	1,634,257

YOUTH EMPLOYMENT DEMONSTRATION PROJECTS
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GOVERNORS GRANTS

	PLANNING ESTIMATE
REGION VII	1,291,914
IOWA	228,073
KANSAS	206,560
MISSOURI	679,689
NEBRASKA	127,592
REGION VIII	775,205
COLORADO	350,318
MONTANA	116,945
NORTH DAKOTA	52,499
SOUTH DAKOTA	59,941
UTAH	164,449
WYOMING	32,053
REGION IX	5,153,717
ARIZONA	485,164
CALIFORNIA	4,360,599
HAWAII	176,772
NEVADA	131,182
REGION X	1,362,554
ALASKA	59,075
IDAHO	123,829
OREGON	509,896
WASHINGTON	669,754
SUBTOTAL	38,247,700
VIRGIN ISLANDS	37,680
AMERICAN SAMOA	7,400
GUAM	30,820
PACIFIC TRUSTS	9,750
NATIONAL TOTAL	38,333,350

Signed at Washington, D.C., this 15th day of August, 1977.

ESTHER I. FRIEDMAN,
Director, Youth Task Force.

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