

applicant's plan satisfies the qualification requirements of the Internal Revenue Code.

(i) In the case of a final determination which is adverse to the applicant, the letter issued by certified or registered mail by the key district director, subsequent to a letter of proposed determination, stating that the applicant's plan fails to satisfy the qualification requirements of the Internal Revenue Code.

(11) *Exhaustion of administrative remedies.* For purposes of section 7476 (b) (3), a petitioner shall be deemed to have exhausted the administrative remedies available to him in the Internal Revenue Service upon the completion of the steps described in paragraph (c) (11) (i), (ii), or (iii) of this section, subject, however, to paragraphs (c) (11) (iv) and (v) of this section. If an applicant, interested party, or the Pension Benefit Guaranty Corporation does not complete the applicable steps described below, such applicant, interested party, or the Pension Benefit Guaranty Corporation will not have exhausted available administrative remedies as required by section 7476 (b) (3) and will thus be precluded from seeking a declaratory judgment under section 7476 except to the extent that paragraph (c) (11) (iv) (b) or (v) of this section applies.

(i) The administrative remedies of an applicant with respect to any matter relating to the qualification of a plan are:

(a) filing of a completed application with the appropriate district director pursuant to paragraphs (c) (3) (iii) through (xii) of this section;

(b) compliance with the requirements pertaining to notice to interested parties as set forth in paragraphs (c) (3) (xiv) through (c) (3) (xxi) of this section;

(c) an appeal to the Office of the Assistant Regional Commissioner (EP/EO) pursuant to paragraph (c) (6) of this section, in the event of a notice of proposed adverse determination from the district director;

(d) a request for National Office consideration pursuant to paragraph (c) (7) of this section, in the event the Assistant Regional Commissioner (EP/EO) upholds the proposed adverse determination; and

(e) receipt of a notice of final determination from the key district director.

(ii) The administrative remedies of an interested party with respect to any matter relating to the qualification of the plan are:

(a) submission to the district director of a comment raising such matter in accordance with paragraph (c) (5) (i) (a) of this section or requesting the Department of Labor to submit to the district director a comment with respect to such matter in accordance with paragraph (c) (5) (i) (b) of this section, and, if such department declines to comment, submission of such a comment in accordance with paragraph (c) (5) (i) (c) of this section, so that such comment may be considered by the Internal Revenue Service through the administrative process; and

(b) receipt from the key district di-

rector of a notice of the final determination referred to in paragraph (c) (11) (i) (e) of this section.

(iii) The administrative remedies of the Pension Benefit Guaranty Corporation with respect to any matter relating to the qualification of the plan are:

(a) submission to the district director of a comment raising such matter in accordance with paragraph (c) (5) (i) (a) of this section or requesting the Department of Labor to submit to the district director a comment with respect to such matter in accordance with paragraph (c) (5) (i) (b) of this section, and, if such department declines to comment, submission of such a comment to the Internal Revenue Service directly, so that such comment may be considered by the Internal Revenue Service through the administrative process; and

(b) receipt from the key district director of a notice of the final determination referred to in paragraph (c) (11) (i) (e) of this section.

(iv) An applicant, or an interested party, or the Pension Benefit Guaranty Corporation shall in no event be deemed to have exhausted his (its) administrative remedies prior to the earlier of—

(a) The completion of all the steps described in paragraph (c) (11) (i), (ii), or (iii) of this section, whichever is applicable, subject, however, to paragraph (c) (11) (v), or

(b) The expiration of the 270 day period described in section 7476 (b) (3), in a case where the completion of the steps referred to in paragraph (c) (11) (iv) (a) of this section shall not have occurred before the expiration of such 270 day period because of the failure of the Internal Revenue Service to proceed with due diligence.

(v) The administrative remedies described in paragraphs (c) (11) (i) (c) and (d) of this section will not be available to an applicant with respect to any issue on which technical advice from the National Office has been obtained.

DONALD C. ALEXANDER,
Commissioner.

[FR Doc. 75-20086 Filed 7-31-75; 8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 75-076]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Lake Okeechobee, Florida

This amendment changes the regulations for the State Road 717 drawbridge across the navigation channel, Lake Okeechobee between Torry Island and Lake Shore near Belle Glade, Florida to allow more restrictive time during which the draw may remain closed to navigation. This amendment was circulated as a public notice dated April 29, 1975 by the Commander, Seventh Coast Guard District and was published in the *FEDERAL REGISTER* as a notice of proposed rule making (CGD 75-076) on April 30, 1975

(40 F.R. 18793). No comments were received.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising paragraph (h) (28) of § 117.245 to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

(h) * * *

(28) Belle Glade Dike Bridge, Fla. State Road 717 across the navigation channel, Lake Okeechobee between Torry Island and Lake Shore near Belle Glade, Florida. From 6 p.m. to 7 a.m., Monday through Thursday, and from 7 p.m. to 7 a.m., Friday through Sunday, the draw need not open for passage of vessels. At all other times the draw shall open on signal.

(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), 33 CFR 1.05-1 (c) (4)).

Effective date. This revision shall become effective on September 1, 1975.

Dated: July 25, 1975.

R. I. PRICE,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Marine Environment
and Systems.

[FR Doc. 75-20024 Filed 7-31-75; 8:45 am]

[CGD 75-062]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Oklawaha River, Florida

This amendment changes the regulations for the Sharpes Ferry drawbridge across the Oklawaha River to require that the draw open on signal from 7 a.m. to 7 p.m. Saturday and Sunday, and from 7 a.m. to 9 a.m., and 5 p.m. to 7 p.m. Monday through Friday. At all other times, at least 1 hour notice is required. This amendment was circulated as a public notice dated April 4, 1975 by the Commander, Seventh Coast Guard District and was published in the *FEDERAL REGISTER* as a notice of proposed rule making (CG 75-062) on March 27, 1975 (40 F.R. 13518). One response was received that offered no objection to the proposed change.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.434 to read as follows:

§ 117.434 Oklawaha River, Florida.

(a) *Sharpes Ferry Bridge.* From 7 a.m. to 7 p.m. on Saturday and Sunday, and from 7 a.m. to 9 a.m. and 5 p.m. to 7 p.m., Monday through Friday, the draw shall open on signal. At all other times, the draw shall open on signal if at least 1 hour notice is given.

(b) *Bridges over the Oklawaha River, north of State Road 464 at Mullan Farms, State Road 464 at Moss Bluff and State Road 42 at Starkes Ferry.* From 7 a.m. to 7 p.m. the draws shall open on signal. From 7 p.m. to 7 a.m. the draws shall open on signal if at least 3 hours notice is given.

(c) The owner of or agency controlling each bridge shall conspicuously post notices containing these regulations both upstream and downstream of each bridge, on the bridge or elsewhere, in such a manner that they can easily be read at all times from an approaching vessel. The notice shall state how the authorized representative may be reached.

(Sec. 5 28 Stat. 362, as amended, sec. 6(g) (2), 80 Stat. 937; 33 U.S.C. 409, 49 U.S.C. 1655(g) (2); 49 CFR 1.46(c) (5), 33 CFR 1.05-1(c) (4))

Effective date. This revision shall become effective on September 1, 1975.

Dated: July 25, 1975.

R. I. PRICE,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Marine Environment and Systems.

[FR Doc. 75-20025 Filed 7-31-75; 8:45 am]

[CGD 75-114]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Escatawpa River, Miss.

This amendment changes the regulations for the Mississippi State Highway 63 drawbridge across the Escatawpa River, mile 1.0 to more accurately reflect the current vehicular traffic pattern. This amendment was circulated as a public notice dated June 16, 1975 by the Commander, Eighth Coast Guard District and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGD 75-114) on June 9, 1975 (40 FR 24532). One response was received which supported this proposal.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.485 to read as follows:

§ 117.485 Escatawpa River, Miss.; Mississippi State Highway 63 drawbridge, mile 1.0.

The draw need not open for the passage of vessels from 6:00 a.m. to 6:45 a.m., 7:00 a.m. to 7:30 a.m., 3:25 p.m. to 3:45 p.m., and 4:00 p.m. to 5:00 p.m., Monday through Friday, except on national holidays. At all other times the draw shall open promptly on signal.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 80 Stat. 937; 33 U.S.C. 409, 49 U.S.C. 1655(g) (2); 49 CFR 1.46(c) (5), 33 CFR 1.05-1(c) (4).)

Effective date. This revision shall become effective on September 1, 1975.

Dated: July 25, 1975.

R. I. PRICE,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Marine Environment and Systems.

[FR Doc. 75-20023 Filed 7-31-75; 8:45 am]

Title 34—Government Management

CHAPTER II—OFFICE OF FEDERAL MANAGEMENT POLICY, GENERAL SERVICES ADMINISTRATION

[FMC 74-1, Supp. 3]

PART 232—FEDERAL ENERGY CONSERVATION

Humidity Controls

This document amends appendix C to Part 232 (Federal Management Circular 74-1, "Federal energy conservation" dated January 21, 1974). The purpose of this amendment is to remove the prohibition against operating humidity controls in general office space in subparagraph 4c of appendix C. Comments and reports received regarding the elimination of humidity controls indicated that such controls are not high energy users and that humidification during the heating season may contribute to a lessening of respiratory illnesses.

APPENDIX C—HEATING, COOLING, AND LIGHTING OF BUILDINGS

4. Policies and procedures.

c. *Humidity controls.* Humidity controls shall not be provided during the cooling season for general office space. Humidity controls may be provided during the heating season for general office space. Requirements for humidity controls in special purpose space or in certain geographical locations shall be handled on a case-by-case basis by the official responsible for operation and maintenance of the facility with the concurrence of the agency's Energy Conservation Coordinator.

(Federal Energy Office Memorandum dated January 17, 1974, and Executive Order 11717 (38 FR 12315, May 11, 1973))

Effective Date. This regulation is effective July 8, 1975.

Dated: July 8, 1975.

DWIGHT A. INK,
Acting Administrator
of General Services.

[FR Doc. 75-18911 Filed 7-31-75; 8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 409-4]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Puerto Rico: Compliance Schedules; Correction

FEDERAL REGISTER Documents 74-19509 and 75-11037, published at pages 30833 and 18551, respectively in the issues dated Monday, August 26, 1974, and Tuesday, April 29, 1975, incorrectly stated the section number for compliance schedules in Part 52 for Puerto Rico as § 52.2724. This reference is corrected to read § 52-2730—Compliance schedules.

Dated: July 28, 1975.

ROGER STRELOW,
Assistant Administrator
for Air and Waste Management.

[FR Doc. 75-19952 Filed 7-31-75; 8:45 am]

[FRL 393-4]

PART 162—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Subpart A—Registration, Reregistration and Classification Procedures

Correction

In F.R. Doc. 75-17018 appearing on page 28242 in the issue for Thursday, July 3, 1975 the following changes should be made:

1. On page 28279, § 162.10(h) (1), in the table for "Toxicity categories", the listing for the "Inhalation LC₅₀" category, column II, now reading "From 2, thru 2 mg/liter", should read "From 2, thru 2 mg/liter."

2. The sentence "In making this determination the Agency will take into consideration the type of effect, the statistical significance of the findings and whether the tests were conducted in accordance with the material requirements for valid tests as recognized by experts in the field.", should be inserted at the end of § 162.11(a) (3) which appears on page 28281.

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 156—ASSISTANCE TO STATES FOR STATE EQUALIZATION PLANS

Notice of proposed rule making was published in the FEDERAL REGISTER on April 9, 1975, at (40 FR 16086) setting forth regulations and guidelines prescribing requirements and criteria for the administration of Section 842, Part D, Title VIII of the Education Amendments of 1974 (20 U.S.C. 246), Pub. L. 93-380 (enacted August 21, 1974). Section 842 authorizes funds to reimburse States for costs incurred in the development or administration of a plan for costs incurred in the development or administration of a plan for equalization of State and local school finance programs. Such plans must be consistent with the provisions of the Fourteenth Amendment, and have as their primary purpose achievement of equality of opportunity for all children enrolled in schools in the State's local educational agencies. Interested parties were given 60 days in which to present views and make recommendations regarding the proposed regulations and guidelines.

Pursuant to the provisions of Section 842(a) (3) of Pub. L. 93-380, following is a summary of the views and recommendations submitted by interested parties and the comments of the Commissioner respecting such views and recommendations.

Comment. One commenter questioned the proposed definition of administration in § 156.3(b) as implementation activities only.

Response. The proposed rule set forth in § 156.3(b) defines administration as costs associated with implementation and

installation of a plan. Nothing in the Act or its legislative history indicates that reimbursement is intended for on-going normal costs for administering a State school aid program. To the contrary, the Act is intended to encourage the development and implementation of new school finance programs.

Comment. One commenter suggested that the language of the proposed rules be modified to make clear that expenditures for the improvement of a State plan are also eligible for reimbursement under the Act.

Response. The Commissioner concurs with this suggestion and has modified the language of § 156.3(c) to indicate that development means formulation or improvement of a State program of financial assistance.

Comment. Five comments were received in reference to § 156.4(a). Four of the commenters expressed the view that in many instances State agencies and instrumentalities other than the State educational agency would be the most appropriate applicant for the purposes of Section 842, and consequently objected to the proposed rule which would make the State educational agency the eligible applicant unless State law designated or created another eligible applicant. One commenter supported the proposed rule and pointed out that the State educational agency was more likely to achieve an objective and nonpartisan approach to school finance planning than a political agency or body.

Response. The rule takes the approach of establishing a process whereby the State would determine the eligible applicant. If the State through its legal authority does not specifically create or designate an applicant other than the State educational agency, then the State educational agency would be considered the sole eligible applicant. The exercise of such authority is not delimited to legislative authority but would also include any specific authority under State law of a Governor to designate or create an eligible applicant for this Act. This regulation presumes that the State educational agency will be the primary eligible applicant. Only if State law specifically directs otherwise will the State educational agency not be the eligible applicant. The rationale for this approach is based on the fact that the State educational agency in all but a few States administers the State aid program and is assigned general authority by State law to carry out school finance planning and developmental activities.

These agencies historically have played a central role in school finance planning and reform and have been particularly active in recent years in this regard. However, if in a particular State, the State educational agency is clearly not considered the appropriate body to apply as an applicant under this Act, then the proposed rule would give a State the opportunity to designate the applicant.

Comment. Two commenters requested that the rules be modified to require that

local educational agencies and appropriate groups and interests be provided a period to review and comment on any State school finance plan prior to its submission to the Commissioner under the provisions of Section 842.

Response. The Commissioner concurs with these views and accordingly has added a new provision to § 156.4 which requires that local educational agencies and other interested parties be provided an opportunity to present views and make recommendations on a State plan which will be submitted under the provisions of Section 842, and that all such written or recorded views and recommendations be submitted to the Governor with the State plan for comment. This requirement is intended to encourage concurrence within the State of affected parties regarding the State plan.

Comment. One commenter suggested that the rules be modified to require an opportunity for local educational agencies to comment annually on the State finance plan and its supporting budget.

Response. The Commissioner's authority under Section 842 can only relate to the content of a State plan and the processes and procedures by which it is developed.

Comment. One commenter suggested that the State plan should be submitted to the State planning and development clearinghouse with respect to OMB Circular A-95.

Response. It is the opinion of the Commissioner that OMB Circular A-95 does not require that the State plans contemplated by this program be submitted to the State clearinghouse established with respect thereto. It is felt that these regulations and guidelines make sufficient provision for the notification and review by State and local governmental agencies as well as other interested parties as regards any application that is to be submitted under this part. Specifically, it is believed that sections 156.4, 156.5 and 156.16, as revised, will encourage and facilitate coordinated development planning on an intergovernmental basis, in addition to allowing for appropriate public participation.

Comment. One commenter requested additional language clarifying procedures for amending the State plan.

Response. State plan amendment procedures are set forth in the applicable General Provisions Regulations in Part 100a of this chapter.

Comment. Section 156.5(b) of the regulations states that "... applications for reimbursement may be submitted for plans developed prior to or subsequent to the effective date of Section 842 of the Act or for a plan the State proposes to develop." One commenter asked if there was a limit as to how far the prior period could extend.

Response. While the law and its legislative history clearly intend that retroactive reimbursements be permitted if a State chooses to seek reimbursement for past effort, no specific guidance was given regarding a limit as to how far the prior period for retroactive reimbursements

might extend. The Commissioner is confident, however, that States seeking retroactive reimbursements will exercise a rule of reasonableness and request reimbursements only for school finance planning or implementation efforts carried out within a period reasonably contemporaneous to the enactment of this provision.

Comment. One commenter asked that the parameters of the term "substantive basis" in § 156.5(e) be defined.

Response. The term "substantive basis" requires that the State respond to the requirements of Section 842(b) of the Act in good faith and that the statements in support of each rejection of a guideline address the actual policies, issues, or conditions which led to the rejection.

Comment. One commenter advocated that the concept of negotiation between State and Federal authorities be emphasized within the scope of the proposed rules.

Response. While State plans, proposals, and reimbursement requests must be reviewed in terms of the requirements of the Act, it is the Commissioner's intention that the review and approval process will result in mutual agreement by both State and Federal authorities.

Comment. Two commenters suggested that § 156.5(f) be elaborated to require coordination and involvement of specific State agencies and of local educational agencies because the operation of such agencies and subdivisions are directly affected by State school finance plans.

Response. The Commissioner feels it would be unwise to designate specific State agencies which must be coordinated with or involved in State plan development or implementation because these agencies will differ from State to State. However, the Commissioner concurs with the suggestion that local educational agencies be consulted and involved in this activity and has modified the language of § 156.5(f) accordingly.

Comment. Two commenters inquired when information would be available on each State's reimbursement entitlement under Section 842.

Response. After an appropriation is made for Section 842, the National Center for Educational Statistics will prepare a table setting forth the allocation of funds for each State under the Act. The table will be expeditiously disseminated to all interested parties.

Comment. One commenter asked what census data will be used in determining State allocations under the Act.

Response. For a FY 1976 appropriation, 1973 Bureau of the Census population estimates will be used in calculating State allocations. For a FY 1977 appropriation, 1974 population estimates will be used.

Comment. One commenter requested that § 156.6 be clarified to indicate that no State will be eligible to receive less than \$100,000 in reimbursement payments under the Act.

Response. The proposed rule, § 156.6(b), clearly states that any calculation of reduced entitlement to a State is subject to the provisions of section 842(c)(1) of

the Act which states that no State shall receive less than \$100,000.

Comment. One commenter asked if the July 1, 1977, requirement set forth in § 156.7(b) applied to both State plans and proposals to develop State plans.

Response. The language refers only to State plans. A cut off date for submission of proposals to develop a State plan will be established and published in the FEDERAL REGISTER. Such date will be established sufficiently in advance of July 1, 1977, to permit the development of a State plan. It is contemplated that such notice will be published during the first fiscal year for which funds are made available for purposes of this program.

Comment. One commenter requested a definition of the language "adequate educational programs" which appears in § 156.11 of the proposed rules.

Response. The Commissioner agrees that the language is vague and in itself communicates no general meaning of what is meant by "adequacy." Accordingly, § 156.11 has been rewritten to indicate that each State must determine what is the level of programs, services and facilities adequate to assure equality of educational opportunity for pupils within the State, must calculate the cost of providing them and must consider such educational and financial factors in the development of its financial assistance plan.

Comment. One commenter requested that § 156.12 be broadened to include research into questions of municipal overburden.

Response. While the equity guidelines do not specifically mention the problem of municipal overburden, the language of § 156.14(a) which requires a State to justify an equitable measure of the relative financial ability of local educational agencies would permit studies of the problem of municipal overburden in a State.

Comment. One commenter suggested that the rules be modified to prescribe specific groups of children who are in need of additional educational opportunities.

Response. The proposed rules do illustrate in § 156.13 types of programs and pupils which the State plan might recognize. However, because the types of pupils needing special educational programs and the types of programs to meet these needs will vary from State to State, the Commissioner felt that the State through the plan development process was best able to determine the categories of pupils and types of programs which should be recognized in the State plan.

Comment. Two commenters suggested minor changes in the language of § 156.13 to strengthen and clarify the meaning of the guidelines related to the comprehensiveness of the program.

Response. The Commissioner concurs with both suggestions and accordingly has deleted the phrase "when appropriate" and added after the words "such as" the phrase "but not limited to."

Comment. One commenter asked if the language in § 156.13(b) referred to cost-of-living indices.

Response. To the extent that cost-of-living indices measure variations in the costs of providing equivalent resources, then such measures are included within the meaning of the language.

Comment. Two commenters were received in reference to § 156.14 expressing concern that the proposed rule was so strict that a few if any State equalization plans would satisfy its requirements.

Response. The Commissioner is aware of the strictness of the guidelines regarding equalization of financial ability. This proposed guideline and the other equity guidelines are not intended to distinguish those programs which incorporate a "reasonable" or "acceptable" level of equity. Rather the guidelines set forth in § 156.11 through § 156.18 are a statement of what should be aimed for and not necessarily a statement of what can always be expected.

A State equalization plan which does not fully satisfy § 156.14 or any other of the equity guidelines may nevertheless be considered eligible for reimbursement since the provisions of Section 842(b) of the Act permits a State to reject any of the equity guidelines if it states the reason for any such rejection.

Comment. One commenter suggested that language be added to § 156.14 which would require that wealth be measured in terms of family income and property valuation.

Response. While § 156.14 would not preclude the use of such a combination of factors in the measurement of wealth, it would be inappropriate for the Commissioner to require the inclusion of any specific factor or factors in the measurement of wealth because the conditions related to such consideration vary substantially from State to State.

Comment. One commenter objected to use of the word "quality" in § 156.14 because it was undefined.

Response. The Commissioner concurs with the objection and accordingly has deleted the phrase "quality of the" and substituted the phrase "resources expended for the" to clarify the purpose of the guidelines which is to require fiscal neutrality.

Comment. One commenter asked what types of assurances are required by § 156.14(b) regarding uniformity in the measurement of wealth.

Response. A statement is required to the effect that the procedures will be applied. A State may submit documentation in support of the assurances if it desires.

Comment. Two commenters were concerned that the proposed rule § 156.15 on tax support which requires that the State's financial assistance plan be financed by an equitable tax system be broadly and flexibly interpreted.

Response. The Commissioner realizes the difficulty of applying this guideline in an evaluative sense to a State finance plan. State and increasingly local tax structures are comprised of a variety of tax bases. Without earmarked tax sources it is difficult to relate specific tax bases to a specific category of expenditure such as education. Secondly, there is consider-

able disagreement among economists as to the equity of various taxes and particularly the property tax which is a primary tax base for education.

Essentially this guideline is proposed in order to challenge State school finance planners to examine the revenue source dimension of school finance and to focus attention on the importance of tax structure equity as it relates to school finance.

Comment. One commenter suggested that language be added to § 156.15 which would require that in determining the relative ability of taxpayers to pay taxes that the total tax burden on taxpayers be taken into account.

Response. While § 156.15 would not preclude the recognition of municipal overburden factors, it would be inappropriate for the Commissioner to require such recognition because the conditions related to such consideration vary substantially from State to State.

Comment. One commenter suggested that § 156.16 be revised to positively encourage citizen participation.

Response. The Commissioner concurs with the suggestion and has revised the guideline accordingly.

Comment. One commenter suggested that the phrase "to the extent possible" be deleted from the language of § 156.16 in order to strengthen the intent of the guideline.

Response. The Commissioner concurs with this suggestion and accordingly has deleted the phrase.

Comment. One commenter asked if the phrase "educational programs, supportive services, and facilities" which appears throughout the proposed rules includes such resources as textbooks.

Response. Textbooks are considered as an integral resource to a school program.

Comment. Numerous comments have been received that the proposed guidelines made no reference to efficiency in the delivery of educational services and in school district organization.

Response. The Commissioner agrees with the comments that efficiency is an important element in the development of a State system of school finance and that an amendment with respect thereto is merited. Accordingly, a new § 156.17 has been added to provide that a State financial assistance plan shall encourage these objectives. In addition, proposed § 156.17 has been renumbered § 156.18 to reflect this change.

Comment. One commenter stated that the proposed regulations and guidelines, in substantial part, fail to conform to the standards relating to programs of State aid required by the Fourteenth Amendment, as set forth by the United States Supreme Court in *San Antonio School District v. Rodriguez*, 411 U.S. 1 (1973), by imposing conditions not contemplated by the Court. In particular, the commenter stated that proposed Sections 156.14, 156.15 and 156.17 conflicted with the Congressional direction that the Office of Education establish a program consistent with such standards.

Response. Section 842 requires that the State plan designed to implement a program of State aid for free public educa-

tion submitted to the Commissioner be consistent with such standards as may be required by the Fourteenth Amendment (20 U.S.C. 246(a)(1)(A)). Insofar as the Fourteenth Amendment may impose certain requirements, the State plan must, as a minimum, be consistent with them. Section 842 requires that the State plan must also have as a primary purpose the achievement of equal educational opportunity for all children attending schools of local educational agencies in the State (20 U.S.C. 246(a)(1)(B)).

Under Section 842 the Commissioner is directed to issue guidelines generally defining the possible methods of attaining these two principles (20 U.S.C. 246(a)(2)). Thus, the standards which may be required by the Fourteenth Amendment, as defined by the guidelines, serve as one of the bases upon which a State plan must be founded. The guidelines may not require less than what the Fourteenth Amendment requires, but may require more in order to assure, in the Commissioner's judgment, that the State plan's primary purpose is the achievement of equality of educational opportunity for all children enrolled in schools in the State's local educational agencies. (Sen. Rep. No. 93-763, at 103 (1974)).

In the Rodriguez case, the Court did not purport to establish identifiable standards required by the Fourteenth Amendment for school finance equalization plans. Because the Court has not established such identifiable standards does not mean that there are no standards for Section 842. The standards in the sections of the guidelines referenced by the commenter are designed to implement Section 842(a)(1)(B) relating to equal educational opportunity. Taken at face value, the comment suggests that the Commissioner must reimburse a State for development or administration of any school finance plan which the State cared to designate for the purpose of Section 842 regardless of its adherence or non-adherence to the principles set forth in Section 842. While Section 842 contemplates the establishment of guidelines, one or more of which may be rejected by a State for valid reasons, it does not appear that it was intended to provide no basic standards whatsoever. Traditionally "guidelines" illustrate a method of conforming to either statutory or regulatory standards. While failure to follow a specific "guideline" does not *per se* constitute nonconformity to the standards, the underlying standard must still be adhered to. Moreover, if the guidelines contemplated for Section 842 were intended to be completely nugatory, it is difficult to understand why Congress wrote into the section the detailed prescription for Congressional review before the guidelines become effective.

Comment. Two commenters stated that § 115.11 in focusing upon educational adequacy, goes beyond the purpose of Section 842 in that such provision is designed only to insure that States would construct an equitable system of school finance to permit each school district to receive its fair share of educational funds.

Response. As discussed above, § 115.11 has been modified, indicating that each State must determine what is an adequate level of programs, services and facilities for providing equal educational opportunity to pupils within the State. It is believed that this guideline is directly related to the purpose of Section 842 because any equitable system of school finance must be capable of assuring that through the provision of sufficient funds every pupil in the State receives the minimum education commonly provided other pupils in the State. Less than that would not promote equality of educational opportunity.

Comment. Two comments were received criticizing § 115.10 for establishing the equity guidelines as the basis for determining the eligibility of State plans for funding. It was further stated by both commenters that the guidelines failed to recognize the right under Section 842 for a State to reject any guideline if the reason for such rejection is stated.

Response. § 115.10 properly places the emphasis on eligibility upon a State plan's conforming to the statutory principles set forth in Section 842(a)(1) of Pub. L. 93-380, as further defined by these guidelines. The intent of Section 842 was to promote the reconsideration, and to the extent appropriate, the reform of State school finance programs within the perimeters of these principles. While the Commissioner has developed these guidelines for States as suggested methods of achieving those principles, it is not presumed that these guidelines are the exclusive means of achieving them. While any one or more of these guidelines may be rejected, it is clear that under Section 842 the Commissioner may only reimburse State plans which are designed to achieve the principles set forth in § 842. "To assist States in developing such plans, the Commissioner shall develop guidelines generally defining the possible methods of attaining the principles which must be common to all State plans."

(Sen. Rep. No. 93-763, 103 (1974); emphasis added.) Section 115.10 does recognize the right of a State to reject one or more of the guidelines, but does not permit rejection of the principles upon which the State plan must be based. In subpart A, § 156.5(e) details how a State may reject any one or more of these guidelines.

Comment. Two comments were received objecting to § 115.15 and its requirement of an equitable tax structure to support the State school finance system. The commenters believed that the inclusion of tax equity considerations was beyond the scope of school finance systems reform contemplated by Section 842.

Response. A significant relationship exists between the equity of a tax system used to support a school finance program and the ability of such a program to provide equal educational opportunity. A school finance program supported by a tax system which fails to appropriately recognize the relative tax resources of

different local educational agencies is likely to cause an inequitable distribution of school funds and, thus, serve as a barrier to the achievement of equal educational opportunity. In an exhaustive treatment of school finance programs and planning, it was stated that inequities in fiscal capacity and effort constitute a major obstacle to the achievement of equal educational opportunity and that in developing a comprehensive school finance plan one of the fundamental policy issues which should be resolved is the degree of progressivity or regressivity of the tax structure used to finance the schools. (NEFP, *Alternative Programs for Financing Education*, Vol. 5, chapters 4 and 9 (1971)). Furthermore, where because of the structure of the school tax system it takes a greater tax effort by a "property-poor" school district to approach or equal the tax resources of a "property-rich" district, there may arise practical limitations as to how much of a greater effort a district may be able to undertake. In seeking to promote school finance equalization, Section 842 aims at assisting States in overcoming the pattern of such inequitable distribution of school funds that has resulted, in part, from inequitable tax support systems. It should be remembered that one of the purposes of these guidelines is to deepen the awareness of related problems and issues that should be examined in the consideration of school finance reform.

Other Changes. 1. Section 156.7(b) of the proposed regulations has been deleted. This provision stated that only one plan may be submitted by a State for reimbursement under the provisions of the Act. The Commissioner felt that this provision might be misunderstood by the State applicant. While the Act states that a State desiring to develop "a plan" may be reimbursed, the Commissioner does not interpret this language as meaning one document bound in one cover. To the contrary, it is anticipated that the State plan for a number of States will be comprised of separate documents dealing with distinct portions of the State plan.

2. In § 156.10 a new phrase has been added to clarify the meaning of the provision. In the second sentence of § 156.10 following the words "... of these guidelines ..." and preceding the words "... a State plan ..." the phrase "... and still be considered eligible for reimbursement ..." has been inserted.

3. In § 156.14 a new phrase has been added to clarify the meaning of the provision. The Commissioner felt that the original language might be incorrectly interpreted to mean that an equalization scheme on a county or intermediate district level would satisfy the requirements of the guideline. The requirement is for fiscal neutrality on a Statewide level. Accordingly, in the first sentence of § 156.14 the phrase "... is not the result of ..." has been deleted and in its place the phrase "... reflects the wealth of the State as a whole and not ..." has been inserted.

4. In § 156.15 all language following "... which is ..." has been deleted and in its place the word "equitable" has been

inserted. In view of the Commissioner's comments made earlier in this preamble that this guideline is intended to be more of a challenge to States to consider the importance of the revenue source dimension in school finance planning than an evaluative criteria, it was felt that the deleted language added unnecessary specificity to the guideline.

5. In § 156.18 the language following "... but not limited to, ..." has been deleted and in its place the phrase "... the objective of achieving the equality of educational opportunity," has been inserted. The Commissioner felt that the two part enumeration was unnecessary.

Effective date. Pursuant to Section 842 (a) (4), Pub. L. 93-380 (20 U.S.C. 246), these regulations and guidelines have been transmitted to the President of the Senate and the Speaker of the House of Representatives concurrently with the publication of this document in the FEDERAL REGISTER (August 1, 1975). Such section provides that these guidelines shall become effective on December 1, 1975 subject to the provisions therein concerning Congressional action. In view of substantive changes made in the regulations, the document is also being retransmitted to the Congress pursuant to Section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)) which provides that regulations subject thereto shall become effective on the forty-fifth day following the date of transmission of the same to the Congress, subject to the provisions therein concerning Congressional action and adjournment.

It is hereby certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with OMB Circular A-107.

Dated: July 7, 1975.

DUANE J. MATTHEIS,
(Acting) U.S. Commissioner
of Education.

Approved: July 28, 1975.

CASPAR W. WEINBERGER,
Secretary of Health,
Education, and Welfare.

Title 45 of the Code of Federal Regulations is amended by adding a new Part 156 to read as set forth below.

PART 156—ASSISTANCE TO STATES FOR STATE EQUALIZATION PLANS

Subpart A—General

Sec.	
156.1	Purpose and scope.
156.2	Applicability of General Provisions Regulations.
156.3	Definitions.
156.4	Eligible applicants.
156.5	Application for reimbursement.
156.6	Entitlement.
156.7	State plan requirements.
156.8	Review and disposition of applications.

Subpart B—Equity Guidelines

156.10	Eligibility of plans.
156.11	Adequate educational programs.
156.12	Cost variations.
156.13	Comprehensiveness of program.
156.14	Equalizing financial ability.

Sec.	
156.15	Tax support.
156.16	Educational and financial decisions.
156.17	Educational efficiency.
156.18	Evaluation.

AUTHORITY: Sec. 842, Part D, Title VIII, Education Amendments of 1974 (20 U.S.C. 246), Pub. L. 93-380.

Subpart A—General

§ 156.1 Purpose and scope.

The purpose of the regulations in this part is to implement the provisions of section 842 of the Education Amendments of 1974 which provides for reimbursement for the development or administration of a State plan for a program of financial assistance to local educational agencies which is consistent with standards which may be required by the fourteenth amendment to the Constitution, and the primary purpose of which is to achieve equality of educational opportunity for all children in attendance at the schools of the local educational agencies of the State.

(20 U.S.C. 246)

§ 156.2 Applicability of General Provisions Regulations.

Assistance provided under this part is subject to applicable provisions contained in Subchapter A of this chapter (relating to fiscal, administrative, property management, and other matters), except for the following:

- (a) § 100a.16 (Project Description);
- (b) § 100a.19 (Cooperative Agreements);
- (c) § 100a.26 (Review of Applications); and
- (d) § 100a.27 (Disposition of Applications).

(20 U.S.C. 246)

§ 156.3 Definitions.

As used in this part:

- (a) "Act" means the Education Amendments of 1974, Pub. L. 93-380.
- (b) "Administration" means any action deemed necessary to implement a State Plan, but does not mean any action taken after such implementation in the normal course of operating the State program of financial assistance to local educational agencies in conjunction with such plan. Implementation may include action necessary to the installation of the plan such as: (1) the design and installation of data systems required for the implementation of the plan, (2) the gathering, processing, and analysis of such data, (3) inservice training, (4) obtaining advice and comment regarding plan implementation, and (5) evaluation of the plan.
- (c) "Development" means any action which is deemed necessary to formulate or improve a State program of financial assistance to local educational agencies. Development may include such actions as: (1) planning and designing such studies, (2) carrying out such studies, and (3) dissemination and public hearings and generally those activities associated with plan adoption.

(d) "State plan" means a plan submitted by a State pursuant to section 842 of Pub. L. 93-380 and the regulations in this part in order to establish eligibility to receive Federal reimbursement for the development or administration of such plan. The State plan shall be a detailed description of the State's policies, program, and operating procedures relating to the State's program of financial assistance to local educational agencies in that State. The plan may be, but is not limited to those policies, programs, and operating procedures which have been enacted into law.

(20 U.S.C. 246)

mitted by a State pursuant to section 842 of Pub. L. 93-380 and the regulations in this part in order to establish eligibility to receive Federal reimbursement for the development or administration of such plan. The State plan shall be a detailed description of the State's policies, program, and operating procedures relating to the State's program of financial assistance to local educational agencies in that State. The plan may be, but is not limited to those policies, programs, and operating procedures which have been enacted into law.

(20 U.S.C. 246)

§ 156.4 Eligible applicants.

(a) An application under this part shall be submitted by the State educational agency or such other agency or instrumentality of the State designated or created under State law as the eligible applicant for the purposes of Section 842 of the Act.

(b) The State plan and any amendment thereto shall include as an attachment of certificate by the State's Attorney General, or other official designated in accordance with State law to advise the State on legal matters, to the effect that the agency or instrumentality submitting the application for reimbursement under this part is the agency or instrumentality which has the authority under State law to submit the State plan for the purposes of section 842 of the Act.

(c) Prior to the submission to the Commissioner of a State plan as part of an application under this part, the State agency shall afford local educational agencies and other interested parties the opportunity, to present views and recommendations, in writing or at a recorded public hearing, on the State plan. All such written or recorded views and recommendations shall be submitted to the Governor with the State plan when such State plan is submitted to the Governor under the provisions of § 156.4(d) of this part.

(20 U.S.C. 246(a)(1))

(d) Prior to the submission to the Commissioner of any State plan as part of an application under this part, the State agency shall afford the Governor of such State an opportunity to comment on the relationship of such State plan to comprehensive and other State plans and programs. The Governor shall be afforded a period of not less than 45 days in which to make such comments, or, if the Governor makes no comments, a statement to that effect shall be attached to such plan when the same is submitted to the Commissioner.

(20 U.S.C. 246(a)(1); OMB Circular No. A-95)

§ 156.5 Application for reimbursement.

(a) Application for reimbursement under this part shall be made in accordance with the applicable provisions of subparts B and C of part 100a of this chapter.

(20 U.S.C. 246)

(b) Applications for reimbursement under this part and section 842 of the Act for costs incurred or to be incurred in the development or administration of the State plan shall be submitted to the Commissioner. Applications for reimbursement may be submitted for plans developed prior to or subsequent to the effective date of section 842 of the Act or for a plan the State proposes to develop. If reimbursement is desired for a plan which has been developed, then the plan as developed shall be submitted to the Commissioner. If reimbursement is desired for a plan the State proposes to develop, then the State shall submit a proposal to develop a plan. The proposal shall set forth the goals, objectives, and scope of the plan to be developed and describe how such plan will address the major questions of school finance equity as considered in this part and section 842 of the Act.

(20 U.S.C. 246; Cong. Record, daily edition, May 20, 1974, S. 8505)

(c) An application for reimbursement must be submitted no later than 90 days following submission of the plan or the proposal to develop a plan.

(d) An application for reimbursement shall set forth a detailed account of costs incurred or a schedule of reimbursements for costs to be incurred. In the latter case, reimbursements shall not be made more often than monthly).

(20 U.S.C. 246)

(e) If a State plan rejects, or is intended to reject, any of the guidelines developed pursuant to section 842(a) (3) of the Act and as set forth in subpart B of this part, then the applicant shall set forth the reasons for each rejection. Such statements in support thereof shall justify any rejection of these guidelines on a substantive basis and shall give detailed reasons therefor.

(20 U.S.C. 246(b); Sen. Report No. 93-763, at p. 104 (1974))

(f) An application for reimbursement shall describe the manner in which the applicant coordinated and involved, or proposes to coordinate and involve, appropriate State agencies or branches of State government, local educational agencies, and other interested parties in the development or administration of the plan.

(20 U.S.C. 246)

§ 156.6 Entitlement.

(a) The entitlement of each State shall be determined on the basis of a straight-line formula such that the entitlement of the most populous State shall be \$1,000,000, the entitlement of the least populous State shall be \$100,000, and the entitlement of each other State shall fall between these amounts based on the ratio of that State's population to the population of the Nation as a whole.

(b) In the event that the funds appropriated for this section are insufficient to meet the entitlement as calculated above, then the above procedure

shall be used to recalculate the entitlements with the exception that the entitlement of the most populous State shall be reduced and the entitlement of each other State shall be recalculated based on this revised limit. Subject to the provisions of section 842(c) (1) of the Act, the entitlement of the most populous State shall be reduced to a level so that the sum of the recalculated entitlements for all States equals the appropriated amount.

(c) If additional amounts become available making reimbursements under Section 842 of the Act following a recalculation of entitlements under paragraph (b), such entitlements (as reduced by such recalculation) shall be increased (in accordance with such additional amounts) on the same basis that they were reduced.

(d) After a determination regarding eligibility for reimbursement has been made for all applications timely filed under this part, any available appropriations which remain unallocated shall be ratably distributed among approved applicants for the purpose of satisfying the maximum entitlement provided for each State under Section 842(c) (1) of the Act, except that no State may receive an amount in excess of such maximum entitlement.

(20 U.S.C. 246(c) (1))

§ 156.7 State plan requirements.

A State plan shall be submitted to the Commissioner not later than July 1, 1977, to be eligible for cost reimbursement under section 842.

(20 U.S.C. 246(a) (1))

§ 156.8 Review and disposition of applications.

(a) Upon receipt of an application for reimbursement under this part, the Commissioner will review such application for conformity with the regulations and guidelines set forth under this part and the provisions of section 842 of the Act. In reviewing any such application, the Commissioner shall have the discretion to obtain the review of a panel of experts. The Commissioner may also consult with the applicant at any time concerning the sufficiency of the application.

(b) After reviewing the application, the Commissioner will determine whether the applicant may be reimbursed and if so, the costs allowable for such reimbursement, and will notify the applicant in writing of such determination.

(c) If an adverse determination as to the application is made by the Commissioner, the applicant may request a meeting with the Commissioner within 30 days of notice of such determination to discuss the application.

(20 U.S.C. 246)

Subpart B—Equity Guidelines

§ 156.10 Eligibility of plans.

The Commissioner will, in determining the eligibility of plans for reimbursement

submitted under the provisions of section 842 of the Act, apply the guidelines set forth in § 156.11-17. While a State plan may reject any of these guidelines and still be considered eligible for reimbursement, a State plan cannot in substantial part reject the principles set forth in section 842(a) (1) of the Act.

(20 U.S.C. 246; Sen. Rpt. No. 93-763 at p. 103 (1974))

§ 156.11 Adequate educational programs.

In the development of the financial assistance plan, the State shall determine that level of educational programs, supportive services and facilities in such State which is adequate to assure equal educational opportunity for all pupils enrolled in the local educational agencies of the State.

(20 U.S.C. 246)

§ 156.12 Cost variations.

In determining the relative financial need of local educational agencies, the financial assistance plan,

(a) shall be designed to identify those pupils with varying and greater educational needs and take these needs into account in amounts provided and expended for appropriate educational programs, supportive services, and facilities; and

(b) shall take into account any variations among such local agencies in the costs of providing equivalent educational programs, supportive services, and facilities which might be associated with such factors as sparsity or density of population, cost of resources and socio-economic characteristics of the population of the local educational agencies.

(20 U.S.C. 246)

§ 156.13 Comprehensiveness of program.

The financial assistance plan shall be designed to include all necessary and required program, supportive service, and facility costs such as but not limited to: (1) costs for the regular educational programs, special education programs, vocational education programs, educationally disadvantaged pupil programs, and bilingual education programs; (2) costs of guidance and counseling, and transportation; and (3) costs for capital outlay and debt service.

(20 U.S.C. 246)

§ 156.14 Equalizing financial ability.

The financial assistance plan shall be designed to ensure that the resources expended for the educational programs, supportive services, and facilities provided to a pupil within that State reflects the wealth of the State as a whole and not the wealth of the local educational agency in which the pupil attends school. If the financial assistance plan is designed to share the educational costs between the State and its local educational agencies,

(a) the plan shall justify and set forth an equitable measure of the relative financial abilities of local educational agencies; and

(b) the plan shall provide assurances that the State and local educational agencies will apply procedures which will ensure uniformity in the measurement of wealth against which taxes for education are levied.

(20 U.S.C. 246)

§ 156.15 Tax support.

The financial assistance plan shall be financed by a tax system which is equitable.

(20 U.S.C. 246)

§ 156.16 Educational and financial decisions.

The financial assistance plan shall be designed to encourage citizen interest and participation in the educational decision-making process.

(20 U.S.C. 246)

§ 156.17 Educational efficiency.

A financial assistance plan shall be designed to encourage efficiency in the size and organization of school districts and in the delivery of educational programs and other school services as a means of promoting equality in educational opportunities.

(20 U.S.C. 246)

§ 156.18 Evaluation.

The financial assistance plan shall be designed to provide systems and procedures for evaluating the degree to which the plan is achieving its stated objectives including, but not limited to, the objective of achieving equality of educational opportunity.

(20 U.S.C. 246)

[FR Doc. 75-20052 Filed 7-31-75; 8:45 am]

Title 49—Transportation

CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. MC-54; Notice No. 75-14]

COMPLIANCE WITH SAFETY REGULATIONS

Motor Carrier Operations in Hawaii—Certain Effective Dates Extended

The Director, Bureau of Motor Carrier Safety, is granting certain exceptions to the Federal Motor Carrier Safety Regulations as they apply to the State of Hawaii.

By petition filed with the Bureau, the Hawaii Trucking Association, Inc., and the American Trucking Associations, Inc., have requested special consideration in applying the Federal Motor Carrier Safety Regulations to Hawaii. The petition requests action to permit drivers under 21 years old who are currently employed to continue in service provided they reach the age of 21 no later than April 1, 1976; grandfather the provisions relating to the application for employment, investigation and inquiries, road test, and written test for regularly employed drivers employed prior to April 1, 1975; extend the time for compliance with the require-

ments for defrosting devices, seat belts and vehicle interior noise level requirements; and establish a blanket exemption from the daily log requirement.

In support of their petition urging that the minimum age limit requirement be made applicable to only those drivers hired on and after April 1, 1975, and that drivers under 21 who are currently employed be permitted to continue in service provided they will have attained the age of 21 no later than April 1, 1976, petitioners state that prior to Part 391 of the Federal Motor Carrier Safety Regulations becoming applicable on April 1, 1975, operations of vehicles over 10,000 pounds were subject to the State minimum age for truck and bus drivers which was 20. A need to discharge these drivers on or before April 1, 1975, would create an unwarranted burden on industry for recruiting, processing, and training replacements. In addition, it would impose a burden on the industry in terms of the reduced efficiency of inexperienced employees and the strong possibility of an increase in truck accidents involving these inexperienced drivers. Petitioners also do not believe it is reasonable or proper to force the arbitrary discharge of satisfactory employees by the extension of regulations to a new area of coverage. The Director is of the opinion that the request has merit, and the regulations will be amended to permit those drivers that will attain the age of 21 by April 1, 1976, to operate in interstate or foreign commerce within the State of Hawaii.

With respect to the request for a grandfather provision for drivers who were regularly employed prior to April 1, 1975, relative to the application for employment, investigation and inquiries, road test, and written test, the Director agrees with petitioners in view of the fact that when Part 391 became effective on January 1, 1971, grandfather provisions were incorporated for these requirements.

Petitioners further request an exemption from Section 393.79, Defrosting device, which requires a commercial motor vehicle to be equipped with a defrosting device "... when operating under conditions such that ice, snow, or frost would be likely to collect on the outside of the windshield or condensation on the inside of the windshield ..." In support of their request for an exemption, petitioners state that the mildness of the Hawaiian climate allows the driver to operate with windows open, which would effectively preclude fogging of the windshield or other glass. Since the Regulations do not presently require defrosting/defogging devices when conditions are such that they are not needed, the Director is denying the request for extension of time for compliance.

Petitioners also request an extension of time to permit retrofitting of seat belts and to comply with the interior noise level requirements. The Director agrees that motor carriers operating in Hawaii should be granted the same period of time as was allowed motor carriers oper-

ating in the Continental United States, and is, therefore, granting the petition in this regard.

A blanket exemption from the daily log requirement was also requested. Petitioners state that with but one exception, all operations are conducted within a radius of 50 miles of the driver's home terminal. The one type of operation in which the 50-mile radius is exceeded is found on the Island of Hawaii where there are trips from the east coast to the west coast. These trips are found to be within a 65-mile radius. The Association estimates that the total number of trips on the Island of Hawaii that would go beyond the 50-mile radius would be approximately 1/4 of one percent of all driver trips (Inter and Intra) operated within the entire State. It further estimates that interstate trips on the Island of Hawaii going beyond the 50-mile radius would not exceed 1-1/10th of one percent of Statewide driver trips. There were a number of other factors that petitioners set forth in support of their request.

The Director is convinced that normal records of time worked will provide ample information for the review of compliance with hours of service limits of those drivers operating beyond the 50-mile radius and will afford ample control for carrier management and the regulatory authorities. These operations on the Island of Hawaii are unique and if, in the future, the Bureau finds that the time records are not sufficient for ample control it may institute a proceeding to require drivers operating beyond the 50-mile radius to maintain logs.

It is the opinion of the Director that maintaining logs for those few drivers operating beyond the 50-mile radius would not enhance safety at this time. The request for an exemption from the daily log requirement is granted.

In consideration of the foregoing, the Federal Motor Carrier Safety Regulations as they apply to operations within the State of Hawaii (Subchapter B in Chapter III of Title 49, CFR) are amended as set forth below.

Effective date. These amendments are effective on August 1, 1975.

These amendments are issued under the authority of section 204 of the Interstate Commerce Act, as amended, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegations of authority by the Secretary of Transportation and the Federal Highway Administrator at 49 CFR 1.48 and 389.4, respectively.

Issued on July 25, 1975.

ROBERT A. KAYE,
Director, Bureau of Motor
Carrier Safety.

PART 391—QUALIFICATIONS OF DRIVERS

49 CFR Part 391 is amended by adding a new § 391.69, as follows: