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PART I

(Part II begins on page 11615)

(Part III begins on page 11649)

HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

FLAG DAY AND NATIONAL FLAG WEEK, 1972—Presidential proclamation 11555

SAVINGS AND LOAN ASSOCIATIONS—FHLBB provisions for filing requests to stay, modify, or terminate cease-and-desist orders; effective 6–9–72 11557

BROADCASTING AND PUBLIC INTEREST GROUPS—FCC proposal poses issue of reimbursement to groups by a broadcaster for consultant services; comments by 7–14–72 11592

DISASTER ASSISTANCE—OEP provisions for repair, reconstruction, or replacement of private, nonprofit medical care facilities; effective 1–1–72 11564

NUCLEAR MATERIALS—AEC/State of Nevada agreement for discontinuance of certain Commission regulatory authority within the State; effective 7–1–72 11597

ENVIRONMENTAL PROTECTION GRANTS—EPA interim regulations include grant award policies for State and local water quality, solid waste and air pollution programs 11649

(Continued inside)

FEDERAL REGISTER

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There are no restrictions on the republication of material appearing in the FEDERAL REGISTER or the CODE OF FEDERAL REGULATIONS.

STOCK DISTRIBUTIONS—SEC will deem certain transactions misleading for improper accounting or inadequate disclosure 11559

SHIPPING—Commerce Dept. revision of values for war risk insurance regulations 11578

DEFENSE PROCUREMENT AND DEVELOPMENT—DoD quality assurance policies for materiel, data, supplies, and services 11562

AGRICULTURAL PRODUCE BUYING AGREEMENTS—USDA proposal reaffirms ten day limit in clarifying amendment to definition of "full payment promptly"; comments within 30 days 11586

ECONOMIC STABILIZATION—Pay Board Form PB–3 will supersede Forms PB–1 and PB–2 for prenotification and reporting requirements by employers; effective 6–9–72 11611

Contents

THE PRESIDENT

PROCLAMATION

Flag Day and National Flag Week, 1972 11555

EXECUTIVE AGENCIES

AGRICULTURAL MARKETING SERVICE

Proposed Rule Making

Fresh peaches grown in designated counties in Washington; handling limitation 11586

Marketing of perishable agricultural commodities; full payment promptly 11586

Milk in north Texas and certain other marketing areas; hearing on proposed amendments to tentative marketing agreements and orders 11587

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Forest Service.

ATOMIC ENERGY COMMISSION

Notices

Agreement between AEC and State of Nevada; discontinuance of certain Commission regulatory authority and responsibility within the State 11597

Arkansas Power & Light Co.; designation of third member of Atomic Safety Licensing Appeal Board 11596

Atlantic Richfield Co.; withdrawal of application for construction permit for chemical reprocessing plant 11596

Commonwealth Edison Co. and Iowa-Illinois Gas and Electric Co.; availability of environmental statements 11598

Jersey Nuclear Co.; availability of applicant's environmental report 11596

Philadelphia Electric Co.; convening evidentiary hearing 11597

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:

Airlift International, Inc 11598

Ceskoslovenske Aerolinie 11599

Frontier Airlines, Inc 11599

WTC Air Freight 11600

CIVIL SERVICE COMMISSION

Rules and Regulations

Excepted service:

Commerce Department 11557

Economic Opportunity Office 11557

National Mediation Board 11557

Notices

Grants and/or revocations of authority to make noncareer executive assignments:

Environmental Protection Agency 11600

Federal Home Loan Bank Board 11601

Transportation Department (2 documents) 11600

COAST GUARD

Rules and Regulations

Certain drawbridge operation regulations:

City Waterway, Tacoma, Wash 11567

Hudson River, N.Y 11566

Inner Harbor Navigation Canal, New Orleans, La 11567

Johnson River, Conn 11566

Ortega River, Fla 11567

Wishkah River, Wash 11567

COMMERCE DEPARTMENT

See Maritime Administration.

CUSTOMS BUREAU

Rules and Regulations

Customs station of Easton, Me.; transfer of supervision 11560

Fish netting of manmade fibers from Japan; findings of antidumping investigation 11560

DEFENSE DEPARTMENT

Rules and Regulations

Quality assurance for all materiel, data, supplies and services developed, procured, produced, stored, operated, maintained, overhauled, or disposed of by the department 11562

EMERGENCY PREPAREDNESS OFFICE

Rules and Regulations

Federal disaster assistance; private, nonprofit medical care facilities 11564

EMPLOYMENT STANDARDS ADMINISTRATION

Notices

Davis-Bacon area wage determinations; extension of expiration; variation from certain labor standards 11610

Federal and federally assisted construction; minimum area wage determination decision, modifications, and supersedeas decisions 11616

ENVIRONMENTAL PROTECTION AGENCY

Rules and Regulations

General grants and State and local assistance grants; interim regulations 11650

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Cessna 401 and 402 series; airworthiness directives 11558

Control zones; alterations (2 documents) 11559

Control zone and transition area; alteration 11558

(Continued on next page)

Proposed Rule Making

Control zones; alterations (2 documents) 11591
Control zones and transition areas; alterations (2 documents) 11590
Transition area; alteration 11592

Notices

Airport traffic control tower at Charlottesville-Albemarle Airport, Charlottesville, Va.; commissioning 11595

FEDERAL COMMUNICATIONS COMMISSION

Rules and Regulations

FM broadcast stations; table of assignments for certain cities 11581
Land mobile channels; availability in ten largest urbanized areas 11585
Television broadcast stations; table of assignments for certain cities (2 documents) 11584

Proposed Rule Making

Public interest groups as consultants to broadcasters; proposed reimbursement for legitimate and prudent expenses 11592
Television broadcast translator stations; equipment changes and operation time 11593

Notices

Common carrier services information; domestic public radio services applications accepted for filing 11601

FEDERAL HOME LOAN BANK BOARD

Rules and Regulations

Cease-and-desist orders (2 documents) 11557

FEDERAL INSURANCE ADMINISTRATION

Rules and Regulations

National flood insurance program:
Areas eligible for sale of insurance 11561
Identification of special hazard areas 11562

FEDERAL MARITIME COMMISSION

Notices

Financial responsibility for oil pollution; certificates issued and revoked; republication (2 documents) 11603

FEDERAL POWER COMMISSION

Notices

National Gas Survey; designation of additional members to certain advisory task forces (4 documents) 11609

Hearings, etc.:
Amoco Production Co. et al 11604
Gulf States Utilities Co. et al 11607
Lawrenceburg Gas Transmission Corp 11608
Mid Louisiana Gas Co 11608
Occidental Petroleum Corp. et al 11606
Pubco Petroleum Corp. et al 11605

FEDERAL RESERVE SYSTEM

Rules and Regulations

Bank holding companies; nonbanking activities; correction 11557

Notices

Acquisition of banks; approval of applications:
First National State Bancorporation 11609
United Missouri Bancshares, Inc 11610

FISH AND WILDLIFE SERVICE

Rules and Regulations

Sand Lake National Wildlife Refuge, South Dakota; hunting regulations 11585

FOREST SERVICE

Notices

Siuslaw National Forest herbicide use; availability of final environmental statement 11595

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Public Health Service.

Rules and Regulations

Government property; authorized use 11567
Training programs; nondiscrimination on basis of sex; correction 11577

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Insurance Administration.

INTERIOR DEPARTMENT

See also Fish and Wildlife Service.

Notices

Proposed Illinois Beach Acquisition Project; availability of draft environmental statement 11595

INTERSTATE COMMERCE COMMISSION

Notices

Assignment of hearings 11611

LABOR DEPARTMENT

See Employment Standards Administration.

MARITIME ADMINISTRATION

Rules and Regulations

Subsidized condition surveys and accomplishment of subsidized vessel maintenance and repair; modifications, alterations, additions, and betterments 11577
War risk insurance; values reporting requirements 11578

Notices

Construction of certain tankers; computation of foreign cost 11611

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notices

Earth resources survey imagery policy; public availability of photographic products; correction 11610

PAY BOARD

Notices

Pay Adjustments; availability of form for prenotification and reporting requirements 11611

PIPELINE SAFETY OFFICE

Notices

Gas pipeline safety standards; hearing on waiver 11596

PUBLIC HEALTH SERVICE

Rules and Regulations

Dental health of children; special project grants; correction 11577

SECURITIES AND EXCHANGE COMMISSION

Rules and Regulations

Shareholders; pro rata stock distributions 11559

SMALL BUSINESS ADMINISTRATION

Notices

New Hampshire; declaration of disaster loan area 11611

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Aviation Administration; Pipeline Safety Office.

TREASURY DEPARTMENT

See also Customs Bureau.

Notices

Hat bodies of fur, not on skin, from Czechoslovakia; discontinuance of antidumping investigation 11595

List of CFR Parts Affected

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, appears following the Notices section of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1972, and specifies how they are affected.

3 CFR

PROCLAMATION:

4139 11555

5 CFR

213 (3 documents) 11557

7 CFR

PROPOSED RULES:

46 11586
921 11586
1071 11587
1073 11587
1097 11587
1102 11587
1104 11587
1106 11587
1108 11587
1120 11587
1126 11587
1127 11587
1128 11587
1129 11587
1130 11587
1132 11587
1138 11587

12 CFR

225 11557
550 11557
566 11557

14 CFR

39 11558
71 (3 documents) 11558, 11559

PROPOSED RULES:

71 (5 documents) 11590–11592

17 CFR

211 11559
231 11559
241 11559
251 11559
271 11559

19 CFR

1 11560
153 11560

24 CFR

1914 11561
1915 11562

32 CFR

255 11562
1710 11564

33 CFR

117 (6 documents) 11566, 11567

40 CFR

30 11650
35 11650

41 CFR

3–56 11567

42 CFR

51a 11577

45 CFR

83 11577

46 CFR

272 11577
309 11578

47 CFR

73 (3 documents) 11581, 11584
89 11585
91 11585
93 11585

PROPOSED RULES:

1 11592
74 11593

50 CFR

32 11585

Presidential Documents

Title 3—The President

PROCLAMATION 4139

Flag Day and National Flag Week, 1972

By the President of the United States of America

A Proclamation

The flag, said Woodrow Wilson a half century ago, "is the embodiment, not of sentiment, but of a history, and no man can rightly serve under that flag who has not caught some of the meaning of that history."

Wilson's remarks perhaps best apply to June 14, 1777. On that day, in the midst of the American Revolution when the trial of purpose and perseverance at Valley Forge was only months away, the Continental Congress gave us the basic form of our national standard: the Stars and Stripes.

As those men of the revolution gave the flag form, we continue to give it life by fidelity to those ideals for which it stands—freedom, and equality and brotherhood. We honor the American flag because we respect the history and promise of the American people.

To commemorate the adoption of our flag, the Congress, by a joint resolution of August 3, 1949 (63 Stat. 492), designated June 14 of each year as Flag Day and requested the President to issue annually a proclamation calling for its observance. The Congress also requested the President, by a joint resolution of June 9, 1966 (80 Stat. 194), to issue annually a proclamation designating the week in which June 14 occurs as National Flag Week and calling upon all citizens to display the flag of the United States on the days of that week.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the week beginning June 11, 1972, as National Flag Week, and I direct the appropriate Government officials to display the flag on all Government buildings during that week.

I urge all Americans to observe Flag Day, June 14, and Flag Week by flying the Stars and Stripes from their homes and other suitable places.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of June, in the year of our Lord nineteen hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-sixth.

Richard Nixon

[FR Doc.72-8814 Filed 6-7-72;3:50 pm]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Commerce

Section 213.3314 is amended to show that one position of Private Secretary to the Special Assistant to the Secretary for Policy Development is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (6-9-72), subparagraph (24) is added to paragraph (a) of § 213.3314 as set out below.

§ 213.3314 Department of Commerce.

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

(24) One Private Secretary to the Special Assistant to the Secretary for Policy Development.

* * * * *

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp. p. 218)

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

[FR Doc.72-8746 Filed 6-8-72;8:50 am]

PART 213—EXCEPTED SERVICE

National Mediation Board

Section 213.3331 is amended to show that the following positions are no longer excepted under Schedule C: One Private Secretary to each Member of the National Railroad Adjustment Board.

Effective on publication in the FEDERAL REGISTER (6-9-72), § 213.3331 is revoked.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp. p. 218)

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

[FR Doc.72-8747 Filed 6-8-72;8:50 am]

PART 213—EXCEPTED SERVICE

Office of Economic Opportunity

Section 213.3373 is amended to show that one position of Special Assistant to the Associate Director for Program Review is excepted under Schedule C. This section is further amended to show that the position of Deputy Assistant Director for Special Programs and Special Assistant to the Director is no longer excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (6-9-72), subparagraph (6) is revoked and subparagraph (11) is added to paragraph (d) of § 213.3373 as set out below.

§ 213.3373 Office of Economic Opportunity.

* * * * *

(d) *Office of the Associate Director for Program Review.* * * *

(6) [Revoked]

* * * * *

(11) One Special Assistant to the Associate Director.

* * * * *

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp. p. 218)

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

[FR Doc.72-8748 Filed 6-8-72;8:50 am]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Y]

PART 225—BANK HOLDING COMPANIES

Nonbanking Activities of Bank Holding Companies

Correction

In F.R. Doc. 72-8517 appearing at page 11316 in the issue of Wednesday, June 7, 1972, the heading for amendment 1 reading "§ 225.123 [Revoked]" should read "§ 225.123 [Amended]."

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[72-618]

PART 550—CEASE-AND-DESIST AND SUSPENSION AND REMOVAL ORDERS

Cease-and-Desist Orders

MAY 25, 1972.

Resolved that the Federal Home Loan Bank Board considers it advisable to amend § 550.1 of the rules and regulations for the Federal Savings and Loan System (12 CFR 550.1) for the purpose of adding certain regulatory provisions concerning the filing of requests to stay, modify, terminate, or set aside certain cease-and-desist orders. Accordingly, the Federal Home Loan Bank Board hereby amends said § 550.1 by adding, immediately after paragraph (d) thereof, a new paragraph (e) to read as follows, effective June 9, 1972.

§ 550.1 Cease-and-desist orders.

* * * * *

(e) *Staying, modifying, terminating, or setting aside of order.* Whenever any Federal association or any director, officer, employee, or agent thereof, subject to a cease-and-desist order which has become effective, believes that changed conditions of fact or law require the stay, modification, termination, or setting aside of such order, such association or person may seek such action by the Board by filing with the Board a petition requesting a reopening of the proceedings for that purpose. The petition shall state the changes desired, the grounds therefor, and shall include, when available, such supporting evidence as will provide the basis for a Board decision on the petition. Such petition and supporting information shall be filed with the Board by delivering two copies thereof to the Secretary to the Board.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further that, since the above amendment relates to rules of Board procedure or practice, notice and public procedure with respect to said amendment are not required under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of said amendment for the period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of said amendment is not required for the reason that said amendment is not a substantive amendment, the Board hereby provides that said amendment shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.72-8759 Filed 6-8-72;8:51 am]

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[72-619]

PART 566—CEASE-AND-DESIST AND SUSPENSION AND REMOVAL ORDERS

Cease-and-Desist Orders

MAY 25, 1972.

Resolved that the Federal Home Loan Bank Board considers it advisable to amend § 566.1 of the rules and regulations for Insurance of Accounts (12 CFR 566.1) for the purpose of adding certain

regulatory provisions concerning the filing of requests to stay, modify, terminate, or set aside certain cease-and-desist orders. Accordingly, the Federal Home Loan Bank Board hereby amends said § 566.1 by adding, immediately after paragraph (d) thereof, a new paragraph (e) to read as follows, effective June 9, 1972.

§ 566.1 Cease-and-desist orders.

* * * * *

(e) *Staying, modifying, terminating, or setting aside of order.* Whenever any insured institution or any director, officer, employee, or agent thereof, subject to a cease-and-desist order which has become effective, believes that changed conditions of fact or law require the stay, modification, termination, or setting aside of such order, such institution or person may seek such action by the Corporation by filing with the Corporation a petition requesting a reopening of the proceedings for that purpose. The petition shall state the changes desired, the grounds therefor, and shall include, when available, such supporting evidence as will provide the basis for a Corporation decision on the petition. Such petition and supporting information shall be filed with the Corporation by delivering two copies thereof to the Secretary to the Board.

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1726, 1730. Reorg. plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

Resolved further that, since the above amendment relates to rules of Board procedure or practice, notice and public procedure with respect to said amendment are not required under the provisions of 12 CFR 508.11 and 5 U.S.C. 553 (b); and since publication of said amendment for the period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of said amendment is not required for the reason that said amendment is not a substantive amendment, the Board hereby provides that said amendment shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.72-8760 Filed 6-8-72;8:51 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 72-CE-19-AD, Amdt. 39-1459]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna 401 and 402 Series

There have been several reports of fuel line chafing resulting in fuel leakage in the wing area of Cessna 401 and 402 series airplanes which could cause a fire hazard. These reports indicate that the fuel crossfeed lines located behind the engine firewall and forward of the wing spar have been chafed by the firewall vertical stiffener and long screws in the firewall. Also the fuel supply line has been chafed by the vapor return line in the wing leading edge.

Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued requiring within 50 hours' time in service after the effective date of this AD, inspection of the crossfeed lines for chafing at the firewall vertical stiffener, assurance that proper length screws are located in the firewall, and the installation of necessary support clamps on fuel lines. Chafed fuel lines must be replaced.

Since a situation exists which requires expeditious adoption of the amendment, notice and public procedure hereon are impracticable and good cause exists for making the amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

CESSNA. Applies to Models 401 and 402 series airplanes.

Compliance: Required within 50 hours' time in service after the effective date of this AD, unless already accomplished.

To assure proper support of fuel lines and to eliminate chafing of fuel lines with possible fire hazard due to fuel leakage in the wing leading edge, accomplish the following:

(A) On airplanes (Serials Nos. 401-0001 through 401-0225 and 402-0001 through 402-0225, except 402-0171, 402-0172, 401-0189, 402-0191, 401-0197, 402-0209, 402-0210, 402-0212, 401-0214 through 401-0225, and 402-0214 through 402-0225), remove the engine cowling, turbo supercharger and the firewall access opening for both engines. Visually inspect the fuel crossfeed lines for chafing at the firewall vertical stiffeners. Replace chafed fuel lines with a serviceable part and install fuel line support clamps in accordance with Cessna Service Letter ME68-6, dated April 16, 1968, or later revision, or any equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region. Maintain a minimum of 0.50 inch clearance between the fuel crossfeed lines and the firewall vertical stiffener. Replace firewall access plate using AN515-8R5 or equivalent screws or screws removed from firewall that do not exceed five-sixteenth inch in length.

(B) On airplanes (Serials Nos. 401-0001 through 401A0010 and 402-0001 through 402-0319 except 401A0001, 401A0003, 402-0218, 402-0298 and 402-0317), remove all inspection access plates in wing leading edge outboard of the engine nacelle and visually inspect main fuel supply and vapor return lines for chafing. Replace chafed fuel lines with a serviceable part and install fuel line support clamps in accordance with Cessna Service Letter ME68-27, dated December 27, 1968, or later revision, or any equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(C) On airplanes (Serials Nos. 401-0226 through 401B0216 and 402-0226 through 402B0220:

(1) Remove the engine cowling and screws from the firewall vertical stiffener as shown in Cessna Service Letter ME72-11, dated May 26, 1972, or later revision.

(2) If screws removed are more than 0.312 inch in length, remove firewall inspection plate and inspect fuel crossfeed lines for chafing and replace any chafed fuel line with a serviceable part.

(3) Replace screws removed from firewall vertical stiffener with MS35266-60 screws.

Cessna Service Letter ME72-11, dated May 26, 1972, or later revision, pertains to the subject matter of this paragraph.

This amendment becomes effective June 16, 1972.

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

Issued in Kansas City, Mo., on June 2, 1972.

CHESTER W. WELLS,
Acting Director, Central Region.

[FR Doc.72-8704 Filed 6-8-72;8:46 am]

[Airspace Docket No. 72-SW-33]

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

Alteration of Control Zone and Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Alamogordo, N. Mex., control zone and transition area.

The military mission at Holloman Air Force Base, Alamogordo, N. Mex., has required the full-time support of its related aviation facilities and military services such as weather observing/reporting, approach control, and the airport traffic control tower.

Military authorities have determined that operations at Holloman AFB, Alamogordo, N. Mex., will be reduced to 16 hours daily beginning on July 1, 1972. This 16-hour period is tentatively proposed as 0600–2200 local time daily except holidays. The military weather, approach control, and airport traffic control services will continue to be afforded during this 16-hour period, but they will not be available or provided during the remainder of the period, i.e., 2200–0600.

The Holloman VOR facility will remain operational during the full 24-hour period. Agreements are being finalized, and it is planned that responsibility for the operation and maintenance of the Holloman VOR will be transferred from the U.S. Air Force to the Federal Aviation Administration on July 1, 1972. No interruption in service is anticipated.

One of the requirements for the designation or continuation of a control zone is that there be a federally certified weather observer available at the airport to provide all hourly and special weather observations. As weather reporting will no longer be available on a full-time basis, it is necessary that the control zone designation be changed from full time to part time and the airspace description be amended accordingly.

One of the requirements for designation of a transition area is that there be a rapid and suitable means of communications between the IFR aircraft and the air traffic control facility having jurisdiction over the transition area. The communications capability must exist at the appropriate minimum en route, initial and missed-approach altitude.

A missed-approach altitude of 6,000 feet has been established for the VOR and TACAN approaches serving Holloman AFB. During the period the military approach control and control tower facilities are not operational, i.e., 2200–0600 local time, the required communications capability will not exist. The Albuquerque ARTC Center does not have the capability of transmitting on the Holloman VOR or TACAN navigational aids. Further, the distances involved and the higher mountain ranges surrounding Alamogordo, N. Mex., preclude the possibility of satisfactory utilization of Federal Aviation Administration VOR/VORTAC facilities existing in this area to fulfill the communications requirement. Therefore, the Alamogordo, N. Mex., transition area must be designated a part-time transition area with effective hours identical to those of the Alamogordo, N. Mex., control zone.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 1, 1972, as hereinafter set forth.

(1) In § 71.171 (37 F.R. 2056), the Alamogordo, N. Mex., control zone is amended by adding, "This control zone will be effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual."

(2) In § 71.181 (37 F.R. 2143), the Alamogordo, N. Mex., transition area is amended by adding, "This transition area will be effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

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

Issued in Fort Worth, Tex., on May 31, 1972.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc. 72-8705 Filed 6-8-72;8:47 am]

[Airspace Docket No. 72-WE-25]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to change the effective hours of the Santa Maria, Calif., control zone.

Weather service is provided at Santa Maria Airport and communications are presently available from a remote outlet to Vandenberg AFB approach control from 0600 to 2200 hours local time daily. In the near future, Vandenberg approach control will change hours of operation and as a result remote communications will not be available at Santa Maria from 0600 to 0700 local time daily.

The present effective hours of the Santa Maria control zone are from 0600 to 2200 hours local time daily. Therefore, from 0600 to 0700 the Santa Maria control zone would be an unjustified designation of airspace since communications to the surface of the airport would not be available during this time period. Action is taken herein to change the effective hours of the Santa Maria control zone accordingly.

Since this amendment would be less restrictive in nature than the presently designated airspace and would impose no additional burden on any person, notice, and public procedure hereon are unnecessary.

In view of the foregoing in § 71.171 (37 F.R. 2056) the description of the Santa Maria, Calif., control zone is amended in part by deleting "* * * 0600 * * *" in the last sentence and substituting "* * * 0700 * * *" therefor.

Effective date. This amendment will be effective 0901 G.m.t., August 17, 1972.

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

Issued in Los Angeles, Calif., on May 31, 1972.

ROBERT O. BLANCHARD,
Acting Director, Western Region.

[FR Doc.72-8706 Filed 6-8-72;8:47 am]

[Airspace Docket No. 72-WE-26]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the effective time of the Vandenberg AFB, Calif., control zone.

The Vandenberg AFB control zone is presently designated as a full-time zone. Weather observations are presently taken by Vandenberg Tower. Due to staffing requirements, in the near future the hours of operation of the control tower will be reduced to 0700 to 2300 hours local time daily. Since weather observations would not be available at other times the control zone would result in an unjustified designation of airspace during other time periods. Action is taken herein to effect this change.

Since this amendment would be less restrictive in nature and would impose no additional burden on any person, notice and public procedure hereon are unnecessary.

In view of the foregoing in § 71.171 (37 F.R. 2056) the description of the Vandenberg AFB, Calif., control zone is amended in part by adding "* * * This control zone is effective from 0700 to 2300 hours local time daily."

Effective date. This amendment will be effective 0901 G.m.t., August 17, 1972.

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

Issued in Los Angeles, Calif., on May 31, 1972.

ROBERT O. BLANCHARD,
Acting Director, Western Region.

[FR Doc.72-8707 Filed 6-8-72;8:47 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Releases 33-5255, 34-9618, 35-17583, 40-7204, AS-124]

PART 211—INTERPRETATIVE RELEASES RELATING TO ACCOUNTING MATTERS (ACCOUNTING SERIES RELEASES)

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 251—INTERPRETATIVE RELEASES RELATING TO THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 271—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT COMPANY ACT OF 1940 AND GENERAL RULES AND REGULATIONS THEREUNDER

Pro Rata Stock Distributions to Shareholders

Several instances have come to the attention of the Commission in which registrants have made pro rata stock distributions which were misleading. These situations arise particularly when a registrant makes distributions at a time when its retained earnings or its current earnings are substantially less than the fair value of the shares distributed. Under present generally accepted accounting rules, if the ratio of distribution is less than 25 percent of shares of the same class outstanding, the fair value of the shares issued must be transferred from retained earnings to other capital accounts. Failure to make

this transfer in connection with a distribution or making a distribution in the absence of retained or current earnings is evidence of a misleading practice. Distributions of over 25 percent (which do not normally call for transfers of fair value) may also lend themselves to such an interpretation if they appear to be part of a program of recurring distributions designed to mislead shareholders.

It has long been recognized that no income accrues to the shareholder as a result of such stock distributions or dividends, nor is there any change in either the corporate assets or the shareholders' interests therein. However, it is also recognized that many recipients of such stock distributions, which are called or otherwise characterized as dividends, consider them to be distributions of corporate earnings equivalent to the fair value of the additional shares received. In recognition of these circumstances, the American Institute of Certified Public Accountants has specified in Accounting Research Bulletin No. 43, chapter 7, paragraph 10, that "* * * the corporation should in the public interest account for the transaction by transferring from earned surplus to the category of permanent capitalization (represented by the capital stock and capital surplus accounts) an amount equal to the fair value of the additional shares issued. Unless this is done, the amount of earnings which the shareholder may believe to have been distributed will be left, except to the extent otherwise dictated by legal requirements, in earned surplus subject to possible further similar stock issuances or cash distributions." Both the New York and American Stock Exchanges require adherence to this policy by their listed companies.[1]

The Commission also considers that if such stock distributions are not accounted for in this manner the shareholders may be misled. In a recent stop order proceeding,[2] the Commission found that a registration statement was materially misleading because a series of four stock distributions made between 1966 and 1968 "* * * were 'part of a frequent recurrence of issuances of shares' * * * (and) * * * under generally accepted accounting principles they should have been accounted for as stock dividends."

If, in addition to failing to account for the distribution properly, the registrant does not have sufficient retained earnings or current income to cover the appropriate transfer to permanent capital, a question immediately arises whether these factors may be part of a manipulative or fraudulent scheme, and as such are proscribed under Rule 10b-5 (17 CFR 240.10b-5) of the Securities Exchange Act of 1934. The Commission has stated in published opinions,[3] in situations where companies did not have retained or current earnings, that the declaration of a dividend not warranted by the business condition of a company is characteristic of a manipulative scheme.

The Commission emphasizes that it will deem the types of transactions noted above to be misleading if the accounting is improper or disclosure is inadequate, and if there is a question of whether the condition of the business warrants the distribution, a further investigation will be considered to determine whether such distribution may be part of a manipulative or fraudulent scheme.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

JUNE 1, 1972.

[FR Doc.72-8703 Filed 6-8-72;8:46 am]

[1] See New York Stock Exchange Manual, page A-235, and American Stock Exchange Guide, paragraph 10,046.

[2] Monmouth Capital Corporation, Securities Act Release No. 5169 (July 14, 1971).

[3] Gob Shops of America, Inc., 39 SEC 92 (1959); Mac Robbins & Co., Inc., 41 SEC 116 (1962).

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 72-155]

PART 1—GENERAL PROVISIONS

Transfer of Station of Easton, Maine, Supervision

In order to insure maximum efficiency in the Customs Service, the supervision of the Customs station of Easton, Maine, presently under the Bridgewater, Maine, port of entry, is transferred to the Fort Fairfield, Maine, port of entry.

To reflect this change, the table in § 1.3(d) of the Customs regulations, is amended by substituting "Fort Fairfield, Maine" for "Bridgewater, Maine" in the column headed "Port of entry having supervision" for the Customs station of Easton, Maine, in the Portland, Maine, district (80 Stat. 379, sec. 1, 37 Stat. 434; 5 U.S.C. 301, 19 U.S.C. 1).

Because this amendment involves a matter relating to agency management or personal within the meaning of 5 U.S.C. 553(a)(2), it is exempt from the notice requirement specified under the provisions of 5 U.S.C. 553(b).

Effective date. This amendment shall become effective 30 days after the date of its publication in the FEDERAL REGISTER.

[SEAL] EDWIN F. RAINS, *Acting Commissioner of Customs.*

Approved: May 31, 1972.

EUGENE T. ROSSIDES, *Assistant Secretary of the Treasury.*

[FR Doc.72-8754 Filed 6-8-72; 8:51 am]

[T.D. 72-158]

PART 153—ANTIDUMPING

Fish Netting of Manmade Fibers From Japan

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the Secretary of the Treasury responsibility for determination of sales at less than fair value. Pursuant to this authority the Secretary of the Treasury has determined that fish nets and netting of manmade fibers from Japan are being, or are likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). (Published in the FEDERAL REGISTER of January 19, 1972 (37 F.R. 815, F.R. Doc. 72-897).)

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the U.S. Tariff Commission responsibility for determination of injury or likelihood of injury. The U.S. Tariff Commission has determined, and on April 18, 1972, it notified the Secretary of the Treasury that an industry in the United States is being and is likely to be injured by reason of the importation of fish netting of manmade fibers from Japan, sold at less than fair value; and that no industry in the United States is being, or is likely to be, injured, or prevented from being established, by reason of the importation of fish nets of manmade fibers from Japan, sold at less than fair value. (Published in the FEDERAL REGISTER of April 22, 1972 (37 F.R. 8036, F.R. Doc. 72-6211).)

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which consitute a finding of dumping with respect to fish netting of manmade fibers from Japan.

Section 153.43 of the Customs regulations is amended by adding the following to the list of findings of dumping currently in effect:

Merchandise	Country	T.D.
Fish netting of manmade fibers	Japan	72-158

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173)

[SEAL] EUGENE T. ROSSIDES, *Assistance Secretary of the Treasury.*

JUNE 1, 1972.

[FR Doc.72-8796 Filed 6-8-72;8:51 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter X—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Eligible Communities

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table. This entry differs from prior entries to the table in that a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or under the regular flood insurance program. The entry reads as follows:

§ 1914.4 **List of eligible communities.**

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Alaska		Nenana	I 02 049 1760 01 I 02 049 1760 02	The Local Affairs Agency, Office of the Govenor—Pouch AB, Juneau, Alaska 99801. Alaska Division of Insurance, Room 410, Goldstein Bldg., Pouch D, Juneau, Alaska 99801.	Office of the City Clerk, City of Nenana, Nenana, Alaska 99760.	Apr. 2, 1972. Emergency. June 9, 1972. Regular.
Florida	Escambia	Navarre Beach	I 12 033 0000 02	Department of Community Affairs, 309 Office Plaza, Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, The Capitol, Tallahassee, Fla. 32304.	Santa Rose County Beach Administration, Route 1, Box 372, Gulf Breeze, FL 32561.	Sept 25, 1970. Emergency. June 9, 1972. Regular.
Illinois	Rock Island	Rock Island	I 17 161 7470 01 through I 17 161 7470 09	Department of Local Government Affairs, 325 West Adams St., Room 406, Springfield, IL 62706. Illinois Insurance Department, 525 West Jefferson St., Springfield, IL 62702.	Rock Island City Planning Department, Rock Island City Hall, 1528 Third Ave., Rock Island, IL 61201.	July 10, 1971. Emergency. June 9, 1972. Regular.
Do	Peoria	Chillicothe				June 9, 1972. Emergency.
Massachusetts	Middlesex	Concord				Do.
New Jersey	Mercer	Hightstown Borough.				Do.
Do	Union	Mountainside Borough.				Do.
North Carolina	Beaufort	Unincorporated areas.				Do.
Washington	Okanogan	Twisp				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: June 1, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72-8580 Filed 6-8-72;8:45 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Alaska		Nenana	H 02 049 1760 01 H 02 049 1760 02	The Local Affairs Agency, Office of the Governor—Pouch AB, Juneau, Alaska 99801. Alaska Division of Insurance, Room 410, Goldstein Bldg., Pouch D, Juneau, Alaska 99801.	Office of the City Clerk, City of Nenana, Nenana, Alaska 99760.	Apr. 2, 1972.
Florida	Escambia	Navarre Beach	H 12 033 0000 02	Department of Community Affairs, 309 Office Plaza, Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, The Capitol, Tallahassee, Fla. 32304.	Santa Rose County Beach Administration, Route 1, Box 372, Gulf Breeze, FL 32561.	Sept. 25, 1970.
Illinois	Rock Island	Rock Island	H 17 161 7470 01 through H 17 161 7470 09	Department of Local Government Affairs, 325 West Adams St., Room 406, Springfield, IL 62706. Illinois Insurance Department, 525 West Jefferson St., Springfield, IL 62702.	Rock Island City Planning Department, Rock Island City Hall, 1528 Third Ave., Rock Island, IL 61201.	July 10, 1971.
Do	Peoria	Chillicothe				June 9, 1972.
Massachusetts	Middlesex	Concord				Do.
New Jersey	Mercer	Hightstown Borough.				Do.
Do	Union	Mountainside Borough.				Do.
North Carolina	Beaufort	Unincorporated areas.				Do.
Washington	Okanogan	Twisp				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: June 1, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72-8581 Filed 6-8-72;8:45 am]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER M—MISCELLANEOUS

PART 255—QUALITY ASSURANCE

The Secretary of Defense approved the following revision to Part 255:

Sec.
255.1 Purpose.
255.2 Applicability.
255.3 Definitions.
255.4 Responsibilities.
255.5 Concepts.
255.6 Policy.

AUTHORITY: The provisions of this Part 255 issued under 10 U.S.C. 2202.

§ 255.1 Purpose.

This part establishes Department of Defense quality assurance policies designed to assure that all materiel, data, supplies, and services developed, procured, produced, stored, operated, maintained, overhauled, or disposed of by or for the DOD meet the following objectives.

(a) That materiel, data, supplies, and services conform to specified requirements;

(b) That specified requirements for materiel, data, supplies, and services are practical and enforceable; and

(c) That user dissatisfaction and mission ineffectiveness are prevented and/or eliminated.

§ 255.2 Applicability.

The provisions of this part apply to the Military Departments, the Defense Supply Agency, the National Security Agency and the Defense Communications Agency (hereafter referred to collectively as "DOD Components").

§ 255.3 Definitions.

(a) *Quality.* The composite of materiel attributes including performance.

(b) *Quality assurance.* A planned and systematic pattern of all actions necessary to provide adequate confidence that materiel, data, supplies, and services conforms to established technical requirements and achieves satisfactory performance.

(c) *Metrology.* The science of measurement for determination of conformance to technical requirements including the development of standards and systems for absolute and relative measurements.

(d) *Calibration.* Comparison of a standard or measuring equipment instrument with a standard of higher accuracy

to insure that the former is within specified limits throughout its entire range.

§ 255.4 Responsibilities.

(a) The Assistant Secretary of Defense (Installations and Logistics) shall provide overall policy guidance on DOD quality assurance.

(b) Each DOD Component shall designate a central management focal point to be responsible for directing and monitoring quality assurance policy compliance with the provisions of this part.

(c) There is hereby established a DOD Quality Assurance Council composed of one General or Flag rank officer and one senior civilian from each of the Military Departments and the Defense Supply Agency (DSA). The Council shall be chaired by a representative of the ASD (I&L) and will provide consultation and advice to the ASD(I&L) on quality assurance matters. The DOD Quality and Reliability Assurance Career Management Board (see DOD Manual 1430.10-M-2 [1]) shall be a subgroup of the Council.

(d) DOD Component shall, within the provisions of the Defense Standardization Program as outlined in DOD Directive 4120.3,[2] Defense "Defense Standardization Program," April 23, 1965, assure that all specifications and standards intended for implementation of the policies contained herein are fully coordinated.

(e) DOD-Wide Integrated Commodity Managers assigned responsibility under DOD Instruction 4115.1,[2] DOD Coordinated Procurement Program-Purchase Assignments," October 14, 1968, in collaboration with the Military Departments and DSA, develop, establish and issue uniform procedures to be utilized in conducting government procurement quality assurance (see § 255.6(b)(2)) as appropriate.

(f) The Joint Logistics Commanders through the existing Joint Technical Coordinating Group for Metrology and Calibration (JTCG-METCAL) shall provide for interservice coordination of the DOD Calibration and Metrology Program. Its principal subgroup, the Calibration Coordination Group (CCG), shall be the DOD point of contact with the National Bureau of Standards on DOD requirements for calibration, and calibration engineering services (e.g., requirements involving new equipment and techniques, improved accuracies, expanded ranges), see "Procedure for Determining, Estimating the Cost of and Arranging for the Radio and Electronic Calibration Services that Department of Defense Activities Obtain from the National Bureau of Standards." [3]

§ 255.5 Concepts.

(a) The primary purpose of quality assurance is the enforcement of technical criteria and requirements governing all materiel, data, supplies, and services developed, procured, produced, stored, operated, maintained, overhauled, or disposed of by or for the DOD.

(b) Functional organizations creating technical criteria are responsible for translation of functional requirements including reliability and maintainability into quantitative requirements that can be contractually specified with appropriate demonstration.

(c) Continued review of technical criteria to insure against errors and omissions is an essential element of quality assurance.

(d) The quality of design of an end product may, in part, be assessed on the basis of reviewing experience gained with the various components that contribute to the design.

(e) Functional test of the end product in a real or simulated environment is required where feasible to confirm that performance requirements, including quality, are met.

§ 255.6 Policy.

(a) *General.* (1) Determination that materiel, data, supplies, and services meet requirements shall be based on objective evidence, including the results of direct product examination and test, review of procedures, processes, records, and documentation. The results shall be documented to support the planning of corrective action and other management activity.

(2) The degree and type of quality assurance provided during the life of a product (from development through disposal) shall be optimally varied to assure mission reponsiveness.

(3) Defect prevention shall be fostered by:

(i) Timely and integrated planning of needed quality assurance;

(ii) Monitoring of appropriate procedures, systems, and resources, and

(iii) Correction of causes of deficiencies.

(4) There shall be a system, or systems, that will feed back quality information to activities responsible for development, procurement, and other management functions so that action can be initiated to correct/prevent quality deficiencies. The Military Departments and DSA shall insure unsatisfactory material quality conditions are reported by using activities within their own logistics systems and across DOD Component lines as appropriate. DSA, in collaboration with the Military Departments, shall develop a joint regulation covering procedures and format for reporting quality data across DOD Component lines. Information and reporting requirements will be developed consistent with the policies prescribed in DOD Directive 5000.19,[2] "Policies for the Management and Control of DOD Information Requirements," June 2, 1971.

(5) DOD Components shall comply with the DOD-Wide Civilian Career Program for Quality and Reliability Assurance Personnel (DOD Manual 1430.10-M-2),[1] to assure maximum employee efficiency and career growth.

(6) Quality audits of materiel, data, supplies, and services shall be conducted.

(7) Adequate and economical metrology and calibration services shall be established in support of test, measuring and diagnostic equipment used throughout the materiel life cycle. Measurement accuracies shall be traceable to U.S. National Standards maintained by the National Bureau of Standards and/or to fundamental physical constants (§ 255.4 (f)) and the referral time and time interval measurements to "time standards" established by the U.S. Naval Observatory under the provisions of Part 275 of this subchapter.

(8) The institution and continuation of Zero Defects type programs shall be voluntary for both contractors and DOD Components. Handbook 4155.12H,[4] "A Guide to Zero Defects" is authorized for use as a guide.

(b) *Procurement.* (1) Contractors are responsible for (i) controlling product quality, (ii) offering to the Government for acceptance only materiel, data, supplies, and services that conform to contract requirements, and (iii) when required, maintaining and furnishing substantiating evidence of this conformance.

(2) DOD Components in accordance with assigned responsibilities shall:

(i) Assure that contracts specify appropriate quality requirements; and that contractors comply with quality requirements;

(ii) Comply with DOD 4105.59-H [2] in assigning responsibilities for quality assurance administration of contracts.

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[1] Filed as part of original. This is an internal Department of Defense Manual, which may be viewed in the Office of Assistant Secretary of Defense (M&RA), room 3D982, Pentagon, Telephone: OX 50813.

[2] Filed as part of original. Copies available from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120, Attention: Code 300.

[3] Filed as part of original.

[4] Filed as part of the original. Copies are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402—price 20 cents.

(3) Government procurement quality assurance actions performed at the subcontract level are performed solely to assist contract administration offices in accomplishing their responsibilities. Such actions shall not relieve the contractor of any of his responsibilities under the contract and shall not establish any contractual relationship between the Government and the subcontractors.

(4) Contractor quality history data shall be maintained and used as applicable by DOD Components.

(5) The quality assurance policy contained in paragraph (b) of this section shall be implemented by Armed Services Procurement Regulation (ASPR) (Parts 1-30 of this title).

(c) *Development.* (1) Quality assurance shall be provided for early in design and development. The development function shall include assessment of the quality requirements in relation to cost, schedule and performance parameters.

(2) Prior to completion of development all specifications, standards, inspections, tests, and evaluations required to insure against degradation of performance during the production process shall be identified or developed.

(3) Calibration requirements for newly developed materiel which necessitates technical advances in the development of measuring and test equipment, measuring standards, or state-of-the-art techniques, shall be identified and programed early in development.

(d) *In-house activities*—(1) *Supply and storage.* DOD components responsible for receiving, storing, and issuing supplies will develop and implement quality assurance, including inspection (for both new and returned materiels) for identification, condition, completeness, preservation, packaging, and marking. Materiel in storage will be inspected on a planned, cyclic, surveillance basis in accordance with the needs of the commodities managed and standards prescribed by the materiel managers. Testing will be performed by Government laboratories to the optimum extent with arrangements made for commercial testing only as necessary.

(2) *Maintenance.* DOD components are responsible for providing quality assurance monitoring of in-house maintenance functions at all maintenance levels. Conversion, modification, overhaul, repair, and alteration of materiel shall be subjected to quality assurance to insure conformance to requirements.

(3) *Operations.* DOD Components are responsible for maintaining the quality of performance and readiness of equipment in their possession. This responsibility includes organizing, training, equipping, and providing such quality assurance services as are necessary to assure materiel readiness.

(4) *Manufacturing.* DOD Components operating manufacturing activities will assure that management action is taken to plan and develop effective and economical quality assurance for material produced. Quality assurance shall extend throughout design, development, fabrication, processing, assembly, installation, packaging, packing, and shipping. The quality assurance shall be compatible with the engineering and tooling needs of production and the related design.

(e) *Cross servicing and foreign support.*—(1) *Interservice.* Part 190 of this subchapter requires that DOD Contract Administration Services Components support without charge all DOD organizations in quality assurance and related functional areas.

(2) *Foreign and non-DOD organizations.* Agreements for the acquisition of supplies and services entered into by the DOD Components with Foreign Governments and International Organizations shall provide for quality assurance in consonance with the policies stated herein. Regulations and procedures concerning quality assurance support provided to, or obtained from, non-DOD organizations, foreign governments, and international organizations, are contained in ASPR, section 14, part 6 and section 20, parts 5 and 6.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division OASD (Comptroller).

[FR Doc.72-8734 Filed 6-8-72; 8:51 am]

Chapter XVII—Office of Emergency Preparedness

PART 1710—FEDERAL DISASTER ASSISTANCE

Private, Nonprofit Medical Care Facilities

On April 21, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 7911) proposing a revision of 32 CFR Part 1710, providing for the repair, reconstruction, or replacement of certain private medical care facilities.

Interested persons were invited to submit, within 15 days, written data, views, or arguments regarding the proposed regulations. On May 8, 1972, a notice was published in the FEDERAL REGISTER (37 F.R. 9405) extending the time for filing written comments on the proposed regulations until May 22, 1972.

A number of responses were received. The substance of the comments and the Office's response thereto is summarized below.

Changes have been made in the final regulations as a result of the following comments on the proposal:

1. *Lump sum contract method.* It was pointed out that competitive bidding and award of a contract on a lump sum basis is sometimes impractical when applied to repairing disaster damage.

The requirement for lump sum contracts and competitive bidding on all work performed by private, nonprofit medical care facilities (§ 1710.8(h)(3)(ii)) has been deleted.

2. *Emergency repair of private, nonprofit medical care facilities.* It was pointed out that, although emergency repair is not specifically covered by section 255, it was the intent of Congress as shown by the Senate and House reports on Public Law 92-209 to provide private, nonprofit medical care facilities with the same kind of aid to which publicly owned medical care facilities are eligible under Public Law 91-606.

The prohibition of emergency repair or replacement under section 203 of the Public Law 91-606 contained in § 1710.11 (a) of the proposal has been deleted.

3. *Applicable codes, specifications, and standards.* It was suggested that repair or replacement of disaster damaged facilities should be made using codes, specifications, and standards, in effect at the time Public Law 92-209 became law. This would fix standards and codes for all times to December 18, 1971, an unacceptable inflexibility. It was suggested also that codes, specifications, and standards be those in effect at the time of reconstruction of a particular structure. This was seriously considered as were other possibilities. The final decision was to keep that language currently used for public facilities under Public Law 91-606, but to provide more flexibility for those contingencies where applicable codes in effect at the time of the disaster clearly will not result in a safe and usable restored facility. This was done by adding a sentence to § 1710.11(a)(2)(iii) which provides that the Office of Emergency Preparedness Director, upon receipt of adequate justification, may authorize appropriate deviations.

4. *Assurances that the private medical care facility will be fully licensed.* Several comments were received which related to the assurance that a hospital would be fully licensed following completion of repair or replacements. The objection raised was that, unless the facility was constructed in accordance with codes, specifications, and standards in effect at the time of reconstruction, the required assurance could not be given.

Although changes have been made with regard to applicable codes, specifications, and standards which should preclude this problem, the requirement for such assurances (§ 1710.11(a)(3)(v)) has been deleted.

In addition, the following comments were received:

5. *Disaster proofing.* It was suggested that the definition of disaster proofing was too general and that a specific percentage should be used in lieu of the term "small percentage." Small percentage is deliberately left undefined since it is believed that use of a specific percentage would often result in that amount of work being done when the same objective could be met by a much smaller expenditure of funds. For many projects, no disaster proofing can be justified.

6. *Submittal of applications through the local or State governments.* It was suggested that applications need not be submitted through local or State governments since this merely adds unnecessary red tape to the processing of applications.

Section 1710.11(a)(3) of these regulations establishes certain eligibility criteria involving participation by local and State governments in processing project applications for approval that are considered essential to sound planning and use of Federal funds. Since all assistance

under Public Law 91-606 is provided on the basis of a Federal/State agreement wherein the State must provide certain assurances regarding the use of disaster funds received by applicants within that State, the State must retain some control over the applications. This can be achieved only through the review and approval by the State of all applications for Federal disaster assistance under Public Law 91-606.

In addition to the changes described in paragraphs 1-4 above, a number of editorial and technical changes have been included.

After consideration of all the comments and suggestions received, the revision to 32 CFR Part 1710, as proposed is hereby adopted subject to the following changes:

1. A new sentence has been added to the end of § 1710.2(s). The words, "private, nonprofit" or "nonprofit" have been deleted wherever they appeared preceding "medical care facilities."

2. Subdivision (ii) of § 1710.8(h)(3) has been deleted, and § 1710.8(h)(3)(iii), (iv), and (v) have been renumbered as § 1710.8(h)(3) (ii), (iii), and (iv), respectively.

3. A new sentence has been added to the end of renumbered § 1710.8(h)(3)(ii).

4. The second sentence of § 1710.11(a) has been deleted and the word "not" has been deleted from the third sentence.

5. Subdivision (iii) of § 1710.11(a)(2) has been revised to read as set forth below.

6. Subdivision (v) of § 1710.11(a)(3) has been deleted.

7. Section 1710.22(d) is changed by deletion of "United States" where it appeared.

Effective date. These regulations shall be effective as of January 1, 1971.

Dated: June 6, 1972.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

Section 1710.2 is amended by adding the following paragraphs:

§ 1710.2 Definitions.

* * * * *

(s) "Medical care facility" includes, without limitation, any hospital, diagnostic or treatment center (outpatient facility), or rehabilitation facility as such terms are defined in section 645 of the Public Health Service Act, and any similar facility offering diagnosis or treatment of mental or physical injury or disease, including the administrative and support facilities essential to the operating of such medical care facilities although not contiguous thereto. As used throughout this regulation, the term "medical care facility" refers to a private, nonprofit facility, owned by a tax exempt organization.

(t) "Tax exempt organization" means an organization or entity which has applied for, and currently has in effect from the U.S. Internal Revenue Service, a ruling letter granting tax exemption under section 501 (c), (d), or (e) of the Internal Revenue Code of 1954.

(u) "Disaster proofing" consists of those minimum alterations or modifications to damaged facilities which could be expected to prevent or substantially reduce future damages to the repaired or reconstructed facility; i.e., to make the facility disaster resistant. The cost of disaster proofing measures is limited to a small percentage of otherwise eligible costs.

Section 1710.8 is amended by adding the following paragraph:

§ 1710.8 Project applications.

* * * * *

(h) The local or State government, as an authorized applicant under the Act, must submit the project application on behalf of the interested private organization or entity for medical care facilities. In addition to the completed application documents specified by OEP instructions, the following additional documents and assurances must be submitted with the application:

(1) A copy of the Internal Revenue Service ruling letter which grants the organization or entity tax exemption under section 501 (c), (d), or (e) of the Internal Revenue Code of 1954.

(2) When appropriate, the comments and recommendations of State or local government clearinghouses pursuant to the guidelines contained in OMB Circular No. A-95.

(3) A copy of the following assurances by the interested private organization or entity:

(i) In addition to owning the facility, that it has or will have a title in fee simple or such other estate or interest in the site, including necessary easements and rights-of-way, sufficient to assure for a period of not less than 50 years undisturbed use and possession for the purpose of the construction and operation of the facility;

(ii) That it will maintain adequate and separate accounting and fiscal records and accounts for all funds provided from any source to pay the cost of the project, and permit audit of such records and accounts at any reasonable times; and that claims for Federal reimbursement do not duplicate funding provided from any other source;

(iii) That it will provide and maintain competent and adequate architectural or engineering supervision and inspection at the construction site to insure that the completed work conforms with the approved plans and specifications; and

(iv) That adequate financial support will be available for maintenance and operation when completed.

Section 1710.11 is amended to read as follows:

§ 1710.11 Repair and replacement of facilities.

(a) Repair or replacement of public facilities and medical care facilities may be eligible in two phases, as outlined in subparagraphs (1) and (2) of this paragraph, dependent on the extent of damage and the circumstances under which repairs are to be made. Emergency repair or replacement under section 203 of the Act is authorized for medical care facilities.

(1) Emergency repair or replacement may be made only to the extent of providing a usable facility, where necessary, until a facility can be repaired or replaced to predisaster condition. The first phase will include only the minimum measures to make the facility temporarily operational. Examples are detours, rental of alternate facilities, and other similar measures. If circumstances are such that restoration of the facility can be delayed until permanent repair or replacement can be performed to predisaster conditions or if no alternative is practical, eligible work will be considered only under subparagraph (2) of this paragraph.

(2) Permanent repair or replacement to predisaster condition, based on the design of the facility as it existed immediately prior to the disaster, and in conformity with applicable codes, specifications, or standards, may be approved using the following criteria:

(i) The Federal contribution shall not exceed the net eligible cost of restoring each such facility;

(ii) Such net costs shall be based on the codes, specifications, and standards currently being used by the applicant for similar facilities in the locality. The general standards prescribed by the Public Health Service and set forth in the document "General Standards of Construction and Equipment for Hospital and Medical Facilities" shall be applicable for those medical care facilities that conformed to such general standards prior to the major disaster. For other medical care facilities, any eligible replacement of damaged facilities shall conform generally to such standards as determined by the Regional Director to be consistent with their predisaster condition and utilization;

(iii) Applicable codes, specifications, and standards are those minimum codes, specifications, and standards which relate directly to the health and safety of persons using the damaged facility and which were in general use and were enforced locally at the time of the disaster. If not in writing, the applicant must identify and a Federal inspector shall verify that the codes, specifications, and standards, to be applicable, were in use at the time of the disaster. If no codes, specifications, or standards, as prescribed above, have impact on eligible restorative work, repair, or replacement will be limited to returning the facility to predisaster condition, based on then-existing design. If compliance with applicable codes, specifications, and standards in effect at the time of the disaster clearly will not result in a safe and usable restored facility, the OEP Director, upon receipt of adequate justification, may authorize appropriate deviations;

(iv) If the damaged facility is economically repairable, as determined by the Regional Director, approved restorative work will be limited to the cost of eligible repairs;

(v) An applicant may, at its discretion, request a grant-in-lieu of authorized repair or replacement toward the repair or replacement of the facility to higher standards than provided for herein. Such grant-in-lieu shall not exceed the approved cost estimate of eligible work;

(vi) In every major Federal action or project involving Federal disaster assistance under the Act, the Regional Director shall determine whether or not the quality of human environment may be significantly affected thereby. In any case where affirmative determination may result, the Regional Director shall consult with the Director or his staff to arrange for compliance with section 102, National Environmental Policy Act, Public Law 91-190; and

(vii) The minimum policy objective in restoring facilities damaged by a major disaster shall be to assure consideration of the advantages or disadvantages of disaster proofing or relocation before any work or Federal expense is authorized. In restoring damaged facilities by use of Federal disaster assistance, the Regional Director may authorize minimum disaster proofing as eligible work under the Act. When the Regional Director determines that a facility may not be economically restored and disaster proofed in a hazard area, he may authorize relocation to a less hazardous site: *Provided*, That overall Federal project cost is not increased. He may decline to authorize Federal disaster assistance to restore facilities at the original site when such facilities are subject to repetitive heavy damages or destruction.

(3) The repair or replacement of medical care facilities by Federal disaster assistance must be justified on the basis of need for such facilities as determined by the OEP Regional Director based on recommendations by the State Coordinating Officer, State and/or local health agency, and the appropriate regional health agency of the Department of Health, Education, and Welfare. No payment will be made for any work which is not the responsibility of the interested private organization or entity. The following general criteria apply for determining the eligibility of the medical care facility:

(i) It must have been in active use and providing significant medical services to the general public prior to the disaster;

(ii) It must have been recognized as an essential or integral part of the comprehensive plan for the provision of required medical facilities for the affected area or community;

(iii) It must be operated in a manner to carry out the tax exempt purposes of the owning organization; and

(iv) Damages must have occurred as the result of a major disaster and impair the capability of the medical care facility to perform essential medical services for the general public.

(b) For the purposes of this section, functional furnishings and equipment essential to the operation of the facility will be considered as part of a facility: *Provided, however*, That used or surplus equipment shall be utilized to the extent practicable.

(c) Consumable supplies damaged or lost in a disaster will be considered eligible for replacement to the extent that such replacement is made within 90 days of the date of the President's declaration, but limited to a 30-day requirement of each item so replaced. The 90-day deadline may be waived by the Regional Director where appropriate.

Section 1710.17 is amended to read as follows:

§ 1710.17 Federal assistance for projects under construction.

(a) Federal financial assistance may be provided for the repair, restoration, or reconstruction of any public facility or medical care facility which was damaged or destroyed as a result of a major disaster and for the additional costs resulting from a major disaster for completion of any such facility which was in the process of construction when damaged or destroyed as a result of such major disaster, based on the following criteria:

(1) Federal reimbursement shall not exceed 50 percent of the eligible costs. Eligible costs are defined to mean those costs incurred by the applicant or one of its contractors or, in the case of a medical care facility, by the interested private organization or entity or one of its contractors, and determined to be eligible by the Regional Director in:

(i) Restoring a facility to substantially the same condition as existed prior to the damage resulting from the major disaster, and

(ii) Completing construction not performed prior to the major disaster to the extent the increase of such costs over original construction costs is attributable to changed physical conditions resulting from the major disaster.

(b) Eligible costs shall not include any interest cost on project funding or any cost for which reimbursement is received pursuant to insurance contracts or otherwise by the party incurring the economic burden of such costs, including reimbursements which might be received from any other Federal agency.

(c) No reimbursement will be made to any applicant for damages caused by its own negligence, or by the negligence of any interested private organization or entity, or by any contractor.

Section 1710.22 is amended by adding the following paragraph:

§ 1710.22 Nondiscrimination.

* * * * *

(d) As a condition of receiving assistance under section 255, interested private organizations or entities restoring damaged medical care facilities shall be required to comply with this part and agree in writing that no person shall, on the grounds of race, religion, sex, color, age, economic status or national origin, be subjected to discrimination under the subsequent operation of these medical care facilities.

(Public Law 92-209, 85 Stat. 742; Executive Order 11662)

[FR Doc.72-8731 Filed 6-8-72;8:49 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

[CGFR 71-41a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Johnson River, Conn.

This amendment changes the regulations for the Pleasure Beach Highway Bridge at the end of Seaview Avenue across Johnson River, Bridgeport, Conn., to require that the draw open on signal at all times. This amendment was circulated as a public notice dated March 16, 1972, by the Commander, Third Coast Guard District and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGFR 72-41) on March 3, 1972 (37 F.R. 4451). One comment was received which favored the proposal.

§ 117.130 [Amended]

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revoking § 117.130(c)(2)(iv).

(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 1.04-1(c)(4))

Effective date. This revision shall become effective upon the date of publication in the FEDERAL REGISTER (6-9-72).

Dated: June 6, 1972.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.72-8727 Filed 6-8-72;8:49 am]

[CGD 72-97R]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Hudson River, N.Y.

This amendment revokes the regulations for the Dunn Memorial Bridge between Albany and Rensselaer, N.Y., because the bridge has been removed.

§ 117.185 [Amended]

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revoking § 117.185(h)(1).

(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 upon the date of publication in the FEDERAL REGISTER (6-9-72).

Dated: June 6, 1972.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 72-8725 Filed 6-8-72;8:48 am]

[CGD 72-99R]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Ortega River, Fla.

This amendment revokes the regulations for the Florida State Road Department bridge (Roosevelt Boulevard) near Jacksonville because this bridge has been removed.

§ 117.431 [Revoked]

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revoking § 117.431.

(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 upon the date of publication in the FEDERAL REGISTER (6-9-72).

Dated: June 6, 1972.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.72-8728 Filed 6-8-72;8:49 am]

[CGFR 72-40a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Inner Harbor Navigation Canal, New Orleans, La.

This amendment extends the time that the draws of the St. Claude Avenue and the Florida Avenue Bridges may remain closed for repairs during the designated periods from June 1, 1972, to June 23, 1972. Repair work on these bridges was suspended to facilitate movement of backed up marine traffic that occurred when an inner harbor navigational canal lock was extensively damaged. All other conditions published as CGFR 72-40 on 37 F.R. 4433 of March 3, 1972, remain unchanged. This extension is issued without notice of proposed rule making and is effective in less than 30 days. The Coast Guard has found that good cause exists for taking this action on the basis that it would be contrary to the public interest to delay this work.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising paragraph (a) to § 117.535 to read as follows:

§ 117.535 Inner Harbor Navigation Canal, New Orleans, La.

* * * * *

(a) The draws of the St. Claude Avenue and the Florida Avenue Bridges need not open for the passage of vessels from 8 a.m. to 4 p.m., Monday through Saturday, from March 15, through June 23, 1972. However, the draws of each bridge shall open during this period to allow an accumulation of vessels to pass. At all other times during this period the draws 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 is effective from March 15 through June 23, 1972.

Dated: June 6, 1972.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.72-8726 Filed 6-8-72;8:49 am]

[CGD 72-85R]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

City Waterway, Tacoma, Wash.

This amendment revokes the regulations for the Burlington Northern (formerly Northern Pacific) railroad drawbridge across City Waterway at Tacoma because this bridge has been removed.

§ 117.785 [Amended]

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revoking § 117.785(e)(1)(i)(b).

(Sec. 5, 28 Stat. 362, as amended, sec. b(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 the date of publication in the FEDERAL REGISTER (6-9-72).

Dated: June 6, 1972.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.72-8724 Filed 6-8-72;8:48 am]

[CGD 72-98R]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Wishkah River, Wash.

This amendment revokes the regulations for the drawbridge across the Wishkah River at Aberdeen, Wash., between Second Street and Young Street because this bridge has been replaced by a fixed bridge.

§§ 117.775, 117.810 [Amended]

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revoking subparagraph (7) of paragraph (b) of § 117.775 and subparagraph (4) of paragraph (f) of § 117.810.

(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 upon the date of publication in the FEDERAL REGISTER (6-9-72).

Dated: June 6, 1972.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.72-8729 Filed 6-8-72;8:49 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 3—Department of Health, Education, and Welfare

PART 3-56—GOVERNMENT PROPERTY

On January 29, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 1477-1486) stating that the Department of Health, Education, and Welfare was considering an amendment to 41 CFR Chapter 3 by adding a new Part 3-56, Government Property. The new part will establish Department policy and procedures for use whenever Government property is authorized for use by HEW contractors in the performance of contracts for the procurement of personal property and nonpersonal services (including construction).

Interested persons were invited to submit relevant data, views, or arguments within 30 days after publication. Written comments were received, and after due consideration to the views presented, the regulation is revised and hereby adopted as set forth below.

(5 U.S.C. 301; 40 U.S.C. 486(c))

Effective date. This amendment shall be effective upon publication in the FEDERAL REGISTER (6-9-72).

Dated: June 1, 1972.

N. B. HOUSTON,
Deputy Assistant Secretary for Administration.

Sec.	
3-56.000	Scope of part.
Subpart 3-56.1—General	
3-56.100	Scope of subpart.
3-56.101	Definitions.
3-56.101-1	Property.
3-56.101-2	Government property.
3-56.101-3	[Reserved]
3-56.101-4	[Reserved]
3-56.101-5	[Reserved]
3-56.101-6	[Reserved]
3-56.101-7	[Reserved]
3-56.101-8	Equipment.
3-56.101-9	[Reserved]
3-56.101-10	[Reserved]
3-56.101-11	Facilities contract.
3-56.101-12	[Reserved]
3-56.101-13	Nonprofit organization.
3-56.101-14	Miscellaneous terms.
3-56.102	Responsibility and liability for Government property.

Sec.
3-56.102-1 Prime contractors.
3-56.102-2 Subcontractors.
3-56.103 [Reserved]
3-56.104 Profits and fees.
3-56.105 Use for or by contractors of property owned and operated by the Government.

Subpart 3-56.2—[Reserved]

Subpart 3-56.3—Providing Government Property to Contractors

3-56.301 Providing property.
3-56.302 [Reserved]
3-56.303 Use of facilities contracts.
3-56.304 [Reserved]
3-56.305 [Reserved]
3-56.306 Loans of Government property.
3-56.307 Providing Government property when disposal is limited (nonservable, etc.).
3-56.308 Offer to furnish Government property "as is".
3-56.309 Changing Government property to be provided.

Subpart 3-56.4—Use and Rental of Government Property

3-56.401 Policy.
3-56.402 Authorizing a contractor to use Government property without charge.
3-56.403 Rental of Government property.
3-56.404 Rental rates and policies applicable to the use of Government property.
3-56.405 [Reserved]
3-56.406 Rent-free use of Government property on work for foreign governments.
3-56.407 Use of Government property without charge by nonprofit organizations.

Subpart 3-56.5—Competitive Advantage

3-56.501 Policy.
3-56.502 Advertised procurements—use of existing Government property.
3-56.502-1 General.
3-56.502-2 Procedures for use of evaluation factors.
3-56.502-3 Limitations.
3-56.502-4 Rent.
3-56.503 Negotiated procurement—use of existing Government property.
3-56.504 Residual value to the Government of property to be acquired in competitively negotiated procurements.
3-56.505 [Reserved]
3-56.506 Solicitations—description of evaluation procedure.

Subpart 3-56.6—Administration of Government Property

3-56.601 Maintenance.
3-56.602 [Reserved]
3-56.603 Termination of facilities contracts.
3-56.604 Standby or layaway provision.
3-56.605 [Reserved]
3-56.606 Disposition.
3-56.607 Insurance.
3-56.608 Accounting and control of Government property in possession of contractors.
3-56.609 Handbook—Government Property Held by Contractors.
3-56.610 Abandonment of Government property.
3-56.611 Property warranty or guaranty.

Subpart 3-56.7—Contract Clauses

Sec.
3-56.701 Applicability.
3-56.702 Government property clause for fixed-price contracts.
3-56.703 Government property clause for cost-reimbursement type contracts with commercial and non-profit organizations.
3-56.704 Government property clause for cost-reimbursement type contracts for research with educational institutions.
3-56.705 [Reserved]
3-56.706 Government property clause for fixed-price type contracts with nonprofit institutions executed on a nonprofit basis.
3-56.707 Abandonment of Government property clause.
3-56.708 [Reserved]
3-56.709 Clause for Government property furnished "as is."
3-56.710 [Reserved]
3-56.711 Use and charges clause for facilities contracts.
3-56.712 Maintenance clause for facilities contracts.
3-56.713 Liability clause for facilities contracts.
3-56.714 Examination of records.

AUTHORITY: The provisions of Part 3-56 issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

§ 3-56.000 Scope of part.

This part sets forth policies and procedures with respect to providing Government property for use by HEW contractors in connection with the procurement of personal property and nonpersonal services (including construction), and prescribes applicable contract clauses.

Subpart 3-56.1—General

§ 3-56.100 Scope of subpart.

This subpart contains (a) definitions of terms used throughout this part, and (b) statement of general policy concerning the use of Government property in the performance of contracts.

§ 3-56.101 Definitions.

For the purpose of this part, the following terms have the meaning set forth in this section.

§ 3-56.101-1 Property.

(a) *Real property.* Buildings, grounds, and structures including building service equipment permanently installed in or attached to buildings and structures and which becomes a part of real property for the purpose of rendering the building or structure usable or habitable (includes items normally required for the functional use of buildings and structures, such as heating and air conditioning systems, light fixtures, elevators, fire protection systems, etc.) which, installed, becomes an integral part of real property (i.e. lands and buildings).

(b) *Personal property.* Property of any kind or any interest therein, except real property and records of the Federal Government.

§ 3-56.101-2 Government property.

Government property is all property provided at Government expense regardless of the method by which it is acquired, title to which is vested in the Government. Government property is categorized as follows:

(a) Government-furnished property is Government property in the possession of, or acquired directly by the Government and delivered or otherwise made available to the contractor.

(b) Contractor-acquired property is property procured or otherwise obtained by the contractor through sources other than the Government for performance of an HEW contract, title to which is vested in the Government.

(c) Contractor inventory. (1) Any property acquired by and in the possession of a contractor or subcontractor (including Government-furnished property) under a contract pursuant to the terms of which title is vested in the Government; and (2) any property which the Government by contract clause is obligated or has the option to take over under any type of contract.

§ 3-56.101-3 [Reserved]

§ 3-56.101-4 [Reserved]

§ 3-56.101-5 [Reserved]

§ 3-56.101-6 [Reserved]

§ 3-56.101-7 [Reserved]

§ 3-56.101-8 Equipment.

General. The term "'equipment" means any item of mechanical, electronic, medical, technical, or scientific property as well as office furniture and machines having a useful life expectancy of 1 year or more. Capitalization of equipment is prescribed in Subpart 103-27.54 of this title, HEWPMR covering Accounting and Control of Contractor Inventories.

§ 3-56.101-9 [Reserved]

§ 3-56.101-10 [Reserved]

§ 3-56.101-11 Facilities contract.

Facilities contract means a contract for the use of Government real and/or personal property which are provided to a contractor or subcontractor for use in connection with a separate contract or contracts for supplies, research, training, or other articles or services.

§ 3-56.101-12 [Reserved]

§ 3-56.101-13 Nonprofit organization.

Nonprofit organization means any corporation, foundation, trust, or institution operated for scientific, educational, or medical purposes, not organized for profit, no part of net earnings of which inures to the benefit of any private shareholder or individual.

§ 3-56.101-14 Miscellaneous terms.

(a) Provide, as used in the context of such phrases as "Government property provided to the contractor" means either to furnish, as in "Government-furnished

property," or to permit the contractor to acquire, as in "contractor-acquired property."

(b) Nonseverable, when related to Government property, means that such property cannot be removed after erection or installation without substantial loss of value or damage thereto, or to the premises where installed.

(c) Procurement contract means a contract with a non-Federal source for the acquisition of personal property or nonpersonal services of any description.

§ 3–56.102 Responsibility and liability for Government property.

§ 3–56.102–1 Prime contractors.

It is the policy not to hold a contractor responsible for loss of property except for loss, destruction, or damage resulting from willful misconduct or lack of good faith of any of the contractor's managerial personnel to maintain and administer the program for maintenance, repair, protection and preservation of the property, when such Government property is provided under:

(a) A facilities contract; or

(b) A negotiated fixed-price procurement contract for which the price is not based on:

(1) Adequate price competition,

(2) Established catalog or market prices of commercial items sold in substantial quantities to the general public, and

(3) Prices set by law or regulation (see § 1–3.807–3 of this title); or

(c) A cost type procurement contract.

§ 3–56.102–2 Subcontractors.

(a) If Government property is provided to a subcontractor directly by the Government, the policy set forth in § 3–56.102–1 shall apply.

(b) If Government property is provided to a subcontractor by a prime contractor, the latter shall be required to hold the subcontractor liable for any loss of or damage to such property: *Provided, however,* (1) If the prime contract falls under either paragraph (b) or (c) of § 3–56.102–1, the prime contractor may, with the prior approval of the contracting officer, include in any cost-reimbursement type subcontract a provision similar to that contained in § 3–56.702(b); and (2) Include in any fixed-price type subcontract, meeting the criteria set forth in § 3–56.102–1(b), a provision similar to that contained in § 3–56.702(b).

(c) Contracting officers shall, prior to approving the inclusion of the provisions referred to in paragraph (b) of this section in any subcontract, balance the need for the protection and care of Government property against the cost thereof. A prime contractor who provides Government property to a subcontractor shall not be relieved of any responsibility to the Government that he may have under the terms of his contract.

§ 3–56.103 [Reserved]

§ 3–56.104 Profits and fees.

No fee is to be provided or allowed a contractor under a facilities contract. Where Government property is provided under a facilities contract, profit or fee terms shall be considered in the negotiation of the related procurement contract or contracts for products or services, consistent with the profit guidelines established in § 1–3.808 of this title.

§ 3–56.105 Use for or by contractors of property owned and operated by the Government.

The on-site use for or by contractors of existing Government-owned property (such as test and other facilities) located at installations owned and operated by the Government may be authorized in connection with the performance of Government contracts only when:

(a) There is no commercial capability adequate for the needs; or

(b) Substantial cost savings will result from use of the Government-owned property.

Whenever any such use is authorized, adequate consideration comparable to commercial charges, if any, shall be obtained under any affected contract.

Subpart 3–56.3—Providing Government Property to Contractors

§ 3–56.301 Providing property.

(a) It is HEW policy that property required in the performance of Government contracts will be furnished by the contractor. However, a contractor may be provided Government property or allowed to acquire such property at Government expense if authorized by the head of the procuring activity (§ 3–75.101) upon the determination that:

(1) No practicable or economical alternative exists; e.g., procurement from other sources, utilization of subcontractors, rental of property, or modification of program/project requirements, etc.;

(2) The Government receives adequate consideration for providing the property; or

(3) Furnishing Government property is likely to result in substantially lower cost to the Government for the items produced or services rendered when all cost involved (e.g., transportation, installation, modification, maintenance, etc.) are compared with the cost to the Government of the contractor's use of privately-owned property.

(b) The determination that it is necessary to provide a contractor or subcontractor with property will be evidenced by a written justification signed by the contracting officer and the official responsible for management of the program involved and submitted to the head of the procuring activity for approval. The justification will:

(1) Explain the necessity for providing property;

(2) Describe the kind, quantity, and estimated cost of the individual items to be provided; and

(3) If necessary, request authorization for the expenditure of appropriated funds for providing the property and furnish a fund citation obtained from the fiscal office.

(c) If the program manager is aware, prior to the request for a contract, that it will be necessary to provide prospective contractors with property, a written justification must accompany the request for a contract to the procurement activity.

(d) If after award of a contract it is determined that property is required or modifications and/or additions to property provided are necessary, a justification as required under paragraph b of this section will be executed and provided the approving authority.

(e) Permanent improvements, other than foundations and similar improvements essential for installation of equipment may not be made to private property unless authorized by law.

(f) New construction or improvements to real property having general utility shall not be provided with appropriations for research or development unless authorized by law.

(g) Contracting officers shall ensure that solicitation documents:

(1) Require prospective contractors to identify Government-owned property in their possession and/or property acquired from Federal funds and title vests in the contractor, which they propose to use in the performance of the prospective contract (see §§ 3–56.502 and 3–56.503). The contractor must provide written permission to use the Government property from the contracting officer of the Federal agency owning the property.

(2) Require prospective contractors to state in writing property that will be required, and indicate that property which he does not have available for the contract, the estimated cost and nature of such items, and whether the contractor will furnish the items with his funds.

(3) Inform the prospective contractors of the Government's intention to provide property and list the property to be provided, if any.

§ 3–56.302 [Reserved]

§ 3–56.303 Use of facilities contracts.

When Government facilities are to be provided a contractor a facilities contract is to be used except as provided below:

(a) The acquisition value of the property (real and personal) to be provided a contractor does not exceed $50,000 (provide for the use of the property in this instance in the procurement contract);

(b) The contract is for the performance of work within an establishment of or installation operated by the Government; or

(c) The contract is for the performance of services involving the operation of a Government-owned facility and the property provided is to be used only in connection with such contract.

§ 3–56.304 [Reserved]

§ 3–56.305 [Reserved]

§ 3–56.306 Loans of Government property.

Subpart 103–27.56 of this title provides for the loan of personal property to

activities outside the Government other than in connection with a procurement or separate facilities contract with DHEW. Accordingly, the kinds of loans described in Subpart 103-27.56 of this title would not come under the purview of this Part 3-56.

§ 3-56.307 Providing Government property when disposal is limited (nonseverable, etc.).

(a) *Nonseverable property.* Government property, other than foundations and similar improvements necessary for the installation of equipment, shall not be installed or constructed on land not owned by the Government in such fashion as to be nonseverable, unless the head of a procuring activity (see § 3-75.101 of this chapter) determines that such is necessary; and

(1) The contract under which such property is provided contains a provision for reimbursing the Government for the fair value of the property at the completion or termination of the contract or within a reasonable time thereafter (for example, in appropriate cases, such a provision may require the contractor to purchase the property at a value to be determined by appraisal, or at a price equal to its acquisition cost less depreciation at a specified rate considering its estimated useful life, or may require the contractor to reimburse the Government for its scrap or salvage value if the head of the procuring activity determines that its estimated useful life will not extend beyond the expiration of the facilities contract or the completion of the work for which the property was provided);

(2) The Government has an option to acquire the underlying land; or

(3) The contract under which such property is provided contains an alternate provision that the Assistant Secretary for Administration and Management (see § 3-75.104-1(b) of this chapter) considers to be adequate to protect the interests of the Government therein.

(b) *Property subject to patent or other proprietary rights.* If patent or other proprietary rights of a contractor may restrict the disposal of Government property, the condition in either paragraph (a) (1) or (3) of this § 3-56.307 shall be satisfied before such property is provided.

§ 3-56.308 Offer to furnish Government property "as is."

(a) Government property may be offered on an "as is" basis in any solicitation for fixed-price type contracts, whether such property is in storage or in the possession of a contractor. The clause set forth in § 3-56.709 shall be used.

(b) Government property may be offered on an "as is" basis for the performance of fixed-price type contracts only if it can be inspected by bidders or proposers prior to the submission of their bids or offers. In such cases, the invitation or solicitation shall state:

(1) The availability and location of the property, and the conditions under which it may be inspected;

(2) That the property will be offered in its current condition, f.o.b. present location;

(3) That bidders or proposers must satisfy themselves that the property is suitable for their use;

(4) That any costs of transporting, installing, modifying, repairing, or otherwise making the property suitable for use shall be borne by the successful bidder or proposer;

(5) That evaluations will be made to eliminate any competitive advantage from the use of the property (see Subpart 3-56.5);

(6) The bidders or proposers to whom the property is offered, if it is not to be offered to all; and

(7) Instructions concerning disposition of Government property at the completion or termination of the contract.

(c) If, in accordance with the policy stated in §§ 3-56.402 and 3-56.403, the successful bidder or proposer is authorized to use property furnished on an "as is" basis, the Government shall furnish the property in its current condition, f.o.b. present location. If a facilities contract is used to furnish Government property offered on an "as is" basis, the contract shall state that the contractor shall not be reimbursed thereunder for transporting, installing, modifying, repairing, or otherwise making the property ready for use.

§ 3-56.309 Changing Government property to be provided.

The amount of Government property specified to be provided may be increased by a bilateral modification of the contract. Such increases shall be made only when approved in accordance with the policies prescribed in this Subpart 3-56.3 and when the Government receives adequate consideration therefor. Unilateral decreases in or substitutions for the Government property specified to be provided by the Government may be ordered by the contracting officer, subject to the equitable adjustment of the contract, in accordance with the appropriate Government property clause in Subpart 3-56.7.

Subpart 3-56.4—Use and Rental of Government Property

§ 3-56.401 Policy.

It is HEW policy to promote the greatest possible use in the performance of Government contracts or subcontracts of available Government property.

§ 3-56.402 Authorizing a contractor to use Government property without charge.

(a) A contractor may use Government property without charge:

(1) In the performance of—

(i) Prime contracts which specifically authorize use without charge;

(ii) Subcontracts of any tier if the contracting officer having cognizance over the prime contract concerned has authorized use without charge by:

(*a*) Approving a subcontract specifically authorizing such use;

(*b*) Including such authorization in the prime contract; or

(*c*) By otherwise approving such use in writing.

(iii) Contracts with a foreign government if use without charge has been authorized in writing pursuant to § 3-56.406; or

(iv) Research, development, or educational work by nonprofit organizations if the contracting officer having cognizance of such property approves such use in writing after obtaining the authorization required by § 3-56.407.

(2) *Provided,* as to subdivisions (i) and (ii) of paragraph (a)(1) of this section—

(i) The procedures set forth in Subpart 3-56.5 are complied with;

(ii) The contracting officer having cognizance of the prime contract determines that the Government will receive adequate consideration for the use of the property through reduced costs for the supplies or services or otherwise; and

(iii) A concurrence in, or authorization for, the proposed use of the property in accordance with paragraph (b) of this § 3-56.402 is obtained.

(b)(1) A contracting officer desiring to authorize use of Government property under the cognizance of another contracting officer may request the latter to give concurrence in such use.

(2) Unless the use of Government property is authorized by the solicitation, each solicitation shall require that any contractor or subcontractor desiring to use Government property in his possession in the performance of the proposed Government contract or subcontract shall request the contracting officer having cognizance of such property to give his written concurrence in such use. Such concurrence shall be given whenever possible and shall contain all information required by § 3-56.502 or § 3-56.503.

(c) Notwithstanding paragraph (a) of this § 3-56.402, a contract may be modified to provide for the use of Government property on a rent-free basis, if the contract is equitably adjusted.

§ 3-56.403 Rental of Government property.

(a) When use of Government property is authorized, rent computed in accordance with § 3-56.404 shall be charged for such use except where use without charge is authorized under § 3-56.402.

(b) When Government property is no longer required for the performance of Government contracts or subcontracts, it shall not continue to be made available to a contractor for non-Government use.

(c) Each contracting officer having cognizance of Government property shall be responsible for the collection of rent thereon.

§ 3-56.404 Rental rates and policies applicable to the use of Government property.

(a) Except as provided below, the rent for all Government property shall be computed in accordance with the criteria set forth in § 3-56.711 (a) and (b). Rent for Government property shall be based on the time such property is available for

use. However, if the head of the procuring activity (see § 3–75.101 of this chapter) concerned determines it to be in the best interest of the Government, rent may be charged on an actual use or other basis. In such cases, the "Use and Charges" clause (§ 3–56.711) should be appropriately modified.

§ 3–56.405 [Reserved]

§ 3–56.406 Rent-free use of Government property on work for foreign governments.

(a) Upon the request of a foreign government, or a contractor certifying that he is acting on behalf of a foreign government, the head of the procuring activity cognizant of Government property located in the United States, its possessions, or Puerto Rico, may give written approval for its use without charge on contracts of foreign governments or subcontracts thereunder if:

(1) The foreign government would be authorized to place the contract with the agency concerned under the Foreign Assistance Act of 1961, as amended, or such use is authorized by an agreement with the foreign government;

(2) The foreign government's placement of the contract directly with the contractor is consistent with the best interest of the United States;

(3) It appears that the foreign government will place the contract with the contractor whether or not such use is authorized, and that no competitive pricing advantage will accrue to the contractor by virtue of such use;

(4) The contractor agrees that no charge for the use of such property will be included in the price charged the foreign government under the contract; and

(5) Such use will not interfere with foreseeable requirements of the United States.

§ 3–56.407 Use of Government property without charge by nonprofit organizations.

Using the provisions in Subpart 103–27.56, Loan of Government Property, the contracting officer cognizant of Government property in the possession of a nonprofit organization may approve the use of such property by such organization without charge, for research, development or education work, if:

(a) Such use is directly or indirectly in the National interest;

(b) Such use is not for the direct benefit of a profit-making organization; and

(c) The Government receives some direct benefit from such use (such benefit shall, at a minimum, include the furnishing of a report by the contractor on the work for which the property was provided, and may include rights to use the results of the work without charge, or any other benefit that may be appropriate).

Subpart 3–56.5—Competitive Advantage

§ 3–56.501 Policy.

It is the Department policy to eliminate the competitive advantage to a prospective contractor that might arise from the availability of Government property. This is accomplished by charging rental or by use of rental equivalents in evaluating bids and proposals as provided in §§ 3–56.502 and 3–56.503.

§ 3–56.502 Advertised procurements—use of existing Government property.

§ 3–56.502–1 General.

In formally advertised procurements, the competitive advantage that might otherwise accrue to a contractor from the availability and use of Government property shall be eliminated by adding an evaluation factor to each bid for which such use is requested, i.e. a use or rental charge.

§ 3–56.502–2 Procedures for use of evaluation factors.

Where an evaluation factor is used, it shall be equal to the rent, allocable to the contract, which would otherwise have been charged for such use. The invitation for bids shall set forth a description of the evaluation procedure to be followed, as required by § 3–56.506, and it shall require all bidders to submit with their bids:

(a) A list or description of all Government property which the bidder or his anticipated subcontractors propose to use on a rent-free basis, including property offered for use in the invitation for bids, as well as property already in possession of the bidder and his subcontractors under other contracts;

(b) With respect to such property already in possession of the bidder and his proposed subcontractors, identification of the facilities contract (§ 3–56.303) or other instrument under which the property is held, and the written permission of the contracting officer having cognizance of the property for use of that property;

(c) The months during which such property will be available for use, which shall include the first, last, and all intervening months, and with respect to any such property which will be used concurrently in performance of two or more contracts, the amounts of the respective uses in sufficient detail to support the proration required by § 3–56.502–3(b); and

(d) The amount of rent which would otherwise be charged for such use, computed in accordance with § 3–56.404.

§ 3–56.502–3 Limitations.

(a) The invitation for bids shall provide that no use of Government property other than as described and permitted pursuant to § 3–56.502–2 shall be authorized unless such use is approved in writing by the contracting officer cognizant of the property, and either rent calculated in accordance with § 3–56.404 is charged, or the contract price is reduced by an equivalent amount.

(b) If Government property will be used on other work under one or more existing contracts for which use had been authorized (see §§ 3–56.402 and 3–56.403), the evaluation factor shall be determined by prorating the rent between the proposed contract and such other work. The pro rata share applicable to a proposed contract shall be determined by multiplying the full rental charge for the use of Government property for the period for which rent-free use is requested (i.e., the full charge for the requisite number of rental periods computed in accordance with paragraph (b)(2) of the "Use and Charges" clause, § 3–56.711(a), before application of the credit for rent-free use) by a fraction, the numerator of which is the amount of use of such property requested by the contractor under that contract determined in accordance with paragraph (b)(1)(iv) of the clause in § 3–56.711(a), and the denominator of which is the sum of the previously authorized use of the property by the contractor for the period and the use requested under the proposed contract.

§ 3–56.502–4 Rent.

If competitive advantage is to be eliminated by charging rent, any bidder or prospective subcontractor may use Government property after obtaining the written approval of each contracting officer having cognizance of such property. Rent shall be charged for such use in accordance with § 3–56.404.

§ 3–56.503 Negotiated procurement—use of existing Government property.

In negotiated procurements, competitive advantage arising from the use of Government property shall be eliminated by the use of an evaluation factor established in accordance with § 3–56.502, except when the contracting officer determines that the use of an evaluation factor would not affect the choice of contractors.

§ 3–56.504 Residual value to the Government of property to be acquired in competitively negotiated procurements.

(a) In competitively negotiated procurements that permit the acquisition of property, an evaluation of the residual value of such property to the Government may be made where practicable in accordance with paragraphs (b) and (c) of this § 3–56.504. Such an evaluation is appropriate in cases where the contracting officer has determined that such property will have a reasonably foreseeable future usefulness and related residual value to the Government (remaining useful life plus scrap value) beyond the period of use of the award under consideration, and it is anticipated that the cost of such property as proposed by the several offerors may be a factor in making the award.

(b) The purpose of evaluating the residual value of property is to apportion to each proposal under consideration only that part of the total cost of such property which represents the amount of useful life to be consumed during performance of the resulting contract. Accordingly, the proposed price or cost of such property may be reduced for evaluation purposes by an amount representing the residual value to the Government of such property. In estimating such residual value, the following factors shall be considered:

(1) The useful life of the property to be acquired;

(2) Its adaptability for use by other contractors or by the Government;

(3) The reasonably foreseeable requirements for its future use; and

(4) Its scrap or salvage value.

(c) If the contracting officer decides to consider the residual value in a competitively negotiated procurement, the solicitation shall give notice thereof and a statement of the reasonably foreseeable future requirements of the Government for the supplies in question, in order to afford offerors the opportunity to consider such residual value as a factor in making their proposals. If the solicitation does not contain such notice and statement but the contracting officer decides to consider the residual value of property after receipt of the proposals, he shall, during the negotiations, give all offerors within a competitive range a notice and statement as above, and shall permit them to make such changes in their proposals as they may consider necessary as a result of the addition of the residual value factor.

§ 3–56.505 [Reserved]

§ 3–56.506 Solicitations—description of evaluation procedure.

Generally, where Government property is offered for use in a competitive procurement, the solicitation should provide that the user will assume all costs related to making the property available (such as transportation or rehabilitation costs), to avoid the need for separate evaluation of such costs. Where this is not feasible, or it is otherwise in the Government's interest, the Government may assume certain of such costs provided they are included in the evaluation of bids or proposals. The rental charges or factors to be used to eliminate competitive advantage, as well as all costs or savings to be evaluated, shall be clearly shown in the solicitation to ensure that all prospective bidders or offerors understand the basis to be used for selection of the lowest bid or proposal and take these factors into account in preparing their bids or proposals.

Subpart 3–56.6—Administration of Government Property

§ 3–56.601 Maintenance.

(a) Government property provided under a facilities or procurement contract shall be maintained by the contractor in accordance with sound business practice. Such contracts shall provide for specific maintenance requirements in accordance with the "Government property" clause of the contract or by a separate maintenance agreement. (Also see § 103–27.5406, HEWPMR, and § 3–56.609.)

(b) In formally advertised procurements the minimum specific maintenance requirements which the contractor must meet shall be set forth in the Invitation For Bid. In competitively negotiated procurements the specific maintenance requirements shall be negotiated prior to award.

(c) Any maintenance program that is agreed to shall provide specific details for the protection, preservation, maintenance, and repair of the Government property to assure that the interests of the Government will be adequately protected. In addition, such program shall include general language covering any aspects of maintenance which are not specifically provided for.

§ 3–56.602 [Reserved]

§ 3–56.603 Termination of facilities contracts.

A facilities contract (see § 3–56.303) shall be terminated when the Government property covered thereby is no longer required for the performance of Government contracts or subcontracts, unless such termination is detrimental to the interest of the Government. The contractor shall not be granted the unilateral right to extend the time during which he is entitled to use the property provided under the facilities contract.

§ 3–56.604 Standby or layaway provision.

(a) A facilities contract may include appropriate provisions for maintenance and storage of Government property in standby or layaway status. Such provisions shall include specifications for the care and maintenance of the property appropriate for its intended future use.

(b) If the Government is required to pay the contractor for maintenance and storage of Government property in standby or layaway, the facilities contract shall identify what constitutes standby or layaway items, and when and under what circumstances such payments will commence and terminate with respect to all or any part of the property.

(c) The facilities contract shall provide that, if the contractor is required to pay any State or local property tax measured by his possession of or interest in Government property in standby or layaway, he shall be reimbursed therefor to the extent provided under § 1–15.205–41 of this title.

§ 3–56.605 [Reserved]

§ 3–56.606 Disposition.

Disposition of Government property shall be in accordance with applicable regulations and contract provisions. See PR 1–8, Subpart 103–43.3 of the HEWPMR and § 3–56.610.

§ 3–56.607 Insurance.

When less than 75 percent of the total use of facilities is for Government work, consideration shall be given to requiring that the contractor procure and maintain insurance against loss of or damage to the facilities. If necessary, facilities contracts may be modified to require such insurance.

§ 3–56.608 Accounting and control of Government property in possession of contractors.

Contracting officers shall ensure that all Government property in a contractor's possession is accounted for under the contract for which it is provided, and a system is available, established and maintained as prescribed by Subpart 103–27.54, HEWPMR.

§ 3–56.609 Handbook — Government Property Held by Contractors.

The handbook sets forth basic requirements to be observed by contractors in establishing and maintaining control over Government property provided for performance of contracts with this Department. The handbook supplements provisions of the contract that apply to Government property, but does not supersede them. The contract provisions will govern in the event of any conflict with the statements in the handbook. If there is evidence that Government property will be required to perform a contract, the contracting officer shall reference the handbook in the solicitation document (IFB or RFP) and make it available on request. The handbook shall be issued to contractors using Government property at the time of the award.

§ 3–56.610 Abandonment of Government property.

(a) There are circumstances when it is to the advantage of the Government to reserve to itself the right to abandon property used under a contract. This necessarily includes instances whenever nonseverable property is involved as described in § 3–56.307, or whenever the provisions of 10 U.S.C. 2353 are evoked. Other circumstances may be when the contracting officer has reason to believe Government property may become fully depreciated or deteriorated beyond economical repair and removal would cost the Government more than the residual value or the acquisition of a new item. In such circumstances all determinations by the contracting officer shall be in writing setting forth the facts which clearly justify that the best interests of the Government will be served by the abandonment of the property and such action is approved by the head of the procuring activity. The clause in § 3–56.707 should be used whenever it is intended to evoke 10 U.S.C. 2353.

§ 3–56.611 Property warranty or guaranty.

When contractors are provided with Government property, the contracting officer shall assure that the contractors are aware of the responsibility for protecting the Government's interest in any warranty or guaranty associated with any item of Government property.

Subpart 3–56.7—Contract Clauses

§ 3–56.701 Applicability.

(a) As used throughout this subpart, the term "fixed-price contract" shall include any advertised or negotiated fixed-price type contract (see § 1–3.404 of this title) and any letter contract which will be converted into a fixed-price type definitive contract, but shall exclude small purchases made under Subpart 1–3.6 of this title.

(b) As used throughout this subpart, the term "cost-reimbursement contract"

shall include any cost-reimbursement type contract (see § 1-3.405 of this title) and any letter contract which will be converted to a cost-reimbursement type definitive contract, but shall exclude facilities contracts (see § 3-56.303).

§ 3-56.702 Government property clause for fixed-price contracts.

(a) Except as provided in paragraph (b) of this § 3-56.702, the following clause shall be used in fixed-price contracts—except contracts for experimental, developmental, or research work with educational or non-profit institutions, where no profit to the contractor is contemplated, see § 3-56.706—under which the Government is to furnish to the contractor or the contractor is to acquire Government property:

GOVERNMENT PROPERTY (FIXED-PRICE)

(a) *Government-furnished property.* The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property described elsewhere in this contract, together with such related data and information as the Contractor may request and as may reasonably be required for the intended use of such property (such property to be referred to as "Government-furnished property"). The delivery or performance dates for the supplies or services to be furnished by the Contractor under this contract are based upon the expectation that Government-furnished property suitable for use will be delivered to the Contractor at the times stated in the contract or, if not so stated, in sufficient time to enable the Contractor to meet such delivery or performance dates. In the event that Government-furnished property is not delivered to the Contractor by such time or times, the Contracting Officer shall, upon timely written request made by the Contractor, make a determination of the delay occasioned the Contractor and shall equitably adjust the delivery or performance dates, or the contract price, or all of them, and any other contractual provision affected by any such delay, in accordance with the procedures provided for in the clause of this contract entitled "Changes". Except for Government-furnished property furnished "as is", in the event the Government-furnished property is received by the Contractor in a condition not suitable for the intended use the Contractor shall, upon receipt thereof, notify the Contracting Officer of such fact and, as directed by the Contracting Officer, either (1) return such property at the Government's expense or otherwise dispose of the property, or (2) effect repairs or modifications. Upon the completion of subparagraphs (1) or (2) above, the Contracting Officer upon written request of the Contractor shall equitably adjust the delivery or performance dates or the contract price, or all of them, and any other contractual provision affected by the return or disposition, or the repair or modification, in accordance with the procedures provided for in the clause of this contract entitled, "Changes". The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in delivery of Government-furnished property or delivery of such property in a condition not suitable for its intended use.

(b) *Changes in Government-furnished property.* (1) By notice in writing, the Contracting Officer may (i) decrease the property provided or to be provided by the Government under this contract, or (ii) substitute other Government property for property to be provided by the Government, or to be acquired by the Contractor for the Government, under this contract. The Contractor shall promptly take such action as the Contracting Officer may direct with respect to the removal and shipping of property covered by such notice.

(2) In the event of any decrease in or substitution of property pursuant to subparagraph (1) above, or any withdrawal of authority to use property provided under any other contract or lease, which property the Government had agreed in the contract to make available for the performance of this contract, or if the Contractor substitutes property on his own initiative which results in a decrease in the cost of performance, the Contracting Officer, upon written request of the Contractor, shall equitably adjust such contractual provisions as may be affected by the decrease, substitution, or withdrawal, in accordance with the procedures provided for in the "Changes" clause of this contract.

(c) *Title.* Title to all property furnished by the Government shall remain in the Government. Title to Government-furnished property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government nor shall such Government-furnished property, or any part thereof, be or become a fixture or lose its identity as personality by reason of affixation to any realty.

(d) *Use of Government-furnished property.* The Government property shall, unless otherwise provided herein or approved by the Contracting Officer, be used only for the performance of this contract.

(e) *Maintenance and repair of Government-furnished property.* The Contractor shall maintain and administer, to assure that the interests of the Government will be adequately protected, a program for the maintenance, repair, protection, and preservation of Government furnished property, until disposed of by the Contractor in accordance with this clause. In the event that any damage occurs to Government-furnished property, the risk of which has been assumed by the Government under this contract, the Government shall replace such items or the Contractor shall make such repair of the property as the Government directs: *Provided, however,* That if the Contractor cannot effect such repair within the time required, the Contractor shall dispose of such property in the manner directed by the Contracting Officer. The contract price includes no compensation to the Contractor for the performance of any repair or replacement for which the Government is responsible, and an equitable adjustment will be made in any contractual provisions affected by such repair or replacement of Government-furnished property made at the direction of the Government, in accordance with the procedures provided for in the "Changes" clause of this contract. Any repair or replacement for which the Contractor is responsible under the provisions of this contract shall be accomplished by the Contractor at his own expense.

(f) *Risk of loss.* Unless otherwise provided in this contract, the Contractor assumes the risk of, and shall be responsible for, any loss of or damage to Government-furnished property provided under this contract upon its delivery to him or upon passage of title thereto to the Government as provided in paragraph (c) hereof, except for reasonable wear and tear and except to the extent that such property is consumed in the performance of this contract.

(g) *Access.* The Government, and any persons designated by it, shall at all reasonable times have access to the premises wherein any Government-furnished property is located, for the purpose of inspecting such property.

(h) *Final accounting and disposition of Government-furnished property.* Upon the completion of this contract, or at such earlier date as may be fixed by the Contracting Officer, the Contractor shall submit, in a form acceptable to the Contracting Officer, inventory schedules covering all items of Government-furnished property not consumed in the performance of this contract (including any resulting scrap) or not theretofore delivered to the Government, and shall prepare for shipment, deliver f.o.b. origin, or dispose of the Government-furnished property, as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the contract price or shall be paid in such other manner as the Contracting Officer may direct.

(i) *Restoration of contractor's premises.* Unless otherwise provided in the contract, the Government:

(1) May abandon any Government-furnished property in place, and thereupon all obligations of the Government regarding such abandoned property shall cease; and

(2) Shall not be under any duty or obligation to restore or rehabilitate, or to pay the costs of the restoration or rehabilitation of, the Contractor's plant or any portion thereof which is affected by the abandonment or removal of any Government property.

(j) *Communications.* All communications issued pursuant to this clause shall be in writing.

(b) In fixed-price contracts under which the contractor is required to submit certified cost or pricing data (see § 1-3.807-3 of this title) prior to contract award, paragraph (e) of the clause in § 3-56.703(a) shall be substituted for paragraph (f) of the clause in paragraph a of this section.

§ 3-56.703 Government property clause for cost-reimbursement type contracts with commercial and nonprofit organizations.

(a) The following clause shall be used in all cost-reimbursement type contracts with commercial and nonprofit organizations excluding educational institutions for property and services under which the Government is to furnish to the contractor, or the contractor is to acquire Government property (refer to § 3-56.704 regarding clauses to be used in contracts with educational institutions):

GOVERNMENT PROPERTY (COST-REIMBURSEMENT TYPE)

(a) *Government-furnished property.*

(1) The Government reserves the right to furnish any property or services required for the performance of the work under this contract.

(2) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property described elsewhere in this contract, together with such related data and information as the Contractor may request and as may reasonably be required for the intended use of such property (such property to be referred to as "Government-furnished property"). In the event that Government-furnished property is not delivered to the contractor by such time or times as stated, or if not so stated, in sufficient time to enable the contractor to meet such delivery or performance dates under this contract, the Contracting Officer shall, upon timely written request made by the Contractor, make a determination of the delay occasioned the Contractor and make appropriate equitable adjustments to any contractual provisions affected by any such

delay in accordance with the provisions of the clause of this contract entitled "Changes". In the event that Government-furnished property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, immediately upon receipt thereof, notify the Contracting Officer of such fact and, as directed by the Contracting Officer either (i) return or otherwise dispose of such property, or (ii) effect repairs or modifications thereto. Upon completion of (i) or (ii) above, the Contracting Officer, upon timely written request of the Contractor, shall make appropriate equitable adjustments to any contractual provisions affected thereby in accordance with the provisions of the clause of this contract entitled "Changes". The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in delivery of Government-furnished property or delivery of such property in a condition not suitable for its intended use.

(b) *Title.* (1) Title to all property furnished by the Government shall remain in the Government. Title to all property purchased by the Contractor, the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this Contract, shall pass to and vest in the Government upon delivery of such property by the vendor. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass and vest in the Government upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of processing or use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the Government in whole or in part, whichever first occurs. All Government-furnished property, together with all property acquired by the Contractor, title to which vests in the Government under this paragraph, are subject to the provisions of this clause and are hereinafter collectively referred to as "Government property".

(2) Title to the Government property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government property, or any part thereof, be or become a fixture or lose its identity as personalty by reason of affixation to any realty.

(c) *Use of Government property.* Government property shall, unless otherwise provided herein or approved by the Contracting Officer, be used only for the performance of this contract.

(d) *Property management and control.* The Contractor shall maintain and administer in accordance with sound business practice a program for the maintenance, repair and protection, preservation, control of, and accountability for Government property so as to assure its full availability and usefulness for the performance of this contract. The Contractor agrees to promptly receipt for all Government property in a form and manner as prescribed by the Contracting Officer. The Contractor further agrees to take all reasonable steps to comply with all directions or instructions which the Contracting Officer may prescribe regarding the management and control of Government property.

(e) *Risk of loss.* (1) The Contractor shall not be liable for any loss of or damage to Government property, or for expenses incidental to such loss or damage, except that the Contractor shall be responsible for any such loss or damage (including expenses incidental thereto):

(i) Which results from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of its managers, superintendents, or other equivalent representatives, who have supervision or direction of (*a*) all or substantially all of the Contractor's operations at any one plant, laboratory or separate location in which this contract is being performed or (*b*) a separate and complete major organization, industrial or otherwise, in connection with the performance of this contract;

(ii) Which results from a failure on the part of the Contractor, due to the willful misconduct or lack of good faith on the part of any of its directors, officers or other representatives mentioned in subdivision (i) above, (*a*) to maintain and administer, in accordance with sound business practice, the program for maintenance, repair, protection, and preservation of Government property as required by paragraph (d) hereof, or (*b*) to take all reasonable steps to comply with any appropriate written directions of the Contracting Officer under paragraph (d) hereof;

(iii) For which the Contractor is otherwise responsible under the express terms of this contract;

(iv) Which results from a risk expressly required to be insured under this contract, but only to the extent of the insurance so required to be procured and maintained, or to the extent of insurance actually procured and maintained, whichever is greater; or

(v) Which results from a risk which is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement: *Provided,* That if more than one of the above exceptions shall be applicable in any case, the Contractor's liability under any one exception shall not be limited by any other exception.

(2) If the Contractor transfers Government property to the possession and control of a subcontractor the transfer shall not affect the liability of the Contractor for loss or destruction of or damage to Government property as set forth in subparagraph (1) above. The Contractor shall require the subcontractor to assume the risk of and be responsible for any loss or destruction of or damage to Government property while in the latter's possession or control, and the subcontract shall contain appropriate provisions requiring the return of all Government property in as good condition as when received (except for reasonable wear and tear or for the utilization of the property in accordance with the provisions of this contract): *Provided, however,* That the subcontractor may be relieved from such liability only to the extent that the subcontract, with the prior approval of the Contracting Officer, so provides.

(3) The Contractor shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance, or any provisions for a reserve, covering the risk of loss or damage to the Government property, except to the extent that the Government may have required the Contractor to carry such insurance under any other provision of this contract.

(4) Upon the happening of loss or destruction of or damage to the Government property, the Contractor shall notify the Contracting Officer thereof, and shall take all reasonable steps to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the Government property in the best order, and furnish to the Contracting Officer a statement of:

(i) The lost, destroyed, and damaged Government property;

(ii) The time and origin of the loss, destruction or damage;

(iii) All known interests in commingled property of which the Government property is a part; and

(iv) The insurance, if any, covering any part of or interest in such commingled property.

The Contractor shall make repairs and renovations of the damaged Government property, or take such other action as the Contracting Officer directs.

(5) In the event the Contractor is indemnified, reimbursed, or otherwise compensated for any loss or destruction of or damage to the Government property, it shall use the proceeds to repair, renovate or replace the Government property involved, or shall credit such proceeds against the cost of the work covered by the contract, or shall otherwise reimburse the Government, as directed by the Contracting Officer. The Contractor shall do nothing to prejudice the Government's right to recover against third parties for any such loss, destruction or damage and, upon the request of the Contracting Officer, shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including assistance in the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery. In addition, where a subcontractor has not been relieved from liability for any loss or destruction of or damage to Government property, the Contractor shall enforce the liability of the subcontractor for such loss or destruction of or damage to the Government property for the benefit of the Government.

(f) *Disposition of Government property.* (1) During the period of performance of this contract, the Contractor shall promptly and regularly report to the Contracting Officer, in such form and manner as the Contracting Officer may direct, concerning the status of Government property under the contract, including all Government property in the Contractor's possession which is not in use or which is excess to the needs of the contract. The Contractor shall make such disposition of Government property as the Contracting Officer may direct. The Contractor shall in no way be relieved of responsibility for Government property without the prior written approval of the Contracting Officer.

(2) Upon completion or expiration of this contract, or at such earlier date as may be fixed by the Contracting Officer, the Contractor shall render an accounting, as prescribed by the Contracting Officer, of all Government property which had come into the possession or custody of the Contractor under this contract. Such accounting shall include inventory schedules covering all items of Government property not consumed in the performance of this contract, or not theretofore delivered to the Government, or for which the Contractor has not otherwise been relieved of responsibility. The Contractor shall deliver or make such other disposition of Government property covered in such inventory schedules as the Contracting Officer may direct.

(3) The net proceeds of any disposition of Government property, in accordance with subparagraphs (1) and (2) above, shall be credited to the cost of the work covered by the contract or shall be paid in such manner as the Contracting Officer may direct.

(g) *Restoration of Premises.* Unless otherwise provided herein, the Government shall not be under any duty or obligation to restore or rehabilitate, or to pay the costs of the restoration or rehabilitation of the Contractor's facilities or any portion thereof which is affected by removal of any Government property.

§ 3-56.704 Government property clause for cost-reimbursement type contracts for research with educational institutions.

When a contract is for scientific research with a nonprofit educational institution and the provisions of Office of Management and Budget Circular No.

A-101 may be evoked as determined by the contracting officer elsewhere in the contractual document, and the following shall be substituted for paragraphs (b) *Title*, and (d) *Property management and control*, of the clause in § 3-56.703(a) provided there is statutory authority such as that cited in 42 U.S.C. 1892 or other appropriate legislation which permits vesting title to property acquired from contract funds in the Contractor without further obligation to the Government:

(b) *Title*. (1) Title to all Government-furnished property shall remain in the Government.

(2) Except as otherwise expressly provided elsewhere in this contract, title to all material, supplies, and equipment purchased or otherwise acquired by the Contractor, for the cost of which the Contractor is to be reimbursed as a direct item of cost, shall be and remain in the Contractor subject to the provisions of subparagraph (3) of this paragraph: *Provided, however*, That the Contractor shall not, under any Government contract or subcontract thereunder or under any Government grant, charge for any depreciation, amortization, or use of any property title to which remains in the Contractor pursuant to this subparagraph. The Contractor agrees to use such materials, supplies, and equipment for the benefit of research under this contract and any extensions or successor contracts thereto and to continue to use such property for the benefit of research of interest to the Government.

(3) With respect to items of equipment having an acquisition cost of $1,000 or more, title to which vests in the Contractor pursuant to subparagraph (2) of this paragraph, the Contractor agrees:

(i) To report such items to the Contracting Officer from time to time as they are acquired and to maintain a control system which will permit their ready identification and location; and

(ii) To transfer title to any such items to the Government, or to a third party designated by the Government, where the third party is eligible under existing statutes, in accordance with any written request therefor issued by the Contracting Officer at any time prior to final payment under this contract.

(4) All Government-furnished property, together with all property acquired by the Contractor, title to which vests in the Government pursuant to any other express provision of this contract, is subject to the provisions of this clause and is hereinafter collectively referred to as "Government Property." Title to the Government Property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government Property, or any part thereof, be or become a fixture or lose its identity as personalty by reason of affixation to any realty.

Whether or not title to property is vested in the Contractor, the Contractor is responsible for maintaining property acquired from contract funds available for the performance of the contract except for property which through normal use becomes unserviceable and uneconomically repairable.

§ 3-56.705 [Reserved]

§ 3-56.706 Government property clause for fixed-price type contracts with nonprofit institutions executed on a nonprofit basis.

The Government property clause in § 3-56.703(a) is to be used for fixed-price type contracts for research with nonprofit institutions executed on a nonprofit basis under which the Government is to furnish to the Contractor, or the Contractor is to acquire, Government property. The following is a suggested substitute for paragraph (a) *Government furnished property*, of the clause when the nonprofit institution under a fixed-price type contract is to acquire Government property:

(a) *Contract-acquired property*. In connection with its work under this contract, the Contractor shall, by the date(s) specified in the contract, acquire or manufacture for the Government's account the property listed in the contract. Such property shall be installed by the Contractor in his plant, or, if approved in writing by the Contracting Officer, in the plants of subcontractors. The Contractor shall insert provisions in all subcontracts under which such property is furnished to the subcontractors whereby there will be made applicable to the Government and the subcontractors substantially the same rights and obligations in respect to such property as are made applicable to the Government and the Contractor under this clause.

§ 3-56.707 Abandonment of Government property clause.

(a) The following clause shall be used when deemed advisable by the Contracting Officerd to abandon Government property on the Contractor's premises (see § 3-56.610):

ABANDONMENT OF GOVERNMENT PROPERTY

The Government may abandon any Government property in place, and thereupon all obligations of the Government regarding such abandoned property shall cease, and the Government shall not be under any duty or obligation to restore or rehabilitate, or to pay hte costs of the restoration or rehabilitation of, the Contractor's plant or any portion thereof which is affected by the abandonment of any Government property.

§ 3-56.708 [Reserved]

§ 3-56.709 Clause for Government property furnished "as is".

The following clause shall be inserted in all contracts in which Government property is furnished "as is" in accordance with § 3-56.308:

GOVERNMENT PROPERTY FURNISHED "AS IS"

(a) The Government makes no warranty whatsoever with respect to Government property furnished "as is" except that the property is in the same condition when placed at the f.o.b. point specified in the solicitation as when inspected by the Contractor pursuant to the solicitation, or, if not inspected by the Contractor, as when last available for inspection under the solicitation.

(b) The Contractor may repair any property made available to him "as is". Such repair will be at the Contractor's expense except as otherwise provided in this clause. Such property may be modified at the Contractor's expense, but only with the written permission of the Contracting Officer. Any repair or modification of property furnished "as is" shall not affect the title of such property, which remains vested in the Government.

(c) If there is any change in the condition of Government property furnished "as is" from the time inspected or last available for inspection under the solicitation, and such charge will adversely affect the Contractor, the Contractor, shall, immediately upon receipt of the property, notify the Contracting Officer of such fact, and, as directed by the Contracting Officer, either (1) return such property at the Government's expense or otherwise dispose of the property, or (2) effect repairs to return the property to its condition when inspected under the solicitation, or if not inspected, when last available for inspection under the solicitation. Upon completion of (1) or (2) above, the Contracting Officer, upon written request of the Contractor, shall equitably adjust any contractual provisions affected by the return, disposition or repair, in accordance with the procedures provided for in the "Changes" clause of this contract. The foregoing provisions for adjustment are exclusive and the Government shall not be liable for any delivery of Government property furnished, "as is" in a condition other than that in which it was originally offered.

(d) Except as otherwise provided in this clause, Government property furnished "as is" shall be governed by the "Government Property" clause of this contract.

§ 3-56.710 [Reserved]

§ 3-56.711 Use and charges clause for facilities contracts.

(a) The policy on rental of Government property is set forth in § 3-56.404, and the criteria for rates are prescribed in paragraph b of this section. The following clause is for use in connection with facilities contracts:

USE AND CHARGES

(a) The Contractor may use the facilities without charge in the performance of:

(1) Prime contracts with the Government which specifically authorize use without charge;

(2) Subcontracts held by the Contractor under Government prime contracts or subcontracts of any tier thereunder if the Contracting Officer having cognizance of the prime contract concerned has authorized use without charge by approving a subcontract specifically authorizing such use in writing; and

(3) Other work with respect to which the Contracting Officer has authorized use without charge in writing.

(b) Subject to the payment of a rental therefor, the Contractor may use all or part of the facilities in the performance of work other than that specified in paragraph (a) above, as authorized by the Contracting Officer or as specifically provided in the contract. The amount of rentals to be paid for the right to use the facilities under this paragraph (b) shall be determined in accordance with the following procedure.

(1) The following bases are or shall be established in writing for the rental computation prescribed in subparagraph (2) below in advance of any use of the facilities provided under this contract:

(i) The rental rates for the right to use the property shall be those established by the Contracting Officer in (insert reference) of this contract.

(ii) The acquisition cost of the property shall be the total cost to the Government, as determined by the Contracting Officer, of each item of property, including the cost of transportation and installation, if such costs are borne by the Government. When Government-owned special tooling or accessories are rented with any item of the property, the acquisition cost shall be increased to include the price charged the Government for such tooling or accessories. When any item of property has been modernized by substantial rebuilding at Government expense so as to enhance its original capability, the acquisition cost for that item shall include the increased value, as determined

by the Contracting Officer, that such rebuilding and modernization represent. The determination made by the Contracting Officer under this subparagraph shall be final and conclusive on the Contractor.

(iii) The rental period shall be not less than 1 month nor more than 6 months, as may be mutually agreed to.

(iv) For the purpose of computing any credit under subparagraph (2) below the measurement unit for determining the amount of use of the property by the Contractor shall be direct labor hours, sales, hours of use, or any other measurement unit which will result in an equitable apportionment of the rental charge, as may be mutually agreed to.

(2) The Contractor shall compute the amount of rentals to be paid for each rental period, using the bases established pursuant to subparagraph (1) above. The rental rates shall be applied to the acquisition cost of such of the property as may have been authorized for use in advance pursuant to this paragraph (b), for each rental period. The full charge for each rental period, so determined, shall be reduced by a credit in the amount of such rental as would otherwise be properly allocable to work with respect to which the use of the property without charge is authorized in accordance with paragraph (a) above. Such credit shall be computed by multiplying the full rental period by a fraction whose numerator is the amount of use of the property by the Contractor without charge during such period, and whose denominator is the total amount of use of property by the Contractor during such period.

(3) The Contractor shall submit to the Contracting Officer within ninety (90) days after the close of each rental period a written statement of the use made of the property by the Contractor and the rental due the Government hereunder, and shall make available such records and data as are determined by the Contracting Officer to be necessary to verify the information contained in the statement.

(4) If the Contractor fails to submit the statement within the prescribed ninety (90) day period, the Contractor shall be liable for the full rental for the period in question, subject to the exception stated in subparagraph (5) below.

(5) If the Contractor's failure to submit the statement within the prescribed ninety (90) day period arose out of causes beyond the control and without the fault or negligence of the Contractor, the Contracting Officer shall grant to the Contractor in writing a reasonable extension of time in which to make such submission.

(c) Unless otherwise directed in writing by the Contracting Officer, the Contractor shall give priority in the use of the property to the performance of contracts and subcontracts of (insert name of Government agency) and shall not undertake any work involving the use of the property which would interfere with the performance of existing Government contracts or subcontracts.

(d) Concurrently with the submission of the written statement prescribed by paragraph (b)(3) above, the Contractor should pay the rental due the Government under this clause by check made payable to the DHEW organization providing the property. The name of the DHEW organization, to which the check should be made payable, should be indicated in the contract. Each check shall be mailed or delivered to the fiscal office designated in the contract. Receipt and acceptance by the Government of the Contractor's checks pursuant to this paragraph (d) shall constitute an accord and satisfaction of the final amount due the Government hereunder unless the Contractor is notified in writing within one hundred eighty (180) days following such receipt that the amount received is not regarded by the Government as the final amount due.

(e) If the Contractor uses any item of the property without authorization, the Contractor shall be liable for the full monthly rental, without credit, for such item for each month or part thereof in which such unauthorized use occurs. However, the Contracting Officer may waive the Contractor's liability for such unauthorized use if he determines that the Contractor exercised reasonable care to prevent such unauthorized use. In this latter event, the Contractor shall be liable only for the rental that would otherwise be due under this clause. The acceptance of any rental by the Government hereunder shall not be construed as a waiver or relinquishment of any rights it may have against the Contractor growing out of the Contractor's unauthorized use of the property or any other failure to perform this contract according to its terms.

(b) Rental rates will be established under the "Use and Charges" clause for facilities furnished contractors as follows:

(1) For land and land preparation, buildings, structures, and other facilities a fair and reasonable rental shall be established, based on sound commercial practice.

(2) For personal property and equipment not covered in subparagraph (1) of this paragraph (1), a rental shall be established at not less than the prevailing commercial rate, if any; or, in the absence of such rate, not less than two percent (2%) per month of the market value for electronic test equipment and automotive equipment; and not less than 1 percent per month for all other property and equipment. In those instances when Government-owned production equipment (industrial type) set forth in Appendix A of Defense Mobilization Order 8555.1A, Office of Emergency Preparedness, is involved, the schedule of rental rates set forth in the order shall be used. (See 32A CFR Chapter 1, DMO 8555.1A, OEP Policy Guidance on Government-Owned Production Equipment.)

§ 3-56.712 Maintenance clause for facilities contracts.

MAINTENANCE OF GOVERNMENT PROPERTY

(a) Except as otherwise provided in the contract, the Contractor shall perform normal maintenance of the Government property in accordance with sound industrial practice, including protection, preservation, maintenance, and repair of the property, and with respect to equipment, normal parts replacement.

(b) As soon as practicable after the execution of this contract, the Contractor shall submit to the Contracting Officer in writing a proposed normal maintenance program, including an appropriate maintenance records system, in sufficient detail to show its adequacy as a normal maintenance program. To the extent that the Contracting Officer and the Contractor agree upon such a program, it shall become the normal maintenance obligation of the Contractor; and the Contractor shall carry it out in satisfaction of (1) his normal maintenance obligation under paragraph (a) above, and (2) his obligation to maintain records under paragraph (e) below.

(c) The Contracting Officer may at any time specify, by written notice to the Contractor, a reduction in the work required by the then current normal maintenance obligation of the Contractor. After receipt of such notice, the Contractor shall perform only such work as is specified therein. If any such notice causes a decrease in the cost of performing the normal maintenance obligation, appropriate equitable adjustment may be made in any related procurement contract of the Contractor which so provides and which is affected by any such decrease.

(d) The Contractor shall perform such maintenance work as may be directed by the Contracting Officer in writing. To the extent that such work is in excess of the Contractor's then current normal maintenance obligation under paragraphs (a) through (c) above, such work shall be at Government expense. The Contractor shall notify the Contracting Officer in writing whenever, in accordance with sound industrial practice, the property requires any work in excess of such normal maintenance obligation.

(e) The Contractor shall keep records of the work done on the property in performing his obligations under this clause, and shall afford the Government adequate opportunity to inspect all such records. The Contractor shall deliver such records to the Government or to third persons, if so directed by the Contracting Officer, whenever the property to which they relate are disposed of hereunder.

(f) The Contractor's obligation under this clause shall continue, with respect to each item of property, until such item is removed, abandoned, or otherwise disposed of, as authorized or directed in writing by the Contracting Officer, until the expiration of a period of ninety (90) days after the Contractor, in form satisfactory to the Contracting Officer, has accounted for all of the property covered by any notice of termination of the use of property or until the Contractor has discharged his obligations under this contract with respect to such items, whichever last occurs.

§ 3-56.713 Liability clause for facilities contracts.

LIABILITY FOR GOVERNMENT PROPERTY

(a) The Contractor shall not be liable for any loss of or damage to Government property, or for expenses incidental to such loss or damage, except that the Contractor shall be responsible for any such loss or damage (including expenses incidental thereto) which results from:

(1) Willful misconduct, negligence, or lack of good faith on the part of any one of the Contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives, who have supervision or direction of—

(i) All or substantially all of the Contractor's business; or

(ii) All or substantially all of the Contractor's operations at any one plant or separate location, in which the Government property is installed or located.

(2) A failure, on the part of the Contractor, due to the willful misconduct or lack of good faith on the part of any of his directors, officers, or other representatives mentioned in subparagraph (1) above—

(i) To maintain and administer, in accordance with the clause of the contract entitled "Maintenance", a program for maintenance, repair, protection, and preservation of Government property; or

(ii) To take all reasonable steps to comply with any appropriate written directions or instructions which the Contracting Officer may prescribe as reasonably necessary for the protection of the Government property.

(3) A risk for which the Contractor is otherwise responsible under the express terms of this contract;

(4) A risk expressly required to be insured pursuant to paragraph (c) of this clause, but only to the extent of the insurance so

required to be procured and maintained, or to the extent of insurance actually procured and maintained, whichever is greater; or

(5) A risk which is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement: *Provided*, That if more than one of the above exceptions shall be applicable in any case, the Contractor's liability under any one exception shall not be limited by any other exception.

(b) If the Contractor transfers Government property to the possession and control of a subcontractor, the transfer shall not affect the liability of the Contractor for loss or destruction of or damage to the property as set forth above. However, the Contractor shall require the subcontractor to assume the risk of, and be responsible for, any loss or destruction of or damage to the property while in the latter's possession or control, except to the extent that the subcontract, with the prior approval of the Contracting Officer, provides for the relief of the subcontractor from such liability. In the absence of such approval, the subcontract shall contain appropriate provisions requiring the return of all Government property in as good condition as when received, except for reasonable wear and tear or for the utilization of the property in accordance with the provisions of the prime contract.

(c) Unless expressly directed in writing by the Contracting Officer, the Contractor shall not include as an element of price or cost under any contract with the Government any amount on account of the cost of insurance (including self-insurance) against any form of loss or damage to Government property. Any insurance required under this clause shall be in such form, in such amounts, for such periods of time, and with such insurers (including the Contractor as self-insurer in appropriate circumstances, if so approved) as the Contracting Officer shall require or approve. Such insurance shall contain provision for thirty (30) days prior written notice to the Contracting Officer of cancellation or material change in the policy coverage on the part of the insurer. A certificate of insurance or a certified copy of each policy of insurance taken out hereunder shall be deposited promptly with said Contracting Officer. The Contractor shall, not less than thirty (30) days prior to the expiration of any insurance required by this contract to be carried by the Contractor on the facilities, deliver to said Contracting Officer a certificate of insurance or a certified copy of each renewal policy to cover the same risks. The insurance shall be in the names of the United States of America, Department of Health, Education, and Welfare, the Contractor, and such other interested parties as the Contracting Officer shall approve, and shall contain a loss payable clause reading substantially as follows:

"Loss, if any, under this policy shall be adjusted with (Contractor) and the proceeds, at the direction of the Government, shall be paid to (Contractor). Proceeds not paid to (Contractor) shall be paid to the (insert the name of the appropriate DHEW organization, e.g. FDA-DHEW, SRS-DHEW, NIH-DHEW, and so forth)."

(d) Upon the happening of any loss or destruction of or any damage to the property:

(1) The Contractor shall immediately notify the Contracting Officer thereof, and with the assistance of the Contracting Officer shall take all reasonable steps to protect the property from further damage, separate the damaged and undamaged property, arrange for inspection, and promptly furnish to the Contracting Officer (and in any event within thirty (30) days after the Contractor has determined that loss or destruction of, or damage to the property has occurred) the following:

(i) A list of the lost, destroyed, and damaged property;

(ii) The time and origin of the loss, destruction, or damage;

(iii) All known interests in commingled property of which the Government property is a part; and

(iv) The insurance, if any, covering any part of or interest in such commingled property.

(2) The Contractor shall make such repairs, replacements, and renovations of the lost, destroyed, or damaged Government property, or take such other actions as the Contracting Officer may direct in writing.

The Contractor shall perform its obligations under this paragraph (d) at Government expense, except to the extent that the Contractor is responsible for such damage, loss, or destruction under the terms of this clause, and except as any damage, loss, or destruction is compensated by insurance.

(e) The Government is not obliged to replace or repair Government property which has been lost, destroyed, or damaged. In such event the right of the parties to an equitable adjustment in delivery or performance dates, or price, or both, and in any other contractual condition of the related procurement contracts affected thereby shall be governed by the terms and conditions of such contracts.

(f) Except to the extent of any loss or destruction of or damage to Government property for which the Contractor is relieved of liability, the property shall be returned to the Government or otherwise disposed of under the terms of this contract in as good condition as when received by the Contractor, as subsequently improved or as they should have been subsequently improved or maintained under the terms of this contract, less ordinary wear and tear.

(g) In the event the Contractor is indemnified, reimbursed, or otherwise compensated (excepting any portion of the proceeds, from use and occupancy or business interruption insurance, which represents indemnity for loss or profit, since the insurance premium for such indemnity is not to be borne directly or indirectly by the Government) for any loss or destruction of, or damage to, Government property, he, to the extent and as directed by the Contracting Officer shall:

(1) Use the proceeds to repair, renovate, or replace the property involved; or

(2) Pay such proceeds to the Government.

(h) The Contractor shall do nothing to prejudice the Government's right to recover against third parties for any loss or destruction of, or damage to, Government property, and upon the request of the Contracting Officer shall furnish to the Government, at Government expense, all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

§ 3-56.714 Examination of records.

Insert the following clause in all facilities contracts:

The Contractor agrees to maintain books, records, documents, and other evidence pertaining to the costs and expenses of this contract and to the use of and charges for the use of Government property thereinafter collectively called "the records" to the extent and in such detail as will properly reflect all net costs, direct and indirect, of labor, materials, equipment, supplies, and services, and other costs and expenses of whatever nature, for which reimbursement is claimed under the provisions of this contract, and all use of the property, and all charges to be made for the use of the property. The Contracting Officer or his representative shall have access to such records at all times.

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Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER D—GRANTS

PART 51a—GRANTS FOR MATERNAL AND CHILD HEALTH AND CRIPPLED CHILDREN'S SERVICES

Special Project Grants for Dental Health of Children

Correction

In F.R. Doc. 72-8058 appearing at page 10780 of the issue for Saturday, May 27, 1972, the following changes should be made:

1. In § 51a.311 the fifth line should be transferred to the end of that section.

2. In § 51a.314(b) the word "has" at the beginning of the sixth line should be deleted.

Title 45—PUBLIC WELFARE

Subtitle A—Department of Health, Education, and Welfare, General Administration

PART 83—NONDISCRIMINATION ON THE BASIS OF SEX IN TRAINING PROGRAMS IN ENTITIES FUNDED UNDER TITLES VII AND VIII OF THE PUBLIC HEALTH SERVICE ACT

Correction

In F.R. Doc. 72-8338 appearing on page 10938 of the issue for Thursday, June 1, 1972, the word "equity" in the seventh line of § 83.1 should read "entity".

Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER C—REGULATIONS AFFECTING SUBSIDIZED VESSELS AND OPERATORS

[General Order 20, 3d Rev., Amdt. 1]

PART 272—POLICY AND PROCEDURE REGARDING CONDUCTING OF SUBSIDIZED CONDITION SURVEYS AND ACCOMPLISHMENT OF SUBSIDIZED VESSEL MAINTENANCE AND REPAIRS

Modifications, Alterations, Additions, and Betterments

Effective upon the date of publication hereof in the FEDERAL REGISTER (6-10-72) § 272.9 of Subpart A of this part is hereby amended by adding a new paragraph (f) to read as follows:

§ 272.9 Modifications, alterations, additions, and betterments.

* * * * *

(f) Subsidized operators of vessels having terminations of subsidized voyages prior to March 4, 1970, the effective date of this order, are hereby eligible for the payment of all unamortized operating-differential subsidy remaining to be paid on such vessels for all improvement costs eligible for subsidy participation incurred and set up as deferred charges: *Provided*, That such payments shall not exceed the amounts otherwise deemed payable under the provisions of General Order 20, 2d Revision, as determined by the Maritime Administration.

By order of the Assistant Secretary of Commerce for Maritime Affairs/Maritime Subsidy Board.

Dated: June 6, 1972.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-8816 Filed 6-8-72;8:52 am]

SUBCHAPTER G—EMERGENCY OPERATIONS

[General Order 82, 26th Rev.]

PART 309—VALUES FOR WAR RISK INSURANCE

Reporting Requirements

Sections 309.1–309.101 of this part are hereby revised to read as follows:

FINDINGS AND SCOPE

Sec.
309.1 Findings.
309.2 Scope.

BASIC VALUES

309.3 Vessels built during or after 1939.
309.4 Vessels built prior to 1939.

GENERAL PROVISIONS

309.5 Adjustments for condition, equipment, and other considerations.
309.6 Definitions.
309.7 Modifications.
309.8 Vessel data forms.

VALUES FOR INDIVIDUAL VESSELS

309.101 Values effective January 1, 1972.

AUTHORITY: Secs. 309.1 through 309.101 issued under sec. 204, 49 Stat. 1987, as amended, sec. 1209, 64 Stat. 775, as amended, 70 Stat. 984; 46 U.S.C. 1114, 1289.

FINDINGS AND SCOPE

§ 309.1 Findings.

The Ship Valuation Committee, Maritime Administration, has found that the values provided in this part constitute just compensation for the vessels to which they apply, computed in accordance with subsection 902(a) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1242), pursuant to section 1209(a), Merchant Marine Act, 1936, as amended (46 U.S.C. 1289(a)), and the authority delegated to the Assistant Secretary of Commerce for Maritime Affairs by the Secretary of Commerce in section 3 of (Commerce) Department Organization Order 10-8, 36 F.R. 1223, and redelegated to the Ship Valuation Committee.

§ 309.2 Scope.

(a) *Vessels included.* (1) This part establishes values for self-propelled ocean-going iron and steel vessels (other than vessels excluded pursuant to paragraph (b) of this section) for which war risk insurance is provided by the Maritime Administration pursuant to title XII, Merchant Marine Act, 1936, as amended (46 U.S.C. 1281–1294). The values established by §§ 309.1–309.101 represent the maximum amounts for which the Maritime Administration will provide war risk hull insurance for damage to or actual or constructive total loss of the vessel and for which claims for damage to or actual or constructive total loss of such insured vessels may be adjusted, compromised, settled, adjudged, or paid by the Maritime Administration with respect to insurance attaching during the period January 1, 1972, to June 30, 1972, inclusive, under the standard forms of war risk hull insurance interim binder or policy prescribed by §§ 308.106 and 308.107 of this chapter (General Order 75, 2d Rev., as amended): *Provided, however*, That if there is a substantial change in market values during said period, the Maritime Administration reserves the right to revise the values provided for herein or determined pursuant hereto at any time during said period.

(2) It is contemplated that the next revised values will be published as soon as practicable after July 1, 1972, to be effective with respect to insurance attaching during the period July 1, 1972, to December 31, 1972, inclusive.

(b) *Vessels excluded.* The values established pursuant to §§ 309.3 through 309.5 do not apply to passenger vessels, lumber schooners, car ferries, seatrains, cable ships, bulk cement and ore carriers, vessels operated on the Great Lakes and inland waterways, fully refrigerated vessels, vessels of less than 1,500 gross tons, or any other vessels or class of vessels to which the Maritime Administration finds that the provisions of said sections would not be appropriate. Values for vessels excluded by this paragraph shall be specifically determined by the Maritime Administration and set forth in § 309.101, revised, as provided therein.

(c) *Fuel, stores, and supplies.* Values for fuel, stores, and supplies shall be determined in accordance with §§ 309.201 through 309.204 (General Order 100, 29 F.R. 2944, Mar. 4, 1964; 29 F.R. 3706, Mar. 25, 1964).

BASIC VALUES

§ 309.3 Vessels built during or after 1939.

(a) *Basic values.* The values of vessels built during or after 1939 shall be determined in accordance with this section, subject to the applicable adjustments provided in § 309.5.

(b) *War-built vessels.* (1) The values of the standard types of war-built vessels under U.S. flag listed in this subparagraph which have the lawful right to engage in the coastwise trade of the United States (which are the current domestic market values of such vessels as determined by the Ship Valuation Committee) are as follows:

Standard-type vessel:	*Value*
EC2-S-C1	$57,000
VC2-S-AP2	180,000
C2-S-B1	180,000
C3-S-A2	250,000
C4-S-B5	450,000
T1-M-BT	67,000
T2-SE-A1	245,000
T3-S-BZ1	450,000
T3-S-A1	300,000

(2) The values of the standard subtypes of war-built vessels under U.S. flag listed in this subparagraph which have the lawful right to engage in the coastwise trade of the United States shall be determined by multiplying the basic value of the standard type vessel listed in subparagraph (1) of this paragraph by the factor shown opposite the subtype in the following table:

TABLE

Subtype:	*Factor*
VC2-S-AP3	100 percent—VC2-S-AP2.
C2-S-AJ1	100 percent—C2-S-B1.
C2-S-AJ5	100 percent—C2-S-B1.
C2-S-E1	102 percent—C2-S-B1.
C2-S	100 percent—C2-S-B1.
C3	95 percent—C3-S-A2.
C3-S-A1	100 percent—C3-S-A2.
C3-S-A3	76 percent—C3-S-A2.
C3-S-A4	106 percent—C3-S-A2.
C3-S-A5	106 percent—C3-S-A2.
C3-S-BH1	100 percent—C3-S-A2.
C3-S-BH2	100 percent—C3-S-A2.
C4-S-A4	100 percent—C4-S-B5.
T1-M-BT2	100 percent—T1-M-BT.

(c) *Other vessels.* The value of a vessel built during or after 1939 which is not included in paragraph (b) of this section shall be the current domestic market value as determined by the Maritime Administration.

§ 309.4 Vessels built prior to 1939.

The values of vessels built prior to 1939 shall be specifically determined by the Maritime Administration and set forth in § 309.101.

GENERAL PROVISIONS

§ 309.5 Adjustments for condition, equipment, and other considerations.

The basic values provided in § 309.3 shall be adjusted for individual vessels to the extent provided in paragraphs (a) to (c) of this section.

(a) *Adjustment for a vessel of substandard condition.* If the Maritime Administration determined that a vessel is not in class or is in substandard condition for a vessel of her type or subtype and age, there will be subtracted from the basic value of such vessel, as determined pursuant to § 309.3, the amount estimated by the Maritime Administration as the cost of putting the vessel in class or the amount estimated by the Maritime Administration as the difference in value of the substandard vessel and a vessel in standard condition.

(b) *Special equipment.* For any special equipment of material utility in the handling of cargo or ultilization of the vessel, not otherwise included in determining the basic value pursuant to

§ 309.3, if the depreciated reproduction cost less construction subsidy, if any, of all such special equipment is in excess of $50,000, an allowance in such amount as the Maritime Administration shall determine to be the fair and reasonable value of such equipment shall be added to the basic value.

(c) *Government installations.* The values provided by §§ 309.1–309.101 shall not include any allowance for any special installations or equipment to the extent that their cost was borne by the United States.

§ 309.6 Definitions.

(a) *Date vessel is built.* The date a vessel is built is the date upon which the vessel is delivered by the shipbuilder.

(b) *Deadweight tonnage.* The deadweight tonnage of a vessel means her deadweight capacity established in accordance with normal Summer Freeboard as assigned pursuant to the International Load Line Convention, 1966, and shall be her capacity (in tons of 2,240 pounds) for cargo, fuel, fresh water, spare parts, and stores, but exclusive of permanent ballast.

(c) *Speed of vessel.* The speed of a vessel means the speed determined in accordance with the formulae provided in Part 246 of this chapter (General Order 43, 3rd Rev.).

(d) *Passenger vessel.* A passenger vessel is a ship which carries more than 12 passengers.

(e) *Vessel.* The stated valuation of a vessel in this part applies to a vessel in Class A–1 American Bureau of Shipping or equivalent, with all required certificates, including but not limited to marine inspection certificates of the U.S. Coast Guard, Department of Transportation, with all outstanding requirements and recommendations necessary for retention of class accomplished, without regard to any grace period; and so far as due diligence can make her so, tight, staunch, strong, and well and sufficiently tackled, appareled, furnished, and equipped, and in every respect seaworthy and in good running condition and repair, with clean swept holds and in all respects fit for service. A vessel in substandard condition is subject to § 309.5 (a). The stated valuation of a vessel provided in this part does not include vessel stores and supplies, which consist of (1) consumable stores, (2) subsistence stores, (3) slop chest, (4) bar stock, and (5) fuel, as defined in Maritime Administration Inventory Manual, Vessel Inventories, Part I, and Maritime Administration Inventory Books Forms MA–4736, A through K, which will be valued separately.

§ 309.7 Modifications.

The Maritime Administration reserves the right to exempt specific vessels from the scope of this part, or to amend, modify, or terminate the provisions hereof.

§ 309.8 Vessel data forms.

(a) *To accompany application for insurance.* Each application for war risk hull insurance submitted in accordance with § 308.101 of this chapter (General Order 75, 2d Rev., as amended) shall be accompanied by information relating to the vessel for use by the Maritime Administration in determining the value pursuant to this part. The information shall be submitted in duplicate on the applicable form prescribed in this section, copies of which may be obtained from the American War Risk Agency, 99 John Street, New York, NY 10038, or the Chief, Office of Marine Insurance, Maritime Administration, Washington, D.C. 20235.

(b) *Vessels of 1,500 gross tons or more.* Vessel data for all vessels of 1,500 gross tons or more shall be submitted on Form MA–510.

(c) *Vessels under 1,500 gross tons.* Vessel data for all vessels under 1,500 gross tons shall be submitted on Form MA–511.

(d) *Modification to vessels.* Revised vessel data shall be submitted on the appropriate form prescribed above whenever a vessel undergoes a physical change which increases or decreases its value by 5 percent or more.

VALUES FOR INDIVIDUAL VESSELS

§ 309.101 Values effective January 1, 1972.

(a) Vessels covered by §§ 309.3 through 309.5. (1) The Maritime Administration has found that the values established in accordance with §§ 309.3–309.5 constitute just compensation for the vessel to which they apply, computed as provided in sections 902(a) and 1209(a), Merchant Marine Act, 1936, as amended; and pursuant thereto has determined the values of the vessels covered by interim binders for war risk hull insurance, Form MA–184, prescribed by Part 308 of this chapter.

(2) The interim binders listed below shall be deemed to have been amended as of January 1, 1972, by inserting in the space provided therefore or in substitution for any value now appearing in such space the stated valuation of the vessels set forth below for the binders and vessels as designated. Such stated valuation shall apply with respect to insurance attaching during the period January 1, 1972, to June 30, 1972, inclusive: *Provided, however,* That if there is a substantial change in market values during said period, the Maritime Administration reserves the right to revise the values provided for herein or determined pursuant hereto at any time during said period: *And provided further,* That the assured shall have the right within 60 days after date of publication of these §§ 309.1–309.101 or within 60 days after the attachment of the insurance under said binder, whichever is later, to reject such valuation and proceed as authorized by section 1209(a)(2), Merchant Marine Act, 1936, as amended.

Binder No.	Name of vessel	Official No.	Stated valuation (in thousands)
870	Achilles	281702	$5,375
1660	Adabelle Lykes	291609	2,425
2144	Afoundria	244918	980
1426	African Comet	289281	2,935
720	African Crescent	250561	250
1683	African Dawn	291781	3,045
725	African Lightning	251451	250
1558	African Mercury	290143	3,000
1508	African Meteor	289792	2,960
726	African Moon	251175	250
1607	African Neptune	290485	3,000
730	African Planet	249860	250
732	African Star	249351	250
1656	African Sun	291026	3,045
1751	Aimee Lykes	292614	2,425
2501	Alaskan Mail	517120	6,340
2452	Albany	509957	790
1828	Allison Lykes	293817	2,425
433	America Bear	270296	1,840
567	American Accord	267275	4,680
572	American Ace	265143	4,680
568	American Alliance	266832	4,680
2812	American Apollo	529004	7,510
2869	American Aquarius	530999	7,510
571	American Archer	267444	4,680
566	American Argosy	266181	4,680
2583	American Astronaut	520694	6,825
1493	American Challenger	289699	3,000
1618	American Champion	290524	3,000
1557	American Charger	290089	3,000
1652	American Chieftain	291020	3,000
1972	American Condor	252347	250
1670	American Corsair	291620	3,000
1605	American Courier	290225	3,000
831	American Eagle	278327	3,935
1769	American Falcon	252524	250
2446	American Lancer	514261	6,825
2550	American Lark	518444	6,825
570	American Leader	266256	4,680
569	American Legacy	268243	4,680
574	American Legend	267033	4,680
2466	American Legion	515155	6,825
2485	American Liberty	516464	6,825
2518	American Lynx	517450	6,825
2740	American Mail	521866	6,340
1688	American Oriole	252304	250
1924	American Racer	297001	3,900
1989	American Ranger	298270	3,900
2039	American Reliance	299371	3,900
1679	American Robin	242941	250
1902	American Trader	244855	2,715
2854	Amoco Connecticut	242851	1,070
2855	Amoco Delaware	245058	1,075
1768	Amoco Louisiana	244329	1,155
2857	Amoco Virginia	243518	1,155
2884	Andrew Jackson	247303	184
678	Arizona	266534	1,655
1444	Arizona Standard	248736	245
2115	Arizpa	251507	980
1716	Ashley Lykes	292191	2,425
232	Atlantic Communicator	268196	2,500
233	Atlantic Endeavor	277623	3,520
1004	Atlantic Enterprise	276911	3,480
1848	Atlantic Heritage	293299	8,640
1006	Atlantic Navigator	261423	2,165
1560	Atlantic Prestige	289972	4,870
2209	Atlantic Trader	248007	1,150
1435	Austin	247455	1,510
2631	Austral Patriot	500539	3,900
2632	Austral Pilot	297353	3,900
210	Avila	267181	705
2839	Azalea City	243436	980
980	Barbara	248079	1,455
347	Barbara Jane	278103	3,915
1915	Beauregard	251508	980
2482	Bennington	242406	245
607	Bethflor	256034	980
608	Bethtex	255539	980
2840	Bienville	243438	980
1490	Brazos	247583	2,100
1414	Brinton Lykes	288699	2,425
2558	Buckeye Atlantic	239271	238
353	Buckeye State	244577	250
2567	Buckeye Victory	245244	180
1348	California	287232	3,300
425	California Bear	266977	1,655
19	Californian	243882	700
2642	Californian	249239	1,695
1949	Calmar	294756	2,470
1974	Canada Mail	297570	3,575
1370	Cantigny	247452	1,490
7	Carbide Seadrift	241851	1,275
8	Carbide Texas City	242532	1,275
2872	Carrier Dove	252478	250
596	Catawba Ford	245620	505
1600	C. E. Dant	290262	3,300
1931	Chancellorsville	244460	1,410
1753	Charlotte Lykes	292782	2,425
2574	Chatham	252493	180
1408	China Bear	288604	3,750
1788	Christopher Lykes	293220	2,425
1813	Cities Service Baltimore	271866	3,575

Binder No.	Name of vessel	Official No.	Stated valuation (in thousands)
1814	Cities Service Miami	272077	3,390
1815	Cities Service Norfolk	272839	3,460
2875	Citrus Packer	247321	250
2852	City of Alma	247592	184
2714	Colina	242775	245
2237	Colorado	245104	245
2478	Colorado	515976	5,070
2540	Columbia	247519	1,220
1997	Commander	245309	1,190
2227	Connecticut	277291	4,200
712	Copper State	244137	250
2468	Cortland	244878	180
1305	Council Grove	247896	1,440
2549	C. V. Lightning	518063	4,485
2490	C. V. Sea Witch	680644	4,485
2626	C. V. Staghound	520743	4,485
2449	DaGama	249174	180
2705	David D. Irwin	242354	1,540
212	David E. Day	248880	1,255
2819	Defiance	519102	6,725
221	Delaware Getty	267997	2,350
320	Del Mar	251452	267
322	Del Norte	250953	267
1225	Del Oro	286185	2,895
324	Del Rio	284680	2,895
327	Del Sol	285171	2,895
328	Del Sud	251453	267
2500	Delta Argentina	512953	3,400
2497	Delta Brasil	514758	3,400
2532	Delta Mexico	517540	3,400
2498	Delta Paraguay	515910	3,400
2499	Delta Uruguay	516600	3,400
329	Del Valle	245373	180
2885	De Soto	245398	184
376	Doctor Lykes	249063	250
2330	Dolly Turman	508378	3,700
2778	Eagle Charger	522864	10,000
700	Eagle Courier	277561	3,000
2698	Eagle Leader	520839	9,805
699	Eagle Transporter	277710	3,795
697	Eagle Traveler	278442	4,200
698	Eagle Voyager	278624	4,220
2715	Eclipse	267144	2,170
378	Elizabeth Lykes	247822	180
2086	Elizabeth Lykes	500702	3,555
1917	Elizabethport	297001	2,875
2451	Ericson	249283	180
2870	Eric K. Holzer	530007	22,080
830	Erna Elizabeth	280193	4,090
2593	Esso Baltimore	282272	6,865
2594	Esso Bangor	264791	2,350
2595	Esso Boston	283784	6,995
2596	Esso Chester	264445	2,240
2598	Esso Florence	266855	2,390
2599	Esso Gettysburg	273362	4,670
2601	Esso Houston	297151	9,210
2602	Esso Huntington	266329	2,440
2603	Esso Jamestown	275519	4,875
2610	Esso Lexington	276270	4,960
2604	Esso Lima	259142	1,895
2611	Esso Miami	259357	1,930
2605	Esso Newark	264231	2,220
2606	Esso New Orleans	298216	9,390
2607	Esso New York	259610	1,935
1898	Esso Seattle	277935	3,885
2609	Esso Washington	273896	4,735
842	Exbrook	249173	190
849	Exchester	248120	190
850	Executor	248747	190
853	Exford	249454	190
858	Expeditor	251971	190
860	Export Adventurer	284024	2,330
861	Export Agent	283936	2,330
862	Export Aide	284516	2,330
863	Export Ambassador	283150	2,330
1296	Export Banner	286124	2,975
1354	Export Bay	286965	2,975
1372	Export Builder	287381	2,975
1401	Export Buyer	288076	2,975
1726	Export Challenger	292227	3,125
1771	Export Champion	292669	3,160
1712	Export Commerce	291731	3,115
1601	Export Courier	289947	3,050
864	Exporter	249062	190
2871	Ezra Sensibar	532555	8,270
2841	Fairland	242073	980
153	Floridian	282733	725
1480	Flying Cloud	247000	180
1479	Flying Enterprise II	245734	180
584	Fort Fetterman	244935	1,150
1211	Fort Hoskins	248735	1,455
180	Fort Worth	247276	2,420
2300	Frederick Lykes	506812	3,700
962	F. S. Bryant	250827	295
585	Gaines Mill	244464	1,085
2842	Gateway City	251506	980
2421	Genevieve Lykes	513140	3,850
2895	Golden Bear	530138	12,600
355	Gopher State	244979	250
2820	Great Republic	521302	6,725
2707	Green Bay	248912	790
2408	Green Forest	508061	825
2711	Green Lake	248700	790
2409	Green Port	510015	825
2712	Green Ridge	247322	250
2406	Green Springs	248701	825
2407	Green Wave	508060	825
1863	Gulf Banker	295249	2,515
792	Gulfcrest	279334	3,685
793	Gulfdeer	245727	1,085
1849	Gulf Farmer	294625	2,515
794	Gulfjaguar	246972	1,085
795	Gulfking	275193	3,860
796	Gulfknight	277183	4,035
797	Gulflion	246990	1,090
808	Gulflube	254406	315
1952	Gulf Merchant	297329	2,635
798	Gulfoil	283424	3,750
799	Gulfpanther	246543	1,075
800	Gulfpride	279769	3,530
801	Gulfprince	276034	3,945
802	Gulfqueen	275583	3,900
805	Gulfseal	247557	1,155
811	Gulfservice	264224	655
1903	Gulf Shipper	296880	2,635
803	Gulfsolar	280223	3,570
806	Gulfspray	282848	3,705
1358	Gulfsupreme	287186	4,270
804	Gulftiger	247767	1,105
1888	Gulf Trader	296404	2,635
2577	Hastings	246617	184
1421	Hawaii	289119	3,300
2643	Hawaiian	249353	1,695
2645	Hawaiian Citizen	252149	2,140
2763	Hawaiian Enterprise	524219	18,650
2803	Hawaiian Progress	528400	18,650
1445	Hawaii Standard	248802	245
965	H. D. Collier	248737	245
873	Helen H	245029	1,250
634	Hess Bunker	243804	1,410
638	Hess Petrol	244735	1,410
1373	Hess Refiner	248244	1,435
639	Hess Trader	246104	1,395
1913	Hess Voyager	296863	8,310
961	Hillyer Brown	266233	710
431	Hong Kong Bear	264428	1,655
2622	Hong Kong Mail	520392	6,340
176	Houston	242636	1,575
2387	Houston	245542	2,725
2306	Howell Lykes	507344	3,700
2472	Hurricane	257262	250
2578	Iberville	248489	184
2534	Idaho	518434	5,070
968	Idaho Standard	245461	245
249	Iliamna	246848	65
677	Illinois	264957	1,655
2526	Indian Mail	517717	6,340
1787	Inger	248011	1,750
2861	Ios 3301	531048	6,000
387	James Lykes	280564	2,225
414	James McKay	247997	180
1418	Japan Mail	287976	6,250
1304	Jean Lykes	287103	2,335
1285	J. E. Dyer	274440	3,590
2516	Jeff Davis	248742	250
2880	Jefferson City Victory	247345	180
970	J. H. Macgaregill	248896	245
973	J. H. Tuttle	242955	325
967	J. L. Hanna	248531	245
2579	John B. Waterman	249234	184
389	John Lykes	282772	2,225
390	Joseph Lykes	281326	5,000
586	Julesburg	243523	1,220
598	Keystoner	266730	735
356	Keystone State	247763	450
599	Keytanker	265644	725
600	Keytrader	267905	755
2641	Keva Ideal	242939	900
434	Korea Bear	269668	1,840
2565	Korean Mail	518517	6,340
2886	Kyska	248654	184
2876	Lafayette	252476	250
2838	La Salle	257231	250
13	Leland I. Doan	284217	6,225
2864	Lash Italia	529255	12,600
2865	Lash Turkiye	530143	12,600
1352	Leslie Lykes	287416	2,335
2403	Letitia Lykes	512187	3,850
392	Lipscomb Lykes	248897	250
2374	Lompoc	248653	245
267	Longview Victory	247077	180
1918	Los Angeles	241153	2,875
393	Louise Lykes	247582	180
2062	Louise Lykes	299938	3,555
2023	Louisiana Brimstone	247757	4,420
2929	Louisiana Getty	246173	2,195
367	Louisiana Sulphur	242964	800
179	Lyons Creek	245450	440
2887	Madaket	246992	184
2089	Maiden Creek	248998	184
2233	Mallory Lykes	504077	3,555
1356	Manhattan	287253	11,500
2881	Mankato Victory	248739	180
1809	Margaret Lykes	293555	2,425
2087	Marine Clipper	248655	306
15	Marine Dow Chem	267278	3,940
1510	Marine Electric	245675	1,340
2133	Marine Floridian	246836	4,540
1812	Marine Texan	247563	4,280
93	Marine Victory	247680	780
1513	Marjorie Lykes	289873	2,425
664	Maryland Trader	247178	1,160
1940	Marymar	294730	2,470
2260	Mason Lykes	505406	3,700
1789	Mayo Lykes	293224	2,425
1512	Meadowbrook	289879	1,825
969	M. E. Lombardi	240228	160
2543	Marrimac	245673	1,310
2630	Michigan	521550	5,070
587	Mill Spring	244468	1,195
2033	Missouri	248885	1,020
1530	M. M. Dant	289547	3,300
2716	Mobile Aero	278471	3,690
2717	Mobil Fuel	274588	3,360
2718	Mobil Gas	271449	2,920
2483	Mobilian	246388	250
2719	Mobil Lube	275651	3,240
2442	Mobil Meridian	286479	6,530
2720	Mobiloil	279064	3,740
2721	Mobil Power	274966	3,370
2405	Mohawk	248913	770
2495	Montana	517617	5,070
2797	Monticello victory	286819	6,855
2798	Montpelier victory	289745	7,835
2664	Mormacaltair	298129	3,500
2667	Mormacargo	296216	3,500
2665	Mormacbay	283541	2,770
2666	Mormaccape	284185	2,825
2668	Mormaccove	286749	2,885
2670	Mormacdraco	299008	3,500
2673	Mormacglen	285283	2,825
2676	Mormaclake	284802	2,825
2678	Mormaclynx	296947	3,500
2683	Mormacpride	282295	2,745
2684	Mormacrigel	297384	3,500
2687	Mormacscan	285890	2,825
2688	Mormactrade	287900	2,955
2689	Mormacvega	296632	3,500
2546	Morning light	240590	250
2799	Mount Vernon Victory	284178	6,570
2800	Mount Washington	293097	8,190
588	Naeco	244063	425
1243	Nancy Lykes	286650	5,000
1758	National Defender	279938	7,225
2034	Neches	244235	245
1441	Nevada Standard	247758	245
2038	New Yorker	283030	725
2930	New York Getty	267198	2,420
2877	Noonday	248844	250
399	Norman Lykes	249018	250
2119	Northfield	243253	1,355
2614	Ogden Wabash	520728	9,805
2591	Ogden Willamette	518738	9,670
2545	Ogden Yukon	257115	1,765
1375	Oregon	287875	3,300
435	Oregon Bear	264497	1,655
1947	Oregon Mail	296779	3,530
971	Oregon Standard	246773	245
2465	Overseas Alice	514928	9,270
2506	Overseas Audrey	517186	9,445
2344	Overseas Carrier	243503	1,140
2443	Overseas Daphne	248882	450
1	Overseas Joyce	284049	6,230
2352	Overseas Progress	244888	1,200
1905	Overseas Rebecca	281777	6,310
2444	Overseas Suzanne	248884	450
2343	Overseas Traveler	289436	1,315
932	Overseas Ulla	280004	4,525
2537	Overseas Vivian	518125	9,570
2907	Pacific Bear	530139	12,600
181	Pasadena	248894	1,655
1272	P. C. Spencer	264903	2,015
1592	Penn Carrier	246908	245
339	Penn Challenger	280318	4,125
2745	Penn Champion	523341	10,045
2837	Penn Leader	247468	1,310
1954	Pennmar	295108	2,470
581	Perryville	244644	1,380
1367	Philippine Bear	287683	3,750
1419	Philippine Mail	288986	3,235
2379	Pine Tree State	252346	250
1653	Pioneer Commander	290005	3,000
1750	Pioneer Contender	292572	3,000
1715	Pioneer Contractor	291968	3,000
1774	Pioneer Crusader	292930	3,000
1432	Pioneer Moon	289263	3,000
2122	Platte	248133	1,310
1999	Portmar	294731	2,470
1505	Potomac	248800	1,145
1390	Prairie Grove	246660	1,575
499	President Adams	266697	1,840
500	President Arthur	264704	1,840
501	President Buchanan	226017	1,840
503	President Coolidge	267733	4,485
2447	President Fillmore	513860	1,840
505	President Garfield	266092	4,485
2380	President Grant	511226	265
521	President Harding	248275	3,560
2148	President Harrison	502569	1,840
509	President Hayes	264446	

Binder No.	Name of vessel	Official No.	Stated valuation (in thousands)
506	President Hoover	248424	265
511	President Jackson	266060	1,840
514	President Lincoln	285311	3,925
517	President Madison	249683	265
2416	President McKinley	512593	4,485
2113	President Monroe	501712	3,560
519	President Pierce	248619	265
2084	President Polk	500484	3,490
2398	President Taft	511653	4,485
522	President Taylor	266927	1,840
1208	President Tyler	286232	3,925
2359	President Van Buren	509581	4,485
919	Producer	245888	1,250
2031	Providence Getty	254689	67
2751	Prudential Oceanjet	504015	3,680
2752	Prudential Seajet	502726	3,680
2706	Pure Oil	248837	300
2894	Puerto Rican	535000	23,500
2341	Rachel V	248785	180
2450	Raleigh	249291	180
2843	Raphael Semmes	242074	980
2164	Rappahannock	253226	180
2821	Red Jacket	522650	6,725
2162	Ruth Lykes	502928	3,555
2544	Sacramento	245497	1,185
428	Samoa Bear	269028	1,840
177	San Antonio	248716	2,270
1919	San Francisco	241220	2,875
1920	San Juan	242653	2,875
891	Santa Adela	242243	180
2295	Santa Alicia	252747	250
2259	Santa Ana	252746	250
2207	Santa Anita	252748	250
2370	Santa Barbara	509186	3,775
2296	Santa Clara	506249	3,775
2257	Santa Cruz	504681	3,775
2314	Santa Elena	507696	3,775
2287	Santa Eliana	251812	250
2376	Santa Isabel	510570	3,775
2155	Santa Lucia	502774	3,775
1574	Santa Magdalena	290270	5,120
211	Santa Maria	263781	645
1756	Santa Maria	292838	5,120
1678	Santa Mariana	291811	4,790
1830	Santa Mercedes	293943	5,120
2863	Santa Monica	257213	250
2286	Santa Regina	240348	238
1070	Seamar	294729	2,470
2304	Seatrain Carolina	246066	4,090
2291	Seatrain Delaware	245682	2,640
2309	Seatrain Florida	503326	4,090
65	Seatrain Georgia	262558	700
66	Seatrain Louisiana	262835	700
2346	Seatrain Maine	504714	4,090
2329	Seatrain Maryland	245283	4,090
67	Seatrain New Jersey	239688	350
68	Seatrain New York	231905	205
2400	Seatrain Ohio	244610	4,090
2305	Seatrain Puerto Rico	246095	4,090
2279	Seatrain San Juan	245622	2,640
69	Seatrain Savannah	231916	205
70	Seatrain Texas	239549	350
2357	Seatrain Washington	245460	4,090
1610	Sheldon Lykes	290508	2,425
1428	Shirley Lykes	289283	2,425
2464	Silver Falcon	248065	160
1714	Sinclair Texas	291990	7,790
1266	Sister Katingo	277936	4,100
2722	Socony Vacuum	268801	2,495
982	Solon Turman	285889	5,000
2866	Sonoma	252413	250
2489	Spirit of Liberty	516521	9,400
1016	Steel Admiral	252403	250
439	Steel Advocate	245731	250
441	Steel Apprentice	252498	250
443	Steel Artisan	247833	250
445	Steel Designer	247832	250
447	Steel Executive	248843	250
450	Steel King	252499	250
451	Steel Maker	247221	250
452	Steel Navigator	248846	250
456	Steel Seafarer	248738	250
458	Steel Traveler	247198	250
459	Steel Vendor	246464	250
460	Steel Voyager	252501	250
2248	Stella Lykes	504982	3,700
403	Sue Lykes	248145	180
2723	Syosset	247458	300
1415	Tampico	246344	1,575
463	Texaco California	266910	920
465	Texaco Connecticut	266501	925
466	Texaco Florida	271820	1,615
1867	Texaco Georgia	293819	4,660
469	Texaco Illinois	246993	1,395
471	Texaco Kansas	244230	1,325
1823	Texaco Maryland	292735	4,555
1824	Texaco Massachusetts	290306	4,395
475	Texaco Minnesota	243202	1,555
476	Texaco Mississippi	245082	1,555
2028	Texaco Montana	298918	5,190
478	Texaco Nebraska	242845	1,360
480	Texaco New Jersey	245831	1,245
481	Texaco New York	265981	1,000
483	Texaco North Dakota	265006	985
1899	Texaco Rhode Island	296380	4,800
1270	Texaco Wisconsin	277805	3,865
489	Texaco Wyoming	243048	1,410
209	Texan	249352	670
925	Thetis	279627	5,200
2096	Thomas A	260954	2,120
2890	Thomas E. Cuffe	530137	12,600
2412	Thomas M	266338	2,070
2823	Thomas Q	261167	2,145
405	Thompson Lykes	283413	5,000
602	Ticonderoga	242244	270
406	Tillie Lykes	248461	250
2888	Topa Topa	247906	184
231	Transeastern	279438	5,800
2391	Transerie	245959	1,040
2301	Transhuron	506349	1,055
2463	Transpanama	257381	1,730
2338	Transsuperior	508404	1,045
1492	Trinity	246600	2,310
2744	Trojan	247177	1,580
500	Tullahoma	246662	1,385
407	Tyson Lykes	248066	180
966	Utah Standard	251140	295
2270	Valley Forge	505786	8,500
2354	Velma Lykes	509652	3,700
2853	Ventura	252633	250
666	Virginia Trader	244789	275
1786	Walter Rice	248203	1,750
1398	Washington	288603	3,300
437	Washington Bear	264652	1,655
1349	Washington Mail	287238	6,250
974	Washington Standard	246203	245
667	Washington Trader	245566	275
1779	Western Clipper	268288	2,290
1780	Western Comet	266365	2,190
1302	Western Hunter	287156	7,750
1781	Western Planet	268078	2,280
2225	Wild Ranger	249518	180
2932	Wilmington Getty	246557	2,205
1609	Windsor Victory	247843	180
2508	Wyoming	519937	5,070
2889	Yaka	246335	180
2098	Yellowstone	248883	1,024
2030	Yorkmar	296261	2,470
2822	Young America	524416	6,725
411	Zoella Lykes	282126	5,000
752	A. H. Dumont	239224	80
2486	Alison C	513704	900
2469	Apache	513045	820
1686	Atlantic	262007	135
1198	Barge 133		18
2045	Betty Moran	293323	740
2480	Blackhawk	515015	820
2331	Borinquen	506497	393
1153	Britton	119	15
2136	Cabo Rojo	297392	350
2137	Catano	298716	355
2298	El Morro	503562	366
2132	E. Whitney Olson, Jr.	298925	550
2299	Fajardo	503563	366
2044	Gale B	292748	740
24	George S	282206	73
764	George Whitlock II	241390	90
1150	Habib	112	11
1151	Horne	115	12
1554	Lewis No. 8	244276	61
2873	Martha R. Ingram	533104	3,370
1702	Mohawk	254469	415
2350	New Haven	504920	366
742	Ocean Prince	276461	310
2065	Pacific Mariner	297090	550
2703	Perth Amboy No. 1	171776	155
2704	Perth Amboy No. 2	171686	155
1719	Ponce de Leon	244296	58
744	Port Jefferson	274512	301
1878	Puerto Nuevo	294841	344
1176	Qatif 7		50
1148	Sandy	114	12
2476	Seminole	514243	820
1263	Spartan	273515	342
2130	Starcrescent	284000	484
1152	Swigart	118	13
2552	Theresa F	516158	900
763	W. A. Weber	251302	58

(b) *Vessels of less than 1,500 gross tons—as of January 1, 1972.* (1) The Maritime Administration has determined for certain vessels of less than 1,500 gross tons the values which constitute just compensation for the vessels to which they apply, computed as provided in sections 902(a) and 1209(a), Merchant Marine Act, 1936, as amended; and pursuant thereto has determined the values of vessels covered by interim binders for war risk hull insurance, Form MA-184, prescribed in Part 308 of this chapter.

(2) The interim binders listed below shall be deemed to have been amended as of January 1, 1972, by inserting in the space provided therefore or in substitution for any value now appearing in such space the stated valuation of the vessels set forth below for the binders and vessels as designated. Such stated valuation shall apply with respect to insurance attaching during the period January 1, 1972, to June 30, 1972, inclusive; *Provided, however,* That if there is a substantial change in market values during said period, the Maritime Administration reserves the right to revise the values provided for herein or determined pursuant hereto at any time during said period: *And provided further,* That the assured shall have the right within 60 days after date of publication of this section or within 60 days after the attachment of the insurance under said binder, whichever is later, to reject such valuation and proceed as authorized by section 1209(a)(2), Merchant Marine Act, 1936, as amended.

NOTE: The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with 44 U.S.C. secs. 3501-3511.

Dated: May 26, 1972.

E. SCOTT DILLON,
Chairman,
Ship Valuation Committee.

[FR Doc.72-8953 Filed 6-8-72;8:45 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 19297; FCC 72-474]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations, Table of Assignments for Certain Cities

Second report and order. In the matter of amendment of § 73.202 Table of assignments, FM broadcast stations (Modesto, Turlock, Patterson, and Manteca, Calif.; Albuquerque, N. Mex.; Centerville, Iowa; and Milford, Del.), Docket No. 19297; RM-1611, RM-1612, RM-1622, RM-1625, RM-1661.

1. The Commission here considers that portion of the notice of proposed rule making in this proceeding, adopted August 4, 1971 (FCC 71-802; 36 F.R. 15057), dealing with proposed amendments of the FM Table of Assignments (§ 73.202(b) of the Commission's rules and regulations) as concerns Modesto, Calif. (RM-1611), and/or surrounding communities, and Albuquerque, New Mex. (RM's 1612 and 1625). The first report and order, adopted November 10, 1971, considered and disposed of the proposals for Centerville, Iowa, and Milford, Del., 32 FCC 2d 466 (1971). All

population data, unless otherwise indicated, is from the 1970 census.

2. *Modesto, Calif. (RM-1611)*. Kilibro Broadcasting Corp. (Kilibro), licensee of AM Station KFIV, Modesto, had petitioned the Commission to allocate Channel 272A as a third FM channel for Modesto, Calif. Mainly because Kilibro did not indicate the needs of Modesto for another FM channel,[1] the notice requested comment as to the feasibility of more appropriately assigning the requested channel to Turlock, Patterson, or one of the other communities in the area, e.g., Riverbank, Newman, or Salida.

3. Modesto, population 61,712, is the seat of Stanislaus County, population 194,506 (1970 census). The county constitutes the Modesto Standard Metropolitan Statistical Area (SMSA). The populations of the other named cities (all in Stanislaus County) are:

City	*Population*
Turlock	13,992
Patterson	3,147
Riverbank	3,949
Newman	2,505
Salida	1,456

4. Those filing comments are: Petitioner Kilibro Broadcasting Corp.; KTRB Broadcasting Co. (KTRB), the licensee of Station KTRB-AM and KTRB-FM at Modesto; and Sierra-Pacific Radio Corp. (Sierra-Pacific), the licensee of FM Station KOSO, Patterson, Calif. The principal issue is where the channel should be allocated. In this respect, KTRB urges that the channel would be better assigned to Manteca, population 13,845 (located in San Joaquin County, population 290,208, which is the Stockton SMSA), Oakdale, population 6,594 (in Stanislaus County), Turlock, Riverbank, Newman, or Salida. KTRB feels that each of the communities merits a first aural facility (Turlock a first FM [2]) before Modesto is allowed a sixth one.[3] Sierra-Pacific opposes the assignment to Modesto, Turlock, or Patterson; it also suggests that the better allocation would be to Manteca. Sierra-Pacific states that it renders a wide area good music format from its Mount Oso transmitter site (3,358 feet AMSL) serving Patterson and Modesto,[4] and, because of Patterson's lack of size, Station KOSO derives the bulk of its revenue from other communities, principally Modesto. In view of its increasing losses during the 1968-70 period, Sierra-Pacific feels that Modesto is not able to support another broadcast facility, and it views the allocation of an FM channel to Patterson as a threat to its own operation.

5. Kilibro opposes the alternative assignments. It notes that Oakdale was assigned Channel 236 in February 1971 (27 FCC 2d 844); Salida and Riverbank are characterized as "crossroad" communities on the outskirts of Modesto. It says that Channel 272A could not serve Newman because in order to avoid adjacent channel interference to Station KSBW-FM at Salinas the transmitter would have to be about 18 miles northeast of Newman (a Class A channel, at full power and height, cannot provide a principal community signal from more than 8 miles). It also opposes allocation of the channel to Turlock on the ground that, while Station KOSO-FM operates as a Patterson station, the channel is still allocated to Turlock, and the station serves both communities. As to the possibility of allocating Channel 272A to Manteca, Kilibro makes several arguments: First, it relies on the notice not mentioning that possibility; it also says that Manteca is within the "sphere of influence" of Stockton and Tracy and that six FM stations provide it with a "primary signal" as opposed to three FM stations providing a primary signal to Modesto whose population is much greater than that of Manteca. Kilibro also states that KTRB errs as to the number of aural broadcast services in Modesto, specifically, that, although five aural stations are located there, there are only three services because the two FM stations duplicate the programing of the associate AM stations. Finally, Kilibro urges that Modesto as the fastest growing community in Stanislaus County, which is an SMSA, merits more than two FM allocations.

6. Kilibro apparently misconceives the purpose of the FM allocation scheme. In this instance, a city the size of Manteca normally merits a channel of its own even though it receives a substantial service from stations from elsewhere. The fact that it is part of the Stockton SMSA (San Joaquin County, population 290,208) does not alter this. At least, Kilibro seems to be arguing that all FM allocations in an SMSA should be made to the principal city.[5] See and compare In the Matter of Cayce, Columbia, and Burnettown, 30 FCC 2d 180, 184 (1971).

7. There seems to be little question that on the basis of population criteria, Modesto is entitled to another FM channel.[6] In suggesting possible assignment elsewhere in the area, our notice intended to point out that this is not the sole consideration in making an FM allocation. Indeed, the touchstone for an allocation is the requirement of section 307(b) of the Communications Act of 1934, as amended "to provide a fair, efficient, and equitable distribution of radio service" among the several States and communities especially, if, as here, there is a paucity of possible channel assignments. While Manteca was not specifically mentioned in the notice, this is not a reason why the Commission may not consider the possibility of an assignment for it, since our notice in effect raised the broad question of allocating Channel 272A to another community in the area. While we would have preferred some sort of showing that someone is ready to apply for and build a station on a Manteca channel (the type of showing that would have been essential for an allocation to the smaller communities referred to in the notice), the public interest, convenience, and necessity appears to be served by assigning Channel 272A to Manteca on the basis of population (13,845). This does not mean that we are denying Kilibro's proposal or that we are ignoring Turlock which approximates Manteca as to population. However, as Kilibro says, there is a channel assigned to Turlock even though it is occupied by Station KOSO, Patterson. As to Modesto, our search discloses that Channel 244A is available for assignment to it,[7] and we are allocating that channel there. In sum, we find that the public interest, convenience, and necessity would be served by allocation of another FM channel to Modesto and one to Manteca. In this respect, the contentions of Sierra-Pacific opposing an allocation to Modesto based on economic considerations are contrary to the holding in FCC v. Sanders Bros., 309 U.S. 470 (1940), to the effect that economic well-being of broadcasters is only of concern as it affects the public interest rather than an individual station's interests. Under the doctrine of Owensboro On the Air, Ins. v. United States, et al., 262 F. 2d 702, 707-8 (C.A.D.C., 1959), certiorari denied, 360 U.S. 911, it seems clear that the Commission has the right to change the assignment for Modesto from that proposed and to make an assignment to Manteca.

8. *Albuquerque, N. Mex. (RM-1612 and RM-1625)*. Sun Country Radio, Inc. (Sun Country), licensee of AM Station KPAR, Albuquerque, petitioned the Commission to assign Channel 278 to Albuquerque (RM-1612). Vancomar Broadcasting Corp. (Vancomar) petitioned the Commission to allocate that channel and Channel 268 to the same community (RM-1625). Both petitions were received and accepted for filing in May 1970. Those filing comments to this portion of the proceeding are: Sun Country, Vancomar, and Hubbard Broadcasting, Inc. (Hubbard), licensee of Stations KOB, KOB-FM, and KOB-TV at Albuquerque.

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[1] There were other considerations.

[2] AM Station KCEY operates from Turlock. As the notice stated, Turlock also is assigned Channel 226, which operates as Station KOSO, Patterson.

[3] Modesto has five local aural stations—AM Stations KFIV, KTRB, and KBEE and FM Stations KTRB-FM and KBEE-FM.

[4] Patterson is about 14 miles southwest of Modesto. Mount Oso is about 14 miles northwest of Patterson and 23 miles southwest of Modesto.

[5] In this respect, because of adjacent channel mileage requirements toward Station WRBT, Channel 273, Woodland, Channel 272A may not be assigned to Stockton. The population of Stockton is 107,644; it has two FM channel assignments.

[6] See further notice of proposed rule making, Docket No. 14185, adopted July 25, 1962 (FCC 62-867), and incorporated by reference in paragraph 25 of the Third Report and Memorandum Opinion and Order, adopted July 25, 1963, 23 R.R. 1859, 1871.

[7] While Channel 244A could be allocated to Manteca, the need to protect Station KPSC, Sacramento, on adjacent Channel 245, would have required a transmitter site for Channel 244A at Manteca about 4 miles south and east of the city. We prefer to make allocations without need for specialized transmitter locations, this is, at the reference points, unless there is no other choice.

9. The notice pointed out certain pertinent background information. Albuquerque, population 243,751, is an SMSA consisting of Bernalillo County, population 315,744. Although a community the size of Albuquerque is entitled to only six channels under population criteria,[8] it has seven FM channel assignments. The notice stated that the question of assigning other channels was not free from doubt particularly since we assigned the seventh channel with some reluctance and denied the allocation of another one in Docket No. 18451, 16 R.R. 2d 1631 (1969). The notice referred to the abundance of broadcast service in Albuquerque consisting of 18 aural broadcast stations and four TV stations[9] and that pending applications for Channel 300 were involved in a comparative hearing, Dockets Nos. 19178 and 19179 (the applicants for the latter are Zia Tele-Communications, Inc. (BPH-6887), and Alvin L. Korngold (BPH-6952)). The latter have since been consolidated with Dockets Nos. 19087 and 19088 to permit a prior disposition of a § 1.65 issue as to Korngold.

10. Our notice indicated that a further assignment of an FM channel might be made to Albuquerque possibly on the ground that the SMSA population was a truer indicia of the population rather than that of Albuquerque itself. In the latter respect, we noted that under our population criteria, a "community" of 250,000 to 1 million persons is entitled to six to 10 FM channels. We also said that Hubbard's reliance on economic viability might not be fully apt, for FCC v. Sanders Bros., 309 U.S. 470 (1940), relied upon by it, stands for the proposition that economic well-being of broadcasters is only of concern as it affects the public interest rather than an individual station's interest (see paragraph 7, above). Finally, we pointed out that neither petitioner submitted a proper preclusion study, a matter which we felt was of vital concern to ascertain the availability of possible channels for Sandoval and Torrance Counties (adjacent to Bernalillo) which have no AM or FM stations or FM channel assignments.

11. We first summarize Sun Country's comments. This party places strong reliance on population and population growth: The Albuquerque SMSA had a growth population of 20 percent compared to 7 percent for the State; the Albuquerque SMSA population is 31 percent of that for the State; corrected projections for the future indicate an SMSA population of over 388,000 for 1975 and 471,500 for 1980; Albuquerque is the fourth fastest growing city in the United States during the past 25 years. Sun Country also says that the SMSA population figure is a true indication of size warranting allocation of up to 10 FM channels. Sun Country additionally contends that it has not experienced the financial difficulties encountered by others in the Albuquerque market. Finally, Sun Country says that, if Channel 278 is allocated to Albuquerque, it will file an application for it immediately to build an FM station with a 10 kw. transmitter, a six-bay circular polarized antenna (30 kw. vertical and horizontal) in full stereo. With respect to possible assignment to Sandoval and Torrance Counties, a table is furnished showing that Channels 269A and 285A, respectively, could be assigned.

12. Vancomar's formal submission is a preclusion study for Channels 268 and 278. It says that there are six channels available for assignment to the surrounding area, but no indication is given as to which channels. Vancomar also filed an informal submission to support its view that Albuquerque needs an FM station to serve Spanish speaking people of Albuquerque and adjacent areas.

13. As in the petition stage, Hubbard opposes either assignment. This party adheres to the views previously expressed as to the economic impact of further allocations to Albuquerque in the light of the overall economic situation of aural broadcasting stations in that community. Hubbard also points to Docket 18451, when Channel 300 was assigned to Albuquerque, on the basis of what it characterizes as an "erroneous" estimate of population and that the assignment of Channel 278 was then denied; Hubbard feels that there is no justification for overruling the conclusion denying another channel in that proceeding. Hubbard also notes that Santa Fe's FM Stations KSNM and KASE and Los Alamos' Station KRSM-FM can be received in Albuquerque. In its reply comments, Hubbard Broadcasting takes issue with whether Vancomar and Sun Country have made a sufficient showing as to preclusion to support assignment of either Channel 268 or 278 to Albuquerque.[10] In this respect, Hubbard Broadcasting's study shows that assignment of Channel 278 to Albuquerque would preclude assignment of that channel to an area of 93,526 square miles of which 59,094 is unserved by any FM station, authorized, applied for, or allocated, and Channel 268 would preclude assignment in an area of 62,684 square miles of which 46,418 is similarly unserved. In the same vein, it disputes Sun Country's contention that Channel 269A and 285A, respectively, could serve Sandoval and Torrance Counties; because of the large areas of both, a Class A FM facility could serve only approximately 20 percent of each. Hubbard in general takes issue with Sun Country's contentions. The population estimates for 1975 and 1980 not only are possibly erroneous, and it feels there is no reason to make assignments to serve estimated future population when there is no present need. As to the argument that the economy of the city is expanding with new demands for employment, Hubbard alleges that the unemployment rate was 5.3 percent in contrast with the overall average of 4.9 percent in 1970. Hubbard opposes Sun Country's contention that the SMSA population supports additional allocations is unfounded; however, it should be remembered that the Commission mentioned this possibility in the notice. More germane is Hubbard's further comment to the effect that, if the SMSA includes one or more counties, this does not mean that all the FM channels should be allocated to the largest city in that area (see paragraph 6 above). Hubbard points to South Valley, North Valley, and Sandia with populations of 29,389, 10,366, and 6,867, respectively; these, we note, are unincorporated communities to which we normally do not make FM allocations. In its reply comments, Hubbard also says that based on a balance sheet of Sun Country, dated May 31, 1971, there are strong doubts as to the financial qualifications of the latter to construct and operate an FM facility. Hubbard's supplement to its reply comments[11] deals with the economic feasibility of further stations in Albuquerque. Hubbard relies on direct evidence before the Commission as concerns the transfer of AM Station KPAZ (BAL-7406), where the transferor relied on financial losses. Note is also made that the transferee had committed itself to provide substantial programing in Spanish and English with concentration on the needs of the Spanish community; it is urged that its ability to do so will be hampered if not defeated by Vancomar's intent to program as it stated.

14. While we have detailed the arguments of the parties, the issues more or less are those as set forth in the notice of proposed rule making. Specifically, the question is whether there is any justification for further exceeding the population criteria to make another FM channel assignment for Albuquerque. As indicated above, there is a plethora of aural broadcast service in the city, and Channel 300C added in 1969 still is not on the air. The situation is little changed from that considered in Docket No. 18451 when we declined to allocate Channel 278. While we disagree with Hubbard Broadcasting's argument that assignments are made on the basis of present needs and not for the future, the situation at Albuquerque is unique to the extent that an unlimited number of assignments may be made on a need basis at any time during the foreseeable future. Considering the arguments of Sun Country and Vancomar as opposed to our initial doubts, we are not persuaded that a further FM channel assignment should be made to Albuquerque at this time.

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[8] See footnote 6, above.

[9] The aural service consists of 10 AM stations—six unlimited and four daytime-only; these are respectively Stations KABQ, KDEF, KGGM, KOB, KQEO, and KRZY, and Stations KAMX, KDAZ, KPAR, and KZIA. The FM station situation consists of two noncommercial stations (KANW and KUNM) and six commercial stations (KBNM, KDEF-FM, KHFM, KMAP-FM, KOB-FM, and KRST). Additionally there is a pending application for a daytime-only station (BP-16364). The television stations are commercial Stations KOB-TV, KGGM-TV, and KOAT-TV, and ETV Station KNME-TV.

[10] Policy to Govern Requests for Additional FM Assignments, 8 FCC 2d 79 (1967).

[11] Hubbard Broadcasting's motion for leave to file the supplement is granted.

15. Under the authority found in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended: *It is ordered*, That effective July 14, 1972, the FM table of assignments (§ 73.202(b) of the Commission's rules and regulations) is amended as concerns the following California communities:

City	Channel No.
Modesto, Calif	244A, 277, 281
Manteca, Calif	272A

16. *It is further ordered*, That the petition of Sun Country Radio, Inc., to assign Channel 278 to Albuquerque, N. Mex. (RM-1612), is denied.

17. *It is further ordered*, That the petition of Vancomar Broadcasting Corp. to assign Channels 268 and 278 to Albuquerque, N. Mex. (RM-1625), is denied.

18. *It is further ordered*, That this proceeding is terminated.

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

Adopted: June 1, 1972.

Released: June 7, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[12]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-8739 Filed 6-8-72;8:49 am]

[Docket No. 19463; FCC 72-475]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Stations, Table of Assignments for McGill, Nev., and Richfield, Utah

Report and order. In the matter of amendment of § 73.606 *Table of Assignments*, television broadcast stations (McGill, Nev., and Richfield, Utah), Docket No. 19463; RM-1760.

1. The Commission has before it the notice of proposed rule making (FCC 72-216), released March 10, 1972, inviting comments on a proposal to exchange the VHF channels assigned to McGill, Nev., and Richfield, Utah, and to reserve the resulting McGill assignment for educational use. Shortly before the proposal was submitted by the Nevada Educational Communications Commission (NECC), David I. Hansen submitted a letter headed "Petition for Rule Making" which we treated as a comment in this proceeding. The only other comments, filed in response to the notice, were from NECC.

2. NECC originally indicated that the requested Channel 13 assignment could be made to McGill or on a hyphenated basis to Ely-McGill. Finding no reason advanced in support of the latter approach, we indicated our intention to pursue only the McGill alternative. We pointed out that the communities of Ely and McGill were about 12 miles apart and that from the site contemplated by NECC, service would be provided to both communities. McGill has a population of 2,164 and Ely a population of 4,176, together accounting for more than 60 percent of White Pine County's total of 10,150. At present, Channels 3 and 6 are assigned to Ely and Channel 8 is assigned to McGill, but none of the three are in use. Such television service as exists in this area is provided by translator operations on Channels 7, 9, and 11. There are also a number of conflicting applications on file to provide translator service on the channels (3, 6, and 8) assigned to Ely and McGill.

3. NECC urged the exchange of channels with Richfield, Utah (where the Channel 13 assignment is not in use) so that it could provide an area-wide educational television service without disrupting existing translator service. The proposal to move Channel 13 to McGill is consistent with all applicable requirements as is the proposed move of Channel 8 to Richfield, Utah. On behalf of the reservation of Channel 13, NECC stressed the need of this sparsely settled area of the State for the educational television offerings it would provide and pointed to the limitations on the economic as well as educational resources in the area. Originally, NECC planned to proceed immediately upon assignment of the channel, but it subsequently stated that the funds required may be delayed. Nevertheless, it urges a favorable resolution of the proceeding to avoid translator service disruption and to enable it to proceed promptly when the necessary funds become available.

4. We agree that going forward now is a sensible approach, both in terms of reserving an educational channel for the area as well as avoiding disruption of translator service. The latter point assumes more importance because of the limited resources of population and money on which the translator operations can draw. Since a full-fledged commercial operation in this area does not appear feasible, we see no reason for not reserving the channel for educational use, even if it were the only assignment. As to Mr. Hansen's suggestion that a UHF channel be used for the educational reservation, we consider such an approach to be unsuitable under the circumstances here. The requested VHF channel is available for use and NECC strongly opposes use of a UHF channel. We see no need to refuse to honor its preference merely to accommodate a secondary translator service, for which there is considerable space in any event. Therefore, we will not follow Mr. Hansen's urgings. As discussed above, NECC's method has considerable merit and it can be effected without any real impact in Richfield. Thus, we intend to adopt the changes urged by NECC, finding the public interest served by so doing.[1]

5. Accordingly, pursuant to sections 4(i), 303(g), and 307(b) of the Communications Act of 1934, as amended: *It is ordered*, That effective July 14, 1972, the TV Table of Assignments, § 73.606 of the rules, is amended to read as follows for the cities listed below:

City	Channel No.
McGill, Nev	*13
Richfield, Utah	8+, *19

6. *It is further ordered*, That this proceeding is terminated.

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

Adopted: June 1, 1972.

Released: June 6, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-8740 Filed 6-8-72;8:50 am]

[Docket No. 19392; FCC 72-476]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Stations, Table of Assignments for Twin Falls, Idaho

Report and order. In the matter of amendment of § 73.606 *Table of Assignments*, television broadcast stations (Twin Falls, Idaho), Docket No. 19392, RM-1806.

1. This proceeding, begun by notice of proposed rule making issued January 7, 1972 (FCC 72-20), involves the redesignation of VHF Channel 13 from a commercial one to a noncommercial educational channel. The petitioner (The College of Southern Idaho, hereafter the "College") filed comments in support of the requested redesignation and stated that it would promptly use the channel for educational purposes at Twin Falls, Idaho. No other comments, pro or con, were filed in the proceeding.

2. Twin Falls, with a 1970 population of 21,914 (1960 population—20,126) is the county seat and largest city in Twin Falls County, Idaho, that had a 1970 population of 41,807 (1960 population—41,842). There is one commercial television station operating in Twin Falls on Channel 11 (Station KMVT).

3. Boise Valley Broadcasters, Inc., received a construction permit in 1960 for Channel 13, but the station has never been completed and put on the air. This construction permit was surrendered on May 3, 1972, and canceled by Commission letter of May 5, 1972. The college had hoped to construct an educational television station and in pursuance thereof, the college and the permittee filed an assignment application. However, certain funding problems could not be resolved. Thus, the assignment application was dismissed on April 19, 1972, at the request of the parties. However, pending resolution of the funding problems, the college intends to apply for a construction permit for a 100-watt educational television translator service

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[12] Commissioners Robert E. Lee and Johnson absent.

[1] At its new location, Channel 13 no longer needs to have its former positive offset.

[2] Commissioners Robert E. Lee and Johnson absent.

on Channel 13. Then when Federal assistance becomes available for an educational television station, the college would promptly apply for a construction permit for one on Channel 13.

4. The educational television picture in Idaho shows that there are two operating stations (KUID-TV, Channel 12, Moscow and KBGL-TV, Channel 10, Pocatello) and a construction permit for Channel 4, Boise. Petitioner avers that the Twin Falls area, the fifth largest city in Idaho, does not have an operating or proposed educational service. It is pointed out that a station, operating in Twin Falls, would cover a large portion of the south central agricultural section of the State and would provide cultural and educational stimulation to all residents of the area including supplemental classroom instruction as well as extension courses such as agricultural information and education. Reservation of Channel 13 as an educational channel would also further the intent and aims of the Idaho State Legislature to form a statewide noncommercial educational network. The interim educational translator service which will rebroadcast other educational stations, will be a first step in this statewide educational network and may well shorten the time for installation of a full educational television service in Twin Falls, Idaho.

5. We have considered the notice proposal and the comments and find that the assignment would be in the public interest and it is hereby adopted. It will bring a first off-the-air educational signal to Twin Falls and be a first step in development of an educational television service as a part of a statewide network.

6. In view of the foregoing: *It is ordered,* That, effective July 14, 1972, pursuant to authority contained in sections 4(i), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, § 73.606(b) of the Commission's rules, the Table of Television Assignments, is amended to read as follows:

City	*Channel No.*
Twin Falls, Idaho	11, *13-

7. *It is further ordered,* That this proceeding is terminated.

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

Adopted: June 1, 1972.

Released: June 6, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-8745 Filed 6-8-72;8:50 am]

[1] Commissioners Robert E. Lee and Johnson absent.

[Docket No. 18261; FCC 72-481]

PART 89—PUBLIC SAFETY RADIO SERVICES

PART 91—INDUSTRIAL RADIO SERVICES

PART 93—LAND TRANSPORTATION RADIO SERVICES

Availability of Land Mobile Channels in Certain Urbanized Areas

Order. In the matter of amendment of Parts 89, 91, and 93 of the rules to reflect the availability of land mobile channels in the 470-512 MHz band in the 10 largest urbanized areas of the United States, Docket No. 18261.

1. On June 16, 1971, we adopted our Second Report and Order in this proceeding. Land Mobile-UHF/TV Channel Sharing, 30 FCC 2d 221 (1971). In this report and order, we made frequencies in the 470-512 MHz band available for assignment in the land mobile radio services in the 10 largest urbanized areas of the United States. However, we placed a temporary restriction on the use of Channels 14 and 20 in the Los Angeles area, because we wanted to further evaluate the use of the channels by land mobile stations in terms of possible conflict with UHF-TV allocations in Mexico.

2. Since that time, this matter has been made the subject of further study, correspondence, and consideration; and it now appears that the mentioned restriction, specifically referenced below, can be removed. Therefore, such action is being taken.

3. In view of the steps previously taken and of notice heretofore given in connection with the matters under consideration, we find that the prior notice and effective date requirements of section 4 of the Administrative Procedure Act, 5 U.S.C. 553, do not apply.

4. *Accordingly, it is ordered,* Pursuant to sections 4(i) and 303 of the Communications Act of 1934, as amended, that, effective June 14, 1972, Parts 89, 91, and 93 of the Commission's rules are amended as shown below.

(Secs. 4, 305, 48 Stat.; as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: June 1, 1972.

Released: June 6, 1972.

FEDERAL COMMUNICATIONS COMMISSION.[1]

[SEAL] BEN F. WAPLE,
Secretary.

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

In §§ 89.123(b), 91.114(b), and 93.114 (b), Table G is amended by deleting Footnote 4 and the Footnote 4 designator opposite "Los Angeles, Calif." in the Table.

[FR Doc.72-8743 Filed 6-8-72;8:50 am]

[1] Commissioners Robert E. Lee and Johnson absent.

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Sand Lake National Wildlife Refuge, S. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (6-9-72).

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

SOUTH DAKOTA

SAND LAKE NATIONAL WILDLIFE REFUGE

Public hunting of big game on the Sand Lake National Wildlife Refuge, S. Dak., is permitted only on the area designated by signs as open to hunting. This open area, comprising 20,000 acres, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer, subject to the following conditions:

(1) Archery season—September 2 through September 17, 1972, both dates inclusive and December 4 through December 31, 1972, both dates inclusive.

(2) Firearms season—November 25 through December 3, 1972, both dates inclusive.

(3) All hunters must exhibit their hunting license, deer tag, and vehicle contents to Federal and State officers upon request.

(4) Hunters will not be allowed to drive on refuge maintained trails, but may park their vehicles outside the refuge and hunt on foot.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1972.

LYLE J. SCHOONOVER,
Refuge Manager, Sand Lake National Wildlife Refuge.

MAY 31, 1972.

[FR Doc.72-8700 Filed 6-8-72;8:46 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 46]

MARKETING OF PERISHABLE AGRICULTURAL COMMODITIES

Full Payment Promptly

Notice is hereby given that the U.S. Department of Agriculture is considering amending the regulations (other than rules of practice) issued pursuant to authority contained in the Perishable Agricultural Commodities Act, 1930 (46 Stat. 531, as amended; 7 U.S.C. 499a et seq.).

In the administration of the Perishable Agricultural Commodities Act, 1930 (46 Stat. 531 et seq., as amended; 7 U.S.C. 499a et seq.), the term "full payment promptly" is defined in 7 CFR 46.2 (aa), and as applied to purchase and sale transactions, such definition was, for many years, interpreted to mean that payment must be made within 10 days after the produce is accepted by the buyer, except where the parties agree on a different time for payment. A recent ruling has been made to the effect that under the language of 7 CFR 46.2(aa) the time for payment in purchase and sale transactions can be extended beyond the 10-day period by implied agreement based on prior transactions between the parties, or even knowledge of slow pay on the part of the buyer in transactions with others. This is contrary to the purpose and intent of the regulation. Consequently, it has been concluded that the regulation should be amended to clarify and strengthen the definition of "full payment promptly" by providing primary rules as to time of payment in various situations; for example, in a purchase transaction that payment is due in 10 days after the produce is accepted by the buyer and that, as an exception to such rules, the parties to a transaction may agree, but only by express agreement, on a different time for payment.

In addition, it has been concluded that the regulation specifying the duties of brokers should be amended to make it clear that the confirmation or memorandum of sale issued by a broker should include any express agreement as to the time when payment is due.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendment of the regulations should file the same, in duplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 30th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments are as follows:

1. Amend 7 CFR 46.2(aa) to read as follows:

§ 46.2 Definitions.

* * * * *

(aa) "Full payment promptly" is the term used in the act in specifying the period of time for making payment without committing a violation of the act. "Full payment promptly," for the purpose of determining violations of the act, means:

(1) Payment of the net proceeds for produce received on consignment or the pro rata share of the net profits for produce received on joint account, within 10 days after the day on which the final sale with respect to each shipment is made;

(2) Payment by growers, growers' agents, or shippers of deficits on consignments or joint account transactions, within 10 days after the day on which the accounting is received;

(3) Payment of the purchase price, brokerage, and other expenses to buying brokers who pay for the produce, within 10 days after the day on which the broker's invoice is received by the buyer;

(4) Payment of brokerage earned and other expenses in connection with produce purchased or sold, within 10 days after the day on which the broker's invoice is received by the principal;

(5) Payment for produce purchased by a buyer, within 10 days after the day on which the produce is accepted;

(6) Payment to growers, growers' agents, or shippers by terminal market agents or brokers, who are selling for the account of a grower, growers' agent, or shipper and are authorized to collect from the buyer or receiver, within 5 days after the agent or broker receives payment from the buyer or receiver;

(7) Payment to the principal, within 10 days after receipt, of net proceeds realized from a carrier claim in connection with a consignment transaction or, in connection with a joint account transaction, payment to the joint account partners of their share of the joint account net proceeds realized from a carrier claim;

(8) Payment by growers' agents, or shippers distributing individual lots of produce for or on behalf of others, within 5 days after reecipt of payment from the purchaser or receipt of the net proceeds on consigned or joint account transactions;

(9) Partial payments at reasonable intervals during the shipping season by a growers' agent or shipper who harvests, packs, or distributes entire crops or multiple lots therefrom for or on behalf of others and final payment within a reasonable time following the close of the season's transactions: *Provided, however,* That as an exception to subparagraphs (1) through (9) of this paragraph, the parties may, by express agreement at the time the contract is made, provide a different time for payment, and if they have so agreed, then payment within the time provided shall constitute "full payment promptly": *Provided further,* That the party claiming the existence of such express agreement as to time of payment shall have the burden of proving it.

Nothing in the regulations in this part shall limit the seller's privilege of shipping under a closed or advise bill of lading or other arrangement requiring cash on delivery unless there has been express prior agreement to the contrary between the parties; or prohibit cooperative associations from settling with their members on the basis of seasonal pools or other arrangements provided by their regulations or bylaws. Payment in connection with any transaction or situation not specifically covered herein shall be made within a reasonable time; and, if there is a dispute concerning a transaction, the foregoing time periods apply only to the undisputed amount.

§ 46.28 [Amended]

2. That portion of 7 CFR 46.28(a) which reads: "After all parties agree on the terms and the contract is effected, the broker shall prepare in writing and deliver promptly to all parties a properly executed confirmation or memorandum of sale setting forth truly and correctly all of the essential details of the agreement between the parties." is hereby amended to read: "After all parties agree on the terms and the contract is effected, the broker shall prepare in writing and deliver promptly to all parties a properly executed confirmation or memorandum of sale setting forth truly and correctly all of the essential details of the agreement between the parties, including any express agreement as to the time when payment is due."

(Sec. 15, 46 Stat. 537, as amended; 7 U.S.C. 499o)

Done at Washington, D.C., this 6th day of June 1972.

ERVIN L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.72-8756 Filed 6-8-72;8:51 am]

[7 CFR Part 921]

FRESH PEACHES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Limitations of Handling

Consideration is being given to the following proposal, as hereinafter set

forth, which would limit the handling of fresh peaches grown in designated counties in Washington by establishing a regulation, pursuant to the order, which was recommended by the Washington Fresh Peach Marketing Committee, established pursuant to the marketing agreement, and Order No. 921 (7 CFR Part 921) regulating the handling of fresh peaches grown in designated counties in Washington. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same in quadruplicate with the Hearing Clerk, Room 112A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than the seventh day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The recommendations of the Washington Fresh Peach Marketing Committee reflect its appraisal of the current and prospective crop and market conditions. Shipments of peaches from the production area are expected to begin on or about July 1, 1972. The proposed grade (including uniform firmness), size, maturity, and pack requirements provided herein are designed to prevent the handling, on and after July 1, 1972, of any peaches which do not comply with such requirements, so as to provide consumers with good quality fruit, consistent with (1) the overall quality of the crop, and (2) increase returns to producers pursuant to the declared policy of the act. Individual shipments, not exceeding 500 pounds, of peaches sold for home use and not for resale, subject to necessary safeguards, are excepted from these proposed requirements in that the quantity of peaches so handled has been relatively inconsequential when compared with the total quantity handled.

Such proposal reads as follows:

§ 921.309 Peach Regulation 9.

(a) Order: During the period July 1, 1972, through July 31, 1973, no handler shall handle any lot of peaches unless such peaches meet the following applicable requirements, or are handled in accordance with subparagraph (6) of this paragraph:

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

(2) Minimum size: (i) Such peaches of any variety, except peaches of the Elberta varieties, packed in any container except the standard peach box, shall measure not less than 2⅜ inches in diameter;

(ii) Such peaches of any variety when packed in a standard peach box shall measure not less than 2¼ inches in diameter; and

(iii) Such peaches of the Elberta varieties, packed in any container shall measure not less than 2¼ inches in diameter.

(3) Minimum maturity: Such peaches shall be well matured, except that any lot of peaches shall be deemed to have met such minimum maturity requirement if not more than 25 percent, by count, of the peaches in such lot are mature.

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

(5) Pack:

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

(ii) Such peaches other than peaches in loose or jumble packs in any container shall meet the standard pack requirements as set forth in the Washington Standards for Peaches (Order No. 1203), or the U.S. Standards for Peaches (§§ 51.1210 et seq. of this title).

(6) Notwithstanding any other provision of this section, any individual shipment of peaches sold by the producer or at an established packinghouse which meets each of the following requirements may be handled without regard to the provisions of this paragraph, of §§ 921.41 (Assessments), and 921.55 (Inspection and certification) if:

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

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

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

(b) The terms "Washington Extra Fancy Grade," "Washington Fancy Grade," and "mature" shall have the same meaning as when used in the Washington Standards for Peaches (effective June 14, 1971), issued by the State of Washington Department of Agriculture; the term "well matured" shall mean peaches which will yield very slightly to moderate pressure at the suture or blossom end, have shoulders and sutures that are well filled out, and have skin and flesh colored sufficiently that it will show characteristic varietal color when ripe; the term "loose or jumble pack" shall mean that the peaches are not placed in the container in rows, cups, compartments, or otherwise are not placed in the container in symmetrical order; the term "standard peach box" shall mean a container with inside dimensions of 4¼ to 6 by 11½ by 16 inches; the term "western lug box" shall mean any container with inside dimensions of 7 by 11½ by 18 inches; the term "well filled" shall mean that the level of fruit is filled at least to the top edge of the container; the term "diameter" shall mean the greatest distance, measured through the center of the peach at right angles to a line running from the stem to the blossom end; and terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in the marketing agreement and order.

Dated: June 6, 1972.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-8723 Filed 6-8-72;8:48 am]

[7 CFR Parts 1071, 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1127, 1128, 1129, 1130, 1132, 1138]

[Docket No. AO 231-A39 etc.]

MILK IN NORTH TEXAS AND CERTAIN OTHER MARKETING AREAS

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

7 CFR part	Marketing area	Docket No.
1071	Neosho Valley	AO-227-A28.
1073	Wichita	AO-173-A28.
1097	Memphis	AO-219-A27.
1102	Fort Smith	AO-237-A22.
1104	Red River Valley	AO-208-A21.
1106	Oklahoma Metropolitan	AO-210-A33.
1108	Central Arkansas	AO-243-A25.
1120	Lubbock-Plainview	AO-328-A15.
1126	North Texas	AO-231-A39.
1127	San Antonio	AO-232-A25.
1128	Central West Texas	AO-238-A28.
1129	Austin-Waco	AO-256-A21.
1130	Corpus Christi	AO-259-A25.
1132	Texas Panhandle	AO-262-A24.
1138	Rio Grande Valley	AO-335-A20.

Notice is hereby given of a public hearing to be held at the Executive Inn, 3232 West Mockingbird Lane, Dallas, TX, on June 28, 1972, beginning at 10 a.m. with respect to proposed amendments to the tentative marketing agreements and to the orders, regulating the handling of milk in the aforesaid marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY ASSOCIATED MILK PRODUCERS, INC.

PROPOSAL NO. 1

In § 1126.62, revise paragraph (b)(5) as follows:

§ 1126.62 Obligation of handler operating a partially regulated distributing plant.

* * * * *

(b) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price) subtract its value at the uniform price applicable at such location plus 5 cents (not to be less than the Class II price) and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price) less the value of such skim milk at the Class II price.

PROPOSAL NO. 2

In § 1126.71 add a new paragraph (e) as follows:

§ 1126.71 Computation of aggregate value used to determine uniform price.

* * * * *

(e) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

PROPOSAL NO. 3

In § 1126.93, revise paragraph (b)(2) as follows:

§ 1126.93 Payments to the producer-settlement fund.

* * * * *

(b) * * *

(2) The value at the uniform price applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1126.71(e).

PROPOSAL NO. 4

Immediately following § 1126.111, add a new centerhead and new §§ 1126.112 through 1126.124 as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1126.112 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1126.123(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1126.113 Composition of the Agency.

Each cooperative association or combination of cooperative associations as provided under § 1126.115(b) with three (3) percent or more of the total participating producers (producers who have not requested refunds for the most recent quarter) is authorized one agency representative plus one additional agency representative for each additional full ten (10) percent of the participating member producers it represents. Cooperative associations with less than three (3) percent of the total participating producers that have elected not to combine pursuant to § 1126.115(b) and participating producers who are not members of cooperatives are authorized to select from such group, in total, one agency representative for the first full three (3) percent plus one additional agency representative for each additional full ten (10) percent that such producers constitute of the total participating producers for the purpose of the agency's initial organization all persons defined as producers shall be considered as participating producers.

§ 1126.114 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1126.115 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative, who may be either a producer member or an employee of the cooperative, and who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 3 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1126.113 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required three (3) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (a) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order and annually thereafter the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1126.116 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting unless the Agency determines that more than a simple majority shall be required.

§ 1126.117 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1126.112;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1126.112 and 1126.119.

§ 1126.118 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1126.112 and 1126.119;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings not to exceed $25 per diem plus actual additional expenses, and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1126.119 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1126.120 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1126.123(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products .

§ 1126.121 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1126.122 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1126.123 Duties of the Market Administrator.

Except as specified in § 1126.118, the Market Administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1126.115(c);

(b) Set aside the amounts subtracted under § 1126.71(e) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1126.71(e).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1126.122. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1126.71(e) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1126.112 through 1126.124).

(d) Audit the Agency's records of receipts and disbursements.

§ 1126.124 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1126.92.

PROPOSAL NO. 5

Amend the Red River Valley; Oklahoma Metropolitan; Lubbock-Plainview, Tex.; Texas Panhandle; Rio Grande Valley; Central Arkansas; Central West Texas; Neosho Valley; Wichita, Kans.; San Antonio, Tex.; and Corpus Christi, Tex.; orders to provide for an advertising and promotion program for milk and milk products as set forth in Proposals 1 through 4 for the North Texas order with the exception that the proposed provisions in §§ 1126.112, 1126.113, and 1126.115 for the North Texas order be constructed for each of the respective orders to provide for the establishment of an Agency on an equitable manner with each Agency to be comprised of members selected on a pro rata basis to represent members of each qualified cooperative under the order and producers under the order who are not members of any cooperative with the total number of members of such Agency under each order not to exceed the following:

1. Under the Lubbock-Plainview, Tex., order, a total of three members.
2. Under the Neosho Valley order, a total of three members.
3. Under the Texas Panhandle order, a total of three members.
4. Under the Corpus Christi, Tex., order, a total of five members.
5. Under the Red River Valley order, a total of five members.
6. Under the Wichita, Kans., order, a total of five members.
7. Under the Central West Texas order, a total of three members.
8. Under the Central Arkansas order, a total of five members.
9. Under the San Antonia, Tex., order, a total of five members.
10. Under the Rio Grande Valley order, a total of five members.
11. Under the Oklahoma Metropolitan order, a total of seven members.

PROPOSAL NO. 6

Amend the individual-handler pool orders regulating the handling of milk in the Fort Smith, Ark.; Memphis, Tenn.; and Austin-Waco, Tex., marketing areas to provide for an advertising and promotion program for milk and milk products

according to the same procedures and principles as set forth for marketwide pool orders in Proposals 1 through 5 herein, but adapted to such individual-handler pool orders particularly with respect to the deduction of necessary funds to finance such a program in the computation of the uniform price of each handler regulated under each respective individual-handler pool order. It is also proposed that such orders also contain provisions for the establishment of an Agency according to the same procedures and principles as proposed for marketwide pool orders in Proposals 1 through 5 with the total number of members of such Agency under each order not to exceed the following:

1. Under the Fort Smith, Ark., order, a total of three members.
2. Under the Austin-Waco, Tex., order, a total of three members.
3. Under the Memphis, Tenn., order, a total of five members.

PROPOSED BY THE DAIRY DIVISION, AGRICULTURAL MARKETING SERVICE

PROPOSAL NO. 7

Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrators of the respective orders, or from the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Signed at Washington, D.C., on June 6, 1972.

ERVIN L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.72-8757 Filed 6-8-72;8:51 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-AL-14]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations which would alter the Kenai, Alaska, control zone and transition area.

The airspace requirements for the Kenai, Alaska, terminal area have been reviewed for compliance with the U.S. Standards for Terminal Instrument Procedures (TERPS) and revised criteria for establishment of terminal controlled airspace. This review requires alteration of the Kenai, Alaska, control zone and transition area. Refined coordinates of the Airport Reference Point (ARP) are also contained in this docket.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Alaskan Region, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, AK 99501. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the office of the Regional Counsel, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, AK 99501.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

1. Redesignate the Kenai, Alaska, control zone as that airspace within a 5-mile radius of the Kenai Municipal Airport (latitude 60°34'21'' N., longitude 151°14'44'' W.); and within 2 miles northwest and 2.5 miles southeast of the Kenai VORTAC 031° True (006° Magnetic) radial extending from the 5-mile-radius zone to 8.5 miles northeast of the VORTAC.

2. Redesignate the Kenai, Alaska, transition area as that airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Kenai Municipal Airport (latitude 60° 34'21'' N., longitude 151°14'44'' W.), extending clockwise from the 048° True (023° Magnetic) bearing to the 290° True (265° Magnetic) bearing from the airport.

The action proposed herein would alter the Kenai, Alaska, control zone by reducing the width of the extension to provide only that airspace required by new criteria. A 700-foot transition area would be established to provide protected airspace, required by new criteria, for aircraft conducting prescribed instrument departures. The proposed Anchorage 1,200-foot transition area (Airspace Docket No. 72-AL-15) would provide adequate controlled airspace for aircraft executing instrument procedures in the Kenai terminal area above 1,500 feet.

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

Issued in Anchorage, Alaska, on May 26, 1972.

JACK G. WEBB,
Director, Alaskan Region.

[FR Doc.72-8708 Filed 6-8-72;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 72-AL-15]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations which would alter the Anchorage, Alaska, terminal airspace structure.

The airspace requirements for the Anchorage, Alaska, terminal area have been reviewed for compliance with the U.S. Standard for Terminal Instrument Procedures (TERPS) and revised criteria for establishment of terminal controlled airspace. This review requires alteration of the Anchorage, Alaska, control zone and transition area. Additionally, refined coordinates of the Airport Reference Point (ARP) are contained in this docket.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Alaskan Region, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, AK 99501. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the office of the Regional Counsel, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, AK 99501.

The following airspace actions are proposed:

1. Alter the Anchorage, Alaska (Anchorage International Airport), control zone by redesignating it as that airspace within a 5-mile radius of the Anchorage International Airport (latitude 61°10'16'' N., longitude 149°58'48'' W.); and within 2.5 miles each side of the Anchorage RR southwest course extending from the 5-mile-radius zone to 8.5 miles southwest of the RR; within 2 miles each side of the Anchorage VORTAC 079° True (053° Magnetic) radial extending from the 5-mile-radius zone to the VORTAC; within 2 miles each side of the Anchorage ILS localizer west course extending from the 5-mile-radius zone to the OM; excluding the portion within the Anchorage (Merrill Field/Elmendorf AFB) control zone.

2. Alter the Anchorage, Alaska, transition area by redesignating it as that airspace extending upward from 700 feet above the surface within an 18-mile radius of the Anchorage International Airport (latitude 61°10'16'' N., longitude

149°58'48" W.) and that airspace extending upward from 1,200 feet above the surface within an 85-mile radius of the Anchorage VORTAC; and that airspace extending upward from 14,500 feet MSL within a 172-mile radius of the Anchorage VORTAC, excluding the portions within the United States, Federal Airways, Control 1218, Control 1310, the Cordova, Alaska, and Middleton Island, Alaska, control area extensions, the King Salmon, Alaska, transition area, and the Anchorage Oceanic Control Area.

The action proposed herein would alter the Anchorage, Alaska, International Airport control zone by increasing the length and width of the southwest extension to comply with new criteria. The proposed 700-foot-floor and 1,200-foot-floor transition areas would provide adequate protective airspace and flexibility for aircraft beyond the limits of the control zone in a radar environment. The proposed transition areas would also provide protective airspace for the new Standard Terminal Arrival Routes and delete the requirement for a 1,200-foot-floor transition area at Kenai, Alaska, since the Anchorage 1,200-foot-floor transition area would encompass the Kenai terminal area and provide the required 1,200-foot-floor protected airspace. The airspace extending upward from 14,500 feet MSL remains unchanged but is included in the proposal to provide continuity.

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

Issued in Anchorage, Alaska, on May 26, 1972.

JACK G. WEBB,
Director, Alaskan Region.

[FR Doc.72-8709 Filed 6-8-72;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 72-PC-1]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Molokai, Hawaii, control zone.

Interested persons may participate in the proposed rule making 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, Pacific Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 4009, Honolulu, HI 96813. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER 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.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

As parts of this proposal relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

This control zone alteration is necessary to permit minor changes in the effective times consonant with the seasonal changes in scheduled airline operation and the associated local weather reporting service.

The airspace action proposed in this docket would provide for minor changes to the effective times by issuance of notices to airmen and the Molokai, Hawaii, control zone would be amended as follows:

Delete all after the phrase "from the 5-mile-radius zone" and substitute therefor "to 3½ miles west of the VOR TAC. This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Pacific Chart Supplement."

This amendment is proposed under the authority of section 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510), Executive Order 10854 (24 F.R. 9565) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on June 2, 1972.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-8710 Filed 6-8-72;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 72-PC-2]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Lanai, Hawaii, control zone.

Interested persons may participate in the proposed rule making 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, Pacific Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 4009, Honolulu, MH 96813. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER 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.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

As parts of this proposal relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

This control zone alteration is necessary to permit minor changes in the effective times consonant with the seasonal changes in scheduled airline operation and the associated local weather reporting service.

The airspace action proposed in this docket would provide for minor changes to the effective times by issuance of Notices to Airmen and the Lanai, Hawaii, control zone would be amended to read as follows:

LANAI, HAWAII

Within a 5-mile radius of Lanai Airport (lat. 20°47'30'' N., long. 156°57'00'' W.). This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Pacific Chart Supplement.

This amendment is proposed under the authority of sections 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510), Executive Order 10854 (24 F.R. 9565) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on June 2, 1972.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-8711 Filed 6-8-72;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 72-RM-1]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Grand Forks, N. Dak., transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station, Post Office Box 7213, Denver, CO 80207. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10255 East 25th Avenue, Aurora, CO 80010.

Two new ILS approach procedures (ILS Runway 35 and LOC (BC) Runway 17) have been developed for Grand Forks International Airport, Grand Forks, N. Dak. Accordingly, it is necessary to alter the present Grand Forks, N. Dak., transition area to protect these approach procedures.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.181 (37 F.R. 2202) the description of the Grand Forks, N. Dak., transition area is amended to read as follows:

GRAND FORKS, N. DAK.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Grand Forks International Airport (latitude 47°57'05'' N., longitude 97°10'35'' W.) within 4.5 miles west and 9.5 miles east of the Grand Forks VORTAC 173° radial, extending from the VORTAC to 18.5 miles south of the VORTAC, and within a 10-mile radius of Grand Forks AFB (latitude 47°57'40'' N., longitude 97°24'00'' W.) and within 4.5 miles west and 9.5 miles east of the Grand Forks VORTAC 180° radial, extending from the 8.5-mile-radius area to 26½ miles south of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 35-mile radius of Grand Forks AFB, and within a 29-mile radius of Red River VOR, extending clockwise from a line 5 miles east of and parallel to the Red River VOR 180° radial to a line 5 miles northwest of and parallel to the Red River VOR 209° radial.

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

Issued in Aurora, Colo., on June 2, 1972.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc.72-8712 Filed 6-8-72;8:47 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 1]

[Docket No. 19518; FCC 72-473]

PUBLIC INTEREST GROUPS AS CONSULTANTS TO BROADCASTERS

Proposed Reimbursement for Legitimate and Prudent Expenses

In the matter of reimbursement for legitimate and prudent expenses of a public interest group for a consultancy to a broadcaster in certain instances, Docket No. 19518.

1. The Commission here gives notice of proposed rule making to consider the situation where a group, which has filed a petition to deny the renewal, transfer of control, or assignment of a broadcast station's license and subsequently dismisses such petition after agreement between the group and the licensee, is to be reimbursed for amounts legitimately and prudently expended for future services rendered under an agreement between the group and the licensee.

2. In approving the transfer of control of the license of Station KBTV, Channel 9, Denver, Colo., to Combined Communications Corp. (CCC), an agreement between CCC and the Denver Task Force for Community Broadcasting (Task Force) was submitted to the Commission for approval. The agreement between CCC and the Task Force concerned children's programing, programing for minority needs and interests, and employment and advancement of minority group persons. CCC and the Task Force also agreed for further cooperation and that CCC would financially assist in the Task Force for advisory services by reimbursing the Task Force for legitimate and prudent expenses not to exceed $5,000 in any calendar year. See letter to the vice president of CCC, dated February 9, 1972, 33 FCC 2d 625. The Commission deferred action as to the reimbursement issue pending the initiation of a rule making proceeding. The issue also was raised in the "WGKA" case (In re Application of Strauss Broadcasting Company of Atlanta, 31 FCC 2d 550, and letter, dated August 25, 1971, to GCC Communications of Atlanta, Inc. (FCC 71-886)). In that situation, a voluntary association of citizens took issue with a proposed alteration of programing format incident to change in ownership. See Citizens Committee v. FCC, 436 F. 2d 263 (C.A.D.C., 1970). The reimbursement issue arose when Strauss Broadcasting subsequently agreed to a further transfer of control to General Cinema Corporation of Atlanta, Inc. (GCC). The citizens group—which had filed a petition to deny—was disputing the station's change of programing format; that issue was resolved by Strauss and GCC contributing funds to a noncommercial educational FM broadcasting station in the community to program classical music with Station WGKA-AM adopting a contemporary music format. As concerns

this proceeding, GCC had agreed to pay the Citizens Committee future out-of-pocket expenses limited to $2,000 per year for 3 years. Then followed Combined Communications Corporation, 33 FCC 2d 623 (1972), and the Commission's letter to CCC of February 9, 1972.

3. *The issues.* The broad issue obviously is whether the public interest would be served by payment of future expenses to a group which has filed and later dismissed a petition to deny a renewal, transfer, or assignment, but the group and the licensee have agreed that the group would serve as a consultant to the station. There are a number of subsidiary questions. First, it would seem that the right of reimbursement, if allowed, should be limited to a responsible organization which filed a meritorious, good faith petition to deny. In this respect, quite clearly the organization(s) should have commenced timely negotiation of its grievance(s) with the licensee, transferee, or assignee, as the case may be. By the same token, it would appear that the issue(s) must be of a substantial nature; the dismissal should have followed negotiations between the group and broadcaster with the group having attained solid and substantial results; and the agreement is for useful services to be rendered by that group for the licensee in the future as concerns the licensee's obligation(s) to serve the public interest, convenience, and necessity. See and compare Office of Communication of the United Church of Christ v. Federal Communications Commission, et al., C.A.D.C. No. 24,672, decided March 28, 1972, slip opinion, pages 6–7, footnote 11. Thus, a critical issue is what showing should be required to establish a good faith agreement.

4. Second, even assuming a good faith agreement, there is an issue whether the public interest is served by permitting these consulting agreements to enter the bargaining process. The critical consideration is service to the public, and that consideration could conceivably be skewed by a party's interest in future sums to be garnered under a consulting agreement. On the other hand, such consulting agreements can make a contribution to the licensee's continuing sensitivity to local needs. We, therefore, ask for comment on this issue, and also the following aspects:

(a) Should there be a limit on the dollar amount to be reimbursed?

(b) Should the agreement between the group and the broadcaster specify what services the group is expected to perform?

(c) Should there be a limit on the period for such consultancy agreement?

(d) Should there be a periodic review of the arrangement (e.g., yearly)?

(e) What review procedures, if any, should be specified by the Commission either initially or periodically, or both (e.g., filing reports or detailed accounts of sums paid or work done)?

6. Authority for a rule of the sort discussed above is set out in sections 4(i), 303, 307, 309, 310(b), and 311 of the Communications Act of 1934, as amended.

7. Pursuant to applicable procedures set forth in § 1.419 of the Commission's rules, an original and 14 copies of all material requested by this proceeding should be submitted on or before July 14, 1972, and reply comments on or before July 24, 1972. All relevant material will be considered by the Commission. In reaching its decision in this proceeding, the Commission may also take into account other relevant data before it in addition to the specific data invited by this notice. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, DC.

Adopted: June 1, 1972.

Released: June 7, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-8741 Filed 6-8-72;8:51 am]

[47 CFR Part 74]

[Docket No. 19121; FCC 72-485]

TELEVISION BROADCAST TRANSLATOR STATIONS

Proposed Equipment Changes and Operation Time

In the matter of amendment of Part 74 and other parts of the Commission's rules and regulations pertaining to television broadcast translator stations, Docket No. 19121.

1. On January 13, 1971, the Commission adopted a notice of proposed rule making in Docket No. 19121 (27 FCC 2d 94, released January 15, 1971), in which various changes were proposed in Part 74, Subpart G of the Commission's rules, relating to television broadcast translator stations. The purpose of the proceeding was to eliminate some inconsistencies in the rules, eliminate rules which, through experience, the Commission has found to be impractical, undesirable, or obsolete, and to clarify certain rules which appeared to be vague or ambiguous. In harmony with the purposes of that proceeding, we propose herein additional changes in the rules.

2. *Section 74.763.* In this proceeding, we have already proposed to amend § 74.763, paragraph (b), of the rules, relating to time of operation of translators, to require that where a translator is inoperative for 10 days or more, irrespective of the reason, the engineer in charge of the radio district in which the station is located must be notified promptly in writing and advised also when operation is resumed. There is no provision in the rules, however, that requires notification to the Commission when operation of a television translator station is to be permanently discontinued. Since translator stations are subject to the provisions of Part 17 of the rules, relating to obstruction markings, it is important that the Commission be made aware as promptly as possible when permanent discontinuation occurs. Consequently, we propose to amend § 74.763, paragraph (c), to require that, prior to permanent discontinuance of the operation of a television translator station, the licensee must notify the Commission and the engineer in charge of the radio district prior to such discontinuation and must surrender its authorization for cancellation.

3. *Section 74.751(b).* Section 74.751 is concerned with equipment changes in television translator stations. It provides for the filing of a formal application on FCC Form 346 for certain types of changes and for notification for other types of changes. The rule, as presently worded, now requires that formal application be made for authority to change primary station, i.e., to rebroadcast the programing of a television broadcast station other than that authorized. Every change in primary station entails a change in the input frequency to a translator station, but not every change in input frequency necessarily entails a change in primary station. The usual situation where a change in input is involved without a change in primary station is where a translator station is authorized to receive the signals of its primary station by direct off-the-air pickup from the primary station, and it is proposed to carry that programing via an intermediate translator station rather than by direct pickup from the primary station. Such a change can involve substantial equipment changes such as where the primary station is a VHF station and the intermediate translator is a UHF translator. As presently couched, the rules do not require that formal application be made for authority to make such a change, although it has been the practice of the staff to request a formal application in such cases. In order to enable applicants to be aware that formal application is expected in such cases, we think that the rule should be amended.

4. Pursuant to this further notice and pursuant to the authority contained in sections 4(i), 303 and 307(b) of the Communications Act of 1934, as amended, the Commission proposes the adoption of the rules and revisions set forth below.

5. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules, interested parties may file comments on or before July 14, 1972, and reply comments on or before July 24, 1972. All relevant and timely comments and reply comments will be considered before final action is taken in this proceeding. The Commission, additionally, in reaching a decision in this proceeding, may also take into account other relevant information before it.

6. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all comments, replies, pleadings, briefs, or other documents shall be furnished to the Commission. Responses will be available for

[1] Commissioner Bartley not participating; Commissioners Robert E. Lee and Johnson absent.

public inspection during regular business hours in the Commission's Broadcast and Docket Reference Room at its Headquarters in Washington, D.C.

Adopted: June 1, 1972.

Released: June 7, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

1. In § 74.751, paragraph (b), subparagraph (6) is amended to read as follows:

§ 74.751 Equipment changes.

* * * * *

(b) * * *

(6) Any changes of input or output frequency.

* * * * *

[1] Commissioners Robert E. Lee and Johnson absent.

2. In § 74.763, paragraph (c) is amended to read as follows:

§ 74.763 Time of operation.

* * * * *

(c) The licensee of a television broadcast translator station shall notify the Commission in Washington, D.C., and the engineer in charge of the radio district in which the station is located prior to the permanent discontinuance of operation of the station and shall immediately forward the station license and other instruments of authorization to the Washington, D.C., office of the Commission for cancellation. Failure of a television broadcast translator station to operate for a period of 30 days or more, except for causes beyond the control of the licensee, shall be deemed evidence of discontinuance of operation and the license of the station will be canceled.

* * * * *

[FR Doc.72-8742 Filed 6-8-72;8:51 am]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

HAT BODIES OF FUR, NOT ON SKIN, FROM CZECHOSLOVAKIA

Notice of Discontinuance of Antidumping Investigation

MAY 31, 1972.

On June 24, 1970, information was received that hat bodies of fur, not on the skin, from Czechoslovakia were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

A withholding of appraisement notice issued by the Acting Commissioner of Customs was published in the FEDERAL REGISTER of April 19, 1972. A statement of reasons was published in the abovementioned notice and interested parties were afforded until May 19, 1972, to make written submissions and to present oral views in connection with the withholding of appraisement.

The attorneys for the exporter submitted a written request for an opportunity to present views in person in opposition to the notice. The opportunity was afforded to the attorneys and all interested persons were notified and were represented.

After consideration of all written and oral arguments presented, I hereby discontinue the antidumping investigation of hat bodies of fur, not on the skin, from Czechoslovakia.

Statement of reasons on which this notice is based. The information before the Department indicates there are changes in circumstances on the basis of which it is no longer appropriate to continue the investigation.

The interested persons who supplied information pursuant to § 153.27, Customs Regulations (19 CFR 153.27), presented further information during the oral presentations at Treasury, with attorneys for the exporter present, that the last U.S. producer of hat bodies of fur, not on the skin, was completely out of business with no prospect for revival regardless of the outcome of this investigation. Furthermore, continuation of the investigation would have a significant adverse effect on the U.S. industry which utilizes imported hat bodies of fur, not on the skin, from Czechoslovakia. This significant adverse effect would be realized in the near future, thus emphasizing that time was of the essence in the resolution of this investigation.

Subsequent to the oral presentations at Treasury, a letter was received from such interested persons confirming the foregoing facts and requesting the investigation be terminated.

These facts constitute evidence warranting the discontinuance of the investigation.

This notice of discontinuance of antidumping investigation is published pursuant to § 153.15 of the Customs regulations (19 CFR 153.15).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-8797 Filed 6-8-72;8:51 am]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[DES 72-63]

PROPOSED ILLINOIS BEACH ACQUISITION PROJECT

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the proposed Illinois Beach Acquisition Project and invites written comment within forty-five (45) days of this notice.

The environmental statement considers the acquisition of approximately 980 acres located along 3 miles of the Lake Michigan shoreline between Zion and the Illinois-Wisconsin border. The land acquired will be for an extension of Illinois Beach State Park and will be used primarily by the people of Metropolitan Chicago and Milwaukee.

Copies are available for inspection at the following locations:

Office of Communications, Room 7200, Department of the Interior, Washington, D.C. 20240, Telephone: 202—343-4662.

Division of Information, Bureau of Outdoor Recreation, Room 4022, Department of the Interior, Washington, D.C. 20240, Telephone: 202—343-5726.

Illinois Clearinghouse, State Clearinghouse Coordinator, Office of the Governor, Springfield, Ill. 62706.

Northeastern Illinois Planning Commission, 400 West Madison Street, Chicago, IL 60606.

Office of the Regional Director, Bureau of Outdoor Recreation, 3853 Research Park Drive, Ann Arbor, MI 48104, Telephone 313—769-7481.

Copies may be obtained by writing the National Technical Information Service, Department of Commerce, Springfield, Va. 22151 for $3 each. Please refer to the statement number above.

Dated: June 2, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-8701 Filed 6-8-72;8:46 am]

DEPARTMENT OF AGRICULTURE

Forest Service

SIUSLAW NATIONAL FOREST HERBICIDE USE

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Siuslaw National Forest Herbicide Use Program, USDA-FS-FES(Adm) 72-24.

The environmental statement concerns the use of the herbicides 2,4-D, 2,4,5-T, Amitrole-T, Atrazine, Picloram, and Dicamba on the Siuslaw National Forest located in Oregon. The herbicides are used to control certain specific types of vegetation.

This final environmental statement was filed with CEQ on June 1, 1972.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3230, 12th Street and Independence Avenue SW., Washington, DC 20250.

USDA, Forest Service, 319 Southwest Pine Street, Portland, OR 97208.

Siuslaw National Forest, 545 South Second Street, Corvallis, OR 97330.

A limited number of single copies are available upon request to Rexford A. Resler, U.S. Forest Service, Post Office Box 3623, 319 Southwest Pine Street, Portland, OR 97208.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151, for $3 each. Please refer to the name and number of the statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

ADRIAN M. GILBERT,
Acting Deputy Chief, Forest Service.

JUNE 5, 1972.

[FR Doc.72-8755 Filed 6-8-72;8:51 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIRPORT TRAFFIC CONTROL TOWER AT CHARLOTTESVILLE-ALBEMARLE AIRPORT, CHARLOTTESVILLE, VA.

Notice of Commissioning

Notice is hereby given that an Airport Traffic Control Tower will be commis-

sioned at Charlottesville-Albermarle Airport, Charlottesville, Va., on or about June 9, 1972. It will improve operational flow of terminal traffic consisting predominantly of general aviation aircraft. Communications to the Airport Traffic Control Tower should be addressed as follows:

Airport Traffic Control Tower, Department of Transportation, Federal Aviation Administration, Charlottesville-Albemarle Airport, Terminal Building, First Floor, Post Office Box 5207, Charlottesville, VA 22902.

(Sec. 313(a), 72 Stat. 752; 40 U.S.C. 1354)

Issued in New York, N.Y., on June 2, 1972.

RICHARD H. STANTON,
Acting Director, Eastern Region.

[FR Doc.72-8713 Filed 6-8-72;8:47 am]

Office of Pipeline Safety

[Notice 72-4; Docket No. OPS-19]

GAS PIPELINE SAFETY STANDARDS

Notice of Hearing Regarding Waiver

The Tennessee Gas Pipeline Co., a division of Tenneco Inc., of Houston, Tex., has petitioned for a waiver of the requirements of § 192.65 of Title 49 of the Code of Federal Regulations. Section 192.65 provides that where a pipeline is to be operated at a hoop stress of 20 percent or more of SMYS pipe having an outer diameter-to-wall thickness ratio of 70 to 1, or more, transported by railroad must be transported in accordance with API RP 5L1.

Tennessee is currently in the process of ordering 36-inch pipe for its 1972 construction program. In order to reduce the cost and extent of field circumferential welding, Tennessee conisders it desirable to utilize 80-foot lengths of pipe which are double submerged-arc girth welded at the mill. Tennessee wishes to transport the pipe from the various mills to Mississippi, Alabama, and Tennessee.

Due to the limited availability of railroad cars longer than 80 feet, it will be necessary to ship the 80-foot pipe on cars as short as 52 feet.

However, API RP 5L1 (1967 edition) prohibits overhang loads in excess of 5 feet or one-half of the distance between intermediate bearing strips, whichever is greater. Tennessee proposes loading the pipe on railroad cars as short as 52 feet with a double overhang of approximately 15 feet on idler cars.

Tennessee states that:

A considerable amount of pipe has been shipped in this manner without detrimental effect to the pipe due to improper loading. As a result of this experience the American Petroleum Institute Committee on Standardization of Tubular Goods has prepared a new edition of RP 5L1 which addresses itself to the appropriate loading method for double overhang loads of pipe on rail cars. This publication will be issued in April 1972.

In accordance with section 3(e) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1672(e)), notice is hereby given that a hearing on the matter of granting a waiver for the purpose stated above will be held at 10 a.m. on June 22, 1972, at the Office of Pipeline Safety, 400 Sixth Street SW., Washington, DC 20590.

Interested persons are invited to present their views at the hearing or to submit them in writing by June 22, 1972, at the Office of Pipeline Safety at the above address.

Issued in Washington, D.C., on June 5, 1972.

JOSEPH C. CALDWELL,
Director,
Office of Pipeline Safety.

[FR Doc.72-8753 Filed 6-8-72;8:51 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-372]

ATLANTIC RICHFIELD CO.

Notice of Withdrawal of Application for Construction Permit for Chemical Reprocessing Plant

By letter dated November 4, 1971, Atlantic Richfield Co. requested that its application dated October 29, 1970, for a license to construct and operate a nuclear fuel reprocessing plant be withdrawn. The notice of receipt of application was published in the FEDERAL REGISTER (35 F.R. 17441) on November 13, 1970.

Dated at Bethesda, Md., this 2d day of June 1972.

For the Atomic Energy Commission.

C. T. EDWARDS,
Assistant to Deputy Director for Fuels and Materials, Directorate of Licensing.

[FR Doc.72-8693 Filed 6-8-72;8:46 am]

[Docket No. 50-368]

ARKANSAS POWER & LIGHT CO.

Designation of Third Member of Atomic Safety and Licensing Appeal Board

In the matter of the Arkansas Power & Light Co. (Arkansas Nuclear One-Unit 2), Docket No. 50-368.

On April 13, 1972, the Commission published in the FEDERAL REGISTER (37 F.R. 7357) a notice of hearing concerning the application for a construction permit for a pressurized water nuclear reactor filed by the Arkansas Power & Light Co. That notice indicated the Commission would designate a third member of the Atomic Safety and Licensing Appeal Board, to which it had delegated its authority and review function which would otherwise be performed by it in this proceeding. Notice is hereby given that the Commission has now designated Dr. Lawrence R. Quarles, Dean of the School of Engineering and Applied Science, the University of Virginia, as the third member of the Atomic Safety and Licensing Appeal Board.

Dated at Germantown, Md., this 1st day of June 1972.

UNITED STATES ATOMIC ENERGY COMMISSION,
W. B. MCCOOL,
Secretary of the Commission.

[FR Doc.72-8692 Filed 6-8-72;8:45 am]

[Docket No. 70-1257]

JERSEY NUCLEAR CO.

Notice of Availability of Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations, notice is hereby given that a copy of a report entitled "Applicant's Environmental Report—Mixed Oxide Fuel Plant," submitted by Jersey Nuclear Co. and dated April 1972, is being placed for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20545. A copy of the report is also being placed for public inspection in the Washington State Clearinghouse, Office of the Governor, State Planning Division and Community Assistance Division, 100 Insurance Building, Olympia, Wash. 98501, and in the Richland Public Library, Swift and Northgate Streets, Richland, Wash. 99352. The report discusses environmental considerations related to the application by Jersey Nuclear Co. for a license to possess and use special nuclear material for operation of its mixed oxide fuel plant at Richland, Wash. Comments on the report may be submitted by interested persons to Deputy Director for Fuels and Materials, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

After the report has been analyzed by the Commission's regulatory staff, a draft detailed statement of environmental considerations related to the proposed action will be prepared. Upon preparation of the draft detailed statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of the availability of the draft detailed statement. The summary notice will request comments from interested persons on the proposed action and on the draft statement. The summary notice will also contain a statement to the effect that the comments of Federal agencies and State and local officials thereon will be available when received.

Dated at Bethesda, Md., this 2d day of June 1972.

For the Atomic Energy Commission.

C. T. EDWARDS,
Assistant to Deputy Director for Fuels and Materials, Directorate of Licensing.

[FR Doc.72-8694 Filed 6-8-72;8:46 am]

[Dockets Nos. 50-352, 50-353]

PHILADELPHIA ELECTRIC CO.

Order Convening Evidentiary Hearing

In the matter of Philadelphia Electric Co. (Limerick Generating Station Units 1 and 2), Dockets Nos. 50-352, 50-353.

At an evidentiary session in this proceeding on May 26, 1972, the Atomic Safety and Licensing Board announced that a further evidentiary session would convene at 2 p.m. on July 10, 1972, in Pottstown, and that a formal order would be issued for general public notice. In addition, provision was made at this May 26 session for submission by June 30, 1972, of previously prepared written statements intended to be offered as evidence.

Wherefore, it is ordered, In accordance with the Atomic Energy Act, as amended, and the rules of practice of the Commission, a further evidentiary session in this proceeding shall convene at 2 p.m. on July 10, 1972, in the Pott's Room, Holiday Inn, West King Street at Route 100, Pottstown, Pa.

And, it is further ordered, Pursuant to § 2.743(b) of the Commission's rules of practice, and as ordered at the May 26, 1972, evidentiary session, that all direct evidence intended to be offered by any party in this next evidentiary session on July 10, 1972, shall be prepared in written form and exchanged with other parties either by direct service or by placing in the U.S. Postal Service mails and postmarked on or before June 30, 1972, so that receiving parties may have adequate opportunity to examine the written statements.

Issued: June 5, 1972, Germantown, Md.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc.72-8730 Filed 6-8-72;8:49 am]

STATE OF NEVADA

Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State

Notice is hereby given that William O. Doub, Commissioner of the Atomic Energy Commission and the Honorable Mike O'Callaghan, Governor of the State of Nevada, have signed the agreement below for discontinuance by the Commission and assumption by the State of certain Commission regulatory authority. The agreement is published in accordance with the requirements of Public Law 86-373 (section 274 of the Atomic Energy Act of 1954, as amended). The exemptions from the Commission's licensing authority have been published in the FEDERAL REGISTER and codified as Part 150 of the Commission's regulations in Title 10 of the Code of Federal Regulations.

Dated at Germantown, Md., this 5th day of June 1972.

For the Atomic Energy Commission.

W. B. McCOOL,
Secretary of the Commission.

AGREEMENT BETWEEN THE U.S. ATOMIC ENERGY COMMISSION AND THE STATE OF NEVADA FOR DISCONTINUANCE OF CERTAIN COMMISSION REGULATORY AUTHORITY AND RESPONSIBILITY WITHIN THE STATE

Whereas the U.S. Atomic Energy Commission (hereinafter referred to as the Commission) is authorized under section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and section 161 of the Act with respect to byproduct materials, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

Whereas the Governor of the State of Nevada is authorized under Nevada Revised Statutes 459.080 to enter into this agreement with the Commission, and

Whereas the Governor of the State of Nevada certified on March 9, 1972, that the State of Nevada (hereinafter referred to as the State) has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by this agreement, and that the State desires to assume regulatory responsibility for such materials; and

Whereas the Commission found on May 18, 1972, that the program of the State for the regulation of the materials covered by this agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

Whereas the State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and

Whereas the Commission and the State recognize the desirability of reciprocal recognition of licenses and exemptions from licensing of those materials subject to this agreement; and

Whereas this agreement is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended; now therefore,

It is hereby agreed between the Commission and the Governor of the State, acting in behalf of the State, as follows:

ARTICLE I

Subject to the exceptions provided in Articles II, III, and IV, the Commission shall discontinue, as of the effective date of this agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and section 161 of the Act with respect to the following materials:

A. Byproduct materials;

B. Source materials; and

C. Special nuclear materials in quantities not sufficient to form a critical mass.

ARTICLE II

This agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of:

A. The construction and operation of any production or utilization facility;

B. The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

C. The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

D. The disposal of such other byproduct, source, or special nuclear material as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission.

ARTICLE III

Notwithstanding this agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

ARTICLE IV

This agreement shall not affect the authority of the Commission under subsection 161 b or i of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.

ARTICLE V

The Commission will use its best efforts to cooperate with the State and other agreement States in the formulation of standards and regulatory programs of the State and the Commission programs for protection against of radiation and to assure that State and Commission program for protection against hazards of radiation will be coordinated and compatible. The State will use its best efforts to cooperate with the Commission and other agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of like materials. The State and the Commission will use their best efforts to keep each other informed of proposed changes in their respective rules and regulations and licensing, inspection and enforcement policies and criteria, and to obtain the comments and assistance of the other party thereon.

ARTICLE VI

The Commission and the State agree that it is desirable to provide for reciprocal recognition of licenses for the material listed in Article I licensed by the other party or by any agreement State. Accordingly, the Commission and the State agree to use their best efforts to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

ARTICLE VII

The Commission, upon its own initiative after reasonable notice and opportunity for

hearing to the State, or upon request of the Governor of the State, may terminate or suspend this agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that such termination or suspension is required to protect the public health and safety.

ARTICLE VIII

This agreement shall become effective on July 1, 1972, and shall remain in effect unless and until such time as it is terminated pursuant to Article VII.

Done at Las Vegas, State of Nevada, in triplicate, this 25th day of May 1972.

For the U.S. Atomic Energy Commission.

[SEAL] WILLIAM O. DOUB, *Commissioner.*

For the State of Nevada.

MIKE O'CALLAGHAN, *Governor.*

Attest:

JOHN KOONTZ, *Secretary of State.*

[FR Doc.72-8722 Filed 6-8-72;8:48 am]

[Docket Nos. 50-254, 50-265]

COMMONWEALTH EDISON CO. AND IOWA-ILLINOIS GAS AND ELECTRIC CO.

Notice of Availability of Supplement to Applicant's Environmental Report and Addendum I To Draft Detailed Statement on Environmental Considerations

On March 9, 1972, the Atomic Energy Commission (the Commission) published in the FEDERAL REGISTER (37 F.R. 5073) a notice of availability of Commonwealth Edison Co.'s Environmental Report (dated November 16, 1970) and supplements thereto (November 16, 1971 and January 4, 1972), and the Commission's Draft Detailed Statement on Environmental Considerations (dated March 6, 1972) relating to operation of Unit 1 and Unit 2 of the Quad-Cities Nuclear Power Station located in Rock Island County, Ill. The notice provided 30 days for comments, commencing with its March 9, 1972, publication. Subsequently, the Commission received from the Commonwealth Edison Co. Supplement 5 (dated April 24, 1972) to the above environmental report, which discusses environmental considerations related to the proposed changes in the condenser cooling water system of the Quad-Cities Nuclear Power Station. The Commission's Directorate of Licensing has analyzed Supplement 5 as set forth in an Addendum I (dated June 1972) to the March 6, 1972, Draft Detailed Statement.

Pursuant to the National Environmental Policy Act of 1969 and the Commission's regulations in Appendix D of 10 CFR Part 50, notice is hereby given that Commonwealth's Supplement 5 to its environmental report and the Commission's Addendum I to its Draft Detailed Statement are available for public inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and in the Moline Public Library, 504 17th Street, Moline, IL 61265. The Supplement and the Addendum are also being made available at the Office of Planning and Analysis, Executive Office of the Governor, Room 614, State Office Building, Springfield, Ill. 62706, the Bi-State Metropolitan Planning Commission, 1054 Third Avenue, Rock Island, IL 61201, and at the Office of Planning and Programming, Des Moines, Iowa 50319. A copy of Addendum I may be obtained upon request sent to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Interested members of the public may, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, submit comments on Supplement 5 and Addendum I for the Commission's considerations. Such comments should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Federal agencies and State and local officials are being provided copies of the Supplement and Addendum for comments. When comments are received from them, they will be made available for public inspection at the above-designated AEC Public Document Room and the Moline Public Library.

Dated at Bethesda, Md., this 7th day of June 1972.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT, *Assistant Director for Operating Reactors, Directorate of Licensing.*

[FR Doc.72-8809 Filed 6-8-72;8:52 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24524; Order 72-6-14]

AIRLIFT INTERNATIONAL, INC.

Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of June 1972.

By tariff revisions filed May 8 and marked to become effective June 7, 1972, Airlift International, Inc. (Airlift), proposes a rate on wearing apparel and partly manufactured clothing of 5 cents per pound from San Juan to Miami. The proposed rate would be subject to a time-of-tender restriction, from 8 a.m. to 6 p.m., to a space-available limitation, and to a minimum weight of 20,000 pounds. The proposed rate would effect a reduction of 29 percent below the currently applicable specific commodity rate for the same commodities. This rate is scheduled to expire December 31, 1972.

Upon consideration of all relevant factors, the Board finds that Airlift's proposal may be unjust, unreasonable, unjustly discriminatory, unduly preferential or unduly prejudicial or otherwise unlawful and should be investigated. We further conclude that the rates should be suspended pending investigation.

Airlift's proposed rates would yield only 9.6 cents per ton-mile, which we believe is unduly low. The economies of transportation for shipments of 20,000 pounds are negligible in comparison with those that exist for much smaller shipments. Consequently, discounts at large weight breaks should be fully justified by cost elements. Airlift has not presented any factual support of the costs incurred for the traffic to be handled under its proposal. While there are rates now in effect in the same market for several commodities at a level equal to those here proposed, they appear generally applicable to lower value commodities.[1]

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof:

It is ordered, That:

1. An investigation be instituted to determine whether the reference "H" shown in connection with Commodity 2200 from San Juan, Puerto Rico, to Miami, Fla.; Commodity "F2200" and rate of 5 cents per pound minimum weight 20,000 pounds from San Juan, Puerto Rico, to Miami, Fla.; and the explanation of references "F" and "H" on 48th Revised Page 26-N of International Air Traffic Tariffs Corp., Agent's CAB No. 364, and rules, regulations, or practices affecting such rate and provisions are, or will be, unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful rate and provisions, and rules, regulations, or practices affecting such rate and provisions;

2. Pending hearing and decision by the Board, the reference "H" shown in connection with Commodity 2200 from San Juan, Puerto Rico, to Miami, Fla.; Commodity "F2200" and rate of 5 cents per pound minimum weight 20,000 pounds from San Juan, Puerto Rico, to Miami, Fla.; and the explanation of references "F" and "H" on 48th Revised Page 26-N of International Air Traffic Tariffs Corp., Agent's CAB No. 364, are suspended and their use deferred to and including September 4, 1972, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension, except by order or special permission of the Board;

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[1] By tariff filed May 12, 1972, and marked to become effective June 11, 1972, Airlift is proposing a charge of $330 per Type A container from San Juan to Miami for general commodities. This charge is without regard to the weight placed in a container by shippers which has upper limits of 10,000 pounds per container. As shown in its support, the rate would be 9.7 cents per pound for a shipment of 3,400 pounds in a container, but this would decline and would reach 5.2 cents per pound for a shipment of 6,375 pounds and 3.3 cents a pound for a tender of 10,000 pounds in a container. This rate proposal appears to reflect the economies inherent in the movement of high-density traffic.

3. The proceeding herein designated Docket 24524 be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated; and

4. Copies of this order shall be filed with the tariffs and served upon Airlift International, Inc., which is hereby made a party to Docket 24524.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-8736 Filed 6-8-72;8:49 am]

[Docket No. 24518]

CESKOSLOVENSKE AEROLINIE

Renewal of Foreign Air Carrier Permit; Notice of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on June 22, 1972, at 10 a.m., local time, in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner James S. Keith.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before June 16, 1972.

Dated at Washington, D.C., June 5, 1972.

[SEAL] RALPH L. WISER, *Chief Examiner.*

[FR Doc. 72-8735 Filed 6-8-72;8:49 am]

[Docket No. 24361; Order 72-6-22]

FRONTIER AIRLINES, INC.

Order Regarding Supplemental Application for Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of June, 1972.

Frontier Airlines, Inc. (Frontier), filed an application on March 30, 1972, requesting exemption under section 416(b) of the Federal Aviation Act of 1958, or other permissive and expedited authority to provide nonstop service between Durango and Gunnison, Colo., and between Winslow, Ariz., and Albuquerque, N. Mex.,[1] on a subsidy-eligible basis.

In support of its proposed Durango-Gunnison authority, Frontier states that, at the present time, Gunnison has no morning service to Denver; that the authority sought herein will enable Frontier to provide morning service to Denver; specifically, the carrier-applicant proposes to originate a flight at Farmington at 7 a.m. operating over a Farmington-Durango-Gunnison-Denver routing, arriving at Denver at 8:48 a.m.[2]

In support of its request for Winslow-Albuquerque authority, Frontier states that the authority would permit Frontier to provide Winslow and Flagstaff with direct service to Albuquerque which is currently not available; the new authority would also give Frontier the aircraft routing flexibility so that Farmington and Durango would receive morning service to Albuquerque which the cities have requested; and that, effective June 1, Frontier proposes to provide an afternoon flight over a Phoenix-Flagstaff-Winslow-Albuquerque-Farmington routing and a flight over a Durango-Farmington-Albuquerque-Winslow-Flagstaff-Phoenix routing.[3]

Answers in support of Frontier's exemption requests have been filed by the city of Durango and the county of La Plata, Colo.; the city and Chamber of Commerce of Winslow, Ariz.; the city of Gunnison; the Gunnison County Chamber of Commerce and the county of Gunnison, Colo.; the city and county of Denver and the Public Utilities Commission of the State of Colorado; and the city and Chamber of Commerce of Farmington, N. Mex.

On April 10, 1972, the Durango Chamber of Commerce filed an answer supporting the early morning flight to Denver, but suggesting that Frontier's present 5:04 p.m. Flight 618 to Denver be rescheduled 1 hour later. On the same date, the Burns National Bank and the First National Bank of Durango filed answers objecting to Frontier's proposed substitution of its morning flight from Durango to Denver for the present evening Durango-Denver Flight 518, which departs Durango at 8:11 p.m. and arrives in Denver at 9:32 p.m. Both banks depend upon the evening flight to send their daily data to the main data processing center in Denver. On April 19, 1972, the Durango Chamber of Commerce et al.[4] (protestants), filed an answer objecting to Frontier's proposed change of its flight out of Durango. The protestants' objection is based upon their desire for Frontier's present evening flight from Durango to Denver (Flight 518). They request that any authority granted to Frontier be conditioned so as to require the carrier to continue its Flight 518 from Durango to Denver or, in the alternative, to schedule its Flight 618 to Denver which now departs Durango at 5:04 p.m. for departure at 6 or 6:30 p.m.

On April 14, 1972, Frontier filed a reply stating that the elimination of the evening flight from Durango to Denver was a scheduling decision which Frontier intends to make in any event and which is not contingent upon securing exemption authority to operate nonstop between Durango and Gunnison; and that the decision to eliminate the evening flight was based upon poor utilization of the service by Durango and low-load factors on the flight in general.

Frontier's application falls within the category of cases which Subpart M of the procedural regulations was originally designed to handle and should, therefore, have been filed under that procedure. Moreover, in Order 70-10-127, dated October 28, 1970, the Board placed all local service carriers on notice that all applications of this type would be processed under Subpart M procedures regardless of the procedural labels invoked by the applicant. In this instance, however, we have decided not to require the application to be refiled under Subpart M since this might unnecessarily delay a request for route adjustment in a monopoly market.[5] Instead, we have decided to proceed under Subpart M with Frontier's application standing as a Subpart M application.[6]

Appropriate forecasts, however, will be required in accordance with Rule 1304 of the Board's rules of practice. Pending the receipt of these financial projections, and based on our analysis of the situation to date, it is our tentative intention to grant the application if no adverse answer requiring a hearing is filed, and otherwise to direct that the application be heard on an expedited basis.

Accordingly, it is ordered, That:

1. Within 20 days of the date of this order, Frontier Airlines, Inc., shall file a supplement to its application in Docket 24361, setting forth a 2-year forecast for Frontier's proposal, and complying fully with Rule 1307(a) of the Board's rules of practice;

2. Any interested persons may, within 25 days after the filing by Frontier Airlines, Inc., of its supplemental application, file with the Board an answer to said application, such answers to comply with the provisions of Rules 1306 and 1307(a) of the Board's rules of practice;

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[1] Durango is an intermediate point on segment 2 of route 73, and Gunnison is an intermediate point on segment 3. Durango-Gunnison authority would involve overflying the segment junction points Grand Junction and Cortez. Albuquerque is a terminal point on segment 1 and Winslow is an intermediate point on segment 2. Winslow-Albuquerque authority involves overflying the segment junction point Gallup.

[2] Frontier states that although it presently intends to provide northbound Durango-Gunnison service, it requests authority which would enable it to provide southbound service or additional flights, should conditions so warrant.

[3] Frontier states that it does not anticipate any substantial traffic or revenues as a result of the new authority requested, but the authority will enhance its scheduling flexibility and would be consistent with economy of opertaions. Thus, Frontier requests that any service provided under the exemption authority be eligible for normal subsidy payments.

[4] Including Mercy Hospital of Durango; Montgomery Ward; Taylor-Raymond Jewelers; Wells Fargo Armored Service; First National Bank of Cortez; Citizens State Bank of Cortez; First National Bank of Durango; Community Hospital and Strand's of Durango.

[5] No provisions will be made for statements seeking dismissal pursuant to Rule 1305 because we have already found this application to be appropriate for processing under Subpart M.

[6] We believe it is appropriate to move forward with a view toward approval where the removal of a restriction on a carrier's authority is requested, where the carrier is the only one operating in the market, and where no other carrier objects, and there is no clear showing that the restriction should be retained. See application of Mohawk Airlines, Inc., Order 72-2-84, Feb. 23, 1972.

3. If answers opposing the application and requesting a hearing are filed pursuant to paragraph 2, and the Board determines that a hearing is required, Frontier Airlines, Inc.'s, application will be considered by the Board under the expedited procedures in Subpart M of its rules of practice, specifically Rules 1308–1315;

4. In the event no such answers are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter a final order; and

5. A copy of this order shall be served upon the following persons: The Governors of Arizona, Colorado, and New Mexico, the cities of Durango, Cortez, Grand Junction, Montrose, Delta, and Gunnison, Colo.; Moab, Utah; Winslow, Ariz.; and Gallup and Albuquerque, N. Mex.; the county of La Plata, Colo.; the Chamber of Commerce of Winslow, Ariz.; the Gunnison County Chamber of Commerce; the county of Gunnison, Colo.; the county of Denver and the Public Utilities Commission of the State of Colorado; the city and Chamber of Commerce of Farmington, N. Mex.; the Burns National Bank; the First National Bank of Durango; the Durango Chamber of Commerce et al.; the New Mexico Aviation Commission; Braniff Airways; Continental Air Lines; Texas International Airlines; and Trans World Airlines.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-8737 Filed 6-8-72;8:49 am]

[Docket No. 24528; Order 72-6-21]

WTC AIR FREIGHT

Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of June 1972.

By tariff revision bearing the issue date of May 9 and marked to become effective June 8, 1972, WTC Air Freight (WTC), an air freight forwarder, proposes to increase its airport-to-airport specific commodity rates on drills, thread taps, dies, and metal cutting tools from New York/Newark to Atlanta. The proposal results in increases ranging between 122.4 and 110.7 percent above its current specific commodity rates in effect on this commodity.

Upon consideration of all relevant factors, the Board finds that the proposed rates may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposed rates should be suspended pending investigation. The forwarder presents absolutely no justification or factual data in support of the sharp increases proposed. Furthermore, the rates would exceed its current general commodity rates by from 12.5 to 33.7 percent. WTC publishes rates on drills, etc., from New York/Newark and Hartford to numerous destinations, but in all of these markets the rates are below its general commodity rates.[1]

The general commodity rate is considered to apply to most traffic, with rates above this level restricted to limited commodities, generally those asserted to involve additional handling or transportation costs.[2] Rates such as proposed by WTC, which exceed the general commodity level, must be thoroughly supported by cost evidence supporting a premium charge above the general commodity level and showing that the proposed rates would be reasonable.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof:

It is ordered, That:

1. An investigation be instituted to determine whether the rates from Newark, N.J., or New York, N.Y., to Atlanta, Ga., subject to minimum weights of 200 and 500 pounds applicable to Item No. 55 on First Revised Page 55-A of WTC Air Freight's CAB No. 14, and rules, regulations, or practices affecting such rates, are or will be, unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful rates, and rules, regulations, or practices affecting such rates;

2. Pending hearing and decision by the Board, the rates from Newark, N.J., or New York, N.Y., to Atlanta, Ga., subject to minimum weights of 200 and 500 pounds applicable to Item No. 55 on First Revised Page 55-A of WTC Air Freight's CAB No. 14, are suspended and their use deferred to and including September 5, 1972, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding herein designated Docket 24528, be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated; and

4. Copies of this order shall be filed with the tariffs and served upon WTC Air Freight, which is hereby made a party to Docket 24528.

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[1] The proposed rates are more than double the current direct carrier general commodity rates from the New York/Newark to Atlanta, ranging between 121.3 and 190.3 percent above these rates for the same weight breaks. For example, at 200 pounds, WTC's proposed rate is $28.50 per 100 pounds, whereas the current direct carrier general commodity rate is $11.90–$12.20, depending upon the carrier, and WTC's current rate is $12.81. A similar situation exists at higher weights. To the extent that WTC can consolidate shipments, the charges it collects from shippers will exceed those paid to the airlines by even higher percentages.

[2] Generally, live animals and human remains for direct carriers. WTC does not have any such rates.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-8738 Filed 6-8-72;8:49 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF TRANSPORTATION

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Transportation to fill by noncareer executive assignment in the excepted service the position of Assistant Director for Program Coordination, Office of the Secertary, Office of Public Affairs.

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

[FR Doc.72-8751 Filed 6-8-72;8:50 am]

DEPARTMENT OF TRANSPORTATION

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Transportation to fill by noncareer executive assignment in the excepted service the position of Director of Public Affairs, Federal Highway Administration, Office of the Administrator.

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

[FR Doc.72-8752 Filed 6-8-72;8:50 am]

ENVIRONMENTAL PROTECTION AGENCY

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Environmental Protection Agency to fill by noncareer executive assignment in the excepted service the position of Associate General Counsel, Office of the Assistant Administrator for Enforcement and General Counsel, Office of the Deputy General Counsel, Air Quality and Radiation Division.

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

[FR Doc.72-8749 Filed 6-8-72;8:50 am]

FEDERAL HOME LOAN BANK BOARD

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Federal Home Loan Bank Board to fill by noncareer executive assignment in the excepted service the position of General Counsel, Office of the General Counsel. (Temporary, N.T.E. 6/30/72.)

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

[FR Doc.72-8750 Filed 6-8-72;8:50 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 599]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

JUNE 5, 1972.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

8404-C2-P-72—Upper Peninsula Telephone Co. (KQZ732), change the antenna system operating on 152.57 MHz located at 0.5 mile northeast of Toivola, Mich.

8405-C2-P-(2)-72—Satterfield Electronics, Inc. (New), for a new two-way station to be located at Greenfield Township, on Tower Road, 4.5 miles southeast of Baraboo, Wis., to operate on 152.030 MHz.

8407-C2-P-72—Gillette Radio Telephone (New), for a new two-way station to be located at 2.65 miles south of Gillette, Wyo., to operate on 152.060 MHz.

8408-C2-P-72—Northwestern Bell Telephone Co. (KAA817), change the antenna system operating on 152.57, 152.60, 152.63, 152.69, 152.75, 152.78, and 152.81 MHz located at 224 South Fifth Street, Minneapolis, MN.

8409-C2-P-72—Albert W. Dale, Jr. (KLF509), for additional facilities to operate on 152.210 MHz at a new site described as location No. 3: 0.25 mile east of Odessa, Tex.

8410-C2-P-72—Mid-Texas Telephone Co. (KLB616), replace transmitter operating on 152.780 MHz, change the antenna system and relocate facilities to northwest of Cooperas Cove, Tex.

8462-C2-P-(2)-72—Southern Bell Telephone & Telegraph Co. (KIQ514), change the antenna system operating on 152.690 MHz located at 400 Southwest Second Avenue, Gainesville, FL.

8463-C2-P-72—Zanesville Radiotelephone (New), for a new two-way station to be located at Ridge Avenue near Bell School, Zanesville, Ohio, to operate on 152.030 MHz.

8464-C2-P-72—The Ohio Bell Telephone Co. (KQA653), for additional facilities to operate on 454.450 MHz at a new site described as location No. 3: 83 West Avenue, Tallmadge, OH.

INFORMATIVE: It appears that the following applications may be mutually exclusive and subject to the Commission's rules regarding ex parte presentations, by reasons of potential electrical interference.

Frequency 152.240 MHz

Tennessee

Laile Hampton doing business as Radio Call Co. (New) 4179-C2-P-72.

Virginia

Paging, Inc. (New) 6129-C2-P-72.

RURAL RADIO SERVICE

4955-C1-P-71—RCA Alaska Communications, Inc. (New), for a new rural subscriber station to be located at Point Baker, Alaska, to operate on 157.80 and 157.89 MHz.

4956-C1-P-72—RCA Alaska Communications, Inc. (New), for a new rural subscriber station to be located at Port Alexander, Alaska, to operate on 157.80 and 157.89 MHz.

POINT-TO-POINT MICROWAVE RADIO SERVICE

8399-C1-P-72—American Microwave & Communications (KQN57), Tilden Lake, 2 miles southeast of the city of Ishpeming, Mich. Latitude 46°27'46" N., longitude 87°38'40" W. C.P. to change frequency 6041.6 to 6100.9H MHz toward Marquette, and 6100.9V MHz toward Ishpeming and Iron Mountain, Mich.

8400-C1-P-72—American Microwave & Communications (KSV60), Munising, Mich. Latitude 46°24'53" N., longitude 86°40'15" W. C.P. to change point of communication from Munising to Tilden Lake, Mich., on frequency 6278.8V.

8401-C1-P-72—American Microwave & Communications (KQL44), Millie Hill, one mile east of Iron Mountain, Mich. Latitude 45°49'15" N., longitude 88°02'30" W. C.P. to change point of communication from Iron Mountain, Mich., to Tilden Lake, Mich., on frequencies 6312.5H and 6362.5H MHz.

8402-C1-P-72—American Microwave & Communications (KQA29), Marquette, Mich. Latitude 46°30'48" N., longitude 97°23'58" W. C.P. to change point of communication from Marquette to Tilden Lake, Mich., on frequency 6397.4H MHz.

8411-C1-TC-(18)-72—Microwave Transmission Corp. (KOY40), Vienna, Va. University Computing Co. (a Texas corporation), transferor to University Computing Co. (a Delaware corporation), transferee.

8412-C1-TC-(65)-72—Data Transmission Co. (WDE83), Vienna, Va. University Computing Co. (a Texas corporation), transferor to University Computing Co. (a Delaware corporation), transferee.

INFORMATIVE: These applications were previously listed under actions taken on May 22, 1972, Report No. 597.

7951-C1-P-72—American Telephone & Telegraph Co. (KIK32), 3.5 miles southeast of Adairsville, Ga. Latitude 34°19'01" N., longitude 84°53'52" W. C.P. to add 3730H, 3750V, 3810H, 3830V, 3890H, 3990V, 4050H, 4070V, 4130H, and 4198H MHz toward Chatsworth, Ga.

7952-C1-P-72—American Telephone & Telegraph Co. (KIV70), 4.8 miles east of Chatsworth, Ga. Latitude 34°46'12" N., longitude 84°41'16" W. C.P. to add 3710V, 3770H, 3790V, 3850H, 3930H, 3950V, 4030V, 4090H, 4170H, and 4190V MHz toward Adairsville, Ga.

6305-C1-ML-72—West Texas Microwave Co. (WHB28), modification of license for authority to provide the audio program channel of KWXI-FM (Texas State Network) to station KGRO in Pampa, Tex.

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cutoff rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (Part 21 of the rules).

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

6307 and 6308–C1–ML–72—Laredo Microwave, Inc. (KLH77 and KLH79), modification of licenses for authority to provide the audio program channels of KITY–FM, KMFM–FM, KEEZ–FM, KBER–FM, and KQXT–FM of San Antonio, Tex., to Vumore Co. of Laredo in Laredo, Tex.

7487–C1–ML–72—West Texas Microwave Co. (WHB29), modification of license for authority to provide the audio program channel of KWXI–FM (Texas State Network) to Perryton Radio, Inc., in Perryton, Tex.

8465–C1–P–72—Indiana Bell Telephone Co. (KSJ45), 240 North Meridian Street, Indianapolis, IN. Latitude 39°46′16″ N., longitude 86°09′29″ W. C.P. to add 11,115H MHz toward Noblesville, Ind.

8466–C1–P–72—Indiana Bell Telephone Co. (KSV85), 2.8 miles southeast of Noblesville, Ind. Latitude 40°00′38″ N., longitude 85°59′44″ W. C.P. to add 11,485H MHz toward Anderson, Ind.

8467–C1–P–72—Indiana Bell Telephone Co. (KSV86), 1,100 feet west of South 23d and Raible Streets, Anderson, Ind. Latitude 40°05′37″ N., longitude 85°42′52″ W. C.P. to add 11,285V MHz toward Muncie, Ind.

8468–C1–P–72—The Chesapeake and Potomac Telephone Co. of Virginia (KIN88), Apple Orchard Mountain, approximately 21 miles west-northwest of Lynchburg, Va. Latitude 37°31′01″ N., longitude 79°30′40″ W. C.P. to change frequencies 6055 and 6295 to 2162.4 toward Lynchburg, Va.

8469–C1–P–72—The Chesapeake and Potomac Telephone Co. of Virginia (KIN87), 700 Church Street, Lynchburg, VA. Latitude 37°24′57″ N., longitude 79°08′40″ W. C.P. to change 6175V and 6415V MHz to 2112.4H MHz toward Apple Orchard Mountain 21.3 miles west-northwest of Lynchburg, Va.

8470–C1–P–72—The Mountain States Telephone & Telegraph Co. (KPX48), 12.8 miles southwest of Upton, Wyo. Latitude 43°59′08″ N., longitude 104°49′46″ W. C.P. to add 2178.4V MHz toward Keyhole, Wyo., a new point of communication.

8471–C1–P–72—The Mountain States Telephone & Telegraph Co. (New), 11.2 miles north-northeast of Moorcroft, Wyo. Latitude 44°24′25″ N., longitude 104°49′56″ W. C.P. for a new station on frequencies 2128.4V MHz toward Buffalo Creek, Wyo., and 2120.0H MHz toward Hulett, Wyo.

8472–C1–P–72—The Mountain States Telephone & Telegraph Co. (New), 1.1 miles northwest of Hulett, Wyo. Latitude 44°41′47″ N., longitude 104°37′15″ W. C.P. for a new station on frequency 2170.0H MHz toward Keyhole, Wyo.

8473–C1–P–72—Pacific Northwest Bell Telephone Co. (KPZ75), 100 Kearney Street, Bend, OR. Latitude 44°03′40″ N., longitude 121°18′30″ W. C.P. to add 10,935V MHz toward Long Butte, Oreg.

8474–C1–P–72—Pacific Northwest Bell Telephone Co. (KYS74), Long Butte, 3.2 miles northeast of Tumalo, Oreg. Latitude 44°10′26″ N., longitude 121°16′32″ W. C.P. to add 11,345V MHz toward Bend, Oreg., and 6330.7H MHz toward Round Butte, Oreg.

8475–C1–P–72—Pacific Northwest Bell Telephone Co. (New), Round Butte, 2.5 miles northwest of Metolius, Oreg. Latitude 44°36′25″ N., longitude 121°13′38″ W. C.P. for a new station on frequencies 6212.0H MHz toward Maupin, Oreg., and 6078.6H MHz toward Long Butte, Oreg.

8476–C1–P–72—Pacific Northwest Bell Telephone Co. (KPZ30), 9.7 miles south-southeast of Maupin, Oreg. Latitude 45°20′54″ N., longitude 121°00′22″ W. C.P. to add 5960.0H MHz toward Round Butte, Oreg.

8477–C1–P–72—The Western Union Telegraph Co. (New), Reno CTB, Mill Street, Reno, Nev. Latitude 39°30′55″ N., longitude 119°45′00″ W. C.P. for a new station on frequency 6123.1H MHz toward McClellan Peak, Nev.

8478–C1–P–72—The Western Union Telegraph Co. (New), McClellan Peak, 5 miles southwest of Virginia City, Nev. Latitude 39°15′34″ N., longitude 19°42′29″ W. C.P. for a new station on frequencies 6256.5H MHz toward Como Ridge, Nev., and 6404.8H MHz toward Reno CTB, Nev.

8479–C1–P–72—The Western Union Telegraph Co. (KPR80), Como Ridge, 7.5 miles southeast of Dayton, Nev. Latitude 39°10′41″ N., longitude 119°28′44″ W. C.P. to add 6034.2H MHz toward McClellan Peak, Nev.

8480–C1–P–72—Pacific Northwest Bell Telephone Co. (KPE29), 2.7 miles southeast of Moses Lake, Wash. Latitude 47°05′16″ N., longitude 119°15′25″ W. C.P. to add 3910H MHz toward Kittitas, Wash.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

8481–C1–P–72—Pacific Northwest Bell Telephone Co. (KPE30), 8.7 miles west-southwest of Ritzville, Wash. Latitude 47°04′32″ N., longitude 118°32′58″ W. C.P. to add 3890H MHz toward Moses Lake, Wash.

8482–C1–P–72—Pacific Northwest Bell Telephone Co. (KOJ96), 1 mile northwest of Sprague, Wash. Latitude 47°18′47″ N., longitude 117°59′33″ W. C.P. to add 3930V MHz toward Ritzville, Wash.

8516–C1–P/L–72—Telecommunications, Inc. (New), any temporary fixed location within territory of the applicant in frequency bands 3700–4200 MHz, 5925–6425 MHz and 10,700–11,700 MHz.

8517–C1–P–72—The Mountain States Telephone & Telegraph Co. (KPN84), Oatman Mountain, 5 miles east-southeast of Montezuma, Ariz. Latitude 33°03′05″ N., longitude 113°08′10″ W. C.P. to add 2170.0H MHz toward Dateland, Ariz.

8518–C1–P–72—The Mountain States Telephone & Telegraph Co. (New), 1.1 miles east-northeast of Dateland, Ariz. Latitude 32°48′10″ N., longitude 113°31′28″ W. C.P. for a new station on 2120.0H MHz toward Oatman Mountain, Ariz.

8519–C1–P/ML–72—General Telephone Co. of the Southwest (KLP79), 113 East Fifth, Guymon, OK. Latitude 36°40′57″ N., longitude 101°28′48″ W. C.P. and modification of license to replace transmitter on 6197.2H MHz toward Four Corners, Okla.

8520–C1–P/ML–72—General Telephone Co. of the Southwest (KLP80), 10 miles west-southwest of Four Corners, Okla. Latitude 36°44′18″ N., longitude 102°05′13″ W. C.P. and modification of license to replace transmitter on 5945.2H MHz toward Guymon, Okla.

8521–C1–P–72—Continental Telephone Co. of Maine (formerly Maine Telephone Co.) (KCK69), Matinicus Island, Maine. C.P. to replace transmitter on frequency 2195H MHz toward Benner Hill, Maine.

8522–C1–P–72—Continental Telephone Co. of Maine (KCK68), Benner Hill, 1 mile northwest of Rockland, Maine. Latitude 44°07′09″ N., longitude 69°08′15″ W. C.P. to replace transmitter on frequency 2115H MHz toward Matinicus Island, Maine.

MULTIPOINT DISTRIBUTION SERVICE

8523–C1–P–72—Midwest Corp. (New), Edgewood Avenue near Two Notch Road north of Forest Drive, Columbia, S.C. Latitude 34°00′59″ N., longitude 81°00′45″ W. C.P. for a new station on 2154.75 (Visual) 2150.25 (Aural) toward various receiving points of the system.

INFORMATIVE: It appears that the following applications may be mutually exclusive subject to the Commission's rules regarding ex parte presentations, reasons of potential electrical interference.

South Carolina—Columbia

Microwave Relay Services, Inc. (New), 6581–C1–P–72.
Midwest Corp. (New), 8523–C1–P–72.

POINT-TO-POINT MICROWAVE RADIO SERVICE: MAJOR AMENDMENTS

7688–C1–MP–72—Sierra Microwave, Inc. (WHB25), amendment to change polarization of frequencies 6256.5 and 6375.2 MHz from horizontal to vertical. All other particulars to remain the same as reported in public notice of May 1, 1972.

5241–C1–P–72—Western States Telephone Co., Inc. (New), change frequency from 2115.6V to 2112.0H MHz and station coordinates from latitude 36°01′36″ N., longitude 106°57′23″ W. All other particulars the same as reported in public notice, Report No. 584, dated February 22, 1972.

INFORMATIVE: On June 3, 1971, the Commission released its first report and order in Docket No. 18920, 29 FCC 2d 870 (Specialized Common Carrier Services), which, among other things, established new rules concerning frequency diversity, antenna standards, frequency coordination, and other technical requirements.

A number of microwave applications on file at that time, especially those proposing specialized services, have not been amended to comply with the new requirements. In view of the amount of time that has elapsed, it appears that applicants have had an adequate amount of time to amend their proposals. Therefore, any applications not amended by July 15, 1972, to comply with the technical requirements established by the first report and order, will be dismissed pursuant to § 21.28 of the Commission's rules for failure to prosecute. If an applicant is actively engaged in bringing applications into compliance, he may request a reasonable extension of time to complete the task.

[FR Doc.72-8744 Filed 6-8-72;8:50 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY FOR OIL POLLUTION

Notice of Certificates Issued

NOTE: This document was inadvertently published out of order in the issue of Wednesday, June 7, 1972, and is set forth below in its entirety.

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 11(p)(1) of the Federal Water Pollution Control Act, as amended, and, accordingly, have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to 46 CFR Part 542.

Certificate No.	*Owner/operator and vessels*
01088	Schulte & Bruns: Elisabeth Schulte.[1]
02014	Giovanni di Maio: Maria di Maio.
02266	Marina Mercante Nicaraguense S.A.: Hope.
02524	The Watergate Steam Shipping Co., Ltd.: Oakworth.
02877	Nippon Yusen Kabushiki Kaisha: Tarumi.
02958	Kawasaki Kisen K. K.: Umigawa Maru.
02976	Arthur-Smith Corp.: BW 1934. BW 1933.
03468	Nihonkai Kisen Kabushiki Kaisha: Hamburg Maru.
05515	Henry Gillen's Sons Lighterage, Inc.: Antrim.
06145	Sarsfield Shipping Co., Ltd.: Lewbell.
06429	Ta Cheng Marine Co., Ltd.: Great Producer.
06443	Erjac Ocean Lines, Ltd.: Nordwoge.
06588	Hanover Towing, Inc.: Brazos.
06602	Seahunter Shipping Co., Ltd.: Mimi M.
06734	Cybas Shipping Co., Ltd., and Mr. A. H. Basse: Danesea.
06735	Cybas Shipping Co., Ltd., and A. H. Basse and Kaj Jensen: Danelake.
06736	Cybas Shipping Co., Ltd., and A. H. Basse and E. B. H. Moeller: Daneriver.
06769	W. P. Hunt Co., Inc.: Hunt Bros. No. 12.
06776	Nelson Seeschiffahrts-Agentur and Reederei Ges.m.b.H.: Salzachtal.
06873	Camrose Panama S.A.: Olympic Avenger.
06891	Caribbean Bunkering Co., Inc.: Z-102.
06909	Strofades Shipping Co.: Strofades.
06910	Tai An Steamship Co., Ltd.: Kun An.
06911	Pitria Navigation Co. S.A. Panama: Pitria.
06912	Chevron Tankship (U.K.) Ltd.: James E. O'Brien. E. Hornsby Wasson.
06913	Chevron Marine Corp.: H. J. Haynes. John A. McCone.
06916	Chevron Carriers Corp.: J. T. Higgins. D. L. Bower.
06918	Campbell Logging and Construction Co.: KP 10.
06920	Partrederiet af 5 Marts 1965: Leinster Bay. Botany Bay.
06921	Lee Lai Maritime Co. (Private), Ltd.: Chieh Peng. Chieh Lai.
06924	Marcresta Armadora S.A.: Illustrious Colocotronis.
06930	Thermaikos Shipping Co.: Rea.
06935	Peonia Compania Naviera S.A.: Vergo.
06938	Protransco, Inc.: Hosco No. 2. Ett 112.
06939	Naftilos Shipping Co.: Frankrig.
06948	Berard Brothers, Inc.: BB-22. BB-15. BB-12.
06949	Mickie B. Jones: Double Star. Polar Bear.
06950	Syra Compania Maritima S.A.: Syra.
06952	Far East Shipping Co., Ltd.: Shizuura Maru.
06956	Crystal Pinus, Inc.: Crystal Pinus.
06957	Crystal Kobus, Inc.: Crystal Kobus.
06958	Crystal Magnolia, Inc.: Crystal Magnolia.
06959	Crystal Camellia, Inc.: Crystal Camellia.
06960	Crystal Margaret, Inc.: Crystal Margaret.
06961	Union Fair Shipping Co., Inc., Panama: Grand Apollo.
06962	Navexport, S.A.: Copacabana. Sol de Ipanema.
06963	Societe Francaise de Transports Maritimes A.T.A. Walon: Monza. Montlhery.
06971	Elmini Life, Inc.: Mini Life.

[1] Certificate effective June 9, 1972.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-8514 Filed 6-6-72;8:45 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY FOR OIL POLLUTION

Notice of Certificates Revoked

NOTE: This document was inadvertently published out of order in the issue of Wednesday, June 7, 1972 and is set forth below in its entirety.

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below-indicated vessels, pursuant to 46 CFR Part 542, and section 11(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	*Owner/operator and vessels*
01082	New Zealand Shipping Co., Ltd.: Piako. Somerset. Turakina. Dorset. Northumberland. Taupo. Tekoa. Westmorland. Tongariro. Mataura. Manapouri. Otaki. Essex. Sussex. Hinakura. Hauraki. Hurunui. Hertford. Huntingdon. Haparangi. Cumberland. Otaio.
01134	Ev Barge Co.: Ev.
01138	Jack Barge Co.: Jack.
01198	A/S Docrefjell & A/S Falkefjell: Makefjell.
01330	Shell Tankers (U.K.), Ltd.: Vibex.
01334	American President Lines, Ltd.: President Monroe.
01716	Achille Lauro—Napoli: Tenacia.
01836	Avenue Shipping Co., Ltd.: Antrim. Galway. Donegal.
01861	BP Tanker Co., Ltd.: British Corporal.
01879	"San Francesco" Societa di Navigazione, S.P.A.: Santa Lucia. San Francesco.
02053	Lozan Corp.: Lozan.
02198	The Peninsular & Oriental Steam Navigation Co.: Juwara. Tanda. Chinkoa. Pando Head.
02293	China Marine Investment Co., Ltd.: Loyal Ivory. Loyal Echoes.
02341	Koninklijke Nederlandsche Stoomboot Maatschappij N.V.: Maron.
02551	Ellerman Lines Ltd.: City of Karachi.
02553	City Line, Ltd.: City of Colombo.
02731	Halcyon Lijn N.V.: Stad Vlaardingen.
03147	Fourkero Shipping Corp.: Diamantis Pateras.
03176	Spartan Compania Maritima S.A.: Ilkon Aya.
03255	Port Line, Ltd.: Port Nelson.
03468	Nihonkai Kisen K.K.: Tenkai Maru.
03470	Nikko Kaiji K.K.: Toyo Maru.
03841	American Export Isbrandtsen: Flying Enterprise II.
03915	Mobil Oil Corp.: Barge Mobil 125.

Certificate No.	*Owner/operator and vessels*
04076	Reliable Fuel Supply Co., Inc.: Mary A. Whalen. John J. Tabeling. Reliable.
04273	Caribbean Real Estate: Timberjack.
04299	Erie Navigation Co.: Peerless.
04398	Hapag-Lloyd Aktiengesellschaft: Siegstein. Spreestein.
04441	Pacific Hawaiian Line, Inc.: Diamond Head.
04601	American Tunaboat Association: Puritan. Ronnie S. Elizabeth. Coimbra.
04617	Inland Waterways, Inc.: Mary Ellen.
04876	Argus Steamship Co., Inc.: Portalon.
05253	Drake Shipping, Ltd.: Golden Drake.
05472	National Shipping Corp.: Mainamati.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-8515 Filed 6-6-72;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. G-4904 etc.]

AMOCO PRODUCTION CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

JUNE 1, 1972.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 26, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it 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.

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 all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where 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.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-4904 E 4-5-72	Amaco Production Co. (Operator) et al. (successor to John B. Hawley, Jr., es al.) Post Office Box 591, Tulsa, OK 74102.	Cities Service Gas Co., Hugoton Field, Finney County, Kans.	[1] 12.5	14.65
G-4904 E 3-2-72	do	do	[2] 12.5	14.65
G-4904 E 3-30-72	do	do	[2] 12.5	14.65
G-4904 E 4-10-72	do	do	[2] 12.5	14.65
G-4904 E 4-10-72	do	do	[2] 12.5	14.65
G-4904 E 4-10-72	do	do	[2] 12.5	14.65
G-4904 E 4-10-72	Amoco Production Co. (Operator) et al. (successor to Northern Pump Co.).	do	[2] 12.5	14.65
G-4904 E 4-10-72	Amoco Production Co. (Operator) et al. (successor to John B. Hawley, Jr. et al.).	Cities Service Gas Co., Hugoton Field, Kearny County, Kans.	[2] 12.5	14.65
G-4904 E 4-12-72	Amoco Production Co. (Operator) et al. (successor to Northern Pump Co.).	Cities Service Gas Co., Hugoton Field, Finney County, Kans.	[2] 12.5	14.65
G-4904 E 4-13-72	Amoco Production Co. (Operator) et al. (successor to John B. Hawley, Jr. et al.).	do	[2] 12.5	14.65
G-4904 E 4-14-72	do	do	[2] 12.5	14.65
G-4904 E 5-8-72	Amoco Production Co. (Operator) et al. (successor to Northern Pump Co.).	do	[4] 12.5	14.65
G-4904 E 5-8-72	do	do	[4] 12.5	14.65
G-4904 E 5-8-72	Amoco Production Co. (Operator) et al. (successor to Gaylord S. Davidson et al.).	do	[4] 12.5	14.65
G-4904 E 5-8-72	Amoco Production Co. (Operator) et al. (successor to Harriet Hawley Fermaud).	do	[4] 12.5	14.65
G-4904 E 5-8-72	Amoco Production Co. (Operator) et al. (successor to Myra Hofmeister).	do	[4] 12.5	14.65
G-4904 E 5-10-72	Amoco Production Co. (Operator) et al. (successor to John B. Hawley, Jr., et al.).	do	[4] 12.5	14.65
G-4904 E 5-10-72	do	do	[4] 12.5	14.65
G-4904 E 5-10-72	Amoco Production Co. (Operator) et al. (successor to W. E. Bakke et al.).	do	[4] 12.5	14.65
G-4904 E 5-10-72	Amoco Production Co. (Operator) et al. (successor to Gaylord E. Davidson et al.).	do	[4] 12.5	14.65
G-4904 E 5-10-72	Amoco Production Co. (Operator) et al. (successor to W. E. Bakke et al.).	do	[4] 12.5	14.65
G-4904 E 5-10-72	Amoco Production Co. (Operator) et al. (successor to Northern Pump Co.).	do	[4] 12.5	14.65
G-4904 E 5-10-72	Amoco Production Co. (Operator) et al. (successor to John B. Hawley, Jr. et al.).	do	[4] 12.5	14.65
G-4904 E 5-10-72	Amoco Production Co. (Operator) et al. (successor to W. E. Bakke et al.).	do	[4] 12.5	14.65
G-4904 E 5-15-72	do	do	[4] 12.5	14.65
G-4904 E 5-15-72	Amoco Production Co. (Operator) et al. (successor to Northern Pump Co. et al.).	do	[4] 12.5	14.65
G-4904 E 5-15-72	Amoco Production Co. (Operator) et al. (successor to W. E. Bakke et al.).	do	[4] 12.5	14.65
G-4904 E 5-15-72	Amoco Production Co. (Operator) et al. (successor to Kansas Natural Gas, Inc., et al.).	Cities Service Gas Co., Hugoton Field, Haskell, Stanton, and Morton Counties, Kans.	[4] 12.5	14.65

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-4904 E 5-15-72	Amoco Production Co. (Operator) et al. (successor to W. E. Bakke et al.).	Cities Service Gas Co., Hugoton Field, Finney County, Kans.	[6] 12.5	14.65
G-4904 E 5-15-72	do	do	[6] 12.5	14.65
G-4904 E 5-15-72	do	do	[6] 12.5	14.65
G-4904 E 5-15-72	do	do	[6] 12.5	14.65
G-4904 E 5-15-72	do	do	[6] 12.5	14.65
G-4904 E 5-15-72	do	do	[6] 12.5	14.65
G-4904 E 5-15-72	do	do	[6] 12.5	14.65
G-4904 E 5-15-72	do	do	[6] 12.5	14.65
G-4904 E 5-15-72	Amoco Production Co. (Operator) et al. (successor to Dean Witter, Jr., et al.).	Cities Service Gas Co., Hugoton Field, Haskell County, Kans.	[6] 12.5	14.65
G-4904 E 5-15-72	Amoco Production Co. (Operator) et al. (successor to W. E. Bakke et al.).	Cities Service Gas Co., Hugoton Field, Finney County, Kans.	[6] 12.5	14.65
G-4904 E 5-17-72	Amoco Production Co. (Operator) et al. (successor to G. S. Davidson et al.).	do	[6] 12.5	14.65
G-4904 E 5-17-72	Amoco Production Co. (Operator) et al. (successor to Northern Pump Co.).	do	[6] 12.5	14.65
G-4904 E 5-17-72	Amoco Production Co. (Operator) et al. (successor to W. E. Bakke et al.).	do	[6] 12.5	14.65
G-4904 E 5-17-72	do	do	[6] 12.5	14.65

[1] Application previously noticed Apr. 21, 1972 in G-2858 et al., at a rate of 12.19375 cents per Mcf which includes 12.50050 cents per Mcf base rate (fractured), plus 0.00325 cents per Mcf tax reimbursement and minus 0.31 cents per Mcf downward B.t.u. adjustment. By letter filed May 18, 1972, applicant amended its application to reflect a rate of 12.5 cents per Mcf which includes tax reimbursement.

[2] Application previously noticed Apr. 27, 1972 in G-4904 et al., at a rate of 12.19375 cents per Mcf which includes 12.50050 cents per Mcf base rate (fractured), plus 0.00325 cents per Mcf tax reimbursement and minus 0.31 cents per Mcf downward B.t.u. adjustment. By letter filed May 18, 1972, applicant amended its application to reflect a rate of 12.5 cents per Mcf which includes tax reimbursement.

[3] Application previously noticed Apr. 27, 1972 in G-4904 et al., at a rate of 12.50375 cents per Mcf which includes 12.50050 cents per Mcf base rate (fractured), plus 0.00325 cents per Mcf tax reimbursement. By letter filed May 18, 1972, applicant amended its application to reflect a rate of 12.5 cents per Mcf which includes tax reimbursement.

[4] Application previously noticed May 17, 1972 in G-4904 et al., at a rate of 12.19375 cents per Mcf which includes 12.50050 cents per Mcf base rate (fractured), plus 0100325 cents per Mcf tax reimbursement and minus 0.31 cents per Mcf downward B.t.u. adjustment. By letter filed May 18, 1972, applicant amended its application to reflect a rate of 12.5 cents per Mcf which includes tax reimbursement.

[5] Application previously noticed May 17, 1972 in G-4904 et al., at a rate of 12.19375 cents per Mcf which includes 12.50050 cents per Mcf base rate (fractured), plus 0.00325 cents per Mcf tax reimbursement. By letter filed May 18, 1972, applicant amended its application to reflect a rate of 12.5 cents per Mcf which includes tax reimbursement.

[6] Includes tax reimbursement.

[FR Doc.72-8554 Filed 6-8-72;8:45 am]

[Docket No. RI72-252, etc.]

PUBCO PETROLEUM CORP. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

MAY 31, 1972.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A below.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI72-252	Pubco Petroleum Corp	20	3	Transwestern Pipeline Co. (Haystack Field, Chaves County, N. Mex.) (Permian Basin).	$229	5-1-72		12-1-72	[13] 27.0	[13] 27.35	RI72-137.
RI72-253	Midwest Oil Corp	59	2	Transwestern Pipeline Co. (Buffalo Valley Field, Chaves County, N. Mex.) (Permian Basin).	58,309	5-1-72		12-1-72	[1] [13] 22.0	[2] [13] 26.75	
RI72-254	MAPCO, Inc	8	14	Colorado Interstate Gas Co. (Greenwood Field, Baca County, Colo.).	1,075	5-1-72		7-2-72	[3] [13] 16.0	[4] [13] 18.0	
RI72-255	Shell Oil Co	383	3	El Paso Natural Gas Co. (Toro Field, Reeves County, Tex., Permian Basin).	2,603	5-4-72		11-4-72	[13] 26.5	[13] 26.85	RI71-1064.
RI72-256	Union Oil Company of California.	89	[5] 3	El Paso Natural Gas Co. (San Juan Basin Area, N. Mex.).		5-5-72	6-5-72	[12] Accepted			
	do		4	do	6,880	5-5-72		11-5-72	14.0	[6] 22.0	RI69-387.
	do	194	[5] 2	do		5-5-72	6-5-72	[12] Accepted			
			3	do	135	5-5-72		7-6-72	13.0	[6] 22.0	
	do	203	[5] 1	do		5-5-72	6-5-72	[12] Accepted			
			2	do	180	5-5-72		7-6-72	13.0	[6] 22.0	
RI72-257	Warren Petroleum Co	50	[7] 8	Transwestern Pipeline Co. (Monument Gasoline Plant, Lea County, M. Mex.) (Permian Basin).		5-2-72	6-2-72	[12] Accepted			
			9	do	([8])	5-2-72		7-3-72	[13] 20.0	[9] [13] 21.22	RI70-834.
RI72-258	Union Oil Company of California.	65	[5] 4	El Paso Natural Gas Co. (Blanco Field, San Juan and Rio Arriba Counties, N. Mex.) (San Juan Basin).		5-2-72	6-2-72	[12] Accepted			
	do		5	do	2,124	5-2-72		11-2-72	21.33	[11] 22.0	RI72-186.
	do	68	9	El Paso Natural Gas Co. (Blanco Field, San Juan County, N. Mex.) (San Juan Basin).		5-3-72	6-3-72	[12] Accepted			
	do		10	do	364	5-3-72		11-3-72	[10] 14.0	[11] 22.0	RI72-186.
				do	195	5-3-72		11-3-72	21.33	[11] 22.0	RI72-186.

* Unless otherwise stated, the pressure base is 15.025 p.s.i.a.
[1] Net rate inclusive of B.t.u. adjustment is 24.662 cents per Mcf.
[2] Net rate inclusive of B.t.u. adjustment is 29.987 cents per Mcf.
[3] Net rate inclusive of B.t.u. adjustment is 14.688 cents per Mcf.
[4] Net rate inclusive of B.t.u. adjustment is 16.524 cents per Mcf.
[5] Contract amendment.
[6] Plus upward B.t.u. adjustment.
[7] Amends pricing provisions to provide for increase to any higher rate established by the Commission and provides for B.t.u. adjustment.
[8] No production at present.
[9] B.t.u. adjustment.
[10] Pertains to sales from Florence II and Elliott 1-H Units.
[11] Subject to B.t.u. adjustments.
[12] Accepted as of the dates shown in the "Effective Date" column.
[13] The pressure base is 14.65 p.s.i.a.

The proposed increases of Union Oil Company of California under Supp. Nos. 3 and 2 to its FPC Gas Rate Schedule Nos. 194 and 203, respectively, are suspended for 1 day because they do not exceed the ceiling for that vintage gas. These proposed increases relate to contracts dated after October 1, 1968.

Warren Petroleum Co. submitted an agreement under Supp. No. 8 to its FPC Gas Rate Schedule No. 50 with Transwestern Pipeline Co. for a sale of gas in the Permian Basin Area of New Mexico which provides for upward and downward adjustment for B.t.u. content above or below 1,000 B.t.u. per cubic foot of gas[1] and a rate increase reflecting upward B.t.u. adjustment. The proposed increase is suspended for 1 day inasmuch as it does not exceed the ceiling for a 1-day suspension.

All the remaining proposed increases exceed the corresponding rate filing limitation imposed in southern Louisiana and therefore are suspended for 5 months.

The proposed increased rates and charges involved here exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR 2.56).

CERTIFICATION OF ABBREVIATED SUSPENSION

Pursuant to § 300.16(i)(3) of the Price Commission rules and regulations, 6 CFR Part 300 (1972), the Federal Power Commission certifies as to the abbreviated suspension period in this order as follows:

(1) This proceeding involves producer rates which are established on an area rather than company basis. This practice was established by Area Rate Proceeding, Docket No. AR61-1, et al., Opinion No. 468, 34 FPC 159 (1965), and affirmed by the Supreme Court in Permian Basin Area Rate Case, 390 U.S. 747 (1968). In such cases as this, producer rates are approved by this Commission if such rates are contractually authorized and are at or below the area ceiling.

(2) In the instant case, the requested increases do not exceed the ceiling rate for a 1-day suspension.

(3) By Order No. 423 (36 F.R. 3464) issued February 18, 1971, this Commission determined as a matter of general policy that it would suspend for only 1 day a change in rate filed by an independent producer under section 4(d) of the Natural Gas Act (15 U.S.C. 717c(d)) in a situation where the proposed rate exceeds the increased rate ceiling, but does not exceed the ceiling for a 1-day suspension.

(4) In the discharge of our responsibilities under the Natural Gas Act, this Commission has been confronted with conclusive evidence demonstrating a natural gas shortage. (See Opinions Nos. 595, 598, and 607, and Order No. 435.) In these circumstances and for the reasons set forth in Order No. 423 the Commission is of the opinion in this case that the abbreviated suspension authorized herein will be consistent with the letter and intent of the Economic Stabilization Act of 1970, as amended, as well as the rules and regulations of the Price Commission, 6 CFR Part 300 (1972). Specifically, this Commission is of the opinion that the authorized suspension is required to assure continued, adequate, and safe service and will assist in providing for necessary expansion to meet present and future requirements of natural gas.

[FR Doc.72-8553 Filed 6-8-72;8:45 am]

[1] Opinion No. 468 prescribed a base of 1,050 B.t.u. per cubic foot for upward adjustments and 1,000 B.t.u. per cubic foot for downward adjustments.

[Docket No. CS71-636, etc.]

OCCIDENTAL PETROLEUM CORP. ET AL.

Notice of Applications for "Small Producer" Certificates [1]

MAY 31, 1972.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 26, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it 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

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

a party in any hearing therein must file petitions 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 all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where 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.

Docket No.	Date filed	Name of applicant
CS71-636...	3- 6-72	Occidental Petroleum Corp.,[1] 5000 Stockdale Highway, Bakersfield, CA 93309.
CS72-221...	5- 8-72	Wilhelmia duP. Ross,[2] 1203 Mid South Towers, Shreveport, La. 71101.
CS72-1002..	4-13-72	A. C. Chausse, 1365 First National Center, Oklahoma City, Okla. 73102.
CS72-1065..	5- 4-72	The Desana Corp., 902 Vaughn Bldg., Midland, Tex. 79701.
CS72-1066..	5- 1-72	B. R. Cannon, Box 776, Perryton, TX 79070.
CS72-1067..	5- 4-72	W. W. Hamilton, et al., 1020 Hamilton Bldg., Wichita Falls, Tex. 76301.
CS72-1068..	5- 5-72	Witt Oil Production, Inc., 522 Commercial National Bank Bldg., Shreveport, La. 71101.
CS72-1069..	5- 4-72	Forrest Gelbke and June Gelbke, 8181 Folsom Blvd., Sacramento, CA 95826.
CS72-1070..	5- 1-72	Mar-Low Corp., Post Office Box 51673, OCS, Lafayette, LA 70501.
CS72-1071..	5- 8-72	Ranger Oil Co., 741 Main Bldg., Houston, Tex. 77002.
CS72-1072..	5- 8-72	Alpar Resources, Inc., Box 906, Perryton, TX 79070.
CS72-1073..	5- 8-72	Surveyor Hood, 4400 Sigma Rd., Dallas, TX 75240.
CS72-1074..	5- 8-72	Surveyor Avon, 2230 Republic Bank Tower, Dallas, Tex. 75201.
CS72-1075..	5- 8-72	H. J. DeLatin, Post Office Box 301, Many, LA 71449.
CS72-1076..	5- 8-72	Majestic Petroleum Corp., 5925 Forest Lane, No. 412, Dallas, TX 75230.
CS72-1077..	5- 8-72	L. O. Nizer, Post Office Box 82, Midland, TX 79701.
CS72-1078..	5- 8-72	Jimmy G. Biles, Box 3246, Tyler, TX 75701.
CS72-1079..	5- 8-72	Carter Gabriel, 742 Petroleum Bldg., Tyler, Tex. 75701.
CS72-1080..	5- 8-72	V. Paul Daniel, 2707 Oxford Terrace, No. 6119, Dallas, TX 75205.
CS72-1081..	5- 8-72	Norris Oil Co., 3658 North Ventura Ave., Ventura, CA 93001.
CS72-1082..	5- 8-72	Bond Operating Co., 2600 Republic National Bank Bldg., Dallas, Tex. 75201.
CS72-1083..	5- 9-72	Ola E. Callahan, 824 York St., Apartment 2, Oakland, CA 94610.
CS72-1084..	5-10-72	Mrs. John Allen King, 4002 Ocean Dr., Corpus Christi, TX 78411.
CS72-1085..	5- 8-72	Acco Oil & Gas Co., No. 1 Briar Dale Ct., Houston, TX 77027.
CS72-1086..	5-10-72	Winston Production Co., Inc., Post Office Box 52432, OCS, Lafayette, LA 70501.
CS72-1087..	5-11-72	Wofford Cain, 2035 First National Bank Bldg., Dallas, Tex. 75202.
CS72-1088..	5-11-72	Hunter Midkiff, Post Office Box 82, Midland, TX 79701.
CS72-1089..	5-11-72	Robert L. Breedlove, Post Office Box 247, Greenwood, LA 71033.
CS72-1090..	5-11-72	David Jackman, Jr., 220 West Douglas, Suite 320, Wichita, KS 67202.
CS72-1091..	5-11-72	Harrison L. Townes, Inc. (Operator), et al., 208 Philtower Bldg., Tulsa, Okla. 74103.
CS72-1092..	5-11-72	Robert G. Anderson, 1103 First National Bldg., Tulsa, Okla. 74103.
CS72-1093..	5-12-72	Mrs. Frances Walters and Dr. David W. Walters, Executor for the Estate of Bert Walters, 961 Glen Dr., San Leandro, CA 94577.
CS72-1094..	5-12-72	Roy M. Teel, 3311 East 30th St., Tulsa, OK 74114.
CS72-1095..	5-15-72	M. McDonnold, Jr., Post Office Box 409, Midland, TX 79701.
CS72-1096..	5-15-72	J. C. Pollard, 2500 First City National Bank Bldg., Houston, Tex. 77002.
CS72-1097..	5-15-72	James J. Hamilton, Jr., 1115 Richland Rd., Yuba City, CA 95991.
CS72-1098..	5-15-72	Tom Cook, Jr. et al., 208 Longview National Bank Bldg., Longview, Tex. 75601.
CS72-1099..	5-15-72	Jack A. Cole, Post Office Box 191, Farmington, NM 87401.
CS72-1100..	5-16-72	Laina Mabel Saari and Reino R. Saari, 227 Marlow Dr., Oakland, CA 94605.
CS72-1101..	5-17-72	Lucile O. Quigley, 17066 Bollinger Dr., Pacific Palisades, CA 90272.
CS72-1102..	5-15-72	G. Ramon Goodwill, Post Office Box 99, Oil City, LA 71061.
CS72-1103..	5-18-72	Reserve Resources, Inc., 200 West Douglas, Suite 230, Wichita, KS 67202.
CS72-1104..	5-18-72	R. G. Anderson, 1103 First National Bldg., Tulsa, Okla. 74103.
CS72-1105..	5-19-72	William S. Flores, Post Office Box 51253, OCS, Lafayette, LA 70501.
CS72-1106..	5-19-72	John Chalmers, Post Office Box 5107, Abilene, TX 70604.
CS72-1107..	5-19-72	Ammex Petroleum Corp., Box 1845, Victoria, TX 77901.
CS72-1108..	5-21-72	Austin Nelson, d.b.a. A and A Drilling Co., 1815 East Elm St., Griffith, IN 46319.
CS72-1109..	5-22-72	Dave M. Thomas, Jr., Post Office Box 201, Farmington, NM 87401.
CS72-1110..	5-22-72	Troporo Oil & Gas Co., 900 The Main Bldg., Houston, TX 77002.
CS72-1111..	5-22-72	Kelly Bell, 900 The Main Bldg., Houston, Tex. 77002.

[1] Application to amend the subject certificate to include the interest of Occidental Petroleum Sales Corp.
[2] Application to amend the subject certificate to include the interest of the H. G. Roquemore Unit.

[FR Doc.72-8609 Filed 6-8-72;8:45 am]

[Dockets Nos. E-7682, E-7676]

GULF STATES UTILITIES CO. ET AL.

Order Denying Rehearing

JUNE 1, 1972.

On April 6, 1972, this Commission issued an order in Docket No. E-7682 which authorized Gulf States Utilities Co. (applicant) pursuant to section 204 of the Federal Power Act to issue promissory notes to commercial banks and to commercial paper dealers in an aggregate principal amount not to exceed $125 million at any one time. The order requires that all notes be issued on or before December 31, 1972, with final maturity dates not later than December 31, 1973.

The Commission's order issued April 6, 1972, in Docket No. E-7682 also granted intervention to the cities of Lafayette and Plaquemine, La. (the Cities) and Dow Chemical Co. (Dow) which had opposed the application on the grounds that Gulf States, in combination with Louisiana Power & Light Co. (LP&L) and Central Louisiana Electric Co. (CLECO) had engaged in anticompetitive conduct violative of the Federal Power Act, as well as the antitrust laws. The order also provided that inasmuch as the Commission had established a complaint proceeding in Docket No. E-7676 involving the same issues, it would be appropriate that the issues raised by intervenors in Docket No. E-7682 be consolidated for hearing and decision purposes with the proceeding instituted in Docket No. E-7676.

On May 5, 1972, the Cities filed a petition for rehearing of the Commission's order issued April 6, 1972, in Docket No. E-7682, in which they objected to the consolidation of the proceedings regarding anticompetitive conduct. The petition states that the effect of this action is to remove the nexus with statute pleaded by the Cities, while putting the burden on the Cities of proving another nexus. In addition, the Cities' petition contains objections to the procedures which have been adopted, stating that the Commission has shifted the burden of proof which otherwise would be upon Gulf States in the financing proceeding to the shoulders of the Cities.

The Cities further allege that authorizing the issuance of securities in Docket No. E-7682 and consolidating the antitrust issues with the hearing set in E-7676 removes any incentive on the part of the respondents thereto to expedite that proceeding. The Cities allege generally that the hearing in Docket No. E-7676 will be extended if no change in the proceeding is instituted, and therefore request the Commission to grant rehearing in this case and to amend the authorization granted on April 6, 1972, to provide for revocation if warranted by the facts, and by making it clear that future applications for financing authorization by Gulf States will not be approved without statutorily required hearing if Gulf States continues to delay without reason the discovery proceedings in Docket No. E-7676.

We believe these contentions to be without merit and reaffirm our opinion that the procedures established will lead to an appropriate and complete treatment of the issues involved in this case. The argument of the Cities that the language of section 204 forbids any approval by this Commission of an application thereunder as long as any question has been raised regarding the propriety of the use of the proceeds is merely conclusory and begs the question which we have attempted to handle in prescribing the procedures in this case. The issue is fundamentally a practical

one; it involves a consideration of the Commission's duty to provide a full and complete hearing on the Cities' allegation of anticompetitive conduct and the limited time frame within which applications for security issues must generally be considered. See City of Lafayette, Louisiana v. SEC, 454 F.2d 941. The Cities have made sweeping allegations of anticompetitive conduct not only by the applicant for the issuance of securities, Gulf States, but also by LP&L and CLECO, dating back at least to 1964. It is incumbent upon the Cities to establish the factual basis, if any, of such allegations. Cities must do more than merely raise anticompetitive issues but has the burden of going forward with the evidence to support such claims. One thing, therefore, is clear upon perusal of the nature and scope of Cities' allegations: A proceeding under section 306 will provide a more flexible and appropriate means to examine the issues which the Cities have raised than a section 204 proceeding.

The opinion of the Court of Appeals in City of Lafayette, Louisiana v. SEC, supra, contains adequate authority in support of the procedures which have been established. The Court specifically pointed out that "an entire application may be approved if the agency stands ready to proceed with hearing and consideration of the anticompetitive issues, and to take the problems into account in the disposition of another application projected for presentation to the agency within a reasonable time." In making this statement, the Court took note of the fact that "security issues to provide funds for a utility's construction must be decided in a time frame more limited than that often contemplated for antitrust litigation." The Court's comment that the problems could be taken into account in a subsequent application to the Commission is meant, in our opinion, as a suggestion of simply one means by which relief can be obtained, if later found desirable. It does not appear to be a prohibition against other possibilities which may be equally effective in meeting the situation. After taking a "hard look" at the problem, therefore, as the Court indicated we should do, we are convinced that the procedures we have established are fully consistent with and satisfy the purposes which the Court had in mind.

Another beneficial result of utilizing a complaint proceeding in the instant case is that, as a concomitant of litigating the contested issues, an opportunity will be afforded all parties for an examination of the most appropriate form of relief which the Commission may grant, if appropriate. Thus, instead of being limited to disapproving or conditioning the approval of a securities application, this Commission will be in a position to take a broader look at the issues involved and prescribe, if necessary, a solution more tailored to the problems under perhaps some other provision of the Federal Power Act. Under these circumstances, the Cities' contention that our order consolidating the anticompetitive issues in E-7682 with the complaint proceeding has denied them their requested relief is unpersuasive and may even be against the best interests of the Cities in this case.

It must be noted that on May 30, 1972, the Supreme Court of the United States granted Gulf States Utilities Co. a writ of certiorari for the purpose of reviewing the decision of the U.S. Court of Appeals for the District of Columbia in the City of Lafayette case, supra.

While the City of Lafayette case supports the procedure used in this proceeding it is not the only basis for consolidating the antitrust issues in this case with those issues previously set for hearing in Docket No. E-7676. As a very practical matter, an attempt by the Commission to determine the merits of anticompetitive allegations before approving the request for authorization of securities would seriously cripple a utility's ability to finance its construction and operational programs for purposes of providing adequate service to its customers.

The Commission will not jeopardize adequate service to the public for purposes of assessing allegations not yet proven. Relief under the Federal Power Act would more appropriately be granted after proof of the allegations but without adversely affecting the ability to provide adequate service deemed to be in the public interest.

The Commission finds:

For the reasons discussed above, the petition for rehearing filed by the Cities on May 5, 1972, is without merit and should be denied.

The Commission orders:

Said petition for rehearing is hereby denied.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-8715 Filed 6-8-72;8:47 am]

[Docket No. RP70-6, etc.]

LAWRENCEBURG GAS TRANSMISSION CORP.

Notice of Motion for Approval of Stipulation and Agreement

JUNE 2, 1972.

Take notice that on May 22, 1972, Lawrenceburg Gas Transmission Corp. (Lawrenceburg) filed in the above-captioned proceedings a motion for approval of stipulation and agreement, together with the proposed stipulation and agreement. The stipulation and agreement would dispose of all issues in these proceedings and provides for reduced rates and refunds as indicated therein.

The stipulation and agreement, inter alia, allows Lawrenceburg to file changes in its rates to reflect changes in its cost of gas, the corporate Federal income tax rate and safety program expenditures and provides for the flow-through to its customers of refunds received by Lawrenceburg from its gas suppliers. The agreement states that Lawrenceburg will file a purchased gas adjustment clause to its FPC gas tariff in compliance with the Commission's regulations under the Natural Gas Act, as prescribed by Commission Order No. 452 in Docket No. R-406, issued April 14, 1972, and that pending the Commission's acceptance of Lawrenceburg's purchased gas adjustment clause it may track changes in its cost of gas as provided in the agreement.

Copies of the motion and the stipulation and agreement were served on Lawrenceburg's jurisdictional customers and interested State commissions.

Answers or comments relating to the motion and the proposed stipulation and agreement may be filed with the Federal Power Commission, Washington, D.C. 20426 on or before June 19, 1972.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-8716 Filed 6-8-72;8:48 am]

[Docket No. RP72-129]

MID LOUISIANA GAS CO.

Notice of Proposed Changes in Rates and Charges

JUNE 2, 1972.

Take notice that Mid Louisiana Gas Co. (Mid Louisiana), on May 19, 1972, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volumes Nos. 1 and 2.

The company states that the tariff sheets are filed to reflect a change in location of Mid Louisiana's office which will become effective during June 1972; a decrease in Mid Louisiana's Rate Schedule E-1 for excess availability service and the submission of form of service agreement for service under the excess availability service rate schedule. The company says that the proposed decrease in the E-1 Rate Schedule is designed to reflect the decrease in United Gas Pipe Line Co.'s Cameron Parish price in compliance with the Commission's order issued November 15, 1972, in Docket No. CP72-42.

Copies of the filing have been served on Mid Louisiana's customers and interested State commissions.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 12, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it 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.72-8717 Filed 6-8-72;8:48 am]

NATIONAL GAS SURVEY DISTRIBUTION-TECHNICAL ADVISORY TASK FORCE-FACILITIES

Designation of Additional Members

JUNE 2, 1972.

The Federal Power Commission by order issued May 25, 1972, established the Distribution-Technical Advisory Task Force-Facilities of the National Gas Survey.

1. Membership. Additional members to the Distribution-Technical Advisory Task Force-Facilities, as selected by the Chairman of the Commission with the approval of the Commission, are as follows:

B. G. Carter, Assistant Superintendent, Gas Division, City of Colorado Springs Utilities.
Claire F. Coleman, Vice President, Distribution-Operations, Mountain Fuel Supply Co.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-8718 Filed 6-8-72;8:48 am]

NATIONAL GAS SURVEY DISTRIBUTION-TECHNICAL ADVISORY TASK FORCE-FINANCE

Designation of Additional Members

JUNE 2, 1972.

The Federal Power Commission by order issued May 25, 1972, established the Distribution-Technical Advisory Task Force-Finance of the National Gas Survey.

1. Membership. An additional member to the Distribution-Technical Advisory Task Force-Finance, as selected by the Chairman of the Commission with the approval of the Commission is as follows:

J. Lawrence Muir, Chief, Section of Oil and Gas, Securities and Exchange Commission.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-8720 Filed 6-8-72;8:48 am]

NATIONAL GAS SURVEY DISTRIBUTION-TECHNICAL ADVISORY TASK FORCE-FINANCE

Designation of Additional Members

JUNE 2, 1972.

The Federal Power Commission by order issued May 25, 1972, established the Distribution-Technical Advisory Task Force-Finance of the National Gas Survey.

1. Membership. Because of the recent death of Mr. Francis Montelione, his name will be removed and a replacement member to the Distribution-Technical Advisory Task Force-Finance, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Edwin J. Vetog, Senior Vice President, The Brooklyn Union Gas Co.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-8721 Filed 6-8-72;8:48 am]

NATIONAL GAS SURVEY SUPPLY-TECHNICAL ADVISORY TASK FORCE-NATURAL GAS TECHNOLOGY

Designation of Additional Members

JUNE 2, 1972.

The Federal Power Commission by order issued December 21, 1971, established the Technical Advisory and Coordinating Committee Task Forces of the National Gas Survey.

1. Membership. An additional member to the Supply-Technical Advisory Task Force-Natural Gas Technology, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Dr. Stephen J. Gage, Technical Assistant to Director of the Office of Science and Technology, Office of the President.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-8719 Filed 6-8-72;8:48 am]

FEDERAL RESERVE SYSTEM

FIRST NATIONAL STATE BANCORPORATION

Order Approving Acquisition of Bank

First National State Bancorporation, Newark, N.J., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire up to 100 percent of the voting shares (less directors' qualifying shares) of First National State Bank of Central Jersey, Trenton, N.J., the successor by merger to The Security National Bank of Trenton, Trenton, N.J. (Security National). The bank into which Security National is to be merged has no significance except as a means to facilitate the acquisition of Security National. Accordingly, the proposed acquisition of the shares of the successor organization is treated herein as the proposed acquisition of shares of Security National.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls five banks with aggregate deposits of $1.2 billion, representing 6.2 percent of the total commercial bank deposits in New Jersey and is the largest banking organization in the State.[1] Acquisition of Security National ($54 million deposits) would increase applicant's share of New Jersey Bank deposits by 0.4 percentage points.

Applicant presently operates 45 offices in New Jersey's First Banking District and 11 offices in the Second Banking District, controlling 10.9 and 2 percent of the banking deposits in these respective districts. Its lead bank ($930 million deposits) competes actively for retail and wholesale banking business throughout the State and to some degree in New York City. Applicant acquired the four remaining small and locally oriented banks the latter part of 1970.

Security National is the 26th largest of 63 banks in the Second Banking District and the sixth largest of 27 banks in the Trenton Market which consists primarily of Mercer County but encompasses portions of Hunterdon, Somerset, Middlesex, Monmouth, and Burlington Counties, and Bucks County, Pa. It controls 1.2 percent and 4.1 percent of the district and market deposits, respectively. Consummation of the proposal would not adversely affect any area banks.

The closest office of applicant's subsidiaries to Trenton where Security National operates its two offices is 26 miles northeast. Security National has received approval for a second branch office to be located in Lawrence, a township 8 miles north of Trenton. There is no substantial amount of present competition between any of applicant's subsidiary banking offices and Security National. Moreover, the likelihood of meaningful future competition developing between them is minimized due to the distances separating the banks, New Jersey's restrictive branching laws, and the relatively small size of Security National. Consequently, consummation of the proposal would have no significant adverse effect on present or potential competition.

The financial and managerial resources of applicant are satisfactory and its prospects appear favorable. Applicant proposes to strengthen the capital position of Security National and to also remedy a potential management succession problem. Prospects for Security National under applicant's control appear favorable and considerations relating to banking factors lend some weight toward approval of the application. Applicant proposes to enable Security National to offer new services which would include a personal trust service and data processing. Applicant would also enable Security National to serve customers with larger credit needs and would assist in the expansion of the bank's present international department. Therefore, considerations relating to the convenience and needs of the communities involved are consistent with approval of

[1] Banking data are as of Dec. 31, 1971, and reflect holding company formations and acquisitions approved by the Board through Apr. 30, 1972.

the application. It is the Board's judgment that the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of New York pursuant to delegated authority.

By order of the Board of Governors,[3] effective June 2, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-8695 Filed 6-8-72;8:46 am]

UNITED MISSOURI BANCSHARES, INC.

Order Approving Acquisition of Bank

United Missouri Bancshares, Inc., Kansas City, Mo., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Manufacturers and Mechanics Bank of Kansas City, Kansas City, Mo. (Bank).

Notice of receipt of the application has been given in accordance with section 3(b) of the Act, and the time for filing comments and views has expired. The Board has considered the application and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)) and finds that:

Applicant is the fourth largest bank holding company and the fourth largest banking organization in Missouri by virtue of its control of nine banks with $503.5 million in deposits, representing 4.4 percent of the total commercial bank deposits in the State. (All banking data are as of June 30, 1971, adjusted to reflect holding company formations and acquisitions approved by the Board through April 30, 1972.) Applicant's lead bank, City National Bank and Trust Co. (City National) ($369.2 million deposits), is located in downtown Kansas City and, with control of 10.4 percent of the total deposits in commercial banks in the Kansas City Standard Metropolitan Statistical Area (SMSA), is the second largest bank operating in the Kansas City banking market.

Bank ($16.8 million deposits), located in Kansas City approximately 4 miles east of applicant's lead bank, is one of the smaller banks operating in the Kansas City market, holding only about 0.5 percent of total deposits in commercial banks in the Kansas City SMSA. While both Bank and City National are located in the same market area, consummation of the proposal would eliminate little existing or potential competition. Because of its conservative management and operating policies Bank has not been an effective alternative source of banking services for the lower- and middle-income families residing within its service area and has not been an effective competitor to City National or the other area banks. Further, in light of the large number of alternatives for banking services available in the Kansas City market, the elimination of Bank as an independent alternative would have no significant adverse effects. Applicant is not dominant in the market and upon consummation of the proposal would control slightly less than 11 percent of deposits in the market. The Board concludes therefore that consummation of the proposal would not eliminate any significant existing competition, foreclose significant potential competition or have any undue adverse effect on any bank in the area involved.

Considerations relating to the financial and managerial resources and future prospects of applicant and its present subsidiaries are regarded as satisfactory and consistent with approval of the application. Although the prospects of Bank are regarded as satisfactory, they should be enhanced as a result of consummation of the proposal. Although the record indicates that the major banking needs of the area are being met, Bank's low loan-to-deposit ratio indicates that Bank has not been aggressive in meeting the needs of the low-income residents of its service area. In addition to broadening Bank's lending program, applicant proposes to offer new services which, although available at applicant's lead bank, have not heretofore been offered at Bank's location. These changes will make Bank more responsive to the particular needs of its area. Thus, considerations relating to convenience and needs lend some weight toward approval of the application. It is the Board's judgment that the proposed transaction is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order, or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[1] effective June 2, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-8696 Filed 6-8-72;8:46 am]

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[3] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Brimmer, and Sheehan. Absent and not voting: Chairman Burns.

[1] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Brimmer, and Sheehan. Absent and not voting: Chairman Burns.

DEPARTMENT OF LABOR

Employment Standards Administration

EXTENSION OF EXPIRATION DATES OF DAVIS-BACON AREA WAGE DETERMINATIONS

Notice of Variation From Certain Labor Standards

Whereas a number of general or area wage determinations of the Secretary of Labor issued under the Davis-Bacon Act and the provisions of other Federal statutes containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act will soon expire; and whereas the burdensome process of republication of these determinations would not be in the public interest because all appropriate changes in such wage determinations have regularly been incorporated into the determinations by modifications published in the FEDERAL REGISTER, I find that the variation from the provisions of 29 CFR 5.4 set forth below is necessary in order to avoid serious impairment in the conduct of Government business. I also find that notice, public procedure, and delay in the effective date of this document extending the life of wage determinations would be contrary to the public interest within the meaning of 5 U.S.C. 553.

Accordingly, notice is hereby given that pursuant to the provisions of 29 CFR 5.13 the expiration date of each outstanding general or area wage determination of the Secretary of Labor issued under the Davis-Bacon Act and the related statutes, as modified, is extended for a period of 120 days from the date on which it would have expired: *Provided, however,* That during this period of extension such area wage determinations will continue to be modified as appropriate.

Signed at Washington, D.C., this 30th day of May 1972.

HORACE E. MENASCO,
Deputy Assistant Secretary for Employment Standards.

[FR Doc.72-8766 Filed 6-8-72;8:51 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 72-8]

EARTH RESOURCES SURVEY IMAGERY POLICY

Public Availability of Photographic Products

Correction

In F.R. Doc. 72-8565 appearing at page 11374 in the issue of Wednesday, June 7, 1972, the text of the document was inadvertently separated so that the continuation of the text appears in the first and second columns of page 11387.

PAY BOARD

PAY ADJUSTMENTS

Prenotification and Reporting Requirements; Form PB–3 Available at IRS Offices

Notice is hereby given that new form PB-3 (April 1972) is available at Internal Revenue Service offices. Form PB–3 supersedes forms PB–1 (December 1971) and PB–2 (December 1971).

As stated earlier by the Pay Board (37 F.R. 10686, May 26, 1972), form PB–3 conforms to the recently issued computation and merit regulations. It is expected that use of the new form will make it easier for employers to comply with prenotification, reporting, and other notice requirements pursuant to Pay Board regulations. Accordingly, on and after June 9, 1972, forms PB–1 and PB–2 may no longer be used as notice with respect to pay adjustments in compliance with such regulations. It should be noted, however, that this notice with respect to form PB–3's availability does not alter the temporary extension of time granted persons who are required to file prenotification and reporting forms during the period from May 26, 1972 through June 16, 1972 (37 F.R. 10686, May 26, 1972). Such persons shall be required to file Form PB–3 within 14 days after June 16, 1972.

This notice is issued pursuant to the authority vested in the Pay Board by the Economic Stabilization Act of 1970, as amended (Public Law 92–210, 85 Stat. 743), Executive Order No. 11640 (37 F.R. 1213, January 27, 1972) as amended by Executive Order No. 11660 (37 F.R. 6175, March 25, 1972), and Cost of Living Council Order No. 3 (36 F.R. 20202, October 16, 1971), as amended.

GEORGE H. BOLDT,
Chairman of the Pay Board.

[FR Doc.72-8847 Filed 6-8-72;10:18 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 905 (Class B)]

NEW HAMPSHIRE

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of May 1972, because of the effects of certain disasters damage resulted to homes and business property located in the State of New Hampshire;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitutes a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Associate Administrator for Operations and Investment of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Berlin, N.H., suffered damage or destruction resulting from fire on May 22, 1972.

OFFICE

Small Business Administration District Office, 55 Pleasant Street, Concord, NH 03301.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to August 31, 1972.

Dated: May 26, 1972.

CLAUDE ALEXANDER,
Associate Administrator for Operations and Investment.

[FR Doc.72-8702 Filed 6-8-72;8:46 am]

INTERSTATE COMMERCE COMMISSION

[Notice 4]

ASSIGNMENT OF HEARINGS

JUNE 6, 1972.

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 55822 Sub 12, Victory Express, Inc., assigned July 10, 1972, and MC 119547 Sub 31, Edgar W. Long, Inc., assigned July 12, 1972, at Columbus, Ohio, will be held in Room 2, State Office Building, 65 South Front Street.

No. MC 107295 Sub 566, Pre-Fab Transit Co., assigned July 13, 1972, MC 107295 Sub 589, Pre-Fab Transit Co., assigned July 14, 1972, and MC 119547 Sub 29, Edgar W. Long, Inc., assigned July 11, 1972, at Columbus, Ohio, will be held in Room 228, Federal Building, and U.S. Courthouse, 85 Marconi Boulevard.

FD 26757, The Chesapeake & Ohio Railway Co., abandonment between Hatch's Crossing and Northport, Leelanau County, Mich., assigned July 20, 1972, at Traverse City, Mich., will be held in the administration building, at Northwestern Michigan College.

FD 26835, Cadillac & Lake City Railway Co., reorganization, now assigned July 17, 1972, at Cadillac, Mich., will be held in the Board of Commissioners Room, Courthouse, 431 East Division Street.

MC 44053 Sub 6, Towne Services, Household Goods Transportation Co., Inc., now assigned June 12, 1972, at Dallas, Tex., hearing canceled and application dismissed.

MC 136222, Movers Port Service, Inc., now assigned June 12, 1972, at Washington, D.C., postponed indefinitely.

MC 18738, Sub 41, Sims Motor Transport Lines, Inc., now assigned June 12, 1972, at Chicago, Ill., hearing canceled and application dismissed.

MC 111812 Sub 438, Midwest Coast Transport, Inc., now assigned June 27, 1972, at Washington, D.C., postponed indefinitely.

MC 80428 Sub 74, McBride Transportation, Inc., MC 114123 Subs 36 and 38, Herman R. Ewell, Inc., and MC 126427 Sub 9, Palmer Transportation, Inc., now assigned June 21, 1972, at Washington, D.C., postponed indefinitely.

MC 121082 Sub 3, Allied Delivery System, Inc., now assigned July 10, 1972, at Lansing, Mich., will be held in Room 215, Federal Building, 325 West Allegan Street.

MC 41432 Sub 117, East Texas Management Freight Lines, Inc., now assigned July 17, 1972, at Atlanta, Ga., will be held in Room 102E, 1776 Peachtree Road NW.

MC-F-10117, C.O.D.E., Inc.-Control-Nolte Bros. Truck Line, Inc., Utica Transfer, Inc., and G & H Truck Lines, Inc., MC-C-5678, Consolidated Freightways Corporation of Delaware et al. versus C.O.D.E., Inc., et al., MC-C-5678 Sub 1, Navajo Freight Lines, Inc., et al. versus C.O.D.E., Inc., et al., now assigned July 10, 1972, at Denver, Colo., hearing postponed to September 25, 1972, at Denver, Colo., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-8758 Filed 6-8-72;8:51 am]

DEPARTMENT OF COMMERCE

Maritime Administration

CONSTRUCTION OF CERTAIN TANKERS

Computation of Foreign Cost; Notice of Intent

Notice is hereby given of the intent of the Maritime Subsidy Board to compute the estimated foreign costs of the construction of tankers of about 88,000 d.w.t. pursuant to the provisions of section 502(b) of the Merchant Marine Act, 1936, as amended.

Any person, firm or corporation having any interest (within the meaning of section 502(b)) in such computations may file written statements by the close of business on June 15, 1972, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20235.

Dated: June 8, 1972.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-8858 Filed 6-8-72;10:56 am]

CUMULATIVE LIST OF PARTS AFFECTED—JUNE

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 June.

3 CFR

Page

PROCLAMATIONS.

3548 (see Proc. 4138) 11227
3558 (see Proc. 4138) 11227
3562 (see Proc. 4138) 11227
3597 (see Proc. 4138) 11227
3709 (see Proc. 4138) 11227
3790 (see Proc. 4138) 11227
3822 (see Proc. 4138) 11227
3856 (see Proc. 4138) 11227
3870 (see Proc. 4138) 11227
3884 (see Proc. 4138) 11227
4026 (see Proc. 4138) 11227
4138 11227
4139 11555

EXECUTIVE ORDERS:

8684 (amended by EO 11673) 11457
11007 (superseded by EO 11671) 11307
11671 11307
11672 11455
11673 11457

5 CFR

213 10913, 11313, 11557
772 10914

6 CFR

105 10939
300 10942, 10943, 11173, 11233, 11472
301 10944, 11233, 11473
305 11472

PROPOSED RULES:

300 11352

7 CFR

6 11234
51 11313
52 11170
301 11313
711 11465
728 11234
907 11051, 11170
908 11051, 11465
910 11171, 11314
911 11171
915 11314, 11465
917 10914, 10915
923 11171
944 11467
946 10915
966 10918
1421 11469
1464 11172
1701 11469
1822 11052

PROPOSED RULES:

Ch. I 11067
29 11179
46 11586
52 11067
54 11475
55 11475
56 11475
58 11476
70 11475
911 10956

7 CFR—Continued

Page

PROPOSED RULES—Continued

915 10957
921 11586
923 10957
930 11339
999 11339
1065 11482
1071 11587
1073 11587
1097 11587
1102 11587
1104 11587
1106 11587
1108 11587
1120 11587
1126 11587
1127 11587
1128 11587
1129 11587
1130 11587
1132 11587
1138 11587
1701 11185
1822 11070

8 CFR

103 11470
205 11470
212 11052
235 11470
242 11470
246 11471
247 11471
280 11471
292 11471

9 CFR

76 11053, 11315
78 11471
82 11168

12 CFR

225 11316, 11557
543 11053
545 11054
550 11557
566 11557
571 11054
600 11408
601 11409
602 11413
611 11415
612 11417
613 11421
614 11423
615 11434
616 11439
617 11440
618 11442
619 11446
701 11234
715 11235
741 11317

PROPOSED RULES:

545 11191
546 11191
563 11191
710 11351

13 CFR

Page

120 11173
121 11173
302 11173

14 CFR

39 11155, 11235, 11315, 11462, 11558
71 10919, 11155, 11156, 11316, 11558, 11559
73 10919
75 10919
97 11054, 11462
152 11014
207 11156, 11235
208 11157, 11238
212 11157, 11239
214 11157, 11240
241 11157
249 11158, 11241
302 10920
372 11159
385 11464
389 11166

PROPOSED RULES:

39 11185
71 10957, 10959, 11185–11188, 11262, 11343, 11590–11592
75 11189
207 11190
208 11190
212 11190
214 11190
288 11344
302 11485
372 11190
399 11344

15 CFR

500 11530
610 11465

16 CFR

13 10920–10930, 11055, 11056

17 CFR

211 11559
230 10931
231 11559
239 10931
241 11559
251 11559
271 11559

PROPOSED RULES:

240 10960
270 11486

18 CFR

PROPOSED RULES:

141 11192
260 11192

19 CFR

Page

1 — 11317, 11560
8 — 11167
10 — 11318
24 — 11167
153 — 11560

PROPOSED RULES:

153 — 11475

21 CFR

19 — 10931
121 — 11167, 11241
135 — 11241
135a — 11241
141a — 10931
146a — 10931
281 — 11464

PROPOSED RULES:

121 — 11255
36 — 10957

22 CFR

22 — 11459
41 — 11057
50 — 11459
53 — 11459
301 — 11058

24 CFR

15 — 11242
275 — 11168
1914 — 11169, 11561
1915 — 11170, 11562

PROPOSED RULES:

201 — 11485

25 CFR

43h — 11243
221 — 10932

26 CFR

13 — 10932

PROPOSED RULES:

1 — 10946

28 CFR

0 — 11317

29 CFR

1910 — 11318
1918 — 11058

29 CFR—Continued

Page

PROPOSED RULES:

1910 — 11255, 11340
1926 — 11340

30 CFR

100 — 11459
231 — 11040

PROPOSED RULES:

82 — 11338

31 CFR

344 — 10932

32 CFR

255 — 11562
1631 — 11058
1710 — 11564

32A CFR

OIA (Ch. X):
OI Reg. 1 — 10933

33 CFR

117 — 11566, 11567
207 — 11058

PROPOSED RULES:

92 — 11342

36 CFR

7 — 11066
251 — 10937

40 CFR

5 — 11059
30 — 11650
35 — 11650
180 — 11167, 11243

PROPOSED RULES:

5 — 11072
8 — 11263

41 CFR

3–56 — 11567
9–1 — 11322
101–17 — 11323
101–18 — 11326
101–20 — 11327
114–25 — 11460

PROPOSED RULES:

29–12 — 11189
101–26 — 10959
101–33 — 10959
101–43 — 10959

42 CFR

Page

51a — 11577
73 — 10937

43 CFR

4 — 11460

PUBLIC LAND ORDERS:

5173 (amended by PLO 5213) — 11244
5178 (amended by PLO 5214) — 11244
5191 (see PLO 5213) — 11244
5213 — 11244
5214 — 11244

PROPOSED RULES:

2800 — 11255
2870 — 11255

45 CFR

83 — 10938, 11577
205 — 11059
1201 — 11060

PROPOSED RULES:

909 — 11257

46 CFR

160 — 11462
272 — 11577
309 — 11578

47 CFR

73 — 11538, 11581, 11584
81 — 11245, 11328
83 — 11245
89 — 11585
91 — 11335, 11585
93 — 11585
201 — 11335

PROPOSED RULES:

1 — 11592
74 — 11593
91 — 10959

49 CFR

393 — 11336
571 — 10938
1033 — 11066, 11336

PROPOSED RULES:

1201 — 11076

50 CFR

32 — 11585
33 — 11066

LIST OF FEDERAL REGISTER PAGES AND DATES—JUNE

Pages	*Date*
10907–11045	June 1
11047–11147	2
11149–11222	3
11223–11299	6
11301–11447	7
11449–11548	8
11549–11663	9

federal register

FRIDAY, JUNE 9, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 112

PART II

DEPARTMENT OF LABOR

Employment Standards Administration

■

Minimum Wages for Federal and Federally Assisted Construction

Area Wage Determination Decisions, Modifications and Supersedeas Decisions

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Area Wage Determination Decision, Modifications and Supersedeas Decisions

New determination. There is set forth below general Area Wage Determination Decision No. AM-11,423 of the Secretary of Labor. This decision specifies, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the locality specified therein. The decision is applicable to Federal and federally assisted construction in the described locality within the State of Texas.

The determinations in this decision of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of the Code of Federal Regulations, Procedure for Predetermination of Wage Rates, and of Secretary of Labor's Orders 12-71 and 15-71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in this decision shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal or federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the locality described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of this determination as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

This wage determination is effective for a period of 120 days from the date of publication in the FEDERAL REGISTER and is to be used in accordance with the provisions of 29 CFR Part 5. Accordingly, this determination together with any modifications issued subsequent to this date during this 120-day period, shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates contained therein shall be the minimum paid under contract by contractors and subcontractors on the work.

The area wage determination decision for the locality within the State of Texas is set forth below.

Modifications and supersedeas decisions to area wage determination decisions. Modifications and/or supersedeas decisions to area wage determination decisions for specified localities in Alabama, Arkansas, Delaware, District of Columbia, Illinois, Indiana, Louisiana, Maryland, Massachusetts, New Mexico, Oklahoma, Pennsylvania, Tennessee, Texas, and Utah.

Area wage determination decisions published in the FEDERAL REGISTER on the following dates:

Decision No.	*Date*
AM-329; AM-330; AM-340; AM-342; AM-348; AM-364.	Aug. 13, 1971.
AM-443(8,620); AM-500(8,-622); AM-502(8,621); AM-1,848; AM-1,852; AM-1,862; AM-1,865.	Aug. 20, 1971.
AM-3,626	Aug. 25, 1971.
AM-2,508(6,733)	Aug. 27, 1971.
AM-8,581	Feb. 11, 1972.
AM-9,680; AM-9,681	Feb. 25, 1972.
AM-9,682	Mar. 3, 1972.
AM-9,684; AM-9,689	Mar. 10, 1972.
AM-11,406	Mar. 24, 1972.
AM-11,408; AM-11,409; AM-11,410.	Mar. 31, 1972.
AM-11,412	Apr. 14, 1972.
AM-11,414; AM-11,415	Apr. 21, 1972.
AM-8,599; AM-11,416	Apr. 28, 1972.
AM-8,607; AM-11,418; AM-11,419.	May 5, 1972.
AM-8,610; AM-9,698; AM-11,420; AM-11,421.	May 19, 1972.

Are hereby modified and/or superseded as set forth below. Supersedeas decision numbers are in parentheses following the number of the decision being superseded.

These modifications and/or supersedeas decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since these determinations were issued.

The determinations of prevailing rates and fringe benefits made in these modifications and/or supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, and of Secretary of Labor's Orders 13-71 and 15-71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in the foregoing area wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

The modifications and/or supersedeas decisions are effective from their date of publication in the FEDERAL REGISTER until the end of the period for which the determinations being modified and/or superseded were issued and are to be used in accordance with the provisions of 29 CFR Part 5. The modifications and/or supersedeas decisions to the area wage determination decisions listed above are set forth below.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. section 553 is set forth in the document being modified.

Signed at Washington, D.C., this 2d day of June 1972

HORACE E. MENASCO,
Administrator,
Wage and Hour Division.

NEW DECISION

STATE: Texas COUNTY: Tarrant
DECISION NO.: AM-11,423 DATE: June 9, 1972
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
BRICKLAYERS	$5.82					
CARPENTERS	5.09					
CEMENT MASONS	4.81					
ELECTRICIANS	5.02					
LABORERS	4.125					
PAINTERS, BRUSH	4.30					
PLASTERERS	5.34					
PLUMBERS	5.17					
ROOFERS	4.15					
SHEET METAL WORKERS	6.175	.25			.015	
SOFT FLOOR LAYERS	4.50					
TRUCK DRIVERS	3.00					

AM-11,423 P. 2

13 - Texas - 3 f (1 - 2)

INCIDENTAL PAVING & SITE PREPARATION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Air Tool Man	$2.55					
Asphalt Heaterman	2.65					
Asphalt Raker	3.25					
Asphalt Shoveler	2.50					
Batching Plant Scaleman	2.95					
Carpenter	3.25					
Carpenter Helper	3.00					
Concrete Finisher (Paving)	3.50					
Concrete Finisher Helper (Paving)	3.00					
Concrete Finisher (Structures)	3.25					
Concrete Finisher Helper (Structures)	2.95					
Concrete Rubber	2.75					
Electrician	5.00					
Form Builder (Structures)	3.50					
Form Builder Helper (Structures)	2.50					
Form Liner (Paving and Curb)	3.50					
Form Setter (Paving and Curb)	3.25					
Form Setter Helper (Paving and Curb)	2.50					
Form Setter (Structures)	3.50					
Form Setter Helper (Structures)	2.50					
Laborer, Common	2.00					
Laborer, Utility Man	2.25					
Mechanic	3.50					
Mechanic Helper	2.85					
Oiler	2.75					
Pipelayer	3.25					
Pipelayer Helper	2.50					
Powderman	3.00					
Reinforcing Steel Setter (Structures)	3.25					
Reinforcing Steel Setter Helper	2.50					
Sign Erector	3.00					
Sign Erector Helper	2.50					
Spreader Box Man	2.50					
Swamper	2.00					
Power Equipment Operators:						
Asphalt Distributor	3.25					
Asphalt Paving Machine	3.25					
Bulldozer, 150 H.P. and Less	3.15					
Bulldozer, over 150 H.P.	3.25					
Concrete Paving Curing Machine	3.00					
Concrete Paving Finishing Machine	3.50					
Concrete Paving Saw	2.75					
Concrete Paving Spreader	3.50					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ C.Y.)	3.25					

AM-11,423 P. 3

13 - Texas - 3 f (2 - 2)

INCIDENTAL PAVING & SITE PREPARATION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators (Cont'd):						
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ C.Y. and Over)	$3.50					
Foundation Drill Operator (Truck Mounted)	4.20					
Foundation Drill Operator Helper	3.65					
Front End Loader (2½ C.Y. and Less)	3.25					
Front End Loader (Over 2½ C.Y.)	3.50					
Motor Grader Operator, Fine Grade	3.50					
Motor Grader Operator	3.25					
Roller, Steel Wheel (Plant-Mix Pavements)	3.25					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.60					
Roller, Pneumatic (Self-Propelled)	2.25					
Scrapers (17 C.Y. and Less)	3.15					
Scrapers (Over 17 C.Y.)	3.25					
Tractor (Crawler Type) 150 H.P. and Less	2.75					
Tractor (Crawler Type) over 150 H.P.	3.00					
Tractor (Pneumatic) 80 H.P. and Less	2.20					
Tractor (Pneumatic) over 80 H.P.	2.85					
Traveling Mixer	2.70					
Wagon Drill, Boring Machine or Post Hole Driller Operator	2.80					
Truck Drivers:						
Single Axle, Light	2.50					
Single Axle, Heavy	2.55					
Tandem Axle or Semitrailer	2.50					
Lowboy-Float	3.25					
Transit-Mix	3.25					
Welder	3.55					

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-8,607 - Mod. #1 (37 FR 9173 - May 5, 1972) Jefferson County, Alabama						
Change:						
Building Construction:						
Asbestos workers	$6.23	.18	.15			
Bricklayers, pointers, caulkers, stonemasons	6.65	.25	.25		.05	
DECISION #AM-11,416 - Mod. #2 (37 FR 8621 - April 28, 1972) Pulaski County, Arkansas						
Change:						
Painters:						
Brush	$5.15		.20			
Structural Steel	5.40		.20			
Spray	5.75		.20			
DECISION #AM-9,698 - Mod. #1 (37 FR 10288 - May 19, 1972) Statewide, Delaware						
Change:						
Building & Heavy Construction:						
Power Equipment Operators:						
Wage Group I						
Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above	$9.24	4.6%	6.5%	a	.7%	
Omit:						
Dredging Schedule (See New Decision AM-9,322 - dated May 26, 1972)						
DECISION #AM-9,682 - Mod. #6 (37 FR 4472 - March 3, 1972) District of Columbia						
CHANGE:						
Steamfitters, refrigeration and air conditioning mechanics	$8.86	.30				

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-329 - Mod. #5 (36 FR 15151 - August 13, 1971) Champaign County, Illinois						
Change:						
Asbestos workers	$8.10	.20	.20		.02	
Roofers:						
Composition	6.90	.20	.10	.50		
Slate & tile	7.15	.20	.10	.50		
Modification #5 37 FR 10693 dated May 26, 1972 to Modification #4.						
DECISION #AM-330 - Mod. #11 (36 FR 15155 - August 13, 1971) Cook County, Illinois						
Change:						
Line Construction:						
Linemen	8.50	4%	1%+3%	7½%	½%	
Linemen Helpers	6.75	4%	1%+3%	7½%	½%	
DECISION #AM-340 - Mod. #2 (36 FR 15210 - August 13, 1971) Williamson County, Illinois						
Change:						
Painters (Marion & Vic.)						
Commercial	5.70					
Industrial	5.95					
Spray & Sandblasting	6.75					
DECISION #AM-342 - Mod. #12 (36 FR 15218 - August 13, 1971) Winnebago County, Illinois						
Change:						
Glaziers	6.57	.26	.20	.40	.01	

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-348 - Mod. #2 (36 FR 15262 - August 13, 1971) Clay, Crawford, Edwards, Effingham, Fayette, Hamilton, Jasper, Jefferson, Lawerence, Marion, Richland, Wabash, Wayne & White Counties, Illinois						
Change:						
Carpenters & Piledrivermen:						
Portion of Dist. #7 under Jurisdiction of Local #347-Mattoon including Effingham Co. & west of Hwy. #130 in Jasper Co. incl. Newton						
Carpenters & Piledrivermen	$6.85	.25	.20		.02	
Remainder of District #7 Carpenters & Piledrivermen	6.81	.25	.25		.01	
DECISION #AM-8,599 - Mod. #1 (37 FR 8625 - April 28, 1972) Kane County, Illinois						
Change:						
Plumbers & Steamfitters: Vicinity of Aurora	7.95	.34	.19	.25	.02	
DECISION #AM-364 - Mod. #8 (36 FR 15358 - August 13, 1971) Vigo County, Indiana						
Change:						
Cement Masons	$6.25	.25	.25			
DECISION #AM-8,581 - Mod. #3 (37 FR 3148 - February 11, 1972) Benton & Tippecanoe Counties, Ind.						
Change:						
Lathers	$6.80	.30	.25		.01	

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-3,626 - Mod. #6 (36 FR 16736 - August 25, 1971) East Baton Rouge Parish, Louisiana						
Change:						
Marble setters' helpers	$4.80	.15				
Terrazzo workers' helpers	4.80	.15				
Tile setters' helpers	4.80	.15				
DECISION #AM-11,410 - Mod. #4 (37 FR 6614 - March 31, 1972) Orleans, Jefferson, Plaquemines & St. Bernard Parishes, Louisiana						
Change:						
Carpenters:						
Millwrights	6.855	.20	.20		.04	
Marble masons' helpers	4.80	.15				
Add:						
Tile setters	6.55	.15				
Tile setters' helpers	4.80	.15				
Terrazzo workers	6.55	.15				
Terrazzo workers' helpers	4.80	.15				
DECISION #AM-9,680 - Mod. #1 (37 FR 4028 - February 25, 1972) Baltimore City & County, Maryland						
Change:						
Building & Heavy:						
Electricians	$8.10	.40	1%+.20		½%	
Lathers	7.99		.25		.01	
Line Construction:						
Lineman, Cable splicer	8.50	.20	1%		½%	
Groundman (experienced)	5.40	.20	1%		½%	
Plasterers	7.70	.25	.30			
Roofers:						
Roofers, damp & water proof workers	5.55	.35	.30			
Mopmen, slate & tile, asbestos & Asphalt	6.00	.35	.30			
Sheeter, precast & wood block	6.35	.35	.30			
Soft floor layers - resilient floor layers	7.49	.29	.35		.05	
Omit:						
Dredging schedule (See New Decision AM-9,322 - dated May 26, 1972)						

MODIFICATIONS P. 5

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-9,684 - Mod. #3 (37 FR 5170 - March 10, 1972) Barnstable County, Massachusetts						
Change: Building, Heavy & Highway Construction:						
Sheet metal workers	$8.05	.25	.25			
DECISION #AM-9,689 - Mod. #4 (37 FR 5179 - March 10, 1972) Worcester County, Massachusetts						
Change: Building, Heavy & Highway Construction:						
Asbestos workers	7.87	.47	.20		.01	
DECISION #AM-11,412 - Mod. #3 (37 FR 7462 - April 14, 1972) Oklahoma County, Oklahoma						
Change: Electricians:						
Electricians (Zone 1)	$7.20	.30	1% + .10		1%	
Electricians (Zone 2)	7.45	.30	1% + .10		1%	
Cable splicers (Zone 1)	7.45	.30	1% + .10		1%	
Cable splicers (Zone 2)	7.70	.30	1% + .10		1%	

MODIFICATIONS P. 6

DECISION #AM-11,406 - Mod. #3
(37 FR 9169 - March 24, 1972)
Statewide, New Mexico

Change:

BERNALILLO COUNTY

LINE CONSTRUCTION - NEW MEXICO - A

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CABLE SPLICERS	$6.77	.25	1%		½%
LINEMEN	6.30	.25	1%		½%
TECHNICIANS	6.30	.25	1%		½%
EQUIPMENT OPERATORS	5.99	.25	1%		½%
EQUIPMENT MECHANICS	5.49	.25	1%		½%
POWDERMEN	5.49	.25	1%		½%
GROUNDMEN & JACKHAMMER OPERATORS:					
1st 6 months	3.32	.25	1%		½%
2nd 6 months	3.78	.25	1%		½%
Experienced	4.41	.25	1%		½%

STATEWIDE (EXCEPT BERNALILLO COUNTY)

LINE CONSTRUCTION - NEW MEXICO - B

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CABLE SPLICERS	$7.40	.25	1%		½%
LINEMEN	6.89	.25	1%		½%
TECHNICIANS	6.89	.25	1%		½%
EQUIPMENT OPERATORS	6.55	.25	1%		½%
EQUIPMENT MECHANICS	5.99	.25	1%		½%
POWDERMEN	5.99	.25	1%		½%
GROUNDMEN & JACKHAMMER OPERATORS:					
1st 6 months	3.63	.25	1%		½%
2nd 6 months	4.13	.25	1%		½%
Experienced	4.83	.25	1%		½%

MODIFICATIONS P. 7

DECISION #AM-11,420 - Mod. #2
(37 FR 10315 - May 19, 1972)
Los Alamos County, New Mexico

Change:

LINE CONSTRUCTION - NEW MEXICO - B

GENERAL BUILDING & HEAVY ENGINEERING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CABLE SPLICERS	$7.40	.25	1%		½%
LINEMEN	6.89	.25	1%		½%
TECHNICIANS	6.89	.25	1%		½%
EQUIPMENT OPERATORS	6.55	.25	1%		½%
EQUIPMENT MECHANICS	5.99	.25	1%		½%
POWDERMEN	5.99	.25	1%		½%
GROUNDMEN & JACKHAMMER OPERATORS:					
1st 6 months	3.63	.25	1%		½%
2nd 6 months	4.13	.25	1%		½%
Experienced	4.83	.25	1%		½%

DECISION #AM-11,421 - Mod. #2
(37 FR 10318 - May 19, 1972)
Bernalillo County, New Mexico

Change:

LINE CONSTRUCTION - NEW MEXICO - A

GENERAL BUILDING & HEAVY ENGINEERING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CABLE SPLICERS	$6.77	.25	1%		½%
LINEMEN	6.30	.25	1%		½%
TECHNICIANS	6.30	.25	1%		½%
EQUIPMENT OPERATORS	5.99	.25	1%		½%
EQUIPMENT MECHANICS	5.49	.25	1%		½%
POWDERMEN	5.49	.25	1%		½%
GROUNDMEN & JACKHAMMER OPERATORS:					
1st 6 months	3.32	.25	1%		½%
2nd 6 months	3.78	.25	1%		½%
Experienced	4.41	.25	1%		½%

MODIFICATIONS P. 8

DECISION #AM-1,848 - Mod. #3
(36 FR 16250 - August 20, 1971)
Allegheny County, Pennsylvania

Change:

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Plasterers:						
Remainder of County	$7.58	.37	.50			
Plumbers	8.26	.50	.625		.075	
Soft floor layers, Carpet cutters	7.50	4%	5%	d	½%	
Soft floor layers, residential	6.09	4%	5%	d	½%	
Terrazzo workers	8.575	.35	.20			
Terrazzo workers' helpers, dry grinders	7.855	.35	.10			
Tile setters	8.20	.15				
Tile setters' helpers	7.39	.35				

DECISION #AM-1,852 - Mod. #8
(36 FR 16226 - August 20, 1971)
Delaware County, Pennsylvania

Change:

Highway Construction:						
Power Equipment Operators:						
Wage Group I						
Handling steel and stone in connection with erection; Cranes doing hook work; Any machine handling machinery; Helicopters; Machines similar to the above	9.29	4.6%	6.5%	a	.7%	

DECISION #AM-1,862 - Mod. #7
(36 FR 16314 - August 20, 1971)
Philadelphia County, Pennsylvania

Change:

Highway Construction:						
Power Equipment Operators:						
Wage Group I						
Handling steel and stone in connection with erection; Cranes doing hook work; Any machine handling machinery; Helicopters; Machines similar to the above	9.29	4.6%	6.5%	a	.7%	

MODIFICATIONS P. 9

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION # AM-1,865 - Mod. #4 (36 FR 16333 - August 20, 1971) 5 Eastern Counties, Pennsylvania Change: Highway Construction: Power Equipment Operators: Wage Group I Handling steel and stone in Connection with erection; Cranes doing hook work; Any machine handling machinery; Helicopters; Machines similar to the above	$9.29	4.6%	6.5%	a	.7%	
DECISION #AM-9,681 - Mod. #2 (37 FR 4030 - February 25, 1972) Montgomery County, Pennsylvania Change: Highway Construction: Power Equipment Operators: Wage Group I Handling steel and stone in connection with erection; Cranes doing hook work; Any machine handling machinery; Helicopters; Machines similar to the above	9.29	4.6%	6.5%	a	.7%	
DECISION #AM-8610 - Mod. #1 (37 FR 10322 - May 19, 1972) Anderson & Roane Cos., Tennessee Change: Heading on first page to read: Oak Ridge, Atomic Energy Facility						

MODIFICATIONS P. 10

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-11,408 - Mod. #3 (37 FR 6617 - March 31, 1972) Harris County, Texas Change: Building Construction: Pipefitters	$7.325	.275	.50		.04	
DECISION #AM-11,409 - Mod. #3 (37 FR 6619 - March 31, 1972) Lubbock County, Texas Change: Building Construction: Bricklayers; Stonemasons	6.25					
DECISION #AM-11,414 - Mod. #2 (37 FR 7930 - April 21, 1972) Jefferson & Orange Counties, Texas Omit: Bricklayers; Stonemasons: Southern part of Jefferson County including the cities of Port Arthur, Sabine, Port Neches & Nederland	6.625	.175	.30			
Remainder of Jefferson County & all of Orange County	7.255	.275	.30		.04	
Add: Bricklayers; Stonemasons	7.255	.275	.30		.04	
DECISION #AM-11,415 - Mod. #3 (37 FR 7931 - April 21, 1972) Jefferson & Orange Counties, Texas Omit: Bricklayers; Stonemasons: Southern part of Jefferson County including the cities of Port Arthur, Sabine, Port Neches & Nederland	6.625	.175	.30			
Remainder of Jefferson County & all of Orange County	7.255	.275	.30		.04	
Add: Bricklayers: Stonemasons	7.255	.275	.30		.04	

MODIFICATIONS P. 11

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-11,418 - Mod. #1 (37 FR 9163 - May 5, 1972) Cameron, Hidalgo, Starr & Willacy Counties, Texas						
Change: Building Construction: Bricklayers	$5.00					
DECISION #AM-11,419 - Mod. #3 (37 FR 9164 - May 5, 1972) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Parker, Rockwall, Tarrant & Wise Counties, Texas						
Change: Building Construction: Sheet metal workers: Grayson, Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Cos.	6.895	.30	.25		.01	

STATE: Alabama COUNTY: Mobile
DECISION NO.: AM-8,620 DATE: June 9, 1972
Supersedes Decision No. AM-443, dated August 20, 1971, in 36 FR 16352.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), highway construction.

49 - Alabama-1-2 H 1 of 2

BUILDING CONSTRUCTION:

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Asbestos workers	$7.60	.345	.60		.02	
Boilermakers	6.25	.30	.50		.01	
Boilermakers' helpers	6.00	.30	.50		.01	
Bricklayers; Stonemasons, Cleaners, Caulkers & Pointers	7.39		.73			
Carpenters	6.80	.28	.25			
Carpenters on creosote material; Power saw operator	7.20	.28	.25			
Millwrights	7.24	.28	.25			
Piledriver	7.02	.28	.25			
Piledriver on creosote material	7.26	.28	.25			
Cement masons	6.62	.28	.25			
Electricians	7.90	.20	1%	.125	.036%	
Elevator constructors	6.72	.145	.17	1.5%a+b	.005	
Elevator constructors' helpers	70%JR	.145	.17	1.5%a+b	.005	
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	5.40			e		
Ironworkers: Structural, ornamental & reinforcing	7.13	.28	.25		.01	
Lathers	7.13	.28	.25		.01	
Line construction:						
Linemen	7.90	.20	1%	.125	.036%	
Cable splicers	8.15	.20	1%	.125	.036%	
Marble Setters	7.39		.73			
Painters:						
Brush (Resd. & Commercial)	6.88	.28		e	.01	
Industrial	7.13	.28		e	.01	
Hazardous	7.38	.28		e	.01	
Spraying bituminous coatings	7.88	.28		e	.01	
Plasterers	7.20	.28	.25			
Plumbers; Steamfitters	8.25	.20	.25	c	.02	
Roofers:						
Roofers	6.45		.10	f		
Kettleman	5.67		.10	f		
Helper	4.62		.10	f		
Sheet metal worker	7.15	.30	.30	d	.01	
Soft floor layers	6.80	.28	.25			
Sprinkler fitters	7.30	.25	.40		.05	
Terrazzo workers	7.39		.73			
Terrazzo workers' helpers	4.32	.28	.15			
Terrazzo; base grinder; machine opr.	5.08	.28	.25			
Tile setters	7.39		.73			
Tile setters' Marble setters' helpers	4.58	.28	.25			
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS (WHERE APPLICABLE):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employees who has worked in business less than 5 years.

c. 7 paid holidays: A, C, D, E, F, Christmas Eve and Mardi Gras.

d. 4 paid holidays: A, D, E & F

e. One paid holiday: F

f. 40 hours paid vacation after 1 year of employment.

AM-8,620 P. 3
49 - Ala. - Lab G

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
General Building Construction laborers	$4.40	.28	.25			
Mortar makers (any method), Hod Carriers, Paving Breakers - Breaking & Chipping concrete (any method), Air operating tools (Elec. or Gas), Mason and plaster tenders, tile setter & Terrazzo helpers, Handling Creosote or Coppertox Materials, Glass Wool and all types insulation, Kettle man, Asphalt raker & tamper, Drills and Vibrators, Concrete Dump Bucketman, All concrete rollers, wheel barrows, Georgia buggies, pipe Cleaners & pipe layers (of clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe for main & side sewers and drainage only), Pipe wipers (inside and out)	4.58	.28	.25			
Gunnite or Pressure Concrete Workers, Nozzleman, Gunman, Rodman, Power Driven Buggy Mobiles, Height: All work performed 40 ft. on scaffolds, inside and out (except where scaffolds are solid from wall to wall inside)	4.80	.28	.25			
Cofferdam or Tunnel workers (underground)	5.50	.28	.25			
Blasting (Powderman)	5.72	.28	.25			
Concrete Sawman	5.28	.28	.25			
Form setters; Roadways, Runways, Highways	5.09	.28	.25			
Track Laborer	4.74	.28	.25			
Brick Washers (laborers)	4.85	.28	.25			
Burners on dismantling (anything not to be reused)	5.38	.28	.25			
Stack Laborers	4.87	.28	.25			
Stack Laborers (over 40 ft.)	5.28	.28	.25			
Tank Cleaners (Caustic chemicals)	4.85	.28	.25			

AM-8,620 P. 4
ALA-3PEO-1-2- H

BUILDING CONSTRUCTION:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
HEAVY EQUIPMENT:						
Heavy Duty Mechanic, Crane, Shovel, Derrick Operator (2 or More Drums), Dragline Pile Driver Operator, Hoist Operator (2 or More Drums), Trenching Machines, Cable Ways, Excavators, Front End Loader, Backhoe, Rubber Tired Backhoe, Dredges, Leverman, Welders, Mounted Rotary Drill Machines Cherry Pickers, Side Boom Tractors, Paving Machines, Motor Patrol, Pumpcrete Machines, Gradalls, Johnson Mixers, Hydro-Lift Trucks, All Batch Plant and Header House Operators, Panel Board (Ready-Mix), Hydro Hammers on Demolition Work, Concrete Plants, Asphalt Plants, Helicopter pilots and concrete paving trains	$7.16	.28	.25			
MEDIUM EQUIPMENT:						
Dozer Scraper, Turnapull, One Drum Hoist, Self-Propelled Rollers, Construction Elevators, Locomotive Engineer, Elevating Grader Tractors with Power Control Attachments. Winch Truck, Tug Boats, Mixers, Asphalt Spreaders, Drilling Machines, Form Graders, Asphalt Distributors, Forklift, well-point Systems, Subgraders, Finishing Machines, Motorized Compactors, Wagmobiles and Push Carts	6.90	.28	.25			
LIGHT EQUIPMENT:						
Light Plants, Generators, Welding Machines, Air Compressors, Pumps, Conveyors, Motor Boats under 30 feet, Tow Tractors and Pile Driver Hammers (Diesel, Gas, Air or Electric)	6.41	.28	.25			
Fuel Truck Oilers, Fireman Brakeman, Outboard Motor Boats, Truck Crane Oiler and Mechanic Helpers	5.76	.28	.25			
Oilers (Crawler), Deck Hand and Oiler Cherry Picker	5.50	.28	.25			

AM-8,620 P. 5

ALA - 49 - TD - G

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
TRUCK DRIVERS:						
Up to but not including 1½ tons such as Station Wagons, Jeeps, Autos, Pick-up Trucks, Motor Cycles, Bicycles, Truck Spotters, Teamsters, Team Drivers	$5.04	.28	.25			
1½ tons and up to but not including 5 tons such as Dump Trucks, Flat Beds, Stake Bodies, Bus Drivers, Winch and "A" Frame Trucks	5.51	.28	.25			
5 tons or 6 yards and over, including heavy equipment such as pole trucks, miss, or corning wagons, dumpsters, semi-drivers, agitators, ross carriers dempsey dumps, euclid trucks, fork-lift truck in warehouse and similar equipment such as tractors, 10 wheelers, jeeps, or dump trucks or pickup trucks pulling 2 or 4 wheel trailers hauling equipment	6.55	.28	.25			
Truck and Auto Mechanics	7.12	.28	.25			
Truck Drivers Helpers, Unloaders, Unloading and handling creosote or coppertox Material	5.04	.28	.25			
Truck Drivers Helper	4.41	.28	.25			

AM-8,620 P. 6

Alabama-3-Zone #5 H

HIGHWAY, ROAD, STREET & PAVING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Bricklayers	$3.65					
Carpenter	3.45					
Carpenter helper	2.80					
Concrete finisher	3.50					
Concrete finisher helper	2.70					
Concrete saw operator	2.45					
Grade checkers	3.15					
Ironworker, structural	5.66					
Ironworker helper, structural	3.10					
Ironworker, reinforcing	4.30					
Ironworker helper, reinforcing	2.70					
Laborer:						
Air tool operator	2.45					
Asphalt raker	3.00					
Concrete laborer	2.79					
Pipelayer	2.45					
Powderman and blasger	3.05					
Powderman and blaster helper	2.70					
Saw operator	2.45					
Side rail or form setter	2.725					
Unskilled	2.25					
Wagon drill operator	2.55					
Painters	4.00					
Painter helpers	2.70					
Piledrivermen	4.02					
Piledrivermen helper	3.18					
Truck drivers:						
Multi-rear axle or heavy duty, off road, single axle	3.15					
Single-rear axle	2.50					
Under 1½ tons actual capacity	2.30					
Welders - receive rate prescribed for craft performing operation wo which welding is incidental.						

AM-8,620 P. 7

Alabama - 5 - PEO I

HIGHWAY, ROAD, STREET & PAVING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
POWER EQUIPMENT OPERATORS:						
Air Compressors	$3.15					
Asphalt Distributors	3.47					
Asphalt Mixers & Pug Mills & Batch Plants	3.44					
Asphalt Paving Machines	3.44					
Asphalt Plant Driers	3.44					
Asphalt Spreaders	3.47					
Bulldozers	3.44					
Bull Floats	3.44					
Concrete Mixers (3 Bags & Under)	3.44					
Concrete Mixers (Over 3 Bags)	3.60					
Concrete Paving Machines	3.60					
Concrete Paving Finishing Machines	3.60					
Concrete Paving Spreaders	3.60					
Cranes, Clamshells, Backhoes, Derricks, Draglines or Shovels	3.60					
Conveyors	3.13					
Crusher & Screening Plants	3.44					
Drilling Machines	3.30					
Drilling Machine Helpers	2.55					
Elevating Graders, Gradalls or Trenching Machine	3.675					
Firemen	3.15					
Form Graders	2.70					
Hoists (2-drums or 2 cages or more)	3.30					
Hoists (1-drum)	3.44					
Mechanics	3.60					
Mechanic Helpers	2.77					
Motor Patrols	3.44					
Oilers or Greasemen	2.92					
Paving Subgraders	3.15					
Piledrivers	3.84					
Pumps	2.70					
Pumpcretes	3.15					
Rollers-Self Propelled	3.13					
Rollers-Self Propelled (on asphalt bases & Pavements)	3.35					
Scale Operators	2.70					
Scalemen	2.70					
Scrapers	3.44					
Seeding & Mulching Machines	3.35					
Striping Machines (Paint)	3.35					
Tractors & Loaders:						
Farm Rubber Tired	3.35					
80 H.P. or less-Drawbar Capacity	3.395					
Over 80 H.P.	3.60					
Winch Truck & "A" - Frame	3.15					

STATE: Tennessee COUNTY: Knox
DECISION NO.: AM-8,621 DATE: June 9, 1972
Supersedes Decision No. AM-502, dated August 20, 1971, in 36 FR 16486.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), and highway construction

47 - Tenn. W 1 of 2

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vocation	App. Tr.	Others
Asbestos workers	$7.10	.25	.15		.03	
Boilermakers	6.25	.30	.50		.01	
Boilermakers' helpers	6.00	.30	.50		.01	
Bricklayers and Stonemasons	7.07				.02	
Carpenters	6.05				.02	
Cement masons	5.40				.02	
Electricians & Line Const.:						
Electricians and Linemen	6.85	.20	1%		.5%	
Cable splicers	7.25	.20	1%		.5%	
Elevator constructors	5.82	.17	.185	2%+a&b	.005	
Elevator constructors' helpers	70% JR	.17	.185	2%+a&b	.005	
Elevator constructors' helpers (prob.)	50% JR					
Glaziers	4.65		.20			
Ironworkers:						
Structural & ornamental	6.95	.125	.10		.02	
Reinforcing	6.07	.125	.10		.02	
Fence erector	6.95	.125	.10		.02	
Lathers	6.20		.20		.01	
Leadburners	6.90	.30		c	.01	
Marble masons	7.07				.02	
Millwrights	6.475				.02	
Painters:						
Commercial	5.65		.20		.02	
Industrial	6.00		.20		.02	
Piledrivermen	6.30				.02	
Plasterer	6.50					
Plumbers and Steamfitters	6.65	.25	.45	.30+e	.05	
Roofers, composition	5.25		.15			
Roofers, slate & tile	5.30		.15			
Roofers' helpers	3.94		.15			
Sheet metal workers	6.63	.27	.20		.02	
Soft floor layers (linoleum tile)	6.05				.02	
Sprinkler fitters	7.30	.25	.40		.05	
Terrazzo workers and tile setters	7.07				.02	
Truck drivers:						
3 tons, & inc. 4 yds., dump truck	4.28		d		.01	
3 to 5 tons, & inc. 6 yds., dump truck	4.48		d		.01	
5 tons, & over inc. dump truck over 6 yds., ready mix conc. truck, tank trucks, floats & lowboys, winch truck & semi-trailer	4.63		d		.01	
Welders-receive rate for craft performing operation to which welding is incidental.						

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Holidays: A through F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holiday.

d. $6.00 per week for each employee.

e. $.05 holiday pay.

AM-8,621 P. 3

Tenn.-1-LAB-G

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LABORERS:						
Common laborer	$4.09	.10			.01	
Mortar mixer, plasterer tender	4.24	.10			.01	
Hod carriers, power buggies, yarner, potman, grademan, snake man, form setter & strippers, pipelayers, asphalt raker, jackhammer op., air tool op., vibrator op., chain saw op., chain saw filer, barco tamp op.	4.24	.10			.01	
Acetlyene burner	4.265	.10			.01	
Wagon drill operator	4.39	.10			.01	
Caisson hole man	4.89	.10			.01	
Powderman	4.59	.10			.01	
TUNNEL CONSTRUCTION:						
Outside laborer	4.09	.10			.01	
Tunnel laborer	4.49	.10			.01	
Chuck tender	4.64	.10			.01	
Concrete gun op., nozzleman	4.79	.10			.01	
Tunnel miner	4.89	.10			.01	

AM-8,621 P. 4

Tenn.-2-PEO-F 1 of 2

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP A						
Backhoes, cable ways, ross carrier, clamshells, cranes derricks, draglines, tournapulls, pans, scrapers, scoops, etc., head tower machines, locomotives (over 20 tons), shovels, mechanics & welders, winch trucks with A-frame, skimmer scoops, locomotives cranes, over-head cranes, pile drivers, skid rigs, side boom tractors, euclid loaders, hoist (any size handling steel or stone), derrick boats, dredge boats, engines used in connection with hoist material with an attached device on tower or engine, mucking machines, hi-lifts or end loaders, finish graders, cherry-pickers, tower cranes, skylift & gradall, dozers, earth augers and pole machine operators, core drill & foundation drills.	$5.65	.20	.20		.02	
GROUP B						
Tractors, farm type tractors with attachments, central compressor plants, elevators, used for hoisting building material, central mixing plants, hoist, pump crete machines, concrete pumps, trenching machines, backfillers (other than cranes), crushing plant operators, elevating graders, paving machines (black top), fork-lift, paving machines, (concrete), boat operator or engineer (30 tons or over) tracmobile, maintainers, blacktop roller, switchman, locomotive under 20 tons.	5.24	.20	.20		.02	
GROUP C						
Asphalt plant operators, barber green type loaders, engine tender other than steam, mixers, over 2 bags not to include central plants, pumps, 2 not more than 5, scarifiers, spreader box (bituminous), asphalt mixers, portable compressors, 2 not more than 3, rollers, sub-grader machine, tractors, farm type without attachments,						

AM-8,621 P. 5

Tenn.-2-PEO-F 2 of 2

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP C (CONT'D)						
cable head tower engineman, dredge booster pump operators, boat operator or engine, under 30 tons, finishing machine, fireman & oiler (combination), motor crane oiler & driver, welding machine (2 not more than 3), heaters, stationery or portable (to 5), compressors (portable 2 not more than 3), greaser or fuel trucks	4.39	.20	.20		.02	
GROUP D						
Air compressor (1 portable), fireman, portable curshers, welding machine (1), conveyors, pumps (1), oiler, heater (1).	4.03	.20	.20		.02	

AM-8,621 P. 6

Tenn. - Zone-1 - H

HIGHWAY CONSTRUCTION	Basic Hourly Rates	FRINGE BENEFITS PAYMENTS				
		H & W	Pensions	Vacation	App. Tr.	Other
Bricklayers	$4.91					
Carpenters	4.07					
Cement masons	3.97					
Ironworkers, reinforcing	3.98					
Ironworkers, structural	4.38					
Painter or sand blaster	3.84					
Laborers:						
Laborers, unskilled	2.50					
Air tool operator	2.72					
Mortar mixer, chain saw, pipelayer, conc. rubber	2.70					
Concrete saw op., guard rail erector, sign erector	2.79					
Firemen	2.76					
Asphalt raker	2.87					
Concrete edger	2.89					
Powderman	3.25					
Form setter, steel road	2.94					
Nozzleman or gunman (gunite)	3.97					
Flagman	2.50					
OPERATING ENGINEERS:						
Dragline op., shovel op., crane op., end loader 5 yds. & over, pile driver op., motor patrol finish, mechanic (class I),	4.07					
Backhoe operator, concrete paver op.	4.03					
End loader under 5 yds., mechanic, class II, motor patrol (rough), central mixing (asphalt or concrete), concrete finishing machine, soil cement machine, asphalt paver	3.65					
Bulldozer or push dozer op, scraper op., trenching machine, tractor (boom and hoist),	3.69					
Roller (high type),	3.54					
Spreader (self-propelled)	3.48					
Distributor (bituminous	3.37					
Roller, other than finish, dozer or loader - stock pile only	3.24					
Tractor, crawler, utility	3.31					
Concrete mixer, less than 1 yd., earth drill	3.02					
Mulcher or seeder, scale op., motor crane driver & oiler	3.00					
Tractor, farm	2.78					
Curb machine	2.77					
Ditch paver, mechanic helpers	2.74					
Pump operator, welder helper	2.71					
Track drill operator	2.84					
Oiler	2.77					
TRUCK DRIVERS:						
2 axles	2.77					
3 axles	2.82					
4 axles	2.97					
5 axles or more or heavy off the road trucks or haulers	3.18					
Welders - Rate for Craft.						

SUPERSEDEAS DECISION

STATE: Tennessee COUNTY: Davidson
DECISION NO.: AM-8,622 DATE: June 9, 1972
Supersedes Decision No. AM-500, dated August 20, 1971, in 36 FR 16478.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), highway construction.

19 - Tenn - 1 - E 1 of 2

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$7.50	.25	.15			
Boilermakers	6.25	.30	.50		.01	
Boilermakers' helpers	6.00	.30	.50		.01	
Bricklayers	6.15					
Carpenters	6.50	.15	.10		.01	
Cement masons	5.05	.25				
Electricians	6.18	.30	1%		.25%	
Elevator constructors	6.115	.195	.20	2% + a&b	.005	
Elevator constructors' helpers	4.28	.195	.20	2% + a&b	.005	
Elevator constructors' helpers (prob.)	3.06					
Glaziers	5.75	.30	.20		.02	
Ironworkers:						
Structural, ornamental & reinforcing	6.20	.30	.10		.04	
Lathers	6.30		.20		.01	
Lead burners	6.90	.30		c	.01	
Line construction:						
Linemen	6.18	.30	1%		.25%	
Cable splicers	6.43	.30	1%		.25%	
Groundmen:						
Trainee A (1st 6 mos.)	2.80	.30	1%		.25%	
Trainee B (2nd 6 mos.)	3.40	.30	1%		.25%	
Marble setters	5.10					
Marble setters' helpers exper.	2.35					
Millwrights	6.65	.15	.10		.01	
Painters:						
Brush and roller	5.60		.20		.05	
Structural steel, spray	5.85		.20		.05	
Sandblasting	6.35		.20		.05	
Piledrivermen	6.65	.15	.10		.01	
Plasterers	6.10	.20	.20		.01	
Plumbers	6.47	.25	.25		.03	
Roofers, composition	5.50		.10	d		
Slate & tile	5.75		.10	d		
Helpers	65% JR		.10	d		
Sheet metal workers:						
Within 35 miles of Davidson Co. Courthouse	6.10	.25	.20	e	1.25%	
35 - 50 miles from Davidson Co. Courthouse	6.85	.25	.20	e	1.25%	
Beyond 50 miles from Davidson Co. Courthouse	7.10	.25	.20	e	1.25%	
Soft floor layers	6.50	.15	.10		.01	
Sprinkler fitters	7.30	.25	.40		.05	
Stonemasons	6.15					
Terrazzo workers	5.10					

AM-8,622 P. 2

19 - Tenn. - 1 2 of 2

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Terrazzo workers' helpers exper.	$2.35					
Tile setters	5.10					
Tile setters' helpers exper.	2.35					
Steamfitters	6.47	.25	.25		.03	
Truck Drivers:						
0 to 3 tons	3.65					
3½ tons & over	3.85					
Concrete mixers	3.85					
Euclids	3.98					
Oilers & greaser	3.65					
Special equipment	4.10					
Tractor-trailer, semitrailer	3.85					
Winch	3.85					
Mule dumpster	3.88					
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Holidays: A through F plus Washington's Birthday, Good Friday & Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. Holidays: C, D, & F.

e. Holidays: A through F.

AM-8,622 P. 3

13 Tenn. LAB M

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LABORERS:						
Common laborers, wagon drill helper	$4.05	.10	.10			
Jackhammer, air tamper, chipping hammer, motor whell barrow, concrete mixer, concrete saw, vibrator, fine grade men, pipe handler, kettlemen, post hole digger, chain saw op., asphalt smoother & raker, power tamper op., creosote or treated materials	4.20	.10	.10			
Signal men for hoisting material	4.25	.10	.10			
Work over 50 ft. high	4.30	.10	.10			
Sewer pipe layer (concrete or clay), Railroad track laborers	4.35	.10	.10			
Form strippers and air tool operator working on swing scaffold on heavy construction, wagon drill operator	4.45	.10	.10			
Welder & burner on demolition	4.50	.10	.10			
Well drill operator	4.575	.10	.10			
Dynamite & powdermen	4.60	.10	.10			
Free Air Shafts & Tunnels:						
Outside laborers	4.05	.10	.10			
Free air shafts over 10 ft. deep	4.35	.10	.10			
Nippers, powder carriers, form erectors, form movers, pipe layers, inside laborers, muckers	4.50	.10	.10			
Chuck tenders, miner helpers	4.65	.10	.10			
Miners, drill runners, timbering & bracing, concrete gun & nozzlemen	4.90	.10	.10			
Mortar mixers	4.50	.15	.10			
Mason tenders' and Plasterers' tenders	4.50	.15	.10			

AM-8,622 P. 4

Tenn. 4-PEO - F 1 of 3

BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS.				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Shovel, backhoes, dragline, cranes, derricks, gantreys, gradall, winches w/boom, motor patrol, trenching machines (18 inches or over), piledriver, tug boat operator, mechanic, forklifts, central mixing plant, locomotive engineers, straddle carrier, core drills over 3", tower cranes, hydro-cranes, austin western and all similar type cranes (drilling of piling, all types), tugger, hoist more than one drum when used, earth freezing equipment, side boom, dredge operator, dredge engineer, hopto, pump crete mucking machine, cableway, finishing machine, central compressor, derrick boat, concrete pump, welders, helicopters, de-watering system-all types, sweeper	$5.90	.20	.20			
Traxcavator, dozer, scraper, front end loader, push dozer, pan, pulls	5.90	.20	.20			
Trenching machines (18 inches or smaller) tandem rollers, pavers, mixer mobiles, back fillers, blade grader, dinkey operators over (10) tons, elevating graders, winches operated from trucks and tractors without booms, distributors-bituminous surfaces, hoist (1) drum, mechanics - light equipment, mixer larger than 11-S, group pumps, motor boat, switchman, brakeman, elevator	5.60	.20	.20			
All earth compactors, core drills under 3"	5.50	.20	.20			
Locomotive fireman on boilers (100 HP and over), air compressor (stationery) concrete placing machine earth drills, scale operators, tractors (40 HP or less), motor crane driver and oiler, mixers (11-S or smaller), pump on excavation 4" and larger, concrete placing machines, dinkey operators (10 tons or less), oilers on gantrys, greasers, tractors over 40 H.P.	5.175	.20	.20			

AM-8,622 P. 5

Tenn. 4-PEO - F 2 of 2

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Air compressor, mechanic helpers, firemen (low pressure), pump (under 4"), oilers, welding machine operators, deckhands	4.85	.20	.20			

AM-8,622 P. 6

Tenn. - Zone-1 - H

HIGHWAY CONSTRUCTION

	Basic Hourly Rates	FRINGE BENEFITS PAYMENTS				
		H & W	Pensions	Vacation	App. Tr.	Other
Bricklayers	$4.91					
Carpenters	4.07					
Cement masons	3.97					
Ironworkers, reinforcing	3.98					
Ironworkers, structural	4.38					
Painter or sand blaster	3.84					
Laborers:						
Laborers, unskilled	2.50					
Air tool operator	2.72					
Mortar mixer, chain saw, pipelayer, conc. rubber	2.70					
Concrete saw op., guard rail erector, sign erector	2.79					
Firemen	2.76					
Asphalt raker	2.87					
Concrete edger	2.89					
Powderman	3.25					
Form setter, steel road	2.94					
Nozzleman or gunman (gunite)	3.97					
Flagman	2.50					
OPERATING ENGINEERS:						
Dragline op., shovel op., crane op., end loader 5 yds. & over, pile driver op., motor patrol finish, mechanic (class I),	4.07					
Backhoe operator, concrete paver op.	4.03					
End loader under 5 yds., mechanic, class II, motor patrol (rough), central mixing (asphalt or concrete), concrete finishing machine, soil cement machine, asphalt paver	3.65					
Bulldozer or push dozer op, scraper op., trenching machine, tractor (boom and hoist),	3.69					
Roller (high type),	3.54					
Spreader (self-propelled)	3.48					
Distributor (bituminous	3.37					
Roller, other than finish, dozer or loader - stock pile only	3.24					
Tractor, crawler, utility	3.31					
Concrete mixer, less than 1 yd., earth drill	3.02					
Mulcher or seeder, scale op., motor crane driver & oiler	3.00					
Tractor, farm	2.78					
Curb machine	2.77					
Ditch paver, mechanic helpers	2.74					
Pump operator, welder helper	2.71					
Track drill operator	2.84					
Oiler	2.77					
TRUCK DRIVERS:						
2 axles	2.77					
3 axles	2.82					
4 axles	2.97					
5 axles or more or heavy off the road trucks or haulers	3.18					
Welders - Rate for Craft.						

SUPERSEDEAS DECISION

STATE: Utah COUNTIES: Statewide
DECISION NUMBER: AM-6733 DATE: June 9, 1972
Supersedes Decision No. AM-2508 dated August 27, 1971 in 36 FR 17139
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

18-UTAH-1-2-3- o (1-4)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vocation	App. Tr.	Others
ASBESTOS WORKERS	7.71	.35	.42			
BOILERMAKERS	6.70	.30	.70	.45	.02	
BOILERMAKERS' HELPERS	6.40	.30	.70	.45	.02	
BRICKLAYERS	6.61	.21	.15			
CARPENTERS:						
Carpenters:						
Zone 1: (40 road miles or less from Brigham City-Cedar City-Kanab-Logan-Ogden-Price-Provo-Richfield-Salt Lake City-Vernal)	7.00	.15	.25	.15	.02	
Zone 2: (Beyond 40 thru 50 road miles from Brigham City-Cedar City-Kanab-Logan-Ogden-Price-Provo-Richfield-Salt Lake City-Vernal)	7.75	.15	.25	.15	.02	
Zone 3: (Beyond 50 thru 60 road miles from Brigham City-Cedar City-Kanab-Logan-Ogden-Price-Provo-Richfield-Salt Lake City-Vernal)	7.875	.15	.25	.15	.02	
Zone 4: (Over 60 road miles from Brigham City-Cedar City-Kanab-Logan-Ogden-Price-Provo-Richfield-Salt Lake City-Vernal	8.00	.15	.25	.15	.02	
Saw Filers, Saw Ops., & Carpenters handling cresote material:						
Zone 1	7.125	.15	.25	.15	.02	
Zone 2	7.875	.15	.25	.15	.02	
Zone 3	8.00	.15	.25	.15	.02	
Zone 4	8.125	.15	.25	.15	.02	
Millwrights (All Zones)	7.25	.15	.25	.15	.02	
Acoustical Carpenters (All Zones)	7.00	.15	.25	.15	.02	
CEMENT MASONS:						
Cement Masons						
Zone 1 (The area less than 45 miles from any county seat except Daggett County)	7.05	.15	.20	.15		

18-UTAH-1-2-3- o (2-4)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vocation	App. Tr.	Others
CEMENT MASONS: (CONT'D)						
Cement Masons						
Zone 2 (All of DAGGETT COUNTY and the area beyond a distance greater than a radius of 45 miles from the remaining county seats)	7.45	.15	.20	.15		
Machine Op.; Mastic Floor Materials; Spark Proofing; Scaffold (20-40 ft.)						
Zone 1	7.175	.15	.20	.15		
Zone 2	7.575	.15	.20	.15		
DRYWALL INSTALLERS:						
Taping, finishing and texturing (hand or machine)	6.65	.16	.12	.13	.02	
ELECTRICIANS:						
Zone I						
Cache-Davis Counties (North of 41st parallel)-Weber County						
Electricians	7.30	.25	1%		1%	
Cable Splicers	7.55	.25	1%		1%	
Zone II*						
Box Elder County (east of 112.5° longitude)-Morgan County:						
Electricians	8.30	.25	1%		1%	
Cable Splicers	8.55	.25	1%		1%	
Zone III*						
Box Elder County (west of 112.5° longitude)-Rich County:						
Electricians	9.05	.25	1%		1%	
Cable Splicers	9.30	.25	1%		1%	
*Electrical contracts not exceeding $10,000.00 in Zones II and III and $50,000 within the Brigham City Limits, Zone I rates shall apply.						
Salt Lake County & that portion of Davis County lying south of the 41st parallel; and that portion of Utah County lying north of the 40th parallel.						
10 mi. East or West from Interstate Hwy. #15						
Electricians	7.30	.25	1%		8/10%	
Cable Splicers	7.55	.25	1%		8/10%	

18-UTAH-1-2-3- o (3-4)

ELECTRICIANS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Over 10 mi. East or West from Interstate Hwy #15:						
Electricians	7.80	.25	1%		8/10%	
Cable Splicers	8.05	.25	1%		8/10%	
Remainder of State:						
Electricians	9.30	.25	1%		8/10%	
Cable Splicers	9.55	.25	1%		8/10%	
ELEVATOR CONSTRUCTORS	6.16	.185	.20	2%+a		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.185	.20	2%+a		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%					
GLAZIERS	4.85	.16		.38b		
IRONWORKERS:						
Ornamental-Reinforcing-Fence Erector-Structural	6.88	.35	.50		.05	
LABORERS:						
Brick Tenders	4.80	.15	.25			
Plasterers' Tenders	5.505	.20	.25			
LATHERS	6.39	.25	.40		.01	
LEAD BURNERS	5.10	.15		c	.01	
LINE CONSTRUCTION:						
Cable Splicers	6.88	.15	1%		3/4%	
Linemen	6.27	.15	1%		3/4%	
Line Equipment Operator	5.56	.15	1%		3/4%	
Head Groundmen	4.83	.15	1%		3/4%	
Groundmen	4.37	.15	1%		3/4%	
PAINTERS:						
Area North of 41st Parallel:						
Brush	5.19	.16	.12		.01	
Spray; Structural Steel; Swing Stage	5.39	.16	.12		.01	
Steeple Jack Work	5.39	.16	.12		.01	
Remaining part of State:						
Brush; Roller; Paperhanger; Sheet Rock Taper	5.12	.16	.18		.02	
Brush (Swing Stage); Brush (Steel & Bridge); Spray & Sandblaster; Steeple Jack	5.32	.16	.18		.02	
Spray (Swing Stage); Spray (Steel & Bridge); Sandblaster (Swing Stage); and special Coating Applicator	5.52	.16	.18		.02	

18-UTAH-1-2-3- o (4-4)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
PILEDRIVERMEN: Bridge, Wharf, & Dock Carpenters, Riggers, Boom Men	7.63	.15	.20	.15	.02	
PLASTERERS	6.72	.15	.20		.01	
PLUMBERS; Pipefitters & Steamfitters:						
Zone 1-15 mi. radius from center of each city, namely Salt Lake City Ogden and Provo	6.58	.16	.20		.04	
Zone 2- Zone 1 plus 15 miles	6.88	.16	.20		.04	
Zone 3- Zone 2 plus 15 miles	7.23	.16	.20		.04	
Zone 4- All areas beyond Zone 3	8.08	.16	.20		.04	
REFRIGERATION & AIR CONDITIONING:						
50 tons or over:						
Zone 1- 15 mi. radius from center of each city, namely Salt Lake City, Ogden and Provo	6.48	.21	.25		.04	
Zone 2- Zone 1 plus 15 miles	6.78	.21	.25		.04	
Zone 3- Zone 2 plus 15 miles	7.13	.21	.25		.04	
Zone 4- All areas beyond Zone 3	7.98	.21	.25		.04	
Under 50 tons:						
All Zones	5.65	.21	.25		.02	
ROOFERS	5.95	.15	.15			
SHEET METAL WORKERS	5.93	.19	.20			
SOFT FLOOR LAYERS	5.40	.16	.12			
SPRINKLER FITTERS	7.20	.25	.40		.05	
TERRAZZO WORKERS	5.50			.20		
TILE SETTERS	5.50			.20		
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. 6 Paid Holidays: A through F.

b. Employer contributes $.22 to Vacation Fund and $.16 to Holiday Fund.

c. Eight paid holidays: A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding & following the holiday.

AM-6733 P. 5

UTAH-1-LAB-1-2-3-e (1-2)

LABORERS That area in the State of Utah within 45 road miles of the county seats excluding Daggett County:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP I						
BOXMAN; Carpenter Tender; Cement Finisher Helper; Chat Boxman; Choker Setter; Clearing & Grading; Cleaning of Equipment & Parts in connection with concrete; Concrete Crew; Dockhand & Cleaning Man; Fence Erector & Installer (includes installation & Erection of Fences, Guard Rails, Median Rails, Reference Post, Guide Post, & Right-of-Way Markers); Flagman; Form Stripper; Gardener Helper; General Laborer; Grizzley Operator (whether by power or hand); Group Pump Operator; Heater Tender; Helpers (all not herein separately classified); House Movers; Landscaping Helper; Laborers on Wrecking & Demolition; Nurseryman Helper; Prewaterman; Riprap man (hand placed); Sloper, Spreader & Weighman; Stake Jumper; Stripping & Cleaning of Steel & Pans; Tool Dispatcher & Checker (full time); Unloading & packing of reinforcing steel rods & mesh	$4.705	.15	.25		.04	
GROUP II						
AIR TRACK HELPER; Asphalt rakers & Ironers; Dumpman; Gunnite Reboundman; Metal Form Setter (airport paving & highway); Pipe Wrapper; Pot Tender & Joint Maker; Rollers; Screen & Cleanup Man; Signal & Dumpman on Concrete Construction; Tunnel & Belt Man	4.83	.15	.25		.04	
GROUP III						
BARKO VIBRATORY ROLLER & similar type, Compacting Machines; Concrete Cutting Torch; Hand & Chain Saw Operator (Bucking & Falling Timbers); High Pressure Water Nozzleman; J Tampers & similar type tampers; Jackhammer & Pavement Breaker; Mortar & Grout Mixer; Multi-plate Installer; Operators of pneumatic & electric tools & compressors & Concrete Saw; Operators of Power-Type Form Cleaner & Oiling Machine; Pipelayer; Powderman Helper;						

AM-6733 P. 6

UTAH-1-LAB-1-2-3-e (2-2)

LABORERS (Cont'd) That area in the State of Utah within 45 road miles of the county seats excluding Daggett County	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP III (Cont'd)						
Power Type Buggies; Pumpcrete Operators; Refinery Tank & Vessel Cleaners; Sand Blasters; Sandblaster Pot Tender; Vibrator Operator; Work of all type using Cutting Torches & Tools needed in wrecking	$4.955	.15	.25		.04	
GROUP IV						
AIR TRACK & CORE DIAMOND DRILLERS: Drill Mechanic (on job site); High Scaler operating Jackhammer or Breaker; Mailn Vibrators & Similar Types - 70 lbs; Multiple Side Boom Driller; Wagon Driller	5.08	.15	.25		.04	
GROUP V						
GUNNITE GROUNDMAN; Gunnite Nozzleman; Gunnite Rodman; Powderman	5.43	.15	.25		.04	
TUNNEL AND SHAFT WORK:						
GROUP I (Underground) Underground Laborers	4.83	.15	.25		.04	
GROUP II (Underground) Brakeman; Chucktender; Dumpman; Powderman Helper; Puddler	4.93	.15	.25		.04	
GROUP III (Underground) Nipper; Screedman; Vibrator; Tapman	5.03	.15	.25		.04	
GROUP IV (Underground) Cutting Machine Operator; Drill Doctor; Finisher; Gunnite Gunman; Miners; Powder Make-up Man; Spader & Tuggers; Steelman; Timberman	5.13	.15	.25		.04	
GROUP V (Underground) Gunnite Groundman; Gunnite Nozzleman; Gunnite Rodman	5.43	.15	.25		.04	
GROUP VI (Underground) Shifter	5.58	.15	.25		.04	

AM-6733 P. 7

UTAH-2-LAB-1-2-3-g (1-2)

LABORERS That area in the State of Utah beyond 45 road miles of the county seats and all of Daggett County:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP I						
BOXMAN; Carpenter Tender; Cement Finisher Helper; Chat Boxman; Choker Setter; Clearing & Grading; Cleaning of Equipment & Parts in connection with concrete; Concrete Crew; Dockhand & Cleaning Man; Fence Erector & Installer (includes installation & Erection of Fences, Guard Rails, Median Rails, Reference Post, Guide Post, & Right-of-Way Markers); Flagman; Form Stripper; Gardener Helper; General Laborer; Grizzley Operator (whether by power or hand); Group Pump Operator; Heater Tender; Helpers (all not herein separately classified); House Movers; Landscaping Helper; Laborers on Wrecking & Demolition; Nurseryman Helper; Prewaterman; Riprap man (hand placed); Sloper, Spreader & Weighman; Stake Jumper; Stripping & Cleaning of Steel & Pans; Tool Dispatcher & Checker (full time); Unloading & packing of reinforcing steel rods & mesh	$5.455	.15	.25		.04	
GROUP II						
AIR TRACK HELPER; Asphalt rakers & Ironers; Dumpman; Gunnite Reboundman; Metal Form Setter (airport paving & highway); Pipe Wrapper; Pot Tender & Joint Maker; Rollers; Screen & Clean-up Man; Signal & Dumpman on Concrete Construction; Tunnel & Belt Man	5.58	.15	.25		.04	
GROUP III						
BARKO VIBRATORY ROLLER & similar type, Compacting Machines; Concrete Cutting Torch; Hand & Chain Saw Operator (Bucking & Falling Timbers); High Pressure Water Nozzleman; J Tampers & similar type tampers; Jackhammer & Pavement Breaker; Mortar & Grout Mixer; Multi-plate Installer; Operators of pneumatic & electric tools & compressors & Concrete Saw; Operators of Power-Type Form Cleaner & Oiling Machine; Pipelayer; Powderman Helper;						

AM-6733 P. 8

UTAH-2-LAB-1-2-3-g (2-2)

LABORERS (Cont'd) That area in the State of Utah beyond 45 road miles of the county seats and all of Daggett County:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP III (Cont'd)						
Power Type Buggies; Pumpcrete Operators; Refinery Tank & Vessel Cleaners; Sand Blasters; Sandblaster Pot Tender; Vibrator Operator; Work of all type using Cutting Torches & Tools needed in wrecking	5.705	.15	.25		.04	
GROUP IV						
AIR TRACK & CORE DIAMOND DRILLERS; Drill Mechanic (on job site); High Scaler operating Jackhammer or Breaker; Mailn Vibrators & Similar Types - 70 lbs; Multiple Side Boom Driller; Wagon Driller	5.83	.15	.25		.04	
GROUP V						
GUNNITE GROUNDMAN; Gunnite Nozzleman; Gunnite Rodman; Powderman	6.18	.15	.25		.04	
TUNNEL AND SHAFT WORK:						
GROUP I (Underground) Underground Laborers	5.58	.15	.25		.04	
GROUP II (Underground) Brakeman; Chucktender; Dumpman; Powderman Helper; Puddler	5.68	.15	.25		.04	
GROUP III (Underground) Nipper; Screedman; Vibrator; Tapman	5.78	.15	.25		.04	
GROUP IV (Underground) Cutting Machine Operator; Drill Doctor Finisher; Gunnite Gunman; Miners; Powder Make-up Man; Spader & Tuggers; Steelman; Timberman	5.88	.15	.25		.04	
GROUP V (Underground) Gunnite Groundman; Gunnite Nozzleman; Gunnite Rodman	6.18	.15	.25		.04	
GROUP VI (Underground) Shifter	6.33	.15	.25		.04	

AM-6733 P. 9

UTAH-1-PEO-1-2-3-f (1-1)

PILEDRIVING	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS			
		H & W	PENSIONS	VACATION	APP. TR.
GROUP 1					
(a) Assistant to Engineer (Fireman, Oiler, Deckhand)	6.29	.59	.75	.60	.24
(b) Compressor Operator (Electrically gas or diesel powered, etc.	6.54	.59	.75	.60	.24
(c) Truck Crane Oiler	6.65	.59	.75	.60	.24
GROUP 2					
(a) Operator of Tugger Hoist (Hoisting materials only)	7.13	.59	.75	.60	.24
(b) Compressor Operator (2 to 6) (Electrically, gas or diesel powered); Generator Op. (electrically, gas or diesel driven, 100 K.W.); Pump Op. (2 to 6); Welding Machine Op. (2 to 6) (Gas or diesel powered)	7.29	.59	.75	.60	.24
GROUP 3					
"A" Frames; Deck Engineer; Fork Lift Operator; Self propelled Boom Type Lifting Device	7.52	.59	.75	.60	.24
GROUP 3-A					
Heavy Duty Repairman and/or Welder	7.81	.59	.75	.60	.24
GROUP 4					
Operating Engineer in lieu of assistant to engineer tending boiler or compressor attached to crane piledriver; Operator of Piledriving Rigs, Skid or Floating & Derrick Barges; Operator of Diesel or gasoline powered Crane Piledriver (w/o boiler) up to & incl. 1 cu. yd. rating; Truck Crane Op. (up to & incl. 25 tons)(hoisting material only) (Assistant to engineer required) (not driving piles)	8.23	.59	.75	.60	.24
GROUP 5					
Operator of diesel or gasoline powered Crane Piledriver (w/o boiler) over 1 cu. yd. rating; Operator of Crane (w/steam, flash boiler, pump or compressor attached); Op. of steam powered crawler or Universal Type Driver (Raymond or similar type); Truck Crane Op. (over 25 tons (Hoisting material or performing piledriving work)	8.35	.59	.75	.60	.24

AM-6733 P. 10

UTAH-1-PEO-1-2-3-f (1-1)

STEEL ERECTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS			
		H & W	PENSIONS	VACATION	APP. TR.
GROUP 1					
Assistant to Engineer (Oiler)	$ 6.63	.59	.75	.60	.24
GROUP 2					
Assistant to Engineer (Truck Crane Oiler); Compressor; Generator, gasoline or diesel driven (100 KW)	6.92	.59	.75	.60	.24
GROUP 3					
Compressors, Generators &/or Welding Machines or Combination (2 to 6); Deck Engineer; Instrument Man; Signalman (using mechanical equipment); Fork Lift	7.68	.59	.75	.60	.24
GROUP 4					
Heavy Duty Repairman; Tractor Op.	7.79	.59	.75	.60	.24
GROUP 4-A					
Combination Heavy Duty Repairman; Welder	8.01	.59	.75	.60	.24
GROUP 5					
"A" Frame or Boom Truck; Boom Cat; Chicago Boom; Crawler Cranes & Truck Cranes (15 tons m.r.c. or less) Selfpropelled Boom Type lifting Device; Single Drum Hoist; Tugger Hoist; Chief of Party	8.37	.59	.75	.60	.24
GROUP 6					
Crawler Cranes & Truck Cranes (over 15 tons m.r.c.); Derricks (2 ops. required when swing engine remote from hoist); Highline Cableway (Signalman required); Tower Cranes Mobile; Universal Liebher & Tower Cranes (& similar types) (In the erection, dismantling & moving of equipment, there shall be an additional Operating Engineer); Two or more Drum Hoist	8.68	.59	.75	.60	.24
GROUP 7					
Operator of Helicopter	9.87	.59	.75	.60	.24

AM-6733 P. 11

UTAH-1-PEO-1-2-3- f (1-4

AREA 1*

POWER EQUIPMENT OPERATORS	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS			
		H & W	PENSIONS	VACATION	APP. TR.
GROUP I					
CHAINMAN; Rodman	$ 5.81	.47	.70	.25	.10
GROUP II					
ASPHALT PLANT FIREMAN; Brakeman-Locomotive; Elevator Operator; Fireman; Hydraulic Monitor; Material Loader or Conveyor Operator; Partsman - Field; Grade Setter - Repairman Helper - Field	6.06	.47	.70	.25	.10
GROUP III					
AIR COMPRESSOR OPERATOR: Concrete Mixer Operator (skip type); Concrete Pump or Pumpcrete Gun Operator; Engineer, Dinkey Operator; Generator (100 KW or over); Mixer Box Operator (Concrete or Asphalt Plant) (continuous mix or similar); Pump Operator; Self-propelled, Automatically applied concrete curing machine (on streets, highways, airports and canals); Screedman; Truck Crane Oiler	6.38	.47	.70	.25	.10
GROUP IV					
BALLAST JACK TAMPER; Ballast Regulator Ballast Tamper-Multiple Purpose; Front End Loader up to and including 1 c.y. Struck MRC; Hoist Operator 1 Drum; Line Master; Lubrication & Service Engineer (Mobile & Grease Rack); Slip Form Pumps	6.54	.47	.70	.25	.10
GROUP IV-A					
HEAVY DUTY REPAIRMAN and Welder - Permanent Shop	6.64	.47	.70	.25	.10
GROUP V					
AIR COMPRESSOR OPERATOR (two or more Compressors); Batch Operator (Asphalt Plant); Motorman; Pavement Breaker Operator (Emsco & similar type); Signalman; Shuttlecar; Small Rubber Tired Tractors; Small Self-propelled Pneumatic Rollers; Towermobile Operator; Welding Machine (2 or more)	6.64	.47	.70	.25	.10

AM-6733 P. 12

UTAH-1-PEO-1-2-3- f (2-4)

AREA 1* (cont'd)

POWER EQUIPMENT OPERATORS (Cont'd)	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS			
		H & W	PENSIONS	VACATION	APP. TR.
GROUP VI					
A-FRAME TRUCK & Tugger Hoist; Concrete Saws (Self Propelled unit on streets, highways, airports and canals); Engineer, Locomotive; Fork lift (construction job site); Kolman Loader (and similar); Maginnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mixermobile Operator; Pipe Bending Machine Operator; Pipe Cleaning Machine; Pipe Wrapping Machine; Road Mixing Machine Operator; Ross Carrier, or similar type; Small Rubber Tired Tractor (with attachments, including backhoe); Small Tractor with Boom; Surface Heater (self-propelled); Loader Operator (over 1 c.y. up to and including 2 c.y. struck MRC); Power Jumbo Operator (setting slip forms, etc. in tunnels); Small Rubber Tired Trenching Machine	$ 7.05	.47	.70	.25	.10
GROUP VII					
BRIDGE CRANE; Chip Box Spreader (flaherty type and similar); Concrete Mixer Operator (paving or batch plant); Deck Engineers (Marine); Drilling Machine Operator (well or diamond); Dual Drum Mixers; Elevating Grader Opr.; Fuller Kenyon Pump and similar types; Heavy Duty Rotary Drill Rigs (such as quarry master, joy drills or equal; Hoist Operator - 2 drums; Instrument Man; Mechanical Finisher Operator (Asphalt or concrete); Mine or Shaft Hoist; Pavement Breaker (Pavement Breaker with compressor combination); Pavement Breaker, Truck mounted, compressor combination; Refrigeration Plant; Self-Propelled Pipeline, Wrapping Machine (Perault, CRC, or similar types); Slusher Operator; Tractor Operator (Sheep's foot and compacting equipment); Trenching Machine; Tractor-Compressor Drill Combination; No-Joint Pipe Laying Machine; Lull High-Lift (40 ft. or similar); Roller Operator or self-propelled compactor	7.18	.47	.70	.25	.10

AM-6733 P. 13

AREA 1* (cont'd)

UTAH-1-PEO-1-2-3-f (3-4)

POWER EQUIPMENT OPERATORS (Cont'd)

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
GROUP VII-A						
SIDE BOOM OPERATOR; Asphalt Plant Engineer; Engineer Crushing Plant; Tractor Operator (Bulldozer, Scraper or drag-type shovel or boom attachment) (up to and including D-7 or similar)	$7.28	.47	.70	.25	.10	
GROUP VIII						
DO-MOR LOADER and Adams Elegrader; Euclid Loader and similar types; Chicago Boom (Including Stiff Leg and Sheer Pole); Chief of Party; Combination Slusher and Motor Operator; Concrete Batch Plant (Multiple unit); Koehring Skooper (or similar, up to 5 c.y. Struck MRC); Loader Operator over 2 c.y. up to and including 5 c.y. Struck MRC; Mucking Machine Operator; Saurman Type Dragline (under 5 c.y. Struck MRC); Self-Propelled Elevating Grade Plane; Soil Stabilizer (P & H or equal); Subgrader (automatic subgrader - fine - grader); Self-Propelled Boom Type lifting device; Mechanical Trench Shield; Rubber Tired Scraper (under 35 c.y. Struck MRC); Tri-Batch Paver; Tunnel (Mole or similar)	7.55	.47	.70	.25	.10	
GROUP VIII-A						
HEAVY DUTY REPAIRMAN or Welder; Tractor Operator Bulldozer, Scraper or Drag Type Shovel or Boom Attachment Larger than D-7 or similar	7.60	.47	.70	.25	.10	
GROUP IX						
COMBINATION MIXER & Compressor (Gunite); Highline Cableway Signalman; Motor Patrol; Tower Crane (Linden type or similar designs and capacity) (in the erection, dismantling & moving of equipment there shall be additional Operator Engineer)	7.65	.47	.70	.25	.10	

AM-6733 P. 14

AREA 1* (cont'd)

UTAH-1-PEO-1-2-3-f (4-4)

POWER EQUIPMENT OPERATORS (Cont'd)

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
GROUP X						
HIGH CABLEWAY OPERATOR (Signalman required); Lift Slab Machine (Vagborg & similar types); Locomotive (over 100 tons) (single or multiple units); Pre-Stress wire Wrapping Machine; Saurman type dragline (5 c.y. Struck MRC and over; Tractor Tandem Scrapers; DW 10,20 etc. (Tandem Scraper); Universal Equipment Operator (shovel, backhoe, dragline, derrick, derrick barge, clamshell crane, gradall, etc. (up to and including 5 c.y.) Struck MRC; Loader (over 5 c.y. up to and including 12 c.y. Struck MRC)	$ 7.80	.47	.70	.25	.10	
GROUP XI						
AUTOMATIC CONCRETE SLIP FORM PAVER (Gradesetter, Screedman); Koehring Skooper (or similar) (5 cu. yds. & over Struck MRC); Multiple Propulsion Power Unit Earth Movers (up to and including 75 c.y. Struck MRC); Remote Controlled Cranes and Derricks; Power Equipment with shovel-type controls (over 5 cu. yds. up to and including 7 cu. yds. Struck MRC; Rubber Tired Scraper (35 cu. yds. and over Struck MRC); Self-Propelled Compactor (with multiple propulsion power units); Slip Form Paver (Concrete or asphalt) (1 operator and 2 screedman when required); Tandem Tractors; Tower Cranes Mobile	8.19	.47	.70	.25	.10	
GROUP XI-A						
MULTI-PURPOSE EARTH MOVING MACHINES: (Two (2) or more scrapers (over 75 c.y. Struck MRC); Power Shovels & Draglines (over 7 c.y. Struck MRC; Loader over 12 c.y. Struck MRC)	9.05	.47	.70	.25	.10	
GROUP XI-B						
OPERATOR OF HELICOPTER (when used in erection work)	9.45	.47	.70	.25	.10	

AM-6733 P. 15
UTAH-2-PEO-1-2-3-f (1-4)

AREA 2**

POWER EQUIPMENT OPERATORS	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
GROUP I						
CHAINMAN; Rodman	$6.81	.47	.70	.25	.10	
GROUP II						
ASPHALT PLANT FIREMAN; Brakeman-Locomotive; Elevator Operator; Fireman; Hydraulic Monitor; Material Loader or Conveyor Operator; Partsman - Field; Grade Setter - Repairman Helper - Field	7.06	.47	.70	.25	.10	
GROUP III						
AIR COMPRESSOR OPERATOR: Concrete Mixer Operator (skip type); Concrete Pump or Pumpcrete Gun Operator; Engineer, Dinkey Operator; Generator (100 KW or over); Mixer Box Operator (Concrete or Asphalt Plant) (continuous mix or similar); Pump Operator; Self-propelled, Automatically applied concrete curing machine (on streets, highways, airports and canals); Screedman; Truck Crane Oiler	7.38	.47	.70	.25	.10	
GROUP IV						
BALLAST JACK TAMPER; Ballast Regulator Ballast Tamper-Multiple Purpose; Front End Loader up to and including 1 c.y. Struck MRC; Hoist Operator 1 Drum; Line Master; Lubrication & Service Engineer (Mobile & Grease Rack); Slip Form Pumps	7.54	.47	.70	.25	.10	
GROUP IV-A						
HEAVY DUTY REPAIRMAN and Welder - Permanent Shop	7.64	.47	.70	.25	.10	
GROUP V						
AIR COMPRESSOR OPERATOR (two or more Compressors); Batch Operator (Asphalt Plant); Motorman; Pavement Breaker Operator (Emsco & similar type); Signalman; Shuttlecar; Small Rubber Tired Tractors; Small Self-propelled Pneumatic Rollers; Towermobile Operator; Welding Machine (2 or more)	7.64	.47	.70	.25	.10	

AM-6733 P. 16
UTAH-2-PEO-1-2-3-f (2-4)

AREA 2** (cont'd)

POWER EQUIPMENT OPERATORS (Cont'd)	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS			
		H & W	PENSIONS	VACATION	APP. TR.
GROUP VI					
A-FRAME TRUCK & Tugger Hoist; Concrete Saws (Self Propelled unit on streets, highways, airports and canals); Engineer, Locomotive; Fork lift (construction job site); Kolman Loader (and similar); Maginnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mixermobile Operator; Pipe Bending Machine Operator; Pipe Cleaning Machine; Pipe Wrapping Machine; Road Mixing Machine Operator; Ross Carrier, or similar type; Small Rubber Tired Tractor (with attachments, including backhoe); Small Tractor with Boom; Surface Heater (self-propelled); Loader Operator (over 1 c.y. up to and including 2 c.y. struck MRC); Power Jumbo Operator (setting slip forms, etc. in tunnels); Small Rubber Tired Trenching Machine	$8.05	.47	.70	.25	.10
GROUP VII					
BRIDGE CRANE; Chip Box Spreader (flaherty type and similar); Concrete Mixer Operator (paving or batch plant); Deck Engineers (Marine); Drilling Machine Operator (well or diamond); Dual Drum Mixers; Elevating Grader Opr.; Fuller Kenyon Pump and similar types; Heavy Duty Rotary Drill Rigs (such as quarry master, joy drills or equal; Hoist Operator - 2 drums; Instrument Man; Mechanical Finisher Operator (Asphalt or concrete); Mine or Shaft Hoist; Pavement Breaker (Pavement Breaker with compressor combination); Pavement Breaker, Truck mounted, compressor combination; Refrigeration Plant; Self-Propelled Pipeline, Wrapping Machine (Perault, CRC, or similar types); Slusher Operator; Tractor Operator (Sheep's foot and compacting equipment); Trenching Machine; Tractor-Compressor Drill Combination; No-Joint Pipe Laying Machine; Lull High-Lift (40 ft. or similar); Roller Operator or self-propelled compactor	8.18	.47	.70	.25	.10

AM-6733 P. 17

AREA 2** (cont'd)

UTAH2-PEO-1-2-3-f (3-4)

POWER EQUIPMENT OPERATORS (Cont'd)

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
GROUP VII-A						
SIDE BOOM OPERATOR; Asphalt Plant Engineer; Engineer Crushing Plant; Tractor Operator (Bulldozer, Scraper or drag-type shovel or boom attachment) (up to and including D-7 or similar)	$8.28	.47	.70	.25	.10	
GROUP VIII						
DO-MOR LOADER and Adams Elegrader; Euclid Loader and similar types; Chicago Boom (Including Stiff Leg and Sheer Pole); Chief of Party; Combination Slusher and Motor Operator; Concrete Batch Plant (Multiple unit); Koehring Skooper (or similar, up to 5 c.y. Struck MRC); Loader Operator over 2 c.y. up to and including 5 c.y. Struck MRC; Mucking Machine Operator; Saurman Type Dragline (under 5 c.y. Struck MRC); Self-Propelled Elevating Grade Plane; Soil Stabilizer (P & H or equal); Subgrader (automatic subgrader - fine - grader); Self-Propelled Boom Type lifting device; Mechanical Trench Shield; Rubber Tired Scraper (under 35 c.y. Struck MRC); Tri-Batch Paver; Tunnel (Mole or similar)	8.55	.47	.70	.25	.10	
GROUP VIII-A						
HEAVY DUTY REPAIRMAN or Welder; Tractor Operator Bulldozer, Scraper or Drag Type Shovel or Boom Attachment Larger than D-7 or similar	8.60	.47	.70	.25	.10	
GROUP IX						
COMBINATION MIXER & Compressor (Gunite) Highline Cableway Signalman; Motor Patrol; Tower Crane (Linden type or similar designs and capacity) (in the erection, dismantling & moving of equipment there shall be additional Operator Engineer)	8.65	.47	.70	.25	.10	

AM-6733 P. 18

AREA 2** (cont'd)

UTAH-2-PEO-1-2-3-f (4-4)

POWER EQUIPMENT OPERATORS (Cont'd)

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
GROUP X						
HIGH CABLEWAY OPERATOR (Signalman required); Lift Slab Machine (Vagborg & similar types); Locomotive (over 100 tons) (single or multiple units); Pre-Stress wire Wrapping Machine; Saurman type dragline (5 c.y. Struck MRC and over; Tractor Tandem Scrapers DW 10.20 etc. (Tandem Scraper); Universal Equipment Operator (shovel, backhoe, dragline, derrick, derrick barge, clamshell crane, gradall, etc. (up to and including 5 c.y.) Struck MRC; Loader (over 5 c.y. up to and including 12 c.y. Struck MRC)	$8.80	.47	.70	.25	.10	
GROUP XI						
AUTOMATIC CONCRETE SLIP FORM PAVER (Gradesetter, Screedman); Koehring Skooper (or similar) (5 cu. yds. & over Struck MRC); Multiple Propulsion Power Unit Earth Movers (up to and including 75 c.y. Struck MRC); Remote Controlled Cranes and Derricks; Power Equipment with shovel-type controls (over 5 cu. yds. up to and including 7 cu. yds. Struck MRC; Rubber Tired Scraper (35 cu. yds. and over Struck MRC); Self-Propelled Compactor (with multiple propulsion power units); Slip Form Paver (Concrete or asphalt) (1 operator and 2 screedman when required); Tandem Tractors; Tower Cranes Mobile	9.19	.47	.70	.25	.10	
GROUP XI-A						
MULTI-PURPOSE EARTH MOVING MACHINES: (Two (2) or more scrapers (over 75 c.y. Struck MRC); Power Shovels & Draglines (over 7 c.y. Struck MRC; Loader over 12 c.y. Struck MRC)	10.05	.47	.70	.25	.10	
GROUP XI-B						
OPERATOR OF HELICOPTER (when used in erection work)	10.45	.47	.70	.25	.10	

AM-6733 P. 19

UTAH-1-TD-1-2-3-g (1-2)

AREA 1*

TRUCK DRIVERS

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
DUMP TRUCKS - Water Level Capacity (Bottom end or side) (including Dumpster Trucks, Euclid Type Trucks, Turnawagons, Turnarockers & Dumpcrete)						
Less than 8 yards	6.30	.30	.30	.30		
8 yards & less than 14 yards	6.45	.30	.30	.30		
14 yards & less than 35 yards	6.60	.30	.30	.30		
35 yards & less than 55 yards	6.80	.30	.30	.30		
55 yards & less than 75 yards	7.00	.30	.30	.30		
75 yards & less than 95 yards	7.20	.30	.30	.30		
95 yards & less than 105 yards	7.40	.30	.30	.30		
Over 105 yards	7.52	.30	.30	.30		
Whenever doubles are used, the drivers will be paid under the appropriate yardage schedule as outlined plus 25¢ per hour.						
When three (3) or more trailers are put into operation, use the appropriate yardage rate as outlined above plus 25¢ per hour for the third (3rd) and each additional trailer which is pulled by one power unit.						
Whenever additional power units are used and operated by one driver, he shall receive an additional 50¢ per hour for operating such equipment.						
FLAT RACK TRUCKS, Bulk Cement Trucks, Transport Trucks, Semi-Trailer, (Carrying capacity):						
Pickup	6.125	.30	.30	.30		
Less than 10 tons	6.20	.30	.30	.30		
10 tons & less than 15 tons	6.35	.30	.30	.30		
15 tons & less than 20 tons	6.45	.30	.30	.30		
20 tons & over	6.60	.30	.30	.30		
Employees driving any of the above on Flat Rack Trucks with Winch, Hoist Attachments or "A" Frames shall receive $.125 additional per hour when such winch hoist or "A" Frames are in use.						
When drivers load and unload sack cement, explosives and/or railroad ties by hand they shall receive $.15 per hour additional for actual hours worked.						

AM-6733 P. 20

UTAH-1-TD-1-2-3-g (2-2)

AREA 1* (cont'd)

TRUCK DRIVERS (Cont'd

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
TRANSIT MIX TRUCKS:						
4 1/2 yards capacity & less	6.325	.30	.30	.30		
Over 4 1/2 yards capacity to & including 6 1/2 yards	6.425	.30	.30	.30		
Over 6 1/2 yards	6.525	.30	.30	.30		
Concrete pumping trucks	6.525	.30	.30	.30		
WATER, FUEL & OIL TANK TRUCKS:						
0 to 1200 gallons	6.175	.30	.30	.30		
1200 to 2500 gallons	6.30	.30	.30	.30		
2500 to 4000 gallons	6.45	.30	.30	.30		
4000 to 6000 gallons	6.75	.30	.30	.30		
6000 gallons to less than 10,000	7.00	.30	.30	.30		
10,000 gallons to less than 15,000 gallons	7.25	.30	.30	.30		
15,000 gallons to less than 20,000 gallons	7.50	.30	.30	.30		
20,000 gallons to less than 25,000 gallons	7.75	.30	.30	.30		
Over 25,000 gallons	8.00	.30	.30	.30		
Whenever two water tanks are pulled, driver will receive 25¢ per hour in addition to the combined water gallonage rates.						
Oil Spreader Operator (on single man operation where boot man is not required)	7.00	.30	.30	.30		
CONSTRUCTION JOB SERVICEMEN:						
Telescopic Manlift Truck	6.50	.30	.30	.30		
Fork Lift (under 6 tons) & Straddle Truck	6.50	.30	.30	.30		
Truck Driver Helper	6.075	.30	.30	.30		
Chauffeurs	6.075	.30	.30	.30		
Bunker & Truck Loaders	6.20	.30	.30	.30		
Warehousemen (Counter Clerk)	6.25	.30	.30	.30		
Warehousemen	6.125	.30	.30	.30		
Washers, Greasers & Tiremen	6.275	.30	.30	.30		
Gas Station Attendants	6.075	.30	.30	.30		
Fork Lift (Over 6 tons)	6.60	.30	.30	.30		
Material Engineer	6.42	.30	.30	.30		
Teamster Mechanic	7.31	.30	.30	.30		
Teamster Mechanic Helper	7.06	.30	.30	.30		
Teamster Welder	7.31	.30	.30	.30		
Teamster Driving Two Horses	7.075	.30	.30	.30		
Teamster Driving Three or More Horses	6.175	.30	.30	.30		

AREA 2** AM-6733 P. 21

UTAH-2-TD-1-2-3-g (1-2)

TRUCK DRIVERS	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
DUMP TRUCKS - Water Level Capacity (Bottom end or side) (including Dumpster Trucks, Euclid Type Trucks, Turnawagons, Turnarockers & Dumpcrete)						
Less than 8 yards	7.30	.30	.30	.30		
8 yards & less than 14 yards	7.45	.30	.30	.30		
14 yards & less than 35 yards	7.60	.30	.30	.30		
35 yards & less than 55 yards	7.80	.30	.30	.30		
55 yards & less than 75 yards	8.00	.30	.30	.30		
75 yards & less than 95 yards	8.20	.30	.30	.30		
95 yards & less than 105 yards	8.40	.30	.30	.30		
Over 105 yards	8.52	.30	.30	.30		
Whenever doubles are used, the drivers will be paid under the appropriate yardage schedule as outlined plus 25¢ per hour.						
When three (3) or more trailers are put into operation, use the appropriate yardage rate as outlined above plus 25¢ per hour for the third (3rd) and each additional trailer which is pulled by one power unit.						
Whenever additional power units are used and operated by one driver, he shall receive an additional 50¢ per hour for operating such equipment.						
FLAT RACK TRUCKS, Bulk Cement Trucks, Transport Trucks, Semi-Trailer, (Carrying capacity):						
Pickup	7.125	.30	.30	.30		
Less than 10 tons	7.20	.30	.30	.30		
10 tons & less than 15 tons	7.35	.30	.30	.30		
15 tons & less than 20 tons	7.45	.30	.30	.30		
20 tons & over	7.60	.30	.30	.30		
Employees driving any of the above on Flat Rack Trucks with Winch, Hoist Attachments or "A" Frames shall receive $.125 additional per hour when such winch hoist or "A" Frames are in use.						
When drivers load and unload sack cement, explosives and/or railroad ties by hand they shall receive $.15 per hour additional for actual hours worked.						

AREA 2** AM-6733 P. 22

UTAH-2-TD-1-2-3-g (2-2)

TRUCK DRIVERS (Cont'd	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
TRANSIT MIX TRUCKS:						
4 1/2 yards capacity & less	7.325	.30	.30	.30		
Over 4 1/2 yards capacity to & including 6 1/2 yards	7.425	.30	.30	.30		
Over 6 1/2 yards	7.525	.30	.30	.30		
Concrete pumping trucks	7.525	.30	.30	.30		
WATER, FUEL & OIL TANK TRUCKS:						
0 to 1200 gallons	7.175	.30	.30	.30		
1200 to 2500 gallons	7.30	.30	.30	.30		
2500 to 4000 gallons	7.45	.30	.30	.30		
4000 to 6000 gallons	7.75	.30	.30	.30		
6000 gallons to less than 10,000	8.00	.30	.30	.30		
10,000 gallons to less than 15,000 gallons	8.25	.30	.30	.30		
15,000 gallons to less than 20,000 gallons	8.50	.30	.30	.30		
20,000 gallons to less than 25,000 gallons	8.75	.30	.30	.30		
Over 25,000 gallons	9.00	.30	.30	.30		
Whenever two water tanks are pulled, driver will receive 25¢ per hour in addition to the combined water gallonage rates.						
Oil Spreader Operator (on single man operation where boot man is not required)	8.00	.30	.30	.30		
CONSTRUCTION JOB SERVICEMEN:						
Telescopic Manlift Truck	7.50	.30	.30	.30		
Fork Lift (under 6 tons) & Straddle Truck	7.50	.30	.30	.30		
Truck Driver Helper	7.075	.30	.30	.30		
Chauffeurs	7.075	.30	.30	.30		
Bunker & Truck Loaders	7.20	.30	.30	.30		
Warehousemen (Counter Clerk)	7.25	.30	.30	.30		
Warehousemen	7.125	.30	.30	.30		
Washers, Greasers & Tiremen	7.275	.30	.30	.30		
Gas Station Attendants	7.075	.30	.30	.30		
Fork Lift (Over 6 tons)	7.60	.30	.30	.30		
Material Engineer	7.42	.30	.30	.30		
Teamster Mechanic	8.31	.30	.30	.30		
Teamster Mechanic Helper	8.06	.30	.30	.30		
Teamster Welder	8.31	.30	.30	.30		
Teamster Driving Two Horses	8.075	.30	.30	.30		
Teamster Driving Three or More Horses	7.175	.30	.30	.30		

UTAH
AREA DEFINITIONS
for
Truck Drivers & Operating Engineers (1-3)

**AREA 2: All areas not included within Area 1 as defined below.

*Area 1: All areas included in the description defined below which is based upon township and range-lines as referenced to the Salt Lake City Base and Meridian:

Commencing at the intersection of the Utah-Nevada border and the Northerly line of Township 36S, thence easterly along the northerly lines of Township 36S to the Northeast corner of Township 36S, Range 17W.

Thence Northerly to the N.W. corner of township 35S, range 16W;
Thence Easterly to the N.E. corner of township 35S, range 16 W;
Thence Northerly to the N.W. corner of township 31S, range 15 W;
Thence easterly to the N.E. corner of township 31S, range 15 W;
Thence Northerly to the N.W. corner of township 26S, range 14 W;
Thence Easterly to the N.E. corner of township 26S, range 14 W;
Thence Northerly to the N.W. corner of township 25S, range 13 W;
Thence Easterly to the N.E. corner of township 25S, range 13 W;
Thence Northerly to the N.W. corner of township 24S, range 12 W;
Thence Easterly to the N.E. corner of township 24 S, range 12 W;
Thence Northerly to the N.W. corner of township 19 S, range 11 W;
Thence Easterly to the N.E. corner of township 19 S, range 11 W;
Thence Northerly to the N.W. corner of township 17 S, range 10 W;
Thence Easterly to the N.E. corner of township 17 S, range 10 W;
Thence Northerly to the N.W. corner of township 16 S, range 9 W;
Thence Easterly to the N.E. corner of township 16 S, range 9 W;
Thence Northerly to the N.W. corner of township 15 S, range 8 W;
Thence Easterly to the N.E. corner of township 15 S, range 8 W;
Thence Northerly to the S.W. corner of township 7 S, range 7 W;
Thence Westerly to the S.W. corner of township 7 S, range 10 W;
Thence Northerly crossing the Salt Lake Base line to the N.W. corner of township 6 N, range 10 W;
Thence Easterly to the N.W. corner of township 6 N, range 8 W;
Thence Northerly to the N.W. corner of township 12 N, range 8 W;
Thence Easterly to the N.E. corner of township 12 N, range 8 W;
Thence Northerly along the Westerly line of range 7 W to the Utah/Idaho border
Thence Easterly along the Utah/Idaho border crossing the Salt Lake Meridian to the Intersection of the Utah/Idaho/Wyoming borders
Thence Southerly along the Utah/Wyoming Border
Thence Easterly along the Utah/Wyoming border to the Easterly line of range 11 E;
Thence Southerly along the East line of range 11 E, crossing the Salt Lake Base line to the N.E. corner of township 4 S, range 11 E;
Thence Easterly to the N.W. corner of township 4 S, range 18 E;
Thence Northerly to the N.W. corner of township 1 S, range 18 E;
Thence Easterly along the Salt Lake Base line to the N.E. corner of township 1 S, range 24 E;
Thence Southerly to the N.E. corner of township 3 S, range 24 E;
Thence Easterly along the Northern line of township 3 S, to the Utah/Colorado border;

UTAH
AREA DEFINITIONS (Cont'd)
for
Truck Drivers & Operating Engineers (2-3)

Thence Southerly along the Utah/Colorado border, to the Southerly line of township 6 S;
Thence Westerly to the N.E. corner of township 7 S, range 23 E;
Thence Southerly to the S.E. corner of township 7 S, range 23 E;
Thence Westerly to the S.W. corner of township 7 S, range 20 E;
Thence Southerly to the S.E. corner of township 8 S, range 19 E;
Thence Westerly to the S.E. corner of township 8 S, range 16 E;
Thence Southerly to the S.E. corner of township 11 S, range 16 E;
Thence Westerly to the S.E. corner of township 11 S, range 14 E;
Thence Southerly to the S.E. corner of township 16 S, range 14 E;
Thence Westerly to the S.E. corner of township 16 S, range 12 E;
Thence Southerly to the S.E. corner of township 20 S, range 12 E;
Thence Westerly to the S.E. corner of township 20 S, range 8 E;
Thence Southerly to the S.E. corner of township 21 S, range 8 E;
Thence Westerly to the S.E. corner of township 21 S, range 6 E;
Thence Southerly to the S.E. corner of township 23 S, range 6 E;
Thence Westerly to the S.E. corner of township 23 S, range 5 E;
Thence Southerly to the N.E. corner of township 27 S, range 5 E;
Thence Easterly to the N.E. corner of township 27 S, range 7 E;
Thence Southerly to the S.E. corner of township 30 S, range 7 E;
Thence Westerly to the S.E. corner of township 30 S, range 4 E;
Thence Southerly to the S.E. corner of township 31 S, range 4 E;
Thence Westerly to the S.W. corner of township 31 S, range 4 E;
Thence Southerly to the S.E. corner of township 35 S, range 3 E;
Thence Westerly to the S.W. corner of township 35 S, range 3 E;
Thence Southerly to the S.E. corner of township 37 S, range 2 E;
Thence Westerly to the S.W. corner of township 37 S, range 2 E;
Thence Southerly to the S.E. corner of township 39 S, range 1 E;
Thence Westerly crossing the Salt Lake Meridian to the S.E. corner of township 39 S, range 2 W;
Thence Southerly to the S.E. corner of township 41 S, range 2 W;
Thence Westerly to the S.E. corner of township 41 S, range 4 W;
Thence Southerly along the Easterly line of range 4 W, to the Utah/Arizona border;
Thence Westerly along the Utah/Arizona border to the S.W. corner of Utah;
Thence Northerly along the Utah/Nevada border to the point of beginning;

* * * * * *

Commencing at the intersection of the Utah/Colorado border and the Southerly line of township 34 S,
Thence Westerly to the S.W. corner of township 34 S, range 21 E;
Thence Northerly to the S.W. corner of township 29 S, range 21 E;
Thence Westerly to the S.W. corner of township 29 S, range 19 E;
Thence Northerly to the N.W. corner of township 23 S, range 19 E;
Thence Easterly to the N.W. corner of township 23 S, range 22 E;
Thence Northerly to the N.W. corner of township 21 S, range 22 E;
Thence Easterly to the N.E. corner of township 21 S, range 24 E;

AM-6733 P. 25

UTAH
AREA DEFINITIONS (Cont'd)
for
Truck Drivers & Operating Engineers (3-3)

Thence Southerly to the N.E. corner of township 31 S, range 24 E;
Thence Easterly along the Northerly line of township 31 S, to the Utah/Colorado border;
Thence Southerly along the Utah/Colorado border to the point of beginning.

NOTE: Truck Drivers, only - If any part of portion of any job or project falls within Area 2, then the Area 2 rate of pay will apply for all work done on said job or project. This means, all actual on-site work, such as dams, bridges, roads, etc., including barrow pits which may be located in Area 1.

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PART III

ENVIRONMENTAL PROTECTION AGENCY

■

GENERAL GRANT REGULATIONS AND PROCEDURES; STATE AND LOCAL ASSISTANCE

■

Interim Regulations

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER B—GRANTS

PART 30—GENERAL GRANT REGULATIONS AND PROCEDURES

PART 35—STATE AND LOCAL ASSISTANCE

Interim Regulations

Interim regulations are hereby promulgated to amend the Environmental Protection Agency general grant regulations (40 CFR Part 30) and to publish a new codification (40 CFR Part 35) of State and local assistance grant regulations supplementing the general grant regulations. Publication of these regulations is a continuation of an effort to coordinate and conform grant award and administration policies, procedures, and terms for the various EPA grant programs, to improve administration of these grant programs and to furnish applicants, grantees, and the public with a more explicit statement of grant award and administration requirements. Pending legislation, when enacted, will require revision of some portions of these regulations issued under the authority of the Federal Water Pollution Control Act. This codification is intended to provide a framework for development of future regulations.

Included within these regulations is a first amendment to the EPA interim general grant regulations (40 CFR Part 30) which were promulgated on November 27, 1971 (36 F.R. 22716) and became effective on January 1, 1972. This amendment, which does not substantially change the provisions of Part 30, consists of technical revisions, corrections of typographical errors, and clarifications found necessary to improve the administration of EPA grant programs.

In addition, a new Part 35 is promulgated which contains supplemental grant regulations for all EPA State and local assistance grants. All EPA grants to State and local public agencies (other than grants principally for research, demonstration projects, and training) awarded after the effective date of Part 35 shall be subject to these regulations. For the most part, these regulations constitute a more explicit statement of prior regulations or of previously uncodified policies, procedures, and terms of the respective grant programs. Most changes are attributable to the effort to coordinate and conform EPA grant policies and procedures.

The State and local assistance grant program regulations in effect at the time of recodification of EPA regulations into Title 40 of the Code of Federal Regulations on November 25, 1971, were removed from the Code of Federal Regulations (36 F.R. 22369). These regulations, which were maintained as uncodified regulations and will continue to remain in effect for State and local assistance grants awarded prior to July 1, 1972, to the extent such regulations are not inconsistent with the EPA general grant regulations (40 CFR Part 30), are:

Title 18, Part 601 (Jan. 1, 1971, ed., as amended at 36 F.R. 1467 to revise § 601.7, at 36 F.R. 8666 to revise § 601.22, at 36 F.R. 13029 to revise § 601.25(b), and at 36 F.R. 1467 to revise § 601.65(a)(9))—Grants for water pollution control.

Title 42, Part 456 (Jan. 1, 1971, ed.)—Grants for air pollution control programs.

Title 42, Part 460 (Jan. 1, 1971, ed., as amended at 36 F.R. 18622 to revise Part 460)—General Provisions Applicable to Grants under sections 204, 205, 207, 208, and 210 of the Solid Waste Disposal Act.

Title 42, Part 463 (added at 36 F.R. 18626)—Grants for Planning under section 207 of the Solid Waste Disposal Act.

However, the State and local assistance grant regulations promulgated hereby (40 CFR Part 35) may be made applicable to such grants awarded prior to July 1, 1972, in place of the above-mentioned uncodified regulations by explicit incorporation through grant amendment pursuant to 40 CFR 30.901.

All State and local assistance grants, including continuation grants (see 40 CFR 30.306), awarded on or after July 1, 1972, will be subject to the EPA general grant regulations (40 CFR Part 30) and to the appropriate subpart(s) of the supplemental grant regulations published herewith (40 CFR Part 35).

Interested parties and Government agencies are encouraged to submit written comments, views, or data concerning the regulations promulgated hereby to the Director, Grants Administration Division, Environmental Protection Agency, Washington, D.C. 20460. All such submissions received on or before September 29, 1972, will be considered prior to the promulgation of final EPA general or supplemental grant regulations. Suggestions for changes to the regulations promulgated in this subchapter are solicited on a continuous basis pursuant to 40 CFR 30.106.

Effective date. The amendments to Part 30 (Interim General Grant Regulations and Procedures) and the interim State and local assistance grant regulations and procedures of the new Part 35 promulgated hereby shall become effective on July 1, 1972. All Environmental Protection Agency grants awarded on or after July 1, 1972, shall be subject to the interim general grant regulations and procedures of 40 CFR Part 30, as hereby amended. All State and local assistance grants of the Environmental Protection Agency awarded on or after July 1, 1972, shall also be subject to the interim State and local assistance regulations and procedures of 40 CFR Part 35.

Dated: June 5, 1972.

ROBERT W. FRI,
Deputy Administrator.

Pursuant to the authorities cited in 40 CFR 30.101, Part 30 is amended as follows:

§ 30.102 [Amended]

Section 30.102. Delete the eighth word "will" in the first sentence.

§ 30.107 [Amended]

Section 30.107. Correct the room number in the Region II address from Room "847" to Room "908." Correct the ZIP Code for the Region VI office in Dallas, Tex., to "75201." Delete the address for the Region VII office and sustitute "Room 249, 1735 Baltimore Avenue, Kansas City, MO 64108."

§ 30.300–1 [Amended]

Section 30.300–1. Delete "the requirements of this regulation" from the first sentence and substitute "the application requirements of this Subchapter" and delete the last seven words in the first sentence "such forms as the Administrator shall prescribe" and substitute "EPA Form 5700–12."

§ 30.301–4 [Amended]

Section 30.301–4. Delete the reference to Catalog No. "66.301" and to the program identification "Solid Waste Planning Grants" from the listing under paragraph (a) and add as the second item in the listing under paragraph (b) a reference to Catalog No. "66.301" and to the program identification "Solid Waste Planning Grants". Applications for Solid Waste Planning Grants should now be addressed to the appropriate EPA Regional office, Grants Administration Branch.

§ 30.305 [Amended]

Section 30.305. Delete the tenth word "or" in the last sentence and substitute therefor "for".

§ 30.401 [Amended]

Section 30.401. In paragraph (c), delete the words "race, color, religion, sex, or national origin" and substitute therefor "race, color or national origin". In paragraph (g), delete the reference to the OMB circular at the end of the sentence, and substitute "OMB Circular No. A–95 (Rev. February 9, 1971, as revised through Transmittal Memorandum No. 2, March 8, 1972)." In paragraph (h), delete the references to the two OMB circulars at the end of the sentence and substitute "OMB Circular No. A–95 (Rev. February 9, 1971, as revised through Transmittal Memorandum No. 2, March 8, 1972) and OMB Circular No. A–95 (June 5, 1970).

§ 30.602 [Amended]

Section 30.602. Delete the first sentence and substitute the following as the new first sentence: "EPA grant funds shall be paid in advance or by way of reimbursement for allowable project costs, in the manner provided by this Subchapter and in the grant agreement."

§ 30.603 [Amended]

Section 30.603. Delete the matter in parentheses at the end of the second

sentence and substitute "(in accordance with OMB Circular No. A-102)."

§ 30.901 [Amended]

Section 30.901. Delete the following words from the second sentence: "by the Project Manager on behalf of the Grantee" and substitute therefor "by an authorized representative of the Grantee".

§ 30.1000-1 [Amended]

Section 30.1000-1. Delete the sentence and substitute the following: "The Administrator of the Environmental Protection Agency, or his delegee. The term 'Regional Administrator' refers to the Regional Administrators of the 10 EPA regions, or their delegees".

Appendix A to Subchapter B—Delete the following words from General Grant Condition No. 8: "Executive Orders and".

Sec.
35.001 Purpose of regulation.
35.002 Applicability and scope.

Subpart A—Planning Grants

WATER POLLUTION CONTROL PLANNING REQUIREMENTS

35.150 Applicability.
35.150-1 Basin control plans.
35.150-2 Regional and metropolitan plans.

WATER QUALITY MANAGEMENT PLANNING GRANTS

35.200 Purpose.
35.201 Authority.
35.202 Definitions.
35.202-1 Administrative expenses.
35.202-2 Basin.
35.202-3 State.
35.205 Grant limitations.
35.210 Eligibility.
35.215 Application requirements.
35.220 Criteria for award.
35.225 Water pollution control comprehensive basin plan.
35.230 Reports.
35.230-1 Report of project expenditures.
35.230-2 Interim plan.
35.240 Continuation grant.

SOLID WASTE PLANNING GRANTS

35.300 Purpose.
35.301 Authority.
35.302 Definitions.
35.302-1 Intermunicipal agency.
35.302-2 Interstate agency.
35.302-3 Municipality.
35.302-4 Solid waste.
35.302-5 Solid waste disposal.
35.302-6 State.
35.304 Solid waste planning projects.
35.304-1 Management planning.
35.304-2 Special purpose planning.
35.305 Grant limitations.
35.310 Eligibility.
35.315 Application.
35.315-1 Preapplication procedures.
35.315-2 Application requirements.
35.320 Criteria for award.
35.320-1 All applications.
35.320-2 State applications.
35.320-3 Local and regional applications.
35.330 Reports.
35.330-1 Progress reports.
35.330-2 Report of project expenditures.
35.330-3 Final report.
35.340 Continuation grant.

Subpart B—Program Grants

Sec.
35.400 Purpose.
35.400-1 Grants may be awarded to air pollution control agencies and interstate planning agencies.
35.400-2 Grants may be awarded to State and interstate water pollution control agencies.
35.401 Authority.
35.405 Criteria for evaluation of program objectives.
35.410 Evaluation of program performance.
35.415 Report of project expenditures.
35.420 Payment.

AIR POLLUTION CONTROL PROGRAM GRANTS

35.501 Definitions.
35.501-1 Air pollution.
35.501-2 Air pollution control agency.
35.501-3 Air pollution control program.
35.501-4 Air quality control region.
35.501-5 Implementation plan.
35.501-6 Interstate air quality control region.
35.501-7 Interstate planning agency.
35.501-8 Maintenance program.
35.501-9 Municipality.
35.501-10 Nonrecurrent expenditures.
35.501-11 Premaintenance program.
35.501-12 Program description.
35.501-13 State.
35.505 Allocation of funds.
35.507 Federal assistance for agency programs.
35.507-1 Limitations on assistance.
35.507-2 Limitations on duration.
35.507-3 Schedule of Federal support.
35.510 Grant amount.
35.510-1 Determination.
35.510-2 Limitations.
35.515 Eligibility.
35.515-1 Control programs.
35.515-2 Interstate planning.
35.520 Criteria for award.
35.520-1 Control programs.
35.520-2 Interstate planning.
35.525 Program requirements.
35.525-1 Premaintenance program.
35.525-2 Maintenance programs.
35.525-3 Interstate planning.
35.530 Supplemental conditions.
35.535 Assignment of personnel.

WATER POLLUTION CONTROL STATE AND INTERSTATE PROGRAM GRANTS

35.551 Definitions.
35.551-1 Allotment.
35.551-2 Federal share.
35.551-3 Interstate agency.
35.551-4 Per capita income.
35.551-5 Plan.
35.551-6 State.
35.551-7 State water pollution control agency.
35.555 Allocation of funds.
35.555-1 Notification of funding.
35.555-2 Allotments to States.
35.555-3 Allotments to interstate agencies.
35.555-4 Population computation.
35.557 Federal share.
35.557-1 Determination of Federal share for States.
35.557-2 Determination of Federal share for interstate agencies.
35.560 Grant amount.
35.560-1 Determination.
35.560-2 Limitation.
35.560-3 Reduction of grant amount.
35.563 Grant limits and duration.
35.565 Eligibility.
35.575 Plan requirements.

Subpart C—Grants for Construction of Wastewater Treatment Works

Sec.
35.800 Purpose.
35.801 Authority.
35.805 Definitions.
35.805-1 Construction.
35.805-2 Intermunicipal agency.
35.805-3 Interstate agency.
35.805-4 Municipality.
35.805-5 State.
35.805-6 State water pollution control agency.
35.805-7 Treatment works.
35.810 Applicant eligibility.
35.815 Allocation of funds.
35.815-1 Allotments to States.
35.815-2 Reallotment.
35.820 Grant limitations.
35.820-1 Exceptions.
35.825 Application for grant.
35.825-1 Preapplication procedures.
35.825-2 Formal application.
35.830 Determining the desirability of projects.
35.835 Criteria for award.
35.835-1 State plan and priority.
35.835-2 Basin control.
35.835-3 Regional and metropolitan plan.
35.835-4 Adequacy of treatment.
35.835-5 Industrial waste treatment.
35.835-6 Design.
35.835-7 Operation and maintenance.
35.835-8 Operation during construction.
35.835-9 Postconstruction inspection.
35.840 Supplemental grant conditions.
35.845 Payments.
35.850 Reimbursement [Reserved].

AUTHORITY: The provisions of this Part 35 issued under the authorities cited in §§ 35.201, 35.301, 35.401 and 35.801.

§ 35.001 Purpose of regulation.

This part establishes and codifies policies and procedures governing the award of State and local assistance grants by the Environmental Protection Agency.

§ 35.002 Applicability and scope.

This part establishes mandatory policies and procedures for all EPA State and local assistance grants. The provisions of this part supplement the EPA general grant regulations and procedures (40 CFR Part 30). Accordingly, all EPA State and local assistance grants are awarded subject to the EPA interim general grant regulations and procedures (40 CFR Part 30) and to the applicable provisions of this Part 35.

Subpart A—Planning Grants

WATER POLLUTION CONTROL PLANNING REQUIREMENTS

§ 35.150 Applicability.

The requirements of basin control and regional and metropolitan plans apply to:

(a) Water pollution control comprehensive basin plans pursuant to § 35.225;

(b) Basinwide plans and regional and metropolitan plans as required by §§ 35.835-2 and 35.835-3 of Subpart C for waste water treatment works construction grants.

§ 35.150-1 Basin control plans.

Any basinwide plan for the control or abatement of water pollution must adequately take into account all, or such as may be appropriate, of the following:

(a) *Sources of pollution.* An identification list of all significant point sources of waste discharges (municipal, industrial, agricultural, and others) and of all significant nonpoint sources of water quality degradation.

(b) *Volume of discharge.* The average daily volume of discharge produced by each waste discharger. Cooling water, or cooling water which is contaminated by industrial waste or sewage shall be reported separately. Storm water and mixed storm water and sewage shall be identified and reported separately in terms of frequency-volume relationships.

(c) *Character of effluent.* The major characteristics of each such waste discharge together with a measurement of their relative strength or concentrations including but not limited to:

BOD 5	mg./1.
COD	mg./1.
Color	Platinum cobalt scale.
Turbidity	Jackson candle scale.
Solids	mg./1.
Toxic substances	
Metal ions	mg./1.
Fluorides	mg./1.
Dissolved substances	p.p.m.
Temperature	c.
pH	
Radioactivity	pCi/1.
Chlorides	mg./1.
Nutrients	mg./1.

(d) *Present treatment.* A brief description of the type of treatment being given by each discharger, together with a statement of the degree of treatment currently being achieved.

(e) *Water quality effect.* A brief description of the effect of discharges and abatement practices upon the quality of the water in the basin, and the anticipated effectiveness of the projects or activities proposed to improve the quality of the water.

(f) *Detailed abatement program.* Identify all waste discharges for which present treatment is less than required by approved water quality standards, or which will degrade water quality below standards. For each such discharge so identified, furnish an abatement schedule containing the following:

(1) Level of treatment to be required expressed in percentage of reduction of BOD and/or any other significant parameters required pursuant to applicable Federal, State, and interstate laws, regulations, and orders.

(2) Volume of flow for which waste treatment facilities will be designed.

(3) Estimated completion dates for preliminary plans, for final design, for construction, and for operation of waste treatment facilities.

(4) Estimated cost of design and construction if available.

(5) Identification of agencies or entities responsible for abatement actions or implementation of the recommended abatement program with respect to each such discharge.

§ 35.150–2 Regional and metropolitan plans.

Any regional or metropolitan plan for the prevention, control, or abatement of water pollution must adequately take into account:

(a) Anticipated growth of population and economic activity with reference to time and location.

(b) Present and future use and value of the waters within the planning area for domestic water supplies, propagation of fish and wildlife, recreational purposes, agricultural, industrial, and other legitimate uses.

(c) Adequacy of the waste collection systems in the planning area with reference to operation, maintenance, and expansion of such systems.

(d) Combination or integration of waste treatment facilities into a waste treatment system so as to achieve efficiency and economy of such treatment.

(e) Practicality and feasibility of treating domestic and industrial waste in a combined waste treatment facility or integrated waste treatment system.

(f) Need for and capacity to deal with waste from sewers which carry storm water or both storm water and sewage or other wastes.

(g) Waste discharges presently in, or anticipated for the planning area.

(h) Effect of proposed waste treatment facilities upon the quality of the water within the planning area with reference to other waste discharges and to applicable water quality standards.

(i) Institutional arrangements necessary to implement the plan.

WATER QUALITY MANAGEMENT PLANNING GRANTS

§ 35.200 Purpose.

These provisions establish and codify policies and procedures for grants to planning agencies for the development of comprehensive water pollution control and abatement plans for basins. These provisions supplement the EPA general grant regulations (40 CFR Part 30).

§ 35.201 Authority.

These provisions for water quality planning grants are issued under section 3(c) of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1153(c).

§ 35.202 Definitions.

As used herein, the following words and terms shall have the meaning set forth below:

§ 35.202–1 Administrative expenses.

Approved allowable costs incurred for the development of a water pollution control comprehensive basin plan pursuant to § 35.225.

§ 35.202–2 Basin.

A planning area. A basin includes, but is not limited to, rivers and their tributaries, streams, coastal waters, sounds, estuaries, bays, lakes, and portions thereof as well as lands drained thereby, and discrete deposits of subsurface water.

§ 35.202–3 State.

A State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

§ 35.205–4 Grant limitations.

Water quality management planning grants shall be subject to the following limitations:

(a) No grant may exceed 50 per centum of the administrative expenses of the planning agency.

(b) No project period may exceed 3 years, beginning with the project commencement date approved at the time of initial grant award.

§ 35.210 Eligibility.

To be eligible for a water quality management planning grant, a planning agency must:

(a) Be designated by the Governor of the State or (where the basin includes portions of more than one State) by the majority of Governors of the States, as the agency having primary responsibility for water quality planning in the basin.

(b) Be an entity of government legally constituted or authorized under the laws of the State or States in which the basin for which it has planning responsibility is located.

§ 35.215 Application requirements.

An application for a water quality management planning grant shall be submitted in accordance with 40 CFR 30.301 through 30.301–5 to the appropriate Regional Administrator and shall:

(a) Include a letter from the Governor or, when more than one State is involved, the majority of Governors of the States, designating the applicant as the planning agency having primary responsibility for water quality planning in the basin.

(b) Include a work plan which contains the following information:

(1) Explanation of the need for the planning study.

(2) Description of the objectives and scope of the study.

(3) Background information on the basin and the water pollution problem in the basin.

(4) Description of the manner in which the planning study will be conducted and the methodology to be used.

(5) Description of the action to be taken by agencies other than the applicant participating in the study.

(6) Schedule of work to be accomplished.

(7) Detailed cost and resource budget.

(8) Identification of anticipated subagreements.

(c) Indicate the applicant's capability, including all necessary resources, powers, authority, and jurisdiction to develop a water pollution control comprehensive basin plan.

(d) Provide for the continuing participation of public and private State, interstate, local, and (where appropriate) international officials and interests in the basin throughout the planning process.

(e) Give assurance that the planning program will develop recommendations for maintaining and improving water quality standards in the basin in accordance with the requirements of the Federal Water Pollution Control Act.

§ 35.220 Criteria for award.

In determining the desirability and extent of funding for a project and relative merit of an application, consideration will be given to the following criteria:

(a) The severity of the water pollution problem in the basin and the extent to which the proposed planning will contribute to its control;

(b) The population affected by the water pollution problem in the basin and the per capita cost of the proposed planning;

(c) Whether the proposed planning will provide the opportunity to make substantial advances in the comprehensive, basinwide management of pollution control;

(d) The extent of the need in the basin for more detailed plans or coordinated programs, including financial and other institutional arrangements to complement or carry out comprehensive basin planning; and

(e) The existence and extent of support by public and private interests in the basin for water pollution control planning and implementation.

§ 35.225 Water pollution control comprehensive basin plan.

Each planning agency receiving a water quality management planning grant shall develop and submit to the Regional Administrator within the approved project period, a water pollution control comprehensive basin plan which:

(a) Is consistent with applicable Federal and State water quality standards and objectives;

(b) Recommends such treatment works and sewer systems as will provide the most effective and economical means of collection, storage, treatment, and purification of wastes and recommends means to encourage both municipal and industrial use of such works and systems;

(c) Recommends methods of adequately financing those facilities as may be necessary to implement the plan;

(d) Provides for continuing participation of public and private, State, interstate, local, and (where appropriate) international interests in water quality management planning in the basin; and

(e) Meets the requirements for water pollution control planning set forth in § 35.150.

(f) Recommends administrative and organization systems and procedures necessary to implement the plan.

§ 35.230 Reports.

§ 35.230–1 Report of project expenditures.

No later than 90 days following the end of each budget period, the grantee planning agency shall submit to the Regional Administrator a report of project expenditures.

§ 35.230–2 Interim plan.

The grant agreement may require the submission of an interim water pollution control comprehensive basin plan prior to the end of the project period.

§ 35.240 Continuation grant.

To be eligible for a continuation grant for a second or third budget period within the approved project period, the grantee planning agency must:

(a) Having demonstrated satisfactory performance during all previous budget periods; and

(b) Submit no later than 30 days prior to the end of the budget period a continuation application which includes a detailed progress report, an estimated financial statement for the current budget period, a budget for the new budget period, and an updated work plan revised to account for actual progress accomplished during the current budget period.

SOLID WASTE PLANNING GRANTS

§ 35.300 Purpose.

These provisions establish and codify policies and procedures for grants for solid waste planning projects. These provisions supplement the EPA general grant regulations (40 CFR Part 30).

§ 35.301 Authority.

These provisions for solid waste planning grants are issued under section 207 of the Solid Waste Disposal Act as amended, 42 U.S.C. 3254a.

§ 35.302 Definitions.

As used herein, the following words and terms shall have the meaning set forth below:

§ 35.302–1 Intermunicipal agency.

An agency established by two or more municipalities with responsibility for planning or administration of solid waste disposal.

§ 35.302–2 Interstate agency.

An agency of two or more municipalities in different States, or an agency established by two or more States, with authority to provide for the disposal of solid wastes and serving two or more municipalities located in different States.

§ 35.302–3 Municipality.

A city, town, borough, county, parish, district, or other public body created by or pursuant to State law with responsibility for the planning or administration of solid waste disposal, or an Indian tribe.

§ 35.302–4 Solid waste.

Garbage, refuse, and other discarded solid materials, including solid waste materials resulting from industrial, commercial, and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial wastewater effluents, dissolved materials in irrigation return flows or other common water pollutants.

§ 35.302–5 Solid waste disposal.

The collection, storage, treatment, utilization, processing, or final disposal of solid waste.

§ 35.302–6 State.

A State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

§ 35.304 Solid waste planning projects.

Solid waste planning grants may be awarded for either or both:

§ 35.304–1 Management planning.

Management planning concentrates on alternative institutional arrangements for regulating, operating, and financing an environmentally sound solid waste management system. Examples of management planning include:

(a) Local and regional planning which results in the implementation of a self-financed solid waste agency which will adequately protect the environment.

(b) Local and regional planning which results in the establishment of a solid waste regulatory authority which may then operate or franchise for collection, processing, or disposal of solid waste in an environmentally sound manner.

(c) State planning to develop a comprehensive State Solid Waste Management Plan which results in State actions to enable regional or local units to finance and manage waste systems efficiently and in a manner protective of the environment, and recommends alternative State regulatory, financial assistance, and technical assistance roles with local units.

§ 35.304–2 Special purpose planning.

Special purpose planning concentrates on how specific components of a solid waste management system can be developed or improved. Examples of special purpose planning include:

(a) Local and regional planning which results in closing open dumps and implementing a new sanitary landfill, and is consistent with any applicable comprehensive solid waste management plan.

(b) Local and regional planning which results in improved collection service and is consistent with any applicable comprehensive solid waste management plan.

(c) State planning which results in the handling and processing of abandoned or discarded motor vehicles in an environmentally sound manner.

(d) State planning which results in a strategy and methodology for enforcing existing State bans on poor solid waste management practices, e.g., open dumping.

§ 35.305 Grant limitations.

Solid waste planning grants shall be subject to the following limitations:

(a) No grant may exceed 75 percent of the allowable cost of a project pertaining to an area which includes more than one municipality.

(b) No grant may exceed 66⅔ percent of the allowable cost of a project pertaining to an area which includes only one municipality.

(c) No project period may exceed 2 years, beginning with the project commencement date approved at the time of initial grant award.

§ 35.310 Eligibility.

To be eligible for a solid waste planning grant, an applicant must:

(a) Be a State, interstate, municipal, intermunicipal agency, or organization composed of public officials which is eligible for assistance under section 701(g) of the Housing Act of 1954 (40 U.S.C. 461(g)); or

(b) Have been designated as the sole agency responsible for carrying out the purposes of section 207 of the Solid Waste Disposal Act for the area involved. Designation of State agencies is by the Governor: *Provided,* That local and regional applicants, may be designated by the State solid waste management agency designated by the Governor.

§ 35.315 Application.

§ 35.315–1 Preapplication procedures.

(a) An informal preapplication should be submitted to the appropriate Regional Administrator prior to formal application.

(b) Such preapplication may be in letter form, must be brief (less than five pages) and should generally include:

(1) A description of the applicant agency and its jurisdictions;

(2) The proportion of the project devoted to management planning or special purpose planning;

(3) The objectives of the project;

(4) A brief description of the ability to meet mandatory criteria, the evaluative criteria, and the legal requirements.

(5) Estimated total costs, schedule of the project, expected outputs, and requested Federal share.

(c) Preapplications will be reviewed by the EPA Regional Office within 30 days of receipt to determine eligibility and general technical merit.

(d) Preapplications should be developed in consultation with State solid waste agencies and local agencies to be affected by the project.

§ 35.315–2 Application requirements.

An application for a solid waste planning grant shall be submitted in accordance with 40 CFR 30.301 through 30.301–5 to the appropriate Regional Administrator and shall:

(a) Include a letter from the Governor or State solid waste management agency designating the applicant as the sole agency responsible for carrying out the purposes of section 207 of the Solid Waste Disposal Act for the area involved.

(b) Include a work plan which contains the following information:

(1) Explanation and scheduling of the tasks to be performed.

(2) Identification of which unit will perform each task.

(3) Estimation of the costs per task.

(4) Identification of all subagreements.

(c) Identify the steps necessary to implement the recommendations of the plan.

(d) Indicate provision for active involvement of local officials, key managers of publicly and privately owned solid waste agencies and other affected agencies (e.g., public works departments, sanitation districts, existing utilities, etc.), local officials, and the general public during the entire planning process.

(e) Provide for the assignment of a full-time, qualified project director and other appropriate staff to the project. A part-time project director may be adequate for small rural projects.

(f) Schedule conformance to State and local regulations governing solid waste management, e.g., bans on open dumping. Where regulations or ordinances do not exist, assurance must be given that action taken under the grant will contribute to the elimination of offensive practices harmful to the environment.

(g) Assure that the planning of solid waste disposal will be coordinated, with and not duplicate other related State, interstate, regional, and local planning activities, including those financed in part with funds pursuant to section 701 of the Housing Act of 1954 (40 U.S.C. 461).

§ 35.320 Criteria for award.

In determining the desirability and extent of funding for a project and priority of an application, the Regional Administrator will consider the following criteria:

§ 35.320–1 All applications.

(a) Priority will be given to management planning projects over special purpose planning projects.

(b) All other factors being equal, priority will be given to applicants supplying a greater proportion of non-Federal funding support over those supplying the minimum required non-Federal support.

(c) Priority will be given to applications which show that data collection is carefully limited to the purposes of the plan over those which have excessive date collection tasks.

(d) Priority will be given to applications according to the level of progress of their respective State solid waste management plans (e.g., progressing satisfactorily, completed and accepted by EPA, adopted by the Governor).

(e) Priority will be given to plans to be developed primarily by the applicant's staff over projects relying heavily on contractual outside services.

§ 35.320–2 State applications.

The following additional criteria will apply to State applications:

(a) *For management planning projects.* (1) Priority will generally be given to applications which illustrate an awareness of the management and financing options which could be utilized at the State, local, and regional levels.

(b) *For special purpose planning projects.* (1) Priority will be given to States which have completed, adopted, and implemented a solid waste management plan accepted by EPA.

(2) Priority will be given to applicants who exhibit a high level of understanding of the problems to be addressed.

§ 35.320–3 Local and regional applications.

The following additional criteria will apply to local and regional applications:

(a) Highest priority will be given to applicants who can implement positive improvements in solid waste management.

(b) Priority will be given to areawide planning, that is, planning for an area which is economically, socially, geographically, and environmentally related and which is appropriate for purposes of a solid waste planning project.

(c) If the applicant cannot directly implement recommendations of the plan.

(1) Priority among management planning projects will be given to applicants who have the following capabilities.

(i) *Organizational capabilities.* State and local ordinances which allow alternative approaches to solid waste management (e.g., regional solid waste regulatory authority, solid waste public or private utility, publicly owned and operated system).

(ii) *Financing capabilities.* State and local ordinances which regulate solid waste management functions, such as incineration, land disposal, and collection.

(2) Priority among special purpose planning projects will be given to applicants who have:

(i) Shown that the special purpose planning is coordinated with a completed solid waste management plan.

(ii) Shown why special purpose planning is appropriate, if a comprehensive solid waste management plan has not been developed.

§ 35.330 Reports.

§ 35.330–1 Progress reports.

The grant agreement may require the submission of a brief (less than five pages) progress report after the end of each quarter of the budget period. This progress report must show in chart or in a narrative format the progress achieved on each task in relation to the approved schedule and project milestones. Special problems and delays should be explained. The more detailed progress report included with applications for continuation grants may be used in lieu of a third-quarter report for projects having 1-year budget periods.

§ 35.330–2 Report of project expenditures.

No later than 90 days following the end of each budget period, the grantee planning agency shall submit to the Regional Administrator a report of project expenditures.

§ 35.330–3 Final report.

The grantee shall submit a final report for approval prior to the end of the approved project period. The report shall document project activities over the entire period of grant support and shall present in complete detail all technical aspects, negative and positive, toward the achievement of the stated purposes and

objectives, and shall include the plan developed for solution of the solid waste management problems. The plan shall be based upon the project findings, data analyses, and conclusions, and shall include specific recommendations for action and implementation. The final report shall reflect or include EPA comment. One set of reproducible copy suitable for printing and such other copies as may be stipulated in the grant agreement shall be promptly transmitted to the Regional Administrator.

§ 35.340 Continuation grant.

To be eligible for a continuation grant within the approved project period, the grantee planning agency must:

(a) Have demonstrated satisfactory performance during all previous budget periods; and

(b) Submit no later than 30 days prior to the end of the budget period a continuation application which includes a detailed progress report, an estimated financial statement for the current budget period, a budget for the new budget period, and an updated work plan revised to account for actual progress accomplished during the current budget period.

Subpart B—Program Grants

§ 35.400 Purpose.

This subpart, which establishes and codifies policy and procedures for air and water pollution control program assistance grants, supplements the EPA general grant regulations and procedures (40 CFR Part 30) and is applicable to all program grants. These grants are intended to aid programs for the prevention and control of air or water pollution at the State, interstate, or local level.

§ 35.400–1 Grants may be awarded to air pollution control agencies and interstate planning agencies.

Grants may be awarded to air pollution control agencies for the planning, development, establishment, improvement, and maintenance of programs for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards. Grants may be awarded to interstate planning agencies for the development of implementation plans for any interstate air quality control region.

§ 35.400–2 Grants may be awarded to State and interstate water pollution control agencies.

Grants may be awarded to State and interstate water pollution control agencies for the establishment and maintenance of adequate programs for the prevention and control of water pollution, including the training of personnel of public agencies.

§ 35.401 Authority.

This subpart is issued under sections 105 and 106 of the Clean Air Act, as amended, 42 U.S.C. 1857c and 1857c–1, and section 7 of the Federal Water Pollution Control Act as amended, 33 U.S.C. 1157.

§ 35.405 Criteria for evaluation of program objectives.

(a) Program descriptions or plans set out in the application and submitted in accordance with these regulations shall be evaluated to determine:

(1) Consistency and compatibility of goals and expected results with national and regional programs in implementing purposes and policies of the Clean Air Act or the Federal Water Pollution Control Act, as amended.

(2) Feasibility of achieving goals and expected results in relation to existing problems, program authority, organization, resources, and procedures.

(b) Approval of the program description or plan developed pursuant to § 35.525 or § 35.575 will be based on the extent to which the applicant's program satisfies the above criteria.

§ 35.410 Evaluation of program performance.

(a) An annual program performance evaluation shall be conducted by the appropriate Regional Administrator and the grantee to provide a basis for measuring progress toward achievement of the approved program objectives described in the program description or plan. The evaluation shall be limited to the objectives, responsibilities, authorized functions, and other related activities set forth in the grantee's approved program plan or description.

(b) The Regional Administrator shall complete the program evaluation no later than 120 days before the beginning of a new budget period. The Regional Administrator shall prepare a summary of the joint evaluation findings. The grantee shall be allowed 15 days to concur or comment on the findings.

§ 35.415 Report of project expenditures.

Within 90 days after the end of each budget period, the grantee shall submit to the Regional Administrator an annual report of expenditures, which shall include all funds, Federal and non-Federal, expended during the budget period.

§ 35.420 Payment.

Grant payments shall be made quarterly in advance. Grant payments shall be made on a cumulative basis not to exceed 30 percent of the grant amount for the first quarter, 30 percent for the second quarter, 20 percent for the third quarter, and 20 percent for the fourth quarter of the budget period. No payment shall be made prior to grant award.

AIR POLLUTION CONTROL PROGRAM GRANTS

§ 35.501 Definitions.

As used herein, the following words and terms shall have the meaning set forth below:

§ 35.501–1 Air pollution.

The presence in the outdoor atmosphere of any dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or a combination thereof, in sufficient quantities and of such characteristics and duration as to be, or likely to be, injurious to health or welfare, animal or plant life, or property, or as to interfere with the enjoyment of life or property.

§ 35.501–2 Air pollution control agency.

Any of the following:

(a) *State air pollution control agency.* A single State agency designated by the Governor of that State as the State agency with substantial responsibility for the prevention and control of air pollution within the State;

(b) *Interstate air pollution control agency.* An agency established by two or more States and having substantial powers or duties pertaining to the prevention and control of air pollution;

(c) *Municipal air pollution control agency.* A city, county, or other local government agency responsible for enforcing ordinances or laws relating to the prevention and control of air pollution.

(d) *Intermunicipal air pollution control agency.* An agency of two or more municipalities located in the same State or in different States and having substantial powers or duties pertaining to the prevention and control of air pollution.

§ 35.501–3 Air pollution control program.

A program for the prevention and control of air pollution or the implementation, maintenance, and enforcement of national primary and secondary ambient air quality standards.

§ 35.501–4 Air quality control region.

An area designated or established pursuant to section 107 of the Clean Air Act, 42 U.S.C. 1857c–2.

§ 35.501–5 Implementation plan.

The implementation plan, or revision thereof, which has been approved under section 110(a) of the Clean Air Act (42 U.S.C. 1857c–5(a)), and which implements a national primary or secondary ambient air quality standard in a State or portion thereof.

§ 35.501–6 Interstate air quality control region.

A geographic area, designated under section 107 of the Clean Air Act, that includes areas in two or more States.

§ 35.501–7 Interstate planning agency.

An agency legally constituted under the laws of two or more States having all powers necessary to carry out a planning project in accordance with section 106 of the Clean Air Act, and designated by the Governor of each State as the official air pollution control planning agency for the area of jurisdiction within such State covered by the project.

§ 35.501–8 Maintenance program.

A program of an air pollution control agency that as a minimum has attained

the level of operation set forth in § 35.525–2.

§ 35.501–9 Municipality.

A city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

§ 35.501–10 Nonrecurrent expenditures.

Expenditures which include:

(a) The amount by which the annual cost of the purchases of individual items of equipment, each costing over $2,500, exceed the average of such purchases for the 3 preceding fiscal years. Nonrecurrent equipment purchases may be depreciated over the anticipated useful life of the equipment.

(b) Costs of projects supported under grants authorized by sections of the Clean Air Act other than section 105.

§ 35.501–11 Premaintenance program.

An undertaking to plan, develop, establish, or improve an air pollution control program having comprehensive objectives and schedules for growth and which will qualify the undertaking as a maintenance program at the end of the project period.

§ 35.501–12 Program description.

A comprehensive narrative statement of objectives for the prevention and control of air pollution; for the implementation, maintenance, and enforcement of national primary and secondary ambient air quality standards or for the development of an implementation plan; and of the proposed measures to achieve these objectives.

§ 35.501–13 State.

A State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

§ 35.505 Allocation of funds.

(a) *Tentative allowances.* No later than April 1 of each year, the Administrator will issue to each Regional Administrator a tentative regional allowance for the next fiscal year. This tentative allowance (planning target) will be based on the amount of the appropriation requested for the next fiscal year. The Regional Administrator shall promptly notify each State agency of the tentative allotment for the State for the next fiscal year.

(b) *Final allowances.* As soon as practicable, after funds are made available, the Administrator will issue to each Regional Administrator a final regional allowance for State allotment of the funds appropriated for each fiscal year.

(c) *Determination.* Regional allowances and State allotments shall be the sum of the amounts required to support State and local programs which meet the requirements of § 35.525 and shall, so far as practicable, be determined by (1) the population served by a program, (2) the extent of the actual or potential air pollution problem within a program's area of jurisdiction, (3) the financial need of the applicant, and (4) the impact of the program's activities upon national priorities and objectives existing at the time. The allotment for any one State may not exceed an amount equal to 10 percent of the funds appropriated for the purposes of section 105(a) of the Clean Air Act in any one fiscal year.

(d) *Reallotment.* By October 15 of each year, or as soon thereafter as practicable, the Administrator will issue to each Regional Administrator an allowance derived from reallotment of prior year funds.

§ 35.507 Federal assistance for agency programs.

§ 35.507–1 Limitations on assistance.

(a) *Control programs.* Subject to the availability of funds, the criteria contained in § 35.520, and in accordance with the schedule of Federal support (§ 35.507–3), the Regional Administrator may award a grant for:

(1) *Premaintenance programs.* (i) Up to two-thirds of the allowable costs for any air pollution control agency (see § 30.701 of this chapter).

(ii) Up to three-fourths of the allowable costs for any air pollution control agency as defined in § 35.501–2 (a), (b), and (d).

(2) *Maintenance programs.* (i) Up to one-half of the allowable costs for any air pollution control agency.

(ii) Up to three-fifths of the allowable costs for any air pollution control agency as defined in § 35.501–2 (a), (b), and (d).

(b) *Interstate planning.* Subject to the availability of funds, and the criteria contained in § 35.520–2, the Regional Administrator may award a grant to an interstate planning agency as defined in § 35.501–8 in an amount up to 95 percent of the estimated air quality planning program costs for an initial 2-year period. Thereafter, the Regional Administrator is authorized to support such interstate planning agencies in an amount up to three-fourths of the estimated air quality planning program costs.

§ 35.507–2 Limitations on duration.

(a) *Project period*—(1) *Premaintenance programs.* The project period for premaintenance programs shall be a period of time expressed in years that is mutually agreeable to the Regional Administrator and the control agency, but shall not exceed 6 years. The project period shall be based on the program goals identified in the program description of the initial premaintenance grant application. The Regional Administrator may extend the project period once for a period of 1 year. Subsequently, no further Federal support will be available to the control agency at the premaintenance program level.

(2) *Maintenance programs.* The project period for maintenance programs shall be unlimited provided that such programs continue at a maintenance level. Federal support may be suspended or terminated if a maintenance program ceases to qualify under § 35.525–2.

(3) *Interstate planning.* The project period for interstate planning shall be a period of time expressed in years that is mutually agreeable to the Regional Administrator and the interstate agency, but shall not exceed 3 years. The project period shall be based on the program goals identified in the program description of the planning grant application. The Regional Administrator may extend the project period once for a period of 1 year.

(b) *Budget periods.* The budget period of any grant awarded to support a premaintenance or maintenance program or an interstate planning agency shall be for a period of 12 months and shall be coterminous with the grantee agency's fiscal year.

§ 35.507–3 Schedule of Federal support.

Type agency	Year of support [1]	Maximum federal funds [2]
		(*Percent*)
Municipal [3] (§ 35.507–1(a)(1)(i)).[6]	1	100
	2	75
	3	50
	4	25
	All over 4	0
State, intermunicipal and interstate [3] (§35.507–1(a)(1)(ii)).[6]	1	200
	2	150
	3	100
	4	50
	All over 4	0
Municipal [4] (§ 35.507–1(a)(1)(i)).[6]	1	200
	2	200
	3	150
	4	100
	5	75
	6	50
	[5] 7	[5] 25
State, intermunicipal and interstate [4] (§35.507–1(a)(1)(ii)).[6]	1	300
	2	300
	3	250
	4	200
	5	150
	6	100
	[5] 7	[5] 50
Municipal (§35.507–1(a)(2)(i)).[7]	All	100
State, intermunicipal and interstate (§35.507–1(a)(2)(ii)).[7]	All	150

[1] Year of support starting May 1, 1972, or later.
[2] Expressed as a percent of local funds.
[3] For agencies which have received Federal support, under section 105 of the Act, for three or more complete budget periods between July 1, 1968, and June 30, 1972.
[4] For agericies which have received Federal support under section 105 of the Act, for less than three complete budget periods between July 1, 1968, and June 30, 1972.
[5] Provided 1 year extension is granted by the Regional Administrator.
[6] Premaintenance type support.
[7] Maintenance type support.

§ 35.510 Grant amount.

§ 35.510–1 Determination.

(a) *Control agencies.* In determining the amount of support for a control agency, the Regional Administrator will consider: (1) The functions, duties, and obligations assigned to the program by any applicable implementation plan; (2) the feasibility of the program in view of the resources to be made available to maintain a total program effort; (3) the probable or estimated total cost of the program in relation to its expected accomplishments; (4) the extent of the actual or potential pollution problem; and (5) the population served within the agency's jurisdiction.

(b) *Interstate planning agencies.* In determining the amount of support for an interstate planning agency, the Regional Administrator will, pursuant to

section 106 of the Act, consider the extent of the actual or potential air pollution problem in relation to: (1) The need to revise applicable implementation plans, or portions thereof, to insure the timely achievement of national primary or secondary ambient air quality standards; (2) the development of new implementation plans; and he will also consider (3) the comments of the appropriate governmental officials; (4) the feasibility of the project with regard to the resources available; and (5) the estimated cost of the project compared to its probable accomplishments.

§ 35.510–2 Limitations.

(a) The amount of a grant award to support an air pollution control agency premaintenance or maintenance program shall be subject to the grant limits set forth in § 35.507–1 in accordance with the schedule of Federal support in § 35.507–3.

(b) Whenever a final allowance is not sufficient to meet the funding requirements of qualified air pollution control agencies, the Regional Administrator shall give priority to continuation support.

(c) Whenever funds available are insufficient to continue support for programs entitled to priority, an agency shall be consulted prior to any reduction in the amount of Federal support.

(d) Grants shall be awarded only from appropriations available at the time of award.

§ 35.515 Eligibility.

§ 35.515–1 Control programs.

Any air pollution control agency that meets the criteria for award prescribed in § 35.520–1 shall be eligible for an air pollution control program assistance grant.

§ 35.515–2 Interstate planning.

Any interstate planning agency that meets the criteria for award prescribed in § 35.520–2 shall be eligible for an air quality program planning grant authorized by section 106 of the Clean Air Act.

§ 35.520 Criteria for award.

§ 35.520–1 Control programs.

(a) No grant may be awarded unless the grant application includes a program description which meets the requirements of § 35.525 and which has been approved by the Regional Administrator.

(b) No grant may be awarded until the Regional Administrator has consulted with the official designated by the Governor or Governors of the State or States affected by such award pursuant to section 105(b) of the Clean Air Act. Such consultation should consider the role of the applicant in the enforcement of any applicable implementation plan and confirm that the project will be consistent with the objectives of the State air pollution control program.

(c) No grant may be awarded during any fiscal year when the estimated recurrent expenditures of non-Federal funds for the program will be less than the recurrent expenditures of non-Federal funds were for such programs during the preceding fiscal year.

(d) No grant may be awarded unless the applicant provides assurance satisfactory to the Regional Administrator that such grant will be used to supplement and, to the extent practicable, increase the State, local, or other non-Federal funds that would in the absence of such grant be made available for such program, and that Federal assistance will in no event supplant such State, local, or other non-Federal funds.

(e) Not more than 10 percent of the total of funds appropriated or allocated for the purposes of section 105(a) of the Clean Air Act in any one fiscal year shall be granted for air pollution control programs in any one State. In the case of a grant for a program in an area crossing State boundaries, the Regional Administrator shall determine the portion of such grant that is chargeable to the 10 percent limitation for each State into which such area extends.

(f) No grant may be awarded under § 35.507–1(a) (1)(ii) and (2)(ii) with respect to any air quality control region, or portion thereof, for which there is an applicable implementation plan, unless the air pollution control agency applicant has substantial responsibility for carrying out such applicable implementation plan. "Substantial responsibility" shall include, but not be limited to, adequate legal authority and resource capability for carrying out the effort required to implement and meet the goals of an approved implementation plan in an agency's geographic area of jurisdiction independently or in concert with other air pollution control agencies.

(g) No grant may be awarded to any interstate or intermunicipal air pollution control agency unless the applicant provides assurance satisfactory to the Regional Administrator in the grant application narrative description that the agency provides for adequate representation of appropriate State, interstate, local, and (when appropriate) international interests in the air quality control region and further that the agency has the capability of developing and implementing a comprehensive air quality plan for the air quality control region. Such a plan shall include (when found appropriate by the Regional Administrator) a recommended system of alerts to avert and reduce the risk of situations in which there may be imminent and serious danger to the public health or welfare from air pollutants and the various aspects relevant to the establishment of air quality standards for such air quality control region, including the concentration of industries, other commercial establishments, population and naturally occurring factors which shall affect such standards.

§ 35.520–2 Interstate planning.

No grant may be awarded pursuant to 35.507–1(b) unless such agency is designated by the Governors of the affected States, is capable of recommending to the Governors plans for implementation of national primary and secondary ambient air quality standards and includes representation from the States and appropriate political subdivisions within the affected interstate air quality control regions.

§ 35.525 Program requirements.

Portions of the program description may incorporate by reference appropriate parts of an applicable implementation plan.

§ 35.525–1 Premaintenance program.

A program description for an air pollution control agency premaintenance program shall include, but not be limited to, the following:

(a) A description of the extent of the air pollution problem within the applicant's geographical area of jurisdiction.

(b) A comprehensive statement of applicant's objectives for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards, and of the proposed means to achieve these objectives.

(c) A description of the applicant's existing program and of the changes that are to be initiated during the project period, including but not limited to those procedures necessary to develop or execute any applicable implementation plan. Items that should be specifically included as part of the comprehensive description are:

(1) A description of the pertinent existing legal authority including applicable statutes, ordinances, rules, and regulations.

(2) A description of proposed, pending, or requested changes to the existing legal authority.

(3) A description of the organization, methodology, and resources utilized in the program. Resources should include administrative and technical support, personnel, facilities, equipment, staff, and other pertinent resources; and of any additional resources required to meet the program objectives or execute any applicable implementation plan.

(4) A description of any intergovernmental agreements and/or working relationships for carrying out programs.

(d) Regulations for the prevention and control of air pollution which are at least as stringent as those contained within any applicable implementation plan covering sources under the jurisdiction of the applicant agency.

(e) Provisions for visible emission limitations adequate for the prevention and control of particulate matter from all sources over which the applicant has jurisdiction and provide adequate measures for the prevention and control of open burning within the geographic area of the applicant's jurisdiction.

(f) A certification by the official responsible for application preparation that the program description as submitted has been officially adopted by that program.

(g) If no applicable implementation plan exists, the program description must have been determined by the appropriate official designated by the Governor

of the State, to be designed to prevent, and control air pollution within the geographic area of responsibility of the applicant in a manner consistent with the program of the State air pollution control agency.

(h) If there exists an applicable implementation plan for any air quality control region within which the program's geographical area of jurisdiction is partially or totally located, the program description must be designed to prevent and control air pollution within the geographical area and scope of responsibility of such applicant in a manner consistent with such applicable implementation plan.

§ 35.525–2 Maintenance program.

A program description of an air pollution control agency maintenance program shall satisfy the requirements of § 35.525–1 and shall meet the following additional requirements, either alone or in cooperation with other agencies within its geographic area of jurisdiction. The program must:

(a) Provide a description of the organization, program support activities and staffing skills that are consistent with stated objectives, environmental needs and solutions.

(b) Employ at least 75 percent of estimated total staff needs as determined by an Environmental Protection Agency manpower model, comparable task analysis procedures or other means acceptable to the Regional Administrator.

(c) Provide training for development and upgrading of employee skills consistent with maintenance program requirements.

(d) Provide for public education and information that is designed to maintain public confidence and support of the air pollution control program.

(e) Maintain legal authority and regulations to prevent, abate, and control air pollution from all sources within the applicant's area of jurisdiction which are not subject to exclusive control by other agencies.

(f) Provide procedures for conducting area surveillance source inspections and enforcement activities on a 24-hour basis. This shall include a system involving official forms for complaints, violation notices, violation observations, source registration, site inspections, etc. Enforcement activities must be supported by adequate legal services.

(g) Provide a communication system for implementing emergency procedures and rapid response to field surveillance and enforcement needs. The applicant agency should be capable of effecting reduction through emergency episode procedures, and of assessing engineering feasibility of the emission regulations being developed.

(h) Provide a program that sets forth legally enforceable procedures that will be used to prevent construction, modification, or operation of any stationary source at any location where emissions from such source will prevent the attainment or maintenance of a national standard.

(i) Provide a procedure and capability for obtaining, performing, and/or evaluating source tests of industrial processes and operations required by permit systems and/or regulations.

(j) Provide an operation and maintenance schedule for the operation of laboratory facilities to assure their adequacy for performing analysis of samples and data reduction functions. The program for performing required laboratory operations can be provided as an external service to the agency.

(k) Provide a system for data acquisition, handling, and analysis consistent with maintenance program requirements.

(l) Operate and maintain an air quality monitoring network consistent as a minimum with implementation plan requirements.

(m) Provide in a form prescribed by the Administrator an updated, comprehensive emission inventory of air pollutants being discharged within the applicant's area of jurisdiction and covering the sources and amounts of those air pollutants for which national ambient air quality standards have been promulgated under section 109 of the Clean Air Act (42 U.S.C. 1857c–4) and those that have been determined as hazardous in accordance with section 112 of the Clean Air Act (42 U.S.C. 1857c–7).

(n) Provide data regarding distribution and concentrations of those air pollutants in the ambient air within the applicant's area of jurisdiction which are not currently being reported in accordance with any applicable implementation plan.

§ 35.525–3 Interstate planning.

A program description of an interstate planning agency shall include, but not be limited to, the following:

(a) Where there exists an applicable implementation plan, or portion thereof, a project description shall include:

(1) A listing of the air pollutants and their associated air quality standards applicable to the proposed project.

(2) A description (including geographic and temporal extent) of any unanticipated deficiency in any applicable implementation plan, or portion thereof, which may prevent the timely achievement of any applicable air quality standard.

(3) A description of the applicant's proposals, including alternatives, designed to insure the timely achievement of any applicable air quality standard. These proposals shall set forth project objectives in order of priority and the timetable for achieving such objectives.

(b) For the purpose of developing new implementation plans to meet national ambient air quality standards promulgated by the Administrator, the project description shall include:

(1) A listing of the air pollutants and their associated national ambient air quality standards applicable to the proposed project.

(2) A description of the steps to be taken to develop an implementation plan which will meet the requirements of section 110 of the Clean Air Act (42 U.S.C. 1857c–5) and 40 CFR Part 51.

(c) A description of existing and proposed resources, including staff, facilities, and procedures, adequate for effective implementation of the project.

§ 35.530 Supplemental conditions.

In addition to any other requirement herein, each air pollution control part shall be subject to the following conditions:

(a) Direct cost expenditures for the purchase of real estate or construction of a fixed structure are unallowable, except that costs of monitoring stations may be allowed as direct costs.

(b) The sum of the non-Federal recurrent expenditures by the grantee in the fiscal year for which the grant is awarded shall be equal to or greater than the sum of grantee's recurrent expenditures during the fiscal year immediately preceding the beginning of the current budget period.

(c) The grantee shall provide such information as the Regional Administrator may from time to time require to carry out his functions. Such information may contain, but is not limited to: Air quality data, emission inventory data, data describing progress toward compliance with regulations by specific sources, data on variances granted, and similar regulatory actions.

§ 35.535 Assignment of personnel.

(a) The Administrator may detail personnel of the Environmental Protection Agency to an air pollution control agency pursuant to section 301(b) of the Clean Air Act.

(b) The Regional Administrator, with the concurrence of the grantee, shall reduce grant payments by the amount of pay, allowances, travel, training, and other expenses related to the detail of any EPA officer or employee pursuant to section 105(d) of the Clean Air Act. The amount of the reduction shall be deemed to have been paid to the grantee in determining the amount of any grant.

WATER POLLUTION CONTROL STATE AND INTERSTATE PROGRAM GRANTS

§ 35.551 Definitions.

As used herein, the following words and terms shall have the meaning set forth below:

§ 35.551–1 Allotment.

The sum allocated for each State or interstate agency, the amount of which is determined by application of a formula based upon population, the extent of the water pollution problem, and financial need.

§ 35.551–2 Federal share.

The percentage rate determined pursuant to § 35.557 applied to the allotment to determine the Federal participation in the allowable costs of the water pollution control program.

§ 35.551–3 Interstate agency.

An agency of two or more States established by or pursuant to an agreement or compact approved by the Congress, or

any other agency of two or more States, having substantial powers or duties pertaining to the control of water pollution.

§ 35.551–4 Per capita income.

With respect to any State, the average of the per capita income of such State for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce; except that, in the absence of such satisfactory data, the per capita income of Alaska shall be deemed to equal the average per capita income of all the States in the continental United States and the per capita incomes of Puerto Rico and the Virgin Islands shall be deemed to equal the per capita income of the State having the lowest per capita income of the continental United States.

§ 35.551–5 Plan.

Any plan, including revisions thereof, for the prevention and control of water pollution submitted by a State water pollution control agency or interstate agency pursuant to § 35.575.

§ 35.551–6 State.

A State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

§ 35.551–7 State water pollution control agency.

The State agency charged with primary responsibility of enforcing State laws relating to the abatement of water pollution.

§ 35.555 Allocation of funds.

§ 35.555–1 Notification of funding.

(a) *Tentative allowances.* No later than April 1 of each year, the Administrator will issue to each Regional Administrator a tentative regional allowance for the next fiscal year. This tentative allowance (planning target) will be based on the amount of the appropriation requested for the next fiscal year. The Regional Administrator shall promptly notify each State and interstate agency of its tentative allotment for the next fiscal year.

(b) *Final allowances.* As soon as practicable after funds are made available, the Administrator will issue to each Regional Administrator a final regional allowance for State and interstate allotments from the funds appropriated for each fiscal year.

(c) *Reallotment.* On October 15 of each year, or as soon thereafter as practicable, the Administrator will issue to each Regional Administrator an allowance derived from reallocation of prior year funds.

(d) *Computation of regional allowances.* Tentative and final regional allowances shall be the sum of the tentative or final State and interstate allotments within each EPA region.

§ 35.555–2 Allotments to States.

Funds appropriated for any fiscal year for grants to States shall be allotted among the several States on the basis of $12,000 for each State and the balance on the basis of the following factors:

(1) Two-thirds in the ratio that the product of the population of each State and the reciprocal of its per capita income bears to the sum of the corresponding products for all States.

(2) One-sixth on the basis of the ratio of the population density of a State to the population density of all the States.

(3) One-sixth on the basis of the ratio of the number of industrial establishments discharging industrial wastes in each State to the number of such establishments in all the States. The number of such establishments shall be determined on the basis of the latest available "wet industries" data provided by the Department of Commerce.

§ 35.555–3 Allotments to interstate agencies.

(a) Funds appropriated for any fiscal year for grants to interstate agencies shall be allotted among the several interstate agencies on the basis of the following factors:

(1) Two-thirds in the ratio that the product of the population of the area served by the interstate agency and the reciprocal of the average per capita income of the interstate agency for the three most recent consecutive years bears to the sum of the corresponding products for all the interstate agencies. For this purpose, per capita income of an interstate agency shall mean the total gross income of all the States comprising such interstate agency divided by the total population of all the States comprising such interstate agency.

(2) One-sixth on the basis of the ratio of the average of the population densities of the States comprising each interstate agency area to the sums of the average of the population densities of each interstate agency area.

(3) One-sixth on the basis of the ratio of the number of industrial establishments discharging industrial wastes in the States comprising the interstate agency to the number of such establishments in all the interstate agency areas. The number of such "wet industries" establishments shall be determined on the basis of the latest available data provided by the Department of Commerce.

§ 35.555–4 Population computation.

For purposes of this section, population shall be determined on the basis of the most recent Department of Commerce estimates available at the time of computation.

§ 35.557 Federal share.

§ 35.557–1 Determination of Federal share for States.

For any State the Federal share shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the continental United States (excluding Alaska), except that the Federal share shall in no case be more than 66⅔ per centum or less than 33⅓ per centum, and the Federal share for Hawaii and Alaska shall be 50 per centum, and for Puerto Rico and the Virgin Islands, shall be 66⅔ per centum.

§ 35.557–2 Determination of Federal share for interstate agencies.

For any interstate agency the "Federal share" shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the average per capita income of the States comprising such interstate agencies bears to the per capita income of the continental United States (excluding Alaska), except that the Federal share in no case shall be more than 66⅔ per centum or less than 33⅓ per centum and shall be promulgated on the basis of the same data used for determining the "Federal share" for any State.

§ 35.560 Grant amount.

§ 35.560–1 Determination.

Each State and interstate agency shall receive a grant from its final allotment in an amount not in excess of the approved Federal share of the allowable cost of carrying out its approved plan, including the cost of training personnel for State and local water pollution control work and administering the plan.

§ 35.560–2 Limitation.

When a State or interstate agency matching share percentage rate, when added to the Federal share, is less than 100 percent, the grant amount shall be reduced until the sum of the Federal share and matching share percentage rate equals 100 percent.

§ 35.560–3 Reduction of grant amount.

The grantee must submit a complete application on or before June 1 preceding the fiscal year for which the program application is prepared. If the State or interstate agency does not meet this deadline, the grant amount will be reduced one-sixth of the first 6 months available allotment for each full month's delay.

§ 35.563 Grant limits and duration.

Following approval of the plan, the budget period of the grant shall be the entire fiscal year and Federal assistance shall not exceed the allotment limits specified in § 35.555 and shall be within the Federal share limits of § 35.557.

§ 35.565 Eligibility.

A grant may be awarded to a State or interstate water pollution control agency which has submitted a plan meeting the requirements of § 35.575: *Provided, however,* That such plan has been approved by the appropriate Regional Administrator(s).

§ 35.575 Plan requirements.

A plan shall:

(a) Provide for administration or for the supervision of administration of the plan by the State water pollution control agency or, in the case of a plan submitted by an interstate agency, by such interstate agency;

(b) Provide that such agency will make such reports, in such form and containing such information, as the Regional

Administrator may from time to time reasonably require to carry out his functions under this Act;

(c) Set forth the plans, policies, and methods to be followed in carrying out the State (or interstate) plan and in its administration;

(d) Provide for extension or improvement of the State or interstate program for prevention and control of water pollution program extension or improvement shall be demonstrated by a succinct analysis of the water pollution problem, long-term goals, activities to be accomplished during the budget period, legal authorities, management organization, available resources, and proposed programs the applicant will follow during the budget period.

(e) Provide such accounting, budgeting, and other fiscal methods and procedures as are necessary for the proper and efficient administration of the plan; and

(f) Set forth the criteria used by the State in determining priority of projects as provided in section 8(b)(5) of the Water Pollution Control Act, as amended.

Subpart C—Grants for Construction of Wastewater Treatment Works

§ 35.800 Purpose.

This subpart supplements the EPA general grant regulations and procedures (40 CFR Part 30) and establishes and codifies policies and procedures for grants for the construction of treatment works to prevent the discharge of untreated or inadequately treated sewage or other waste into any waters.

§ 35.801 Authority.

This subpart is issued under section 8 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1158.

§ 35.805 Definitions.

As used in this subpart, the words and terms defined in this section shall have the meaning set forth below:

§ 35.805–1 Construction.

The preliminary planning to determine the economic and engineering feasibility of treatment works, the engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary to the construction of treatment works; the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works; and the inspection and supervision of the construction of treatment works. The phrase "initiation of construction," as used in this subpart, means the issuance of a notice to proceed, or, if none is required, the execution of a construction contract.

§ 35.805–2 Intermunicipal agency.

An agency of two or more municipalities having jurisdiction over disposal of sewage, industrial wastes, or other wastes.

§ 35.805–3 Interstate agency.

An agency of two or more States established by or pursuant to an agreement or compact approved by the Congress, or any other agency of two or more States having substantial powers or duties pertaining to the control of pollution of waters.

§ 35.805–4 Municipality.

A city, town, borough, county, parrish, district, or other public body created by or pursuant to State law, or an Indian tribe or an authorized Indian tribal organization, with jurisdiction over disposal of sewage, industrial wastes, or other wastes.

§ 35.805–5 State.

A State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

§ 35.805–6 State water pollution control agency.

The State authority charged with primary responsibility for enforcing the State laws relating to the abatement of water pollution.

§ 35.805–7 Treatment works.

The various devices used in the treatment of sewage or industrial wastes of a liquid nature, including the necessary intercepting sewers, outfall sewers, pumping, power, and other equipment, and their appurtenances, and including any extensions, improvements, remodeling, additions, and alterations thereof.

§ 35.810 Applicant eligibility.

Grants may be made to any State, municipality, intermunicipal or interstate agency.

§ 35.815 Allocation of funds.

§ 35.815–1 Allotments to States.

(a) The first $100 million appropriated for any fiscal year shall be allotted by the Administrator as soon as practicable as follows:

(1) Fifty per centum of such sums in the ratio that the population of each State bears to the population of all the States, and

(2) Fifty per centum of such sums in the ratio that the quotient obtained by dividing the per capita income of the United States by the per capita income of each State bears to the sum of such quotients for all the States. Per capita income shall be determined on the basis of the average of the per capita income of the States and of the continental United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce; except that, in the absence of such satisfactory data, the per capita income of (i) Puerto Rico, (ii) the Virgin Islands, and (iii) Guam shall be deemed to equal the per capita income of the State having the lowest per capita income in the continental United States.

For purposes of this section, population shall be determined on the basis of the official population figures of the latest decennial census for which figures are available as certified by the Secretary of Commerce.

(b) Funds in excess of $100 million appropriated for any fiscal year, except as otherwise provided by law, shall be allotted by the Administrator as soon as practicable in the ratio that the population of each State bears to the population of all the States.

(c) Sums available for allocation to States based on eligibility for reimbursement, severe local and basinwide water pollution problems, or other factors shall be divided between such purposes in such proportions as the Administrator may determine and shall be allotted among the States in accordance with the procedures and provisions set forth for reallotment of unobligated funds (see § 35.815–2). Allocation shall be made at such time or times as may be practicable.

(d) Sums allotted to a State under paragraphs (a) and (b) of this section which are not obligated within the time period specified by law shall be reallotted in accordance with the reallotment provisions contained in § 35.815–2.

(e) At least 50 per centum of the first $100 million appropriated for each fiscal year beginning on or after July 1, 1965, shall be used for the construction of treatment works serving municipalities of 125,000 population or under.

(f) The allotment of a State, including reallotments, shall be available, in accordance with the provisions of this subpart, for payments to meet the cost of construction of treatment works in such State for which Federal grants have been approved.

§ 35.815–2 Reallotment.

(a) Reallotment of unobligated funds (see § 35.815–1(d)) will be made within 90 days following their availability for reallotment, or as soon thereafter as practicable, as follows:

(1) Except as set forth in paragraph (b) of this section, unobligated funds shall be reallotted among the States having projects eligible for reimbursement under the provisions of section 8(c) of the Federal Water Pollution Control Act based on the ratio which each State's reimbursement eligibility for all the States: *Provided*, That each State to receive any such reallotment shall first provide such assurances as the Administrator deems appropriate to assure that such funds shall be applied on an equitable pro rata basis with respect to such work in place.

(2) If any funds remain unobligated, such funds shall be reallotted among the States based on the ratio that each State's remaining eligibility for reimbursement bears to the total remaining reimbursement eligibility for all States: *Provided*, That each State to be entitled to any such reallotment shall, within 30 days following the date on which funds become available for reallotment, or as soon thereafter as practicable, provide a statement satisfactory to the Administrator listing projects eligible for reimbursement, which statement shall also

specify the manner in which any reallotted funds should be applied towards the projects so listed.

(3) Prior to making any reallotment under subparagraphs (1) and (2) of this paragraph, the Administrator may determine whether any part of the unobligated funds should be applied in situations of special need to meet severe local and basinwide pollution problems in order to promote the purposes of the Federal Water Pollution Control Act most effectively. In making such determination, the Administrator shall apply the following criteria: (i) The extent of degradation of water quality; (ii) the extent of the financial need; (iii) the extent to which degradation is attributed to untreated or inadequately treated waters of municipalities; (iv) the extent to which facilities to be constructed will contribute to the enhancement of the environment; (v) such other factors as the Administrator considers relevant. The Administrator shall reallot such funds to any State in which such special needs exist on such basis as he may deem most advisable: *Provided*, That each State to receive any such reallotment shall first provide such assurances as the Administrator may require that such funds should be applied to eligible projects selected by the Administrator to meet such needs.

(b) Whenever a State has funds subject to reallotment, prior to such reallotment, additional grants may be made for any projects in that State where the Administrator finds that the need for the projects is due in part to any Federal institution or Federal construction activity which has resulted in an influx of federally connected personnel and have added to the applicant's requirements for sewage treatment works. Such additional grants shall be limited to additional identifiable costs of construction attributable to such Federal institution or Federal construction activity. "Federal institution" shall mean any Federal institution, reservation, installation, base, project, or other similar Federal establishment used by the Federal Government primarily for the performance of functions other than the provision of services to the area in which such establishment is situated. "Federal construction activity" shall mean the construction of any "Federal institution" as herein defined.

(1) Applicants for additional grants must support their claims that the need for their projects is due in part to any Federal institution or Federal construction activity by showing that at least 5 percent of the population contributing wastes to the project are, as of the date of filing the application for the additional grant, in one or more of the following categories:

(i) Federal personnel and their families residing on or at a Federal institution, as well as occupants, patients, and inmates of such institutions;

(ii) Federal personnel and their families working on or at, but residing at other than, a Federal institution;

(iii) Non-Federal personnel and their families working on Federal construction projects involving a Federal institution.

(2) Necessary supporting information submitted by applicants shall be used as the basis for computing a project's additional grant entitlement as follows:

(i) For subdivision (i) of paragraph (b)(1), 100 percent of the product of the per capita cost of the project and the number represented in this category;

(ii) For either subdivision (ii) or (iii) of paragraph (b)(1), 50 percent of the product of the per capita cost of the project and the number represented by such category;

(iii) Provided that in any case the additional grant entitlement with respect to any category shall be reduced by the amount of any Federal contribution by any other Federal agency toward the capital cost of the approved project made on behalf of such category. The total of the sums of the above calculations shall be the maximum entitlement of an individual project for an additional grant.

(3) If the total of all entitlements for additional grants exceeds the funds available to a State for such grants, the available funds will be prorated over all eligible applicants for such grants in the State.

(4) In any instance where a grantee community claims its need for a project is due in part to any Federal institution or federally construction activity, but because of exceptional circumstances is not measurable by the criteria set out above, a request for special consideration may be made pursuant to the deviation procedures (see 40 CFR 30.1001).

(5) In no event shall any additional grant be made in an amount which, together with the amount of the basic grant and, as appropriate, other Federal and State contributions, will exceed the total eligible project cost.

§ 35.820 Grant limitations.

§ 35.820–1 Exceptions.

No grant shall be made for any project in an amount exceeding 30 per centum of the estimated reasonable cost of the project, except that:

(a) The percentage limitation shall be increased to a maximum of 40 per centum if the State agrees to pay not less than 30 per centum of the cost of all projects for which Federal grants are to be made from the same fiscal year's allocation, or

(b) The percentage limitation shall be increased to a maximum of 50 per centum if the State agrees to pay not less than 25 per centum of the cost of all projects for which Federal grants are to be made from the same fiscal year's allocation and enforceable water quality standards have been established for the waters into which the project discharges, in accordance with section 10(c) of the Federal Water Pollution Control Act in the case of interstate waters, and under State law in the case of intrastate waters.

(c) The amount of a grant may be increased by an additional 10 per centum of such grant for any project which has been certified by an official State, metropolitan, or regional planning agency empowered under State or local laws or interstate compact to perform metropolitan or regional planning for a metropolitan area within which such grant is to be used, or other agency or instrumentality designated for such purposes by the Governor (or Governors in the case of interstate planning) as being in conformity with the comprehensive plan developed or in process of development for such metropolitan area. "Metropolitan area" means either (1) a standard metropolitan statistical area as established by the Office of Management and Budget except as may be determined by the President as not being appropriate for the purposes hereof, or (2) any urban area, including those surrounding areas that form an economic and socially related region, taking into consideration such factors as present and future population trends and patterns of urban growth, location of transportation facilities and systems, and distribution of industrial, commercial, residential, governmental, institutional, and other activities, which in the opinion of the President lends itself as being appropriate for the purposes hereof.

§ 35.825 Application for grant.

§ 35.825–1 Preapplication procedures.

Preapplication assistance regarding construction grants for waste water treatment works, including the necessary application forms, should be obtained from the State water pollution control agency or the appropriate EPA regional office.

§ 35.825–2 Formal application.

An application for waste water treatment works construction grants shall be submitted to the State water pollution control agency. Upon approval of the application and certification of the project for priority, the State water pollution control agency will transmit the application to the appropriate EPA regional office.

§ 35.830 Determining the desirability of projects.

In determining the desirability of treatment works projects, the State water pollution control agency and the regional administrator shall give consideration to the following:

(a) The relation of the estimated cost of the project, including operation and maintenance, to the public interest and to the necessity for the project;

(b) The propriety of Federal aid in construction of the project, which will be determined on the basis of one or more of the following criteria:

(1) Effective control. Whether the project effectively contributes to the control of pollution of the waters into which the project discharges its treated water.

(2) International treaty obligations. Whether the project is required to control pollution in meeting international treaty obligations or agreements.

(3) Federal impact. Whether the project involves a pollution problem affected by (i) Federal installations contributing to the total municipal waste loadings; (ii) a water use requirement involving national defense; (iii) a Federal water resource development; or (iv) an increase in population due to any Federal institution or Federal construction activity which has resulted in an influx of federally connected personnel and which have added to the applicant's requirements for sewage treatment works.

(4) Public health necessity. Whether the project involves treatment works required to abate a public health hazard.

(5) Financial burden. Whether the municipality can demonstrate that the construction of sewage treatment works involves an extraordinary and excessive financial burden in relation to the municipality's economic resources.

(6) Enforcement recommendations. Whether the construction of the sewage treatment plant is recommended or required by Federal or State water pollution control enforcement authorities.

(c) The public benefits to be derived by the construction of the project;

(d) The related projects requiring completion before full benefit can be derived from the project for which the application is made and the degree to which the completion of the related projects in the near future is assured;

(e) The feasibility of utilizing available facilities; and,

(f) The probability that the project will be constructed and put into operation within a reasonable time.

§ 35.835 Criteria for award.

In addition to the evaluation required pursuant to § 35.830, the Regional Administrator shall determine whether the following criteria are met, prior to the award of the grant:

§ 35.835–1 State plan and priority.

The project must be in conformity with the State water pollution control plan submitted pursuant to the provisions of section 7 of the Federal Water Pollution Control Act and must be certified by the State Water Pollution Control Agency as entitled to priority over other eligible projects on the basis of financial as well as water pollution control needs; except that in the case of additional grants as provided for in the case of impact grants (see § 35.815–2(b)) and for conformity with metropolitan plans (see § 35.820–1(c)), no additional State certification of priority shall be required for the project receiving such an additional grant.

§ 35.835–2 Basin control.

No grant may be awarded unless the Regional Administrator determines, based on information furnished to him by the appropriate State or interstate agency having jurisdictional responsibilities for the area of concern, that the project is included in an effective current basinwide plan for pollution abatement in accordance with applicable water quality standards. Such basinwide plan must be in conformity with the requirements set forth in § 35.105–1.

§ 35.835–3 Regional and metropolitan plan.

No grant may be awarded unless the Regional Administrator determines that the project is included in an effective metropolitan or regional plan developed or in the process of development, and certified by the Governor or his designee as being the official pollution abatement plan developed or in the process of development for the metropolitan area or region within which the project is proposed to be constructed. In the case of an interstate metropolitan or regional area, the plan shall be certified by the respective Governors or their designees. Such plan must meet the requirements set forth in § 35.105–2.

§ 35.835–4 Adequacy of treatment.

No grant may be awarded unless the applicant provides assurance satisfactory to the Regional Administrator that the proposed project is designed to result in an operable treatment works, or part thereof, which will adequately treat sewage or industrial wastes of a liquid nature in order to abate, control, or prevent water pollution. Such assurance must certify that the treatment works or part thereof, if constructed, operated, and maintained in accordance with plans, designs, and specifications will result in: (a) Substantially complete removal of all floatable and settleable materials; (b) removal of not less than 85 percent of 5-day biochemical oxygen demand of equivalent; (c) substantially complete reduction of pathogenic microorganisms on a continuous basis; and (d) such additional treatment as may be necessary to meet applicable water quality standards, recommendations of the Administrator, or order of a court pursuant to section 10 of the Federal Water Pollution Control Act: *Provided*, That in the case of a project which will discharge wastes into open ocean waters through an ocean outfall, the Administrator may waive the requirements of subparagraph (b) of this paragraph if he determines that such discharges will not adversely affect the open ocean environment and adjoining shores: *Provided further*, That in the case of a project designed solely to treat or control wet weather combined sewer overflows, the Administrator may waive the requirements of subparagraphs (b) and (c) of this section if he finds such project to be consistent with river basin and regional or metropolitan plans to meet approved water quality standards.

§ 35.835–5 Industrial waste treatment.

(a) Where a project will treat industrial wastes, a grant may be awarded at the discretion of the Regional Administrator: *Provided*, That such project is included in a waste treatment system treating the wastes of the entire community, metropolitan area, or region concerned. For the purposes of this section, "waste treatment system" means one or more treatment works which provide integrated, but not necessarily interconnected, waste disposal for a community, metropolitan area or region.

(b) Where industrial wastes are to be treated by the proposed project, no grant may be awarded unless the applicant provides assurance satisfactory to the Regional Administrator that such applicant will require pretreatment of any industrial waste which would otherwise be detrimental to the treatment works or its proper and efficient operation and maintenance, or will otherwise prevent the entry of such waste into the treatment plant.

(c) Where industrial wastes are to be treated by the proposed project, no grant may be awarded unless the applicant provides assurance satisfactory to the Regional Administrator that the applicant has, or will have in effect when the project will be operated, an equitable system of cost recovery. Such system of cost recovery may include user charges, connection fees, or such other techniques as may be available under State and local law. Such system shall provide for an equitable assessment of costs whereby such assessments upon dischargers of industrial wastes correspond to the cost of the waste treatment, taking into account the volume and strength of the industrial, domestic, commercial wastes, and all other waste discharges treated, and techniques of treatment required. Such cost recovery system shall produce revenues, in proportion to the percentage of industrial wastes, proportionately, relative to the total waste load to be treated by the project, for the operation and maintenance of the treatment works, for the amortization of the applicant's indebtedness for the cost of such treatment works, and for such additional costs as may be necessary to assure adequate waste treatment on a continuing basis. For purposes of this section "industrial waste" shall mean the waste discharges (other than domestic sewage) of industries identified in the "Standard Industrial Classification Manual," Bureau of the Budget, 1967, as amended and supplemented, under the category "Division D—Manufacturing," and such other wastes as the Regional Administrator deems appropriate for purposes of this section.

§ 35.835–6 Design.

No grant may be awarded unless the Regional Administrator determines that the proposed treatment works is designed so as to achieve economy, efficiency, and effectivenes in the prevention or abatement of pollution or enhancement of the quality of the water into which such treatment works effluent will discharge and meet such requirements as the Administrator may publish from time to time concerning treatment works design.

§ 35.835–7 Operation and maintenance.

No grant may be awarded unless the applicant has made provision satisfactory to the Regional Administrator that the treatment works will be maintained and operated in accordance with such

requirements as the Administrator may publish from time to time concerning methods, techniques and practices for economic, and efficient, effective operation and maintenance of treatment works. Such provision shall include, but not be limited to, (a) an operation and maintenance manual, including emergency readiness plan, (b) properly trained personnel, and (c) operational reports.

§ 35.835–8 Operation during construction.

Where an existing waste treatment facility is to be modified or enlarged, no grant may be awarded unless the applicant provides assurance satisfactory to the Regional Administrator that the treatment works will be operated during construction to obtain optimum treatment of sewage.

§ 35.835–9 Postconstruction inspection.

No grant may be awarded unless the State Water Pollution Control Agency provides assurance satisfactory to the Regional Administrator that the State will inspect the treatment works not less frequently than annually for the 3 years after such treatment works is constructed and periodically thereafter to determine whether such treatment works is operated and maintained in an efficient, economic, and effective manner.

§ 35.840 Supplemental grant conditions.

In addition to the EPA general grant conditions (Appendix A to this subchapter), each wastewater treatment works construction grant shall be subject to the following conditions:

(a) All measures required to minimize water pollution to affected waters shall be undertaken in the planning and construction processes of the treatment plant to be financed in part by the Federal grant. To achieve this end, regard shall be given to the selection of a plant-site compatible with the protection of the natural environment and the watershed natural cover, engineering and work measures to assure minimal siltation and bank erosion from the construction process, and other measures which reduce water pollution to a minimum.

(b) Construction work will be performed by the lump sum (fixed) price or unit price contract method; adequate methods of advertising for and obtaining sealed competitive bids will be employed prior to award of the construction contract; and the award of the contract will be made to the responsible bidder submitting the lowest responsive bid, which shall be determined without regard to State or local law whereby preference is given on factors other than the amount of the bid.

(c) The project will not be advertised or placed on the market for bidding until the final plans and specifications have been approved by the Regional Administrator, and the appropriate State water pollution control agency and the applicant has been so notified.

(d) On construction contracts exceeding $100,000, the contractor must furnish performance and payment bonds, each of which shall be in an amount not less than 100 per centum of the contract price. Construction contracts less than $100,000 shall follow the State or local requirements relating to bid guarantees, performance bonds, and payment bonds. In all cases, the contractor must maintain during the construction phase of the contract adequate fire and extended coverage, workmen's compensation, public liability and property damage insurance. Proceeds of the performance and payment bonds and fire and extended coverage insurance shall, in the discretion of the Regional Administrator, be applied to meet the cost of construction of the project.

(e) The construction of the project, including the letting of contracts in connection therewith, shall conform to the applicable requirements of State, territorial, and local laws and ordinances except as provided in § 35.840 (b) and (d).

(f) Any construction contract must provide that representatives of the Environmental Protection Agency and the State will have access to the work whenever it is in preparation or progress and that the contractor will provide proper facilities for such access and inspection. The contract must also provide that the Grants Officer, the Comptroller General of the United States, or any authorized representative shall have access to any books, documents, papers, and records of the contractor which are pertinent to the project for the purpose of making audit, examination, excerpts, and transcriptions thereof.

(g) The grantee will provide and maintain competent and adequate engineering supervision and inspection for the project to insure that the construction conforms with the approved plans and specifications.

(h) The applicant will demonstrate to the satisfaction of the Regional Administrator that he has or will have a fee simple or such other estate or interest in the site of the project, and rights of access, as the Regional Administrator finds sufficient to assure undisturbed use and possession for the purpose of construction and operation for the estimated life of the project; and in the case of projects serving more than one municipality, that the participating communities have such interests or rights as the Regional Administrator finds sufficient to assure their undisturbed utilization of the project for the estimated life of the project.

(i) The grantee agrees to construct the project or cause it to be constructed in accordance with the application and plans and specifications approved by the Regional Administrator.

(j) In addition to the notification of project changes pursuant to 40 CFR 30.900–1, a copy of any construction contract, or modifications thereof, and of revisions to plans and specifications must be submitted to the Regional Administrator through the State water pollution control agency.

(k) In addition to the notification of project changes required pursuant to 40 CFR 30.900–1, prior approval by the Regional Administrator and the State water pollution control agency is required for project changes which (i) substantially alter the design and scope of the project, (ii) alter the type of treatment to be provided, (iii) substantially alter the location, size, capacity, or quality of any major items of equipment; or (iv) increase the amount of Federal funds needed to complete the project: *Provided*, That prior EPA approval is not required for changes to correct errors, minor changes, or emergency changes. No approval or disapproval of a project change pursuant to 40 CFR 30.900 or this section shall commit or obligate the United States to any increase in the amount of the grant or payments thereunder, but shall not preclude submission or consideration of a request for a grant amendment pursuant to 40 CFR 30.901.

§ 35.845 Payments.

Installment payments of the Federal grant shall be made upon request of the applicant and shall be based on the cost of the work performed, materials and equipment furnished, and services rendered in connection with an approved project. Payments will generally be made in four installments, except as the Regional Administrator may otherwise direct. Final payment will be made only after a final inspection by an EPA representative upon completion of the project.

§ 35.850 Reimbursement [Reserved].

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