Vol.40—No.159
8–15–75
PAGES
34333–34582

federal register

FRIDAY AUGUST 15, 1975

highlights

PART I:

POWER RATES
Interior/Reclamation final public participation procedure for general adjustments 34431

MIGRATORY BIRD HUNTING
Interior/FWS proposes waterfowl frameworks for 1975–76 season; comments by 8–25–75 34361

PRIVACY ACT
SEC proposes implementation and exemption rules (2 documents); comments by 9–12–75 ..... 34417, 34418

CONTINUED INSIDE

PART II:

MEDICARE
HEW/PHS and SSA regulate allowable cost for drugs (2 documents); effective 4–26–76 ..... 34512, 34513

PART III:

MEDICAID
HEW/SRS issues limits for reimbursement for prescribed drugs in State programs; effective 4–26–76 34515

PART IV:

SECONDARY TREATMENT INFORMATION
EPA proposal on effluent reduction; comments by 10–14–75 34522
EPA publishes information on domestic wastewater disinfection 34524

PART V:

EMPLOYMENT RETIREMENT INCOME SECURITY ACT
Labor/EBS reporting and disclosure guidelines and effective dates of certain exceptions; effective 8–15–75 34525

PART VI:

MINIMUM WAGES
Labor/ESA determinations for Federal and federally assisted construction 34537

reminders

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

Rules Going Into Effect Today

DOT/FAA—Airworthiness directives; Dowty Rotol..... 29815; 7–16–75
EPA—National pollutant discharge elimination system; miscellaneous amendments. 29848; 7–16–75
FHLBB—Regulated activities; transactions with affiliates..... 29703; 7–15–75
HEW/SSA—Medicare; periodic interim payments to providers..... 29815; 7–16–75
USDA/AMS—Specialty crops; import regulations; walnuts..... 29262; 7–11–75

ATTENTION: Questions, corrections, or requests for information regarding the contents of this issue only may be made by dialing 202–523–5282. For information on obtaining extra copies, please call 202–523–5240. To obtain advance information from recorded highlights of selected documents to appear in the next issue, dial 202–523–5022.

federal register
Area Code 202 Phone 523–5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $5.00 per month or $45 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

RAIL SAFETY
DOT/FRA standard for box and other house cars; effective 1–1–76 34347

TEMPORARY FOREIGN AGRICULTURAL LABOR
Labor/MA wage rates; effective 9–15–75 34336

DANGEROUS CARGOES
DOT/CG allows transport of unslaked lime; effective effective 9–15–75 34340

PUBLIC INTEREST GROUPS
FCC adopts mailing list for notification of agency actions 34461

CABLE TV
FCC proposal on network exclusivity protection; comments by 9–22–75 34395
FCC rule for cablecasting of programs for which a per-program or per-channel charge is made; effective 9–22–75 34341

NON COMMERCIAL EDUCATIONAL BROADCAST LICENSES
FCC proposal on ascertainment of community problems by applicants; comments by 9–15–75 34382

EFFLUENT LIMITATION GUIDELINES
EPA proposes to amend rules for organic chemicals manufacturing point source category; comments by 9–15–75 34409

SOCIAL SERVICES
HEW/SRS announces expiration of waivers of single State agency requirements 34445

SUPPLEMENTAL SECURITY INCOME
HEW/SSA provides for administrative review of actions on attorney fees; effective 8–15–75 34335

INCOME TAX
Treasury/IRS rule relating to valuation of remainder interests in depreciable or depletable real property 34337
Treasury/IRS proposal on notification of interested parties regarding qualification of retirement plans; hearing 9–16–75; comments by 9–5–75 34352

MOTOR VEHICLE SAFETY
DOT/NHTSA amends exterior protection standard, and stays effective date of low-corner impact requirements until 9–1–76 34347

BUSINESS AND INDUSTRIAL LOANS
USDA/FmHA proposal consolidating and expanding program; comments by 9–15–75 34368

RURAL HOUSING
USDA/FmHA proposes to revise loan and grant regulations pertaining to conditional commitments; comments by 9–15–75 34404

MIDWAY ISLANDS
DOD/NAVY proposes civil administration code; comments by 9–30–75 34352

MEETINGS:
USDA/CSRS: Cooperative Forestry Research Advisory Committee, 9–28–75 34433
CRC: State Advisory Committee meetings for September (10 documents) 34449, 34450
Commerce/Census: American Statistical Association Census Advisory Committee, 9–18 and 9–19–75 34433
Privacy and Confidentiality Advisory Committee, 9–22–75 34434
DOD: Electron Devices Advisory Group, 9–10–75 34424
EPA: National Air Pollution Control Techniques Advisory Committee, 9–3 and 9–4–75 34454
FEA: Conference to Discuss Power Plant Productivity, 9–17–75 34469
HEW/HRA: Committee on Vital and Health Statistics, 9–24 through 9–26–75 34442
Interior/NPS: Historic American Buildings Survey Advisory Board, 9–12 and 9–13–75 34431
VA: Cemeteries and Memorials Advisory Committee, 9–8 and 9–9–75 34425
Central Office Education and Training Review Panel, 9–8–75 34490

CORRECTED MEETINGS:
Justice/LEAA: National Advisory Committee on Criminal Justice Standards and Goals, 8–22–75 34425

contents

AGRICULTURAL MARKETING SERVICE
Rules
Inspection of grain in ships; correction 34349
Limitations of handling and shipments:
Lemons grown in Calif. and Ariz 34349
Bartlett Pears (fresh) grown in Oregon and Washington 34350

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE
Rules
Price determination:
Cotton; price support payment factor and rate, 1975 crop 34349

AGRICULTURE DEPARTMENT
See Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Cooperative State Research Service; Farmers Home Administration; Packers and Stockyards Administration.

CENSUS BUREAU
Notices
Meetings:
American Statistical Association Census Advisory Committee 34433
Privacy and Confidentiality Census Advisory Committee 34434

CIVIL AERONAUTICS BOARD
Notices
Hearings, etc.:
Ceskoslovenske Aerolinie 34446
Delta Air Lines, Inc 34447
International Air Transport Association (2 documents) 34448, 34449

CIVIL RIGHTS COMMISSION
Notices
Meetings; State advisory committees:
Connecticut 34449
Delaware 34449
Illinois 34449
Maine (2 documents) 34449
Maryland (2 documents) 34449, 34450
New Jersey 34450
Ohio 34450
Vermont 34450

COAST GUARD
Rules
Unslaked lime; bulk transportation requirements 34340
Proposed Rules
Load line assignment:
Fee schedule revision 34407

COMMITTEE FOR THE PURCHASE OF PRODUCTS FOR THE BLIND AND OTHER SEVERELY HANDICAPPED
Notices
Procurement list, 1975; additions and deletions (2 documents) 34450

COOPERATIVE STATE RESEARCH SERVICE
Notices
Meetings:
Cooperative Forestry Research Advisory Committee 34433

CUSTOMS SERVICE

Notices

Countervailing duty determinations; amendments 34423
Countervailing duty petitions:
Cheese from Finland 34423
Cheese from Sweden 34423
Foreign currencies; certification of rates 34423
Reimbursable services; excess cost of pre-clearance operations 34423

DEFENSE DEPARTMENT

See also Navy Department.

Notices

Meetings:
Electron Devices Advisory Group 34424

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Notices

Scientific articles; duty free entry:
Army Institute of Dental Research, et al 34434
Indiana University 34437
Mayo Foundation, et al 34440
National Radio Astronomy Observatory 34437
New York State Department of Health, et al 34437
V.A. Hospital, Memphis 34440

EDUCATION OFFICE

Notices

National Advisory Council on Indian Education; membership nominations 34441

Employee Benefits See Off (see Hefor Dept.)

EMPLOYMENT STANDARDS ADMINISTRATION

Notices

Minimum wages for Federal and Federally assisted construction; general wage determination decisions 34537

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Notices

Environmental statements:
Light water breeder reactor program 34453

ENVIRONMENTAL PROTECTION AGENCY

Rules

Tetraethyl pyrophosphate; pesticide programs 34340

Proposed Rules

Air quality implementation plans:
Florida 34408
Nevada 34408
Radiation protection standards for nuclear power operations; extension of comment period 34417
Water pollution, effluent guidelines for certain point source categories; manufacturing, processing, etc.:
Organic chemicals 34409
Water pollution control:
Secondary treatment information 34522

Notices

Meetings:
National Air Pollution Control Techniques Advisory Committee 34454
Pesticide registration:
Applications 34454
Heptachlor and chlordane; clarification of evidence and intent to suspend and findings of hazard (2 documents) 34455, 34456
Sodium cyanide; application for use in M-44 for predator control 34455
Water pollution:
Domestic wastewater disinfection 34524

ENVIRONMENTAL QUALITY COUNCIL

Notices

Environmental statements:
Availability 34450

FARMERS HOME ADMINISTRATION

Proposed Rules

Business and industrial loans:
Clarification and expansion of procedures 34368
Rural housing loans:
Conditional commitments 34404

FEDERAL AVIATION ADMINISTRATION

Rules

Airworthiness directives:
Beech 34333
Cessna 34333
Restricted areas 34334
Standard instrument approach procedures 34335
Transition areas (4 documents) 34333, 34334

FEDERAL COMMUNICATIONS COMMISSION

Rules

Cable television:
Subscription cablecasting; sports events and programs for which a per-program or per-channel charge is made 34341
FM broadcast stations; table of assignments:
Kentucky and Illinois 34341
Organizations and functions:
Chief, Common Carrier Bureau 34340

Proposed Rules

Cable television systems:
Network program exclusivity protection 34395
FM broadcast stations; table of assignments:
Minnesota 34391
New Hampshire and Vermont 34393
Pennsylvania 34394
Noncommercial educational broadcasting licenses:
Applications and policies 34382
Television stations; table of assignments:
Puerto Rico 34396

Notices

Common carriers services; domestic public radio services:
Information; applications accepted for filing 34459
Public interest mailing list 34461
Hearings, etc.:
Crosby, Boyd N., et al, and Perpetual Corp of Delaware 34461

FEDERAL ENERGY ADMINISTRATION

Notices

Meetings:
Power Plant Productivity 34469

FEDERAL MARITIME COMMISSION

Proposed Rules

Common carriers, conferences, and member carriers of rate agreements; submission of revenue cost data concerning general rate increases and certain surcharges, correction 34417

Notices

Freight forwarder licenses:
Murray, James F., et al 34470
Agreements filed:
City of Los Angeles Harbor Department and Matson Terminals, Inc 34469
Maryland Port Administration and Maher Terminals, Inc 34470
Pan Islamic Steamship Co., Inc., et al 34470
Philippines North American Conference 34471

FEDERAL POWER COMMISSION

Notices

Environmental statements:
Alabama Power Co 34471
Hearings, etc.:
Alabama Power Co 34471
Central Hudson Gas & Electric Corp., et al 34472
Central Illinois Public Service Co. (2 documents) 34472
Columbus and Southern Ohio Electric Co 34472
Consolidated Gas Supply Corp., et al 34472
Dorchester Gas Producing Co 34473
Excelsior Oil Corp 34473
Georgia Power Co 34474
Hartford Electric Light Co (2 documents) 34474
Illinois Power Co 34474
Jurisdictional Sales of Natural Gas (2 documents) 34475, 34476
Louisiana-Nevada Transit Co. (2 documents) 34477
Marathon Oil Co., et al 34477
Michigan Wisconsin Pipe Line Co 34478
Minnesota Power & Light Co 34478
Montaup Electric Co. (2 documents) 34478, 34481
Natural Gas Pipeline Co. of America 34479
Northern Natural Gas Co 34479
Puget Sound Power & Light Co 34479
St. Regis Paper Co 34479
Tennessee Gas Pipeline Co 34479
Texas Eastern Transmission Corp 34479
Toledo Edison Co. (2 documents) 34480, 34481
Transcontinental Gas Pipe Line Corp 34480
Union Electric Co 34480
Virginia Electric & Power Co 34481

FEDERAL RAILROAD ADMINISTRATION

Rules

Box and other house cars; safety appliance standards 34347

FEDERAL RESERVE SYSTEM

Notices

Applications, etc.:

Alabama Bancorp 34482
Boulevard Bancshares, Inc 34482
Chemical Financial Corp 34482

FISH AND WILDLIFE SERVICE

Rules

Hunting:

Cibola National Wildlife Refuge, Ariz. and Calif 34348
Rice Lake National Wildlife Refuge, Minn 34348
Santee National Wildlife Refuge, S.C 34348

Proposed Rules

Hunting regulations:

Migratory birds 34361

FOOD AND DRUG ADMINISTRATION

Proposed Rules

Human drugs:

Abbreviated application requirements; extension of comment period 34406
Bioequivalence requirement; extension of comment period 34407
Enforcement policy; extension of comment period 34406
In vivo bioavailability; extension of comment period 34407

GENERAL ACCOUNTING OFFICE

Notices

Regulatory reports review; proposals; approvals, etc 34483

GEOLOGICAL SURVEY

Notices

Geothermal resources areas, operations, etc:

Central and western regions 34427
Produced water; disposal 34425

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Education Office; Food and Drug Administration; Health Resources Administration; Public Health Service; Social and Rehabilitation Service; Social Security Administration.

Notices

Organization, functions, and authority delegations:

Administration Office 34443
Assistant Secretary for Planning and Evaluation 34442
Assistant Secretary for Health 34442
Facilities Engineering and Property Management Office 34443
Social and Rehabilitation Service 34444

HEALTH RESOURCES ADMINISTRATION

Notices

Meetings:

Committee on Vital And Health Statistics 34442

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Interstate Land Sales Registration Office.

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Geological Survey; Land Management Bureau; National Park Service; Reclamation Bureau.

Proposed Rules

Recreation fees:

Hunting blinds rentals 34368

Notices

Environmental statement:

Alaska Natural Gas Transportation System 34432

INTERNAL REVENUE SERVICE

Rules

Valuation of remainder interests in property 34337

Proposed Rules

Income tax:

Qualification of certain retirement plans, public hearings 34352

INTERSTATE COMMERCE COMMISSION

Rules

Filing and publishing joint rates over international-domestic routes; correction 34348

Notices

Abandonment of service:

Chicago and North Western Transportation Co 34498
Chicago, Milwaukee, St. Paul and Pacific Railway Co 34498
Illinois Central Gulf Railroad Co 34499
Seaboard Coast Line Railroad Co 34499

Hearing assignments 34497

Motor carriers:

Board transfer proceedings 34499
Bud's Moving & Storage, Inc.; petition for declatory order 34497

INTERSTATE LAND SALES REGISTRATION OFFICE

Notices

Land developers; investigatory hearings, orders of suspension, etc.:

Chimney Ranch 34445
Groves, Joshua 34446

LABOR DEPARTMENT

See also Employment Standards Administration; Manpower Administration; Occupational Safety and Health Administration; Wage and Hour Division.

Rules

Coverage; reporting and disclosure requirements 34525

Notices

Adjustment assistance:

Chrysler Corp 34491
International Shoe Co 34491
General Motors Corp 34492
Midland Ross Corp 34492
Westinghouse Corp 34493

LAND MANAGEMENT BUREAU

Notices

Environmental Statements:

Outer Continental Shelf 34425

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Notices

Meetings:

National Advisory Committee on Criminal Justice Standards and Goals 34425

MANAGEMENT AND BUDGET OFFICE

Notices

Clearance of reports; list of requests (2 documents) 34486, 34487

MANPOWER ADMINISTRATION

Rules

Wage rates for temporary foreign agricultural labor 34336

MARITIME ADMINISTRATION

Notices

Applications, etc.:

Mathiasen's Tanker Industries, Inc 34441

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Rules

Motor vehicle safety standards:

Exterior protection 34347

NATIONAL PARK SERVICE

Notices

Meetings:

Historic American Buildings Survey Advisory Board 34431

NAVY DEPARTMENT

Proposed Rules

Midway Islands Code; administrative, criminal, and civil provisions 34352

NUCLEAR REGULATORY COMMISSION

Notices

Applications, etc.:

Bush, Spencer 34483
Iowa Electric Light and Power Co. et al 34485
Lawroski, Stephen 34483
Omaha Public Power District 34485
Stratton, William R 34483
Virginia Electric and Power Co. (2 documents) 34484

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Notices

Applications, etc.:

Stone Container Corp 34490

State plans for enforcement of standards:

Washington 34491

PACKERS AND STOCKYARDS ADMINISTRATION

Notices

Posting and deposting of stockyards:

Moores' Livestock Auction, Norco, Ga., et al 34433
Davis Ranch Horse Sale, Ft. Morgan, Col., et al 34433

PUBLIC HEALTH SERVICE

Rules

Maximum allowable cost for drugs; policies of general applicability 34513

RECLAMATION BUREAU

Notices

Power rates adjustments; final procedures for public participation 34431

SECURITIES AND EXCHANGE COMMISSION

Proposed Rules

Money market fund:
Standardized yield quotations, extension of time 34422
Net capital requirements; application, correction 34422
Privacy Act of 1974:
Exemptions 34417
Implementation 34418

Notices

Hearings, etc.:
BBI, Inc 34488
Connecticut Light and Power Co 34488
Delmarva Power & Light Co 34488
Potomac Edison Co 34489
Royal Properties Inc 34489

SOCIAL AND REHABILITATION SERVICE

Rules

Limits on payments for drugs 34515

Notices

Social services programs; expiration of waivers 34445
Work Incentive Program; funding limits; correction 34443

SOCIAL SECURITY ADMINISTRATION

Rules

Health insurance for the aged and disabled:
Allowable cost for drugs 34512
Supplemental security income for the aged, blind, and disabled:
Administration review of action with respect to attorney fees 34335

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Aviation Administration; Federal Railroad Administration; National Highway Traffic Safety Administration.

TREASURY DEPARTMENT

See also Customs Service; Internal Revenue Service.

Notices

Antidumping:
Knitting machinery for ladies' seamless hosiery from Italy 34424
Authority delegation:
Director, Office of Administrative Programs, et al 34424

VETERANS ADMINISTRATION

Notices

Meetings:
Cemeteries and Memorials Advisory Committee 34490
Education and Training Review Panel 34490

WAGE AND HOUR DIVISION

Notices

Students, full time; certificates authorizing employment at subminimum wages (2 documents) 34493

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, follows 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, 1974, and specifies how they are affected.

7 CFR

26 34349
722 34349
910 34349
931 34350

PROPOSED RULES:

1822 34404
1842 34368

14 CFR

39 (2 documents) 34333
71 (4 documents) 34333, 34334
73 34334
97 34335

17 CFR

PROPOSED RULES:

200 (2 documents) 34417, 34418
230 34422
240 (2 documents) 34422

20 CFR

405 34512
416 34335
602 34336

21 CFR

PROPOSED RULES:

310 34406
314 (3 documents) 34406, 34407
320 (2 documents) 34407

26 CFR

1 34337
20 34337
25 34337

PROPOSED RULES:

1 34352
301 34352

29 CFR

2510 34526
2520 34526

32 CFR

PROPOSED RULES:

762 34352

40 CFR

180 34340

PROPOSED RULES:

52 (2 documents) 34408
133 34522
190 34417
414 34409

42 CFR

50 34513

43 CFR

PROPOSED RULES:

18 34368

45 CFR

250 34516

46 CFR

146 34340

PROPOSED RULES:

42 34407
536 34417

47 CFR

0 34340
73 34341
76 34341

PROPOSED RULES:

1 34382
73 (4 documents) 34391, 34393, 34394, 34396
76 34395

49 CFR

231 34347
571 34347
Ch. X 34348

50 CFR

32 (3 documents) 34348

PROPOSED RULES:

20 34361

CUMULATIVE LIST OF PARTS AFFECTED—AUGUST

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 August.

1 CFR

Ch. I 32305

PROPOSED RULES:

410 33177

3 CFR

PROCLAMATIONS:

4335 (Revoked in Part by Proc. 4382) 33425

4382 33425

EXECUTIVE ORDERS:

11875 33961

4 CFR

351 ..... 32747, 33819

403 ..... 32747, 33819

411 32823

5 CFR

213 ..... 32727, 32823, 33963

1303 32727

PROPOSED RULES:

1302 34165

7 CFR

2 33023

26 ..... 32942, 33427, 34349

68 33649

271 33195

301 33026

722 34349

908 ..... 33195, 34113

910 ..... 32305, 33430, 34349

915 ..... 32306, 32823, 33963

917 33196

921 32730

922 32730

923 33028

926 33964

931 34350

944 32824

947 32730

948 ..... 33964, 34113–34114

958 ..... 32307, 33649

967 33196

980 ..... 32308, 33964

1434 32732

1804 32309

1808 33197

PROPOSED RULES:

1 32756

52 33043

919 32338

946 33458

993 33047

1098 32338

1099 ..... 32751, 33458

1251 33982

1822 ..... 33222, 34404

1842 34368

8 CFR

211 34106

212 33431

214 32312

9 CFR

78 32732

92 33649

9 CFR—Continued

PROPOSED RULES:

101 32753

113 ..... 32753, 32754

10 CFR

20 33029

50 33029

70 33651

205 32734

PROPOSED RULES:

9 33833

20 33838

50 33838

211 ..... 33832, 34162

212 ..... 32348, 33832, 34161, 34162

213 33474

11 CFR

Ch. I 32950, 33817

PROPOSED RULES:

106 33169

113 32951

12 CFR

11 32735

217 32736

265 32737

329 33198

523 33029

555 32313

564 33030

612 33030

PROPOSED RULES:

226 32350

541 33054

545 ..... 33054, 34162

546 33054

581 33055

582 33055

582a 33055

582b 33055

603 33831

615 33832

720 33410

13 CFR

121 32824

123 33474

305 32738

14 CFR

39 ..... 32314–32318, 32738–32740, 32827–32829, 33007–33010, 33198, 33432, 33653, 33654, 33819, 34333

63 32829

71 ..... 32318, 32319, 32740–32742, 33010, 33199, 33435, 33654, 33655, 33819, 33965, 34087, 34333, 34334

73 ..... 33655, 34334

75 34087

97 ..... 32320, 33199, 34335

207 34088

208 34088

212 34088

214 34088

217 33435

378a 34089

389 34105

14 CFR—Continued

PROPOSED RULES:

39 ..... 32342, 32343, 32837–32838, 33049–33052, 33682, 34139

71 ..... 32343–32346, 32758, 32839, 33223, 33224, 33461, 33997, 33998, 34140–34141

103 32758

15 CFR

9 33966

265 32830

1202 34107

PROPOSED RULES:

4b 32960

16 CFR

1 33966

3 33969

4 33970

13 ..... 33200, 33201, 33656–33658, 34110

256 33436

1116 32830

PROPOSED RULES:

4 34162

257 33832

302 32845

439 32764

1016 32346

17 CFR

210 33032

270 33970

PROPOSED RULES:

145 34146

146 32839

200 ..... 34152, 34417, 34418

210 33690

230 34422

239 33690

240 ..... 33690, 34422

249 33690

18 CFR

706 32818

PROPOSED RULES:

2 33998

35 32763

101 33999

104 33999

141 33999

154 33998

157 33998

201 33999

204 33999

260 33999

19 CFR

4 32742

6 33203

12 32321

PROPOSED RULES:

4 33038

10 32751

206 34005

207 34005

20 CFR
405 ... 32742, 33033, 33439, 34512
416 ... 34535
602 ... 34536
PROPOSED RULES:
401 ... 33828
405 ... 33828
416 ... 33222

21 CFR
3 ... 33971
26 ... 33820
310 ... 34110
312 ... 33971
314 ... 33971
436 ... 33204
510 ... 33443, 34111
520 ... 32831
522 ... 34111
558 ... 32831, 33443, 34111, 34112
561 ... 33033, 33820
610 ... 33821
640 ... 33821
660 ... 33821
PROPOSED RULES:
210 ... 33564
225 ... 33554
310 ... 33459, 34406
314 ... 34406, 34407
320 ... 34407
431 ... 33680
1020 ... 33828

22 CFR
41 ... 33444
201 ... 34112
214 ... 33205

23 CFR
712 ... 33445

24 CFR
470 ... 33209
860 ... 33445
866 ... 33402, 33406
1914 ... 33010, 33447
1915 ... 33669, 33674, 33821
1916 ... 34122
1917 ... 34122–34126
1920 ... 33210–33213
PROPOSED RULES:
203 ... 33681
1917 ... 33223

25 CFR
221 ... 33214

26 CFR
1 ... 33972, 34337
20 ... 34337
25 ... 34337
31 ... 32831
601 ... 32322
PROPOSED RULES:
1 ... 34128, 34352
54 ... 34129
301 ... 34352

27 CFR
PROPOSED RULES:
4 ... 33982

28 CFR
0 ... 33214
16 ... 33214
50 ... 34114

29 CFR
1952 ... 33972
2510 ... 34526
2520 ... 34526
PROPOSED RULES:
29 ... 33052
97 ... 33920
1952 ... 33995
2510 ... 33561
2602 ... 33838
2606 ... 33839

32 CFR
706 ... 33034
PROPOSED RULES:
641 ... 32837
762 ... 34352

32A CFR
PROPOSED RULES:
Chapter VI ... 33996

33 CFR
117 ... 32328, 32329, 33449–33450
127 ... 32831, 33034, 33972
183 ... 33973
PROPOSED RULES:
117 ... 32837, 33828

34 CFR
232 ... 32329

36 CFR
606 ... 32744
PROPOSED RULES:
7 ... 33222

38 CFR
1 ... 33944
21 ... 33823

39 CFR
PROPOSED RULES:
261 ... 34167
263 ... 34167
264 ... 34167

40 CFR
52 ... 32329, 33034, 33215, 33450–33452, 33973
60 ... 33152
85 ... 33973
86 ... 33973
162 ... 32329, 33973
180 ... 32746, 33035, 33453, 33659, 34340
PROPOSED RULES:
35 ... 33224
52 ... 32346, 32347, 32761, 34408
120 ... 33470
133 ... 34522
141 ... 34324
142 ... 33228
180 ... 32348
190 ... 34417
414 ... 34409
418 ... 33052

41 CFR
9–7 ... 32746
9–15 ... 32746
14–1 ... 33216
14–4 ... 33216
14H–1 ... 33454
101–26 ... 33035
101–32 ... 33454

41 CFR—Continued
101–45 ... 33216
114–42 ... 33217
114–43 ... 33217
114–45 ... 33217
114–47 ... 33217
PROPOSED RULES:
60–12 ... 33680
60–14 ... 33680
101–32 ... 32761
105–61 ... 33243

42 CFR
23 ... 34078
50 ... 34513
71 ... 33659
110 ... 33520
PROPOSED RULES:
36 ... 34292
306 ... 33526

43 CFR
4 ... 33172
2650 ... 33174
PROPOSED RULES:
18 ... 34368

45 CFR
16 ... 33936
46 ... 33526
156 ... 32329
166 ... 34114
177 ... 34115
205 ... 32954, 33217
206 ... 32954
233 ... 32954
235 ... 33035
250 ... 33036, 34516
PROPOSED RULES:
5b ... 34129
102 ... 33047
144 ... 32540
160f ... 33802
175 ... 32540
176 ... 32540
190 ... 34330
201 ... 34138
233 ... 33461

46 CFR
10 ... 33974
12 ... 33974
146 ... 34340
283 ... 32832
506 ... 33976
PROPOSED RULES:
Ch. 1 ... 33681
32 ... 33996
33 ... 32339
35 ... 33996
42 ... 34407
75 ... 32339
78 ... 32339
94 ... 32339
97 ... 32339
146 ... 32341, 32758
167 ... 32339
176 ... 32339
192 ... 32339
536 ... 33688, 34417

47 CFR

0 ..... 33217, 34115, 34340
1 ..... 33218, 34117
2 ..... 32746, 33454, 34117
15 34117
17 33662
73 ..... 33218, 33662, 33665, 34118, 34341
76 ..... 33664, 34341
87 ..... 33219, 33667
89 33454
91 ..... 32747, 33454
95 33667

PROPOSED RULES:

0 33239
1 ..... 33239, 33242, 33685, 34382
2 ..... 33471, 34155
61 33685
73 ..... 32762, 32763, 33243, 33686, 34391, 34393, 34394, 34396
76 ..... 34155, 34395
89 ..... 33471, 34155, 34161
91 ..... 33471, 34155

49 CFR

1 33976
173 33036
231 34347
391 32335
393 32336
395 32336
571 ..... 32336, 33036, 33825, 33977, 34347
Ch. X 34348
1033 ..... 33037, 33977
1036 33220
1056 34119
1300 32832
1305 32834
1307 32834
1308 32836

PROPOSED RULES:

10 34142
107 32758

49 CFR—Continued

PROPOSED RULES—Continued

170 32758
220 33682
571 33828
572 33462
1048 33840
1049 33840
1207 33244
1300 32350
1305 32350
1307 32350
1309 32350

50 CFR

17 33978
20 33016
32 ..... 33220, 33221, 33978, 34119–34121, 34348
33 ..... 33221, 34121–34122
285 33978

PROPOSED RULES:

20 34361

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	*Date*
32305–32725	1
32727–32822	4
32823–33006	5
33007–33193	6
33195–33423	7
33425–33647	8
33649–33817	11
33819–33959	12
33961–34085	13
34087–34331	14
34333–34582	15

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-CE-21-AD; Amdt. 39-2339]

PART 39—AIRWORTHINESS DIRECTIVES

Beech 19, 23 and 24 Series Airplanes

Reports have been received of an improper attachment of the carburetor heat control and the carburetor mixture control cable on certain Beech Models 19, 23 and 24 series airplanes. This condition prevents the attaching bolts from pivoting freely in the mounting arm and results in bending of the single wire, moveable portion of these controls each time the control is actuated. Bending of the wire can precipitate a fatigue failure of these control wires which makes it impossible for the pilot/operator to activate the affected mixture or carburetor heat. Failure of these cables could result in engine stoppage. To detect and correct this condition the manufacturer has issued service instructions recommending inspection of the mixture and/or carburetor heat control cables and adjustment of the installation if necessary.

Since the condition described herein is likely to exist or develop in other airplanes of the same type design, an Airworthiness Directive (AD) is being issued applicable to certain serial numbers of Beech Models 19, 23 and 24 series airplanes requiring compliance with the aforementioned service instructions.

Because an unsafe condition is the basis for this action and additional information from the public is unlikely to develop from normal rule making procedures, it appears that notice hereon is impracticable and contrary to the public interest and that good cause exists for making this 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 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

BEECH. Applies to A23-19, 19A, M19A and B19 (Serial Numbers MB-1 thru MB-520), B19 Sport 150 (Serial Numbers MB-521 thru MB-776); 23, A23, A23A, B23 and C23 (Serial Numbers M-1 thru M-1361); C23 Sundowner 180 (Serial Numbers M-1362 thru M-1664); A23-24 and A24 (Serial Numbers MA-1 thru MA-368); A24R (Serial Numbers MC-2 thru MC-95); A24R and B24R Sierra 200 (Serial Numbers MC-96 thru MC-360) airplanes.

Compliance: Required as indicated, unless already accomplished.

To assure proper operation of the carburetor mixture and/or carburetor heat control cables, within the next 50 hours' time in service after the effective date of this AD, accomplish the following:

Visually inspect the mixture and/or carburetor heat control cables to assure freedom of motion and adjust where necessary in accordance with Beechcraft Service Instructions No. 0717-159 or subsequent revisions or by any equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region. Aircraft equipped with fuel injection engines do not have carburetor heat control cables.

This amendment becomes effective August 20, 1975.

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

Issued in Kansas City, Missouri, on August 6, 1975.

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

[FR Doc.75-21405 Filed 8-14-75;8:45 am]

[Docket No. 75-CE-18-AD; Amdt. 39-2273]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna 180, 182, 185, 188, U206, P206 and 207 Series Airplanes; Correction

In FR Doc. 75-19297, appearing on page 30932 in the issue of Thursday, July 24, 1975, on the chart entitled "Revised Fuel Placards" set forth in Paragraph A of the Airworthiness Directive (AD) under the column entitled "Aircraft Model (1973 thru 1975)" following "A188B" add "S/N 01347 thru 02027" and the number "2". Also, add an additional footnote to said chart which reads: "2. Also applies to aircraft incorporating suffix "T" in S/Ns."

Issued in Kansas City, Missouri, on August 5, 1975.

JOHN R. WALLS,
Acting Director,
Central Region.

[FR Doc.75-21404 Filed 8-14-75;8:45 am]

[Airspace Docket No. 75-RM-20]

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

Alteration of Transition Area

On June 2, 1975, a notice of proposed rule making was published in the FEDERAL REGISTER (40 FR 23766) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the transition area at Helena, Montana.

Interested persons were given 30 days in which to submit written comments, suggestions or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective Date. This amendment shall be effective 0901 G.m.t., October 9, 1975.

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

Issued in Aurora, Colorado, on August 15, 1975.

M. M. MARTIN,
Director,
Rocky Mountain Region.

In Federal Aviation Regulation § 71.181 (40 FR 441), the description of the Helena, Montana 1200 foot transition area is amended to read:

* * * and that airspace extending upward from 1200 feet above the surface within a 24 mile radius of the Helena VORTAC; within 6 miles south and 9 miles north of the Helena VORTAC 272° radial, extending from the 24 mile radius area to 45 miles west of the VORTAC; within 15.5 miles west and parallel to the Helena VORTAC 352° radial, extending from the 24 mile radius area to 31 miles north of the VORTAC; within 5 miles east and 9 miles west of the Helena VORTAC 023° radial, extending from the 24 mile radius area to 36 miles northeast of the VORTAC; and within 6 miles south and 9.5 miles north of the Helena VORTAC 102° radial, extending from the 24 mile radius area to 28.5 miles east of the VORTAC.

[FR Doc.75-21406 Filed 8-14-75;8:45 am]

[Airspace Docket No. 75-WE-10]

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

Alteration of Transition Area

On June 24, 1975 a notice of proposed rule making was published in the FEDERAL REGISTER (40 FR 26542) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the San Diego, California Transition Area.

Interested persons were given 30 days in which to submit written comments, suggestions or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t., October 9, 1975.

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

Issued in Los Angeles, California, on August 7, 1975.

LYNN L. HINK,
Acting Director,
Western Region.

In § 71.181 (40 FR 441) the description of the San Diego, California 700 foot transition area is amended to read as follows:

Delete all before "* * *, thence W along the United States/Mexican Border" and substitute therefor "That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 30°15'00" N., longitude 117°30'30" W., to latitude 33°15'00" N., longitude 117°02'00" W., to latitude 33°00'00" N., longitude 116°45'00" W., thence S along longitude 116°45'00" W., to the United States/Mexican Border * * *"

(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, California, on June 16, 1975.

LYNN L. HINK,
Acting Director, Western Region.

[FR Doc.75-21407 Filed 8-14-75;8:45 am]

[Airspace Docket No. 75-NW-14]

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

Alteration of Transition Area

On June 13, 1975, a notice of proposed rulemaking was published in the FEDERAL REGISTER (40 FR 25218) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Spokane, Washington, Transition Area.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through submission of comments. No objections were received, and the proposed amendment is hereby adopted subject to the following changes. These changes are editorial to clarify the narrative description and to correct some typographical errors with regard to airway identifiers. The areas were accurately depicted in the chart circularized with the NPRM. Since the changes impose no additional burden on any person, notice and public procedures hereon is unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended as hereinafter set forth:

In § 71.181 (40 FR 441) the description of the Coeur d'Alene, Idaho, Transition Area is deleted and the description of the Spokane, Washington, Transition Area is amended to read:

SPOKANE, WASHINGTON

That airspace extending upward from 700 feet above the surface, bounded on the north by a line beginning at Latitude 47°50' N., Longitude 118°00' W., extending to Latitude 47°50' N., Longitude 117°30' W., to Latitude 47°58' N., Longitude 117°16' W., to Latitude 47°51' N., Longitude 117°08' W., to Latitude 47°56' N., Longitude 116°47' W., to Latitude 47°44' N., Longitude 116°41' W., to Latitude 47°37' N., Longitude 117°13' W., to Latitude 47°28' N., Longitude 117°16' W., to Latitude 47°17' N., Longitude 117°47' W., to Latitude 47°26' N., Longitude 118°00' W.; thence to point of beginning; that airspace extending upward from 1200 feet above the surface within a 52-mile radius of Fairchild AFB (Latitude 47°36'55" N., Longitude 117°39'20" W.) excluding that portion southeast of Spokane bounded on the north by the arc of a 38-mile radius circle centered on the Fairchild AFB, on the northeast by V-28, on the southeast by the arc of the 52-mile radius area, on the southwest by a line parallel to and 10 miles northeast of V-253; that airspace south of Spokane extending from the 52-mile radius area bounded on the east by V-253, on the south by V-536, on the west by the east edge of V-112E; that airspace southeast of Spokane extending upward from 6000 feet MSL, bounded on the north by the arc of a 38-mile radius circle centered on the Fairchild AFB on the northeast by V-28, on the southeast by the arc of the 52-mile radius area, on the southwest by a line parallel to and 10 miles northeast of V-253; that airspace southeast of Spokane extending upward from 7000 feet MSL bounded on the northwest by the 52-mile radius area, on the north by V-28, on the southeast by the north edge of V-536, and on the southwest by V-253.

Effective Date: This amendment shall be effective 0901 G.m.t. on October 9, 1975.

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

Issued in Seattle, Washington, on August 6, 1975.

C. B. WALK,
Director,
Northwest Region.

[FR Doc.75-21408 Filed 8-14-75;8:45 am]

[Airspace Docket No. 75-GL-42]

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

Alteration of Transition Area

On page 25687 of the FEDERAL REGISTER dated June 18, 1975, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Anoka, Minnesota.

Interested persons were given thirty days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., October 16, 1975.

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

Issued in Des Plaines, Illinois on July 31, 1975.

JOHN M. CYROCKI,
Director,
Great Lakes Region.

In § 71.181 (40 FR 441), the following transition area is added:

ANOKA, MINNESOTA

That airspace extending upward from 700 feet above the surface within a 5½ mile radius of the Gateway North Industrial Airport (Latitude 45°13'50" N., Longitude 93°26'40" W.); excluding that portion overlying the Minneapolis transition area.

[FR Doc.75-21409 Filed 8-14-75;8:45 am]

[Airspace Docket No. 75-WE-18]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Areas

● The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to change the using agency for Restricted Areas R-2531 Tracy, Calif., R-4808 Las Vegas, Nev., and R-4809 Tonopah, Nev. ●

The change will correct the identity of the organization for whom the restricted areas are designated.

Since correcting the identity of a using agency is a minor amendment upon which the public is not particularly interested, notice and public procedure thereon are unnecessary. However, as it is essential that the correct using agency of the restricted areas be identified, good cause exists for making this amendment effective immediately.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective August 15, 1975 as hereinafter set forth.

1. In § 73.25 (40 FR 660):

a. The using agency for R-2531 Tracy, Calif., is changed to read as follows:

Using agency. United States Energy Research and Development Administration, San Francisco Operations Office.

2. In § 73.48 (40 FR 681):

a. The Using agency for R-4808 Las Vegas, Nev., is changed to read as follows:

Using agency. Manager, United States Energy Research and Development Administration, Las Vegas, Nev.

b. The Using agency for R-4809 Tonopah, Nev., is changed to read as follows:

Using agency. Manager, United States Energy Research and Development Administration, Albuquerque, N. Mex.

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

Issued in Washington, D.C., on August 11, 1975.

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

[FR Doc.75-21410 Filed 8-14-75;8:45 am]

[Docket No. 14910; Amdt. No. 981]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 FR 5609).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Information Center, AIS-230, 800 Independence Avenue, SW., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAPs, *effective September 25, 1975:*

Hastings, MI.—Hastings Municipal Arpt., VOR Rwy 12, Amdt. 2.
Hobart, Ok.—Hobart Municipal Arpt., VOR Rwy 35, Amdt. 5.
Kissimmee, Fl.—Kissimmee Municipal Arpt., VOR/DME-A, Orig.
La Porte, Tx.—La Porte Municipal Arpt., VOR-A (TAC), Amdt. 6.
Manning, S.C.—Clarendon County Arpt., VOR/DME-A, Amdt. 1.
Manning, S.C.—Clarendon County Arpt., VOR-B, Amdt. 3.
Nacogdoches, Tx.—East Texas Regional Arpt., VOR/DME Rwy 33, Amdt. 1.
Pine Bluff, Ar.—Grider Field, VOR Rwy 17, Amdt. 15.
Pine Bluff, Ar.—Grider Field, VOR/DME Rwy 35, Amdt. 5.
Port Huron, Mi.—St. Clair County Int'l Arpt., RNAV Rwy 22, Orig.
Richmond, In.—Richmond Municipal Arpt., VOR Rwy. 5, Amdt. 5.
Richmond, In.—Richmond Municipal Arpt., VOR Rwy 5, Amdt. 5.
Rockingham, N.C.— Rockingham - Hamlet Arpt., VOR/DME-A, Amdt. 3.
Three Rivers, Mi.—Three Rivers Municipal-Dr. Haines Arpt., VOR-A, Amdt. 2.

* * * *effective August 21, 1975:*

Mt. Vernon, Il.—Mt. Vernon-Outland Arpt., VOR Rwy 5, Amdt. 6.
Mt. Vernon, Il.—Mt. Vernon-Outland Arpt., VOR Rwy 23, Amdt. 4.

* * * *effective July 30, 1975:*

Pontiac, Mi.—Oakland-Pontiac Arpt., VOR Rwy 9R, Amdt. 16.

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAPs, *effective September 25, 1975:*

Tampa, Fl.—Tampa Int'l Arpt., LOC (BC) Rwy 36R, Amdt. 16.

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, *effective September 25, 1975:*

Kissimmee, Fl.—Kissimmee Municipal Arpt., NDB Rwy 33, Amdt. 1, canceled.
Nacogdoches, Tx.—East Texas Regional Arpt., NDB Rwy 15, Admt. 1.
Salisbury, N.C.—Rowan County Arpt., NDB-A, Amdt. 3.
Three Rivers, Mi.—Three Rivers Municipal-Dr. Haines Arpt., NDB Rwy 23, Amdt. 4, canceled.
Three Rivers, Mi.—Three Rivers Municipal-Dr. Haines Arpt., NDB Rwy 27, Orig.

* * * *effective September 11, 1975:*

Dwight, Il.—Dwight Arpt., NDB Rwy 27, Orig.

* * * *effective August 28, 1975:*

Pickens, S.C.—Pickens County Arpt., NDB Rwy 4, Orig.

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, *effective September 25, 1975:*

Baton Rouge, La.—Ryan Arpt., ILS Rwy 13, Amdt. 19.
San Angelo, Tx.—Mathis Field, ILS Rwy 3, Amdt. 14.

* * * *effective September 18, 1975:*

Washington, D.C.—Washington National Arpt., LDA Rwy 18, Amdt. 7.

* * * *effective August 28, 1975:*

Charleston, W.V.—Kanawha Arpt., ILS Rwy 23, Amdt. 22.

* * * *effective August 1, 1975:*

Covington, Ky.—Greater Cincinnati Arpt., ILS Rwy 9R, Amdt. 5.

5. Section 97.31 is amended by originating, amending, or canceling the following Radar SIAPs, *effective September 18, 1975:*

Tacoma, Wa.—Tacoma Industrial Arpt., Radar 1, Amdt. 3, canceled.

6. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAPs, *effective September 25, 1975:*

Port Huron, Mi.—St. Clair County Int'l Arpt., RNAV Rwy 4, Orig.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, and sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c).)

Issued in Washington, D.C., on August 7, 1975.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 FR 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.75-21411 Filed 8-14-75;8:45 am]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 16]

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED (1974.....)

Representation of Parties; Administrative Review of Action With Respect to Attorney Fees

On May 20, 1975, there were published in the FEDERAL REGISTER (40 FR 21986), a notice of proposed rulemaking and a proposed amendment to Subpart 0 of Regulations No. 16. The proposed amendment provides for administrative review of actions with respect to attorney fees subsequent to the expiration of the time limitation for requesting such review.

At present, Regulations No. 16 precludes any administrative review of a fee determination upon failure on the part of either the representative or the claimant to request such review within the prescribed 30-day time limit under any circumstances. The proposed amendment would make the provision in Regulations No. 16 conform exactly to the provision of Regulations No. 4, which permits review upon a requester's showing of good cause for not filing the request timely and includes examples of what constitutes "good cause."

Interested parties were given 30 days within which to submit data, views, and arguments. No data, views, or arguments were received. Therefore, the proposed amendment is hereby adopted with a minor clarification in the first sentence of paragraph (d)(2), and is set forth below.

Section 416.1510 of Chapter III of Title 20 of the Code of Federal Regulations is amended by revising paragraph (d) and adding paragraph (e) to read as follows:

§ 416.1510 Fee for services performed for an individual before the Social Security Administration.

* * * * *

(d) *Administrative review of fee authorization.* (1) *Request timely filed.*

Administrative review of a fee authorization will be granted if either the representative or the claimant files a written request for such review at an office of the Social Security Administration within 30 days after the date of the notice of the fee authorization. The party requesting the review shall send a copy of the request to the other party. An authorized official of the Social Security Administration who did not participate in the fee authorization in question will review the authorization. Written notice of the decision made on the administrative review shall be mailed to the representative and the claimant at their last known addresses.

(2) *Request not timely filed.* Where the representative or the claimant files a request for administrative review, in accordance with paragraph (d)(1) of this section, but files such request more than 30 days after the date of the notice of the fee authorization, the person making the request shall state in writing the reasons why it was not filed within the 30-day period. The Social Security Administration will grant the review only if it determines that there was good cause for not filing the request timely. For purposes of this section, "good cause" is defined as any circumstance or event which would prevent the representative or the claimant from filing the request for review within such 30-day period or would impede his efforts to do so. Examples of such circumstances include the following:

(i) The representative or claimant was seriously ill or had a physical or mental impairment and such illness prevented him from contacting the Social Security Administration in person or in writing;

(ii) There was a death or serious illness in the individual's family;

(iii) Pertinent records were destroyed by fire or other accidental cause;

(iv) The representative or claimant was furnished incorrect or incomplete information by the Social Security Administration about his right to request review;

(v) The individual failed to receive timely notice of the fee authorization;

(vi) The individual transmitted the request to another government agency in good faith within such 30-day period and the request did not reach the Social Security Administration until after such period had expired.

(e) *Payment of fees.* The Social Security Administration assumes no responsibility for the payment of a fee for services rendered for an individual in any proceeding under title XVI of the Act before the Social Security Administration (see § 416.1525).

(Secs. 1102 and 1631(d) of the Social Security Act; 49 Stat. 647, as amended, and 83 Stat. 1476; (42 U.S.C. 1302 and 1383(d)))

Effective date. This amendment is effective August 15, 1975.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

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

Dated: July 17, 1975.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: August 8, 1975.

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

[FR Doc.75-21521 Filed 8-14-75;8:45 am]

CHAPTER V—MANPOWER ADMINISTRATION, DEPARTMENT OF LABOR

PART 602—COOPERATION OF THE UNITED STATES TRAINING AND EMPLOYMENT SERVICE AND STATES IN ESTABLISHING AND MAINTAINING A NATIONAL SYSTEM OF PUBLIC EMPLOYMENT OFFICES

Wage Rates for Temporary Foreign Agricultural Labor

On June 26, 1975, the Manpower Administration of the Department of Labor published a notice of proposed rulemaking in the FEDERAL REGISTER (40 FR 27050) proposing to revise the wage rates at 20 CFR 602.10b(a)(1), which are applicable to the importation of aliens for certain temporary agricultural work. Interested persons were given 32 days in which to file written statements of data, views, or arguments regarding the proposed amendment. Substantive comments have been received concerning the proposed rates.

Several comments were received from employers and employer associations in West Virginia. These comments generally suggested that the proposed rate was too high compared to the rate established by the Department of Labor in 1974. This suggestion is rejected as the proposed rate is intended to reflect the annual percentage change in the hourly farm wage rate in West Virginia as determined by the latest available data of the United States Department of Agriculture.

Comments were also received regarding the proposed rate of $2.84 for Florida sugar cane. Comments were received from the Migrant Legal Action Program, Inc., the Florida Rural Legal Services, Inc., and the Florida Sugar Cane League, Inc.

The Migrant Legal Action Program, Inc., proposed a formula methodology which for Florida would result in a rate of $3.49 per hour (stated as $3.48 in their July 28, 1975, submission). Such a rate is determined by using average piece rate earnings and increasing it by the Consumer Price Index. The Florida Rural Legal Services, Inc., proposal utilized a formula virtually the same as that suggested by the Migrant Legal Action Program, Inc. The Department considers it inappropriate to impose, as a floor rate, average earnings in an industry which relies on an incentive wage system. In addition, the Consumer Price Index has not traditionally been used by the Department in making wage rate determinations.

The Florida Sugar Cane League, Inc., has proposed at various times, a $2.59 rate, a $2.60 rate, and a $2.50 rate. The $2.59 rate was arrived at by increasing last year's $2.45 rate by the 5.5 percent "wage-price control" standard. There is no "wage-price control" standard in Federal law and this proposal bears no relevant relationship to the actual wage changes occuring in Florida agriculture. The $2.60 rate is apparently a rounding off of the $2.59 rate although the League did not provide any rationale for that rate. The $2.50 rate was arrived at through a multi-step formula that resulted in only a five cent, or approximately two percent, increase over the rate used for the 1974–75 harvest season. In view of the fact that USDA data indicates that farm wages in Florida have increased about 16 percent, this two percent increase would not contribute towards preventing an adverse effect on the prevailing wage rates paid to U.S. workers similarly employed.

Comments received from the Farm Worker Division, Neighborhood Legal Services, Inc., Hartford, Connecticut, primarily indicated a concern that the Connecticut and Massachusetts rates were not high enough to make agricultural employment "attractive" to domestic workers. However, no alternatives were suggested to the methodology utilized or to the rates computed by the Department of Labor.

The approach utilized by the Secretary for determining these rates was consistent with the approach used since 1968. As explained in the June 26, 1975, notice of proposed rulemaking published in the FEDERAL REGISTER (40 FR 27050) the prior year's rate was adjusted by the percentage change in the USDA hourly farm wage rate. After weighing all the evidence, this method is deemed to be appropriate for protecting the public interest defined by the statute and regulations.

Accordingly, the amendment as proposed is hereby adopted and the adverse effect rates set forth herein shall become effective September 15, 1975, except with respect to the adverse effect rate for Florida sugar cane which is effective upon signature of this amendment. The need for immediate implementation of the Florida sugar cane rate is necessitated by requests now pending with the Department for certification for the importation of alien workers for the imminent planting of sugar cane. The rate set forth in this amendment is also used in the recruitment of U.S. workers for this work. Delay in the effective date of this rate will have an adverse effect on these U.S. workers. In addition, the employer organizations have actual notice of this rulemaking.

As indicated above, the rates shall become effective 30 days after publication in the FEDERAL REGISTER (September 15, 1975), except the rate for Florida sugar cane which is effective August 12, 1975.

Section 602.10b(a)(1) is amended as follows:

§ 602.10b Wage rates.

(a)(1) Except as otherwise provided in this section, the following hourly wage rates (which have been found to be the rates necessary to prevent adverse effect upon U.S. workers) shall be offered to agricultural workers in accordance with § 602.10a(j):

State:	Rate
Connecticut	$2.39
Florida (sugar cane only)	2.84
Maine	2.46
Maryland	2.36
Massachusetts	2.34
New Hampshire	2.58
New York	2.49
Vermont	2.54
Virginia	2.52
West Virginia	2.48

* * * * *

(8 U.S.C. 1184; 8 CFR 214.2(h))

Signed at Washington, D.C. this 12th day of August, 1975.

WILLIAM H. KOLBERG,
Assistant Secretary for Manpower.

[FR Doc.75-21495 Filed 8-14-75;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 7370]

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

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

Valuation of Remainder Interests in Real Property

Preamble. By a notice of proposed rule making appearing in the FEDERAL REGISTER for Friday, December 28, 1973 (38 FR 35482), amendments to the Income Tax Regulations (26 CFR Part 1), the Estate Tax Regulations (26 CFR Part 20), and the Gift Tax Regulations (26 CFR Part 25) under sections 170, 2031, and 2512 of the Internal Revenue Code of 1954 were proposed in order to provide regulations under section 170(f)(4) of the Internal Revenue Code of 1954 and to delete certain regulations under sections 2031 and 2512 of such Code.

Frequently, a person will give to a charity real property that is subject to use by the donor or another person (or persons) during the life of the donor or the life (or lives) of the other person (or persons), or for a specified number of years. In such cases the gift that is made to the charity is called a remainder interest. If the charity to which the gift is given qualifies under section 170 of the Internal Revenue Code of 1954, the donor may take a deduction for the value of the remainder interest. Section 170(f)(4) of the Internal Revenue Code of 1954, as added by section 201(a) of the Tax Reform Act of 1969, relates to the valuation of a remainder interest in real property for purposes of section 170 of the Code, relating to charitable contributions. This document adds § 1.170A-12 to the Income Tax Regulations (26 CFR Part 1) in order to provide regulations under such section 170(f)(4).

As a result of comments from the public on the notice, consideration was given to the inclusion in the final regulations of tables to contain actuarial factors for the valuation of remainder interests following more than one life or a term certain concurrent with one or more lives. Unfortunately, even when limited to the usual male-female combination and to relatively short ranges of ages for the individuals and useful lives for the donated property, such tables would be so voluminous that their inclusion would be impractical. For example, separate tables would have to be provided to reflect the actuarial factors of combining two lives and two sexes and to reflect those factors together with depreciation, in the case of depreciable property.

In lieu of the requested tables, a formula has been inserted through the use of which special factors may be obtained with which the value of remainder interests following two lives may be computed. The formula will not produce special factors for use in situations involving more than two lives or a term certain concurrent with one or more lives. However, in those cases as well as in the case of remainder interests following two lives, the special factors needed will be furnished by the Commissioner upon the request of the donor where required in the case of an actual contribution.

The valuation of a remainder interest in depletable property is usually a factual matter to be determined by engineers or similar experts and cannot normally be decided on a purely actuarial basis. Proposed § 1.170A-12(e) has accordingly been amended to indicate that actuarial factors will not be furnished in the case of contributions of remainder interests in such property. Further, § 1.170A-12(a)(2) was amended to make clear that in the case of a contribution of real property consisting of a combination of both depletable and nondepletable property, an allocation of the fair market value of the property at the time of the contribution should be made between the depletable and nondepletable property, and depletion should be taken into account only with respect to the depletable property.

Adoption of amendments to the regulations. By a notice of proposed rule making appearing in the FEDERAL REGISTER for Friday, December 28, 1973 (38 FR 35482), amendments to the Income Tax Regulations (26 CFR Part 1) under section 170 of the Internal Revenue Code of 1954, the Estate Tax Regulations (26 CFR Part 20) under section 2031 of such Code, and the Gift Tax Regulations (26 CFR Part 25) under section 2512 of such Code were proposed in order to provide regulations under section 170(f)(4) of such Code, as added thereto by section 201(a)(1) of the Tax Reform Act of 1969 (83 Stat. 549, 557), and in order to delete certain regulations under sections 2031 and 2512 of such Code. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below.

Section 1.170A-12, as set forth in paragraph 1 of the appendix to the notice of proposed rule making, is changed by revising paragraphs (a)(2) and (3), (b)(1), so much of (c) as precedes the example, and (e) thereof. These revised provisions read as set forth below.

(Secs. 170(f)(4) (83 Stat. 557; 26 U.S.C. 170(f)(4)) and 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: July 10, 1975.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

Parts 1, 20, and 25 of 26 CFR Chapter I are amended as follows:

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

PARAGRAPH 1. The following new section is inserted immediately after § 1.170A-11:

§ 1.170A-12 Valuation of a remainder interest in real property for contributions made after July 31, 1969.

(a) *In general.* (1) Section 170(f)(4) provides that, in determining the value of a remainder interest in real property for purposes of section 170, depreciation and depletion of such property shall be taken into account. Depreciation shall be computed by the straight line method and depletion shall be computed by the cost depletion method. Section 170(f)(4) and this section apply only in the case of a contribution, not made in trust, of a remainder interest in real property made after July 31, 1969, for which a deduction is otherwise allowable under section 170.

(2) In the case of the contribution of a remainder interest in real property consisting of a combination of both depreciable and nondepreciable property, or of both depletable and nondepletable property, and allocation of the fair market value of the property at the time of the contribution shall be made between the depreciable and nondepreciable property, or the depletable and nondepletable property, and depreciation or depletion shall be taken into account only with respect to the depreciable or depletable property. The expected value at the end of its "estimated useful life" (as defined in paragraph (d) of this section) of that part of the remainder interest consisting of depreciable property shall be considered to be nondepreciable property for purposes of the required allocation. In the case of the contribution of a remainder interest in stock in a cooperative

housing corporation (as defined in section 216(b)(1)), an allocation of the fair market value of the stock at the time of the contribution shall be made to reflect the respective values of the depreciable and nondepreciable property underlying such stock, and depreciation on the depreciable part shall be taken into account for purposes of valuing the remainder interest in such stock.

(3) If the remainder interest that has been contributed follows only one life, the value of the remainder interest shall be computed under the rules contained in paragraph (b) of this section. If the remainder interest that has been contributed follows a term for years, the value of the remainder interest shall be computed under the rules contained in paragraph (c) of this section. If the remainder interest that has been contributed is dependent upon the continuation or the termination of more than one life or upon a term certain concurrent with one or more lives, the provisions of paragraph (e) of this section shall apply. In every case where it is provided in this section that the rules contained in paragraph (d) of § 25.2512–9 of this chapter (Gift Tax Regulations) apply, such rules shall apply notwithstanding the general effective date for such rules contained in paragraph (a) of such section. In some cases, a reduction in the amount of a charitable contribution of a remainder interest, after the computation of its value under section 170(f)(4) and this section, may be required. See section 170(e) and § 1.170A–4.

(b) *Valuation of a remainder interest following only one life*—(1) *General rule.* The value of a remainder interest in real property following only one life shall be determined under the rules provided in paragraph (d) of § 25.2512–9 of this chapter (Gift Tax Regulations), using Table A(1) or A(2) (whichever is appropriate) contained in paragraph (f) of such section. However, if any part of the real property is subject to exhaustion, wear and tear, or obsolescence, in valuing the remainder interest in that part the factor determined under subparagraph (2) of this paragraph shall be subtracted from the appropriate figure in column 4 of Table A(1) or A(2) in paragraph (f) of § 25.2512–9 of this chapter (Gift Tax Regulations) before such figure is used in paragraph (d) of such section. Further, if any part of the property is subject to depletion of its natural resources, such depletion shall be taken into account in determining the value of the remainder interest.

(2) *Computation of depreciation adjustment factor.* Computations under this subparagraph are based upon Tables C(1) and C(2), contained in paragraph (f) of this section, which reflect interest at the rate of 6 percent a year compounded annually, life contingencies determined (as to each male and female life involved) from the values of lx that are set forth in columns 2 and 3, respectively of Table LN of paragraph (f) of § 20.2031–10 of this chapter (Estate Tax Regulations), and depreciation on a straight line basis. Table C(1) is to be used when the person upon whose life the interest is based is a male, and Table C(2) is to be used when such person is a female. The factor determined under this subparagraph is the amount determined by dividing (i) the difference between (*a*) the R-factor in column 2 of Table C(1) or C(2) (whichever is appropriate) opposite the initial age of the life tenant in column 1 and (*b*) the R-factor in column 2 of such table opposite the terminal age in column 1, by (ii) the product of (*a*) the estimated useful life of the depreciable property and (*b*) the D-factor in column 3 of such table opposite the initial age of the life tenant in column 1. For purposes of this subdivision, the "initial age" of a life tenant is his age at his birthday nearest the date of the contribution of the remainder interest, and the "terminal age" is 110 or the sum of the initial age of the life tenant and the estimated useful life of the depreciable property, if that sum is less than 110. The factor determined under this subdivision is carried to the fifth decimal place.

(3) *Example.* In 1972 A, who is 62, donates to Y University a remainder interest in his personal residence, consisting of a house and land, subject to a reserved life estate in himself. At the time of the gift the land has a value of $7,000 and the house has a value of $25,000 with an estimated useful life of 45 years, at the end of which the value of the house is expected to be $5,000. The portion of the property considered to be depreciable is $20,000 (the value of the house ($25,000) less its expected value at the end of 45 years). The portion of the property considered to be nondepreciable is $12,000 (the value of the land at the time of the gift ($7,000) plus the expected value of the house at the end of 45 years ($5,000)). The initial age of the life tenant is 62 and the terminal age is 107 (62 plus 45). The R-factors for ages 62 and 107 are 9834.7092 and .004154752, respectively, and the D-factor for age 62 is 1896.885. The adjustment factor computed under subparagraph (2) of this paragraph is 0.11521 (9834.7092 less .004154752, divided by 45 x 1896.885). The figure in column 4 of table A(1) of paragraph (f) of § 25.2512–9 opposite age 62 in column 1 is 0.47679. The value of the entire remainder interest is, therefore, $7,231.60 ($20,000 times (0.47679 less 0.11521)) plus $5,721.48 (0.47679 times $12,000), or $12,953.08.

(c) *Valuation of a remainder interest following a term for years.* The value of a remainder interest in real property following a term for years shall be determined under the rules provided in paragraph (d) of § 25.2512–9 of this chapter (Gift Tax Regulations) using Table B provided in paragraph (f) of such section. However, if any part of the real property is subject to exhaustion, wear and tear, or obsolescence, in valuing the remainder interest in that part the value of such part is adjusted by subtracting from the value of such part the amount determined by multiplying such value by a fraction, the numerator of which is the number of years in the term or, if less, the estimated useful life of the property, and the denominator of which is the estimated useful life of the property. The resultant figure is the value of the property to be used in paragraph (d) of § 25.2512–9 of this chapter (Gift Tax Regulations). Further, if any part of the property is subject to depletion of its natural resources, such depletion shall be taken into account in determining the value of the remainder interest. The provisions of this paragraph as it relates to depreciation are illustrated by the following example:

Example. In 1972, B donates to Z University a remainder interest in his personal residence, consisting of a house and land, subject to a 20 year term interest provided for his sister. At such time the house has a value of $60,000, and an expected useful life of 45 years, at the end of which time it is expected to have a value of $10,000, and the land has a value of $8,000. The value of the portion of the property considered to be depreciable is $50,000 (the value of the house ($60,000) less its expected value at the end of 45 years ($10,000)), and this is multiplied by the fraction $^{20}/_{45}$. The product, $22,222.22, is subtracted from $68,000, the value of the entire property, and the balance, $45,777.78, is multiplied by the factor .311805 (see Table B of § 25.2512–9(f)). The result, $14,273.74, is the value of the remainder interest in the property.

(d) *Definition of estimated useful life.* For the purposes of this section, the determination of the estimated useful life of depreciable property shall take account of the expected use of such property during the period of the life estate or term for years. The term "estimated useful life" means the estimated period (beginning with the date of the contribution) over which such property may reasonably be expected to be useful for such expected use. This period shall be determined by reference to the experience based on any prior use of the property for such purposes if such prior experience is adequate. If such prior experience is inadequate or if the property has not been previously used for such purposes, the estimated useful life shall be determined by reference to the general experience of persons normally holding similar property for such expected use, taking into account present conditions and probable future developments. The estimated useful life of such depreciable property is not limited to the period of the life estate or term for years preceding the remainder interest. In determining the expected use and the estimated useful life of the property, consideration is to be given to the provisions of the governing instrument creating the life estate or term for years or applicable local law, if any, relating to use, preservation, and maintenance of the property during the life estate or term for years. In arriving at the estimated useful life of the property, estimates, if available, of engineers or other persons skilled in estimating the useful life of similar property may be taken into account. At the option of the taxpayer, the estimated useful life of property contributed after December 31, 1970, for purposes of this section, shall be an asset depreciation period selected by the taxpayer that is within the permissible asset depreciation range for the relevant asset guideline class established pursuant

to § 1.167(a)-11(b)(4)(ii). For purposes of the preceding sentence, such period, range, and class shall be those which are in effect at the time that the contribution of the remainder interest was made. At the option of the taxpayer, in the case of property contributed before January 1, 1971, the estimated useful life, for purposes of this section, shall be the guideline life provided in Revenue Procedure 62-21 for the relevant asset guideline class.

(e) *Valuation of a remainder interest following more than one life or a term certain concurrent with one or more lives.* (1) If the valuation of the remainder interest in the real property is dependent upon the continuation or the termination of more than one life or upon a term certain concurrent with one or more lives, a special factor must be used. The special factor is to be computed on the basis of (*a*) interest at the rate of 6 percent a year, compounded annually, (*b*) life contingencies determined, as to each male and female life involved, from the values of l_x that are set forth in columns 2 and 3, respectively, of Table LN of paragraph (f) of § 20.2031-10 of this chapter (Estate Tax Regulations), and (*c*) if depreciation is involved, the assumption that the property depreciates on a straight line basis over its estimated useful life. If any part of the property is subject to depletion of its natural resources, such depletion must be taken into account in determining the value of the remainder interest.

(2) In the case of the valuation of a remainder interest following two lives, the special factor may be obtained through use of the following formula:

$$1.03 \cdot \sum_{t=0}^{n-1} v^{(t+1)} \cdot \left[\left(1-\frac{l_{x+t+1}}{lx}\right)\cdot\left(1-\frac{l_{y+t+1}}{ly}\right)-\left(1-\frac{l_{x+t}}{lx}\right)\cdot\left(1-\frac{l_{y+t}}{ly}\right)\right]\cdot\left(1-\frac{1}{2n}-\frac{f}{n}\right)$$

Where:

n = Estimated years of useful life.
v = 1/1.06.
x and y = Ages of the life tenants.
lx and ly = Number of persons living at ages x and y as set forth in Table LN of § 20.2031-10(f) of this chapter (Estate Tax Regulations).

(3) Notwithstanding that the taxpayer may be able to compute the special factor in certain cases under paragraph (2), if a special factor is required in the case of an actual contribution, the Commissioner will furnish the factor to the donor upon request. The request must be accompanied by a statement of the sex and date of birth of each person the duration of whose life may affect the value of the remainder interest, copies of the relevant instruments, and, if depreciation is involved, a statement of the estimated useful life of the depreciable property. However, since remainder interests in that part of any property which is depletable cannot be valued on a purely actuarial basis, special factors will not be furnished with respect to such part. Requests should be forwarded to the Commissioner of Internal Revenue, Attention: E:A:G, Washington, D.C. 20224.

(f) *Tables for computation of depreciation adjustment factor.* The following tables shall be used in the application of the provisions of paragraph (b) of this section:

TABLE C(1)—TABLE, SINGLE LIFE, MALE, 6 PERCENT, SHOWING COMMUTATION FACTORS FOR REDUCING ASSURANCES

(1) Age	(2) R-factors, male $(\bar{R}_x-0.5\bar{M}_x)$	(3) D-factors, male (D_x)
0	145253.043	100000
1	140373.057	91591.51
2	136989.019	86250.44
3	133733.646	81275.15
4	130561.352	76606.55
5	127451.464	72217.27
6	124391.771	68085.09
7	121374.816	64192.64
8	118394.852	60525.84
9	115446.949	57070.85
10	112526.924	53815.30
11	109631.234	50747.02
12	106757.944	47853.18
13	103907.248	45122.01
14	101081.810	42541.39
15	98286.156	40102.09
16	95535.472	37795.55
17	92804.488	35615.70
18	90127.085	33555.58
19	87495.905	31610.59
20	84912.301	29774.55
21	82377.175	28041.83
22	79891.020	26406.83
23	77453.310	24865.77
24	75062.105	23414.31
25	72714.179	22048.89
26	70405.571	20764.57
27	68132.728	19556.04
28	65892.891	18418.19
29	63683.989	17346.49
30	61504.811	16336.06
31	59354.718	15383.45
32	57233.131	14485.26
33	55139.672	13638.15
34	53074.137	12839.15
35	51036.460	12085.34
36	49026.815	11373.90
37	47045.579	10702.30
38	45093.283	10068.11
39	43170.633	9469.050
40	41278.574	8902.830
41	39418.241	8367.528
42	37590.819	7861.300
43	35797.513	7382.665
44	34039.536	6929.803
45	32318.082	6501.600
46	30634.317	6096.438
47	28989.362	5713.143
48	27384.507	5350.109
49	25821.319	5006.012
50	24301.552	4679.603
51	22827.009	4369.957
52	21399.306	4076.410
53	20019.711	3798.448
54	18689.039	3535.667
55	17407.687	3287.543
56	16175.805	3053.387
57	14993.447	2832.462
58	13860.746	2623.802
59	12778.075	2426.474
60	11745.9258	2239.835
61	10764.7296	2063.405
62	9834.7092	1896.885
63	8955.8177	1739.959
64	8127.7362	1592.366
65	7349.8971	1453.778
66	6621.5547	1323.833
67	5941.8017	1202.207
68	5309.5643	1088.586
69	4723.5741	982.7387
70	4182.3827	884.3534
71	3684.4221	793.1111
72	3228.0379	708.6716
73	2811.5265	630.6817
74	2433.1585	558.7943
75	2091.1854	492.6830
76	1783.8091	432.0085
77	1509.1690	376.7716
78	1265.3907	326.3874
79	1050.6431	280.6000
80	863.1339	239.1395

TABLE C(1)—TABLE, SINGLE LIFE, MALE, 6 PERCENT, SHOWING COMMUTATION FACTORS FOR REDUCING ASSURANCES

(1) Age	(2) R-factors, male $(\bar{R}_x-0.5\bar{M}_x)$	(3) D-factors, male (D_x)
81	701.1091	201.6965
82	582.8164	168.1047
83	446.3416	138.3996
84	349.49534	112.6418
85	269.88244	90.72879
86	205.22466	72.09128
87	153.47332	56.44965
88	112.70669	43.48383
89	81.16860	32.87343
90	57.27246	24.32487
91	39.57641	17.59676
92	26.77844	12.44115
93	17.742117	8.592310
94	11.514197	5.797372
95	7.321634	3.825649
96	4.559440	2.475257
97	2.777017	1.566527
98	1.6536304	.9687343
99	.9599624	.5847336
100	.5436795	.3441323
101	.2968713	.1972539
102	.16086232	.1099943
103	.08378735	.0596023
104	.04227156	.03134754
105	.02056792	.01598400
106	.009664003	.007892235
107	.004154752	.0037690S2
108	.001574519	.001738921
109	.0003761161	.0007741419
110	0	0

TABLE C (2)—TABLE, SINGLE LIFE, FEMALE, 6 PERCENT, SHOWING COMMUTATION FACTORS FOR REDUCING ASSURANCES

(1) Age	(2) R-factors, female $(\bar{R}_x-0.5\bar{M}_x)$	(3) D-factors, female (D_x)
0	112147.489	100000
1	108626.810	92211.32
2	106273.251	88833.86
3	104030.084	81861.20
4	101854.413	77172.89
5	99729.210	72761.28
6	97644.844	68606.76
7	95593.720	64694.76
8	93569.927	61008.32
9	91569.098	57534.90
10	89587.549	54260.90
11	87622.782	51174.25
12	85673.049	48263.68
13	83737.726	45517.71
14	81817.163	42926.64
15	79912.068	40481.39
16	78023.642	38173.96
17	76153.112	35994.50
18	74301.326	33938.50
19	72468.804	31998.62
20	70655.459	30168.98
21	68860.981	28443.06
22	67085.184	26815.04
23	65327.845	25279.41
24	63588.577	23831.21
25	61866.973	22465.26
26	60162.732	21176.94
27	58475.638	19961.65
28	56805.449	18815.51
29	55152.082	17734.06
30	53515.902	16713.88
31	51896.180	15751.05
32	50294.084	14842.59
33	48709.496	13985.34
34	47142.594	13176.48
35	45593.548	12413.21
36	44062.584	11692.90
37	42549.965	11013.09
38	41056.041	10371.35
39	39581.280	9765.458
40	38126.196	9193.330
41	36691.326	8653.050
42	35277.267	8142.748
43	33884.615	7660.777
44	32513.914	7205.585
45	31165.654	6775.709
46	29840.273	6369.767
47	28538.255	5986.290
48	27260.122	5623.992
49	26006.440	5281.599
50	24777.838	4957.993
51	23574.959	4652.052
52	22398.448	4362.830
53	21248.818	4089.577
54	20126.375	3831.603
55	19031.217	3588.229

(1) Age	(2) R-factors, female ($\bar{R}_x - 0.5M_x$)	(3) D-factors, female (D_x)
56	17963.359	3358.600
57	16922.8834	3141.845
58	15910.0402	2936.994
59	14925.3392	2743.115
60	13969.4983	2559.440
61	13043.3232	2385.367
62	12147.5668	2220.479
63	11282.8427	2064.402
64	10449.5982	1916.814
65	9648.1181	1777.371
66	8878.5764	1645.633
67	8141.1467	1521.271
68	7436.0588	1403.668
69	6763.6037	1292.184
70	6124.4984	1186.608
71	5518.8903	1086.657
72	4947.1654	992.1402
73	4409.5306	902.7950
74	3906.1530	818.3610
75	3437.1458	738.6324
76	3002.4521	663.6012
77	2601.7796	593.2002
78	2234.7447	527.1455
79	1901.0042	465.1352
80	1600.1031	407.0381
81	1331.8528	352.7169
82	1095.2881	302.3326
83	889.3034	256.2602
84	712.0480	214.9291
85	561.1138	178.4800
86	434.3257	145.7751
87	329.80033	116.8797
88	245.40166	91.86187
89	178.71726	70.65006
90	127.27025	53.07590
91	88.57159	38.89263
92	60.22702	27.76510
93	40.02735	19.30423
94	26.01874	13.07031
95	16.553384	8.649357
96	10.308376	5.506276
97	6.278518	3.541739
98	3.736409	2.190198
99	2.170366	1.322016
100	1.2291974	.7780440
101	.6779749	.4459687
102	.3636914	.2486846
103	.1894337	.1347540
104	.09557119	.07087322
105	.04650173	.03613801
106	.02162313	.01784345
107	.009393422	.008521467
108	.003559807	.003931504
109	.0008503560	.001750247
110	0	0

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

§ 20.2031–11 [Deleted]

PAR. 2. Section 20.2031–11, of which the title only appears, is deleted.

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

§ 25.2512–10 [Deleted]

PAR. 3. Section 25.2512–10, of which the title only appears, is deleted.

[FR Doc.75–18357 Filed 8–14–75;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 416–2; PP 5F1583/R43]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Tetraethyl Pyrophosphate

On February 27, 1975, notice was given (40 FR 5379) that Miller Chemical & Fertilizer Corp., PO Box 333, Hanover PA 17331, had filed a pesticide petition (PP 5F1583) with the Environmental Protection Agency (EPA). This petition proposed that 40 CFR 180.347 be amended by establishing a tolerance for residues of the insecticide tetraethyl pyrophosphate in or on alfalfa grown for seed at 0.01 part per million. Miller Chemical & Fertilizer subsequently amended the petition by changing "alfalfa grown for seed" to read "alfalfa (fresh and hay)".

The data submitted in the petition and other relevant material have been evaluated, and the pesticide is considered useful for the purpose for which the tolerance is sought. There is no reasonable expectation of residues in eggs, meat, milk, or poultry and § 180.6(a)(3) applies. The tolerance will protect the public health.

Any person adversely affected by this regulation may on or before September 15, 1975, file written objections with the Hearing Clerk, Environmental Protection Agency, 401 M Street, SW, East Tower, Room 1019, Washington DC 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective August 15, 1975, Part 180, Subpart C, is amended by revising § 180.347.

Dated: August 4, 1975.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

(Sec. 408(d)(2) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 346a(d)(2)))

Section 180.347 is revised to read as follows:

§ 180.347 Tetraethyl pyrophosphate; tolerances for residues.

Tolerances are established for negligible residues of the insecticide tetraethyl pyrophosphate in or on the raw agricultural commodities alfalfa (fresh and hay), apples, cabbage, cauliflower, oranges, peaches, and potatoes at 0.01 part per million.

[FR Doc.75–21372 Filed 8–14–75;8:45 am]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 74–225]

PART 146—TRANSPORTATION OR STORAGE OF EXPLOSIVES OR OTHER DANGEROUS ARTICLES OR SUBSTANCES AND COMBUSTIBLE LIQUIDS ON BOARD CARGO VESSELS

Unslaked Lime; Bulk Transportation Requirements

● The purpose of these amendments to Part 146 of Title 46, Code of Federal Regulations, is to allow the transportation of unslaked lime in bulk on double skin barges. ●

Interested persons were afforded an opportunity to participate in this rulemaking by a notice of proposed rulemaking that was published in the FEDERAL REGISTER (40 FR 4319) on January 29, 1975, and by a public hearing that was held on February 25, 1975. Four comments were received, one oral and three written, each of which endorsed the amendments as proposed.

In consideration of the foregoing, 46 CFR Part 146 is amended as follows:

1. By adding a new § 146.27–29, reading as follows:

§ 146.27–29 Unslaked lime in bulk.

(a) Unslaked lime may be transported in bulk in unmanned, all steel, double skin barges equipped with weather tight hatches or covers, if no other article is transported in these barges at the same time.

(b) The originating shipping order and transfer shipping paper requirement in § 146.05–12 and the dangerous cargo manifest requirement in § 146.06–12 do not apply to the transportation of unslaked lime under paragraph (a) of this section.

§ 146.27–100 [Amended]

2. By adding to § 146.27–100, "Table K—Classifications: Hazardous articles," under "Lime, unslaked" in column 4, "Required conditions for transportation—Cargo vessel", after the words "(See Note in columns 5, 6, and 7.)", the following:

"See § 146.27–29 Unslaked lime in bulk."

((46 U.S.C. 170) (49 U.S.C. 1655(b)(1)), 49 CFR 1.46(b)).

Effective date. These amendments become effective on September 15, 1975, however, immediate compliance is authorized.

Dated: August 11, 1975.

O. W. SILER,
Admiral, U.S. Coast Guard, Commandant.

[FR Doc.75–21494 Filed 8–14–75;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 75–955]

PART 0—COMMISSION ORGANIZATION

Tariff Determination Authority

1. The Commission has reviewed the delegations of authority to the Chief, Common Carrier Bureau and has decided that the public interest would be served by amending § 0.291(d) concerning tariff regulations. That section presently reserves to the Commission: "Authority to determine whether a tariff filed on sixty days notice shall be suspended; or whether a tariff filed on thirty days notice shall be suspended for more than thirty days." We are revising it to read: "Authority to determine whether a tariff shall be suspended".

2. The purpose of this revision is to give the Chief, Common Carrier Bureau discretionary authority, upon consideration of a petition for suspension of a tariff filed on less than 60 days' notice,

to direct the carrier to revise the tariff to afford an additional notice period not to exceed 30 days or 60 days in total counting the original notice period. When a petition to suspend is received 14 days before the effective date of a tariff filed on 30 days' notice, the Bureau may have insufficient time to process the petition and responsive pleadings and bring the matter to the Commission for decision before the tariff becomes effective. Where a petition to suspend raises substantial questions, we believe that there is good cause for extending the notice period pursuant to section 203(b) of the Act in order to afford reasonable time for the Bureau and the Commission to consider the petition and associated pleadings.

3. Authority for the adoption of this Order is contained in sections 4 (i) and (j), 5(d) and 203(b) of the Communications Act. Since it relates to internal Commission management, practices and procedure, and because early implementation of this change will expedite the transaction of public business, compliance with the notice and effective date provisions of 5 U.S.C. 553 is not required.

4. Accordingly, *it is ordered*, That effective August 22, 1975 § 0.291(d) of the rules is amended in the manner set forth below.

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

Adopted: August 7, 1975.

Released: August 13, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

Part 0, Subpart B of the Commission's rules and regulations is amended to read as follows:

Section 0.291 introductory text and paragraph (d) are amended to read as follows:

§ 0.291 Authority delegated.

The Chief, Common Carrier Bureau, is hereby delegated authority to perform all functions of the Bureau described in § 0.91 with the following exceptions.

* * * * *

(d) Authority concerning tariff regulations. Authority to determine whether a tariff shall be suspended.

[FR Doc.75-21501 Filed 8-14-75;8:45 am]

[FCC 75-943; Docket No. 20292; RM-2188, RM-2265, RM-2410]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments, FM Broadcast Stations

1. The Commission here considers the notice of proposed rule making in this docket, adopted December 11, 1974 (Mimeo No. 29291; 39 FR 44037). The notice proposed an examination of possible assignments to three communities clustered around the contiguous borders of Missouri, Illinois and Kentucky. Joe W. Hebel petitioned for assignment of Channel 252A to Paducah, Kentucky. James S. Fritch, Curtis E. Miller and Roy E. Delancy ("Fritch") sought that channel for Vienna, Illinois. KBOA, Inc. ("KBOA"), licensee of AM Station KREI, Farmington, Missouri, petitions for assignment of Class C Channel 253 to Farmington. The petitions for Channel 252A are mutually exclusive and assignment of Channel 253 to Farmington would preclude an assignment of Channel 252A to Vienna, but not to Paducah. The possibility of assigning Channel 224A to Farmington, so that the Channel 252A assignment could be made to either Paducah or Vienna, was also advanced in the notice.

2. Comments were filed by petitioners Fritch and KBOA. Hebel did not submit any comments even though he requested and was granted an extension for the filing of comments (Mimeo No. 45608). We must, therefore, deny Hebel's request for assignment of Channel 252A to Paducah on the basis of failure to prosecute (notice of proposed rule making, para. 10).

3. In its comments filed January 27, 1975, KBOA stated that it would not apply for the use of a Class A channel if it were assigned to Farmington. It asserts that the available transmitter site area has adverse terrain problems which could result in "shadowing," at Farmington and that a site location that would overcome this difficulty is impossible to locate. Additionally, it alleges that in order to eliminate the "shadowing" problem, the Channel 224A tower would have to be of a height that would constitute an air-hazard.

4. Although the transmitter site for a Channel 253 station would be in the same general area as that for Channel 224A and hence subject to similar air-hazard problems, the greater radiated power from the Channel 253 station could well overcome the adverse terrain conditions even at a lower height. Since it is contrary to our policies to assign a channel in which no interest in developing a station operating on it is shown, we shall not assign Channel 224A to Farmington. There are other reasons, mentioned below, for not making the assignment.

5. In order to make our decision on where to assign Channel 253, we must weigh the relative value of providing a first local service to Vienna as against the value of providing a first FM service to almost 14,000 persons. We believe that the public interest standards in this considerable first FM service require that we grant KBOA's request. Although by doing so we prevent Vienna from receiving its first local assignment, as stated in our decision in Anamosa-Iowa City [1]:

> The regrettable fact is that not every community has been or will be able to have its own assignment. Especially where the demand is great and the supply is limited, difficult choices are presented.

The Roanoke Rapids study [2] submitted by KBOA shows that a Class C channel assignment at Farmington would provide a first FM service to 13,913 persons living in a 1,555 square mile area. The study also shows that a second aural service would be provided to the same population and area.

6. Fritch, the Vienna petitioner, however, did not present data with respect to the first and second aural services that would be provided should his proposal be adopted. He did not comply with the request for these data made in para. 8 of the notice of proposed rule making. A Commission engineering staff study indicated that the 1 mV/m coverage area of an assumed Class A station at Vienna, operating with maximum facilities, would receive a minimum of two and a maximum of six FM services. Thus we cannot find that the proposed Class A Vienna station would provide a first FM service. Under these circumstances we must prefer the proposal for a Class C assignment at Farmington to that for a Class A assignment at Vienna.

7. In view of the foregoing, *it is ordered*, That effective September 22, 1975, § 73.202(b) of the Commission's rules and regulations, the FM Table of Assignments is amended to read as follows for the listed community:

City	*Channel No.*
Farmington, Missouri	253

8. Authority for the adoption of the amendment contained herein appears in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

9. *It is further ordered*, That the request of KBOA, Inc. is granted but that the requests of Joe W. Hebel to assign Channel 252A to Paducah, Kentucky, and James S. Fritch, Curtis E. Miller, and Roy E. Delancy to assign Channel 252A to Vienna, Illinois, are denied.

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

(Secs. 4, 5, 303, 307, 48 Stat., as amended, 1066, 1068, 1082, 1083; (47 U.S.C. 154, 155, 303, 307)).

Adopted: August 1, 1975.

Released: August 8, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-21502 Filed 8-14-75;8:45 am]

[FCC 75-925; Docket Nos. 19554, 18893]

PART 76—CABLE TELEVISION SERVICES

Per-Program or Per-Channel Charge

In the matter of amendment of Part 76, Subpart G, of the Commission's rules and regulations pertaining to the cablecasting of programs for which a per-program or per-channel charge is made. Amendment of §§ 73.643(b)(2) and 74.1121(a)(2) of the Commission's rules and regulations pertaining to the showing of sports events on over-the-air subscription television or by cablecasting. Memorandum opinion and order [40 FR 15574]. By the Commission: Commissioner Robinson concurring in part and dissenting in part for the reasons set

[1] Anamosa-Iowa City, 46 FCC 2d 520, 525 (1974).

[2] 9 FCC 2d 672 (1967).

forth in his statement attached to First Report and Order, FCC 75-369, released April 4, 1975, on Pay Cable Television, (52 FCC 2nd 1).

1. On March 20, 1975, the Commission adopted its First Report and Order in Dockets 19554 and 18893,[1] (Hereafter referred to as the First Report and Order). That action revised §§ 73.643 and 76.225 of the Commission's rules which govern the use of feature films, sports events, and series type programs by subscription over-the-air television (STV) and cable television operations for which a per-program or per-channel charge is made. Petitions for reconsideration of this First Report and Order filed pursuant to § 1.106 of the rules have been received from the National Association of Broadcasters (NAB), American Broadcasting Companies, Inc. (ABC), CBS, Inc. (CBS), National Association of Maximum Service Telecasters (MST), a group of television stations licensees (Television Licensees), Spanish International Communications Corporation (SICC), Twin County Trans-Video, Inc. (Twin County), and the National Hockey League (NHL).

2. Petitioners representing broadcast interests generally contend that the rule modifications adopted in the First Report and Order represent a departure from the Commission's previous policy concerning subscription television and are detrimental to the public interest because they will allow programs now found on conventional television to be "siphoned" away to subscription television. It is argued that subscription television ought to be required to provide new and diverse programming, and that the Commission's rules should place stronger restrictions on the subscription use of feature films, sports events, and series programs which are now available in sufficient quantity over conventional television. Petitioners contend that the revised rules will result in program siphoning, thereby depriving the many who rely on conventional television for popular entertainment programming in favor of the few to which subscription television is available and who can afford to pay a special fee for the privilege of viewing it.

3. Those who discern a departure from our previous policy regarding subscription television have misread the First Report and Order. It is abundantly clear from that document that our policy has been and continues to be one of regulating subscription television so that it provides a beneficial supplement to conventional broadcasting, without undermining the continued operation of that advertiser supported television service.[2] Our goal is to maintain the existing conventional television structure while at the same time to encourage the development of alternative sources of television programming. Our hope is that subscription television will offer unique and diverse programming of the type not generally found on conventional television. However, as we recognized in the Report and Order in Docket 19988, creativity and interest cannot be mandated by law or contract.[3] Subscription interests contend that diverse and specialized programming will be provided, but that it must be accompanied by programming having broad public appeal, such as feature films, sports and series. Whether the promise of subscription television will, in fact, be fulfilled will be determined by future events. For the present, it cannot be disputed that subscription television will add to the viewing choices available to the public, so long as existing conventional television is not impaired. The rules adopted in the First Report and Order represent our best judgment as to what regulation is reasonably necessary to preserve the present system of conventional television. As we repeatedly stated in the First Report and Order, should our rules fail to provide adequate anti-siphoning protection, we will promptly consider remedial action. The proceeding in Docket 19554 was left open to facilitate such action in the event that it is required. The rules adopted in the First Report and Order do not represent a departure from previous Commission policy, nor do they mean that the public will be deprived of the present quantity and quality of conventional television programming. To the contrary, the new rules continue to preserve the existing level of conventional television programming while, in certain areas, allowing for the presentation of more subscription programming to those who can and wish to take advantage of that supplemental service.

4. In their reconsideration petitions, several broadcast interests claim that the First Report and Order fails to properly reflect the views of minority and other public organizations which supported retention of the previous subscription rules. They contend that the First Report and Order creates the impression that minority and other non-industry groups were nearly unanimous in their opposition to the previous rules, without mentioning that sixteen representatives of such groups appeared at the oral arguments and supported retention of the then existing rules. Among these representatives were the Reverend Jesse L. Jackson, National President, Operation PUSH, and Livingston L. Wingate, Executive Director, New York Urban League, as well as representatives of several civic and labor organizations.

5. Almost half of the First Report and Order was devoted to a summary of the comments advanced during the pendancy of the proceeding. In light of the broad interest evoked by the proceeding, we were especially diligent to apprise the parties and the public of the various positions and arguments which were considered during the decision making process. Although the arguments of each individual party were not addressed point by point, the summary of comments demonstrates the existence of an ample and complete record which fully justifies the conclusions that we reached.

6. We stated in paragraph 143 of the First Report and Order that "[b]ecause of the vast number of comments submitted, only a few of the more comprehensive comments have been given specific mention. However, we believe that the views of each party to this proceeding are fairly represented in our summarization." The testimony of the minority and other public organizations which supported retention of the previous subscription rules generally reiterates the position advanced by the major broadcast interests whose comments were summarized in paragraphs 25 through 46 of the First Report and Order. This position having once been stated, we did not see the need for its repetition. We did not, however, intend to give the impression that all non-broadcast oriented groups favored a relaxation of the subscription rules, and if such an impression was given, we trust that the discussion herein will set the record straight. In any case, our failure to specifically mention some of the individuals and groups who participated in the proceeding does not, in itself, compel reconsideration of our decision.

7. All of the petitions for reconsideration express general displeasure with the new rules and many of the basic arguments in favor of or opposed to strict anti-siphoning rules are repeated. These arguments were discussed at length in the First Report and Order, and no purpose can be served by responding to them once again here. Therefore, the following discussion concentrates on specific provisions of the new rules which we have been asked to reconsider.

8. *Market Definition.* Twin County Trans-Video, Inc. (Twin County), operator of several cable television systems in Pennsylvania, requests reconsideration of the provision of the new subscription cable television rules which defines "the market" in which a cable television system is located to include all commercial television broadcast stations required to be carried by the system pursuant to the cable television signal carriage rules. (See paragraph 164 of the First Report and Order.) Twin County submits that the Commission's definition of the market of a cable television system is overly broad and should be revised so that all cable systems located more than thirty-five miles from a commercial television station are excluded from the restrictions imposed by the subscription rules. Alternatively, Twin County requests waiver of the provisions of § 76.225, as amended, to permit it to conduct an unrestricted pay cable operation on its conglomerate system in Pennsylvania which is located outside of all television markets.

9. The main thrust of Twin County's argument for reconsideration is that anti-siphoning protection is not needed outside of television markets. Television markets are defined by § 76.5 of the rules to include the area within a thirty-five mile radius of the community to which a television station is licensed. Twin County submits that the Commission

[1] FCC 75-369, 52 FCC 2d 1 (1975).

[2] See, in particular, paragraphs 144 through 146 of the First Report and Order.

[3] Report and Order in Docket 19988, FCC 1279, 49 FCC 2d 1090 (1974).

should provide consistency between its signal carriage, network exclusivity and pay cable rules by limiting the imposition of restrictions on pay cable operations to those cable television systems located within a television market. In support of this position, Twin County asserts that there are approximately 90 cable television systems with 5,000 or more subscribers located outside all television markets. These 90 cable television systems are scattered throughout the fifty states, with no more than 13 cable systems located in any one state. According to Twin County, these systems serve approximately 893,625 subscribers, or less than 1.5 percent of the total number of television households in the United States.

10. Twin County's petition for reconsideration is opposed by the National Association of Broadcasters. The NAB argues that Twin County's request ignores the contrasting functions of the signal carriage and non-duplication rules on the one hand, and the subscription cablecasting rules on the other hand. The NAB points out that the purpose of the signal carriage and non-duplication rules is to ameliorate the impact of audience fragmentation with its attendant loss of revenue to the station and ultimately the services of that station to the public. In contrast, the subscription rules are intended to prevent siphoning of programming from conventional television to subscription television. It is estimated by the NAB that the number of cable television subscribers located outside all television markets would now approach two million, and that the potential for subscription cablecasting in these areas presents a significant siphoning threat.

11. Twin County has not persuaded us to revise the market definition contained in the subscription cablecasting rules. The NAB correctly characterizes the separate problems addressed by the subscription rules as compared with the signal carriage and non-duplication rules. We have concluded that, as a general proposition, cable television operations located outside of all television markets will not significantly fragment the audiences of television stations.[4] But this conclusion does not logically foreclose the application of anti-siphoning rules in areas outside all television markets. Subscripiton television presents a program siphoning threat to conventional television because the former service is able to garner substantially more revenues per viewer, by assessing a direct charge on subscribers, than conventional television, which must rely on advertising revenue. The difference between these two financial bases makes it possible for a relatively few subscribers paying a direct fee to attract programming away from conventional viewers who, through advertiser support, generate only a few cents each toward the purchase of programming. Although the number of potential cable subscribers located outside all television markets may not be sufficient to significantly fragment the audiences of nearby television stations, this same number of potential subscription viewers may be able to siphon programming away from television stations in adjacent markets. This possibility is particularly acute in the heavily populated area between the Philadelphia and New York City television markets where Twin County operates its cable systems. Therefore, on the basis of the facts before us, we are not persuaded to exempt cable television systems located outside all television markets from the restrictions imposed by our subscription cablecasting rules, and we will proceed with the regulatory framework adopted in the First Report and Order.

12. In support of its alternative request for waiver of the subscription cablecasting rules, Twin County states that only a few cable systems in the country are authorized to carry as many television signals as is Twin County. Because of the popularity and diversity of Twin County's current service offering, it requires substantially more and better than normal programming for a successful pay cable operation. Twin County asserts that potential audience diversion among its approximately 50,000 subscribers from advertiser to viewer-supported programs would be de minimis. Additionally, Twin County claims that a grant of the requested waiver will provide an ideal opportunity for an experiment in unrestricted pay cable operations. Twin County offers to furnish the Commission with periodic progress reports on the development of its pay cable services in the event that a waiver is granted.

13. Twin County has failed to establish the existence of a compelling need for the waiver it seeks. Although it states that the large number of television signals it carries necessitates that it provide subscription programming of high quality, Twin County does not attempt to explain why the quality and quantity of subscripiton programming now permitted by the rules is not sufficient to meet its needs. Absent this showing of need for relief, we would not be justified in granting a waiver of our rules. Therefore, Twin County's alternative request for waiver will be denied.

14. *Feature Films.* Petitioners NAB, ABC, NBC, CBS, MST and Television Licensees claim that there has been no showing made to justify the modifications of the feature film rules which were adopted in the First Report and Order, and they request that the Commission reinstate the previous rules. Their petitions are opposed by Mr. Henry Geller, the National Cable Television Association (NCTA), United Artists Corporatioh (UA), and several program suppliers filing jointly (Program Suppliers).

15. With regard to the provision permitting the subscription use of feature films during the first three years after their theatrical release, it is argued that the previous two-year provision allowed for adequate subscription use, and that the new three-year provision will delay the exhibition of many films on conventional televison. In its petition, NBC directs our attention to oral testimony given in this proceeding where it was stated that twenty-three percent of all the feature films on the NBC Television Network shown for the first time during the 1972–73 season had been first released to theaters less than two years earlier. Another twenty-six percent of the films on NBC shown for the first time that season were between two and three years old. In their opposition, the Program Suppliers answer NBC's argument by stating that seventy-two percent of the feature films first shown on television during the 1973–74 season were more than three years old, and that the average (mean) age of the films was five years and two months.

16. In paragraph 166 of the First Report and Order we stated that the three-year provision would provide a reasonable balance between the interest in allowing for subscription exposure of new films and the interest in their timely exposure over conventional television. We realize that because the theatrical runs of feature films vary widely, no specific time limit can be found which allows for some subscription exhibition of all films without leaving some possibility for delay of their conventional showing. Present marketing practices indicate that a three-year limit is reasonable in most situations, although a few "blockbuster" films may not be made available for subscription use during this period, and other less popular films may complete their theatrical runs well within this period. At worst, the three-year provision may allow for a few months delay of the conventional exhibition of some feature films. Nevertheless, it continues to be our best judgement that the three-year provision constitutes a reasonable balance between the competing uses, and is that which best serves the public interest.

17. The petitioning broadcast interests claim that the "under contract" provision, which permits the subscription exhibition of any feature film available for conventional showing in the market, should be rescinded, at least until the Commission has resolved its current inquiry into program exclusivity practices.[5] The NAB and CBS assert that this provision creates a considerable potential for subscription operators to provide saturation exposure of many films technically available to conventional television before any conventional broadcaster is able to use them. Thus, they conclude, broadcasters will have considerable incentive to reduce the number of runs of feature films which they employ. Additionally, MST and the NAB predict that this provision will be utilized in a manner which frustrates the Commission's policy because it creates an incentive to make feature films "available" to conventional television stations under very limited circumstances so as to maximize subscription revenues.

[4] It should be noted that our network program non-duplication rule provides an additional 20 miles of protection around smaller television markets. See § 76.92 of the rules.

[5] Notice of Inquiry in Docket 20402, FCC 75-371, 52 FCC 2d 87 (1975).

18. An important part of our program exclusivity inquiry involves looking into the concurrent use of feature films by subscription and conventional television, which is made possible by the subject "under contract" provision. Experience with the operation of this rule may influence our decision as to whether rules are required to limit the degree of exclusivity obtained by either form of television. Therefore, to suspend the operation of this provision would eliminate one of the major reasons for our having commenced the exclusivity proceeding. The audience fragmentation argument posed by the NAB and CBS is misdirected. As pointed out by the NAB itself, the problem addressed by the subscription rules is siphoning, not audience fragmentation, and it cannot be argued that the "under contract" provision permits siphoning. Finally, the arguments of MST and the NAB concerning limited availability periods were dealt with in paragraph 171 of the First Report and Order. We stated there that we did not expect the "under contract" provision to alter existing patterns of feature film distribution. If this were to happen, adjustments in the rule might be required. Petitioners have not made a convincing showing that adjustments are necessary at this time.

19. The broadcast interests contend that the provision permitting subscription exhibition of any feature film over ten years old which has not been broadcast in the market during the previous three years will fail to prevent siphoning and should be deleted. As stated by the NAB on page 4 of its petition, their argument is as follows:

> What the Commission should have focused on was the post-seven year distribution pattern, at which point the film already will have been shown in theatres, on pay-TV, and on network television. In many cases, the film also will have entered syndication before the seven year period expires. What the Commission has managed to ignore in its discussion of the film producers' interest in obtaining revenues from free television exhibition is the fact that, most films will have produced considerable revenue from free TV exhibition before the three year "no show" period could begin. Certainly, the film producer will have recouped his production costs and made a substantial profit by the time the film has been in general release for seven years. Thus, contrary to the Commission's stated reasoning, he will not be faced with economic pressures to continue to sell the film to free television.

20. The primary purpose of the "over ten" provision of the feature film rules is to make available for subscription use the thousands of older feature films not desired for conventional television exhibition. (See paragraph 172 of the First Report and Order.) Because these "undesirable" films cannot be neatly segregated from the great mass of older feature films in existence, we were required to draft a rule which applies generally to all older films, but which contains safeguards to prevent the withholding of "desirable" films from the conventional television market. If the scenario posited by the NAB is correct, and there is still demand for a film's exhibition on conventional television after multiple showings by that medium, what we are being asked to assume is that the potential subscription value of the film three years hence will outweigh its immediate value to conventional television. At this point, the public will have already had an opportunity to view the film over conventional television, and perhaps several showings will have occurred. Thus, the issue here is not siphoning in the strict sense of the term, but whether such films will continue to be shown over conventional television. It is not unreasonable to assume that the subscription value of a film ten years after its theatrical release will be considerably less than that of newer films not yet seen on conventional television. It appears to us that, for such a film, the imbalance in purchasing power between advertiser supported and direct payment television will be more than made up for by the three-year hiatus requirement. We do not believe that the subscription value of such older films which have had conventional television exposure will be sufficient to cause it to be forever withheld from the conventional market. We suspect that such older films will eventually be alternately displayed on conventional and subscription television until their public appeal is entirely exhausted.

21. To assure that this process will actually occur, CBS proposes that the rule be modified to require that any film more than ten years old that is offered by subscription television, be offered in the market only during a period determined by the Commission to constitute the length of one normal subscription television run. This period might be a week, month or some other period that the Commission determined to be reasonable. After the subscription run has finished, the film would not be available to subscription television for the following three years. At the end of that three-year period, if not broadcast by conventional television, the film would again become available to subscription television for one run.

22. The proposal of CBS is directed at those older films which are desirable for conventional telecasting. The great bulk of older films need not be subject to anti-siphoning restrictions because they are not desired for conventional telecast. (See comments of Metromedia summarized in paragraph 38 of the First Report and Order.) Nevertheless, the modification that CBS proposes would place additional restrictions on the subscription use of these films. Additionally, it would require all subscription operations within a certain market to simultaneously exhibit a particular older film during the subscription run period set by the Commission, after which the film would not be available to them for another three-year period. We do not believe that the modification proposed by CBS is necessary to assure the availability of older films for conventional telecast. Once a film is over ten years old and has been exhibited on a subscription basis pursuant to our existing rules, the economic incentive to withhold the film from conventional television is greatly reduced, and the need for additional protection is outweighed by the burdens such protection would impose.

23. The petition of CBS also suggests that we undertake a study to determine the amount of revenue available for the purchase of older films in the respective subscription and conventional television markets, and establish a holding period based on our findings. Because of the nascent state of the subscription market, we do not believe that such a study would be productive at this time. We believe that experience with our new rule will best establish its worth, or demonstrate the need for its modification.

24. Spanish International Communications Corporation (SICC) and MST have requested reconsideration of the provision which exempts foreign language films from the restrictions imposed by the subscription rules. SICC states that the provision amounts to unconstitutional discrimination in treatment as to Spanish language television stations vis-a-vis English language stations, and that there is no evidence which would warrant the special treatment afforded foreign language films.

25. We stated in paragraph 177 of the First Report and Order, that we do not foresee foreign language subscription programming as having any significant impact on conventional television service. Our subscription rules are designed to maintain the availability of conventional television programming, which consists primarily of English language programs. Where foreign language films are not being telecast by conventional stations, they cannot be siphoned. Because foreign language programming is not generally provided by conventional television stations, the need to impose anti-siphoning restrictions on this type of programming is generally not present. In the exceptional case where it can be demonstrated that application of the anti-siphoning rules to foreign language films is required to protect the public interest, the special relief provisions of our rules provide a readily accessible vehicle for obtaining necessary Commission action. This approach is consistent with our cable television signal carriage rules. Without a showing of adverse impact on local television service, cable systems are not restricted as to the number of signals from distant foreign language broadcast stations that they carry. The presumption that the subscription use of foreign language feature films will not adversely affect local television service is no more unreasonable or discriminatory than the presumption against local impact resulting from the importation of distant signals from foreign language stations. In both cases, the difference in treatment vis-a-vis English language and foreign language programming is reasonable in light of the specialized nature of foreign language programming and the public interest in encouraging its dissemination.

26. *Sports.* Petitioners CBS, MST and NAB request reconsideration of the sports

provisions adopted in the First Report and Order. Particularly, the Commission is requested to place restrictions on the subscription exhibition of entirely new sports events, establish separate categories for regular-season and post-season non-specific events, preclude subscription exhibition of all remainder games in categories in which conventional television has met the twenty-five percent or greater coverage test, restrict subscription exhibitions in categories in which conventional television has not achieved a twenty-five percent or higher "high water mark" to fifty percent of the remainder games, and adopt a provision giving conventional television first choice of the games to be carried.

27. The discussion in paragraphs 186 through 208 of the First Report and Order sets forth the conclusions upon which we premised our new sports provisions. The above-mentioned petitions for reconsideration allege no new information which causes us to doubt the correctness of these conclusions. With regard to entirely new sports events, we believe that the need for conventional television exposure to popularize new sports will assure their availability to that medium. As to regular-season and post-season non-specific events, we realize that the potential for "frontloading" or "creamskimming" exists when they are included in a single category. We also realize that the alternative of placing each type of event within a separate category presents considerable difficulty because the number of post-season events to be played by a particular team cannot be forecast with any certainty. On balance, the disposition decided upon in paragraphs 197 and 198 of the First Report and Order appears to be the most reasonable solution. We think it worth repeating here, however, that if "frontloading" or "creamskimming" occurs, we will be required to take a second look at this provision and to consider its revision so that observance of our policy is assured.

28. We see no need to further restrict the number of "remainder games" available for subscription use in either the situation where twenty-five percent or more of the games have been conventionally televised, or where less than twenty-five percent have received conventional television exposure. The public interest in maintaining conventional telecasts is greatest where many events have been televised in the past, and these events are afforded the greatest anti-siphoning protection. With regard to events less often televised, the rules seek to maintain the past level of conventional telecasts while allowing for the subscription exhibition of the remainder games which would otherwise not be viewed on either medium. The proportional reduction provision is not applied to the under twenty-five percent situation because we regard it to be less needed, and because application of this provision might drastically curtail subscription exhibitions when conventional telecasts are reduced by only one or two games. Events not receiving substantial conventional television exposure were treated in a similar fashion pursuant to our previous sports rule, and no siphoning effects were experienced. We expect that our present rule will be equally effective.

29. We considered in paragraphs 204 and 205 of the First Report and Order the suggestion that conventional television interests be allowed to choose and to "preempt" the sports events desired for telecast, and concluded that such a provision would add unwarranted complexity to our rule and might produce unforeseen and unwanted results. We again reject the suggestion that such a preemption provision be incorporated within the rules. However, should be find that desirable sports events are being withheld from conventional television in order to provide for their subscription exhibition, we would consider giving effect to such a provision in order to prevent frustration of our anti-siphoning policy.

30. The National Hockey League (NHL) has also requested reconsideration of the sports provisions. This petition is opposed by ABC. Although it generally disagrees with the Commission as to the need for sports anti-siphoning rules, the thrust of the NHL's petition is directed at four alleged "technical deficiencies" in the First Report and Order. The first of these concerns the proportional reduction provision discussed in paragraph 200. The NHL claims that this provision will reduce the number of events available for subscription exhibition even though no siphoning has taken place, and that the sports rules afford adequate siphoning protection without this provision. If the provision is retained, the NHL requests that the base period governing its operation be reduced from the present five years to one year.

31. We recognize that the proportional reduction provision does not take into account situations where conventional telecasts are reduced for reasons unrelated to siphoning. As we previously stated, in these situations we would be disposed to grant waivers to maintain existing levels of subscription exhibitions. However, without this provision, the relaxation of the earlier sports rules brought about in the First Report and Order would encourage immediate siphoning of sports events until the number of subscription exhibitions equals half the number of events not conventionally televised in the high water mark year. By applying a one-year base period to the proportional reduction provision, the penalty for siphoning exacted by the rule might not outweigh the economic benefits to be gained from the practice. We therefore believe that the existing proportional reduction provision is required, and will rely upon the special relief provision of our rules to remedy any anomalies that it might create.

32. The second matter discussed by the NHL concerns our decision in paragraph 197 of the First Report and Order to eliminate the old "games of the week" category. The NHL argues that teams generally have little or no control as to the number of their games that will receive network coverage. Thus, a temporarily attractive team may show up on the network game of the week a number of times in a given season, which would have damaging effects on its ability to sell its games to subscription television, particularly when the proportional reduction provision is in effect.

33. This problem was alluded to in paragraph 203 of the First Report and Order. There we stated that where a network telecast had the effect of unreasonably restricting the events available for subscription exhibition, we would entertain a request for waiver of the rules. We believe that this approach will satisfactorily remedy situations where a particular team's games receive an unusual amount of network coverage. Reinstating the game of the week category would only add to the complexity of the rule and might reduce its effectiveness to prevent siphoning.

34. The NHL also requests the Commission to revise its definition of delayed telecasts which is discussed in paragraphs 188 and 189 of the Fourth Report and Order. It is argued that a delayed telecast should be defined as one commenced a half hour or more after an event is begun, rather than one commenced after the conclusion of the event. According to the NHL, such a change would encourage the delayed telecasting of home games and would not be contrary to the Commission's policy. Alternatively, the NHL requests that the definition be modified to take into account the possibility of "run-overs" by defining a delayed telecast as one commenced after the scheduled conclusion of an event, rather than its actual conclusion. This would eliminate scheduling uncertainties resulting from the possibility of an event lasting an unusually long time.

35. There is some point where a "delayed" telecast of an event may be virtually like a live telecast in terms of the viewing interest it engenders. This point will vary depending on the type of event to be televised. A half hour delay in the telecasting of a golf match or the Olympic games may be, for all practical purposes, the same as a live telecast. Because no particular time period will distinguish a live telecast, or its equivalent, from a delayed telecast in the case of every type of sports event, we believe that the conclusion of the event is a natural and reasonable dividing line for purposes of the sports rule. With regard to the alternative proposal of the NHL, we agree that our present definition of the term "live" presents unnecessary problems in the case of runovers. We therefore will modify the legislative history contained in paragraph 189 of the First Report and Order to define the term "live" as any telecast or cablecast that is simultaneous with the actual occurrence of the event or the delayed tape showing of which is begun prior to its scheduled conclusion.

36. Finally, the NHL objects to our decision to apply the league average of games telecast to relocated and expansion teams. At most, the NHL states a

relocated franchise should take its prior broadcasting history with it.

37. The operation of the sports rules requires the application of some previously established pattern of conventional telecasts. Having decided that relocated and expansion teams should be covered by the subscription rules, the league average alternative discussed in paragraph 201 of the First Report and Order appears to be the most reasonable standard in lieu of an actual telecast history. Of course, this standard is artificial, but it is the only standard available until the relocated or expansion team establishes its own history of telecasts. With regard to relocated teams, we see no reason why a team's telecasting pattern developed in its old location, will more accurately predict the telecasting pattern to be established in its new location than will the league average. We, therefore, see no compelling reason to apply different standards to relocated teams and expansion teams.

38. *Series.* In its petition for reconsideration, CBS requests the Commission to amend the series rule to prohibit the subscription exhibition of "spin-offs" or other derivatives of series created by and for conventional television. Because the series rule adopted in the First Report and Order is merely an interim measure and is likely to be revised pursuant to the inquiry commenced by the second further notice of proposed rule making in Docket 19554,[6] questions concerning the series rule can best be resolved together with the other issues to be considered in that proceeding. Therefore, we will postpone consideration of the proposal of CBS and take it up when we consider the comments filed pursuant to the further notice.

39. The foregoing discussion addresses requests for reconsideration of various subscription television provisions adopted in the First Report and Order. Several reconsideration petitions also request that the cable rules be amended to broaden their scope. Four changes in the rules are sought: (1) A rule that would require prior notice of pay cable operations and would provide a method for obtaining information on a regular basis as to the extent of pay cable growth, including the programs being carried and the charges; (2) a provision applying the feature film, sports and series rules to all cablecasting, not just to that for which a special charge is made; (3) a rule limiting to one the number of channels permitted for movies and sports combined; and (4) a modification of the "ninety percent rule" to induce more diversity and innovation.

40. Each of these proposed changes was discussed and rejected in the First Report and Order. (See paragraphs 154 through 159 and 212 through 213.) Petitioners have produced no new evidence to support their arguments and we have no reason to reverse our decisions. For the reasons stated in the First Report and Order, each of these requests for reconsideration is denied.

41. In the petitions for reconsideration, much is made of the reports that the number of pay cable subscribers has almost doubled during the past year and that this rate of growth is likely to continue during the next several years. Contrary to the arguments of some petitioners, this evidence does not indicate that our subscription rules should be further tightened. The rules adopted in the First Report and Order were drafted with the expectation that the subscription industry would experience considerable growth in the future. In rejecting the proposed moratorium on feature film restrictions, we stated in paragraph 162 of the First Report and Order that the regulatory framework for the subscription industry should be established now, during its developmental stage, so that its growth will be accompanied by a relatively stable regulatory climate. Additionally, to the extent that public impact can be forecast, reasonable regulations to protect the public interest should be imposed before the impact is felt, not after the public interest has already suffered. For these reasons, the subscription rules were drafted with an eye toward the future, and we are confident that they will be adequate, with the possibility of some minor modifications, to fully meet the needs for which they were adopted. Growth of the subscription industry is not, therefore, cause for alarm. It is, rather, evidence of the need for, and the reasonableness of, the rules which we adopted in the First Report and Order.

42. Although not brought up in the petitions for reconsideration, one additional matter has come to our attention which calls for a minor revision of the subscription cablecasting rules. Section 76.225(a)(3) of the rules requires cable systems over which feature films are cablecast to keep certain records pertaining to the consistency of the cablecasts with the subscription rules. In keeping with the policy expressed in paragraphs 214 and 215 of the First Report and Order, this section should be amended to provide that such records are to be maintained by either the cable system operator or channel lessee, depending upon which individual or entity exercises editorial control over the subscription programming being provided. In the case of either a channel lessee or a system operator who obtains subscription programming from a network, the required records may be housed in the main business office of such network. This procedure is consistent with the record keeping requirements of our sponsorship identification rules.[7] We believe that this modification will more appropriately assign responsibility for maintaining the required records and will, in some instances, ease the administrative burden of keeping such records.

43. In conclusion, we have found that the petitions for reconsideration contain many of the same arguments put forth prior to the adoption of the First Report and Order, and present no new evidence which calls for reconsideration. Some petitioners point out matters which might call for future modifications, but we have determined that such changes can best be accomplished after experience has been gained with the operation of the rules. For now, the subscription rules represent our best judgment as to what is required for the better and more efficient use of the airwaves. In those situations where the public interest and the operation of our rules might diverge, we are confident that the liberal waiver policies enunciated in the First Report and Order will provide an adequate mechanism for obtaining special relief.

Authority for the rules adopted in the Appendix attached hereto is contained in sections 2, 4(i) and (j), 303, 307, 308, and 309 of the Communications Act of 1934, as amended.

Accordingly, *it is ordered*, That the petitions for reconsideration filed by the parties enumerated in paragraph 1, supra, are granted to the extent indicated herein and otherwise are denied.

It is further ordered, That the alternative petition for special relief filed by Twin County Trans-Video, Inc., is denied.

It is further ordered, That Part 76 of the Commission's rules and regulations, is amended, effective September 22, 1975 as set forth below.

(Secs. 2, 4, 303, 307, 308, 309, 48 Stat., as amended, 1064, 1066, 1082, 1083, 1084, 1085; (47 U.S.C. 152, 154, 303, 307, 308, 309.))

Adopted: July 31, 1975.

Released: August 8, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

Parts 76 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

In § 76.225 the headnote and par (a)(3) are amended to read as follows:

§ 76.225 Subscription cablecasting.

(a) * * *

(3) Every cable television system operator or channel lessee engaging in origination or access cablecasting pursuant to this paragraph shall maintain, or cause to be maintained, for public inspection a file listing the title of the film, the date on which it was cablecast and the provision of this paragraph pursuant to which it was cablecast. When a feature film is cablecast pursuant to paragraph (a)(1)(ii) of this section, the station or network serving the market and holding a present contractual right to exhibit the film shall be specified. These files shall be retained for a period of two years.

* * * * *

[FR Doc.75-21503 Filed 8-14-75;8:45 am]

[6] FCC 75-370, 52 FCC 2d 83 (1975).

[7] See paragraph 33 of Report and Order in Docket 19513, FCC 75-417, 52 FCC 2d 701, 711 (1975).

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. SA-4, Notice 3]

PART 231—RAILROAD SAFETY APPLIANCE STANDARDS

Box and Other House Cars

On March 31, 1975, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (40 FR 14339) stating that the Federal Railroad Administration (FRA) was considering an amendment to Part 231, Railroad Safety Appliance Standards, that would require newly constructed box and other house cars, regardless of their height, to be equipped with end platforms and associated end handholds as specified in § 231.27 or, if they have roof hatches, § 231.28. However, existing box and other house cars with roofs 16 feet 10 inches or more above top of rail (excess height cars), and those placed in service prior to January 1, 1976, which are equipped with end platforms and associated end handholds as specified in § 231.24 would not be required to be modified to conform with §§ 231.27 or 231.28.

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments before May 30, 1975.

Two comments were filed; both supported the proposed amendment. However, one commenter suggested elimination of the distinctive marking requirements for excess height cars prescribed in § 231.27(j). This commenter argued that with the removal of almost all running boards from cars, and with the prohibition in current railroad operating rules against employees riding on the top of cars, these distinctive markings are no longer necessary. The NPRM did not propose any change in the present marking requirements for excess height cars. Accordingly, FRA believes it would be inappropriate to include this suggested change in the final rule. However, FRA will consider this matter further and may propose such an amendment in a future NPRM.

Since no unfavorable comments have been received, the proposed regulations are hereby adopted without change and are set forth below.

Effective date. These regulations shall become effective January 1, 1976; however, earlier compliance with these provisions is authorized.

Issued in Washington, D.C. on August 11, 1975.

ASAPH H. HALL,
Administrator.

1. In § 231.1 the caption is amended to read as follows:

§ 231.1 Box and Other House Cars.

* * * * *

§ 231.24 [Amended]

2. In § 231.24 footnote 1 is amended to read as follows:

1(a) Each car of this type built or rebuilt after (effective date) or under construction prior thereto and placed in service after (effective date) shall be equipped as specified in § 231.27 (a)–(h) and (j) or, if it has roof hatches, as specified in § 231.28.

(b) Each car of this type placed in service after November 23, 1964 and before (effective date) shall be equipped—

(1) As specified in § 231.24; or

(2) As specified in § 231.27 (a)–(h) and (j); or

(3) If it has roof hatches, as specified in § 231.28.

(c) Each car of this type placed in service before October 22, 1964, or under construction on October 22, 1964 and placed in service before November 23, 1964, shall be equipped—

(1) As specified in § 231.1; or

(2) As specified in §§ 231.1 and 231.27(i); or

(3) As specified in § 231.27(a)–(h) and (j); or

(4) If it has roof hatches, as specified in § 231.28.

3. In § 231.27 the caption and paragraphs (b)(3) and (j) are amended to read as follows:

§ 231.27 Box and Other House Cars Without Roof Hatches.

* * * * *

(b) *End Platforms* * * *

(3) *Location.* One (1) centered on each end of car between inner ends of handholds not more than eight (8) inches above top of center sill.

* * * * *

(j) *Painting and Marking.* Box and other house cars with roofs 16 feet and 10 inches or more above top of rail shall be painted and marked as follows:

(1) That portion of each end of the car which is more than fifteen (15) feet above top of rail shall be painted with contrasting reflectorized paint and bear the words "excess height car" in lettering not less than three (3) inches high; and

(2) On each side sill near end corner there shall be painted or otherwise displayed a yellow rectangular area with a three-fourths (¾) inch black border containing the words "this car excess height" in lettering not less than one and one-half (1½) inches high.

(Secs. 2, 4 and 6, 27 Stat. 531, as amended; secs. 1 and 3, 32 Stat. 943, as amended; secs. 1–6, 36 Stat. 298–299, as amended; secs. 6 (e) and (f), 80 Stat. 939; (45 U.S.C. 2, 4, 6, 8, 10, 11–16; 39 U.S.C. 1655))

[FR Doc.75-21469 Filed 8-14-75;8:45 am]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 74-11; Notice 11]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Exterior Protection; Response to Petitions for Reconsideration

This notice responds to petitions for reconsideration of a notice published May 13, 1975, amending Standard No. 215, *Exterior Protection* (49 CFR 571.215), to reduce the number of longitudinal pendulum impacts and to delay for 1 year until September 1, 1976, the application or the low-corner impact requirements to vehicles with wheelbases exceeding 120 inches (40 FR 20823).

The 1-year postponement of the September 1, 1975, effective date of the low-corner impact requirements as they apply to vehicles with wheelbases in excess of 120 inches was intended to provide Chrysler with some relief from the serious financial difficulties it was experiencing. Chrysler petitioned the NHTSA to delay the low-corner impact requirements, noting that the redesigning necessary for it to bring its "full-sized" vehicles into compliance would add significantly to its financial burdens. The May 13, 1975, notice granted this request.

Many commenters to the notice proposing the 1-year delay (40 FR 11598) argued that limiting the relief from the low-corner requirements to "full-sized" cars was unfair. The NHTSA rejected requests to extend the delay to all vehicle types (40 FR 20823), stating that the need for financial relief expressed by Chrysler does not support an overall suspension of the provision. To satisfy Chrysler's needs, only "full-sized" cars need be affected.

American Motors has submitted a petition for reconsideration of the Standard 215 amendment giving relief from the low-corner impact requirements only to vehicles with wheelbases exceeding 120 inches. American Motors complained that implementation of this 1-year effective date extension will place American Motors in a disadvantageous position, since other manufacturers with whom it directly competes will enjoy the relief provided by the delay.

In its petition it cited the decision in "Nader v. Volpe," 320 F. Supp. 266 (1970), affirmed 475 F. 2d 916 (1973), in contending that the effective date extension for compliance with the low-corner impact requirements should not be limited to vehicles with wheelbases exceeding 120 inches. That case focused on the authority of the Department of Transportation to grant extensions of effective dates from standards as they apply to a single manufacturer. The Court held that the Department's action of delaying the application of Standard No. 212, *Windshield Mounting*, to a single manufacturer, such as Checker Corporation, was not permitted by the National Traffic and Motor Vehicle Safety Act (Pub. L. 89-563) and did not fall within the coverage of the temporary exemption provisions of the Act.

In the Checker situation, one of the main reasons for the NHTSA's attempt to exempt Checker specifically was that otherwise a whole class of vehicles (which would include the Checker cars) would have to be excepted from the requirement for a period of time because of Checker's problems. It appeared that Checker, because of prototype failures, clearly could not redesign, retool, and test in time to meet the standard. Evidently both the Court and the parties to the case accepted this as the alternative facing the agency, and the consequence of the decision. The Court was not addressing the validity of the agency's reasons for extending an effective date. It was considering the ability of the agency to

act with respect to a single manufacturer as opposed to a class of vehicles.

With respect to the recent amendment to Standard No. 215, the effective date extension affects an entire class of vehicles and applies equally to all manufacturers producing vehicles within that class. Thus, the decision in the Nader case has been complied with.

In amending Standard No. 215 (40 FR 20823), the NHTSA acted on the basis of information and arguments presented to it at the time. They were presented by Chrysler and indicated the desirability of delaying the applicability of the low-corner hit requirements to a particular class of vehicles whose conformity would place a severe strain on Chrysler's resources. The NHTSA considers that such action, where it is justified by sufficient evidence as brought forth both by a petition and by notice and comment in accordance with normal administrative procedures, is an appropriate use of the power granted to the agency by the National Traffic and Motor Vehicle Safety Act (Pub. L. 89-563). Virtually all actions of the agency under this power "discriminate" against certain types of vehicles and in favor of others—that is inherent in this area of regulation. The equal protection clause does not prohibit discrimination per se; it only prohibits invidious discrimination, i.e., discrimination based on an improper or illegitimate motive. In the agency's opinion, maintaining the viability of an automobile manufacturer is not such an improper motive. The 1-year exception for the low-corner hit was limited to large vehicles because the evidence before the agency only supported its necessity with respect to that class. The public policy in favor of the effectiveness of the standard militated against broadening the exception to larger classes of vehicles.

For the above stated reasons the American Motors petition to extend the applicability of the 1-year low-corner impact requirement exception is denied.

General Motors submitted a petition supporting the changes contained in the May 13, 1975, notice and raising issues relating to justification of any low-corner impact requirements and 5-mph test speeds versus 2½ mph test speeds. The NHTSA has dealt fully with these points in past FEDERAL REGISTER notices (39 FR 25237, 40 FR 11598, 40 FR 20823), and for the reasons stated therein General Motors' conclusions are rejected.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.51 and 49 CFR 501.8).

Issued on August 12, 1975.

ANDREW G. DETRICK,
Acting Associate Administrator,
Motor Vehicle Programs.

[FR Doc.75-21486 Filed 8-12-75;2:08 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER D—TARIFFS AND SCHEDULES

[Ex Parte No. 261]

FREIGHT TARIFFS AND SCHEDULES

Filing and Publishing Joint Rates Over International-Domestic Routes

Correction

In FR Doc. 75-20356 appearing at page 32832 in the issue of Tuesday, August 5, 1975 in the thirteenth and fourteenth lines of § 1307.49(b)(5) the reference to "§ 1307.47 (e)" should read "§ 1307.47 (c)".

Title 50—Wildlife and Fisheries

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

PART 32—HUNTING

Cibola National Wildlife Refuge, Ariz. and Calif.

On June 13, 1975, there was published in the FEDERAL REGISTER (40 FR 25217) a notice of proposed rulemaking adding Cibola National Wildlife Refuge, Arizona, California, to the list of areas open to the hunting of migratory game birds, upland game and big game. The public was provided a 30 day comment period and an environmental assessment was made available upon request.

No unfavorable comments have been received, and therefore §§ 32.11, 32.21 and 32.31 List of open areas, migratory game birds, upland game and big game, are amended by the addition of:

ARIZONA-CALIFORNIA

CIBOLA NATIONAL WILDLIFE REFUGE

Further, based on a review and evaluation of the environmental assessment, it has been determined that the hunting of migratory game birds, upland game and big game on Cibola National Wildlife Refuge is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(c) of The National Environmental Policy Act of 1969. Accordingly the preparation of an environmental impact statement on the proposed action is not required.

The United States Fish and Wildlife Service has determined that a finding of "good cause" is warranted within the terms of 5 U.S.C. 553(d)(3) to expedite the implementation of this rulemaking so that the final regulations may be published sufficiently in advance of the opening of the hunting season to provide for full public participation and finalization of plans for hunt administration.

Accordingly the effective date of this rulemaking shall be: August 31, 1975.

F. V. SCHMIDT,
Acting Director,
U.S. Fish and Wildlife Service.

AUGUST 11, 1975.

[FR Doc.75-21450 Filed 8-14-75;8:45 am]

PART 32—HUNTING

Rice Lake, Minn.

The following special regulation is issued and is effective August 15, 1975.

§ 32.32 Special regulations; upland game; for individual wildlife refuge areas.

MINNESOTA

RICE LAKE NATIONAL WILDLIFE REFUGE

Public hunting of small game only (as defined by Minnesota regulations) on the Rice Lake National Wildlife Refuge in Aitkin County, Minnesota, is permitted from sunrise to sunset September 13 through December 31, 1975 only in the small game hunting area designated by (green) signs as open to hunting. The open area comprises about 2,000 acres and is delineated on a map available at refuge headquarters, McGregor, Minnesota and from the Regional Director, Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

Hunting shall be in accordance with all applicable State regulations governing the hunting of upland game.

DON E. ADAMS,
Refuge Manager,
Rice Lake National Wildlife Refuge.

AUGUST 7, 1975.

[FR Doc.75-21449 Filed 8-14-75;8:45 am]

PART 32—HUNTING

Santee National Wildlife Refuge, S.C.

On June 13, 1975, there was published in the FEDERAL REGISTER (40 FR 25217) a notice of proposed rulemaking adding Santee National Wildlife Refuge, South Carolina, to the list of areas open to the hunting of big game. The public was provided a 30 day comment period and an environmental assessment was made available upon request.

No unfavorable comments have been received, and therefore § 32.31 is amended by the addition of:

§ 32.31 List of open areas, big game.

SOUTH CAROLINA

SANTEE NATIONAL WILDLIFE REFUGE

Further, based on a review and evaluation of the environmental assessment, it has been determined that the hunting of big game on Santee National Wildlife Refuge is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2) of the National Environmental Policy Act of 1969. Accordingly the preparation of an environmental impact statement on the proposed action is not required.

The United States Fish and Wildlife Service has determined that a finding of "good cause" is warranted within the terms of 5 U.S.C. 553(d)(3) to expedite the implementation of this rulemaking so that the final regulations may be pub-

lished sufficiently in advance of the opening of the hunting season to provide for full public participation and finalization of plans for hunt administration.

Accordingly, the effective date of this rulemaking shall be: August 31, 1975.

F. V. SCHMIDT,
Acting Director,
U.S. Fish and Wildlife Service.

AUGUST 11, 1975.

[FR Doc.75-21451 Filed 8-14-75;8:45 am]

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

PART 26—GRAIN STANDARDS

Miscellaneous Amendments

Correction

In FR Doc. 75-20301 appearing at page 32942 in the issue of Tuesday, August 5, 1975, make the following changes:

1. On page 32945 in the first column § 26.14(b)(4) is incorrect. The correct paragraph reads as follows:

§ 26.14 Inspection of grain in ships.

* * * * *

(b) * * *

(4) The term "uniform in quality" shall mean that the weighted average of the grain in the lot is not inferior to the load order grade, and that no material portion in the lot is of a grade or equivalent of a grade inferior to the load order grade.

* * * * *

2. On page 32947, third column a line in § 26.101(c)(2) was left out. After the word "circumstances" in the first line, insert "preclude the publishing of the proposed".

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

[Amdt. 7]

PART 722—COTTON

1975 Crop Price Support Payment Factor and Price Support Payment Rate

On August 15, 1974, notice of proposed rule making regarding determinations with respect to the 1975 crop of extra long staple cotton was published in the FEDERAL REGISTER (39 FR 29375). Interested persons were invited to submit written data, views, and recommendations regarding the determinations within 30 days after publication of the notice. No comments were received in response to the payment rate and factor.

This amendment to the regulations governing the Extra Long Staple Cotton Program for 1968 and Succeeding Years is issued pursuant to section 101(f) of the Agricultural Act of 1949, as amended, for the purpose of (1) announcing the 1975 price support payment factor and the price support payment rate, (2) deleting certain provisions prohibiting the making of payments on farms owned by the Federal Government, and (3) adding provisions pertaining to failure to fully comply with program regulations.

The regulations governing the Extra Long Staple Cotton Program for 1968 and Succeeding Years, 33 FR 19159, as amended, are hereby further amended as follows:

1. The table of contents is amended by changing the heading of § 722.720.

§ 722.720 Failure to fully comply.

2. Section 722.701 is amended by revising paragraphs (e), (f), and (g) to read as follows:

§ 722.701 Definitions.

* * * * *

(e) "Feed Grain Program" means the program authorized under Title V of the Agricultural Act of 1970, Part 775 of this chapter, as amended.

(f) "Upland Cotton Program" means the program authorized under Title VI of the Agricultural Act of 1970, Part 722 of this chapter, as amended.

(g) "Wheat Program" means the program authorized under Title IV of the Agricultural Act of 1970, Part 728 of this chapter, as amended.

* * * * *

3. Paragraph (b) of § 722.703 is revised to read as follows:

§ 722.703 Requirements for eligibility.

* * * * *

(b) *Farm requirements.* (1) A Form ASCS-493, "Application for Payment" (hereinafter referred to as Form 493), must be filed for the farm in accordance with § 722.711.

(2) The acreage of ELS cotton on the farm must not exceed the permitted acreage of cotton as determined under the provisions of § 722.707.

(3) Land owned by the Federal Government shall be ineligible for participation in the program if it is occupied without a lease, permit, or other right of possession.

4. Section 722.704 is amended by adding a new paragraph (f) to read as follows:

§ 722.704 Price support payment factor.

* * * * *

(f) For 1975, the price support payment factor is 0.8923.

5. Section 722.709 is amended by adding a new sentence at the end of paragraph (a) and by deleting paragraph (c).

§ 722.709 Price support payment.

(a) * * * For 1975, the price support payment rate shall be 6.36 cents per pound.

* * * * *

(c) [Deleted]

* * * * *

6. New § 722.720 is revised to read as follows:

§ 722.720 Failure to fully comply.

Except as otherwise provided herein and in Part 791 of this chapter, as amended, payment shall not be made for a farm or to a producer when there is failure to comply fully with the regulations contained in this subpart and in Part 718 of this chapter.

(Sec. 101(f), as amended, 82 Stat. 702 (7 U.S.C. § 1441(f))).

Effective date: August 15, 1975.

Signed at Washington, D.C., on August 5, 1975.

E. J. PERSON,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.75-21467 Filed 8-14-75;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Regulation 6]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period August 17-23, 1975. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.306 Lemon Regulation 6.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons continues strong this week due to the hot weather over much of the nation. Average f.o.b.

price was $7.24 per carton the week ended August 9, 1975, compared to $7.05 per carton the previous week. Track and rolling supplies at 132 cars were up 6 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on August 12, 1975.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period August 17, 1975, through August 23, 1975, is hereby fixed at 275,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

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

Dated: August 13, 1975.

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

[FR Doc.75-34349 Filed 3-14-75;12:05 am]

[Bartlett Pear Reg. 10]

PART 931—FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

Limitation of Shipments

This regulation, issued pursuant to the marketing agreement and Order No. 931 (7 CFR Part 931) specifies grade and size requirements for fresh Bartlett pears shipped from Oregon and Washington during the period August 18 through September 28, 1975. The requirements are that Bartlett pears meet the grade requirements of the U.S. No. 1 grade and be at least 165 size or the U.S. No. 2 grade and the 150 size. Red Bartlett pears shall meet the grade requirements of the U.S. No. 1 grade and be at least 180 size or the U.S. No. 2 grade and be at least 165 size. Pears in specified containers may grade U.S. No. 2 and be 2¼ inches or 2⅛ inches in diameter as specified for the particular container.

This regulation is issued pursuant to the applicable provisions of the marketing agreement and Order No. 931 (7 CFR Part 931) regulating the handling of fresh Bartlett pears grown in Oregon and Washington. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The regulation was recommended by the Fresh Bartlett Pear Marketing Committee established under the said Marketing Agreement and Order. It is hereby found that the regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

This action reflects the Department's appraisal of the need for regulation based on current and prospective market conditions. The Washington-Oregon Bartlett pear crop is estimated at 195,949 tons by the committee, compared with last season's production of 197,500 tons. Fresh shipments are expected to total about 58,814 tons. The regulation, as hereinafter set forth, is designed to prevent the handling on and after August 18, 1975, of lower quality and smaller size Bartlett pears and provide for orderly marketing in the interest of producers and consumers consistent with the objectives of the act.

The provisions which provide for less stringent size regulations for certain containers recognize the fact that (1) pears packed in the "western lug" are sold primarily to markets in the Northwestern states mostly for home canning, and (2) pears packed in "14 to 15 pound containers" are sold primarily in markets in the Midwestern states mostly for home canning. Conversely, the application of more stringent regulations for pears packed in the "standard western pear box", the "L. A. lug", or their carton equivalents, the half-carton or in "tight-filled" containers recognizes the fact that pears packed in these containers are primarily sold in supermarkets throughout the country for fresh consumption to be eaten out of hand. The special inspection requirement for minimum quantities, which exempts shipments up to an equivalent of 200 "standard western pear boxes" on any single conveyance from inspection requirements, except for spot check inspection, if certain reporting requirements are met, reflects the fact that such minimum quantity shipments are often shipped on the same conveyance as apples; that mandatory inspection of such minimum quantities would be unduly expensive and in some instances difficult to obtain; and that the total of such shipments is relatively inconsequential when compared with the total supply handled. The exemption of pears in gift packages from assessment, inspection, and certification reflects the fact that pears so handled are generally of high quality because they are sold in a market which demands high quality fruit. The exemption for individual shipments of 500 pounds or less of Bartlett pears sold for home use and not for resale and for pears in gift packages follows the custom and pattern of prior years. The quantity of pears so handled is relatively inconsequential when compared with the total quantity handled, and it would be administratively impracticable to regulate the handling of such shipments due to the nearness of markets to the source of supply. The addition of master containers containing overwrapped retail size containers of pears recognizes changing trade preferences. Retail chain buyers particularly in East Coast markets, prefer purchasing pears packed in retail consumer size containers with a stretch overwrap.

Bartlett Pear Regulation 9 (39 FR 27450; 31879) is terminated on August 18, 1975, the date Bartlett Pear Regulation 10, becomes effective.

It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than August 18, 1975. The committee held open meetings July 9 and July 31, 1975, after giving due notice thereof, to consider supply and market conditions for fresh Bartlett pears grown in Oregon and Washington, and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after the latter meeting was held; the provisions of this regulation are identical with the aforesaid recommendation of the committee, and information con-

cerning such provisions and effective time has been disseminated among handlers of such pears. Shipments of Bartlett pears of the current crop are expected to begin on or about August 18, 1975, and this regulation should be applicable, insofar as practicable, to all shipments of such Bartlett pears in order to effectuate the declared policy of the act; and compliance with this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

§ 931.310 Bartlett Pear Regulation 10.

Order. (a) Bartlett Pear Regulation 9 (39 FR 27450; 31879) is hereby terminated on August 18, 1975.

(b) During the period August 18, 1975, through September 28, 1975, no handler shall any lot of Bartlett pears unless such pears meet the following applicable requirements or are handled in accordance with subparagraph (4) or (5) of this paragraph:

(1) *Minimum Grade and Size.* (i) Bartlett Pears of varieties other than Red Bartletts, when packed in the standard western pear Box, the "L.A. lug", or their carton equivalents, in half-cartons (containers with inside dimensions of 19¼ x 11½ x 5½ inches), in master containers containing overwrapped consumer packages of pears, or in "tight-filled" containers shall be of a size not smaller than 165 size and shall grade at least U.S. No. 1 *Provided,* That Bartlett pears of such varieties may be handled in such containers if they grade at least U.S. No. 2 and are of a size not smaller than 150 size. Red Bartlett variety pears, when packed in any of the containers specified in this subdivision, shall be of a size not smaller than 180 size and shall grade at least U.S. No. 1 *Provided,* That pears of such variety may be handled in such containers if they grade at least U.S. No. 2 and are of a size not smaller than 165 size.

(ii) Bartlett Pears of any variety, when packed in the "western lug", shall grade at least U.S. No. 2 and be not less than 2¼ inches in diameter;

(iii) Bartlett Pears of any variety, when packed in containers containing at least 14 pounds but not more than 15 pounds net weight, shall grade at least U.S. No. 2 grade and measure not less than 2⅛ inches in diameter.

(2) *Pack or Container Requirements.* Bartlett Pears of any variety shall be packed in one of the following types of containers:

(i) "Standard western pear box" or "L.A. lug" or their carton equivalents;

(ii) "Western lug" or containers having a capacity equal to or greater than said lug;

(iii) "Half-carton" containers;

(iv) Containers of at least 14 pounds but not more than 15 pounds net weight;

(v) "Tight-filled" containers; or

(vi) Master containers containing overwrapped consumer packages.

(3) *Special inspection requirements for minimum quantities.* During the aforesaid period any handler may ship on any conveyance up to, but not in excess of, an amount equivalent to 200 "standard western pear boxes" of pears without regard to the inspection requirements of § 931.55 under the following conditions: (i) Each handler desiring to make shipment of pears pursuant to this subparagraph shall first apply to the committee on forms furnished by the committee for permission to make such shipments. The application form shall provide a certification by the shipper that all shipments made thereunder during the marketing season shall meet the marketing order requirements, that he agrees such shipments shall be subject to spot check inspection, and that he agrees to report such shipments at time of shipment to the committee on forms furnished by the committee, showing the car or truck number and destination; and (ii) on the basis of such individual reports, the committee shall require spot check inspection of such shipments.

(4) *Special purpose shipments.* Notwithstanding any other provisions of this section, any shipment of pears in gift packages may be handled without regard to the provisions of this paragraph and of §§ 931.41 and 931.55.

(5) Nothwithstanding any other provisions of this section, any individual shipment of pears which meets each of the following requirements may be handled without regard to the provisions of this paragraph and of §§ 931.41 and 931.55:

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

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

(c) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and orders; "U.S. No. 1," "U.S. No. 2," and "size" shall have the same meaning as when used in the United States Standards for Summer and Fall Pears (7 CFR 51.1260–51.1280); "150 size," "165 size," and "180 size" shall mean that the pears are of a size which pack, in accordance with the sizing and packing specifications of a standard pack, as specified in said United States Standards, 150, 165, or 180 pears, as the case may be, in a standard western pear box (inside dimensions 18 inches by 11½ by 8½ inches); the term "tight-filled shall mean that the pears in any container shall have been well settled by vibration according to approved and recognized methods, and the term "master container" shall mean those containers containing overwrapped consumer packages of pears.

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

Dated: August 13, 1975.

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

[FR Doc.75-21656 Filed 8-14-75;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1, 301]

NOTIFICATION OF INTERESTED PARTIES

Qualification of Certain Retirement Plans; Public Hearing on Proposed Regulations

Proposed regulations under section 7476 of the Internal Revenue Code of 1954, relating to notification of interested parties regarding qualification of certain retirement plans, appear in the FEDERAL REGISTER for June 4, and June 9, 1975 (40 FR 24011, 24527).

A public hearing on the provisions of such proposed regulations will be held on September 16, 1975, beginning at 10 a.m. e.d.s.t. in the George S. Boutwell Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules may be obtained by a request directed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, or by telephoning (Washington, D.C.) 202-964-3935. Under such § 601.601(a)(3) persons who have submitted written comments or suggestions within the time prescribed in the notice of proposed rulemaking, and who desire to present oral comments at the hearing on such proposed regulations, should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by September 5, 1975. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224. Under § 601.601(a)(3) (26 CFR Part 601) each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers thereto.

Persons who desire a copy of such written comments or suggestions or outlines and who desire to be assured of their availability on or before the beginning of such hearing should notify the Commissioner, in writing, at the above addressed by September 10, 1975. In such a case, unless time and circumstances permit otherwise, the desired copies are deliverable only at the above address. The charge for copies is ten cents ($0.10) per page.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of this agenda will be available free of charge at the hearing, and information with respect to its contents may be obtained on September 15, 1975, by telephoning (Washington, D.C.) 202-964-3935.

JAMES F. DRING,
Director,
Legislation and Regulations Division.

[FR Doc.75-21536 Filed 8-14-75;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Navy

[32 CFR Part 762]

MIDWAY ISLANDS CODE

Proposed Civil Administration Provisions

In accordance with public-participation procedures prescribed for the Department of Defense in 32 CFR Part 296 (40 FR 4911), notice is hereby given that the Department of the Navy proposes to establish a Part 762 of 32 CFR entitled, "Midway Islands Code," which would provide for the civil administration of the Midway Islands and for vesting powers and duties in appropriate officers of the United States pertaining to the civil administration, including judicial and executive functions; and which would further provide certain criminal provisions and penalties, and certain civil laws, not otherwise provided for.

Civilians on the Midway Islands are either Government employees, military dependents, civilian contractors' employees, or visiting crewmembers of Military Sealift Command ships. They have been virtually immune to the rules and regulations currently applicable on the Midway Islands and are subject to only limited prosecution for certain Federal offenses. Moreover, there currently exists no forum for litigating civil disputes on the Midway Islands. Administration of the Midway Islands and all executive, legislative, and judicial authority respecting the Midway Islands, other than the judicial authority contained in the Act of June 15, 1950, infra, were vested in the Secretary of the Navy by Executive Order No. 11048, 3 CFR, 1959-1963 Comp., p. 632 (1962). The judicial authority contained in the Act of June 15, 1950, infra, granted to the United States District Court for the District of Hawaii jurisdiction to try civil and criminal cases taking place on the Midway Islands according to the laws of the United States relating to such cases on the high seas on board a merchant vessel or other vessel of the United States (see 18 U.S.C. 7), "* * * which laws for the purpose aforesaid are extended over such islands, rocks, and keys." The Midway Islands are also within the definition of the term "United States," as used in 18 U.S.C. 5, making Federal criminal law applicable to certain offenses committed on the islands. Executive Order No. 11048 grants to the Secretary of the Navy "all executive and legislative authority" necessary for the administration of the Midway Islands. This gives him the authority to adopt the criminal laws of Hawaii by proclamation. Additionally, this Executive Order gives him authority to prescribe civil-law provisions for the Midway Islands and judicial procedures applicable to small claims.

The Secretary's adoption of certain sections of the Hawaii Criminal Code, infra, for the Midway Islands will fill the hiatus in the criminal law between those crimes already covered by the United States Code, or within the special maritime jurisdiction, and the petty offenses which would be handled on the local level. There would exist a statutory basis for jurisdiction and venue in a single court to prosecute certain offenses within the special maritime jurisdiction, and all major criminal offenses recognized by local—as represented by the adopted provisions of Hawaii—law. The proposed Midway Islands Code thus contains a comprehensive criminal code, rules of criminal procedure, and small claims procedures, and it also establishes a judicial administration to handle all matters within the jurisdiction of the Midway Islands Court. Promulgation of the proposed Code will fill the current "vacuum" of laws on the Midway Islands.

If adopted, the Midway Islands Code would provide for the civil administration of the Midway Islands; provide for vesting powers and duties in appropriate officers of the United States for the civil administration of the Midway Islands, including judicial and executive functions; provide certain criminal provisions applicable to the Midway Islands not otherwise provided for, and penalties for their violations; provide a judicial system for the Midway Islands not otherwise provided for; and provide certain civil law for the Midway Islands.

In summary, the purpose of the proposed Midway Islands Code is to provide criminal jurisdiction over civilians thereon and provide a method for resolving civil disputes. Administration of the Midway Islands and all executive, legislative, and judicial authority respecting the Midway Islands, other than judicial authority contained in the Act of June 15, 1950, infra, were vested in the Secretary of the Navy by Executive Order No. 11048.

Under that authority, the Secretary has the power to adopt the proposed Code.

Interested persons are invited to participate in the formulation of the proposed regulation by submitting written data, views, and arguments to the Judge Advocate General (Code 131), Navy Department, Washington, D.C. 20370. All written material received on or before September 30, 1975, will be considered by the Secretary of the Navy prior to publication of the proposed regulation in the FEDERAL REGISTER as an adopted regulation. All comments received in response to this proposal will be available for public inspection during normal business hours at the Law Library of the Office of the Judge Advocate General, room 2527, Navy Arlington Annex (Federal Office Building No. 2), Southgate Road and Columbia Pike, Arlington, Virginia.

This regulation is proposed under the authority of the Act of July 12, 1960, Pub. L. No. 86-824, section 48, 74 Stat. 424; 3 U.S.C. 301; and Exec. Order No. 11,048, 3 CFR, 1959-1963 Comp., p. 632 (1962).

It is therefore proposed to establish Part 762 of 32 CFR, as follows:

PART 762—MIDWAY ISLANDS CODE

Subpart A—General

Sec.
762.1 Applicability.
762.2 [Reserved].
762.3 Purpose.
762.4 Scope.
762.5 [Reserved].

Subpart B—Executive Authority; Authorized Powers; Emergency Authority

762.6 Executive authority; duration.
762.7 [Reserved].
762.8 Authorized functions, powers, and duties.
762.9 [Reserved].
762.10 Emergency authority.
762.11 [Reserved].

Subpart C—Criminal Law; Petty Offenses; Penalties

762.15 General.
762.16 Adoption of certain criminal provisions of the Hawaii Revised Statutes.
762.17 Conflicts of laws.
762.18 Time limitations.
762.19 Petty offenses; general.
762.20 Breach of the peace offenses.
762.21 [Reserved].
762.22 Offenses against property.
762.23 [Reserved].
762.24 Moral offenses.
762.25 [Reserved].
762.26 Alcoholic beverages offenses.
762.27 [Reserved].
762.28 Vehicle offenses.
762.29 [Reserved].
762.30 Weapons offenses.
762.31 [Reserved].
762.32 Offenses against the environment.
762.33 [Reserved].
762.34 Miscellaneous offenses.
762.35 Attempt.
762.36-39 [Reserved].
762.40 Penalties for petty offenses.
762.41 [Reserved].
762.42 Penalties for motor vehicle violations.
762.43 [Reserved].
762.44 Contempt.
762.45-49 [Reserved].

Subpart D—Midway Islands Court; Rules of Criminal Procedure

Sec.
762.50 Establishment; members; sessions.
762.51 [Reserved].
762.52 Attorney for the United States.
762.53 [Reserved].
762.54 Criminal jurisdiction.
762.55 Venue.
762.56 Rules of criminal procedure.
762.57 [Reserved].
762.58 Release prior to trial and bail.
762.59-61 [Reserved].
762.62 Information.
762.63 [Reserved].
762.64 Motions and pleas.
762.65 [Reserved].
762.66 Trial.
762.67 [Reserved].
762.68 Sentence.
762.69 [Reserved].
762.70 Subpoenas.
762.71 [Reserved].
762.72 Appeals.
762.73 [Reserved].
762.74 New trial.
762.75-79 [Reserved].

Subpart E—Warrants; Arrests; Special Procedures

762.80 Warrants.
762.81 [Reserved].
762.82 Arrests.
762.83 [Reserved].
762.84 Citation in place of arrest.
762.85 [Reserved].
762.86 Abatement of nuisance.
762.87-89 [Reserved].

Subpart F—Registration and Permit Regulations

762.90 Registration of certain property.
762.91 [Reserved].
762.92 Permits.
762.93 [Reserved].
762.94 Expiration of permits.
762.95 [Reserved].
762.96 Revocation or suspension of permits.
762.97-762.99 [Reserved].

Subpart G—Civil Small Claims Law

762.100 Applicable law and jurisdiction over small claims.
762.101 [Reserved].
762.102 Small claims procedure; complaint and service.
762.103 [Reserved].
762.104 Time limitations.
762.105 [Reserved].
762.106 Cost and fees; waiver.
762.107 [Reserved].
762.108 Set-off or counterclaim; pleading; retention of jurisdiction.
762.109 Jury trial; demand.
762.110 Pre-trial settlement.
762.111 [Reserved].
762.112 Trial.
762.113 [Reserved].
762.114 Judgments.
762.115 [Reserved].
762.116 Award of costs.
762.117 [Reserved].
762.118 No appeal.
762.119 [Reserved].
762.120 Judgment creditors and remedies.
762.121-125 [Reserved].
762.126 Parties.
762.127 [Reserved].
762.128 Forms and public information.
762.129 [Reserved].

Subpart H—Savings Clause

762.130 Severability of subparts, sections, provisions.

AUTHORITY: Sec. 48, 74 Stat. 424; 3 U.S.C. 301; Exec. Order No. 11048, 3 CFR, 1959-1963 Comp., p. 632, (1962).

Subpart A—General

§ 762.1 Applicability.

(a) The local criminal and civil laws of the Midway Islands consist of this Part 762, the provisions of the laws of the State of Hawaii adopted pursuant to § 762.16(a) and § 762.112(a), applicable provisions of the laws of the United States, and those laws made applicable under the special maritime jurisdiction contained in the Act of June 15, 1950 (ch. 253, 64 Stat. 217).

(b) For the purposes of this Part 762, the Midway Islands include all public lands on, and all territorial waters and the contiguous zone adjacent to or surrounding, the Midway Islands, Hawaiian Group, between the parallels of 28°5' and 28°25' North Latitude, and between the meridians of 177°10' and 177°30' West Longitude, as were placed under the jurisdiction and control of the Navy Department by the provisions of Executive Order No. 199-A of January 20, 1903, as superseded by Executive Order No. 11048 of September 5, 1962.

§ 762.2 [Reserved]

§ 762.3 Purpose.

The purpose of this Part 762 is to provide:

(a) For the civil administration of the Midway Islands;

(b) For vesting powers and duties in appropriate officers of the United States for the civil administration of the Midway Islands, including judicial and executive functions;

(c) Certain criminal provisions applicable to the Midway Islands not otherwise provided for, and penalties for their violations;

(d) A judicial system for the Midway Islands not otherwise provided for; and

(e) Certain civil laws for the Midway Islands not otherwise provided for.

§ 762.4 Scope.

(a) This Part 762 is applicable to all civilian and nonmilitary persons, and to all military personnel for matters involving civil administration, civil law, or criminal offenses not otherwise covered by the Uniform Code of Military Justice, while such persons are on the Midway Islands.

(b) In no event shall the provisions of this Part 762 supersede Federal law, or the Uniform Code of Military Justice, nor shall the provisions of this part derogate the inherent or delegated authority, responsibility, and powers of the Commanding Officer, U.S. Naval Station, Midway Island, under U.S. Navy Regulations, 1973, the Uniform Code of Military Justice, other pertinent Navy directives, and Federal law.

§ 762.5 [Reserved]

Subpart B—Executive Authority; Authorized Powers; Emergency Authority

§ 762.6 Executive authority; duration.

The executive authority at the Midway Islands is vested in the Secretary of the

Navy. The Commanding Officer, U.S. Naval Station, Midway Island, is the agent of the Secretary or his designee in carrying out any function, power, or duty under this Part 762. The Commanding Officer's authority commences upon his assumption of command of U.S. Naval Station, Midway Island, and continues until he is relieved of that command by replacement. In the event of the absence, disability, or death of the Commanding Officer, the Acting Commanding Officer of U.S. Naval Station, Midway Island, is vested with the authority prescribed in this Part 762 for the Commanding Officer and shall remain so vested until the return, recovery, or replacement of the Commanding Officer.

§ 762.7 [Reserved]

§ 762.8 Authorized functions, powers, and duties.

The Commanding Officer may, personally or through his staff:

(a) Issue citations for violations of Subpart C of this Part 762;

(b) Abate any public nuisance upon the failure of the person concerned to comply with a removal notice;

(c) Make sanitation and fire-prevention inspections;

(d) Perform marriages, and maintain records of vital statistics, including birth, marriage, and death certificates;

(e) Inspect vehicles, including bicycles, for roadworthiness, and boats for seaworthiness;

(f) Confiscate property used in committing a crime;

(g) Investigate accidents and suspected crimes;

(h) Move unlawfully parked vehicles, boats, or aircraft;

(i) Take possession of lost or abandoned property and dispose of it under the provisions of 10 U.S.C. 2575 and applicable Navy directives;

(j) Delay or restrict the departure of any aircraft for reasonable cause;

(k) Impose quarantines;

(l) Impound and destroy unsanitary food, fish, or beverages;

(m) Evacuate any person from a hazardous area;

(n) Establish and maintain a facility for the lawful restraint or confinement of persons and provide for their care;

(o) Remove any person from the Midway Islands for cause;

(p) Issue traffic regulations that are not inconsistent with this Part 762, and post traffic signs;

(q) Perform any other acts, not inconsistent with this Part 762 or other applicable laws or regulations, that he considers necessary for protecting the health and safety of persons and property on the Midway Islands; and

(r) Issue any order or notice necessary to implement this section.

§ 762.9 [Reserved]

§ 762.10 Emergency authority.

During the imminence and duration of any emergency, the Commanding Officer may perform any acts necessary to protect life and property.

§§ 762.11–14 [Reserved]

Subpart C—Criminal Law; Petty Offenses; Penalties

§ 762.15 General.

In addition to any act made criminal in this Part 762, any act committed on Midway Islands which would be a violation of the laws of the United States; or of the provisions of title 37, "Hawaii Revised Statutes," as they now appear or as they may be amended or recodified; or any act committed on the Midway Islands that would be criminal if committed on board a merchant vessel or other vessel belonging to the United States, is a criminal offense and shall be punished, respectively, according to this part; the laws of the United States; title 37, "Hawaii Revised Statutes," as it now appears or as it may be amended or recodified; or according to the laws applicable on board United States vessels on the high seas. [The Act of June 15, 1950 (ch. 253, 64 Stat. 217).]

§ 762.16 Adoption of certain criminal provisions of the Hawaii Revised Statutes.

(a) *Offenses adopted.* Whoever on the Midway Islands is guilty of any act or omission, which, although not made punishable by an enactment of Congress or under §§ 762.20 through 762.39, would be punishable if committed within the State of Hawaii by the laws thereof at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment.

(b) *Jurisdiction over such offenses.* The United States District Court for the District of Hawaii shall have jurisdiction to try all such offenses except those which are subject, under title 37, "Hawaii Revised Statutes," as it now appears or as it may be amended or recodified, to a penalty of imprisonment for six months or less or a fine of not more than $500, or both. Those offenses falling within the above-stated exception shall be tired in the Midway Islands Court.

§ 762.17 Conflicts of laws.

In no event shall the provisions of this Part 762 supersede the Uniform Code of Military Justice when the latter is applicable. Any adopted provisions of title 37, "Hawaii Revised Statutes," as they now appear or as they may be amended or recodified, which duplicate or conflict with any other provisions of this Part 762, shall be of no effect.

§ 762.18 Time limitations.

(a) A prosecution for any petty offense under this Part 762 must be commenced within two years after it is committed.

(b) An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

(c) A prosecution is commenced either when an information is filed, or when an arrest warrant or other process is issued, provided that such warrant or process is executed without unreasonable delay.

(d) The period of limitation does not run: (1) During any time when the accused is absent from the Midway Islands or has no reasonably ascertainable place of abode or work within the Midway Islands, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years; or

(2) During any time when a prosecution against the accused for the same conduct is pending in the Midway Islands Court.

(e) Except those offenses which are subject, under title 37 of the "Hawaii Revised Statutes," as they now appear or as they may be amended or recodified, to a penalty of imprisonment for six months or less or a fine of not more than $500, or both, offenses charged and treated under § 762.16(a) and (b), shall be subject to the appropriate time-limitation rules set forth in section 108, title 37, "Hawaii Revised Statutes," as it now appears or as it may be amended or recodified.

§ 762.19 Petty offenses; general.

All offenses contained in §§ 762.20 through 762.39 and those offenses adopted under §§ 762.16(a), as they now appear or as they may be amended or recodified, which are subject, under title 37, "Hawaii Revised Statutes," to a penalty of imprisonment for six months or less or a fine of not more than $500, or both, shall be termed "Petty Offenses" and subject to the penalties set forth in §§ 762.40 through 49.

§ 762.20 Breach of the peace offenses.

It shall be unlawful for any person, while on the Midway Islands:

(a) With intent to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof, to engage in fighting, threatening, or other violent or tumultuous behavior; or to make unreasonable noise or offensively coarse utterances, gestures, or displays, or address abusive language to any person present; or to create a hazardous or physically offensive condition by any act which is not performed under any authorized license or permit;

(b) Having no legal privilege to do so, knowingly or recklessly to obstruct any roadway, alley, runway, private driveway, or public passage, or interfere with or unreasonably delay any emergency vehicle or equipment or authorized vehicle, boat, vessel, or plane, or any peace officer, fireman, or other public official engaged in or attempting to discharge any lawful duty or office, whether alone or with others. "Obstruction" as used in this section means rendering impassable without unreasonable inconvenience or hazard;

(c) When in a gathering, to refuse to obey a reasonable request or order by a peace officer, fireman, or other public official to move:

(1) To prevent an obstruction of any public road or passage;

(2) To maintain public safety by dispersing those gathered in dangerous proximity to a public hazard. An order to move under this subsection addressed to a person whose speech or other lawful behavior attracts an obstructing audience, is not reasonable if the obstruction can be readily remedied by police control;

(d) To be substantially intoxicated on any street, road, beach, theater, club, or other public place from the voluntary use of intoxicating liquor, drugs, or other substance. As used in this section, "substantially intoxicated" is defined as an actual and considerable disturbance of mental or physical capacities;

(e) With intent to arouse or gratify sexual desire of any other person, to expose one's genitals to a person to whom one is not married under circumstances in which one's conduct is likely to cause affront or alarm; or

(f) Who is a minor under the age of 18 years, except a person in the military, to loiter about or otherwise be on any street, road, beach or other public place or in any theater, club, or other facility between the hours of 12 midnight and 5:30 a.m. unless accompanied by an audit over the age of 21 years and with the express permission of such minor's parent or legal guardian; and for any parent, guardian, or other person having the legal care, custody, or control of any minor under the age of 18 years, except a person in the military, to allow or permit such minor to violate this ordinance.

§ 762.21 [Reserved]

§ 762.22 Offenses against property.

It shall be unlawful for any person, while on the Midway Islands:

(a) To loiter, prowl, or wander upon or near the assigned living quarters and adjacent property of another without lawful purpose, or, while being upon or near the assigned living quarters and adjacent property of another, to peek in any door or window of any inhabited building or structure located thereon without lawful purpose;

(b) To enter upon any assigned residential quarter or areas immediately adjacent thereto, without permission of the assigned occupant;

(c) Who is a male to enter any area, building, or quarter reserved for women, except in accordance with established visiting procedures;

(d) Who is a female to enter any area, building, or quarter reserved for men, except in accordance with established visiting procedures;

(e) To enter or remain in, without lawful purpose, any office building, warehouse, plant, theater, club, school, or other building after normal operating hours for that building;

(f) To enter or remain in any area or building designated and posted as "restricted" unless authorized by proper authority to be there; or

(g) To steal any services or property of a value of less than $50 belonging to or property of another.

§ 762.23 [Reserved]

§ 762.24 Moral offenses.

It shall be unlawful for any person, while on the Midway Islands:

(a) To engage in prostitution. "Prostitution" means the giving or receiving of the body for sexual intercourse for hire or for indiscriminate sexual intercourse with or without hire; or

(b) To do any lewd act in a public place which is likely to be observed by others who would be affronted or alarmed. "Lewd Act" includes any indecent or obscene act.

§ 762.25 [Reserved]

§ 762.26 Alcoholic beverages offenses.

It shall be unlawful for any person, while on the Midway Islands:

(a) To sell any alcoholic beverages to any person who, because of age, would be prohibited from purchasing that beverage in a civilian establishment in Hawaii. It shall not be unlawful, however, for persons authorized to sell alcoholic beverages to sell beer with an alcoholic content of not more than 3.2 percent by weight to military personnel regardless of age; or

(b) To present or have in his possession any fraudulent evidence of age for the purpose of obtaining alcoholic beverages in violation of paragraph (a) of this section.

§ 762.27 [Reserved]

§ 762.28 Vehicle offenses.

It shall be unlawful for any person, while on the Midway Islands:

(a) To operate or use intentionally any automobile, truck, bicycle, motorcycle or other vehicle, aircraft, or boat or other vessel, for any purpose, without consent of the owner thereof or his authorized agent;

(b) To operate any bicycle that has not been properly registered with the Security Department, U.S. Naval Station, Midway Island, within one week after entering U.S. Naval Station, Midway Island, with such bicycle, or within 72 hours after ownership or possession thereof has been obtained on the Midway Islands;

(c) To operate any automobile, truck, bicycle, motorcycle or other vehicle, aircraft, or boat or other vessel, without due regard for safety of others;

(d) To operate any automobile, truck, bicycle, motorcycle, or other vehicle and disregard or disobey any traffic regulation, sign, or marking erected, inscribed, or placed by competent authority on the Midway Islands, including, but not limited to, "Stop," "Yield," "Speed," and "No Parking" signs;

(e) To operate a United States Government vehicle without holding a current United States Government operator's license for that type of vehicle;

(f) To operate a privately owned automobile, truck, motorcycle, or like motor vehicle without holding a valid operator's license from some State or territory of the United States;

(g) To operate any automobile, truck, bicycle, motorcycle, or other vehicle, aircraft, or boat or other vessel, or other means of conveyance while under the influence of alcoholic beverages, narcotic drugs, central nervous system stimulants, hallucinogenic drugs or barbituates; or

(h) To exceed the speed limit for automobiles, trucks, bicycles, motorcycles, or other vehicles. Unless otherwise posted, the speed limit throughout the Midway Islands is 15 miles per hour.

§ 762.29 [Reserved]

§ 762.30 Weapons offenses.

It shall be unlawful for any person, while on the Midway Islands:

(a) Other than a security patrolman or shore patrolman or other duly appointed official in the performance of an official duty, to carry a concealed pistol or other concealed firearm, or a concealed knife with a blade more than four inches long or with a blade capable of being opened by a mechanical device, commonly known as a switchblade knife; or

(b) Without proper authority, to keep or use in any place any dangerous weapons including rifles, shotguns, pistols, airguns, CO_2 guns, pellet guns, and BB guns.

§ 762.31 [Reserved]

§ 762.32 Offenses against the environment.

It shall be unlawful for any person, while on the Midway Islands:

(a) Knowingly to place, throw, drop, or allow to drop any litter on any property or in any waters or beach. "Litter" means rubbish, refuse, and debris of whatever kind or description, whether or not it is of value;

(b) To grossly waste potable water; or

(c) To remove, injure, or destroy any wild bird, egg, or seal, or for any owner of a dog or other pet to allow knowingly such dog or other pet to remove, injure, or destroy any wild bird, egg, or seal, or for the parent or legal guardian of any minor child to allow knowingly such minor child to remove, injure, or destroy any wild bird, egg, or seal.

§ 762.33 [Reserved]

§ 762.34 Miscellaneous offenses.

It shall be unlawful for any person, while on the Midway Islands:

(a) To engage in a trade, business, or other commercial activity on Midway Islands without first obtaining written permission from the Commanding Officer, U.S. Naval Station, Midway Island;

(b) To smoke or ignite any fire in any designated and posted "No Smoking" area, or in the immediate proximity of any aircraft, fueling pit, or ordnance or pyrotechnic storage areas;

(c) Knowingly to report or cause to be reported to the Security Department, Fire Department, or any official thereof, or to any other public official; or willfully to activate, or cause to be activated, any alarm, that an emergency exists, knowing that such report or alarm is false. "Emergency," as used herein, includes any condition which results, or could result, in the response of a public official

in an emergency vehicle, or any condition which jeopardizes, or could jeopardize, public lives or safety, or results or could result in the evacuation of an area, building, structure, vehicle, aircraft, or boat or other vessel, or any other place by its occupants; or

(d) Intentionally to report to any shore patrolman, security patrolman, fireman, officer of the day, junior officer of the day, or other public official authorized to issue a warrant of arrest or make an arrest, that a crime has been committed, or make any oral or written statement to any of the above officials concerning a crime or alleged crime or other matter, knowing such report or statement to be false.

§ 762.35 Attempt.

(a) A person is guilty of attempt to commit a crime if he commits an act, done with the specific intent to commit an offense, amounting to more than mere preparation and tending, even though failing, to effect its commission.

(b) It shall be unlawful for any person, while on the Midway Islands to attempt to violate any section of subpart C, including all offenses adopted from title 37, "Hawaii Revised Statutes," as they now appear or as they may be amended or recodified. Any person convicted of an attempt to commit an offense shall be subject to the same appropriate penalties authorized under §§ 762.40 through 762.49 for the commission of the offense attempted, except that attempts of all offenses adopted under § 762.16, except those which are subject, under title 37, "Hawaii Revised Statutes," as it now appears or as it may be amended or recodified, to a penalty of imprisonment of six months or less or a fine of not more than $500, shall be punished as directed by appropriate sections of title 37, "Hawaii Revised Statutes," as they now appear or as they may be amended or recodified.

§§ 762.36–39 [Reserved]

§ 762.40 Penalties for petty offenses.

Whoever is found guilty of a violation of any petty offense under this subpart, other than § 762.28 (b) through (h), is subject to a fine of not more than $500 or imprisonment for not more than six months, or both.

§ 762.41 [Reserved]

§ 762.42 Penalties for motor vehicle violations.

Whoever is found guilty of a violation of any one of § 762.28 (b) through (h), is subject to a fine of not more than $100, imprisonment of not more than 30 days, or suspension or revocation of his privilege to drive a motor vehicle aboard U.S. Naval Station, Midway Island, or any combination of, or all of, these punishments.

§ 762.43 [Reserved].

§ 762.44 Contempt.

Judges of the Midway Islands Court may, in any criminal case or proceeding, punish any person for disobedience of any order of the court, or for any contempt committed in the presence of the court, by a fine of not more than $100, or imprisonment of not more than 30 days, or both.

§§ 762.45–49 [Reserved].

Subpart D—Midway Islands Court; Rules of Criminal Procedure

§ 762.50 Establishment; members; sessions.

(a) There is created a "Midway Islands Court" which is vested with the judicial authority provided in this Part 762. The court shall consist of such Navy judge advocates as are designated by the Commanding Officer, U.S. Naval Station, Midway Island, or such other command as may be designated by the Commander in Chief, U.S. Pacific Fleet. In the absence of an appointment to the contrary, the most senior in date of rank of those appointed shall act as senior judge.

(b) The Senior Judge shall appoint someone under his authority to act as Clerk of the Court who will be responsible for maintaining a public docket containing such information as the Senior Judge may prescribe.

(c) Sessions of the court are held on the Midway Islands at times and places designated by the Senior Judge.

(d) Normally, not more than one judge shall be required to hear any individual case.

§ 762.51 [Reserved].

§ 762.52 Attorney for the United States.

The Senior Judge may appoint any judge advocate or attorney to represent the United States in any criminal case in the Midway Islands Court or on appeal to the Commandant, Fourteenth Naval District, or such other command as may be designated by the Commander in Chief, U.S. Pacific Fleet.

§ 762.53 [Reserved]

§ 762.54 Criminal jurisdiction.

The Midway Islands Court has jurisdiction over all petty offenses and other minor violations of this Part 762. The United States District Court for the District of Hawaii shall have jurisdiction over all other offenses adopted under § 762.16, Subpart C, over offenses against the laws of the United States, and over those offenses committed within the special maritime jurisdiction contained in the Act of June 15, 1950 (ch. 253, 64 Stat. 317).

§ 762.55 Venue.

Trial of all offenses under the jurisdiction of the Midway Islands Court shall be had at the U.S. Navy Station, Midway Island; trial of all other offenses shall be in the United States District Court for the District of Hawaii.

§ 762.56 Rules of criminal procedure.

(a) Sections 762.56 through 79 govern the procedure in criminal proceedings in the Midway Islands Court. They shall be construed to ensure simplicity in procedure and fairness in administration, and to eliminate unjustifiable expenses and delay.

(b) The judge of the court who presides at any trial or other criminal proceeding is responsible for the making of an appropriate record of the proceeding.

§ 762.57 [Reserved]

§ 762.58 Release prior to trial and bail.

(a) The release of any person arrested on the Midway Islands for a violation of this Part 762 shall be in accordance with 18 U.S.C. 3146 as it now appears or as it may be amended or recodified.

(b) When an offense has been charged by a citation issued by a security patrolman, shore patrolman, or other duly designated peace officer or the Commanding Officer, U.S. Naval Station, Midway Island, bail shall be set in the amount prescribed by the Senior Judge for the violation. The bail shall be paid in cash to the Clerk of the Court. The bail may be forfeited by the accused and the proceedings thereby terminated in the case of a violation of § 762.28 of this code that does not involve a moving vehicle collision or intoxication while driving, or with permission of the court in the case of any other offense charged by citation pursuant to § 762.84, Subpart E.

§§ 762.59–61 [Reserved]

§ 762.62 Information.

(a) Any petty offense may be prosecuted by a written information signed by the attorney charged with prosecuting the case. If, however, the offense is one for which issue of a citation is authorized by this Part 762 and a citation for the offense has been issued, the citation serves as the information. Offenses against the laws of the United States, offenses committed against the laws made applicable by the Act of June 15, 1950 (ch. 253, 64 Stat. 217), and offenses adopted under § 762.16 of Subpart C, except those which are subject, under title 37, "Hawaii Revised Statutes," as it now appears or as it may be amended or recodified, to a penalty of imprisonment for six months or less or a fine of not more than $500, or both, shall be referred to the United States Attorney, Hawaii, for appropriate disposition.

(b) A copy of the information shall be delivered to the accused or his counsel as soon as practicable after it is filed.

(c) Each count of an information may charge one offense only and must be particularized sufficiently to identify the place, the time, and the subject matter of the alleged offense. It shall refer to the provision of law under which the offense is charged, but any error in this reference or its omission may be corrected by leave of court at any time before sentence and is not grounds for reversal of a conviction if the error or omission did not mislead the accused to his prejudice.

§ 762.63 [Reserved]

§ 762.64 Motions and pleas.

(a) Upon motion of the accused at any time after filing of the information or copy of citation, the court may order the prosecutor to allow the accused to inspect and copy or photograph designated books, papers, documents, or tan-

gible objects obtained from or belonging to the accused, or obtained from others by seizure or process, upon a showing that the items sought may be material to the preparation of his defense and that the request is reasonable.

(b) When the court is satisfied that it has jurisdiction to try the accused as charged, it shall require the accused to identify himself and state whether or not he has counsel. If he has no counsel, but desires counsel, the court shall give him a reasonable opportunity to procure counsel. If he cannot afford counsel or is unable to procure counsel after reasonable efforts have been expended, the court shall advise him of his right to have counsel appointed, and shall appoint a judge advocate or other lawyer counsel for the accused unless the accused shall have made a voluntary and intelligent waiver of his right to counsel.

(c) When both sides are ready for arraignment, or when the court determines that both sides have had adequate opportunity to prepare for arraignment, the court shall read the charges to the accused, explain them (if necessary), and, after the reading or stating of each charge in court, ask the accused whether he pleads "guilty" or "not guilty." The court shall enter in the record of the case the plea made to each charge.

(d) The accused may plead "guilty" to any or all of the charges against him, except that the court may at its discretion refuse to accept a plea of guilty, and may not accept a plea without first determining that the plea is made voluntarily and with understanding of the nature of the charge.

(e) The accused may plead "not guilty" to any or all of the charges against him. The court shall enter a plea of not guilty if the answer of the accused to any charge is such that it does not clearly amount to a plea of guilty or not guilty.

(f) The accused may, at any stage of the trial, with the consent of the court, change a plea of not guilty to one of guilty. The court shall then proceed as if the accused had originally pleaded guilty.

(g) Nothing contained in this subpart shall be construed to diminish any additional rights afforded military personnel under the Uniform Code of Military Justice.

§ 762.65 [Reserved]

§ 762.66 Trial.

(a) If the accused pleads not guilty or if a plea of guilty is not accepted by the court and a consequent plea of not guilty entered, the accused is entitled to a trial on the charges in accordance with the procedures prescribed in the Rules of Criminal Procedure for the United States District Courts, title 18, "United States Code," except as otherwise provided in this Part 762. There is no trial by jury for petty offenses.

(b) All persons shall give their testimony under oath or affirmation. The Senior Judge shall prescribe the oath and affirmation that may be administered by any judge or the Clerk of the Court.

(c) Upon completion of the trial, the court shall enter a judgment consisting of a finding or findings and sentence or sentences, or discharge of the accused.

§ 762.67 [Reserved]

§ 762.68 Sentence.

(a) If the court accepts a plea of guilty to any charge or charges, it shall make a finding of guilty on that charge.

(b) After a finding of guilty is made, either by virtue of an accepted plea of guilty or as the verdict of the court after trial, the court:

(1) May delay sentencing pending receipt of any presentencing report ordered by it;

(2) Shall, before imposing sentence, hear such statements, whether written or oral, by the prosecution and defense, if any, in regards to mitigation, extenuation, previous good character of the accused, matters in aggravation, and permissible evidence of bad character of the accused. In this regard, the accused or his counsel may introduce any reasonable statement he wishes in mitigation or extenuation or any evidence of previous good character. The prosecution may introduce evidence in aggravation including prior Federal, State, or Midway Islands convictions. The prosecution may introduce evidence of previous bad character only if the accused has introduced evidence of previous good character; and

(3) Shall thereafter impose any lawful sentence, including a suspended or partially suspended sentence; revocation or suspension of any Midway Islands automobile, truck, motorcycle, or other motor vehicle, or boat or other vessel permit in cases involving violations of § 762.28; or placement of accused on probation.

§ 762.69 [Reserved]

§ 762.70 Subpoenas.

(a) The Clerk of the Court shall issue subpoenas for the attendance of witnesses. The subpoena must include the name of the court and the title, if any, of the proceeding, and shall command each person to whom it is directed to attend and give testimony at the time and place specified therein. The clerk shall issue a subpoena to a party requesting it, setting forth the name of the witness subpoenaed.

(b) The clerk may also issue a subpoena commanding the person to whom it is directed to produce the books, papers, documents, or other objects designated therein. The court may direct that books, papers, and documents designated in the subpoena be produced before the court at a time before the trial or before the time when they are to be offered in evidence. It may, upon their production, allow the books, papers, documents, or objects or portions thereof to be inspected by the parties and their representatives.

(c) Any peace officer or any other person who is not a party and who is at least 18 years of age may serve a subpoena. Service of a subpoena shall be made by delivering a copy thereof to the person named.

(d) This section shall in no way be construed to limit Federal subpoena powers, laws, or rules.

§ 762.71 [Reserved]

§ 762.72 Appeals.

(a) The defendant in any criminal case may appeal from any judgment of the Midway Islands Court to the Commandant, Fourteenth Naval District, or such other command as may be designated by the Commander in Chief, U.S. Pacific Fleet, by filing a notice of appeal with the Senior Judge, and serving a copy on the attorney or judge advocate who represented the United States at trial.

(b) The notice must be served and filed within 15 days after the judgment of the Midway Islands Court.

(c) Upon receiving a notice of appeal, with proof of service on the attorney or judge advocate who represented the United States at trial, the Senior Judge shall forward the record of the case to the Commandant, Fourteenth Naval District.

(d) The appellant must serve and file a memorandum with the Commandant, Fourteenth Naval District, within 10 days after filing notice of appeal setting forth the grounds for appeal. The attorney or judge advocate who represented the United States at trial may file a reply memorandum within 10 days thereafter.

(e) The Commandant, Fourteenth Naval District, may affirm, dismiss, or modify the order of the court, or exercise any of the other powers of the court. The judgment of the Commandant, Fourteenth Naval District, is final.

(f) Cases tried in the United States District Court for the District of Hawaii shall be subject to Federal laws and rules applicable to appeals.

§ 762.73 [Reserved]

§ 762.74 New trial.

A judge of the court may order a new trial as required in the interest of justice, or vacate any judgment and enter a new one, on motion made within a reasonable time after discovery by the moving party of matters constituting the grounds upon which the motion for a new trial or vacation of judgment is made.

§§ 762.75–79 [Reserved]

Subpart E—Warrants; Arrests; Special Procedures

§ 762.80 Warrants.

(a) *Arrest warrants.* (1) Any judge of the Midway Islands Court may issue a warrant for arrest if, upon complaint, it appears that there is probable cause to believe an offense has been committed and that the person named in the warrant has committed it. Probable cause, as used herein, means that there exist facts which are sufficient to lead a reasonably prudent and cautious man to a natural conclusion that the person to be arrested committed the offense for which he is to be arrested. The issuing officer shall:

(i) Place the name of the person charged with the offense in the warrant, or, if his name is not known, any name or description by which he can be identified with reasonable certainty;

(ii) Sign the warrant;

(iii) Describe in the warrant the offense charged;

(iv) Issue the warrant to a security patrolman, shore patrolman, or other duly designated peace officer for execution; and

(v) Place in the warrant a command that the person charged with the offense be arrested and brought before him.

(2) Each person making an arrest on the Midway Islands shall take the arrested person, without unnecessary delay, before the Commanding Officer, U.S. Naval Station, Midway Island, or a judge of the Midway Islands Court, as appropriate.

(3) The official before whom an arrested person is brought shall inform him of the complaint against him. The official shall also advise the arrested person that he has the right to remain silent and make no statement; that any statement made, whether oral or written, may be used against him, that he has the right to consult with a lawyer and to have a lawyer with him during questioning and to seek advice before answering any questions; that he may employ civilian counsel of his own choice and at his own expense; that if he cannot afford a lawyer, or is a service member, the court will appoint one for him if he so desires; and that, if he decides to answer questions, he has the right to stop answering at any time and terminate the interrogation. Before any security patrolman, shore patrolman, or other duly designated peace officer questions any person arrested, he must advise the arrested person of his rights, as set forth above, whether such questioning occurs before or after the arrested person is brought before the appropriate official as designated above in this section. No warnings need be given, however, prior to general on-the-scene questioning or identification inquiries.

(b) *Search warrants.* (1) Any judge of the Midway Islands Court may issue a warrant for search and seizure, if, after dispassionate and impartial consideration of all evidence, information, and circumstances involved, probable cause is deemed to exist. Probable cause, as used herein, means reliable information that would lead a reasonably prudent and cautious man to a natural belief that:

(i) An offense probably is about to be, is being, or has been committed;

(ii) Specific fruits or instrumentalities of the crime, contraband, or evidence, exists; and

(iii) Such fruits, instrumentalities, contraband, or evidence are probably in a certain place.

(2) If, after considering all information, the judge shall decide to issue a search warrant, such warrant shall specifically include the following information:

(i) The time and date the warrant was requested;

(ii) The name and capacity of the person, official, security patrolman, shore patrolman, or other duly designated peace officer requesting the warrant;

(iii) The name and address of the person(s) suspected and the specific offense(s) of which he is suspected;

(iv) The address, place, or structure which is to be searched;

(v) The general nature of the items intended to be seized;

(vi) The information presented or reasons for suspecting the suspected person(s) in general; and

(vii) An authorization to search the described place for the property specified and, if the property is found there, to seize it, followed by the date, time, capacity, and signature of the judge issuing such warrant.

(3) A search warrant must be executed and returned to the issuing authority within five days after the date of issuance. A search warrant executed within the five-day period shall be deemed to have been timely executed and no further showing of timeliness need be made.

(4) Security patrolmen, shore patrolmen, and other duly designated peace officers or other designated personnel conducting searches shall do so in accordance with the issued warrant.

(5) Any property seized as a result of a search or in connection with an alleged offense (unless property is highly perishable) is to be retained in a secure place pending trial in accordance with the orders of the court. All seized property shall be securely tagged with the following information:

(i) Date seized;

(ii) Property searched and location of seized article(s) when so seized;

(iii) Person ordering search and warrant number;

(iv) Signatures of person searching and witness; and

(v) Place where property is now located and names and addresses of any persons who have had custody thereof prior to deposit in the secure place required by this subsection. A complete chain of custody record is to be kept.

(6) The property must be produced in court, if practicable. At the termination of the trial, the court shall restore the property or the funds resulting from the sale of the property to the owner, or make such other proper order as may be required and incorporate its order in the record of the case.

(c) *Sanitation and fire prevention inspection.* (1) Any judge of the Midway Islands Court may issue a warrant to inspect property on the Midway Islands for purposes of maintaining sanitation and fire prevention.

(2) Such warrant shall indicate:

(i) The time and date the warrant was requested;

(ii) The name and capacity of the person requesting the warrant;

(iii) Property description or address of place or structure to be inspected;

(iv) General purpose of inspection;

(v) Date and time inspection intended to be made; and

(vi) An authorization to inspect the described place for the purpose specified, followed by the date, time, capacity, and signature of judge issuing the warrant.

§ 762.81 [Reserved]

§ 762.82 Arrests.

(a) Any person may make an arrest on the Midway Islands, without a warrant, for any crime (including a petty offense) that is committed in his presence.

(b) Any security patrolman, shore patrolman, or other duly designated peace officer may, without a warrant, arrest any person on the Midway Islands who violates any provision of this Part 762 or commits a crime that is a violation of the laws of the United States or the laws made applicable to the Midway Islands under the Act of June 15, 1950 (ch. 253, 64 Stat. 217), in his presence, or that he has probable cause to believe that person to have committed.

(c) In making an arrest, a security patrolman, shore patrolman, or other duly designated peace officer must display a warrant, if he has one, or otherwise clearly advise the person arrested of the violation alleged, and thereafter require him to submit and be taken before the appropriate official on the Midway Islands.

(d) In making an arrest, a security patrolman, shore patrolman, or other duly designated peace officer may use only the degree of force needed to effect submission, and may remove any weapon in the possession of the person arrested.

(e) A security patrolman, shore patrolman, or other duly designated peace officer may, whenever necessary to enter any building, vehicle, aircraft, or vessel to execute a warrant of arrest, force an entry after verbal warning.

(f) A security patrolman, shore patrolman, or other duly designated peace officer may force an entry into any building, vehicle, aircraft, or vessel whenever:

(1) It appears necessary to prevent serious injury to persons or damage to property, and time does not permit the obtaining of a warrant;

(2) To effect an arrest when in hot pursuit; or

(3) To prevent the commission of a crime which he reasonably believes is being committed or is about to be committed.

§ 762.83 [Reserved]

§ 762.84 Citation in place of arrest.

In any case in which a security patrolman, shore patrolman, or other duly designated peace officer may make an arrest without a warrant, he may, under such limitations as the Commanding Officer may impose, issue and serve a citation, or serve a citation issued by the Commanding Officer, on a person in place of arresting him if the officer considers that the public interest does not require an arrest. The citation must briefly describe the offense charged and direct the accused to appear before the Midway Islands Court at a designated time and place.

§ 762.85 [Reserved]

§ 762.86 Abatement of nuisance.

Whenever the Commanding Officer determines that, on any premises on the Midway Islands, a condition exists that is unsanitary or hazardous, that may be injurious to the public, or is otherwise a nuisance, he may order the condition abated. If the legal custodian of the premises concerned does not take action to abate the nuisance within 30 days after the order is issued, the Commanding Officer may enter on the premises and abate the nuisance for, and at the expense of, the custodian.

§§ 762.87–89 [Reserved]

Subpart F—Registration and Permit Regulations

§ 762.90 Registration of certain property.

(a) Each person who has custody of any of the following on the Midway Islands shall register it with the Commanding Officer:

(1) A privately owned motor vehicle;

(2) A privately owned boat;

(3) An animal;

(4) Any device, weapon, or instrument designed for inflicting bodily injury, including a gun, pistol, or other firearm operated by air, gas, spring, or otherwise;

(5) Any narcotic or dangerous drug not obtained on prescription, and all poisons other than commonly used household poisons or toxic substances; or

(6) Any known explosive.

(b) Each person who obtains custody of an article described in paragraph (a) (4), (5), or (6) of this section shall register it immediately upon obtaining custody. Each person who obtains custody of any other article described in paragraph (a) of this section shall register it within 10 days after obtaining custody.

§ 762.91 [Reserved]

§ 762.92 Permits.

Subject to reasonable restrictions and conditions that he considers appropriate, the Commanding Officer, U.S. Naval Station, Midway Island, may require a Midway Islands permit for the following:

(a) Any business, commercial, or recreational activity conducted for profit, including a trade, profession, calling, or occupation, or an establishment where food or beverage is prepared, offered, or sold for human consumption (except for personal or family use);

(b) The practice of any medical profession, including dentistry, surgery, osteopathy, and chiropractic;

(c) The erection of any structure or sign, including a major alteration or enlargement of an existing structure;

(d) The discharge of explosives or fireworks or of firearms, guns, or pistols operated by air, gas, spring, or otherwise, or any other weapon;

(e) The burial of any human or animal remains, except that fish and bait scrap may be buried at beaches where fishing is permitted without obtaining a permit;

(f) Keeping or maintaining any animal, including dogs;

(g) All vehicles (including bicycles), and operators thereof, except aircraft. The operator of a vehicle shall display his permit or permit number on the vehicle in a place and manner prescribed by the Commanding Officer;

(h) Boats and boat operators. The operator of a boat or other vessel shall display his permit or permit number on or in the vessel in a place and manner prescribed by the Commanding Officer;

(i) Food handlers;

(j) Drugs and narcotics not obtained on prescription, and poisons other than commonly used household poisons or toxic substances; or

(k) Building construction.

§ 762.93 [Reserved]

§ 762.94 Expiration of permits.

(a) Each Midway Islands permit expires on the earliest of the following dates:

(1) Two years after the date it is issued;

(2) The date specified on the permit;

(3) In the case of a motor vehicle, boat, or other vessel, or firearm, the date its custody is transferred to any person other than the holder of the permit therefor; or

(4) The date it is revoked by the Commanding Officer.

(b) Notwithstanding paragraph (a) (1) of this section, the Commanding Officer may issue a permit for a period longer than two years to coincide with the terms of any agreement between the Department of the Navy and the permit holder, applicable to the Midway Islands.

§ 762.95 [Reserved]

§ 762.96 Revocation or suspension of permits.

(a) The Commanding Officer may, after notifying the holder of a Midway Islands permit and giving him an opportunity to be heard, order the permit suspended or revoked for cause, including:

(1) Lack of physical fitness required to hold the permit;

(2) Lack of roadworthiness of a vehicle, or of seaworthiness of a boat or other vessel;

(3) Lack of need for the permit;

(4) Breach of any term or condition of the permit; or

(5) Conviction for violation of any regulation of this Part 762 where the violation is related to activities conducted under the permit.

(b) In any case in which he determines that an emergency exists requiring immediate action, the Commanding Officer may issue an order of suspension or revocation, effective immediately, without notice. However, the permit holder may, within 10 days after the suspension or revocation, request a hearing. If he so requests a hearing, he is entitled to it. The emergency order is not stayed pending hearing.

§§ 762.97–99 [Reserved]

Subpart G—Civil Small Claims Law

§ 762.100 Applicable law and jurisdiction over small claims.

(a) The Midway Islands Court shall have jurisdiction over civil cases for the recovery of money only where the amount claimed does not exceed $500 exclusive of the interest and costs except as provided by § 762.108.

(b) The court's jurisdiction is further limited in that no such claim cognizable under paragraph (a) of this section shall be within the court's jurisdiction unless:

(1) The claim arises or has arisen on the Midway Islands;

(2) All plaintiffs and all defendants reside, at the time of trial, on the Midway Islands; and

(3) The claim does not fall within the special maritime jurisdiction under the Act of June 15, 1950 (ch. 253, 64 Stat. 217).

(c) Actions shall be commenced and maintained in the Midway Islands Court under the procedures set out below and conducted in such a manner as to do substantial justice and equity between the parties. When acting on such actions, the court shall be termed the Small Claims Court.

§ 762.101 [Reserved]

§ 762.102 Small claims procedure; complaint and service.

(a) Actions shall be commenced in the court by the filing of a statement of claim, in concise form and free of technicalities. All claims shall be verified by the claimant, whether as a party plaintiff or counterclaimant, or by his agent, by oath or affirmation in the form herein provided, or its equivalent. The Clerk of the Court shall, at the request of an individual, prepare the statement of claim and other papers required to be filed in an action in the court, but his services shall not be available to a corporation, partnership, or association, or to any individual proprietorship in the preparation of the statements or other papers. A copy of the statement of claim and verification shall be made a part of the notice to be served upon the defendant named therein. The mode of service shall be by personal service, by registered mail, or by certified mail with return receipt.

(b) When notice is to be served by registered mail or by certified mail, the clerk shall enclose a copy of the statement of claim, verification, and notice in an envelope addressed to the defendant, prepay the postage with funds obtained from plaintiff, and mail the papers forthwith, noting on the records the day and hour of mailing. When the receipt is returned with the signature thereon of the party to whom addressed, the clerk shall attach it to the original statement of claim, and it shall constitute prima facie evidence of personal service upon the defendant.

(c) When notice is served personally, the server shall make proof of service by affidavit sworn to before the Clerk of

the Court or before any notary public, showing the time and place of the service.

(d) The actual cost of service shall be taxable as costs.

(e) The statement of claim, verification, and notice shall be in the following or equivalent form:

IN THE MIDWAY ISLANDS SMALL CLAIMS COURT

(Plaintiff)

(Address)

VS.

(Defendant)

STATEMENT OF CLAIM

(Here the claimant, whether as party plaintiff or counterclaimant, or at his request the clerk, will insert a concise statement of the plaintiff's claim, and the original, to be filed with the clerk, may, if action is on a contract, express or implied, be verified by the plaintiff or his agent, as follows:

THE MIDWAY ISLANDS SS

---

being first duly sworn on oath says the foregoing is a just and true statement of the amount owing by defendant to claimant, whether as party plaintiff or counterclaimant, exclusive of all set-offs and just grounds of defense.)

[Plaintiff (or agent)]

Subscribed and sworn to before me this ____ day of _____, 19____.

Clerk (or notary public)

NOTICE

TO: _____

Defendant

Home address

Business address

You are hereby notified that _____ has made a claim and is requesting judgment against you in the sum of _____ dollars ($_____), as shown by the foregoing statement. The court will hold a hearing upon this claim on _____ at __m. in the Small Claims Court at

---

(address of court)

You are required to be present at the hearing in order to avoid judgment by default.

If you have witnesses, books, receipts, or other writings bearing on this claim, you should bring them with you at the time of the hearing.

If you wish to have witnesses summoned, see the clerk at once for assistance.

If you admit the claim, but desire additional time to pay, you must come to the hearing in person and state the circumstances to the court.

You may come with or without an attorney.

[Seal] _____

Clerk of the Court,
Midway Islands Court.

(f) The foregoing verification entitles the plaintiff to a judgment by default, without further proof, upon failure of defendant to appear, if the claim of the plaintiff is for a liquidated amount. If the amount is unliquidated, the plaintiff shall be required to present proof of his claim.

(g) The clerk shall furnish the plaintiff with a notice of the day and hour set for the hearing. The hearing shall not be less than 15 days nor more than 30 days from the date of the filing of the action unless a continuance is granted by the judge for good cause shown. All actions filed in the court shall be made returnable therein.

§ 762.103 [Reserved]

§ 762.104 Time limitations.

All claims must be commenced as set out in § 762.102, subpart G of this Part 762, within two years after the claim arises. A claim for money arises when it is due, owing, and unpaid.

§ 762.105 [Reserved]

§ 762.106 Costs and fees; waiver.

The fee for issuing summons and copies, trial, judgment, and satisfaction in an action in the Small Claims Court shall be not more than $5. Other fees shall be as the court prescribes. The judge may waive the prepayment of costs or the payment of costs accruing during the action upon the sworn statement of the plaintiff or upon other satisfactory evidence of his inability to pay the costs. When costs are so waived the notation to be made on the records of the court shall be "Prepayment of costs waived" or "Costs waived." The terms "pauper" or "in forma pauperis" may not be employed in the court. If a party fails to pay accrued costs, though able to do so, the judge may deny him the right to file a new case in the court while the costs remain unpaid, and likewise deny him the right to proceed further in any case pending in the court.

§ 762.107 [Reserved]

§ 762.108 Set-off or counterclaim; pleading; retention of jurisdiction.

If the defendant, in an action in the Small Claims Court, asserts a set-off or counterclaim, the judge may require a formal and concise plea of set-off to be filed, or may waive the requirement. If the plaintiff requires time to prepare his defense against the counterclaim or set-off, the judge may continue the case for that purpose. When the set-off or counterclaim is for more than the jurisdictional limit of the Small Claims Court, as provided by § 762.100, but is for less than $1,000, the action shall remain in the Small Claims Court and be tried therein in its entirety. No set-off or counterclaim for an amount greater than $1,000 may be asserted in the Small Claims Court.

§ 762.109 Jury trial; demand.

In a case filed or pending in the Midway Islands Court under § 762.100 in which a party entitled to a trial by jury under amendment VII, United States Constitution, files a demand therefor, the case shall be assigned to and tried in the United States District Court for the District of Hawaii under the procedure provided for jury trials in that court.

§ 762.110 Pre-trial settlement.

On the return day specified by § 762.102 (g), or at such later time as the judge sets, the trial shall be had. Immediately prior to the trial of a case, the judge shall make an earnest effort to settle the controversy by conciliation. If no settlement is effected, the judge shall proceed with the hearing on the merits pursuant to § 762.112.

§ 762.111 [Reserved]

§ 762.112 Trial.

(a) The parties and witnesses shall be sworn. In any case in which the civil rights, powers, and duties of any person on the Midway Islands are not otherwise prescribed by the laws of the United States or the laws made applicable under the Act of June 15, 1950 (ch. 253, 64 Stat. 217), the judge shall conduct the trial in such manner as to do substantial justice between the parties according to the rules of substantive law, as contained in the *"Hawaii Revised Statutes"*, as they now appear or as they may be amended or recodified, and Hawaii case law. In this regard, the judge is not bound by statutory provisions or rules of practice, procedure, pleading, or evidence, except provisions related to privileged communications.

(b) If the defendant fails to appear, judgment shall be entered for the plaintiff by default as provided by § 762.102 (f) or under rules of court, or on ex-parte proof. If the plaintiff fails to appear, the action may be dismissed for want of prosecution, or a nonsuit may be ordered, or defendant may proceed to trial on the merits, or have default judgment entered in his favor on any counterclaim filed in the manner provided herein for a plaintiff, or the case may be continued or returned to the files for further proceedings on a later date, as the judge directs. If both parties fail to appear, the judge may return the case to the files, or order the action dismissed for want of prosecution, or make any other disposition thereof as justice requires.

(c) Notwithstanding any provision of law requiring the licensing of practitioners, any person may, with the approval of the court, appear on behalf of himself or another in the Small Claims Court. The services of an unlicensed person appearing under this subsection shall be without compensation, either by way of direct fee, contingent fee, or otherwise.

(d) The judge of the court who presides at any trial is responsible for the making of an appropriation record of the proceeding.

§ 762.113 [Reserved]

§ 762.114 Judgments.

After trial, the judge may immediately render his decision and enter judgment or take the case under submission. In all cases, the judge should render a decision and enter appropriate judgment within 20 days after the close of the trial.

§ 762.115 [Reserved]

§ 762.116 Award of costs.

In any action pursuant to this subpart the award of costs is in the discretion of the court, which may include therein the reasonable cost of bonds and undertakings, and other reasonable expenses incident to the action, incurred by either party. No attorneys' fees or commissions shall be allowed or awarded by any judgment of the Small Claims Court.

§ 762.117 [Reserved]

§ 762.118 No appeal.

There shall be no appeal from a judgment of the court, but the court may alter or set aside any judgment upon application of either party after review of the record.

§ 762.119 [Reserved]

§ 762.120 Judgment creditors and remedies.

(a) After any final judgment is rendered by the court, the judgment debtor concerned may deposit the sum adjudged owed with the court for payment of the claim, pay the judgment creditor directly, or make such other fair and reasonable agreement for payment or settlement of the claim with the judgment creditor. Payment, in full or by agreement or settlement between the parties after final judgment has been rendered, shall satisfy the judgment and extinguish the claim.

(b) If voluntary payment is not made by the judgment debtor after final judgment is rendered, in an action pursuant to §§ 762.100 through 113, the judge shall, upon motion of the party obtaining judgment, order the appearance of the party against whom the judgment has been entered, but not more often than once each week for four consecutive weeks, for oral examination under oath as to his financial status and his ability to pay the judgment, and the judge shall make such supplementary orders as seems just and proper to effectuate the payment of the judgment upon reasonable terms.

(c) Any final judgment of the Small Claims Court shall upon order of the court become a statutory lien upon any and all personal property owned by the judgment debtor concerned and located on the Midway Islands. Such lien may be enforced by attachment, levy, judicial sale, or as the court may otherwise direct.

§§ 762.121–125 [Reserved]

§ 762.126 Parties.

Wherever the term party or parties appears herein, or any reference is made to individuals desiring to present a claim, then such term or terms of reference shall mean and include a party defendant having a counterclaim, offset, or crossclaim to present in the action.

§ 762.127 [Reserved]

§ 762.128 Forms and public information.

The Midway Islands Court shall cause to be published an information booklet or sheet describing, in language readily understandable by a layman, the procedures of the Small Claims Court, the remedies available upon judgment in the Small Claims Court, and such other information as will facilitate the utilization of the small claims procedure; and shall also cause to be made and printed such standardized forms as may be utilized throughout the small claims procedure prior to, upon, and after judgment.

§ 762.129 [Reserved]

Subpart H—Savings Clause

§ 762.130 Severability of subparts, sections, provisions.

In the event that any subpart, section, subsection, or provision of this Part 762 shall be declared unconstitutional or superseded by applicable Federal legislation, the remainder shall nevertheless remain valid and shall be applied so as to be consistent with such constitutional provisions or overriding legislation.

Dated: August 7, 1975.

WILLIAM O. MILLER,
Rear Admiral, JAGC, U.S. Navy,
Acting Judge Advocate General.

[FR Doc.75-21443 Filed 8-14-75;8:45 a.m.]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 20]

MIGRATORY BIRDS

Proposed Rule Making

Notice is hereby given that pursuant to the authority contained in the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703–711), it is proposed to amend Part 20 of Title 50, Code of Federal Regulations. This is the fourth and last in a series of proposed rule making notices relating to the establishment of hunting regulations in the continental United States for the 1975–76 season, and deals specifically with proposed frameworks for waterfowl, coots and gallinules; lesser sandhill cranes in parts of North Dakota, South Dakota, New Mexico, Texas, Colorado, Oklahoma, Montana, and Wyoming; and common (Wilson's) snipe in the Pacific Flyway.

The first notice, dealing specifically with amendments affecting Puerto Rico and the Virign Islands, was published in the FEDERAL REGISTER on April 18, 1975 (40 FR 17263) with a comment period ending May 18, 1975. The second notice, dealing specifically with amendments affecting continental United States and Hawaii, was published in the FEDERAL REGISTER on May 8, 1975 (40 FR 20090) with a comment period ending June 7, 1975, later extended to June 25, 1975, through publication in the FEDERAL REGISTER on June 9, 1975 (40 FR 24527). The third notice, dealing specifically with frameworks for certain migratory game birds and with proposed regulations for Canada geese in the Horicon Zone of Wisconsin, was published in the FEDERAL REGISTER on July 2, 1975 (40 FR 27943) with a comment period ending July 17, 1975.

The Director intends that finally adopted rules be as responsive as possible to all concerned interests. In this connection, the Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54) was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the FEDERAL REGISTER on June 13, 1975 (40 FR 25241).

The annual meeting of the Director's Waterfowl Advisory Committee convened on August 5, 1975, in Washington, D.C., in accordance with the notice published in the FEDERAL REGISTER on July 10, 1975 (40 FR 29096). This meeting was open to the public and statements by interested persons were invited.

Final rule making was published in the FEDERAL REGISTER on July 18, 1975 (40 FR 30268) on the frameworks for the 1975–76 hunting season for Puerto Rico and the Virgin Islands. Final rule making was published in the FEDERAL REGISTER on August 6, 1975, on Final 1975–76 Migratory Game Bird Hunting Regulations (Part); on Final Regulations Frameworks for 1975–76 Hunting Seasons on Certain Migratory Game Birds; and on the Amendments to § 20.105(d), Subpart K, Title 50 Code of Federal Regulations.

Summarized information on the status of certain migratory game birds follows.

AVAILABILITY OF POPULATION AND HARVEST DATA

Since the basic waterfowl frameworks were first proposed on May 5, 1975 (40 FR 20090) data from a number of surveys have become available. Among these are the January 1975 winter waterfowl survey, the U.S. waterfowl hunter questionnaire survey from the 1974–75 hunting season, the waterfowl harvest, species, age, and sex composition survey from the same hunting season, the May waterfowl breeding population survey, the July waterfowl production survey, satellite imagery of Arctic goose production areas, reports from various ground studies, and harvest surveys conducted by the Canadian Wildlife Service. Information from these surveys was distributed in unpublished administrative reports and the Service's "1975 Waterfowl Status and Fall Flight Forecast." These reports and supporting information are available for review at the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Patuxent Wildlife Research Center, Laurel, Maryland. Summarized findings from the 1975 waterfowl breeding ground surveys follow.

WATERFOWL STATUS

Geese—Satellite imagery of arctic and subarctic regions and reports from field crews indicate that generally excellent habitat conditions for most geese prevailed in 1975. Exceptions are the north slope of Alaska and Wrangel Island, U.S.S.R. where spring breakup was later than usual. Excellent production is indicated and fall flights of geese are expected to compare favorably with the outstanding flights of 1973, except for northern Alaska and Wrangel Island, where production may be average or below.

Ducks—Habitat conditions in prairie Canada and the north-central United States were favorable for waterfowl production. Production habitat of excellent quality was widely available. Weather conditions generally were conducive to good waterfowl production. The 1975 total duck breeding population index was 2 percent above 1974 and 3 percent above the 1955–74 average. The mallard breeding population index was 6 percent above last year's and 10 percent below the 1955–74 average. The combined production index for all ducks species was 9 percent above 1974. Based on population and production data from surveyed areas, fall flight indices are 12 percent and 10 percent greater than 1974 for the Central and Mississippi Flyways, respectively. Fall flights into the Atlantic and Pacific Flyways are expected to be similar to those of 1974. Based upon the somewhat improved waterfowl situation in 1975, some small modifications in season lengths and bag limits are proposed for the 1975–76 waterfowl hunting seasons.

REDHEADS AND CANVASBACKS

Populations of both redheads and canvasbacks have made substantial recovery during the past three years, when restrictive regulations have been in effect. Surveys of wintering populations in January 1975 indicated that nationwide redhead numbers were 23 percent above the 10-year average, while canvasbacks were 21 percent above the long-term average. The May 1975 breeding population survey further substantiated the improved status of both species. The redhead breeding population index was 35 percent above 1974 and 45 percent above the 1955–74 average. The canvasback index was 22 percent above 1974 and 20 percent above the long-term average. Habitat conditions are favorable and excellent production is anticipated for both species. High water levels on the breeding grounds this summer suggest that average to better than average conditions will be available to breeding populations returning north in 1976.

In view of the improved breeding population status, favorable production and potentially good habitat conditions in 1976, a limited additional redhead harvest opportunity is justifiable in areas where canvasbacks are uncommon. Historical harvest data from nationwide harvest surveys were examined to ascertain areas where redheads have been taken but where the canvasback harvest has been small. The review indicated that both species were frequently harvested in the same areas; however, the same data demonstrated that certain areas exist along the central and southern Texas Gulf Coast, in the upper midwest, and offshore from western Florida where insignificant numbers of canvasbacks were harvested. In these few areas of the Central, Mississippi, and Atlantic Flyways previously closed to redhead and canvasback hunting, it is proposed that hunters be allowed 1 redhead or 1 canvasback daily. If a point system is selected in these States, birds of each species are assigned 100 points.

Redhead and canvasback populations in the Pacific Flyway have distributional patterns differing from those of the three eastern flyways; consequently, different harvest regulations are warranted. In the Pacific Flyway, last winter's surveys indicated that both redhead and canvasback numbers were above the long-term average. Consequently, it is proposed that all area closures in the Pacific Flyway be removed and that the daily bag limit be 2 redheads or 2 canvasbacks or 1 of each. In the 1974–75 hunting season, the bag limit outside closed areas was 2 redheads and 1 canvasback. It is further proposed in 1975–76 that hunters in the San Francisco-Suisun Bay area of California be permitted only 1 canvasback daily and in possession. This is the most important concentration area for canvasbacks in the Pacific Flyway.

The regulations proposed for the 1975–76 hunting season are designed to permit some increased harvest of redheads without unduly increasing the harvest of canvasbacks.

WESTERN LOUISIANA ZONE

Since the creation of administrative waterfowl flyways in 1948, Louisiana has been considered a Mississippi Flyway State and regulations there have been established accordingly. Information from waterfowl distribution and migration studies suggests that ducks from the Central as well as the Mississippi Flyway contribute to fall waterfowl populations and harvests in the State. The quantity of data presently available, however, is insufficient to clearly establish the relationship between Louisiana's harvest and the two Flyways.

The proposed provision for a 5-day extension of the season on ducks and coots in the western portion of Louisiana is part of a cooperative program aimed at obtaining additional information concerning the relation of Louisiana's waterfowl to the two Flyways. The western Louisiana zone is an area having an abundance of ducks such as pintails, gadwalls, shovelers and teal at the time when the additional days are proposed. These species apparently are subjected to relatively light shooting pressures en route to Louisiana and it is believed that the increase in harvest that would occur under this proposal would not be detrimental to these populations. The proposed zone excludes areas where the bulk of the harvest of wood ducks and diving ducks occurs. The early opening date specified for the zone provides that the additional harvest will occur before mallards become abundant in Louisiana.

ALEUTIAN CANADA GOOSE

Complete or partial closure to hunting of Canada geese in three areas in California will be in effect during the 1975–76 waterfowl season. This will serve to give greater protection to the Aleutian Canada goose on its wintering grounds.

The Aleutian Canada goose is the rarest of all North American geese and is presently listed as an endangered species by the U.S. Department of the Interior. The known population is less than 1,000 birds. The species nests in the wild only on Buldir Island of the Aleutian Islands, Alaska. Nine of 119 banded wild birds from Buldir Island were recovered and reported last winter in three California areas during the waterfowl hunting season. With the discovery of these specific migration and wintering areas, previously unknown, the Service in cooperation with the California Department of Fish and Game is taking regulatory action to restrict the hunting of Canada geese in these areas.

By virtue of the Endangered Species Act of 1973, a restoration program is under way to reestablish the Aleutian goose in parts of its former range. The essential elements of this program include: (1) control or elimination of introduced Arctic foxes on certain of the Aleutian Islands, (2) reestablishment of the Aleutian goose on fox-free islands, and (3) providing specific regulatory protection for Aleutian Canada geese on known breeding, migration and wintering areas in the United States.

These restrictions will provide protection to the Aleutian Canada goose while at the same time interfering as little as possible with the hunting of more secure goose populations.

SNOW GEESE IN THE ATLANTIC FLYWAY

A season on snow geese (including blue geese) is being proposed in the Atlantic Flyway for the 1975–76 season. No hunting of snow geese has been permitted in the Atlantic Flyway since 1931, specifically because of the formerly tenuous population status of the greater snow goose, a subspecies restricted to the Atlantic Flyway. The greater snow goose population numbered approximately 7,000 birds when the hunting ban was invoked.

Aerial photographic counts on the St. Lawrence River staging area made in May 1975 by the Quebec Wildlife Service indicated a population of 154,000 birds. Breeding ground habitat evaluations based on satellite imagery and local ground surveys in the high Arctic suggest an excellent production year. Consequently, the fall flight of greater snow geese in 1976 should approach 200,000 birds.

The greater snow goose has been hunted continuously in Canada since the Migratory Bird Treaty Convention of 1916. Most hunting occurs on a 100-mile stretch of the St. Lawrence River northeast of Quebec City where the species gathers prior to migration. Total Canadian annual harvest has never exceeded 7,000 birds. It is estimated that the 1975 U.S. harvest, as a result of the proposed season, will be less than 10,000 birds and is not expected to exceed 5,000 birds. The combined Canada-U.S. greater snow goose harvest, therefore, will not exceed 10 percent of the fall flight. It is anticipated that approximately 60 percent of the harvest will be composed of immature

birds; about the same proportion of the harvest will be represented by females. The proposed season is based on recognition that through sustained management efforts the population has grown to the level that a harvest may be taken without jeopardizing the resource.

Greater snow goose depredations have occurred with increasing frequency since 1970. Field feeding birds have caused damage to winter wheat crops in coastal regions of North Carolina and Virginia. Salt marsh cordgrass habitat has been damaged extensively in New Jersey wintering areas by feeding greater snow geese; and Canadian officials have expressed the fear that the St. Lawrence River staging area habitat may not be capable of supporting larger greater snow goose populations. The harvest of greater snow geese may alleviate these problems to a degree.

Management capabilities are unique with respect to greater snow geese. All breeding areas, staging areas, migration routes, and wintering areas are well known. Spring and fall staging area population estimates based on aerial photographic counts and ground surveys cover approximately 95 percent of the total population. Satellite imagery now provides an early indication of the year's reproductive success. Productivity is evaluated more precisely by measures of population age structure of flocks on the wintering grounds. Hence, a comprehensive evaluation of the annual status of the greater snow goose population is readily available. Appropriate yearly adjustments in harvest regulations can be made as the data warrant.

The 1975 season regulations refer to snow geese generally, because some lesser snow geese (including blue geese) gather with greater snow goose flocks on the wintering grounds. However, the lesser snow goose is the most numerous goose on the North American continent, and it will not be adversely affected by the limited harvest expected.

An emergency closure provision is included in the snow goose season regulation to provide insurance against excessive harvest in the event that greater snow goose productivity did not approach the expected level in 1975.

The snow goose season in the Atlantic Flyway has the support of the Atlantic Flyway Council and several national conservation organizations. No opposition to the proposal was expressed at the Director's Waterfowl Advisory Committee meeting on August 5, 1975.

A draft environmental assessment on the proposed resumption of snow goose hunting in the Atlantic Flyway has been prepared. Copies are available upon request.

Atlantic Brant in the Atlantic Flyway

A limited season on brant in the Atlantic Flyway is proposed for 1975–76. The brant season has been closed in the Flyway since 1972. Winter inventory counts in 1972 totaled 73,000 birds, a decline of more than 50 percent from the 1971 winter inventory count of 151,000 birds. Associated with the reduced brant numbers were: (1) reproductive failure on the breeding grounds in 1971; (2) failure of the sea lettuce crop in New Jersey brant wintering areas. The latter condition caused brant to feed in salt marsh habitats and fields where they were more vulnerable to hunting. The brant harvest in 1971–72 was more than double the normal harvest of the past 10 years. A second reproductive failure, in the summer of 1972, reduced the brant to its lowest population level since the 1930's. The winter inventory count of brant in January of 1973 was 40,000 birds.

Since the 1972 closure was invoked, brant have increased significantly. This is attributed to two years of high productivity, in 1973 and 1975. In 1973, the brant population increased from 40,000 birds to 87,000 birds. This population level was maintained in 1974, due to only fair production in the summer of 1974. Production in 1975 is expected to be greater than in 1973. Conditions on the breeding grounds this year, based on satellite imagery, are superior to conditions that existed in 1973. Field reports from Canadian biologists in the high Arctic indicate intensive nesting, and large clutches. A 1975 fall flight of brant approaching 155,000 birds is anticipated.

Several brant population models have been developed to measure the effect of harvest on subsequent breeding populations. It is evident that brant could be harvested safely under the proposed regulations if production in 1975 is within 20 percent of 1973 production.

To ensure against excessive harvest, an emergency closure provision is included in the season proposal. The opening date for the brant season will be delayed until November 10, to permit productivity surveys and winter food supply surveys to be conducted. If these surveys show a deficiency in either the number of brant in the population, or the quantity and distribution of food available, the brant hunting season will be reduced or closed, depending on the nature and severity of the situation.

A draft environmental assessment on the proposed resumption of brant hunting in the Atlantic Flyway has been prepared. Copies are available upon request.

Finalization of Regulatory Proposals

The final promulgation of migratory bird hunting regulations for waterfowl, coots and gallinules; lesser sandhill cranes in parts of North Dakota, South Dakota, New Mexico, Texas, Colorado, Oklahoma, Montana, and Wyoming; and common (Wilson's) snipe in the Pacific Flyway will take into consideration the comments and testimony received. Comments, testimony, and any additional formation received may lead to the adoption of final regulations that differ from the proposals contained herein.

Special circumstances are involved in the establishment of these regulations which limit the amount of time which the Service can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: the need, on the one hand, to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms, and, on the other hand, the lack, before late July, of specific, reliable data on this year's status of waterfowl, coots, and gallinules. However, it is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendments to the Director (FWS/MBM), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. All relevant comments received no later than August 25, 1975, will be considered.

This notice of proposed rule making is issued under the authority of the Migratory Bird Treaty Act (40 Stat. 755; 16 U.S.C. 703–711).

F. Eugene Hester,
Acting Director,
U.S. Fish and Wildlife Service.

August 12, 1975.

Proposed Regulations Frameworks for 1975–76 Hunting Seasons on Waterfowl, Coots, and Gallinules; Cranes in Parts of North Dakota, South Dakota, New Mexico, Texas, Colorado, Oklahoma, Montana, and Wyoming; and for Common Snipe in the Pacific Flyway

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved proposed frameworks which prescribe season lengths, bag limits, shooting hours, and outside dates within which States may select seasons for hunting waterfowl, coots, and gallinules; cranes in parts of North Dakota, South Dakota, New Mexico, Texas, Colorado, Oklahoma, Montana, and Wyoming; and for common snipe in the Pacific Flyway. Frameworks are summarized below.

General

States may split their season for ducks or geese into two segments without penalty in number of days. Segments may be of unequal length. Exceptions to this rule are noted.

Shooting hours in all States, on all species, and for all seasons are ½ hour before sunrise until sunset except that during September teal seasons the shooting hours are sunrise to sunset. States have the option to select more restrictive hours within this framework.

Any State in the Atlantic, Mississippi, or Central Flyways selecting neither a September teal season nor the point system may take an extra bag limit on blue-winged teal of 2 daily and 4 in possession for 9 consecutive days during the regular duck season. This extra limit is in addition to the regular duck bag limit.

States in the Atlantic, Mississippi, and Central Flyways may select a special scaup-only hunting season not to exceed 16 consecutive days with a daily bag limit of 5 and a possession limit of 10

scaup, subject to the following conditions:

1. Such special season must fall between October 1, 1975, and January 31, 1976, in the Atlantic and Mississippi Flyways, and between October 4, 1975, and January 31, 1976, in the Central Flyway, all dates inclusive.

2. Such special season must fall outside the open season for any other ducks except sea ducks.

3. Such season must be limited to described areas mutually agreed upon between the State and the Service prior to September 4, and

4. Such areas must be described and delineated in State hunting regulations; or

As an alternative, States in the Atlantic, Mississippi, and Central Flyways, except those States selecting a point system, may take an extra bag limit on scaup of 2 daily and 4 in possession during the regular duck hunting season, subject to conditions 3 and 4 listed above. This extra limit is in addition to the regular duck bag limit and may be taken during the entire regular duck season.

Any State selecting the point system must do so on a statewide basis, except if New York selects the point system, conventional regulations may be retained for the Long Island Area.

Dates within which States may select their open seasons, season lengths, bag and possession limit options, and other special provisions are listed below by Flyway.

States in the Atlantic, Mississippi, and Central Flyways are reminded that if they did not select their gallinule season in July, they should do so at the time they make their waterfowl selections. Frameworks for gallinules are: outside dates: September 1, 1975–January 20, 1976; season length: not more than 70 days; bag limits: 15 daily, 30 in possession. Season may be split without penalty.

ATLANTIC FLYWAY

Between October 1, 1975, and January 20, 1976, States in this Flyway may hold open seasons on ducks, coots, and mergansers of: (a) 47 days with basic bag limits on ducks of 4 daily and 8 in possession of which no more than 2 daily and 4 in possession may be black ducks; or (b) 47 days with basic bag limits on ducks of 5 daily and 10 in possession of which no more than 1 daily and 2 in possession may be black ducks. Under either Option (a) or (b), a 50-day season may be selected provided the season is opened on a Wednesday at noon, local time. If the season is split, each opening must occur on a Wednesday at noon, local time.

Under both options, the daily bag limit may not include more than 2 wood ducks, and 4 in possession. The season is closed on canvasback and redhead ducks throughout the Flyway except in Florida as described: seaward of the mainland shoreline including offshore islands from the northern boundary of Everglades National Park in Collier County north and west to and including Escambia County, but excluding all inland bays and mouths of rivers landward of a line between the most seaward points of the mouth of such bays and rivers. Within this general exclusion, the following are specifically excluded: Escambia Bay, Choctawhatchee Bay, West Bay and St. Andrews Bay at Panama City, East Bay at Apalachicola, and Ochlochonee Bay the waters of which are north of U.S. Highway 95; Tampa Bay landward of U.S. Highway 19 and Charlotte Harbor landward of U.S. Highway 41. In this redhead harvest area the daily bag and possession limits are 1 redhead or 1 canvasback.

The bag limit on mergansers is 5 daily and 10 in possession, of which not more than 1 daily and 2 in possession may be hooded mergansers.

The bag limit on coots is 15 daily and 30 in possession.

The Lake Champlain area of New York State must follow the waterfowl seasons, limits, and shooting hours selected by Vermont. This area includes that part of New York State lying east and north of a line running south from the Canadian border along U.S. Highway 9 to New York Route 22 south of Keeseville, along New York Route 22 to South Bay, along and around the shoreline of South Bay to New York Route 22, along New York Route 22 to U.S. Highway 4 at Whitehall, and along U.S. Highway 4 to the Vermont border.

In lieu of a special scaup season, Vermont may, for the Lake Champlain Area, select a special scaup and goldeneye season not to exceed 16 consecutive days with a daily bag limit of 3 scaup or 3 goldeneyes or 3 in the aggregate and a possession limit of 6 scaup or 6 goldeneyes or 6 in the aggregate, subject to the same provisions that apply to the special scaup season elsewhere.

The State of New York may, for the Long Island area, select season dates and bag limits which differ from those in the remainder of the State.

As an alternative to the conventional bag limits for ducks, a point system bag limit may be selected by States in the Atlantic Flyway for 47 days during the framework dates shown above. A 50-day season may be selected provided the season is opened on a Wednesday at noon, local time. If the season is split, each opening must occur on a Wednesday at noon, local time. The point values for species and sexes taken are as follows: in Florida only, the fulvous tree duck, and the canvasback and redhead in designated redhead harvest areas, count 100 points each; in all States, the hen mallard, black duck, mottled duck, wood duck, and hooded merganser count 70 points each; the blue-winged teal, green-winged teal, pintail, gadwall, shoveler, scaup, sea ducks and mergansers (except hooded) count 10 points each; drake mallards and all other species of ducks count 25 points each. The daily bag limit is reached when the point values of the last bird taken added to the sum of the point values of the other birds already taken during that day reaches or exceeds 100 points. The possession limit is the maximum number of birds of species and sexes which could have legally been taken in 2 days.

Coots have a point value of zero, but the bag is limited to 15 daily and 30 in possession as under the conventional limits.

In any State in the Atlantic Flyway selecting a point system bag limit and also having a special sea duck season, sea ducks count 10 points each during the point system season, but during any part of the regular sea duck open season falling outside the point system season, the regular sea duck limit of 7 daily and 14 in possession applies.

Between October 1, 1975, and January 20, 1976, the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, West Virginia, New Jersey, Delaware, Maryland, and Virginia (excluding the Back Bay area) may hold an open season on Canada geese of 70 days; the daily bag limit is 3 and the possession limit is 6. The States of North Carolina, South Carolina, and the Back Bay area of Virginia may select an open season on Canada geese of 50 days; the daily bag limit is 1 and the possession limit is 2.

The season on Canada geese is closed in the States of Florida and Georgia.

Between October 1, 1975, and January 20, 1976, but within its regular waterfowl season, each State in the Atlantic Flyway may select an open season on snow geese (including blue geese) of 30 days; the daily bag limit is 2 and the possession limit is 4.

Between November 10, 1975, and January 20, 1976, States in this Flyway may select an open season on Atlantic brant of 30 days; the daily bag limit is 4 and the possession limit is 8.

For Atlantic brant, snow, and blue geese the Secretary shall close the season within 48 hours upon recommendation of the Director, Fish and Wildlife Service, that such closure is necessary to avoid excessive harvest.

MISSISSIPPI FLYWAY

Between October 1, 1975, and January 20, 1976, States in this Flyway may hold concurrent open seasons on ducks, coots, and mergansers of 44 days with a basic bag limit on ducks and mergansers of 4 daily including no more than 2 mallards or 2 black ducks or 1 of each, 2 wood ducks, 2 fulvous tree ducks and 1 hooded merganser; and 8 in possession including no more than 4 mallards or 4 black ducks or 4 in the aggregate, 4 wood ducks, 4 fulvous tree ducks and 2 hooded mergansers. A 47-day season may be selected provided the season is opened on a Wednesday at noon, local time. If the season is split, each opening must occur on a Wednesday at noon, local time.

Except in closed areas, the limit on canvasbacks and redheads is 1 canvasback daily and 1 in possession or 1 redhead daily and 1 in possession. Under the point system, canvasbacks and redheads count 100 points each except in closed areas. The areas closed to canvasback and redhead hunting are:

Mississippi River—Entire river, both sides, from Alton Dam upstream to Prescott, Wisconsin, at confluence of St. Croix River.

Alabama—Baldwin and Mobile Counties.

Louisana—Caddo, St. Charles, and St. Mary Parishes; that portion of Ward 1 formerly designated as Ward 6 of St. Martin Parish; and Catahoula Lake in LaSalle and Rapides Parishes.

Michigan—Arenac, Bay, Huron, Macomb, Monroe, St. Clair, Tuscola, and Wayne Counties, and those adjacent waters of Saginaw Bay south of a line extending from Point au Gres in Sec. 6, T18N, R7E (Arenac County) to Sand Point in Sec. 11, T17N, R9E (Huron County), the St. Clair River, Lake St. Clair, the Detroit River and Lake Erie, under jurisdiction of the State of Michigan.

Minnesota—Sibley and Nicollet Counties, and the area encompassed by a line drawn as follows: beginning at the North Dakota border on U.S. Highway 2, thence east on U.S. Highway 2 to Bemidji, thence south on U.S. Highway 71 to U.S. Highway 12 at Willmar, thence west on U.S. Highway 12 to the South Dakota border, thence north on the South Dakota and North Dakota border to the point of beginning.

Ohio—Land and water areas comprising Erie, Ottawa and Sandusky Counties.

Tennessee—Kentucky Lake lying north of Interstate Highway 40.

Wisconsin—In the Mississippi River Zone, all that part of Wisconsin west of the CB&Q railroad in Grant, Crawford, Vernon, La Crosse, Trempealeau, Buffalo, Pepin, and Pierce Counties. Also, Dodge and Winnebago Counties and the land and water areas extending 100 yards from the shorelines of Lake Poygan in Waushara County, Lake Winnebago in Calumet and Fond du Lac Counties, and Rush Lake, Fond du Lac County.

The bag limit on coots is 15 daily and 30 in possession. As an alternative to the conventional bag limits for ducks, a point system bag limit may be selected by all States in the Mississippi Flyway for 44 days during the framework dates shown above. A 47-day season may be selected provided the season is opened on a Wednesday at noon, local time. If the season is split, each opening must occur on a Wednesday at noon, local time. The point values for species and sexes taken are as follows: except in closed areas, the canvasback and redhead count 100 points each; the hen mallard, wood duck, black duck, hooded merganser and fulvous tree duck count 90 points each; the pintail, blue-winged teal, gadwall, shoveler, scaup and green-winged teal count 15 points each; the drake mallard and all other species of ducks and mergansers count 35 points each. The daily bag limit is reached when the point value of the last bird taken added to the sum of the point values of the other birds already taken during that day reaches or exceeds 100 points. The possession limit is the maximum number of birds of species and sexes which could have legally been taken in 2 days.

Coots have a point value of zero, but the bag is limited to 15 daily and 30 in possession as under the conventional limits.

In that portion of Louisiana west of a line beginning at the Arkansas-Louisiana border on Louisiana Highway 3; thence south along Louisiana Highway 3 to Shreveport; thence east along Interstate 20 to Minden; thence south along Louisiana Highway 7 to Ringgold; thence east along Louisiana Highway 4 to Jonesboro; thence south along U.S. Highway 167 to Lafayette; thence southeast along U.S. Highway 90 to Houma; thence south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass—the season on ducks, coots and mergansers may extend 5 additional days, *Provided* That the season opens on November 1, 1975. If the 5-day extension is selected, and if a point system bag limit is selected for the State, female mallards taken in the area described above will count 90 points each; point values for other species will be the same as for the rest of the State.

The Pymatuning Reservoir area of Ohio takes the waterfowl seasons, limits, and shooting hours selected by Pennsylvania. The area includes Pymatuning Reservoir and that part of Ohio bounded on the north by County Road 306 known as Woodward Road, on the west by Pymatuning Lake Road, and on the south by U.S. Highway 322.

Between October 1, 1975, and January 20, 1976, States in this Flyway, except Louisiana, may hold an open season of 70 days on geese, with daily bag and possession limits of 5 geese, to include no more than 2 white-fronted geese. Regulations for Canada geese are shown below by State.

Between October 1, 1975, and February 14, 1976, Louisiana may hold an open season of 70 days on snow (including blue) and white-fronted geese, with daily bag and possession limits of 5 geese, to include no more than 2 white-fronted geese. The season on Canada geese is closed in Louisiana.

In the State of Minnesota, in the: (a) Lac Qui Parle Quota Zone—the season on Canada geese closes after 45 days or when 4,000 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose or two white-fronted geese, or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese. The quota zone is that area encompassed by a line drawn as follows: beginning at Montevideo, thence west on U.S. Highway 212 to U.S. Highway 75, thence north on U.S. Highway 75 to State Highway 7 at Odessa, thence north on County State Aid Highway 21, Big Stone County, to U.S. Highway 12, thence east on U.S. Highway 12 to County State Aid Highway 17, Swift County, thence south on C.S.A.H. 17 and C.S.A.H. 9, Chippewa County, to State Highway 40, thence east on State Highway 40 to State Highway 29, thence south on State Highway 29 to point of beginning at Montevideo.

(b) Southeastern Zone (same description as in 1971)—The season for Canada geese may extend for 70 consecutive days. The daily bag limit is 1 Canada goose or 2 white-fronted geese, or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

(c) Remainder of the State—The season on Canada geese may not exceed 45 days. The daily bag limit is 1 Canada goose or 2 white-fronted geese, or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

In the State of Iowa the season for Canada geese may extend for 45 consecutive days. The daily bag and possession limits are 2 Canada geese.

In the State of Missouri, in the: (a) Swan Lake Quota Zone (same description as in 1971)—the season on Canada geese closes after 45 days or when 25,000 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose or 2 white-fronted geese, or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

(b) Southeastern area (east of U.S. Highway 67 and south of Crystal City)—State may select a 45-day season on Canada geese between December 1, 1975 and January 20, 1976, with a daily bag limit of 2 Canada geese or 2 white-fronted geese, or 1 of each; and a possession limit of 4 Canada and white-fronted geese in the aggregate, of which not more than 2 may be white-fronted geese.

(c) Remainder of the State—the season on Canada geese may not exceed 45 days. The daily bag limit is 2 Canada geese or 2 white-fronted geese, or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

In the State of Wisconsin, the harvest of Canada geese is limited to 28,000 with 16,000 birds allocated to the Horicon Zone (same description as in 1971). The daily bag limit is 1 Canada goose, 2 white-fronted geese, or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese. In the Horicon Zone, Canada goose hunting is restricted to those persons holding a valid Horicon Zone Canada goose hunting permit issued by the State.

In the State of Illinois, the harvest of Canada geese is limited to 28,000 with 24,000 birds allocated to the Southern Illinois Zone (same description as in 1971). The daily bag limit is 2 Canada geese or 2 white-fronted geese, or 1 of each; the possession limit is 4 Canada geese and white-fronted geese in the aggregate, of which not more than 2 may be white-fronted geese. The season on Canada geese may open at a later date in the Southern Illinois Quota Zone and extend to January 20, 1976, or until the Zone's quota of 24,000 birds is reached, whichever occurs first.

In the States of Michigan, Ohio, and Indiana, the daily bag limit may not include more than 1 Canada goose, or 2 white-fronted geese, or 1 of each; the possession limit may not include more

than 2 Canada and 2 white-fronted geese, except in Michigan, the possession limit on Canada geese is 1.

In the State of Kentucky, in the Counties of Ballard, Hickman, Fulton, and Carlisle, the daily bag limit is 2 Canada geese or 2 white-fronted geese, or 1 of each; the possession limit is 4 Canada geese and white-fronted geese in the aggregate, of which not more than 2 may be white-fronted geese. In the remainder of the State, the daily bag limit is 1 Canada goose or 2 white-fronted geese, or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

In Tennessee, the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese except that in the Counties of Shelby, Lake, Tipton, Lauderdale, Dyer, and Obion, the daily bag and possession limits are 2 Canada geese.

In Mississippi, the daily bag and posesssion limits are 2 Canada geese, except that in the Counties of Lafayette, Marshall, and Panola, the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese. The season is closed on Canada geese in the Counties of Washington, Sharky, and Issaquena.

The season is closed on all geese in the Alabama counties of Russell and Barbour. Elsewhere in Alabama, the bag limit is 1 Canada goose, or 2 white-fronted geese, or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

In Arkansas, the Canada goose season may not exceed 30 consecutive days, subject to State closure of designated areas. The daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese.

When it has been determined by the Director that the quota of Canada geese allotted to the State of Illinois, to the Swan Lake area of Missouri, and to the Lac Qui Parle Area of Minnesota will have been filled, the season for taking Canada geese in the respective area will be closed by the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing.

Geese taken in the States of Illinois and Missouri and in the Kentucky Counties of Ballard, Hickman, Fulton, and Carlisle may not be transported, shipped, or delivered for transportation or shipment by common carrier, the postal service, or by any person except as the personal baggage of the hunter taking the birds.

Central Flyway

Between October 4, 1975, and January 18, 1976, States and portions of States in this Flyway may hold concurrent open seasons on ducks, including mergansers, and coots, of 60 days with basic bag limits on ducks of 6 daily and 12 in possession.

The daily bag limit on ducks including mergansers may include no more than 1 hooded merganser, 2 wood ducks and 3 mallards of which no more than 1 mallard may be a hen and the possession limit on ducks may include no more than 2 hooded mergansers, 4 wood ducks and 6 mallards of which no more than 2 mallards may be hens.

The bag limit on coots is 15 daily and 30 in possession.

The bag limits, except in closed areas, may include no more than 1 canvasback daily and 1 in possession or 1 redhead daily and 1 in possession. Except in closed areas, canvasbacks and redheads count 100 points each under the point system. The areas closed to canvasback and redhead hunting are:

North Dakota—all that portion east of State Highway 3, including all or portions of 27 counties.

South Dakota—the Counties of Brookings, Codington, Day, Kingsbury, Roberts, Marshall, and Hamlin.

Texas—the Counties of Brazoria, Chambers, Galveston, Harris, and Jefferson.

The season is closed on the Mexican duck.

As an alternative to the conventional bag limits for ducks, States in this Flyway may select a point system. The point system season length in the High Plains Mallard Management Unit portions of Colorado, Kansas, Montana, Nebraska, New Mexico, Texas, Oklahoma, North Dakota, South Dakota, and Wyoming is 83 days, *Provided*, That the last 23 days of such season must begin on or after December 8, 1975. The season length for those portions of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas not included in the High Plains Mallard Management Unit may not exceed 60 days. The High Plains area is roughly defined as that portion of the Central Flyway which lies between the 100th meridian and the Continental Divide.

The point values for species and sexes taken in the High Plains Area of the Flyway are as follows: except in closed areas the canvasback and redhead count 100 points each, the hen mallard, wood duck, and hooded merganser count 70 points each; the blue-winged teal, green-winged teal, cinnamon teal, scaup, pintail, gadwall, shoveler, and mergansers (except the hooded merganser) count 10 points each; drake mallards and all other species of ducks count 20 points each. The daily bag limit is reached when the point value of the last bird taken added to the sum of the point values of other birds already taken during that day reaches or exceeds 100 points. The possession limit is the maximum number of birds of species and sex which could have been legally taken in 2 days.

The point values for species and sexes taken in the remainder of the Flyway are as follows: except in closed areas, the canvasback and redhead count 100 points each; the hen mallard, wood duck, and hooded merganser count 70 points each; the blue-winged teal, green-winged teal, cinnamon teal, scaup, pintail, gadwall, shoveler, and mergansers (except the hooded merganser) count 10 points each; drake mallards and all other species of ducks count 25 points each. The daily bag limit is reached when the point value of the last bird taken added to the sum of the point values of other birds already taken during that day reaches or exceeds 100 points. The possession limit is the maximum number of birds of species and sex which could have been legally taken in 2 days.

Coots have a point value of zero, but the bag is limited to 15 daily and 30 in possession as under the conventional limits.

Those portions of the States of Colorado and Wyoming lying west of the Continental Divide, that portion of New Mexico lying west of the Continental Divide plus the entire Jicarilla Apache Indian Reservation, and that portion of Montana which includes the Counties of Hill, Chouteau, Cascade, Meagher, and Park and all counties west thereof, must select open seasons on waterfowl and coots in accordance with the framework for the Pacific Flyway.

Between October 4, 1975, and January 18, 1976, States in this Flyway may hold an open season on geese as follows:

(a) The States of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas for that portion east of U.S. Highway 81 may select a season of 72 days.

(b) For the Central Flyway portions of Montana, Wyoming, Colorado and New Mexico, and that portion of Texas west of U.S. Highway 81, States may select a season of 93 days, with a daily bag limit of 2 and a possession limit of 4 geese.

The daily bag and possession limits may not exceed 5 geese subject to the following:

In North Dakota the daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose or 2 white-fronted geese. The possession limit may include no more than 2 Canada or 2 white-fronted geese or 1 of each. The season on Canada geese may not extend beyond November 16, 1975.

In South Dakota the daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose and the possession limit may include no more than 2 Canada geese or 2 white-fronted geese, or 1 of each. The season on Canada geese may not extend beyond November 30, 1975.

In Nebraska the season on Canada and white-fronted geese may not extend beyond December 21, except the season on Canada and white-fronted geese is closed in that portion of Nebraska encompassed by a line from the South Dakota border south on Nebraska Highway #27 to Ellsworth, east on Nebraska Highway 2 to Dunning, northeast on Nebraska Highway 91 to Burwell, north on Nebraska Highway 11 to Atkinson, west on U.S. Highway 20 to Valentine, and north on U.S. Highway 83 to the South Dakota border.

The season on Canada and white-fronted geese will close December 7 in that portion of Nebraska encompassed by a line from Hyannis south on State Highway 61 to its junction with State Highway 92, west on State Highway 92 to its junction with U.S. 26, east on U.S.

Highway 26 to its junction with U.S. Highway 30, east on U.S. Highway 30 to its junction with U.S. Highway 183, north on U.S. Highway 183 to its junction with State Highway 91, west on State Highway 91 to its junction with State Highway 2 and west on State Highway 2 to its junction with State Highway 61 at Hyannis.

The daily bag limit may include no more than 1 Canada and 1 white-fronted goose and the possession limit may include no more than 2 Canada or 2 white-fronted geese or 1 of each.

In Kansas the season on Canada and white-fronted geese may not extend beyond December 21. The daily bag limit may include no more than 1 Canada and 1 white-fronted goose and the possession limit may include no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

In the Oklahoma Counties of Alfalfa, Bryan, Johnston, and Marshall, the State may select either:

(a) A season of 72 days with a daily bag limit of no more than 1 Canada goose and 1 white-fronted goose, and a possession limit of no more than 2 Canada geese, or 2 white-fronted geese, or 1 of each, or

(b) A season of 53 days (within the 72-day period selected for the remainder of the State) with a daily bag limit of no more than 2 Canada geese, or 1 Canada goose and 1 white-fronted goose, and a possession limit of no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

In the remainder of Oklahoma, the daily bag limit may include no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose and the possession limit no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

In that portion of Texas east of U.S. Highway 81, the State may select either:

(a) A season of 72 days with a daily bag limit of no more than 1 Canada goose or 1 white-fronted goose, and a possession limit of no more than 2 Canada geese or 2 white-fronted geese or 1 of each, or (b) A season of 64 days beginning no earlier than November 16, 1975, with a daily bag of no more than 1 Canada goose and 1 white-fronted goose, and a possession limit of no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

In all States in the Flyway, the daily bag and possession limits may include no more than 1 Ross' goose.

The States of Colorado, New Mexico, Oklahoma, Texas, Montana and Wyoming may select a season on the lesser sandhill (little brown) crane with a daily bag limit of 3 and a possession limit of 6 within an October 4, 1975–January 18, 1976, framework as follows:

(a) 36 consecutive days from October 4 through November 8, 1975, in the Central Flyway portion of Colorado except the San Luis Valley area.

(b) 93 consecutive days between October 25, 1975, and January 31, 1976, in the New Mexico Counties of Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt, and in that portion of the State of Texas lying west of a line running south from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, along U.S. Highway 87 and including all of Howard and Lynn Counties to U.S. Highway 277 at San Angelo, and along U.S. Highway 277 to the International Toll Bridge in Del Rio.

(c) 58 consecutive days on or after November 29, 1975, in that portion of Oklahoma lying west of U.S. Highway 81, and in that portion of Texas lying east of a line running south from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, then along U.S. Highway 87 to San Angelo, and lying west of a line running north from San Angelo along U.S. Highway 277 to Abilene, along State Highway 351 to Albany, along U.S. Highway 283 to Vernon, and then along U.S. Highway 183 east to the Oklahoma border.

(d) 37 consecutive days to open with the goose season in Phillips County, Montana.

(e) 30 consecutive days on or after October 11, 1975, in Platte and Goshen Counties, Wyoming.

The States of North Dakota and South Dakota may select a sandhill crane season of: 30 consecutive days between November 8 and December 7, 1975, in the North Dakota Counties of Kidder, Stutsman, Benson, Emmons, Pierce, McLean, Sheridan, and Burleigh; and in part of South Dakota described as follows: from the North Dakota border, south on U.S. Highway 83 to U.S. Highway 212, west on U.S. Highway 212 to the Promise Road, north on the Promise Road to State Highway 20, north on State Highway 20 to U.S. Highway 12, northwest on U.S. Highway 12 to State Highway 63, north on State Highway 63 to the North Dakota border.

Pacific Flyway

Between October 4, 1975, and January 18, 1976, States or portions of States placed in this Flyway, *except* the Columbia Basin Area, may hold concurrent open seasons on ducks, coots, mergansers, and gallinules of 93 days with basic bag limits on ducks of 7 daily and 14 in possession.

No more than 2 redheads or 2 canvasbacks or 1 of each daily may be taken and no more than 4 singly or in the aggregate may be possessed.

Exception: the limit on canvasbacks is 1 daily and 1 in possession in the following area:

California—San Francisco Bay—Suisun area—beginning at Golden Gate Bridge, north on U.S. Highway 101 to State Highway 37; then east on State Highway 37 to U.S. Highway 80; then north on U.S. Highway 80 to State Highway 12 at Fairfield; then east on State Highway 12 to Rio Vista at State Highway 84 (160); then south on State Highway 84 (160) to State Highway 4; then west on State Highway 4 to U.S. Highway 80; then south on U.S. Highway 80 to State Highway 17; then south on State Highway 17 to U.S. Highway 101 at San Jose; then north on U.S. Highway 101 to point of beginning.

The season is closed on the Mexican duck.

The bag limit on mergansers is 5 daily and 10 in possession of which not more than 1 daily and 2 in possession may be hooded mergansers.

The daily bag and possession limit on coots and gallinules is 25 singly or in the aggregate of these species.

For that portion of California lying south of the Tehachapi Mountains and west of the Colorado River area (as described in Title 14 California Fish and Game Code, Section 502), the State may designate season dates differing from those in the rest of the State.

Clark and Lincoln Counties in Nevada and the Colorado River area of California have the season dates selected by Arizona for waterfowl; and the Tule Lake area of California has the season dates selected by Oregon for waterfowl.

In the Columbia Basin Areas of Washington, Oregon and Idaho, between October 4, 1975, and January 18, 1976, the season length may be 100 days and the daily bag is 7 ducks with a possession limit of 14 ducks with no more than 2 redheads or 2 canvasbacks or 1 of each daily and no more than 4 singly or in the aggregate in possession. The daily bag and possession limit on coots is 25, with the season to run concurrent with the duck season.

Between October 4, 1975, and January 18, 1976, States in this Flyway may hold an open season on geese of 93 days with a basic daily bag and possession limit of 6, *Provided*, That the daily bag limit does not include more than 3 geese of the dark species (Canada and white-fronted geese) or 3 snow geese. In the States of Washington and Idaho, the daily bag limit is 3 and the possession limit is 6 geese.

In three areas in California the hunting of Canada geese is restricted as follows:

(1) In the counties of Del Norte, Humboldt and Mendocino, there will be a complete closure on Canada geese during the 1975–76 waterfowl hunting season.

(2) In the Sacramento Valley in the area described as follows: beginning at the town of Willows in Glenn County proceed south on Interstate Highway 5 to the junction of State Highway 20 near the town of Williams in Colusa County; thence easterly on State Highway 20 to the junction of State Highway 45 in the town of Colusa; thence northerly on State Highway 45 to its junction with State Highway 162; thence continuing northerly on State Highways 45–162 to the town of Glenn; thence westerly on State Highway 162 to the point of beginning; the hunting season here for taking Canada geese will not open until December 15, 1975. It may then continue to the end of the 1975–76 waterfowl hunting season.

(3) In the San Joaquin Valley in the area described as follows: beginning at the city of Modesto in Stanislaus County proceed west on State Highway 132 to the junction of Interstate 5; thence southerly on Interstate 5 to the junction of State Highway 152 in Merced County;

thence easterly on State Highway 152 to the junction of State Highway 59; thence northerly on State Highway 59 to the junction of State Highway 99 at the city of Merced; thence northerly and westerly to the point of beginning; the hunting season here for taking Canada geese will close on December 15, 1975.

In the Washington Counties of Adams, Franklin, Grant, Walla Walla, Lincoln, Douglas, Yakima, Benton, Klickitat, and Kittitas, and in the Oregon Counties of Morrow, Wasco, Sherman, Gilliam, Umatilla, Union and Wallowa, the goose season must be concurrent with the Columbia Basin duck season and the bag limits for geese are to be the same as in the general goose season in their respective States.

In the State of Arizona; in that portion of New Mexico placed in the Pacific Flyway; in Clark and Lincoln Counties, Nevada; in Washington County, Utah; and in the Tehachapi waterfowl area of California except Fish and Game District 22, the season on Canada geese may be no more than 65 days. The daily bag and possession limits are 2 Canada geese and the season on Canada geese may not extend beyond January 4, 1976.

In that portion of California Fish and Game District 22 for which California selects the open season (that portion of District 22 lying outside the Colorado River area), the daily bag and possession limits may not include more than 1 Canada goose and the season on Canada geese may be no more than 65 days and may not extend beyond January 4, 1976.

In that portion of Colorado placed in the Pacific Flyway, in the State of Utah except Washington County; in that portion of the State of Idaho lying east of U.S. Highway 93; and in that portion of the State of Montana placed in the Pacific Flyway but lying east of the Continental Divide the season on Canada geese may be no more than 65 days. The daily bag and possession limits are 2 Canada geese and the season on Canada geese may not extend beyond December 14, 1975.

In that portion of the State of Idaho lying west of U.S. Highway 93 (except Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Nez Perce, Lewis, Clearwater, and Idaho Counties); in the Oregon counties of Baker and Malheur; and in that portion of Montana lying west of the Continental Divide, the daily bag and possession limits are 2 Canada geese, and the season on Canada geese may be concurrent with ducks but may not extend beyond December 28, 1975.

In that portion of Wyoming placed in the Pacific Flyway, the daily bag and possession limits are 2 Canada geese and the season on Canada geese may be no more than 75 days and the season may not extend beyond December 28, 1975.

In all States in the Flyway, the daily bag and possession limits may not include more than 1 Ross' goose.

Between October 25, 1975, and February 22, 1976, States in this Flyway may select an open season on black brant of 93 days a daily bag limit of 4 and possession limit of 8.

In the States of Utah, Nevada, and Montana, an open season for taking a limited number of whistling swans may be selected subject to the following conditions: (a) the season must run concurrently with the season for ducks; (b) in the State of Utah, no more than 2,500 permits may be issued authorizing each permittee to take 1 whistling swan; (c) in the State of Nevada, no more than 500 permits may be issued authorizing each permittee to take 1 whistling swan in the County of Churchill; (d) in the State of Montana, no more than 500 permits may be issued authorizing each permittee to take 1 whistling swan in the County of Teton; (e) permit forms and correspondingly numbered metal locking seals furnished by the Service must be issued by the appropriate Department of Game and Fish on an equitable basis without charge.

States (or portions of States) in this Flyway may select open seasons on common snipe (Wilson's) with a daily bag limit of 8 and a possession limit of 16. The snipe season dates shall coincide with the duck season locally in effect.

[FR Doc.75-21547 Filed 8-14-75;8:45 am]

Office of the Secretary

[43 CFR Part 18]

RECREATION FEES

Proposed Amendment to the Schedule of Recreation Use Fees for Rental of Hunting Blinds

The Department of the Interior is considering an amendment to 43 CFR 18.9 (c), which sets forth a schedule of recreation use fees to be collected by its outdoor recreation administering bureaus. The fees listed in this schedule are required to be established in accordance with the criteria contained in 43 CFR 18.9(a). These criteria include the comparable recreation fees charged by other Federal and non-Federal public agencies within the service area of the management unit at which the fee is charged. Because several States charge as much as $10 per blind per day for the use of hunting blinds in service areas in which the Fish and Wildlife Service provides comparable blinds to the public at federal expense, the Department proposes to amend the regulation to authorize its outdoor recreation administering bureaus to select a fee for the rental of hunting blinds up to $10 per blind per day or a fraction thereof.

It is the policy of the Department, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed amendment to the Director, Bureau of Outdoor Recreation, Department of the Interior, Washington, D.C. 20240, by September 15, 1975. The Director is the official responsible for coordinating the Department's recreation fee program.

This amendment is proposed under the authority of section 4 of the Land and Water Conservation Fund Act of 1965, 86 Stat. 459, as amended, 16 U.S.C.A. 460 1-6a (1974).

In consideration of the foregoing, it is proposed to amend § 18.9(c) of Title 43 of the Code of Federal Regulations as follows:

§ 18.9 Establishment of recreation use fees.

* * * * *

(c) Schedule of Recreation Use Fees: * * *

Rental of hunting blinds.	Up to $10 per blind per day or fraction thereof.

* * * * *

Dated: August 11, 1975.

CURTIS BOHLEN,
Deputy Assistant Secretary of the Interior.

[FR Doc.75-21492 Filed 8-14-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[7 CFR Part 1842]

[FmHA Instructions 449.1, 449.2]

BUSINESS AND INDUSTRIAL LOANS

Proposed Revision

Notice is hereby given that the Farmers Home Administration (FmHA) has under consideration the proposed revision of Part 1842, Chapter XVIII, Title 7, Code of Federal Regulations (39 FR 34263; 39 FR 36852; 40 FR 21700; 40 FR 22536; 40 FR 22824; 40 FR 27476). This revision is being proposed to consolidate all provisions pertaining to Business and Industrial Loan Program into one regulation, Part 1842 and to clarify, expand and expedite procedures in the Business and Industrial Loan Program.

As proposed, the revisions to Part 1842 would make the following changes and revisions:

1. Transfers into this revised Part 1842 those sections of Part 1841 of this Chapter which pertain to business and industrial loans.

2. Limits the extent of foreign interests of borrowers and lenders.

3. Defines community facilities for assistance under this part.

4. Provides for a separate Form FmHA 449-35 "Lender's Agreement" which includes servicing and liquidation procedures.

5. Provides a separate Form FmHA 449-36 for use in the sale of a guaranteed portion of a loan through assignment by the holder of the guaranteed portion of the loan.

6. Substitutes Form FmHA 449-34 "Loan Note Guarantee" for Form FmHA 449-17 "Contract of Guarantee."

7. Provides loans for certain commercial feedlot operations.

8. Clarifies loan purposes.

9. Limits use of loan funds to borrowers with facilities located in both urban and rural areas.

10. Defines borrower and lender conflict of interest.

11. Sets forth loan guarantee limits.

12. Provides for a one time guarantee fee.

13. Establishes reasonable fees for preparation and assembly of application.

14. Extends to 40 years the maturity on FmHA insured loans for community facilities.

15. Establishes flood or mudslide hazard area precautions.

16. Defines requirements for feasibility studies.

17. Expands provisions relating to the amount and type of collateral required to secure loans.

18. Precludes a lender from requiring compensating balances as a means of eliminating the lender's exposure for the unguaranteed portion of loan.

19. Simplifies procedures for preapplications and applications.

20. Establishes the county supervisor as the point of contact.

21. Allows minor changes within approved loan purposes in use of loan funds without FmHA approval and allows for cost overruns.

22. Sets forth requirements for equal opportunity and nondiscrimination rules.

23. Provides for issuance and authority to execute "Lender's Agreement," "Loan Note Guarantee" and Form FmHA 449-36 "Assignment Guarantee Agreement."

24. Sets forth procedures in the Lender's Agreement for the lender to assign, participate in or sell guaranteed portions of the loan.

25. Eliminates the four options for determining loss.

26. Establishes new procedures for defaults and liquidation.

27. Establishes new procedures for transfers and assumptions.

28. Eliminates the restrictions against prepayment penalty.

29. Incorporates "Lender's Agreement," "Loan Note Guarantee" and "Assignment Guarantee Agreement" as a part of this revised regulation.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed revision to the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250, on or before September 15, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Chief, Directives Management Branch during regular business hours (8:15 a.m. to 4:45 p.m.).

As proposed, Part 1842 reads as follows:

PART 1842—BUSINESS AND INDUSTRIAL LOANS

Sec.
1842.1 Introduction.
1842.2 Definitions.
1842.3 Citizenship of applicants.
1842.4–1842.12 [Reserved].
1842.13 Loan purposes.
1842.14 Ineligible loan purposes.
1842.15 Full faith and credit of the U.S.A.
1842.16 Eligible lenders.
1842.17 Loan guarantee limits.
1842.18 Guarantee fee.
1842.19 Points, discounts, charges and fees by lenders.
1842.20 [Reserved].
1842.21 Interest rates.
1842.22 Terms of loan repayment.
1842.23 Availability of credit from other sources.
1842.24 Environmental impact assessments and statements.
1842.25 Flood or mudslide hazard area precautions.
1842.26 Applicant equity requirements.
1842.27 Feasibility studies.
1842.28 Collateral.
1842.29 Appraisal of property serving as collateral.
1842.30 Filing and processing applications.
1842.31 FmHA evaluation of application.
1842.32 Review of requirements.
1842.33 Conditions precedent to issuance of the Loan Note Guarantee.
1842.34 Equal opportunity and nondiscrimination requirements.
1842.35 Issuance of Lender's Agreement, Loan Note Guarantee and Assignment Guarantee Agreement.
1842.36 Lender's sale or assignment of guaranteed portion of the loan.
1842.37 Loan servicing.
1842.38 Defaults by borrower.
1842.39 Liquidation.
1842.40 Protective advances.
1842.41 Transfer and assumptions.
1842.42 Insured loans.
1842.43 Guaranteed industrial development bond issues.
1842.44 Method of review.
1842.45 Access to records.
1842.46 FmHA Forms.

AUTHORITY: (7 U.S.C. 1989); Order of Secretary of Agriculture, 7 CFR 2.23; Order of Assistant Secretary of Agriculture for Rural Development, 7 CFR 2.70.

§ 1842.1 Introduction.

This Part contains regulations pertaining to Business and Industrial (B&I) Loans made or guaranteed by the Farmers Home Administration (FmHA) and is applicable to lenders, holders, borrowers, and other parties involved in making, guaranteeing, insuring, holding, servicing, or liquidating such loans. The FmHA County Supervisor shall ordinarily be the agency contact for all loan processing and servicing activities.

§ 1842.2 Definitions.

The following definitions apply:

(a) *Applicant (for loan).* An applicant may be a cooperative, corporation, partnership, trust, or other legal entity organized and operated on a profit or nonprofit basis; an Indian Tribe on a Federal or State reservation or other Federally recognized tribal group; a municipality, county, or other political subdivision of a State; or an individual engaged in or proposing to engage in improving, developing, or financing business, industry and employment and improving the economic and environmental climate in rural areas, including pollution abatement and control.

(b) *Assignment Guarantee Agreement.* The signed agreement among FmHA, the lender, and the holder, setting forth (specifically or by reference) the terms and conditions of an assignment of a guaranteed portion of a loan or any part thereof.

(c) *Borrower.* All parties liable for the loan or any part thereof.

(d) *Community facilities.* For the purpose of this Part, community facilities are those facilities designed to aid in the development of private business and industry in rural areas. Such facilities include, but are not limited to, acquisition and site preparation of land for industrial sites (but not for improvements erected thereon), access streets and roads serving the site, parking areas, extension or improvement of community transportation system serving the site, and utility extensions all incidental to site preparation. Projects eligible for assistance under 7 CFR Part 1823 are not eligible for assistance under this part.

(e) *Conditional Commitment for Guarantee.* FmHA's advice to the lender that the material it has submitted is approved subject to the completion of all conditions and requirements set forth in Form FmHA 449-14, "Conditional Commitment for Guarantee."

(f) *Development cost.* These costs include, but are not limited to, those for acquisition, planning, construction, repair, or enlargement of the proposed facility; purchase of buildings, machinery, equipment, land easements, rights-of-way; payment of start-up operating costs, and interest during the period before the first principal payment becomes due, including interest on interim financing.

(g) *FmHA.* The United States of America, acting through the Farmers Home Administration, an agency of the United States Department of Agriculture. References to the National Office, Finance Office, State Office, County Office, State Director, Business and Industry Loan Chief, District Director, County Supervisor, or other FmHA office or official should be read as prefaced by "FmHA."

(h) *Guaranteed loan.* A loan made and serviced by a lender for which FmHA has entered into a "Lender's Agreement" and issued a "Loan Note Guarantee."

(i) *Holder.* The holder is the person or organization other than the lender who holds all or a part of the guaranteed portion of the loan with no servicing responsibilities. When the lender assigns a part(s) of the guaranteed loan to an assignee, the assignee becomes a holder.

(j) *Insured business and industrial loans.* A loan directly made and serviced by FmHA as lender with funds from the Rural Development Insurance Fund.

(k) *Joint financing.* Occurs when two or more lenders (or any combination of such lenders) make separate loans to supply the funds required by one applicant. Such joint financing may consist of FmHA financial assistance with the Economic Development Administration (EDA), Department of Housing and Urban Development (HUD), Small Business Administration (SBA), other Federal and State agencies, and private and quasi-public financial institutions.

(l) *Lender.* The lender is the person or organization making or servicing a loan or assuming the responsibility in connection with the unguaranteed portion of a loan.

(m) *Lender's Agreement.* The signed agreement between FmHA and the lender setting forth (specifically or by reference) the lender's loan responsibilities when the Loan Note Guarantee is issued.

(n) *Loan Note Guarantee.* The signed commitment issued by FmHA setting forth (specifically or by reference) the terms and conditions of the guarantee.

(o) *Letter of conditions.* Letter issued by FmHA to a borrower setting forth the conditions under which FmHA will make a direct (insured) loan from the Rural Development Insurance Fund.

(p) *Principals of borrowers.* Include owners, officers, directors, and entities and others directly involved in the operation and management of the business.

(q) *Public body.* A municipality, political subdivision, public authority, district or similar organization.

(r) *Rural area.* Includes all territory of a State, the Commonwealth of Puerto Rico, or the Virgin Islands that is not within the outer boundary of any city having a population of fifty thousand or more and its immediately adjacent urbanized and urbanizing area with a population density of more than one hundred persons per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States. FmHA determines whether the area is rural.

(s) *State.* Any of the fifty states, Puerto Rico, or the Virgin Islands.

(t) *Transfer and assumption terms.* In relation to transfer and assumption cases, where appropriate, "liquidation" and "loan" shall be construed to mean "transfer and assumption," "promissory note" shall be construed to mean "assumption agreement," and "borrower" shall be construed to mean "assuming party" or "transferee."

(u) *Working capital.* The excess of current assets over current liabilities. It identifies the relatively liquid portion of total enterprise capital which constitutes a margin or buffer for meeting obligations within the ordinary operating cycle of the business.

§ 1842.3 Citizenship of applicants.

Loans to individuals shall be made or guaranteed only to those who are citizens of the United States or reside in the United States after being legally admitted for permanent residence. At least 51 percent of the outstanding interest in any corporation or organization type applicant must be owned by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence.

§§ 1842.4–1842.12 [Reserved]

§ 1842.13 Loan purposes.

Loans to borrowers with facilities located in both urban and rural areas will be limited to the amount necessary to finance the facility located in the eligible rural area.

(a) *Private entrepreneurs.* Loans may be for improving, developing, or financing business, industry, and employment and improving the economic and environmental climate of rural areas, and may include but not be limited to:

(1) Business and industrial acquisition, construction, conversion, enlargement, repair, modernization, or development cost.

(2) Purchasing and development of land, easements, rights-of-way, buildings, facilities, leases, or materials.

(3) Purchasing of equipment, leasehold improvements, machinery or supplies.

(4) Pollution control and abatement including those in connection with farming and ranching operations.

(5) Transportation services incidental to industrial development.

(6) Start-up costs and working capital.

(7) The financing of housing development sites located in open country or cities, towns or villages of not over 10,000 population, provided the community demonstrates a need for additional housing to prevent a loss of jobs in the area, or to house families moving to the area as a result of new employment opportunities.

(8) Loans for processing or marketing facilities, hatcheries, commercial nurseries and integrated poultry operations. This does not include loans for agricultural production; however, applicants who are in the business of processing, marketing, or packaging, as well as agricultural production, may be eligible for loan assistance for that portion of the business other than agricultural production, provided the agricultural production aspect is separate from the rest of the business; *e.g.*, the production aspects are handled through separate legal business entities or through maintenance of the accounting system in such manner as to clearly identify the use of and future accounting of the loan proceeds.

(9) Commercial custom feedlot operations. As used herein, commercial custom feedlot operations mean those lots primarily feeding, on a custom basis, livestock which belongs to other than the feedlot owner-operator. This would not preclude assistance to those borrowers whose principals or members are farmers and ranchers whose individually owned livestock may be custom fed at the lot, providing such principals' or members' personal financial conditions are not likely to adversely affect the financial success of the custom operation. In those cases where feedlot operators buy and feed for themselves, records and accounts of such operations shall be maintained in such manner that they may be identified separately from the custom feeding operation, and loan agreements and security instruments will specify that any losses incurred in the owner-operator operation shall not be chargeable to the custom feeding operations.

(10) Interest (including interest on interim financing) during the period before the first principal payment becomes due, or the facility becomes income producing, whichever occurs first.

(11) Feasibility studies.

(12) Refinancing debts for sound projects when it is determined by FmHA that it is necessary to stabilize the economic base of the rural area and increase or maintain employment.

(13) Reasonable costs, including legal fees, incurred for services rendered by accountants, appraisers, architects, engineers, consultants, and other parties for services in connection with preparation of the loan applications, making the loan, developing the project, and verification of proper project completion. Lender's charges will not exceed those allowed in § 1842.19. FmHA will determine what is a reasonable cost.

(14) Acquisition of membership and/or stocks, bonds, or debentures necessary to obtain a loan from Production Credit Associations, Banks for Cooperatives, Small Business Investment Corporations, and other lenders; provided such acquisition is required of all borrowers. However, a lender which requires membership fees in such organization or the purchase of securities issued by such organization will not use such proceeds to acquire, lease, or improve property which does not benefit its members.

(b) *Public bodies.* See § 1842.43.

§ 1842.14 Ineligible loan purposes.

Loans may *not* be made or guaranteed if the funds are used:

(a) To pay off a creditor in excess of the value of the collateral.

(b) For distribution or payment to the owner, partners, shareholders or beneficiaries of the applicant or members of their families when such persons will retain any portion of their equity in the business.

(c) For any project that is calculated to or is likely to result in the transfer of any employment or business activity from one area to another. This limitation shall not prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the expansion will not result in an increase in the unemployment in the area of original location or in any other area where such entity conducts business operations unless there is reason to believe that such expansion is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(d) For any project which is calculated to or is likely to result in an increase in the production of goods, materials or commodities, or the availability of services or facilities in the area when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

(e) For agricultural production except as provided in § 1842.13, including farming and ranching operations except for pollution control and abatement facilities. FmHA loan programs for farms and ranches are covered in Parts 1843 and 1845.

(f) For the transfer of ownership of a business unless the loan will keep the business from closing or otherwise prevent the loss of employment opportunities in the area.

(g) For the guarantee of lease payments.

(h) For the guarantee of loans made by other Federal agencies. This does not preclude the guaranteeing of loans made by the Bank for Cooperatives, Federal Land Bank, or Production Credit Association.

§ 1842.15 Full faith and credit of U.S.A.

The Loan Note Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which the lender or holder has actual knowledge at the time it becomes such lender or holder or which lender or holder participates in or condones. The guarantee and right to require purchase shall be directly enforceable by holder notwithstanding any fraud or misrepresentation on behalf of lender or any unenforceability of the Loan Note Guarantee as to lender. The Loan Note Guarantee will be unenforceable by the lender to the extent any loss is occasioned by violation of usury laws, use of loan funds for unauthorized purposes, negligent servicing, or failure to obtain the required security.

§ 1842.16 Eligible lenders.

(a) The term "eligible lender" is synonymous with "supervised lender" as used in prior regulations and forms. Any Federal or state chartered bank, Federal Land Bank, Production Credit Association, Bank for Cooperatives, Savings and Loan Association, Building and Loan Association, or Small Business Investment Corporation, that is subject to examination and supervision by an agency of the United States or a state, is eligible to make and service guaranteed loans provided it is in good standing with its licensing authority and has met:

(1) Licensing, loanmaking, loan servicing, and other requirements of the state in which the collateral will be located.

(2) The loanmaking and/or loan servicing office requirements in paragraph (d) of this section.

(b) All other lenders must be approved for eligibility by FmHA. Any legal entity desiring eligibility as a lender that does not meet the requirements of paragraph (a) of this section should submit to FmHA the material in subparagraphs (b) (1), (2), (3), and (4) of this section. Prospective lenders will be considered by FmHA for eligibility to receive loan guarantees on a nationwide, state, or loan-by-loan basis. They should indicate the type of eligibility requested in their submission. Prospective lenders having sufficient experience, adequate organization for loan servicing, and sufficient capital and surplus to support the proposed loan program will be considered for eligibility on a national basis. Those licensed to do business only in specified states will be considered for eligibility only in those states. Those having sufficient capital only for the loan requested to meet the requirements of paragraph (b) (2) of this section shall be considered on a loan-by-loan basis.

(1) Form FmHA 449-18, "Lender's or Holder's Request for Approval."

(2) Evidence showing that it has the necessary capital and surplus in an amount equal to the requested nonguaranteed portion of the loan.

(3) Copy of any license, charter, or other evidence of authority to engage in the proposed loanmaking and loan servicing activity. If licensing by the state is not required an attorney's opinion to this effect should be submitted.

(4) Information on lending operations, including length of time in the lending business; experience in making term loans; management capability; range and volume of lending and servicing activities; current financial statements; sources of funds for the proposed loan; status of loan portfolio; loanmaking and servicing office location and rates charged for servicing and any other fees; *e.g.*, loan origination, loan preparation, or brokerage fees. Such fees may not be greater than those charged by eligible lenders.

(5) The FmHA will make such investigation as it deems necessary and will notify the prospective lender whether its request for eligibility is approved or rejected. If rejected, the reasons for the rejection will be indicated to the prospective lender in writing and if the lender is able to overcome the objections, it may resubmit the request. See § 1842.44. Lenders who are not eligible lenders and who do not qualify as eligible lenders, are not barred from participating in loans made by eligible lenders.

(c) *Advice from lender as to status.* Each prospective lender will inform FmHA whether it qualifies for eligibility under paragraphs (a) or (b) of this section and if an approved eligible lender, which agency or authorities, if any, supervises such lender. This information may be furnished to FmHA below the lender's signature on Form FmHA 449-1, "Application for Loan and Guarantee," or in letter form.

(d) *Loanmaking and servicing office—all lenders.* Each lender must maintain an office (either its main or branch office or that of an agent) near enough to the collateral's location so it can properly and efficiently discharge its loanmaking and loan servicing responsibilities. FmHA will be kept advised of the location and office responsible for servicing the loan.

(e) *All lenders and holders shall be domestically owned and controlled.* See paragraph V of Form FmHA 449-35, "Lender's Agreement."

(f) *Possible lender-borrower conflict of interest.* See paragraph VI of Form FmHA 449-35.

(g) FmHA reserves the right to declare any lender ineligible to receive a loan guarantee when the history of its operations appears unsatisfactory or the provisions of the Loan Guarantee Agreement and Lender's Agreement have not been satisfactorily fulfilled.

§ 1842.17 Loan guarantee limits.

The maximum loss covered under the Form FmHA 449-34, "Loan Note Guarantee," shall not exceed ninety percent of the principal and accrued interest on the indebtedness represented by the borrower's guaranteed loan promissory note or assumed under an assumption agreement. Lenders and applicants shall propose the percentage guarantee. FmHA will determine the percentage guarantee after considering all credit factors involved, including but not limited to:

(a) The applicant's management, equity capital, history of operation, marketing plan, raw material requirements, and availability of necessary supporting utilities and services.

(b) Collateral.

(c) Financial condition of applicant's principals.

(d) The lender's exposure before and after the loan.

(e) Current trends and economic conditions within the industry.

The lender and applicant will be informed in writing by FmHA of any percentage of guarantee less than that proposed by the lender and applicant and the reasons therefore.

§ 1842.18 Guarantee fee.

(a) The fee will be one percent (1%) of the principal loan amount multiplied by the percent of guarantee, paid one time only at the time the Loan Note Guarantee is issued. The fee will be paid to FmHA by the lender and is nonrefundable.

(b) In the event FmHA agrees to issue a Loan Note Guarantee in substitution for a Form FmHA 449-17, "Contract of Guarantee," issued under previous regulations, the lender will pay to FmHA a nonrefundable, one-time fee of one percent (1%) of the current principal loan balance multiplied by the percent of guarantee at the time the substitution is made.

§ 1842.19 Points, discounts, charges and fees by lenders.

(a) FmHA will not guarantee a loan if the borrower is required to pay any points, discounts, or other charges or fees such as finder's fees, loan origination fees, advance interest, add on interest, unearned interest, compound interest, interest on earned interest, interest discounts, service charges, bonuses, commissions, expenses or similar fees or anything of value for the purpose of obtaining the loan, except in cases where the charges are customary in the ordinary course of business of the lender. This does not preclude a reasonable fee for preparation and assembly of the application.

(b) The lender may charge the borrower a loan origination fee at the time of loan closing, or in connection with extension, renewal or transfer and assumption provided that such fee is not greater than that customarily charged by the lender to other borrowers. The

total amount of any lender's fees or other charges in excess of one and one-half percent (1½%) of the principal loan amount as provided in paragraph (a) and (b) of this section will be unacceptable to FmHA.

(c) The lender may charge the borrower an interim financing fee, if a construction loan is involved, provided the fee does not exceed one percent (1%) of the principal construction loan amount.

(d) Late payment charges will not be covered by the Loan Note Guarantee. Such charges may be made only if:

(1) They are routinely made by the lender in all types of loan transactions.

(2) Payment has not been received within the customary time frame allowed by the lender. The term "payment received" means that the payment in cash or by check, money order, or similar medium has been received by the lender at its main office, branch office, or other designated place of payment.

(3) The lender agrees with the applicant in writing that the rate or method of calculating the charges will not be changed so as to increase charges while the Loan Note Guarantee is in effect.

§ 1842.20 [Reserved]

§ 1842.21 Interest rates.

(a) *Guaranteed Loans.* Rates will be negotiated between the lender and the borrower. They may be fixed or variable as long as they are legal.

(1) A variable interest rate must be a rate that is tied to a base rate published periodically in a financial publication specifically agreed to by the lender and borrower. It must rise and fall with the selected base rate and changes can be made no more often than quarterly. There shall be no floor or ceiling on variable interest rates.

(2) Any change in the interest rate between the date of application and issuance of the Loan Note Guarantee must be approved by FmHA. Approval of such change shall be shown on Form FmHA 449-14, "Conditional Commitment for Guarantee."

(b) *Insured Loans.* (1) Loans for other than those in paragraph (6) of this section (2) shall bear interest at a rate prescribed by FmHA, and shall be announced periodically. The interest rate for insured loans will be the rate in effect at the time the loan is approved or at the time the loan is closed, whichever rate is lower.

(2) Loans to public bodies and nonprofit associations and Indian Tribes used to finance community facilities shall bear interest at the rate of five (5) percent per annum.

§ 1842.22 Terms of loan repayment.

(a) Principal and interest on the loan will be due and payable as provided in the promissory note. The lender shall structure repayments as established in the loan agreement between the lender and borrower. Ordinarily, such installments shall be scheduled for payment as agreed upon by the lender and applicant but on terms that reasonably assure repayment of the loan. However, the first installment to include a repayment of principal may be scheduled for payment after the project is operable and has begun to generate income, but such installment shall be due and payable within three years from the date of the promissory note and at least annually thereafter. Interest shall be due at least annually thereafter. Ordinarily, monthly payments will be expected, except for seasonal-type businesses. When multinotes are used each note shall bear the same interest rate.

(b) The maximum time allowable for final maturity of an FmHA guaranteed loan shall be limited to thirty (30) years for land, buildings, and permanent fixtures; the usuable life of the machinery and equipment purchased with loan funds, but not to exceed fifteen (15) years; and seven (7) years for the working capital portion of the loan. The term for a loan that is being refinanced may be based on the collateral the lender will take to secure the loan.

(c) The maximum time allowable for final maturity of an FmHA insured loan for community facilities shall not exceed 40 years.

§ 1842.23 Availability of credit from other sources.

(a) Inability to obtain credit elsewhere is not a requirement for guarantee assistance under this Part.

(b) To be for an insured loan under this Part, the applicant must be unable to obtain the required credit from private or cooperative sources at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near the applicant's location(s) for loans for similar purposes and periods of time.

§ 1842.24 Environmental impact assessments and statements.

The need for an environmental impact statement will be determined by FmHA. Applicants will furnish information to assist in making this determination on Form FmHA 449-10, "Applicant's Environmental Impact Evaluation."

§ 1842.25 Flood or Mudslide Hazard Area Precautions.

Projects located in special flood or mudslide hazard areas, as designated by the Federal Insurance Administration (FIA) of the Department of Housing and Urban Development may be financed under this Part only:

(a) If a community, as a result of such designation by FIA as a special flood or mudslide-prone area, has an approved flood plain area management plan.

(b) If the project location and construction plans and specifications for new buildings or improvements to existing building comply with the approved flood plain area management plan in paragraph (a) of this section.

(c) If flood insurance is available and will be purchased by the borrower prior to loan closing.

§ 1842.26 Applicant equity requirements.

The applicant will be required to contribute sufficient tangible assets on both guaranteed and insured loans to provide reasonable assurance of a successful project. Normally, a minimum of 10 percent equity, to be shown on the applicant's balance sheet, at the time of loan closing will be required. However, FmHA may require more equity depending on all other credit factors present in the particular project. Ordinarily, more than the minimum amount of equity will be required for new business ventures.

§ 1842.27 Feasibility studies.

FmHA may require an applicant to provide a feasibility study prepared by an independent recognized consultant. The cost of such study will be borne by the applicant and may be paid from funds included in the loan. On loans of one million dollars or more, feasibility studies by recognized independent consultants will be required. This requirement may be waived by FmHA if the applicant is listed on a major stock exchange, shows a profit for the past three years, is expanding the company in the same product line and has adequate net worth with all other credit factors considered. FmHA may also waive this requirement when the financial history of the business, the current financial condition and personal guarantees or other collateral is more than adequate to indicate the feasibility of the enterprise. An acceptable feasibility study should include but not be limited to:

(a) *Economic feasibility.* Information related to the project site, availability of trained or trainable labor, utilities, rail, air and road service to the site, and the overall economic impact of the project.

(b) *Market feasibility.* Information on the sales organization and management, nature and extent of market and market area, marketing plans for sale of projected output, extent of competition and commitments from customers or brokers.

(c) *Technical feasibility.* An engineering evaluation of: the site; type of construction; adequacy of the plant machinery and equipment; operating and maintenance program to produce the projected quantity and quality of goods; facility layout; and overall business operations.

(d) *Financial feasibility.* An opinion on the reliability of the financial projections and the ability of the business to achieve the projected income and cash flow. An assessment of the cost accounting system, the availability of short term credit for seasonal businesses and the adequacy of raw material and supplies.

(e) *Management feasibility.* Evidence that continuity and adequacy of management has been evaluated and documented as being satisfactory.

The scope of work projected for the feasibility study shall be approved by FmHA. FmHA personnel may not recommend consultants but may provide the applicant with a list of consultants

who have performed satisfactorily on previous projects.

§ 1842.28 Collateral.

(a) The lender is responsible for seeing that proper and adequate collateral is obtained and maintained in existence and of record to protect the interests of the lender, the holder, and FmHA.

(b) Collateral must be of such a nature that, when considered together with the integrity and ability of project management, the soundness of the project, and the applicant's prospective earnings, repayment of the loan will be reasonably assured. Collateral may include, but is not limited to the following: land, buildings, machinery, equipment, furniture, fixtures, inventory, accounts receivable, corporate or personal guarantees, assignments or pledges of stock which may include voting rights, assignment or pledge of insurance, assignment of leases or leasehold interests, pledged revenues, patents and copyrights.

(c) All collateral must secure the entire loan. The lender may not take separate collateral to secure only that portion of the loan or loss not covered by the guarantee. The lender may not require compensating balances or certificates of deposit as a means of eliminating the lender's exposure on the unguaranteed portion of the loan.

(d) FmHA will recognize state statutes defining closely held corporations where they exist. In the absence of such statutes, closely held corporations are defined as those whose stock is held by less than 50 individuals or where one individual holds more than 51 percent of the stock.

(e) Full personal guarantees of principals of corporations and limited partners will ordinarily be required. Guarantees of parent, subsidiaries, or affiliated companies may also be required.

(f) The requirement for personal guarantees or corporate guarantees may be eliminated by FmHA if the proposed guarantors cannot provide such guarantee due to other contractual obligations or legal restrictions. However, loans to closely held corporations will always be personally guaranteed.

(g) Applicants will provide, in the case of personal guarantors, current (not over 60 days old at the time of filing) personal financial statements signed by both husband and wife disclosing community or homestead property as well as individual assets and indebtedness.

(h) The lender must ascertain that there are no claims or liens of laborers, materialmen, contractors, subcontractors, suppliers of machinery and equipment or other parties against the collateral of the borrower, and that there are not suits pending or threatened that would adversely affect the collateral of the borrower when the security instruments are filed.

(i) Hazard insurance with a standard mortgage clause naming the lender as beneficiary will be required on every loan in an amount that is at least the lesser of the depreciated replacement value of the property being insured or the amount of the loan. Hazard insurance includes fire, windstorm, lightning, hail, business interruption, explosion, riot, civil commotion, aircraft, vehicle, marine, smoke, builder's risk, public liability, property damage, flood or mudslide, or any other hazard insurance that may be required to protect the collateral.

(j) Ordinarily, life insurance, which may be decreasing term insurance, will be required for the principals and key employees of the applicant and assigned or pledged to the lender. A schedule of life insurance available for the benefit of the loan will be included as part of the application.

(k) Workmen's compensation insurance will be required in accordance with State law.

§ 1842.29 Appraisal of property serving as collateral.

(a) Property that will serve as collateral for loans shall be appraised by a qualified appraiser. The appraiser shall give his opinion as to:

(1) The current market value of the collateral.

(2) The forced liquidation sale value.

(b) The lender will be responsible for determining that appraisers (other than FmHA appraisers) have the necessary qualifications and experience to make the appraisals. If the lender has any questions in this regard, it should consult with FmHA before having an appraisal made.

(c) The lender must determine that the fees or charges of appraisers are reasonable.

(d) If the loan request is for $100,000 or less, an FmHA appraiser may make the appraisal.

(e) Appraisals will be made on forms approved by the lender, except when appraisals are made by an FmHA appraiser who may use regular FmHA forms.

§ 1842.30 Filing and processing applications.

(a) *Applicants' and lenders' contact.* Applicants and lenders desiring FmHA assistance as provided in this Part may file preapplications and applications with the County Supervisor serving the area in which the project is to be located.

(b) *Applications from cooperatives.* Applicants eligible for loans from the Bank for Cooperatives will be encouraged to obtain guaranteed loans from that source since the Bank for Cooperatives is experienced in making and servicing such loans and can provide substantial counsel to the applicant. All insured loan applications must be submitted to the Bank for Cooperatives as a test for credit elsewhere when an insured loan is being considered.

(c) *Small Business Administration.* All applicants for loan guarantees eligible for SBA assistance will be advised by FmHA at the time of receipt of the preapplication of the availability of such assistance and will be encouraged to apply to that agency.

(d) *Loan priorities.* All applications received by FmHA will be considered in the order received. Priority shall be given to projects located in areas and cities having a population of less than twenty-five thousand.

(1) FmHA shall cooperate fully with appropriate State agencies in guaranteeing and insuring loans in a manner which will assure maximum support of the State's strategies for development of its rural areas.

(2) When applications on hand otherwise have equal priority the applications from a veteran will have preference. A veteran is a person who has been discharged or released from the active forces of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard under conditions other than dishonorable who served on active duty in such forces: (i) during the period April 6, 1917, through March 31, 1921; (ii) during the period of December 7, 1941, through December 31, 1946; (iii) during the period of June 27, 1950, through January 31, 1955; or (iv) for a period of more than 180 days, any part of which occurred after January 31, 1955, and on or before May 7, 1975. Discharges under conditions other than dishonorable include "clemency discharges."

(3) In selecting projects, FmHA shall give due consideration to State development strategies, clearinghouse (A-95 agency) comments and priority recommendations and assign priorities in the following order to:

(i) Those projects which will save existing jobs.

(ii) Those projects which will enlarge, extend, or otherwise improve existing businesses and industries.

(iii) Those projects which will create the highest number of permanent employment opportunities.

(iv) Those projects which will contribute to the overall economic stability of the rural areas but generate little or no permanent employment opportunities beyond the entrepreneur himself.

(e) *Filing preapplications and applications.* Applicants and lenders may file preapplications if they desire an expression of FmHA interest prior to assembling the complete application and request for Loan Note Guarantee as required in paragraph (f) of this section, or they may present the complete application, in one package, including the material required in paragraph (f), (i), (j), (l), (m) of this section.

(f) *Preapplications.* Applicants may file preapplications with the county office including:

(1) A letter prepared by the applicant and the lender which shall include:

(i) Applicant's name.

(ii) Loan request.

(iii) Name of the proposed lender.

(iv) Brief description of the project.

(v) Type and number of employment opportunities.

(vi) Amount of applicant's equity.

(2) Form FmHA 449-22, "Certificate of Non-Relocation."

(3) Form FmHA 449-23, "Market Capacity Information Report."

(4) Form FmHA 449-4, "Statement of Personal History," for a proprietor (owner), each partner, officer, director, key employee, or stockholder holding 20 percent or more interest in the applicant except for those corporations that are listed on a major stock exchange. Failure to report full, complete and accurate information on the Statement of Personal History may result in FmHA's not making or guaranteeing the loan.

(5) A record of any pending or final disciplinary or legal (civil or criminal) action against the applicant.

(6) A current balance sheet and latest profit and loss statement.

(7) For new businesses, a detailed projection of gross revenues and net earnings.

(8) Sales projections indicating the percent of the national or local market the business expects to obtain.

(9) The comments of the substate and state A-95 agencies except that loans for smaller enterprises with no significant economic or environmental impact outside the community in which they are located, are exempt from A-95 review regulations, but a notice of approval for information only must be sent to the A-95 agency. If such comments are not immediately available, they may be forwarded to the county office subsequent to submission of the balance of the preapplication.

(g) *Preliminary determination by FmHA.* If the preapplication information indicates the project will not meet FmHA's minimum credit standard for a sound loan, is ineligible, or that no funds or guarantee authority are available for the project, FmHA will so inform the applicant. Such declination shall be in writing with all reasons for the declination indicated. If it appears that the project is eligible, has sufficient priority, is economically feasible and loan guarantee authority is available, FmHA will inform the lender and applicant in writing and request that they complete the application.

(h) *Department of Labor certifications.* FmHA will submit Forms FmHA 449-22 and FmHA 449-23 to the Department of Labor for the necessary certification that the proposal will not be in conflict with § 1842.14 (c) and (d).

(i) *Applications shall consist of:*

(1) Form FmHA 449-1, "Application for Loan and Guarantee."

(2) Form FmHA 449-2, "Statement of Collateral."

(3) Form 449-10, "Applicant's Environmental Impact Evaluation."

(4) Preliminary architectural or engineering plans, if applicable.

(5) Preliminary cost estimates.

(6) Appraisal reports.

(7) For existing businesses, a pro forma balance sheet at start-up and for at least two additional project years indicating the necessary start-up capital, operating capital and short-term credit based on financial statements for the last three years or more (if available) and projected cash flow and earnings statements for at least two years supported by a list of assumptions showing the basis for the projections. If debt refinancing is requested, a debt schedule is to be prepared (correlated to the latest balance sheets) reflecting the debts to be refinanced including the name of the creditor, the original loan amount and loan balance, date of loan, interest rate, maturity date, monthly or annual payments, payment status, and collateral that secured such loans.

(8) For new businesses, a pro forma balance sheet at start-up and for the next three years, projected cash flow (monthly first year, quarterly for two additional years) and projected earnings statements for three years supported by a list of assumptions showing the basis for the projections.

(9) Copies of feasibility studies and consultant reports.

(10) Credit reports obtained by lender.

(11) Form FmHA 400-1, "Equal Opportunity Agreement," if construction costing more than $10,000 is involved.

(12) Any necessary certifications and recommendations of appropriate regulatory or other agency having jurisdiction over the project.

(13) Personal financial statements of those guarantors named in § 1842.28(e).

(14) Proposed loan agreement. (See paragraph VIII of Form FmHA 449-35).

(15) A complete economic and technical feasibility study when required. (See § 1842.27).

(16) The applicant for a loan will provide FmHA with a written statement as to the effect, if any, that the project will have on any district, site, building, structure, or object that has been included in the National Register of Historic Places as maintained by the Department of Interior in accordance with the National Historic Preservation Act of 1966. (Historic preservation as defined under this act, includes the protection, rehabilitation, restoration and reconstruction of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology and culture).

(17) Whether the project is located in a flood or mudslide hazard area.

(18) Any additional information required by FmHA.

(j) FmHA numbered forms shall be used where shown in both preapplications and applications. Otherwise, lenders should use their forms, real estate mortgages, security instruments and other agreements provided such forms do not contain any provisions that are in conflict or are inconsistent with the provisions of this Part. If they do contain any such conflicting or inconsistent provisions, such provisions will not be relied on or enforced by the lender or holder in any way or to any extent while the Loan Note Guarantee is in effect.

(k) Loan agreements between the borrower and lender shall be required in each case. Ordinarily, such agreements should include but not be limited to the following:

(1) Requirements for accounting and record keeping.

(2) Periodic financial reporting.

(3) Audit requirements.

(4) Prohibitions against assuming liabilities or obligations of others.

(5) Restrictions on dividend payments.

(6) Limitation on purchase or sale of fixed assets.

(7) Limitation on compensation of officers.

(8) Minimum working capital requirements.

(9) Minimum debt to net worth ratio.

(10) Restrictions against consolidation or mergers.

(11) Limitation against selling the business without concurrence of the lender or FmHA.

(12) Repayment and amortization of the loan.

(13) List of collateral for the loan.

(14) List of persons or corporations guaranteeing the loan.

(l) In the event the loan request is for health care facilities (e.g., hospitals or nursing homes), a "Certificate of Need" shall be obtained by the applicant from the appropriate regulatory or other agency having jurisdiction over the project. Should the project receive a significant part of its income from third party payors, e.g., medicare or medicaid, the project will be designed and operated in such manner as is necessary to meet the requirements of the third-party payors.

§ 1842.31 FmHA Evaluation of application.

FmHA shall evaluate the application and make a determination whether the borrower is eligible, the proposed loan is for an eligible purpose and that there is reasonable assurance of repayment ability, sufficient collateral, and equity. If FmHA determines it is unable to guarantee the loan, the lender will be so informed in writing. Such notification shall include the reasons for denial of the guarantee. If FmHA is able to guarantee the loan, it will provide the lender and the applicant with Form FmHA 449-14, "Conditional Commitment for Guarantee," listing all requirements for such guarantees. FmHA State Directors are authorized to execute Form FmHA 449-14.

§ 1842.32 Review of requirements.

(a) Immediately after reviewing the conditions and requirements in Form FmHA 449-14, and the options listed on the back of the form, the lender and applicant should complete and sign the "Acceptance or Rejection of Conditions" and return a copy to the FmHA State Director. If certain conditions cannot be met, the lender and borrower may propose alternate conditions to FmHA.

(b) If the lender indicates in the "Acceptance or Rejection of Conditions" that it still desires to obtain a Loan Note Guarantee and subsequently changes its decision, or decides at any time after receiving a conditional commitment in any loan case that it no longer wants a Loan Note Guarantee, the lender should im-

mediately advise the FmHA State Director to that effect.

§ 1842.33 Conditions precedent to issuance of the Loan Note Guarantee.

(a) Lender advice. Form FmHA 449–34 "Loan Note Guarantee" will not be issued until the lender certifies to FmHA that:

(1) No major changes have been made in the lender's loan conditions and requirements since the issuance of the Conditional Commitment for Guarantee of the loan except those, if any, that have been approved in the interim by FmHA in writing.

(2) All planned property acquisition has been completed, and all construction, repair, and development has been substantially completed in accordance with plans and specifications as determined by FmHA and cost thereof has not exceeded the amount approved by FmHA.

(3) Required hazard, flood, workman's compensation and personal life insurance is in effect.

(4) Truth in lending requirements have been met.

(5) All equal opportunity and nondiscrimination requirements have been or will be met at the appropriate time.

(6) The loan has been properly closed, and the required security instruments have been obtained, or will be obtained on any after acquired property that cannot be covered initially under State law.

(7) The borrower has title marketable in fact to the collateral then owned by him or it, subject to the instruments securing the loan to be guaranteed and subject to any other exceptions approved in writing by FmHA.

(8) The entire amount of loan for working capital has been dispensed except in cases where the State Director has approved disbursement over an extended time.

(9) Required personal, limited partnership or corporate guarantees have been obtained.

(b) the lender will see that FmHA is notified so that it can make inspections at various stages of construction, repair, or development if FmHA has advised the lender that it desires to do so. When it is determined that there will be a cost overrun or a change in funds by line item, the following will apply:

(1) Minor changes within the approved loan purposes that do not increase the cost or adversely affect the objectives or soundness of the loan may be approved by the borrower and lender. If any line item as reflected in the use of proceeds on Form FmHA 449–1, "Application for Loan and Guarantee," is changed 10 percent or less and the total loan remains the same, the lender may approve the change.

(2) If the change cannot be handled as in paragraph (b)(1) of this section, the lender and borrower, with advice of FmHA, will determine how the overrun costs will be met. FmHA will determine and inform the lender in writing whether the loan can still be guaranteed. The State Director may approve all cost overruns within his loan approval authority and changes of up to and including 20 percent of all other loan amounts. Should overruns exceed 20 percent, further disbursements, if any, will be withheld until satisfactory arrangements to complete the project have been made with concurrence of the FmHA National Office. (See paragraph VII, Form FmHA 449–35.)

(c) The lender has executed and delivered to FmHA Form FmHA 449–35.

(d) Department of Labor Certification has been obtained by FmHA.

(e) Character evaluation clearance has been obtained by FmHA.

§ 1842.34 Equal opportunity and nondiscrimination requirements.

In accordance with Executive Order 11246, the following equal opportunity and nondiscrimination forms and requirements are applicable to certain cases involving construction as indicated. The borrower is responsible for seeing that the requirements of paragraphs (b) through (f) of this section are met.

(a) *Compliance reports.* No prospective contractor or subcontractor will be eligible for a contract or subcontract financed with a guaranteed loan until he has filed all of the compliance reports required of him under any previous contracts.

(b) *Equal opportunity agreement.* Before loan closing, each borrower whose loan involves a construction contract of more than $10,000 must execute Form FmHA 400–1, "Equal Opportunity Agreement."

(c) *Contract or subcontract in excess of $10,000.* If the contract or a subcontract exceeds $10,000:

(1) The contractor or subcontractor must submit Form FmHA 400–6, "Compliance Statement," before or as a part of the bid or negotiation.

(2) An Equal Opportunity Clause must be part of each contract and subcontract. This clause is incorporated in Form FmHA 424–6, "Construction Contract," which may serve as a guide.

(3) With notification of the contract award, the contractor must receive:

(i) Form FmHA 440–3, "Notice to Contractors and Applicants" signed by the County Supervisor with an attached Equal Employment Opportunity Poster. Posters in Spanish must be provided and displayed where a significant portion of the population is Spanish speaking.

(ii) Form AD–425, "Contractor's Affirmative Action Plan for Equal Employment Opportunity Under Executive Order 11246 and Executive Order 11375," if the contractor or subcontractor is subject to the requirements of paragraph (e) of this section.

(d) *One hundred or more employees and contract or subcontract exceeds $10,000.* If the contractor or subcontractor has 100 or more employees and the contract or subcontract is for $10,000 or more:

(1) In addition to meeting the requirements of paragraph (c) of this section, each such contractor or subcontractor must file Standard Form 100, "Employee Information Report EEO–1" with the Joint Reporting Committee within 30 days of the contract or subcontract award unless this report has already been submitted within the last 12 months.

(2) An annual report must be filed on or before March 31 as long as the contractor or subcontractor holds a contract equal to $10,000 or more which is financed with a guaranteed loan. Failure to file timely, complete and accurate reports constitutes noncompliance with the Equal Opportunity Clause. Report forms are distributed by the Joint Reporting Committee and any questions on this form should be addressed by the contractor or subcontractor to the Joint Reporting Committee, 1800 G Street, NW. Washington, D.C. 20006.

(e) *Fifty or more employees or contract or subcontract exceeds $50,000.* If the contract or subcontract is $50,000 or more or the contractor or subcontractor has 50 or more employees, in addition to the requirements of paragraph (c) of this section, each such contractor or subcontractor must be informed that he must develop a written affirmative action compliance program for each of his establishments and put it on file in each of his personnel offices within 120 days of the commencement of the contract or subcontract. Form AD–425 provides guidelines for the contractor or subcontractor in developing such a program.

(f) *Compliance reviews.* Compliance reviews must be made during construction inspections to determine whether the required posters are displayed, the facilities are not segregated, and there is no evidence of discrimination in employment. Findings of the borrower or lender, whichever has responsibility, will be shown on Form FmHA 424–12, "Inspection Report." If there is any evidence of noncompliance, the borrower or lender will try to achieve voluntary compliance. If the effort fails, such borrower or lender will report all the facts to FmHA.

(g) *Employee complaints.* Any employee of or applicant for employment with such contractors or subcontractors may file a written complaint of discrimination with FmHA.

(1) A written complaint of alleged discrimination must be signed by the complainant and should include the following information:

(i) The name and address (including telephone number, if any) of the complainant.

(ii) The name and address of the person committing the alleged discrimination.

(iii) A description of the acts considered to be discriminatory.

(iv) Any other pertinent information that will assist in the investigation and resolution of the complaint.

(2) Such complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by FmHA for good cause shown.

§ 1842.35 Issuance of Lender's Agreement, Loan Note Guarantee and Assignment Guarantee Agreement.

(a) *Lender's Agreement.* If FmHA finds that all requirements have been met, the lender and FmHA will execute Form FmHA 449–35, "Lender's Agreement." The original will be delivered to FmHA and a signed copy retained by the lender.

(b) *Loan Note Guarantee.* (1) Upon receipt of the Lender's Agreement and once all requirements have been met as provided in § 1842.33, FmHA will execute Form FmHA 449–34, "Loan Note Guarantee(s)." All original(s) will be provided to the lender with a signed copy(s) retained by FmHA.

(2) If an existing Contract of Guarantee, Form FmHA 449–17, was issued to a lender by FmHA in accordance with previous regulations, the lender may request the State Director to substitute a Loan Note Guarantee under the provisions contained in this regulation for the previously issued Contract of Guarantee provided the lender:

(i) Prepares and submits to the State Director a written request for such substituted guarantee.

(ii) Presents evidence that the Loan Note Guarantee is required due to the adverse financial situation of the lender and resulting necessity to finance the guaranteed loan through the sale or assignment of the loan in accordance with § 1842.36.

(iii) Certifies to FmHA that there is no adverse change in the borrower's financial situation and the collateral and terms of the loan remained the same as under the original guarantee.

(iv) Pays the required guarantee fee in accordance with § 1842.18.

(v) Prepares a list of all collateral securing the loan.

(vi) Prepares a debt schedule, listing and ageing of the accounts payable and receivables of the borrower.

(vii) Provides current financial statements of the borrower, certified as correct by an officer or owner of the borrower's business.

(viii) Provides evidence that holder(s) agree to purchase the guaranteed part(s) of the loan.

(ix) Certifies the substitution will not be for the purpose of avoiding the original Contract of Guarantee renewal fees.

(x) Agrees that the provisions of paragraph III A2, (b) of the Form FmHA 449–35 will be complied with.

(xi) Executes Form FmHA 449–35.

(c) *Assignment Guarantee Agreement.* In the event the lender assigns the guaranteed portion of the loan to a holder(s) in accordance with provisions of § 1842.36, the lender, holder, and FmHA will execute Form FmHA 449–36, "Assignment Guarantee Agreement." The original of the agreement(s) will be provided to the holder with signed copy(s) to the lender and FmHA.

State Director, Business and Industry Loan Chiefs and County Supervisors are authorized to execute the Lender's Agreement, Loan Note Guarantee or Assignment Guarantee Agreement or other loan agreements in the event of an insured loan.

(d) *Refusal to execute contract.* If FmHA determines that it cannot execute the Loan Note Guarantee because all requirements have not been met, it will promptly inform the lender on Form FmHA 449–13 "Denial Letter" of the reasons, and give the lender a reasonable period within which to satisfy FmHA objections. If the lender writes FmHA within the period allowed requesting additional time to satisfy the objections, FmHA may, in writing, grant such additional time as it considers necessary and reasonable under the circumstances. If the lender satisfies the objections within the time allowed, the guarantee will be issued.

(e) *Guarantee fee report.* Form FmHA 449–19, "Guarantee Fee Report," and the guarantee fee will be forwarded to the Finance Office, 1520 Market Street, St. Louis, Missouri 63103, within 24 hours after receipt of Form FmHA 449–34. Lenders will also forward a copy of Form FmHA 449–19 to the FmHA County Supervisor. (See paragraph IX of Form FmHA 449–35.)

§ 1842.36 Lender's sale or assignment of guaranteed portion of the loan.

(a) Any sale or assignment by the lender of the guaranteed portion of the loan may be accomplished in accordance with the conditions in paragraph II of Form FmHA 449–35, "Lenders Agreement."

(b) Should the lender know at the time the loan application is being prepared that it plans to sell or assign any part of the guaranteed portion of the loan as provided in Form FmHA 449–35, the lender should provide this information with the application to FmHA.

§ 1842.37 Loan Servicing.

The lender is responsible for loan servicing. Refer to paragraph X, Form FmHA 449–35.

§ 1842.38 Defaults by Borrower.

Refer to paragraph XI, Form FmHA 449–35.

§ 1842.39 Liquidation.

Refer to paragraph XII, Form FmHA 449–35.

§ 1842.40 Protective advances.

Refer to paragraph XIII, Form FmHA 449–35.

§ 1842.41 Transfer and Assumptions.

(a) All transfers and assumptions must be approved in writing by FmHA. Such transfers and assumptions must be to an eligible borrower. Available transfer and assumption options include the following:

(1) The total indebtedness may be transferred to another borrower on the same terms.

(2) The total indebtedness may be transferred to another borrower on different terms.

(3) A part of the total indebtedness may be transferred to another borrower on the same terms.

(4) A part of the total indebtedness may be transferred to another borrower on different terms.

(b) In any transfer and assumption case, the transferor, including any guarantor(s) may be released from liability by FmHA in writing only when the value of the collateral being transferred is at least equal to the amount of the loan or part of the loan being assumed, unless the FmHA determines:

(1) That the transferor has not reasonable debt-paying ability considering his assets and income at the time of transfer; and

(2) The FmHA County Committee certifies that the transferor has cooperated in good faith, used due diligence to maintain the collateral against loss, and has otherwise fulfilled all of the regulations of this Part to the best of his ability.

(c) If there is any cash down payment in connection with the transfer and assumption, it will be applied on the loan in inverse order of maturity and any proceeds from collateral sold before the transfer and assumption should be credited on the transferor's loan debt in inverse order of maturity before the transfer and assumption transaction is approved.

(d) The lender must make a credit analysis on the prospective transferee in all cases and submit it to FmHA for approval. The assumption will be made on the lender's form of assumption agreement. The assumption agreement must contain the FmHA case number of the transferor and the transferee. Changes may be made in the loan terms if agreed to in advance by FmHA, any holder(s) and the lender; however, FmHA will not issue a new Loan Note Guarantee.

(e) In the case of a transfer and assumption, it is the Lender's responsibility to see that all such transfers and assumptions will be noted on all originals of the Loan Note Guarantee. The lender must give FmHA a copy of the transfer and assumption agreement. Notice must be given to FmHA indicating whether the borrower or guarantor has been released from liability.

§ 1842.42 Insured Loans.

Applications from private parties for whom FmHA and such applicants agree that a guaranteed lender is not available, and from public bodies, shall be processed as insured loans in accordance with the applicable provisions of this Chapter and Subpart A of Part 1823 of this Chapter, including the credit elsewhere requirement, except as provided in §1842.43, which provides for the guarantee of taxable bond issued of public bodies. Loans to public bodies may be used only to finance:

(a) Community facilities as defined in § 1842.2(d); and

(b) Constructing and equipping industrial plants for lease to private businesses (not including loans for operating such businesses) when the requested loan is not available under Subpart A of Part 1823 of this Chapter.

(c) Insured loans will be made for purposes in paragraphs (a) and (b) of this section only when a guaranteed lender is not available. (See 1841.21 for applicable interest rate.)

§ 1842.43 Guaranteed industrial development bond issues.

(a) *Guaranteed loans to public bodies.* Loans to public bodies for the purpose of constructing and equipping industrial plants for lease to private businesses (not including loans for operating such businesses) may be guaranteed by FmHA when a guaranteed loan cannot be made in accordance with § 1842.42.

(1) Loans made to public bodies may be guaranteed only in connection with the issuance of any class or series of industrial development bonds (as defined in section 103(c)(2) of the Internal Revenue Code of 1954, as amended (IRC)), the interest on which is includable in gross income under IRC. No part of the loan guaranteed by FmHA may extend to any class or series of industrial development bonds the interest on which is excludable from gross income under section 103(a)(1) of such Code. Prior to the executing of any Loan Note Guarantee, lender shall furnish FmHA evidence regarding interest on bonds being taxable for Federal income tax purposes. Such evidence may be in the form of an unqualified opinion of a recognized bond counsel of a ruling from the Internal Revenue Service.

(2) If FmHA and the applicant agree that a guaranteed lender is not available, the application may be considered for an insured loan under the provisions of § 1842.42.

§ 1842.44 Method of review.

Any adverse decision by the County Supervisor should first be reviewed by the State Director. If a State Director rejects any party's request for approval as a lender or if the State Director or his subordinates rejects a request from a lender for issuance of a Conditional Commitment for Guarantee or a Loan Note Guarantee, or determines that a previously issued Loan Note Guarantee is void or unenforceable, in a particular case, such lender or holder may request the Administrator of FmHA to review the State Director's decision. His address is: Administrator, Farmers Home Administration, United States Department of Agriculture, Washington, D.C. 20250.

(a) The request for review must be in writing and must be accompanied by supporting information and documentation. A copy of the request and supporting material must be sent by the requesting party to the State Director at the same time such party forwards the original to the Administrator.

(b) Upon receipt of the copy of this material, the State Director will furnish a full report on the matter to the Administrator.

(c) The Administrator will act on the request as expeditiously as possible under all the circumstances, and will notify the requestor and the State Director in writing of his decision and the reason therefore.

§ 1842.45 Access to records of lenders.

Upon receipt of any reasonable request the lender will permit representatives of FmHA (or other agencies of the U.S. Department of Agriculture authorized by that Department) to inspect and make copies of any of the records of the lender pertaining to FmHA guaranteed loans. Such inspection and copying may be made during regular office hours of the lender, or any other time the lender finds convenient.

§ 1842.46 FmHA Forms.

Forms FmHA 449-34, "Loan Note Guarantee," FmHA 449-35, "Lender's Agreement," and FmHA 449-36, "Assignment Guarantee Agreement," are incorporated herein and made a part hereof.

LOAN NOTE GUARANTEE

Borrower _____
Lender _____
Lender's address _____
State _____
County _____
Date of note(s) _____
Type of loan _____
Lender's IRS ID Tax No. _____
Principal amount of loan $_____

The guaranteed portion of the loan is $_____ which is _____ ( ) percent of loan principal. The principal amount of loan is evidenced by _____ note(s) described below. The guaranteed portion of each note is indicated below. This instrument is attached to note _____ in the face amount of $_____ and is number _____ of _____ duplicate original(s) attached one to each note.

Identifying No.	Face amount (dollars)	Percent of loan principal	Amount guaranteed (dollars)
Total		100	

In consideration of the making of the subject loan by the above named Lender, the United States of America, acting through the Farmers Home Administration of the United States Department of Agriculture (herein called "FmHA"), pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), does hereby agree that in accordance with and subject to the conditions and requirements herein, it will pay to:

A. Any Holder 100 percent of any loss sustained by such Holder on the guaranteed portion and on interest due on such portion.

B. The Lender the lesser of 1. or 2. below:

1. Any loss sustained by such Lender on the guaranteed portion including:

a. Principal and interest indebtedness as evidenced by said note(s) or by assumption agreement(s).

b. Principal and interest indebtedness on secured protective advances for protection and preservation of collateral made with FmHA's authorization, including but not limited to, advances for taxes, annual assessments, any ground rents, and hazard or flood insurance premiums affecting the collateral, or

2. The guaranteed principal advanced to or assumed by the Borrower under said note(s) or assumption agreement(s) and any interest due thereon.

Maximum Amount of Interest to Lender. If FmHA conducts the liquidation of the loan, loss occasioned to a Lender by accruing interest after the date FmHA accepts responsibility for liquidation shall not be covered by this Loan Note Guarantee. If Lender conducts the liquidation of the loan, losses occasioned by accruing interest shall be covered by this Loan Note Guarantee to date of final settlement when the Lender conducts the liquidation expeditiously in accordance with the liquidation plan approved by FmHA.

Definition of Lender and Holder. The Holder is the person or organization other than the Lender who owns all or a part of the guaranteed portion of the loan with no servicing responsibilities. The Lender is the person or organization making or servicing the loan or assuming responsibility in connection with the unguaranteed portion of the loan.

Guarantee Fee. The fee will be one (1) percent of the principal loan amount of the entire loan multiplied by the percentage of guarantee, to be paid one time only. The fee must be remitted by the Lender to the FmHA Finance Office, 1520 Market Street, St. Louis, Missouri 63103 or at such other office or location as FmHA advises the Lender in writing.

CONDITIONS OF GUARANTEE

1. *Loan Servicing.* Lender shall be responsible for servicing the entire loan and Lender shall remain mortgagee and/or secured party of record notwithstanding the fact that another party may hold a portion of the loan. When multiple notes are used to evidence a loan, Lender shall structure repayments as provided in the loan agreement.

2. *Priorities.* The entire loan shall be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. The unguaranteed portion of the loan shall not be paid first nor given any preference or priority over the guaranteed portion.

3. *Full Faith and Credit.* The Loan Note Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which Lender or any Holder has actual knowledge at the time it became such Lender or Holder or which Lender or any Holder participates in or condones. In addition, the Loan Note Guarantee will be unenforceable by Lender to the extent any loss is occasioned by the violation of usury laws, use of loan funds for unauthorized purposes, negligent servicing, or failure to obtain the required security.

4. *Rights and Liabilities.* The guarantee and right to require purchase shall be directly enforceable by Holder notwithstanding any fraud or misrepresentation on behalf of Lender or any unenforceability of this Loan Note Guarantee as to Lender. Nothing contained herein shall constitute any waiver by FmHA of any unenforceability of the Loan Note Guarantee as to the Lender. Lender shall be liable for and shall promptly pay to FmHA any payment by FmHA to Holder which but for this paragraph or if such Lender had held the guaranteed portion of the loan, FmHA would not be required to make.

5. *Payments.* Lender shall receive all payments of principal or interest on account of the entire loan and shall promptly remit to Holder(s) its pro rata share thereof determined according to their respective interests in the loan, less only Lender's servicing fee: Provided, however, Lender or Holder shall not, without the written consent of FmHA, make or consent to any alteration of the terms of the loan documents. The loan may be reamortized by agreement of Lender and Holder(s) of the guaranteed portion of the loan and only with concurrence of FmHA.

6. *Protective Advances.* Protective advances made by Lender pursuant to the regulations shall be guaranteed against a percentage of loss to the same extent as provided in this Loan Note Guarantee notwithstanding the guaranteed portion of the loan is held by another.

7. *Repurchase by Lender.* When any guaranteed portion of the loan is held by a Holder and Borrower is in default not less than sixty (60) days of payment of principal, or interest, due on the loan, Lender agrees to repurchase the unpaid guaranteed portion from Holder within thirty (30) days of the written demand of Holder if the default is not theretofore cured, for an amount equal to the unpaid guaranteed portion of principal and accrued interest, less Lender's servicing fee. Holder shall be required to concurrently send a copy of such demand to FmHA. Upon repurchase, Lender will accept from Holder a transfer without recourse.

8. *FmHA Purchase.* If Lender does not repurchase as required by paragraph 7 hereof, FmHA shall purchase from Holder the unpaid principal balance of the guaranteed portion herein sold together with accrued interest, less Lender's servicing fee, within thirty (30) days after written demand from Holder. Such demand shall recite Lender's failure to repurchase within the period set forth in paragraph 7 and include a copy of the demand for repurchase. Payment by FmHA shall not exceed the maximum amount of FmHA's payment obligation set forth in this Loan Note Guarantee. Upon payment by FmHA, Holder will be required to assign to FmHA, without recourse, all rights, title and interest in the loan, and FmHA shall be subrogated to all rights of Holder against Lender.

9. *Sale by Holder on Demand.* If lender needs the guaranteed portion of the loan to adequately service the loan, Holder shall sell such portion to the Lender in amount equal to the unpaid principal balance plus accrued interest less any servicing fees that may be due.

10. *Custody of Unguaranteed Portion.* Lender shall retain the unguaranteed portion of the loan unless otherwise specifically agreed to in writing by FmHA. This provision may be waived in writing by FmHA; provided, however, the successor in interest assumes all obligations hereunder.

11. *When Guarantee Terminates.* This Loan Note Guarantee will terminate automatically (a) upon full payment of the guaranteed loan, (b) upon full payment of any loss obligation hereunder.

12. *Determination of Loss.* The amount of loss shall be determined and paid as provided in the regulations (7 CFR Part 1842).

UNITED STATES OF AMERICA
FARMERS HOME ADMINISTRATION

By: _____
Title: _____

_____
dated _____ 19____.
Assumption Agreement by _____
dated _____ 19____.
Assumption Agreement by _____
dated _____ 19 .

UNITED STATES DEPARTMENT OF AGRICULTURE

FARMERS HOME ADMINISTRATION

LENDER'S AGREEMENT

_____
(Lender) of
_____
has made a loan(s) to
_____
(Borrower)
_____
in the principal amount of $_____ as evidenced by _____ note(s) of _____. The United States of America, acting through Farmers Home Administration (FmHA) has entered into a Loan Note Guarantee (Form FmHA 449-34) or has issued a Conditional Commitment (Form FmHA 449-17) to enter into a Loan Note Guarantee with the Lender applicable to such loan to participate in a percentage of any loss on the loan not to exceed _____% of the amount of the principal advanced and any interest thereon. The terms of the Loan Note Guarantee are controlling. In order to facilitate the marketability of the guaranteed portion of the loan and as a condition for obtaining a guarantee of the loan(s), the Lender enters into this agreement.

The parties agree: I. The maximum loss covered under the Loan Note Guarantee shall not exceed ninety percent of the principal and accrued interest on the indebtedness represented by the Borrower's guaranteed loan promissory note or assumed under an assumption agreement.

II. *Full Faith and Credit.* The Loan Note Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which the Lender has actual knowledge at the time it became such Lender or which Lender participates in or condones.

The Loan Note Guarantee will be unenforceable by the Lender to the extent any loss is occasioned by violation of usury laws, use of loan funds for unauthorized purposes, negligent servicing, or failure to obtain the required security.

III. *Lender's Sale or Assignment of Guaranteed Loan.*

A. The Lender may retain all of the guaranteed loan. If the Lender desires to market all or part of the guaranteed portion of the loan the Lender may proceed under the following options:

1. *Assignment.* Assign all or a part of the guaranteed portion of the loan to one or more Holders by using Form FmHA 449-36, Assignment Guarantee Agreement. Holder(s), upon written notice to Lender and FmHA, may reassign the unpaid guarantee portion of the loan sold hereunder. Upon such notification the assignee shall succeed to all rights and obligations of the Holder(s) hereunder.

If this option is selected, the Lender may not at a later date cause to be issued any additional notes.

2. *Multi Note System.* a. *At Loan Closing:* Provide for no more than 10 notes unless the Borrower and FmHA agree otherwise for the guaranteed portion and one note for the unguaranteed portion. When this option is selected, FmHA will provide the Lender with Form FmHA 449-34, "Loan Note Guarantee," for each of the notes.

b. *After Loan Closing:* (1) Upon written approval by FmHA, the Lender may cause to be issued a series of new notes, not to exceed the total provided in 2 a above, as replacement for a previously issued guaranteed note(s) provided:

(a) The Borrower agrees and executes the new notes.

(b) The interest rate does not exceed the interest rate in effect when the loan was closed.

(c) The maturity of the loan is not in excess of that allowed in Title 7 CFR Part 1842.

(d) FmHA will not bear any expenses that may be incurred in reference to such re-issue of notes.

(e) There is adequate collateral securing the note(s).

(f) No intervening liens have arisen or have been perfected and the secured lien priority remains the same.

(2) FmHA will reissue the appropriate "Loan Note Guarantees" to be attached to each of the notes then extant in exchange for the original "Loan Note Guarantee" which will be cancelled by FmHA.

3. *Participants.* The Lender may obtain participation in its loan under its normal operating procedures provided the Lender retains the full responsibility for servicing the loan in accordance with this instrument. The Lender shall retain all of the unguaranteed portion of the loan as provided in this section and assumes all obligations hereunder so long as the guaranteed portion

of the loan remains outstanding or if the Lender holds the entire loan until such time as the Lender decides it no longer requires the FmHA guarantee and so notifies FmHA and the Loan Note Guarantee is cancelled.

B. When a guaranteed portion of a loan is sold by the Lender to a Holder(s), the Holder(s) shall thereupon succeed to all rights of Lender under the Loan Note Guarantee to the extent of the portion of the loan purchased. Lender, however, shall remain bound to all the obligations under the Loan Note Guarantee, and this agreement, and the program regulations found in Title 7 CFR Part 1842, and to future program regulations not inconsistent with the express provisions hereof.

The Holder(s) upon written notice to the Lender may resell the unpaid guaranteed portion of the loan sold under provision III A.

IV. The Lender agrees loan funds will be used for the purposes authorized in Title 7 CFR Part 1842 and in accordance with the terms of Form FmHA 449–14, "Conditional Commitment for Guarantee,": dated _____.

V. The Lender certifies that it is a citizen of the United States of America or, if an organization, that the ownership of at least 51 percent of any outstanding interests of the Lender is owned by citizens of the United States. Further, such Lender certifies that any guarantees received shall be only on loans made by it, operating for itself and not on behalf of foreign citizens or organizations.

VI. The Lender certifies that none of its officers or directors, stockholders or other owners, nor those of the Borrower has a substantial financial interest in the borrower or the Lender as the case may be.

VII. The Lender certifies that it has no knowledge of any material adverse change, financial or otherwise, in the Borrower, his business, or any subsidiaries since it requested a Loan Note Guarantee.

VIII. Lender certifies that a loan agreement concurred in by FmHA has been signed with the Borrower.

IX. Lender certifies it has or shall have forwarded within 24 hours after receipt of the Loan Note Guarantee the required guarantee fee and Form FmHA 449–19, "Guarantee Fee Report," to the Finance Office, 1520 Market Street, St. Louis, Missouri 63103, and has provided the FmHA County Supervisor with a copy of Form FmHA 449–19.

X. *Servicing.* A. The Lender shall service the entire loan and shall remain mortgagee and/or secured party of record, notwithstanding the fact that another may hold the guaranteed portion of the loan. The entire loan shall be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. Lender may charge Holder a servicing fee. The unguaranteed portion of a loan shall not be paid first nor given any preference or priority over the guaranteed portion of the loan.

B. Disposition of the guaranteed portion of a loan may be made prior to full disbursement, completion of construction and acquisitions only with the prior written approval of FmHA. Subsequent to full disbursement, completion of construction, and acquisition, the guaranteed portion of the loan may be disposed of as provided herein.

C. Lender's servicing responsibilities include, but are not limited to: 1. Obtaining compliance with the covenants and provisions in the note, loan agreement, security instruments, and any supplemental agreements. None of the aforesaid instruments shall be altered without FmHA's prior written concurrence.

2. Receiving all payments on principal and interest on the loan as they fall due and promptly remitting and accounting to any Holder(s) for their pro rata share thereof determined according to their respective interests in the loan, less only Lender's servicing fee. The loan may be reamortized only with agreement of the Lender and Holder(s) of the guaranteed portion of the loan and only with concurrence of FmHA.

3. Inspecting the collateral as often as necessary to properly service the loan.

4. Assuring that adequate insurance is maintained.

5. Assuring that taxes, assessment or ground rents against or affecting collateral are paid; the loan and collateral are protected in foreclosure, bankruptcy, receivership, insolvency, condemnation, or other litigation; insurance loss payments, condemnation awards, or similar proceeds are applied on debts in accordance with lien priorities on which the guarantee was based, or to rebuilding or otherwise acquiring needed replacement collateral with the written approval of FmHA; proceeds from the sale or other disposition of collateral are applied in accordance with the lien priorities on which the guarantee is based, except that proceeds from the disposition of collateral, such as machinery, equipment, furniture or fixtures, may be used to acquire property of similar nature, with written concurrence of FmHA; the Borrower complies with all laws and ordinances applicable to the loan, the collateral and operation of the business or industry.

6. Assuring that if personal or corporate guarantees are part of the collateral, current financial statements from such loan guarantors will be obtained and copies provided to FmHA at such time and frequency as required by the loan agreement or Conditional Commitment for Guarantee. In the case of guarantees secured by collateral, assuring the security is properly maintained.

7. Obtaining the lien coverage and lien priorities specified by the Lender and agreed to by FmHA, properly recording or filing lien or notice instruments to obtain or maintain such lien priorities during the existence of the guarantee by FmHA.

8. Assuring that the Borrower obtains title marketable in fact to the collateral.

9. The Borrower (any party liable) is not released from liability for all or any part of the loan.

XI. *Defaults by Borrower.* A. The Lender will notify FmHA when a Borrower is thirty (30) days past due on a payment and is unlikely to bring its account current within sixty (60) days, or if the Borrower has not met its responsibilities of providing the required financial statements to the Lender or is otherwise in default; and a meeting will be arranged by the Lender with the Borrower and FmHA to resolve the problem. Actions taken by the Lender with concurrence of FmHA may include but are not limited to the following or any combination thereof:

1. Deferment of principal payments.

2. An additional temporary loan by the Lender to bring the account current.

3. Reamortization of or rescheduling the payments on the loan.

4. Transfer and assumption of the loan in accordance with 7 CFR Part 1842.

5. Reorganization.

6. Liquidation.

B. The Lender will make every effort to cure a default including rescheduling or reamortizing payments, each of which requires prior written concurrence of FmHA and any Holder(s).

C. When any guaranteed portion of the loan is held by a Holder and the Borrower is in default not less than 60 days in payment of principal or interest due on the loan, the Lender agrees to repurchase the unpaid guaranteed portion from the Holder(s) within 30 days of the written demand of Holder(s) if the default is not theretofore cured, for an amount equal to the unpaid guaranteed portion of principal and accrued interest to date of repurchase by Lender. Holder(s) shall be required to concurrently send a copy of such demand to FmHA. Upon repurchase, Lender shall accept from Holder(s) a transfer without recourse.

D. If Lender does not repurchase as required by paragraph C, FmHA will purchase from Holder(s) the unpaid principal balance of the guaranteed portion herein together with accrued interest to date of repurchase, within 30 days after written demand to FmHA from the Holder(s). During the period of default the Lender will pay the accrued interest to date of purchase by FmHA. Such demand shall recite Lender's failure to repurchase within the period set forth in paragraph C and include a copy of the Holder(s) demand of FmHA's payment obligation set forth in this agreement. Upon payment by FmHA, Holder(s) will be required to assign to FmHA without recourse all rights, title and interest in the loan, and FmHA shall be subrogated to all rights of Holder(s) against Lender.

E. Lender consents to the purchase by FmHA and agrees to furnish on request by FmHA a current certified statement of the unpaid principal and interest then owed by Borrower on the loan. Lender agrees that any purchase by FmHA does not change, alter or modify any of the Lender's obligations to FmHA arising

from said loan or guarantee, nor does such purchase waive any of FmHA's rights against Lender, and FmHA shall have the right to set-off against Lender all rights inuring to FmHA as the Holder against FmHA's obligation to Lender under the loan note guarantee.

F. If the Lender was charging the Holder(s) a service fee, the Lender agrees that the service fee shall terminate at the time FmHA purchases the loan(s).

G. Lender will repurchase the guaranteed portion of the loan if in its opinion such repurchase is necessary to adequately service the loan. Lender will automatically repurchase the guaranteed portion of the loan in the event of commencement by or against Borrower of any bankruptcy proceeding, reorganization, dissolution or institution of a creditor's rights proceeding.

XII. *Liquidation:* If the Lender concludes that liquidation of a guaranteed loan account is necessary because of one or more defaults or third party actions that the Borrower cannot or will not cure or eliminate within a reasonable period of time, a meeting will be arranged by the Lender with FmHA. When FmHA concurs with the Lender's conclusion or at any time concludes independently that liquidation is necessary, it will notify the Lender and the matter will be handled as follows:

The Lender will liquidate the loan unless FmHA, at its option, decides to carry out liquidation.

When the decision to liquidate is made, the Lender will immediately proceed to purchase from the Holder(s), other than FmHA, as much of the guaranteed portion of the loan as its capital reserves will allow, subject to FmHA approval, and the Holder(s) will be paid according to the provisions either in the Loan Note Guarantee or the Assignment Guarantee Agreement.

FmHA will purchase any remaining guaranteed portions of the loan from the Holder(s). If FmHA holds part of the guaranteed portion, FmHA shall be paid first its share of the proceeds from liquidation of the collateral.

A. *Lender's proposed method of liquidation.* Within 10 days after the decision to liqudiate is made, the Lender will advise FmHA of its proposed method of liquidation and will provide FmHA with:

1. Such proof as FmHA requires to establish the Lender's ownership of the guaranteed loan promissory note(s) and related security instruments.

2. Information concerning the Borrower's assets including real and personal property, fixtures, claims, contracts, inventory (including perishables), accounts receivable, personal and corporate guarantees, and other existing and contingent assets, advice as to whether or not each item is serving as collateral for the guaranteed loan, and the estimated value of each item.

3. A proposed method of making the maximum collection possible on the entire indebtedness.

B. *FmHA's response to Lender's liquidation proposal.* FmHA will inform the Lender whether it concurs in the Lender's proposed method of liquidation within 30 days after receipt of such notification from the Lender.

If FmHA needs additional time to respond to the liquidation plan, it will advise the Lender of a definite time for such response. Should FmHA and the Lender not agree on the Lender's liquidation proposal, FmHA will proceed with the liquidation as follows:

1. The Lender will transfer to FmHA all its rights and interests necessary to allow FmHA to liquidate the loan. In this event, the Lender will not be paid for any loss until after the collateral is liquidated and the final loss is determined by FmHA.

2. FmHA will attempt to obtain the maximum amount of proceeds from liquidation.

3. FmHA will obtain an independent appraisal report to determine the current market value of the collateral and any other assets from which collection can be readily obtained prior to liquidation.

4. Options available to FmHA include any one or combination of the usual commercial methods of liquidation.

C. *Acceleration.* The Lender or FmHA, if it liquidates, will proceed as expeditiously as possible when acceleration of the indebtedness is necessary including giving any notices and taking any other legal actions required by the security instruments. A copy of the acceleration notice or other acceleration document will be sent to FmHA or the Lender, as the case may be.

D. *Determination of values.* Except in cases where FmHA conducts the liquidation, the Lender and FmHA will agree on the estimated current market value of the collateral and any other assets from which collection can be readily made (including additional debt payment ability of guarantors) prior to liquidation. The term "market value" means the amount for which the property will sell at its highest and best use at a voluntary sale and may be determined by appraisal. After FmHA has advised the Lender of its agreement to the Lender's plan for liquidation, the determination of these values will begin immediately upon approval of the plan. In all liquidation cases any disinterested appraiser's fee will be shared equally by FmHA and the Lender.

When the Lender conducts the liquidation, it will account for funds during the period of liquidation and will provide FmHA with periodic reports on the progress of liquidation, disposition of collateral, resulting costs, and additional procedures necessary to successful completion of liquidation. When FmHA liquidates, the Lender will be provided with similar reports on request.

E. *Determination of Loss.* In all liquidation cases, a final settlement will be made with the Lender after the collateral is liquidated.

1. When the Lender is conducting the liquidation, if the Lender holds any of the guaranteed portion of the loan, he may submit to FmHA an estimate of the loss that will occur in connection with liquidation of the loan. Such estimate shall be prepared on Form FmHA 449-20, "Report of Loss," and shall be clearly labeled "Estimate."

After the "Report of Loss, Estimate" has been approved by FmHA, FmHA will send the original "Report of Loss, Estimate" to FmHA Finance Office for issuance of a Treasury check in payment of the estimated amount to the Lender.

After liquidation has been completed, a final loss report will be submitted on Form FmHA 449-20 by the Lender to FmHA and clearly labeled, "Final Report of Loss."

2. After the Lender has completed liquidation, FmHA, upon receipt of the final accounting and report of loss, will determine the actual loss. If FmHA has any questions regarding the amounts set forth in the "Final Report of Loss," it will investigate the matter. The Lender will make its records available to and otherwise assist FmHA in making the investigation. If FmHA finds any discrepancies, it will contact the Lender and get the necessary corrections made as soon as possible. When FmHA finds the "Final Report of Loss" to be proper in all respects, it will be tentatively approved in the space provided on the form for that purpose.

3. When the Lender has conducted liquidation and after the "Final Report of Loss" has been tentatively approved:

a. If the loss is greater than the estimated loss payment, FmHA will send the original of the "Final Report of Loss" to the Finance Office for issuance of a Treasury check in payment of the additional amount owed by FmHA to the Lender.

b. If the loss is less than the estimated loss, the Lender will reimburse FmHA for the overpayment.

4. If FmHA has conducted liquidation, it will provide an accounting and report of loss to the Lender and will pay the Lender in accordance with the Loan Note Guarantee.

5. In those instances where the Lender has made protective advances, he may claim recovery for the guaranteed portion of any loss resulting from such protective advances in accordance with Title 7 CFR Part 1842.

F. *Maximum amount of interest loss payment.* Notwithstanding any other provisions of this agreement, the amount payable by FmHA to the Lender cannot exceed the loss limit set forth in the Loan Note Guarantee. If FmHA conducts the liquidation, loss occasioned by accruing interest will be covered by the guarantee only to the date FmHA accepts this responsibility. Loss occasioned by accruing interest will be covered by the guarantee to the date of final settlement when the liquidation is conducted by the Lender provided he proceeds expeditiously with the liquidation plan approved by FmHA.

G. *Application of FmHA loss payment.* The total amount of the loss payment remitted by FmHA will be applied by the Lender on the guaranteed loan debt. At time of final loss settlement the Lender will notify the Borrower that the loss payment has been so applied.

H. *Income from collateral.* Any net rental or other income that has been received by the Lender from the collateral will be applied on the guaranteed loan debt.

I. *Liquidation costs.* Certain liquidation costs will be allowed during the liquidation process. Such costs will be deducted from gross proceeds from the disposition of collateral. The amount allowed will be the amount agreed upon by FmHA and the Lender as being reasonable under the circumstances.

J. The parties owning the guaranteed portions and unguaranteed portion of the loan will join to institute foreclosure action or in lieu of foreclosure to take a deed or conveyance to such parties.

XIII. Lender will make no advance for purposes other than protection or preservation of the collateral without FmHA's written authorization. Advances for the protection and preservation of collateral include, but are not limited to, advances for taxes, annual assessments, any ground rents, and hazard or flood insurance premiums affecting the collateral. Protective advances must constitute an indebtedness of the borrower to the lender and be secured by the security instrument(s).

XIV. *Transfer and assumption cases.* Refer to Title 7 CFR Part 1842.

XV. *Other requirements.* This agreement is subject to all the requirements of Title 7 CFR Part 1842, except that if FmHA and the Lender agree it is desirable to service the loan under future amendments as would be mutually agreed to by FmHA and the Lender.

XVI. If this agreement is executed prior to the execution of the Loan Note Guarantee, this agreement does not impose any obligation with respect to execution of such contract, FmHA in no way warrants that such a contract has been or will be executed.

XVII. All notices and actions will be initiated through the FmHA County Supervisor.

Dated this _____ day of _____ 19____.

LENDER

By: _____

Title: _____

Attest:_____ [SEAL]

UNITED STATES OF AMERICA DEPARTMENT OF AGRICULTURE FARMERS HOME ADMINISTRATION

By: _____

Title: _____

UNITED STATES DEPARTMENT OF AGRICULTURE, FARMERS HOME ADMINISTRATION

ASSIGNMENT GUARANTEE AGREEMENT

_____ of _____ (Lender) has made a loan to _____ _____ in the principal amount of $_____ as evidenced by a note(s) dated _____. The United States of America, acting through Farmers Home Administration (FmHA) entered into a Loan Note Guarantee (Form FmHA 449-34) with the Lender applicable to such loan to participate in a percentage of any loss on the loan not to exceed _____% of the amount of the principal advanced and any interest due thereon.

_____ of _____ (Holder) desires to purchase from Lender _____% of the guaranteed portion of such loan. Copies of Borrower's note(s) and the Loan Note Guarantee are attached hereto as a part hereof.

Now, therefore, the parties agree: 1. The principal amount of the loan now outstanding is $_____. Lender hereby assigns to Holder _____% of the guaranteed portion of the loan representing $_____ of such loan now outstanding in accordance with all of the terms and conditions hereinafter set forth.

2. *Loan Servicing.* The Lender shall be responsible for servicing the entire loan and shall remain mortgagee and/or secured party of record. The entire loan shall be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. The Lender shall receive all payments on account of principal of, or interest on, the entire loan and shall promptly remit to the Holder its pro rata share thereof determined according to their respective interests in the loan, less only Lender's servicing fee: Provided, however, Lender or Holder shall not, without the written consent of FmHA, make or consent to any alteration of the terms of the loan documents.

3. *Servicing Fee.* Holder agrees that Lender shall retain a servicing fee of____ percent per annum of the unpaid balance of the guaranteed portion of the loan assigned hereunder.

4. *Purchase by Holder.* The guaranteed portion purchased by the Holder shall always be a portion of the loan which is guaranteed. The Holder shall hereby succeed to all rights of the Lender under the Loan Note Guarantee to the extent of the assigned portion of the loan. The Lender, however, shall remain bound by all the obligations under the Loan Note Guarantee and the program regulations found in 7 CFR Part 1842.

5. *Full Faith and Credit.* The Loan Note Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which the Holder has actual knowledge at the time of this assignment, or participates in, or condones.

6. *Rights and Liabilities.* The guarantee and right to require purchase shall be directly enforceable by Holder notwithstanding any fraud or misrepresentations on behalf of Lender or any unenforceability of the Loan Note Guarantee as to Lender. Nothing contained herein shall constitute any waiver by FmHA of any unenforceability of the Loan Note Guarantee as to the Lender, and the Lender agrees that Lender shall be liable and shall promptly pay to FmHA for any payment by FmHA to Holder which but for this paragraph or if such Lender had held the guaranteed portion of the loan FmHA would not be required to make.

7. *Repurchase by the Lender (Defaults).* If Borrower is in default not less than 60 days payment of principal or interest due on the loan, Lender agrees to repurchase the unpaid guaranteed portion from Holder within 30 days of the written demand of Holder if the default is not theretofore cured, for an amount equal to the unpaid guaranteed portion of principal and accrued interest, less Lender's servicing fee. Holder shall concurrently send such copy of demand to FmHA. Upon repurchase, Lender shall accept from Holder an assignment without recourse and upon repurchase this instrument shall terminate.

8. *Purchase by FmHA.* If Lender does not repurchase as required by paragraph 7, FmHA shall purchase from Holder the unpaid principal balance of the guaranteed portion herein sold together with accrued interest, less Lender's servicing fee, within 30 days after written demand from the Holder. Such demand shall recite Lender's failure to repurchase within the period set forth in paragraph 7 and include a copy of the demand for repurchase. Payment by FmHA shall not exceed the maximum amount of FmHA's payment obligation set forth in the Loan Note Guarantee. Upon payment by FmHA, Holder shall assign to FmHA without recourse all rights, title and interest in the loan, and FmHA shall be subrogated to all rights of Holder against Lender by reason of execution of this instrument.

9. *Lender's Obligations.* Lender consents to the purchase by FmHA and agrees to furnish on request by FmHA a current certified statement of the unpaid principal and interest then owed by Borrower on the loan. Lender agrees that any purchase by FmHA does not change, alter or modify any of the Lender's obligations to FmHA arising from said loan or guarantee nor does it waive any of FmHA's rights against Lender, and that FmHA shall have the right to set-off against Lender all rights inuring to FmHA as the Holder of this instrument against FmHA's obligation to Lender under the Loan Note Guarantee.

10. *Repurchase by Lender for Servicing.* If, in the opinion of the Lender, repurchase of the assigned portion of the loan is necessary to adequately service the loan, the Holder shall sell the assigned portion of the loan to the Lender for an amount equal to the unpaid principal and interest on such portion less Lender's servicing fee.

11. *Foreclosure.* The parties owning guaranteed portions and unguaranteed portion of the loan shall join to institute foreclosure action or, in lieu of foreclosure, take a deed or conveyance to such parties.

12. *Reassignment.* Holder upon written notice to Lender and FmHA may reassign the unpaid guaranteed portion of the loan sold hereunder. Upon such notification, the assignee shall succeed to all rights and obligations of the Holder hereunder.

Dated this ____ day of _____, 19____.

Lender:
Address:
By: _____
Title: _____
Attest: _____ [SEAL]
Holder:
Address:
By: _____
Title: _____
Attest: _____ [SEAL]

UNITED STATES OF AMERICA

FARMERS HOME ADMINISTRATION

By: _____
Title: _____
Address: _____

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

Dated: August 11, 1975.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.75-21383 Filed 8-14-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 1]

[FCC 75-923; Docket No. 19816; RM-1851, RM-1874]

NONCOMMERCIAL EDUCATIONAL BROADCASTING

Policies, Forms, and License Renewals

INTRODUCTION

1. The Commission has before it for consideration its notice of inquiry and notice of proposed rulemaking (Docket No. 19816) in the above-entitled matter released September 11, 1973 (42 FCC 2d 690). Also before the Commission for consideration are the forty-five comments and thirteen reply comments received in response to the notice of inquiry.

2. In our notice of inquiry, we stated that although formal ascertainment requirements, as specified in Primer on Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650 (1971) (hereinafter Primer), have not been imposed on noncommercial educational broadcasters (as defined in §§ 73.503 and 73.621 of our rules, and hereinafter sometimes referred to as "noncommercial" broadcasters), there is no question concerning their responsibilities and obligations to determine the problems and needs of their communities and to program in such a way as to meet those needs.

3. This obligation was first articulated in the Report and Statement of Policy Re: Commission En Banc Programming Inquiry, 44 FCC 2303 (1960), in which the Commission stated that the broadcast licensee has an obligation to make a "diligent, positive, and continuing effort to discover and fulfill the tastes, needs and desires of his service area for broadcast service." Id. at 2316. In the fulfillment of this obligation, broadcasters were advised that they should consult with both the listening public in their service areas and the various leaders representing interests in their communities.

4. Subsequent to its 1960 policy declaration concerning ascertainment, the Commission amended Section IV of the commercial broadcast application forms to require the submission of ascertainment information. Amendment of Section IV of Broadcast Application Forms 301, 303, 314 and 315, 1 FCC 2d 439 (1965) (AM and FM Program Form) and 5 FCC 2d 175 (1966) (Television Program Form). The ascertainment requirements continued to evolve on a case-by-case basis throughout the 1960's. See, e.g., Minshall Broadcasting Co., 11 FCC 2d 795 (1968); Sioux Empire Broadcasting Co., 16 FCC 2d 995 (1969); and City of Camden, 18 FCC 2d 412 (1969). In 1971, however, in response to numerous requests for further clarification of the ascertainment requirements, and following a period of public comment, we adopted the Primer which summarized our policy in a question and answer format. Primer, supra.

5. The Primer requires all commercial broadcast applicants[1] to determine the demographics and composition of the city of license. Then, within six months of filing the application, the principals and management level employees must interview community leaders representing a cross-section of the community as revealed in the compositional study. During the same period a random sample survey of the general public must be taken by either the principals, management or non-management level personnel, or a professional research firm. Following completion of the surveys, the applicant must list the problems and needs ascertained and, based on its evaluation, determine which problems it proposes to treat and what programs it will broadcast to deal with those problems. As we stated in our Notice, noncommercial broadcast licensees were explicitly excluded from the Primer requirements because "* * * given the reservation of channels for specialized kinds of programming, educational stations manifestly must be treated differently than commercial stations." Id. at 651.

6. Although the Commission's application forms originally required the applicant to file information on the methods used to ascertain, including identification of representative groups consulted and the major communities or areas to be served, this approach is being revised. In our Final Report and Order in Docket No. 19153, Formulation of Rules and Policies Relating to the Renewal of Broadcast Licenses, 43 FCC 2d 1 (1973), we revised the commercial television renewal application form and established an Annual Reporting Form. Instead of filing the general ascertainment information at renewal time, the commercial television licensees must now compile an annual list of what the licensee considers to have been ten of the most significant problems and needs of the service area during the preceding twelve months, and typical and illustrative programs televised during that period designed to help meet those problems and needs. The licensee is required to place the annual list in its local public inspection file and the three annual lists for one current license period (including the list to be placed in the public inspection file upon filing of the renewal application) must be submitted as part of the renewal application. In addition, commercial television licensees are required to represent in their renewal applications that they have followed the Commission's current guidelines in ascertaining the problems and needs of their service areas. The renewal applicant is also asked to represent that all relevant materials regarding his ascertainment during the current license period have been placed in the station's local public inspection file. In its April 1, 1975 notice of inquiry and notice of proposed rulemaking in Docket No. 20419, Revision of FCC Form 303, Application for Renewal of Broadcast Station License, and Certain Rules Relating Thereto, FCC 75-375, the Commission basically proposed to extend to commercial radio renewal applicants the same ascertainment reporting procedures which it applied to commercial television renewal applicants in Docket No. 19153.

7. The Commission has also proposed in Docket No. 19715 to re-study the Primer to determine, inter alia, whether there is a difference between the respective roles of radio and television in discharging their statutory responsibilities to serve the public interest and whether ascertainment guidelines should be modified, particularly as they apply to renewal applicants. Ascertainment of Community Problems by Broadcast Applicants, 40 FCC 2d 379 (1973). Since the Notice in this proceeding was released, we have issued a Further Notice of Inquiry and Notice of Proposed Rulemaking in Docket No. 19715. Ascertainment of Community Problems by Broadcast Applicants, FCC 75-540 (May 15, 1975). In this recent document, we concluded that television and radio differ but that the differences do not call for different standards of community ascertainment. While limiting our findings to renewal applicants only, we concluded that "continuous ascertainment" is preferable to an ascertainment conducted six months prior to filing the renewal application. We also expressed our intention to replace the required compositional study with a straightforward requirement for certain demographic data. The community leader survey rather than being based on the compositional study would be based instead on a com-

[1] The Primer applies to applicants for construction permits for new stations and for changes, of a specified significance, in facilities. See Primer, supra, Question and Answer No. 1. Additionally, the Commission noted that "* * * as an interim measure until other standards are adopted, renewal applicants will be required to comply with the Primer. Primer at 655.

munity element checklist which we would provide. The formal requirements of the community leader survey would be liberalized, e.g., up to 50 percent of the community leader interviews could be conducted by non-principal, non-management employees[2] In addition, modified record keeping and reporting requirements were proposed. Finally the Commission proposed to exempt small market stations, i.e., stations licensed to communities with a population of 10,000 or less (as enumerated in the 1970 U.S. Census) from all record keeping and reporting requirements. In inviting additional comments on the various matters discussed in its further notice, the Commission indicated that particular emphasis should be placed on the proposed amendments to § 1.526 of the rules (records to be maintained) and the proposed small market exemption. Comments in response to the further notice in Docket No. 19715 were due on June 30, 1975.

8. Our notice in this proceeding invited comments on four general topics:

1. Formal ascertainment requirements for noncommercial applicants;

2. Revision of noncommercial broadcast FCC Forms 340 and 342;

3. Revision of Commission rules (§§ 73.503(a) and 73.621(a)) dealing with licensing of noncommercial broadcast stations; and[2]

4. Parts I and IV of Docket No. 19153.[2] We believe that the ascertainment documentation requirements we have designed for commercial renewal applicants, as set forth or proposed in Docket Nos. 19153, 20419 and 19715, provide the best means of bringing pertinent ascertainment information to the attention of the Commission and the public. We propose, therefore, to impose such a documentation approach on noncommercial applicants. Since, however, the notice in this proceeding did not provide for the implementation of the annual listing of problems and programs, and did not provide for changes in our rules, the noncommercial FCC Forms shall be put out for further comment. We shall, therefore, state our tentative policy herein and request further comment on our proposed requirements and rule and form changes.

Comments

9. In the discussion which follows, the major arguments propounded by the various parties are briefly stated. Although only a few of the comments are specifically referred to, all of the comments have been carefully examined and the individual views presented have all received due consideration.

10. *Should formal ascertainment requirements be imposed on educational broadcast applicants?* Parties responding to this question tend to divide into three groups: those who favor ascertainment requirements equal to or more formal than the Primer; those who favor a structured ascertainment, but feel the Primer requirements are too inflexible; and those who oppose any imposed structured ascertainment requirements. The largest of the three groups favor a structured approach but reject the Primer requirements as too inflexible. Many in this group put forward alternative plans which stress flexibility, reflecting the unique characteristics and limited resources of the noncommercial licensee. The Corporation for Public Broadcasting, for example, suggests that the Commission "fine tune" the ascertainment process to reflect the differences in noncommercial broadcasting. The Georgia State Board of Education, on the other hand, suggests that the Commission let its licensees work out their own ascertainment programs under the general guidelines of the Commission. Such guidelines, it was proposed, might require the filing of a description of the ascertainment proposals similar to the filings of affirmative action plans in our EEO program. Wake Forest University, licensee of WFDD-FM, Winston-Salem, North Carolina, argues that citizens advisory groups, regular mail surveys, and public announcements soliciting public comment would be the appropriate type of requirements for stations of its limited resources.

11. Those parties who favor the imposition of Primer requirements are fewer in number but equally intense in their advocacy. The National Black Media Coalition (NBMC), for example, supports the Primer but asks that its requirements be strengthened, and supports the additional formalities proposed by the original petitioners in this proceeding.[3] For example, the NBMC urges that noncommercial licensees be required to ascertain programming preference and contact a statistically significant number of minorities, women, children, young people and senior citizens. Further, the NBMC would require station managers to spend "at least a day every three months in the Black community doing interviews * * *." A citizens advisory board would be mandatory. The National Citizens Committee for Broadcasting (NCCB) favors continuing ascertainment rather than the Primer's "one shot" approach and also requests that more of the "raw data" of the ascertainment procedure be made available to the public, i.e., worksheets, filled out questionnaires, and memoranda on consultations. The NCCB would also require a mandatory citizens advisory board.

12. A number of parties oppose any formal ascertainment requirements on the grounds that they are unnecessary and would be an undue burden on the limited resources of noncommercial licensees. The law firm of Cohn and Marks, for example, filing on behalf of seven noncommercial licensees expresses a view which was echoed by a number of other parties commenting in this proceeding:

> The most obvious distinction between commercial and educational licensees is that the latter are not faced with the requirement of producing a profit and are relieved from the day-to-day commercial pressures which tend to lead commercial licensees towards programming primarily entertainment features aimed at a mass audience so as to attract advertising revenue * * *.
>
> Noncommercial licensees stand on a far different footing * * *. They have no need to attempt to program for the largest possible audience; on the contrary, they often deliberately aim at reaching only a minority audience * * *. Educational licensees have always viewed themselves as public in nature in the sense that they operate not for their own gain, but to serve the public as a public trust * * *. [T]hey are aware and cognizant of their responsibilities to recognize community problems.

13. *What specific obligations should be imposed?/How can educational stations, given their unique character and the special nature of their program services best ascertain community needs?* Responses to these two questions provide us with a wide variety of ascertainment options, reflecting differing viewpoints and perspectives. Again, the proposals tend to either support greater formality or increased flexibility.

14. The Office of Communications of the United Church of Christ (UCC) argues that a Primer similar to the commercial Primer should be developed for noncommercial licensees. The UCC recommends "specific requirements" for community leader surveys and "careful instructions" for the general public surveys. KUNC-FM of Greeley, Colorado argues that since both commercial and noncommercial stations are held to the same public interest standard, the same ascertainment requirements should apply as well.

15. Several parties urge that we go beyond the Primer requirements and, in effect, hold noncommercial licensees to a higher standard. The Office of Civil Rights, for example, stresses that noncommercial broadcasters must be particularly responsive to the needs of minorities and thus should be specifically instructed to consult with students, young people, women, and ethnic, economic and political minorities. The Office of Civil Rights would also require the stations to file evidence with the Commission semi-annually to demonstrate that the community needs were, in fact, being served. NBMC urges that noncommercial broadcasters be required to show how their programming would

---

[2] Our notice stated that we did not intend to change our rules or implement the requirements of Part IV of Docket No. 19153 (new television renewal form and annual reporting form) without further comment. We intend, in addition, to defer action on Part I of Docket No. 19153 (the broadcast notice requirement).

[3] The petitioners for rule making in this proceeding were the National Association of Black Adult Educators, the National Association of Black Students and Hollis H. Larkins, Jr., jointly, and Sandra W. Bennett, PH.D., individually. A statement in support of each petition was filed by the National Association of Educational Broadcasters. In addition, The Corporation for Public Broadcasting has filed a petition which, inter alia, states that noncommercial FM applicants should be required to show that their stations will be used to ascertain community needs.

"solve" community problems, such as race relations. Commercial broadcasters, of course, are not required to "solve" community problems, but to program to "meet" the problems, needs and interests of the community. NBMC would require noncommercial stations to broadcast their annual meetings. Meetings of their boards of directors would be public with opportunity for citizen questions. In addition, NBMC would require a daily minimum of 30 minutes of two-way public access programming in prime time for public call-ins. In the same vein, any group meeting certain minimal conditions would be allowed to arrange for "airtime on as much a common-carrier basis as possible."

16. We also received a number of specific suggestions from those groups who argue for increased flexibility in noncommercial ascertainment. WEMU–FM, Ypsilanti, Michigan and WVUT–TV, WVVB–FM, Vincennes, Indiana both argue that the limited budgets of noncommercial stations compel us to allow nonmanagement personnel and volunteers to conduct the surveys. WXXI–TV, WAXI–FM, Rochester, New York, urges that continuing ascertainment would be preferable to the "onerous" six-month period specified in the Primer. Central Texas College, licensee of KNCT–TV and KNCT–FM, Killeen, Texas, would support a requirement for advisory boards but would oppose Primer-type requirements for stations outside of major metropolitan areas. The Communications Center of the University of Texas, licensee of KUT–FM, Austin, Texas, proposes that since service to minorities is the "real issue," noncommercial stations should be required to file an annual report dealing with their activities in this area. California State University, Long Beach, licensee of KSUL–FM, Long Beach, California, states that only the general public survey is worthwhile and the community leader survey should not be required. As we noted above, an affirmative action statement requirement has been proposed in lieu of ascertainment. The law firm of Dow, Lohnes and Albertson, filing on behalf of 14 licensees, proposes, in some detail, a "modified affirmative action approach. Under this proposal the licensee would file at renewal time its proposed ascertainment techniques for the upcoming license term. The number of techniques required would depend on the size of the station and would be chosen from a list approved by the Commission. The licensee would also file a list of problems ascertained during the preceding term and typical and illustrative programs broadcast during that time.

17. *Should there be special procedures imposed in regard to the ascertainment of educational and instructional needs?* Although most of the parties commenting in this proceeding oppose a requirement that noncommercial stations ascertain the instructional or educational needs of their communities, NCCB stresses the importance of such a requirement. Noting that the licensee may have no awareness of the instructional needs of the student and adult population in its area, NCCB urges that all licensees be required to ascertain these needs so that what instructional programming they may present will be relevant to the audience. WBUR–FM, Boston, Massachusetts, on the other hand, reflecting the trend away from purely instructional programming, notes that apart from programs designed specifically for "in-school or continuing education needs, within a recognized institutional structure * * * *", instructional programming has not been well received by audiences. General educational needs, WBUR–FM asserts, would be uncovered along with other community needs in the normal ascertainment process. The law firm of Covington and Burling, filing on behalf of five noncommercial licensees, expands on this theme:

> Instructional programming, while a unique characteristic of noncommercial service, is a type of programming which is not completely a matter of station choice but rather of station mandate and funding. Many educational television stations are licensed to state universities, to other institutions of higher learning or to state entities and have an express and primary responsibility to provide instructional sponsors. * * *
>
> [I]nstructional programming is characterized generally by a close working (and sometimes contractual) relationship between the station and the educational institution which develop the instructional programs jointly. This kind of close relationship obviates the need for formal ascertainment of instructional needs.

18. *Should a distinction be drawn between noncommercial radio and television for ascertainment purposes?/Should there be distinctions, for ascertainment purposes, between classes of stations, e.g., between Class D ten-watt FM stations and others?* Little comment was received in this proceeding on meaningful distinctions between radio and television which would alter their respective ascertainment responsibilities. The Intercollegiate Broadcasting System, Inc. (IBS), however, did suggest distinct treatment of Class D ten-watt FM stations. Noting that under the Commission's Rules such stations have limited, undefined and usually uncalculated coverage contours, the IBS states that the usual ascertainment formulas and procedures would often not apply. Thus, requirements might have to be applied to these stations on an ad hoc basis. Similarly KCNT–FM, Hastings, Nebraska, a ten-watt station, notes that its facilities are used primarily as an instructional tool for broadcasting students at Central Technical Community College. Students, not salaried staff, handle all KCNT's station operations under the supervision of one of the College's instructors. KCNT believes that there are two distinct types of noncommercial stations: the professionally staffed and publicly oriented station and the student-run training facility. The latter, KCNT argues, should be regulated differently.

19. *Should the existence of state-wide educational broadcast systems have any effect on ascertainment efforts by member stations in the systems?* Dow, Lohnes and Albertson argues that where a state educational broadcast system originates all its programming from a central point and designs its programming for the entire state, it should not be required to ascertain in each of the localities where its individual stations are located but rather generally on a state-wide basis. Implicit in such an argument, presumably, is the realization that many of these stations are, in fact, satellite operations. The West Virginia Educational Broadcasting Authority stresses this same point, noting that interconnected state networks with viable local outlets should be treated differently than systems with only one main broadcast point. NCCB, on the other hand, questions how a local station that serves mainly as a translator meets the basic local outlet premise of the Communications Act. NCCB contends that no state-wide system should be allowed to avoid ascertainment on the local level and it should, in addition, be required to ascertain on the state level as well.

20. *Will formal ascertainment requirements impose a substantial financial burden on educational applicants?* Many noncommercial licensees respond affirmatively to this question, stating that formal ascertainment requirements would soak up funds that could otherwise be spent on programming. Unfortunately, little specific data on this question were presented to the Commission[1] Perhaps this is because the parties were not sure what sort of requirements, other than the Primer, we had in mind and, moreover, could not estimate in advance the actual cost in time and money of any ascertainment approach. On the other hand, several stations state that they already were ascertaining their communities in one form or other. WPLN, Nashville, Tennessee, for example, participated in the ascertainment process followed by the commercial stations in Nashville under the "Baltimore Plan." These stations, while often proposing a flexible approach, concede that some sort of formal ascertainment would be feasible.

21. *Should the Primer guidelines be applied to educational applicants?/Do the questions raised in Docket No. 19715 (revision of the Primer) have impact on our inquiry regarding ascertainment by noncommercial stations?* Most of the responses to these two questions were noted in paragraphs 10–16, above, covering questions 1 and 2. We will not repeat the various arguments here but would note one additional point. A number of the parties, including WNET–TV, Newark, New Jersey, and The National Association of Educational Broadcasters, pointed out that in Docket No. 19715 we are re-examining the Primer based upon a belief that its specific requirements may be subject to improvement.

[1] KMCR–FM, Phoenix, Arizona, attempted to ascertain its community in order to determine what the process would involve in dollars and staff time. KMCR stated that the project took 24 man days and a cash outlay of $272.30.

This fact, it was argued, certainly indicates that we should not impose the Primer, in whole, on an entirely new group of licensees.

22. *Should educational licensees be allowed to ascertain for program preferences?* Comments on whether program preference ascertainment should be required of noncommercial licensees, while not unanimous, substantially supported the proposal. Covington and Burling notes that since noncommercial programming is highly specialized and since noncommercial stations often do not have conventional means of evaluating their audience impact, programming ascertainment would give the stations the feedback necessary to make their service more responsive to the public needs. The NCCB also supports program preference ascertainment as an option in the overall ascertainment effort. Noting that noncommercial licensees often receive most of their audience input from their contributors, NCCB feels that a general ascertainment for program preferences would broaden the feedback that licensees receive, especially from minority groups. Naturally, those parties who oppose any formal ascertainment requirements also oppose a program preference requirement.

23. *What changes should be made in Forms 340 and 342 to reflect ascertainment requirements, if any, imposed upon noncommercial applicants?/What other modifications should be made in Forms 340 and 342 that would be consistent with the imposition of ascertainment requirements on noncommercial applicants?* Most parties did not offer detailed suggestions regarding Forms 340 and 342. Our notice offered for comment proposed ascertainment questions which were based on the commercial broadcast forms then in use. Since the notice was issued on September 11, 1973, we have revised the commercial television renewal form (Docket No. 19153) and have proposed changes in the commercial radio renewal form. Our interim report in Docket No. 19153 was before the public at the time the Notice herein was issued so the public not only had our invitation to comment on the then present form but it also had the benefit of our thoughts on the content of the future forms. Covington and Burling, recognizing this fact, recommends that we simply defer action on the noncommercial forms until final disposition of all issues in Part IV of Docket No. 19153. Dow, Lohnes and Albertson, on the other hand, recommends questions consistent with its proposed "modified affirmative action" approach to ascertainment. PBS urges that noncommercial licensees not be required to list their prospective programming because this would tend to unduly inhibit them during the upcoming license term. In addition, PBS believes that the list of past programming should not be limited to the 12 months prior to filing but should encompass the entire past license term. The NCCB basically supports the questions proposed in our Notice but offers several changes designed to elicit more detailed and precise information and commitments, e.g., a requirement that the licensee list the problems it "intends" to serve rather than those it "believes" it will serve.

Discussion

24. The role of noncommercial educational broadcasting has never been precisely defined.[5] We will not, moreover, attempt to do so here because the flexibility and freedom of the service is, in large part, fundamental to its existence. During consideration of the Public Broadcasting Act in 1967, the House attempted to define educational programming as "programs which are primarily designed for educational or cultural purposes and not primarily for amusement or entertainment." The Conference Committee, however, deleted the restrictive phrase—"and not primarily for amusement or entertainment purposes." Conf. Rep. No. 794, 90th Cong., 1st Sess. (1967). To have failed to do so would not only have embroiled the government in irresolvable programming controversies, but would also have been contrary to the Declaration of Policy of the Act:

* * *

(2) that expansion and development of noncommercial educational radio and television broadcasting and of diversity of its programming depend on freedom, imagination, and initiative on both the local and national levels: * * * 47 U.S.C. 396 (a)(2) (1970).

25. Therefore, in establishing an ascertainment process for noncommercial broadcasters, we shall not attempt to relate the purpose of the ascertainment to the special "role" of the service as we might view it. Whatever the distinct role of public broadcasting may be, it should evolve as the service matures, and not be defined and imposed by the government. It is sufficient for us to note, as we have on a number of occasions, that the public interest mandate which underlies our 1960 Policy Statement applies equally to noncommercial broadcasters. At the present time, notwithstanding the absence of formal requirements, noncommercial broadcasters must make themselves aware of the problems and needs of their communities and program to meet those problems and needs. See, e.g., WHYY, Inc., FCC 75-568 (released May 23, 1975).

26. Based on our review of the record in this proceeding, we are convinced that noncommercial broadcasters should be subject to formal ascertainment requirements.[6] We propose that existing licensees ascertain on a continuous basis and that the renewal application form be modified to reflect the new requirements. In addition, the applicants for construction permits for new stations, for significant changes in facilities,[7] or for change in station location, as well as assignee or transferee applicants,[8] shall be required to ascertain their prospective communities of license and service areas six months prior to the filing of their applications.

27. The first step in the ascertainment process for both the renewal and nonrenewal applicant is to compile and place in its public file demographic data on the community of license and the other communities within its service area that that it proposes to serve. Such data shall consist of information relating to the total population of the station's service area, including the numbers and proportions of males and females, of minorities, of youth (17 and under), and of older persons (65 and above). The data will assist the licensee in its use of the community leader check list and will guide it in its performance of one of the four public contact options. The data shall be obtained from the U.S. Census Bureau and updated every ten years upon completion of the national census. We do not require, as we did in the Primer, the preparation of a compositional study because the community leader check list which we will provide should guide the licensee to the typical institutions and elements of its community.

28. As in the Primer, the applicant's principal obligation is to ascertain the problems and needs of its community of license. The applicant also has a secondary obligation to ascertain those parts of its service area outside of the community of license. Applicants for stations licensed to two or more cities or for channels assigned to two or more cities must ascertain in each city. In addition, transferee or assignee applicants who have obtained waivers of the station identification rules to permit secondary identification with additional cities are expected to ascertain in each city. If an applicant chooses not to serve a major community that is located within its service contours, a justification for this decision must be submitted. No major city, however, need be included in the applicant's ascertainment if it is located, in whole or in part,

---

[5] Our rules require a noncommercial applicant to be a nonprofit educational organization (or municipality) and require a showing that the station will be used for the advancement of an educational program or serve educational needs. 47 CFR 73.503(a) and 73.621(a). The stations are authorized to "transmit educational, cultural, and entertainment programs * * *" 47 CFR 73.502(b) and 73.621(c).

[6] We do not intend to impose ascertainment requirements on licensees of Class D 10-watt FM stations. See discussion, paragraph 36, infra. Moreover, we intend to request comment on whether the small market exemption proposed in the recent commercial ascertainment notice (FCC 75-540, May 15, 1975) should be extended to include noncommercial licensees.

[7] Applications for construction permits for changes in authorized facilities will be required to ascertain their communities of license and service areas when the stations' proposed field intensity contours (Grade B for television, 1mV/m for FM, or 0.5 mV/m for AM) encompass a new area that is equal to or greater than 50 percent of the area within the authorized field intensity contours. Only the additional areas to be serviced need be ascertained when the applicant has previously ascertained its service area.

[8] Except in pro forma cases where Form 316 is applicable.

more than 75 miles from the transmitter site. The ascertainment of areas outside the community or communities of license need not be as extensive as that undertaken within the community of license. Consultations with community leaders who can be expected to have a broad overview of community problems will satisfy this requirement.

29. The applicant will ascertain community needs by first consulting with community leaders representing significant elements in the community of license and the surrounding service area. As noted in paragraph 27, supra, we no longer propose to require the commercial applicant to prepare a compositional study in order to determine the significant elements of its community and service area because the compositional study is an unnecessary exercise without significant benefit to the ascertainment effort. Instead, we shall provide the applicant with a list of institutional and structural elements which are common to most if not all communities. See Appendix B. Specifically, the list of common socioeconomic elements to be consulted includes: agriculture, business, charities, civic, neighborhood and fraternal organizations, consumer services, culture, education, environment, government (local, county, state and federal), labor, military, minority and ethnic groups, organizations of and for the elderly, organizations of and for women, organizations of and for youth and students, professions, public safety, health and welfare, recreation and religion. In addition, the applicant will note the number of leaders interviewed in the above-elements who are American Indians, Blacks, Orientals, Spanish-surnamed Americans and women. This list, when viewed in light of the applicant's demographic data or other information, may be expanded or reduced upon an appropriate factual showing.

30. If the licensee consults with one or more leaders in each of these elements annually, and is able to certify to that effect on its renewal application, this will create a presumption of the adequacy of this part of the community ascertainment, rebuttable only by a clear and convincing showing to the contrary. If made in the context of a complaint, petition to deny, or competing application, such a showing must establish a substantial and material question of fact in order to warrant further administrative inquiry or designation of the issue for hearing. In this respect, we will judge the ascertainment performance on the basis of the representativeness of the consultations performed. The evaluation of representativeness will be based on the population of the community and service area, the size and influence of the respective elements within the community, and the size of the station in question.

31. The Primer requirement that all community leader consultations be conducted by principals and management-level employees will continue to be applied to all but renewal applicants. Where the applicant proposes to serve a community or service area for the first time we believe it is important that principals and management-level employees contact the community leaders. On the other hand where a renewal applicant is already serving a given community or area, and principals and management have been in contact with the leaders, we feel it would be beneficial to allow other employees or volunteers to participate in the process.[9] Naturally, we expect principals and management-level employees to maintain direct supervisory control over the consultations conducted by the other employees or volunteers. We shall provide a "Suggested Leader Contact Form" that should prove useful to the principals and management both with regard to their own consultations and as a means of monitoring the contacts made by other employees. See Appendix C. In order to maintain a reasonable balance in leader contacts, we propose to require that at least 50 percent of the leader consultations during the license term be done by principals and management-level employees, with the balance permitted to non-managerial employees and volunteers if the station so chooses. In order to assure that these managerial contacts are distributed over each of the elements of the check list, we are proposing that one or more of the interviews in each element be conducted by a principal or manager over the license term.

32. We conclude that the format of community leader interviews prescribed in the Primer is somewhat restrictive for noncommercial ascertainment. It was intended that the consultations be face-to-face contacts with the interviewees specifically advised of the purpose of the conversation. Since the Primer was set forth, we have allowed commercial licensees to conduct their leader surveys by other means, e.g., joint meetings, Southern California Broadcasters Association, 30 FCC 2d 705 (1971), and telephone interviews, Southern California Broadcasters Association, 41 FCC 2d 519 (1974). It is our intention to allow the noncommercial licensee considerable flexibility in planning its leader survey. We are not going to adhere to the Primer policy in this regard but will accept a broad range of methods: group meetings, on-the-air interviews, town hall settings, chance encounters, telephone interviews, etc. In fact, we encourage noncommercial applicants to experiment with a variety of methods and view this freedom, in fact, as a proving ground for methods which might at a later date be applied in the commercial context. We would qualify this freedom only to the following extent: the questions asked the interviewee should be open-ended in order to assure that the response is not dictated by the form of the inquiry; each community leader must be given an opportunity to freely express his views on community problems; each broadcaster present must have an opportunity to question each leader; and telephone interviews should be documented with contemporaneous notes or follow-up letters. We see no need to caution noncommercial applicants to avoid over-reliance on any one method of consultation (except for use of the telephone), but would stress that if, after pursuing its chosen methods, the licensee fails to develop adequate information on the problems and needs of his community, he should pursue other methods until this goal has been achieved. Likewise, we decline to restrict the applicants' flexibility by imposing a mandatory advisory group requirement as the petitioners and several of the parties commenting in this proceeding urge.

33. In addition to consulting community leaders, the Primer requires applicants to conduct a general public survey. The purpose of this requirement is to assure that, in addition to the views of leaders, applicants are informed of the views of the general populace. It has been argued that the general public survey is largely redundant, eliciting few, if any, problems not uncovered in the leader survey. This view has not gone unchallenged, however, and we do not feel that it has merit. Leaders, even under the best of circumstances, cannot be expected to know and appreciate the importance of each new community need as it develops. We propose to extend to noncommercial applicants the requirement that they conduct a random sample survey of their community of license and those other communities within their service area that they are serving or propose to serve. This survey may be conducted once during each license term or for nonrenewal applicants during the six month period preceding the filing of their applications. The survey may be conducted by principals, management-level employees, nonmanagement-level employees, volunteers, or a professional research or survey service. The Primer did not require, and we do not propose to require here, that the survey be statistically reliable. Noncommercial applicants will be required to demonstrate that a random sample of the general public of his community has been contacted. The random selection of names from the telephone books, for example, would be an acceptable approach. In addition, preprinted questionnaires or telephone contacts may be used in the general public survey.[10] We recognize that a random sample survey does not guarantee that all segments of the general public will necessarily be contacted in proportion to their representation in the community, but to require such parity would, we feel, be beyond the resources of most noncommercial broadcasters and would undercut

[9] Although permitting volunteers to contact community leaders has no precedent in our ascertainment history, we feel that for noncommercial stations this option may be appropriate. Very often volunteers perform valuable services for noncommercial stations and are, in fact, indispensable to their low-budget operations. We specifically invite comment on this use of volunteers.

[10] We note, however, that the questionnaires must be collected in person by the representative of the licensee. It may not be returned to the licensee by mail.

the benefits of the random nature of the survey.[11]

34. The response in the comments and our own analysis lead us to conclude that it would be inappropriate to require noncommercial applicants to ascertain the instructional needs of their communities and service areas. Instructional programming is still very important, notwithstanding the fact that general programming may be slowly replacing it, but we do not feel that ascertainment has a role to play in the planning of instructional programs. The reason for this is simply that most, if not all, instructional programs are presented in coordination with educational institutions. Often the licensee, itself, is an educational institution. The process by which these institutions, in conjunction with the licensee, develop instructional programming should remain subject only to those restraints and pressures which now apply, i.e., school boards, boards of trustees, etc. This does not mean, however, that programs that are of general educational interest, e.g., VD Blues, are considered instructional. Instructional programming is defined in noncommercial broadcast Form 342 as follows:

> *Instructional* (I) includes all programs *designed to be utilized* by any level of educational institution in the regular instructional program of the institution. In-school, in-service for teachers, and college credit courses are examples of instructional programs. (emphasis added)

If the licensee provides only instructional programming, no ascertainment nor programming to meet problems and needs would be necessary.

35. As we noted in our further notice on commercial ascertainment, there are differences between radio and television in how each serves the public. With regard to noncommercial broadcasting, as with the commercial service, we do not view these differences to be of such significance as to justify separate ascertainment standards. Both radio and television stations are licensed to serve the public interest; both must program to meet the problems and needs of their communities; and thus, both must become aware of these problems and needs. The differences between radio and television, which primarily consist of program format, do not justify different ascertainment procedures. They do, however, justify differing types of programming to meet the ascertained needs. Radio, for example, may make considerable use of short duration vignettes rather than 15 or 30-minute programs. See, e.g., Columbia Broadcasting System, Inc., FCC 75-149, 32 RR 2d 1270 (1975).

36. We do, however, feel that a valid distinction can be drawn between Class D 10-watt FM noncommercial radio stations and those of greater power. Ten-watt stations are primarily licensed to or connected with educational institutions, colleges, junior colleges and high schools. The service area is very limited. Our experience indicates that the average 10-watt facility places a city grade signal (3.16 mV/m) out about 1 mile. Only in a rare instance will a 10-watt facility's effective radiated power place a 1 mV/m signal out beyond 5 miles. Thus, it would be impractical to require the 10-watt station to ascertain its community of license because its signal would not even cover the entire community. Moreover, we have viewed 10-watt stations as primarily designed to serve those individuals connected with the educational institutions (students, faculty, etc.) rather than the general public. In addition, 10-watt stations serve, in part, as a training ground for broadcast personnel. Our policy in treating 10-watt stations differently than those with greater power is reflected in our Rules which permit 10-watt licensees to operate without meeting some of the technical requirements imposed upon all other licensees. See 47 CFR 73.501 et seq. (1970). Finally, we note that 10-watt stations are not eligible for CPB grants, which are backed, in part, by federal funds and will continue to be ineligible even under the pending long range financing legislation. In view of the above, we have determined that it is more practical to exempt 10-watt licensees from the requirements of ascertainment. Instead, we will rely on the established channels of communication within the educational institutions to assure that the 10-watt licensees are responsive to the needs of their audiences.[12]

37. The existence of noncommercial state broadcast networks is one of the unique features of public broadcasting which makes the traditional ascertainment policy difficult to apply. We note from the comments that it is common for a state network to originate its programming at one station and employ the others as "satellite-like" operations. Other networks, in contrast, are truly interconnected operations with each station doing some origination. The benefits of state-wide ascertainment as opposed to individual community of license ascertainment are not that great unless one assumes, as we do not, that the network will only be required to contact state government officials or leaders with statewide constituencies. Although we have carefully weighed all the arguments on this question, we do not believe that the implications of statewide ascertainment can be reconciled with the local service policy which underlies our allocation of frequencies. We feel that state networks must conduct their ascertainment efforts so as to make contact with both leaders and the general public at the local level. The fact that the staff per station ratio may be lower than average for certain state networks will, however, be a factor when judging the representativeness of their ascertainment efforts.

38. We recognize the difficulty in distinguishing between the articulation of a need by a leader or member of the public and the articulation of a need which that individual believes should be the subject of a program. When asked about the problems and needs of the community, the average citizen, knowing that the questioner is a broadcaster, is likely to frame a response in terms of programming. If it is clear from such a response that a specific problem or need is being referred to, the broadcaster should note that problem or need in its records. Our comments in the Primer prohibiting program suggestions from the ascertainment record were intended to emphasize the fact that the licensee has the ultimate and final discretion as to programming and we are only interested that it know the problems and needs of its community in order to be able to make a reasoned and informed programming judgment. We do not mean to imply or suggest, however, that the licensee should not take advantage of the ascertainment process to elicit programming views. We simply require that the licensee use the problems and needs responses for its record ascertainment and use the program preference responses (to the extent that they cannot be translated into a problem or need) for whatever purpose that seems suitable. We feel, for example, that noncommercial broadcasters might benefit by taking advantage of the opportunity to discuss programming at a meeting designed primarily for ascertainment purposes. We do not doubt that the licensee has the ability to distinguish between problems and needs ascertained for the record, and program preferences elicited for the station's non-record use.

39. In our Further Notice of Inquiry and Notice of Proposed Rulemaking in Docket No. 19715, Ascertainment of Community Problems by Broadcast Applicants, FCC 75-540 (May 15, 1975), we invited comments on whether the public interest would be served by an experimental partial exemption from certain ascertainment-related requirements for

[11] It has been suggested that a random public survey may not be necessary for renewal applicants, and that it may be desirable to consider other options which are designed to elicit the views of the general public. Accordingly, we request comments on whether the purposes of the general public ascertainment might be adequately met by one of the following options: (1) A monthly call-in program which invites members of the public to discuss the problems and needs of their community; (2) semi-annual public meetings where these matters are discussed; or (3) the traditional random public survey. At present, we are not persuaded that options (1) and (2) above would be appropriate substitutes for the public survey. Parties commenting on these options should address the question of whether they would provide an adequate range of community views.

[12] We are presently reviewing our policy with regard to 10-watt stations. We first approved the operation of 10-watt stations on August 18, 1948 (FCC 48-1948) in Docket No. 9048. Since that time, we have initiated an effort to re-examine the role of 10-watt stations in Docket No. 14185, Revision of FM Broadcast Rules, 5 FCC 2d 587 (1966), and have received a petition for rule-making from the Corporation for Public Broadcasting (RM-1974) requesting amendments to our non-commercial FM broadcast rules.

stations licensed to small communities. The suggested exemption would not include the annual lists of up to ten significant community problems, together with illustrative programming responsive to those problems. Exempt licensees would not be required, however, to maintain any of the other ascertainment-related records, i.e., the proposed community leader check list, data concerning community leader interviews demographic information and the narrative report on the general public survey. Naturally, since exempt licensees would not be required to maintain such information in their public files, they would not be expected to file it with their renewal applications. We proposed to define a small community of license as one with a population of 10,000 or less (as enumerated in the 1970 U.S. Census), located outside of all officially designated Standard Metropolitan Statistical Areas (SMSA's).

40. The proposed small market exemption is designed to test the proposition that a broadcaster in a small community knows thoroughly the problems and needs of his town. Since the broadcasters chief obligation is to his community of license and population data on communities is readily available we proposed to use the community of license rather than the service area as our point of reference. We did, however, specifically invite comment on whether a 10,000 figure was an appropriate cut off.

41. We propose to extend the same exemption to noncommercial licensees and invite comment on all aspects of the proposal. Specifically, we ask whether a different cut-off figure, higher or lower, would be appropriate.

42. At its best, ascertainment constitutes an effort to dig beneath the surfaces of majority opinion and conventional wisdom to discover and deal with needs that might not otherwise be exposed. We expect all licensees to strive for that ideal, including those small market licensees who would be exempted from most reporting requirements under the experiment proposed herein. For the purpose of this experiment, we will accept as a given the hypothesis that the noncommercial broadcaster in the smaller community knows his town thoroughly, not only its majorities but also its minority elements. The exempt licensee who fails, during this period of testing, to program for the latter—notably the racial minorities protected under the Civil Rights Acts of 1964 and 1972, as well as our own rules—weakens this hypothesis to the point which may cause us to inquire further into his trusteeship of a scarce broadcast frequency. Columbus Broadcasting Coalition v. FCC 505 F. 2d 320 (D.C. Cir. 1974). Chuck Stone v. FCC 466 F. 2d 316 reh. den. 466 F. 2d 311 (D.C. Cir. 1972).

43. We propose that noncommercial applicants document their ascertainment in a manner similar to commercial broadcasters. To document the community leader survey, the renewal applicant will be required to file, as exhibits to the renewal application, three annual community leader check lists (See Appendix B). The non-renewal applicant must file one copy of the community leader check list covering its ascertainment efforts in the six-month period prior to filing. In addition, all applicants must place in their public files further documentation of community leader contacts, including: the name and address of the leader contacted; the group or organization he or she represents and any title or position held in this connection; the date, time and place of the contact; the name of the licensee's representative carrying out the consultation (plus that representative's supervisor, if the representative is not a principal or manager); the problems, needs and interests identified by the consultation; and the date of review of the completed record of consultation by a principal or manager of the licensee. Those licensees falling withing the proposed small market exemption would not compile the above documentation.

44. We also propose to require all noncommercial applicants (other than the exempted 10-watt licensees) to annually place in their public files and file as an exhibit to their applications a second set of three annual lists (one list for nonrenewal applicants) of problems and needs (no more than 10) identified through community consultations and of illustrative programming offered to meet these problems.

45. With respect to the general public survey the applicants must place in the stations' public files the demographic data described in paragraph 27, supra, and a brief narrative statement (five pages maximum) describing the techniques and results of the public survey. The above would be placed in the public file within 45 days of the completion of the survey but in no event later than the due date for filing the application.

46. Our proposals herein require a new § 1.527 of our rules specifying records to be maintained locally by noncommercial applicants, permittees and licensees.[13] The proposed rule changes are set forth below and comment is requested on them by paragraph 48, infra. In addition, changes in the noncommercial FCC Forms 340 and 342 will be required to implement our decision to require ascertainment of noncommercial applicants. These changes are set forth in Appendix D and comment is requested on them by paragraph 48, infra.

47. We intend to phase in the ascertainment requirements imposed herein approximately one year after we release a final order on the rule and form changes proposed in the amendment and Appendix D. By that time, we believe that circumstances, rules and forms will be in such readiness as to allow noncommercial applicants to ascertain, document and exhibit results in their application forms. For example, licensees with authorizations expiring in March of 1977 would have approximately one year before their filing deadlines (November of 1976) to perform their first ascertainment and for those renewal applicants a one-year ascertainment would suffice. Likewise, non-renewal applicants would have sufficient time to perform their six-month ascertainment.

48. Based on the foregoing discussion, and pursuant to the authority contained in sections 4(i) and (j) and 303, 307 and 403 of the Communications Act of 1934, as amended, comments are invited on our proposals herein, and specifically:

(1) The proposed community leader check list set forth in Appendix B;

(2) The proposed new § 1.527 of the Commission's rules set forth in Appendix D;

(3) The proposed changes in FCC Forms 340 and 342 set forth in Appendix D; and

(4) The small market exemption discussed in paragraphs 43–46 and specified in Note 2 of the proposed rule.

Interested parties responding to this further notice of inquiry and notice of proposed rule making may file comments at the Commission's headquarters, Washington, D.C., on or before September 15, 1975. Because of the lengthy record already established in this proceeding, and because of the refinement of the proposals herein made possible by that record, we are exercising our discretion to provide for the receipt of comments only, and not for reply comments. For these same reasons, we do not contemplate any extensions of time for comments beyond the date set out above. In accordance with the provisions of § 1.419 of the Commission's rule, an original and 14 copies of all statements, briefs, and comments filed shall be furnished to the Commission. However, in an effort to obtain the widest possible response in this proceeding from licensees and members of the public, informal comments (without extra copies) will be accepted. Copies of all pleadings filed in this matter will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Adopted: July 30, 1975.

Released: August 14, 1975.

FEDERAL COMMUNICATIONS COMMISSION,[14]

[SEAL] VINCENT J. MULLINS, *Secretary.*

Section 1.527 is added new to read as follows:

§ 1.527 Records to be maintained locally for public inspection by noncommercial educational applicants, permittees, and licensees.

(a) *Records to be maintained.* Every applicant for a construction permit for a new station in the noncommercial educational broadcast services shall maintain for public inspection a file for such

[13] References to noncommercial applicants, permittees and licensees in § 1.526 of our rules shall be deleted.

[14] Attached statement of Commissioner Robinson filed as part of the original document.

stations containing the material in paragraphs (a) (1), (7), (8) and (9) of this section. Every permittee or licensee of a station in the broadcast services shall maintain for public inspection a file for such station containing the material in all subparagraphs of this paragraph (for exceptions see Note 2 below). *Provided, however,* That the foregoing requirements shall not apply to applicants for or permittees or licensees of television broadcast translator stations, or FM broadcaster booster stations. The material to be contained in this file is as follows:

(1) A copy of every application tendered for filing by the applicant for such station after May 13, 1965, pursuant to the provisions of this part, with respect to which local public notice is required to be given under the provisions of § 1.580 or § 1.594; and all exhibits, letters and other documents tendered for filing as part thereof, all amendments thereto, copies of all documents incorporated therein by reference, all correspondence between the Commission and the applicant pertaining to the application after it has been tendered for filing, and copies of Initial Decisions and Final Decisions in hearing cases pertaining thereto, which according to the provisions of §§ 0.451–0.461 of this chapter are open for public inspection at the offices of the Commission. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and if there has been no change in the document since the date of filing and the applicant, after making the reference, so states. If petitions to deny are filed against the application, and have been duly served on the applicant, a statement that such a petition has been filed shall appear in the local file together with the name and address of the party filing the petition.

NOTE.—Applications tendered for filing on or before May 13, 1965, which are subsequently designated for hearing after May 13, 1965, with local notice being given pursuant to the provisions of § 1.594, and material related to such applications, need not be placed in the file required to be kept by this section. Applications tendered for filing after May 13, 1965, which contain major amendments to applications tendered for filing on or before May 13, 1965, with local notice of the amending application being given pursuant to the provisions of § 1.580, need not be placed in the file required to be kept by this section.

(2) A copy of every application tendered for filing by the licensee or permittee for such station after May 13, 1965, pursuant to the provisions of this part, which is not included in paragraph (a) (1) of this section and which involves changes in program service, which requests an extension of time in which to complete construction of a new station, or which requests consent to involuntary assignment or transfer, or to voluntary assignment or transfer not resulting in a substantial change in ownership or control and which may be applied for on FCC Form 316; and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the Commission and the applicant pertaining to the application after it has been tendered for filing, and copies of all documents incorporated therein by reference, which according to the provisions of §§ 0.451–0.461 of this chapter are open for public inspection at the offices of the Commission. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and there has been no change in the document since the date of filing and the licensee, after making the reference so states. If petitions to deny are filed against the application, and have been duly served on the applicant, a statement that such a petition has been filed shall appear in the local file together with the name and address of the party filing the petition.

(3) A copy of contracts listed in ownership reports filed in accordance with the provisions of § 1.615(a) (4) (i) and which according to the provisions of §§ 0.451–0.461 of this chapter are open for public inspection at the offices of the Commission. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and if there has been no change in the document since the date of filing and the licensee or permittee, after making the reference, so states.

(4) Such records as are required to be kept by §§ 73.120(d), 73.590(d), and 73.657(d) of this chapter, concerning broadcasts by candidates for public office.

(5) A copy of every annual employment report filed by the licensee or permittee for such station pursuant to the provisions of this part; and copies of all exhibits, letters and other documents filed as part thereof, all amendments thereto, all correspondence between the permittee or licensee and the Commission pertaining to the reports after they have been filed and all documents incorporated therein by reference and which according to the provisions of §§ 0.451–0.461 of this chapter are open for public inspection at the offices of the Commission.

(6) The Public and Broadcasting; Revised Edition (see FCC 74-942, 39 FR 32288, September 5, 1974).

(7) Every year, on the anniversary date on which the station's renewal application would be due for filing with the Commission, or in the case of a nonrenewal applicant, on the date of filing the application each renewal applicant and each nonrenewal applicant shall place in its public inspection file a listing of no more than ten problems and needs of the area served by the station during the preceding twelve months or in the case of a nonrenewal applicant, proposed to be served during the prospective license term. In relation to each problem or need cited, applicants, licensees and permittees shall indicate typical and illustrative programs or program series, excluding ordinary news inserts of breaking events, which were broadcast during the preceding twelve months, or in the case of nonrenewal applicants, which are proposed for broadcast during the prospective license term, in response to those problems and needs. Such a listing shall include the title of the program or program series, its source, type, brief description, time broadcast and duration. In the case of renewal application, the third annual listing shall be placed in the station's public inspection file on the due date of the filing of the station's application for renewal of license. Provided, however, upon the filing of the station's application of renewal appliants, the third annual problem-program listings shall be forwarded to the Commission as part of the application for renewal of license. The annual listings are not to exceed five pages, but may be supplemented at any time by additional material placed in the public inspection file and identified as a continuation of the information submitted to the Commission.

(8) Each licensee or permittee of a radio or television station and each nonrenewal applicant shall place in its public inspection file appropriate documentation relating to its efforts to interview a representative cross-section of community leaders to ascertain community problems and needs. Such documentation shall be placed in the station's public inspection file within forty-five days of the date of completion of each interview, and shall include: (i) The name, address, organization, and position or title of the community leader interviewed; (ii) the date, time and place of the interview; (iii) the name of the principal, management-level or other employee conducting the interview; (iv) the problems and needs discussed during the interview; and (v) the date of review of the interview record by a principal or management-level employee. Additionally, each year on the anniversary date on which the station's application for renewal would normally be filed with the Commission, each licensee and permittee shall place in the station's public inspection file a checklist indicating the number of community leaders interviewed during the preceding twelve months representing: elements found on FCC Form; *Provided,* That, if a community lacks one of the enumerated institutions or elements, the licensee and permittee should so indicate by providing a brief explanation on its checklist. The third annual checklist shall be placed in the station's public inspection file on the due date of the filing of its application for renewal of license. Upon the filing of the application for renewal of license, however, the three annual checklists for the current license term shall be forwarded to the Commission as part of the application for renewal of license. In the case of nonrenewal applicants the same conditions apply except that the leader checklist for the ascertainment conducted six months prior to

filing shall be placed in the public file at the time the application is filed.

(9) Each licensee or permittee of a radio and television station and each nonrenewal applicant shall place in the station's public inspection file documentation relating to its efforts to consult with a generally random sample of members of the general public to ascertain community problems and needs. Such documentation shall consist of: (i) Information relating to the total population of the station's service area, including the numbers and proportions of males and females; of minorities; of youth (17 and under, 18 and above); and the number and proportions of the elderly (65 and above); (ii) a narrative statement of the sources consulted and the methods followed in conducting the general public survey, including the number of people surveyed and the results thereof. Such documentation shall be placed in the public inspection file within 45 days of completion of the survey but in no event later than the due date for filing the application. For nonrenewal applicants the general public survey must be conducted during the six month period preceding the filing of their application. Upon filing its application each applicant must certify that its documentation has been placed in the station's public inspection file. The narrative statement shall not exceed five pages in length.

(10) Although not part of the regular file for public inspection, program logs for television stations will be available for public inspection under the circumstances set forth in § 73.674 and discussed in the Public and Broadcasting: Revised Edition.

NOTE 1: The engineering section of applications mentioned in paragraphs (a) (1) and (2) of this section, and material related to the engineering section, need not be kept in the file required to be maintained by this paragraph. If such engineering section contains service contour maps submitted with that section, copies of such maps, and information (State, county, city, street address, or other identifying information) showing main studio and transmitter location shall be kept in the file.

(The present "NOTE" relating to the engineering sections of certain applications would become "NOTE 1," to be followed by "NOTE 2," as below.)

NOTE 2: Paragraphs (a)(8) and (a)(9) above shall not apply to noncommercial radio and television stations licensed to or applied for in communities which: (1) Have a population, according to the immediately preceding decennial U.S. Census, of 10,000 persons or less; and (2) are located outside all Standard Metropolitan Statistical Areas (SMSA's), as defined by the federal Bureau of the Census. Paragraphs (a)(7), (a)(8) and (a)(9) shall not apply to applicants for or licensees of Class D 10-watt FM radio Stations or to applicants for or licensees of stations providing only instructional programming.

(b) *Responsibility in case of assignment or transfer.* (1) In cases involving applications for consent to assignment of broadcast station construction permits or licenses, with respect to which public notice is required to be given under the provisions of § 1.580 or § 1.594, the file mentioned in paragraph (a) of this section shall be maintained by the assignor. If the assignment is consented to by the Commission and consummated, the assignee shall maintain the file commencing with the date on which notice of the consummation of the assignment is filed with the Commission. The file maintained by the assignee shall cover the period both before and after the time when the notice of consummation of assignment was filed. The assignee is responsible for obtaining copies of the necessary documents from the assignor or from the Commission files.

(2) In cases involving applications for consent to transfer of control of a permittee or licensee of a broadcast station, the file mentioned in paragraph (a) of this section shall be maintained by the permittee or licensee.

(c) *Station to which records pertain.* The file need contain only applications, ownership reports, and related material that concern the station for which the file is kept. Applicants, permittees, and licensees need not keep in the file copies of such applications, reports, and material which pertain to other stations with regard to which they may be applicants, permittees, or licensees, except to the extent that such information is reflected in the materials required to be kept under the provisions of this section.

(d) *Location of records.* The file shall be maintained at the main studio of the station, or at any accessible place (such as a public registry for documents or an attorney's office) in the community to which the station is or is proposed to be licensed, and shall be available for public inspection at any time during regular business hours.

(e) *Period of retention.* The records specified in paragraph (a)(4) of this section shall be retained for the periods specified in §§ 73.120(d), 73.590(d) and 73.657(d) of this chapter (2 years). The manual specified in paragraph (a)(6) of this section shall be retained indefinitely. The records specified in paragraph (a)(1), (2), (3), (5) and (7) of this section shall be retained as follows:

(1) The applicant for a construction permit for a new station shall maintain such a file so long as the application is pending before the Commission or any proceeding involving that application is pending before the courts. (If the application is granted, paragraph (e)(2) of this section shall apply.)

(2) The permittee or licensee shall maintain such a file so long as an authorization to operate the station is outstanding, and shall permit public inspection of the material as long as it is retained by the licensee even though the request for inspection is made after the conclusion of the required retention period specified in this subparagraph. However, material which is voluntarily retained after the required retention time may be kept in a form and place convenient to the licensee, and shall be made available to the inquiring party, in good faith after written request, at a time and place convenient to both the party and the licensee. Applications and other material placed in the file shall be retained for a period of 7 years from the date the material is tendered for filing with the Commission, with two exceptions: First, engineering material pertaining to a former mode of operation need not be retained longer than 3 years after a station commences operation under a mode; and second, all of the material shall be retained for whatever longer period is necessary to comply with the following requirements: (i) Material shall be retained until final Commission action on the second renewal application following the application or other material in question; and (ii) material having a substantial bearing on a matter which is the subject of a claim against the licensee, or relating to a Commission investigation or a complaint to the Commission of which the licensee has been advised, shall be retained until the licensee is notified in writing that the material may be discarded, or, if the matter is a private one, the claim has been satisfied or is barred by statutes of limitations. Where an application or related material incorporates by reference material in earlier application and material concerning programming and related matters (section IV and related material), the material so referred to shall be retained as long as the application referring to it.

(f) Copies of any material in the public file of any television station shall be available for machine reproduction upon request made in person, provided the requesting party shall pay the reasonable cost of reproduction. Requests for machine copies shall be fulfilled at a location specified by the licensee, within a reasonable period of time, which in no event shall be longer than seven days. The licensee is not required to honor requests made by mail but may do so if it chooses.

APPENDIX A—PARTIES FILING COMMENTS AND REPLY COMMENTS IN DOCKET NO. 19816

Arkansas Educational Television Commission.
Arkansas State University (KASU–FM, Jonesboro, Arkansas).
California State University, Long Beach, California (KSUL).
Mrs. Frances S. Carr, Washington, D.C.
Central Technical Community College (KCNT–FM, Hastings, Nebraska).
Cohn and Marks (Communications Center of the University of Texas and the Southwest Texas Educational Television Council).
Cohn and Marks (Ohio Educational Television Network Commission, Delta College, Northern Michigan University, Ohio University, The Ohio State University, Hampton Roads Educational Television Association, Inc., and Grand Valley State College).
Columbia Union College, Takoma Park, Md. (WGTS–FM).
Corporation for Public Broadcasting.
Covington & Burling (Community Television of Southern California (KCET), KQED, Inc. (KQED, KQEC and KQED–FM) Metropolitan Pittsburgh Public Broadcasting, Inc. (WQED, WQEX and WQED–FM) Shenandoah Valley Educational Television Corp. (WVPT), University of Vermont and State Agricultural College (WETK, WVER, WVTA and WVTB).

Curators of the University of Missouri (KBIA, Columbia, Missouri, KCUR–FM, Kansas City, Missouri, KWMU, St. Louis, Missouri, KUMR and KMNR, Rolla, Missouri).
Department of Health, Education, and Welfare, Washington, D.C.
Dow, Lohnes & Albertson (The Connecticut Educational Television Corporation, The University of Illinois Board of Trustees, Central Michigan University, Lehigh Valley Educational Television Corporation, The University of Maine, The Regents of the University of Michigan, The University of Nebraska, The Nebraska Education Television Commission, The Northeastern Pennsylvania Educational Television Association, The South Carolina Educational Television Network, The South Central Educational Broadcasting Council, The Virginia Public Telecommunications Council, The Board of Regents of The University of Wisconsin System, The State of Wisconsin—Educational Communications Board).
Eastern Michigan University (WEMU–FM).
Fletcher, Heald, Rowell, Kenehan & Hildreth (WVUT–TV, WVUB–FM).
Georgia State Board of Education.
Haley, Bader & Potts, Washington, D.C.
Hunterdon Central High School, Flemington, New Jersey.
Intercollegiate Broadcasting System, Inc., Providence, Rhode Island.
KAVT–TV, Austin, Minnesota.
KETC–TV, St. Louis, Missouri.
KLCS, Los Angeles, California.
KMCR–FM, Phoenix, Arizona.
KUNC–FM, Greeley, Colorado.
Long Beach Unified School District, Long Beach, California (KLON–FM).
W. Terry Maguire, Washington, D.C.
Mullyck & Bernton (KWBI–FM, Morrison, Colorado).
Michigan State University, East Lansing, Michigan.
Moody Bible Institute of Chicago, Chicago, Illinois.
National Association of Educational Broadcasters.
National Black Media Coalition.
National Citizens Committee for Broadcasting.
New Jersey Coalition for Fair Broadcasting.
New York Center for Ethnic Affairs, New York, New York.
Ozark Bible College, Joplin, Missouri (KOBC).
Pennsylvania State University, Unversity Park, Penn. (WPSX–TV).
Public Broadcasting Council of Central New York, Inc., Liverpool New York (WCNY–TV, WCNY–FM).
Public Broadcasting Service.
University of Bridgeport, Bridgeport, Connecticut (WPKN).
University of Maryland, College Park, Maryland and Trinity College, Washington, D.C.
Wake Forest University, Winston-Salem, North Carolina (WFDD–FM).
West Virginia Educational Broadcasting Authority (WMUL–TV, WSWP–TV).
WNET, New York, New York.
WPLN, Nashville, Tennessee.
WXXI–TV, Rochester, New York.

APPENDIX B—SAMPLE, COMMUNITY LEADER ANNUAL CHECK LIST

Institution/element	Number	Not applicable (explain briefly)
1. Agriculture		
2. Business		
3. Charities		
4. Civic, neighborhood, and fraternal organizations		
5. Consumer services		
6. Culture		
7. Education		
8. Environment		
9. Government (local, county, State, and Federal)		
10. Labor		
11. Military		
12. Minority and ethnic groups		
13. Organizations of and for the elderly		
14. Organizations of and for women		
15. Organizations of and for youth and students		
16. Professions		
17. Public safety, health, and welfare		
18. Recreation		
19. Religion		
While the following are not regarded as separate community elements for purposes of this survey, indicate the number of leaders interviewed in all elements above who are:		
(a) American Indians		
(b) Blacks		
(c) Orientals		
(d) Spanish-surnamed Americans		
(e) Women		

APPENDIX C—SUGGESTED LEADER CONTACT FORM

Date:
Name and address of person contacted: ____
Organization(s) or group(s) represented by person contacted: ____
Date, time and place of contact: ____
Method of contact: ____
Problems, needs and interests identified by person contacted: ____
Name of interviewer: ____
Reviewed by ____ Position ____
Date ____

APPENDIX D

1. It is proposed that FCC Form 340, Section IV be amended by the addition of the following questions:

6. Has the applicant placed in its public information file the required documentation relating to its efforts to ascertain the community problems and needs? ☐ Yes ☐ No.

If "No", attach as exhibit No. a complete statement of explanation.

7. Attach as Exhibit No. your Community leader checklist for your ascertainment effort conducted six months prior to filing.

8. Has the applicant placed in its public inspection file the list of problems and needs which, in the applicant's judgment, warrant treatment and proposed typical and illustrative programming in response thereto? ☐ Yes ☐ No.

Attach those listings on Exhibit No.

2. It is proposed that FCC Form 342, Section IV be amended by the addition of the following questions:

4. Has the applicant placed in its public information file at the appropriate times the required documentation relating to its efforts to ascertain the community problems and needs? ☐ Yes ☐ No.

If "No" attach as Exhibit No. a complete statement of explanation.

5. Attach as Exhibit No. your Community leader Checklist for each year of the license term.

6. Has the applicant placed in its public inspection file at the appropriate times its annual list of those problems and needs which, in the applicant's judgment, warranted treatment by its station and the typical and illustrative programming in response thereto? ☐ Yes ☐ No.

Attach those listings as Exhibit No.

[FR Doc.75-21505 Filed 8-14-75;8:45 am]

[47 CFR Part 73]

[Docket No. 20316; RM-2267]

MINNESOTA FM BROADCAST STATIONS

Table of Assignments

1. The Commission has under consideration comments and reply comments filed in response to the notice of proposed rule making adopted January 3, 1975 (40 FR 2712), proposing the assignment of Channel 240A to Forest Lake, Minnesota, the substitution of Channel 298 for Channel 239 at Brainerd, Minnesota, and the substitution of Channel 239 for Channel 298 at Morris, Minnesota.[1] Brainerd Broadcasting Company ("BBC"), the licensee of Station KLIZ–FM (Channel 239) at Brainerd, Minnesota, has submitted comments and reply comments in response to our notice and has resubmitted and incorporated into its reply comments a prevously filed "Request for Denial of Petition" in which it stated its opposition to a change in the channel of its present operation. Petitioner, Lakes Broadcasting Co. ("Lakes") also submitted comments and reply comments and a supplemental pleading which includes a preclusion study as requested in the notice.

2. In the notice, we stated that BBC would be entitled to reimbursement for reasonable expenses that would be necessary to accomplish the change in its channel of operation. We also noted that petitioner had agreed to reimbursement for such expenses. One of the items of reimbursement requested by BBC was the costs of converting all background music receivers now in use under a Subsidiary Communications Authorization ("SCA") to a new frequency. However, at that time the Commission did not have sufficient information on which to base a decision regarding reimbursement of such costs. Therefore, we requested more information regarding the specific expenses of converting these receivers and comments by both parties on the appropriateness of including the costs of changing the SCA receivers in the amount to be reimbursed.

[1] At the time of the issuance of the notice, Channel 298 at Morris was unoccupied. On February 26, 1975, an application for that channel was filed with the Commission by Western Minnesota Broadcasting Company, licensee of AM Station KMRS, at Morris (BPH–9371).

3. In response to our requests, BBC submitted a statement of expenses. The total amount of estimated expenses for all items was $35,995, including $10,000 for "crystals, retuning and servicing tuners for Muzak (figure provided by Background Music, Inc. . . . owners of tuners and Muzak franchise)." No other information on this point was provided. In its reply comments, petitioner stated that:

[t]he basis for some of the items listed in the statement * * * which is attached to Brainerd's comments is not understood * * * It seems that consideration of specific items should be deferred until after the channel reassignment has been ordered and immediately prior to Brainerd placing the required equipment orders, if any.

Nevertheless, petitioner did reaffirm its intention to make reimbursement of the "legitimate, proper and prudent expenses" incurred in the change of channels. Neither BBC nor Lakes provided us with any arguments regarding the appropriateness of including SCA costs as a reimbursable item.

4. We disagree with the assertion that this issue should be deferred in its entirely until the requested channel assignments have been ordered. This is not the ordinary case where we can defer the matter relying on the fact that both parties are clear about the standards which govern and the implications of reimbursement. The issue of SCA reimbursement has never been explored before, and it should be so that the parties can proceed knowledgeably. In order to resolve the issue, we call upon BBC and Lakes to submit legal argumentation (with appropriate citations) on the direction they believe the Commission should take in resolving this issue. No delay in concluding this proceeding will result, as we would need to await the response to the show cause order in any event. That being the case, we have the opportunity to clarify any other aspect of this issue and even though its resolution need not occur at this stage, we believe it appropriate for the guidance of the parties to note the specific items which have been held to be proper for reimbursement. Circleville, Ohio, 8 F.C.C. 2d 159 (1967), and in particular the statement at 163–164 (1967) "[a] licensee required to change frequency is entitled to reimbursement for equipment only to the extent new equipment is actually required . . . and only for equipment corresponding to that previously in use." A deduction would have to be made in this regard for any trade-in value for the old equipment. Finally, Lakes is requested to be specific in its expression of intent regarding the costs it will agree to cover and not to just reiterate its general assertion of willingness to cover reasonable costs. It should indicate what costs it considers reasonable and should also note any objections to specific items or amounts that it may have.[3]

[3] Compare Lake City, South Carolina, 47 F.C.C. 2d 1067, 1078 (1974); Hampton, Iowa, 39 F.C.C. 2d 452, 454 (1973); Ashland and Roanoke, Alabama, 26 F.C.C. 2d 448, 451 (1970); Kenton and Bellefontaine, Ohio, 3 F.C.C. 2d 598, 605 (1966); Wenatchee, Washington, 2 F.C.C. 2d 828, 830 (1966); see also Rockland, Illinois, 17 F.C.C. 2d 947, 952 (1969) and Canton, New Jersey, 11 F.C.C. 2d 80, 82 (1967).

5. We note that Brainerd in its comments has requested that we modify its license to specify operation on Channel 294 instead of Channel 298. Channel 294 has been proposed for assignment to Brainerd, Minnesota, as its second FM assignment in Docket No. 20395 (40 Fed. Reg. 13319, published March 26, 1975). Brainerd states that Channel 294 is a preferable assignment to Channel 298 should its license be modified. However, no reason is advanced for that proposition. The petitioner in Docket No. 20395, Greater Minnesota Broadcasting Corporation, argues, in its reply comments, that there is no conflict between the two Docket proceedings and that if the two Dockets were merged into one proceeding and if further problems arose between Brainerd and the successful applicant for Channel 240A at Forest Lake, it could be several years before a second FM station commences operations at Brainerd. We agree that the attempt by Brainerd to merge the two proceedings is unwarranted and shall proceed with Channel 298 as originally contemplated.

6. Accordingly, *it is ordered*, That pursuant to Section 316 of the Communications Act of 1934, as amended, Brainerd Broadcasting Company, licensee of Station KLIZ–FM, Brainerd, Minnesota, shall show cause why its license should not be modified to specify operation on Channel 298 instead of Channel 239 if the Commission in this proceeding finds it in the public interest to assign Channel 240A to Forest Lake, Minnesota, and to substitute Channel 239 for Channel 298 at Morris, Minnesota; this Order being made with the understanding that the permittee of Channel 240A at Forest Lake, Minnesota, will pay reasonable reimbursement of expenses incurred in the change of channel of operation of Station KLIZ–FM at Brainerd.

7. Pursuant to § 1.87 of the Commission's rules and regulations the licensee of Station KLIZ–FM, Brainerd Broadcasting Company, may, not later than October 6, 1975, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, Brainerd Broadcasting Co., may, not later than October 6, 1975, file a written statement showing with particularity why its license should not be modified as proposed in this Order to Show Cause. In this case, the Commission may call on Brainerd Broadcasting Company to furnish additional information, designate the matter for hearing, or issue without further proceedings, an Order modifying the license as provided in the Order to Show Cause. If the right to request a hearing is waived and no written statement is filed by the date referred to above, Brainerd Broadcasting Company will be deemed to consent to modification as proposed in the Order to Show Cause and a final Order will be issued by the Commission, if the channel changes mentioned above are found to be in the public interest.

8. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), 303(r) and 316 of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's rules and regulations.

9. It is directed, that the Secretary of the Commission send a copy of this Order by certified mail, return receipt requested, to Brainerd Broadcasting Company, Brainerd, Minnesota, the party to whom the Order to Show Cause is directed.

Adopted: August 6, 1975.

Released: August 19, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the notice of proposed rule making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rule making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate

of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc.75-21507 Filed 8-14-75;8:45 am]

[47 CFR Part 73]

[Docket No. 20576; RM-2467, RM-2468]

NEW HAMPSHIRE AND VERMONT FM BROADCAST STATIONS

Table of Assignments

1. *Petitioners, proposals and comments.* (a) Joint consideration is herein given to the mutually exclusive petitions of Northeast Communications Corporation ("Northeast"), licensee of AM Station WFTN, Franklin, New Hampshire (RM-2467), and Monadnock Broadcasting Corporation ("Monadnock"), licensee of AM Station WKBK, Keene, New Hampshire (RM-2468), proposing the assignment of Channel 232A to Franklin[1] and to Keene, New Hampshire, respectively.[2]

(b) The proposal to assign Channel 232A to Franklin may be adopted without affecting any existing FM assignments. The assignment of Channel 232A to Keene would require the deletion of Channel 232A at Bennington, Vermont,[3] where it is presently unoccupied with three applications for a construction permit pending—Bennington Radio, Inc. (File No. BPH-9105); Catamount Broadcasters, Inc. (File No. BPH-9016); and Equinox Wireless Co. (File No. BPH-9085). Channel 285A is proposed by Monadnock as a substitute for Channel 232A at Bennington, Vermont.

(c) The antenna site for a station operating on Channel 232A at Franklin must be 6.5 miles southwest of the community. If Channel 285A were substituted at Bennington, it would require a transmitter site at least 1.5 miles east of the community.

(d) Oppositions to the proposal to substitute Channel 285A for Channel 232A at Bennington have been filed by Street Broadcasting Corporation, licensee of Stations WIZR(AM) and WIZR-FM (Channel 285A), Johnstown, New York, by Bennington Radio, Inc., applicant for a construction permit on Channel 232A at Bennington; and by Catamount Broadcasters, Inc., licensee of AM Station WBTN, Bennington, and applicant for a construction permit on Channel 232A at Bennington.

2. *Demographic Data.* (a) *Location:* Franklin is located in Merrimack County approximately 18 miles north, northwest of Concord, New Hampshire, and 78 miles northwest of Boston. Keene, the seat of Cheshire County, is located approximately 13 miles east of the Vermont-New Hampshire border, 41 miles southwest of Concord, and 70 miles west, northwest of Boston in the southwest portion of New Hampshire.

(b) *Population: 1970 U.S. Census:* Franklin—7,292; Merrimack County—80,925; Keene—20,467; Cheshire County—52,364.

(c) *Present local aural services:* Franklin has one AM station, WFTN (Class IV, unlimited-time), licensed to Northeast; Keene has two AM stations—WKEK (Class II, daytime-only), licensed to Monadnock, and WKNE (Class III, unlimited-time); and one FM station, WNBX (Channel 279).

3. *Economic considerations:* Northeast proposes the assignment of Channel 232A to Franklin as a first FM channel assignment. It alleges that Franklin is a growing community whose communications facilities are inadequate for its needs. Northeast informs us that Franklin has its own local government including police and fire departments. A weekly newspaper, the Journal Transcript, is published for the residents of Franklin.

4. Monadnock proposes that Channel 232A be assigned to Keene, as a second FM channel assignment. It avers that Keene is the principal city in the southwestern part of New Hampshire as well as the largest city in, and the county seat of, Cheshire County. The area surrounding Keene is a popular ski resort. Monadnock states that Keene's economy is broadbased with many small specialty manufacturing shops. Keene State College, a division of the University of New Hampshire, is one of several colleges located in the Keene area.

5. *Preclusion considerations:* The assignment of Channel 232A to Franklin would cause preclusion only on the co-channel. Northeast's engineering statement notes that the area precluded on Channel 232A contains seven communities with populations greater than 1,000 persons and without any AM or FM stations. Of these communities, the largest is Hopkinton, New Hampshire, with only approximately half the population of Franklin. As to the question of preclusion by the Keene assignment, see the discussion which follows.

6. *Comments.* The assignment of Channel 232A to Keene, New Hampshire would require the deletion of Channel 232A at Bennington, Vermont, and the substitution of Channel 285A at Bennington, creating a short spacing of approximately 1.5 miles to Station WIZR-FM (Channel 285A), Amsterdam, New York. In view of the action we have proposed below, however, oppositions submitted regarding the substitution of Channel 285A to Bennington are rendered moot.

7. Instead, Channel 224A may be assigned to Keene and by taking such action, both Franklin and Keene could obtain a channel assignment as requested. In order to assign Channel 224A to Keene, it would be necessary to delete Channel 224A from Brattleboro, Vermont,[4] where a construction permit was granted on December 4, 1974 (BPH-9177) to Radio Brattleboro, Inc., licensee of AM Station WKVT, Brattleboro. We note that Channel 285A is available as a substitute assignment for Channel 224A at Brattleboro. Such substitution would require a modification of the construction permit issued to Radio Brattleboro, Inc., for Station WKVT-FM to specify operation on Channel 285A. We are accordingly directing an appropriate Order To Show Cause to the permittee of Station WKVT-FM. As to reimbursement for expenses involved in converting the WKVT-FM operation from Channel 224A to Channel 285A, it is Commission policy to require reimbursement from the party or parties ultimately benefitting from a change of assignments. By substituting Channel 285A for Channel 224A at Brattleboro, the assignments of Channel 224A to Keene and Channel 232A to Franklin can both be accommodated and the consequent risk of one of the two petitioners' not obtaining a channel for their respective communities is eliminated. The benefit of avoiding lengthy proceedings also accrue to both parties. Thus reimbursement should come from the ultimate permittees of both channels. If only one permittee has been granted at the time for reimbursement, it will be liable for the entire amount subject to pro rata reimbursement by the second permittee when its application is granted.

8. By proposing a Class A channel for Keene, intermixture of classes of channels would result. We have on occasion departed from our position of not favoring the assignment of a Class A channel to a community already assigned a Class B channel where, as here, no Class B channels are available for assignment to the community and the petitioner has expressed interest in the operation of the Class A channel.[5] On the basis of the showings made, we believe that the matter of intermixture need not necessarily be an impediment to favorable ac-

---

[1] Originally Northeast proposed as an alternative the assignment of Channel 287 to Franklin and the deletion of Channel 287 from Plymouth, New Hampshire, where it is presently unoccupied and unapplied for. However, on October 30, 1974, in response to a Commission letter, dated October 10, 1974, requesting that additional data be supplied to support the proposed assignment of a Class B facility to Franklin, Northeast withdrew its alternative proposal. Therefore, we give no consideration to that proposal in this proceeding.

[2] The minimum mileage separation requirement for a co-channel Class A assignment is 65 miles. Since Franklin is located 48 miles northeast of Keene, Channel 232A cannot be utilized in both communities consistent with the Commission's rules (§ 73.207 (a)).

[3] Bennington is located approximately 46 miles west of Keene. The minimum mileage separation requirement for a co-channel Class A assignment is 65 miles.

[4] The minimum mileage separation requirement for co-channel Class A frequencies is 65 miles. Brattleboro is located approximately 18 miles west of Keene.

[5] See Marion, Ohio, 45 F.C.C. 2d 565 (1974); Lebanon, Missouri, 43 F.C.C. 2d 1130 (1973); Flint, Michigan, 42 F.C.C. 2d 551 (1973).

tion on Monadnock's request. Another factor to be considered in this respect is the preclusive effect of channel assignments to nearby communities. We have been given no information, so we ask Monadnock to furnish the Commission with a preclusion study for Channel 224A as required by our Policy to Govern Requests for Additional FM Assignments, 8 F.C.C. 2d 79 (1967).

9. The assignment of Channel 224A to Keene would require a restriction that the transmitter site be located approximately 5 miles west of the community. We have been informed that operating from Northeast's proposed transmitter site, a station on Channel 232A at Franklin, New Hampshire, would not place a 3.16 mV/m signal over 100% of the community's boundaries. Northeast asserts that the portion of the community which would lie outside the station's signal is "either uninhabited mountains or is very lightly populated." In addition, it cites several cases in which we have waived compliance of § 73.315(a) of the Commission's rules requiring a 70 dBu or 3.16 mV/m coverage over the entire principal community to be served. However, in order to give proper consideration to this issue, we are requesting that Northeast submit a terrain profile in the direction of the community and a showing depicting with particularity the facilities to be used and the portion of the community (said to be 5%) which with these facilities would not be within the required 70 dBu contour and the basis for its population count for this area.

10. Both parties should reaffirm their intention to apply for the channel for their community should it be assigned. In addition, both Northeast and Monadnock should confirm their willingness to reimburse the permittee of Station WKVT-FM at Brattleboro for expenses involved in changing its channel.

11. Under the 1947 United States-Canadian Working Agreement the contemplated assignments require the concurrence of the Canadian government since Keene and Franklin, New Hampshire and Brattleboro, Vermont, are each within 250 miles of the Canada-United States border.

12. Accordingly, the Commission proposes to amend the FM Table of Assignments, with respect to the communities listed, as follows:

City	Channel No.	
	Present	Proposed
Franklin, N.H		232A
Keene, N.H	279	224A, 279
Brattleboro, Vt	224A, 244A	244A, 285A

13. *It is ordered*, That, pursuant to Section 316 of the Communications Act of 1934, as amended, Radio Brattleboro, Inc., shall show cause why its permit for Station WKVT-FM should not be modified to specify operation on Channel 285A in lieu of Channel 224A at Brattleboro, Vermont. This Order is being made with the understanding that the permittees of Channel 232A at Franklin and Channel 224A at Keene will pay reasonable reimbursement for expenses incurred in the change of channel.

14. Pursuant to § 1.87 of the Commission's rules and regulations, the permittee of Station WKVT-FM, Radio Brattleboro, Inc. may, not later than October 6, 1975, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, Radio Brattleboro, Inc. may, not later than October 6, 1975, file a written statement showing with particularity why its permit should not be modified or not so modified as proposed in the Order to Show Cause. In this case, the Commission may call on Radio Brattleboro, Inc. to furnish additional information, designate the matter for hearing, or issue without further proceeding an order modifying the permit as provided in the Order to Show Cause. If the right to request a hearing is waived and no written statement is filed by the date referred to above, Radio Brattleboro, Inc., is deemed to consent to the modification as proposed in the Order to Show Cause and a final Order will be issued by the Commission if the channel changes referred to in paragraph 12 above are found to be in the public interest.

15. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures and filing requirements are contained in the attached Appendix and are incorporated herein.

16. Interested parties may file comments on or before October 6, 1975, and reply comments on or before October 28, 1975.

17. *It is further ordered*, That the Secretary of the Commission shall send a copy of this Order by certified mail, return receipt requested, to Radio Brattleboro, Inc., P.O. Box 818, Brattleboro, Vermont 05301, the party to whom the Order to Show Cause is directed.

Adopted: August 6, 1975.

Released: August 14, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rule making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rule making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.419 of the Commission's Rules and Regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc.75-21509 Filed 8-14-75;8:45 am]

[47 CFR Part 73]

[Docket No. 20575; RM-2462]

PENNSYLVANIA FM BROADCAST STATIONS

Table of Assignments

1. The Commission has before it a petition filed by WTJK Broadcasting Corporation ("WTJK"), requesting the assignment of FM Channel 272A to Pittston, Pennsylvania. No other revisions in the FM Table of Assignments (§ 73.202 (b) of the Commission rules) were proposed.

2. An opposition to the petition was filed by WBAX, Inc. (WBAX), licensee of AM Station WBAX at Wilkes-Barre, Pennsylvania. A reply to the opposition was filed by petitioner.

3. Pittston, Pennsylvania (population 11,113), is located approximately 7 miles northeast of Wilkes-Barre, Pennsylvania (in its Urbanized Area), in Luzerne County which has 342,301 residents.[1] Pittston has one AM station (daytime-only) licensed to Ward Broadcasting

[1] All population figures cited are from the 1970 U.S. Census unless otherwise specified.

Corporation—WPTS. It has no FM assignment. The population of Wilkes-Barre is 58,856; that of its Urbanized Area is 222,830. There are three unlimited-time AM stations (one of which is licensed to WBAX) at Wilkes-Barre. Two commercial Class B FM channels are assigned to the city (both occupied), and two noncommercial educational FM stations are located there.

4. Pittston[2] is located in the northeastern portion of Luzerne County on the shore of the Susquehanna River approximately 9 miles southwest of Scranton, Pennsylvania and 7 miles northeast of Wilkes-Barre. WTJK states that the Greater Pittston Area has 47 industries, manufacturing a wide variety of products, with employment ranging from 38 to over 1,100. We are told that the city of Pittston has its own government including a fire department and police force. Petitioner paints a picture of an active community with the usual complement of schools, organizations and services.

5. Our engineering review indicates that the assignment of Channel 272A to Pittston could be made without affecting any other assignment.[3] It would not create any preclusion on adjacent channels, but it would create preclusion on Channel 272A. However, there are no communities in the precluded area which have a population in excess of 2,500 persons. In its opposition WBAX mentions Hancock, New York (population 1,688) which is located in Delaware County (population 44,718) and points out that the assignment of Channel 272A to Pittston would preclude its assignment to Hancock, a community which has neither an AM station nor an FM assignment. No information is provided concerning Hancock's governmental, social, or economic structures, and/or its needs. However, even if interest had been expressed in an assignment at Hancock (and none has been so far), this matter would be no obstacle as other channels have been shown to be available for use there.

6. WBAX's second objection to the assignment of Channel 272A to Pittston is based on its belief that that community receives sufficient AM and FM services from other communities. It lists seven FM and two AM nighttime aural services as being available to Pittston, with other AM stations being available daytime. WTJK responds that services from communities outside of Pittston do not meet the specialized local needs of that community. Pittston is said to be a separate entity with its own economic, political and cultural activities that calls for its own station. By deciding to proceed with this notice we do not express the view that another channel for this area necessarily is needed, only that we wish to consider if it may be needed.

7. We also note that in P.A.L. Broadcasters, Inc., 40 FCC 2d 556,561 (I.D. 1971) an application for the use of an FM channel assigned to White Haven, Pennsylvania was made for its use at Pittston and denied by this Commission. The primary basis for the denial was the applicant's failure to demonstrate the need of Pittston for its own fulltime local service and the appearance that in reality, the applicant wished to serve Wilkes-Barre. With this history in mind we seek all relevant data (from petitioner and others) so that the question of the need for and appropriateness of an assignment to Pittston can be resolved.

8. We propose the following revision to our FM Table of Assignments (§ 73.202 (b) of our rules) with respect to the city listed below:

City	Channel No.	
	Present	Proposed
Pittston, Pa.		272A

9. Since Pittston, Pennsylvania is within 250 miles of the U.S.-Canadian border, Canadian concurrence is required according to the 1947 Canadian-United States Working Agreement.

10. Comments in this proceeding must be filed on or before October 6, 1975, while reply comments must be filed on or before October 28, 1975.

11. Authority for the institution of this rule making proceeding and the procedural rules and regulations governing it are cited and/or set out in the attached Appendix.

Adopted: August 6, 1975.

Released: August 14, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rule making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rule making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by references its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc.75-21506 Filed 8-14-75;8:45 am]

[2] Petitioner makes reference on occasion to a "Greater Pittston" (population 53,698) which includes the Boroughs of Avoca, Dupont, Duryea, Exeter, Hughestown, Laflin, West Pittston, West Wyoming, Wyoming and Yatesville, as well as the Townships of Exeter, Jenkins and Pittston. Assignments, it should be pointed out, are made to individual communities, such as Pittston, not a group of them.

[3] A site a short distance from Pittston would be needed. Only a small area is available where the site could be located and meet all applicable spacing requirements. Petitioner states it has found and obtained FAA approval for a prospective site.

[47 CFR Part 76]

[FCC 75-922; Docket No. 19995; RM-2275]

CABLE TELEVISION SYSTEMS

Network Program Exclusivity

1. By its First Report and Order in Docket 19995, FCC 75-413, 52 FCC 2d 519 (1975) (40 FR 30650), the Commission adopted new regulations to govern network program nonduplication protection by cable television systems. Central to the new regulatory program, which became effective on May 23, 1975, is the use of fixed mileage zone priorities which have superseded those former priorities that relied upon signal strength contours. Basically, television broadcast stations are now afforded network program nonduplication protection within a zone of 35-miles radius around the relevant city of license. Smaller market stations are afforded protection within an additional, secondary 20-mile zone.

2. In adopting the new nonduplication rules, it was the Commission's belief that fixed mileage zone priorities would ease

the administration of an often controversial regulatory matter. Indeed, much of the controversy generated under our former contour-based regulations concerned (1) the periodic deletion of broadcast signals arguably viewable over-the-air in the community, and (2) the affording of program protection to stations whose broadcast service to the community and reception at the system headend were of a technical quality significantly less than that represented by its predicted contour. To a certain extent, the application of 35-mile and 55-mile priorities by itself will act to eliminate many of the problem areas associated with our former rules.

3. However, we did recognize the need for some flexibility in the application of the 35-mile and 55-mile priorities, and we said in paragraph 43 of the First Report and Order in Docket 19995:

> • • • We are not persuaded that an exception to our new exclusivity priorities should be made for significantly viewed signals. Many such signals are licensed to communities which are located far more than 35 or 55 miles from the community of the cable television system • • • In short, the designation of a signal as being significantly viewed is by itself, inadequate to exempt it from our nonduplication rules.
>
> We recognize, however, that there may be situations in which the network programming of such signals should not be deleted. Accordingly, we intend in the near future to develop a standard so that such signals are not subject to deletion.

The purpose of this further notice of proposed rule making is to set a standard which will prevent those television signals, commonly viewed in non-cable households of a cable community, from being blacked out because of the mileage priorities.

4. The standard we are proposing is based on the off-the-air viewing patterns in the cable television community. This is obtainable through audience surveys and, in fact, the methodology is already incorporated in our cable rules on significant viewing, § 76.54(b). Our suggested standard is this: the mileage rule would not require nonduplication deletion of any television station which is both (a) significantly viewed in the cable community and (b) has a share of total viewing hours, in non-cable households, equal to or greater than the share of the protected signal. Our present inclination is to require the more distant signal to be at least significantly viewed (share 3% or more; net weekly circulation 25% or more) in the cable community. If less than 3% of the viewing is to this more distant network affiliate, the signal, in our opinion, should not be exempt even though the closer affiliate may also be sparsely viewed.

5. If the more distant affiliate not only has a 3% share but has a share equal to or greater than that of the closer affiliate, we believe it should not be blacked out, because the non-cable viewers are definitely watching it (relative to the protected station). However, it may not be fair to black out a more distant affiliated station whose viewing share approaches that of the closer affiliate (e.g. 15 share v. 12 share) because both stations are substantially viewed and should thus both be carried. We invite comments on what level of viewing or what difference between viewing share might be more appropriate than our proposal.

6. We have proposed the viewing share method because we believe it is easy to administer, given clear cut results, and is not expensive. It is our understanding that recognized audience research companies are charging about $30 per diary for sampling cable communities; assuming between 50 and 100 diaries, the necessary tabulation would cost between $1,500 and $3,000. Presumably this cost will sometimes be split between the cable company and the television station whose signal will be carried. We welcome suggestions on any other method which would give similar results at less cost.

7. Despite our preference for the approach set forth above, we recognize that, in the alternative, standards could be based on engineering measurements of television signal levels. For example, a signal measurement standard could be established by using the signal of a greater priority station as the base, and permitting exceptions to the nonduplication rules if the lower priority duplicating station displays a signal which either exceeds or is "comparable" in quality to that of the other signal, provided the measurement methods used are consistent with those described in § 73.686 of the Commission's rules, as amended recently in Docket 18052 released June 27, 1975 (FCC 75-636). As with our proposed viewing share method, we seek comment on what constitutes technical "comparability," and on the administrative ease and relative expense of such a technical comparison.

8. Authority for the proposed rule making instituted herein is contained in sections 2, 3, 4 (i) and (j), 301, 303, 307, 308, and 309 of the Communications Act of 1934, as amended. All interested parties are invited to file written comments on this rule making proposal on or before September 22, 1975, and reply comments on or before October 7, 1975. In reaching a decision on this matter, the Commission may take into account any other relevant information before it, in addition to the comments invited by this Notice and the initial notice of proposed rule making in Docket 19995, supra.

9. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, replies, pleadings, briefs, or other documents filed in this proceeding shall be furnished to the Commission. Responses will be available for public inspection during regular business hours at the Commission's Public Reference Room (Room 239) at its Headquarters in Washington, D.C. (1919 M Street, NW.).

Adopted: July 30, 1975.

Released: August 8, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-21510 Filed 8-14-75;8:45 am]

[47 CFR Part 73]

[FCC 75-944; Docket No. 19974]

PUERTO RICO TELEVISION BROADCAST STATIONS

Table of Assignments

INTRODUCTION

1. This proceeding involves, essentially, a proposal by the licensee of Station WRIK-TV, Ponce, P.R. Channel 7 (39 FR 26044) (Ponce Television Corporation, herein PTC or WRIK) to move its transmitter location to a site closer to the larger city of San Juan than to Ponce (roughly 24 and 36 miles from these cities respectively). An application to this effect was filed in March 1971, opposed by the licensees of the two San Juan and one Caguas-San Juan VHF stations and one San Juan UHF station (since deleted), and designated for hearing in March 1972 (BPCT-4421, Docket 19459, 33 FCC 2d 940). Faced with the prospect of a long hearing, PTC petitioned in May 1972 to dismiss its application, and it was dismissed with prejudice in June 1972. Some 15 months later PTC filed a "Petition for Declaration of Policies with respect to Television Service in Puerto Rico" (filed September 19, 1973), on the basis of which the present proceeding was begun.

2. In substance, WRIK seeks an advance policy statement to the effect that the cause of what may be termed "equal access to San Juan by the flagship stations of the four Puerto Rican networks" outweighs the various problems connected with its application proposal which were the subject of issues specified in the March 1972 designation order—"UHF impact" on the development of UHF stations in Puerto Rico; "shadowing" from the proposed site into Ponce, which might mean less than satisfactory reception in the city of license in contravention of § 73.685 (a) and (b) of the rules; general losses in television services to areas and populations; and whether the transmitter move would constitute a de facto reallocation of the Channel 7 assignment from Ponce to San Juan. An additional issue in the proceeding was whether WRIK-TV had in effect moved its main studio to San Juan in violation of § 73.613(b) of the rules and a 1969 Commission Order (par. 9, below).

3. In the notice of inquiry and of proposed rule making or statement of policy which began this proceeding in March 1974 (FCC 74-253, 45 FCC 2d 1139), we called attention, in connection with the list of matters on which comment was invited, to the situation of Station WSTE-TV, Fajardo, P.R. (FCC 74-253, footnote 9). This station, long authorized to the city of Fajardo in eastern Puerto Rico but never operational, had earlier filed an application to move its transmitter location to a point closer to San Juan than its authorized location. This was denied by the Review Board in January 1972 after hearing (WSTE-TV, Inc., Docket Nos. 18048-18049, 33 FCC 2d 438) and later by the Commission (40 FCC 2d 773, April 1973). WSTE appealed to Court from this denial (U.S. Court of Appeals, D.C.), and the matter was in the briefing stage in March 1974 when

we began this proceeding with the above-mentioned Notice. WSTE sought remand of the case in light of this action, claiming that this might affect the Commission's handling of its application; the request was not opposed by the Commission, and on June 17, 1974 the Court remanded the WSTE case to the Commission. We do not here reach any decision with respect to the WSTE case.

4. The Notice herein advanced one specific rule making proposal, the redesignation of Channel 7 as a "Ponce-San Juan" assignment, which would mean it could be used by a station licensed to either city. The other subjects of comment set forth in paragraph 28 of the Notice (45 FCC 2d 1150) related to:

(1) Whether a statement of policy can or should be issued concerning equality of access to the San Juan market (as to facilities and transmitter location), particularly for station originating substantial amounts of programming, and concerning transmitter move applications such as that of WRIK;

(2) In connection with such a policy statement (or with formal reassignment of the channel) what significance should be attached to:

(i) Provision of generally equal facilities in terms of signal quality in San Juan, as mentioned;

(ii) Impact of the proposed WRIK change on UHF development in Puerto Rico, including a recent San Juan UHF applicant, a station authorized in another city (Aguadilla), and generally;

(iii) The extent to which such a move is necessary to the survival of WRIK–TV and of the station in Western Puerto Rico which rebroadcasts its programs (WORA–TV, Mayaguez);

(iv) Gains and losses in service.

(v) "Shadowing" over Ponce.

(3) Whether a transmitter move such as that proposed by WRIK, along with other circumstances such as elaborate auxiliary studio facilities and program origination in San Juan, would amount to a de facto reallocation of Channel 7 to San Juan;

(4) Whether either a formal reassignment of the channel, or a "de facto reallocation" as mentioned, has the effect of opening the channel to other applicants.

5. Extensive comments and reply comments, totalling over 1,000 pages, were filed in response to the Notice herein, by the licensees of six of the eight operating Puerto Rican commercial stations, by WSTE and by Suburban Broadcasting Corporation, a new applicant for UHF Channel 18 in San Juan. The WRIK proposal was supported in comments from WRIK and from the licensee of WORA–TV, Mayaguez, which rebroadcasts WRIK–TV; it was opposed in comments from the licensees of WAPA–TV, San Juan, WKAQ–TV, San Juan, WKBM–TV and WSUR–TV (Caguas-San Juan and Ponce), and the new UHF San Juan applicant. WSTE–TV, Fajardo, supported its own move proposal.[1]

[1] The licensees of WRIK–TV and WAPA–TV are owned, 80% and 100% respectively, by U.S. film companies, United Artists Corporation (which in turn is part of the large conglomerate Transamerica Corporation) and Columbia Pictures Industries, Inc. The licensees of two stations did not file comments: WOLE–TV, Aguadilla-Mayaguez, which rebroadcasts WAPA–TV and has an ownership link with it, and WVEO, Aguadilla, a new UHF station (on air in October 1974) which now rebroadcasts WKBM–TV.

[2] Noncommercial service is provided by two public television stations at San Juan and Mayaguez, not involved here.

I. PUERTO RICO AND ITS COMMERCIAL TELEVISION SERVICE

6. The Commonwealth of Puerto Rico, consisting of the main island of Puerto Rico (about 112 miles east-west and 41 miles north-south at its greatest extent), and some much smaller adjacent islands, has an area of 3,435 square miles and a 1970 Census population of 2,712,033. Its capital and much the largest city is San Juan, on the north coast toward the east, with a 1970 city population of 452,746 (SMSA population 851,247). Three other cities are the centers of SMSA's; these, with 1970 city and SMSA populations, are as follows: Ponce (near the south coast slightly west of center), 128,233 and 158,-981; Caguas (south of, and fairly close to, San Juan), 63,215 and 95,651; and Mayaguez (in the center of the West Coast), 68,872 and 85,857. Other cities having authorized television stations are Aguadilla (21,031) in the northwest corner, and Fajardo (18,249) in the northeast corner. Some approximate airline distances between these cities are: San Juan-Mayaguez, 73 miles; San Juan-Ponce, 47 miles; San Juan-Caguas, 15 miles; Caguas-Ponce, 42 miles; San Juan-Fajardo, 32 miles; and Ponce-Mayaguez, 38 miles.

7. Four stations originate the bulk of Puerto Rico's commercial television, and three of them are rebroadcast by other stations, as follows:

WAPA–TV, San Juan, is rebroadcast by WOLE–TV, Aguadilla-Mayaguez.

WKAQ–TV, San Juan, is not rebroadcast by any regular station.

WKBM–TV, Caguas-San Juan, is rebroadcast by commonly owned WSUR–TV, Ponce, and by WVEO (new UHF), Aguadilla.

WRIK–TV, Ponce, is rebroadcast by WORA–TV, Mayaguez.

All of the four rebroadcasting stations originate some local programs.[2] WKAQ–TV is rebroadcast by translators at Mayaguez and 5 other places west of San Juan, and at Fajardo; the other three originating stations also have translators. Thus, there are four "systems" involved in distributing most Puerto Rican commercial programming, which are often referred to as "networks" e.g., "Rikavision" (WRIK–WORA) and "Telecadena Perez-Perry" (WKBM–WSUR). The originating station pays the rebroadcasting station (except as between commonly owned WKBM–TV and WSUR–TV); the WRIK–WORA agreement calls for at least $60,000 a month or WORA–TV may cancel (the equivalent of $720,000 a year). Two other points should be noted. First, the terrain in Puerto Rico is quite rugged, with a central mass dividing the island into northern and southern portions except at the ends, and other high areas. This means that useful TV service from any given station is limited, usually not extending beyond the Grade A contour and sometimes not being satisfactory within that contour. This necessitates the rebroadcast arrangements mentioned, not only for the San Juan stations whose Grade A contours do not encompass some 25% of the island at its Western end, but also for the two Ponce stations whose Grade A contour includes the entire island. Second, for linguistic and possibly other reasons, very little U.S. television network programming as such is used in Puerto Rico, although a great deal of the programming is network material with Spanish dialogue dubbed in.

8. *Background*—The two San Juan stations were the first on the air, in 1954, WAPA–TV with a transmitter site in San Juan and WKAQ–TV with a location some 12 miles south. Both moved to their present transmitter locations at Cerro La Santa, some 24 miles south of San Juan and 35 miles east-northeast of Ponce, the location now proposed by WRIK–TV, completing their moves in 1966 and 1972 respectively. The two Ponce stations, WRIK–TV and WSUR–TV, both went into operation in 1958, and served as rebroadcast outlets for the San Juan stations until the latter moved to their present La Santa location. The arrangement between WSUR–TV and WAPA–TV ended in 1966; that between WRIK–TV and WKAQ–TV ended early in 1970. At the same time WORA–TV, Mayaguez, which had gone on the air in 1958, also ceased rebroadcasting WKAQ–TV, and commenced carrying WRIK programming, under an arrangement which was essentially the same as the one now in effect (the monthly payment will increase to $63,000 if WRIK–TV is permitted to move). WOLE–TV, Aguadilla-Mayaguez, went on the air in 1960 and for many years has had a rebroadcast arrangement with WAPA–TV, with which there is an ownership link. The new Aguadilla UHF station, WVEO, went into operation in October 1974, and now has an agreement (calling for payment but not a minimum figure) under which it rebroadcasts WKBM–WSUR programs.

9. WRIK–TV had its transmitter location within Ponce until 1968, when (pursuant to application filed and granted in 1967), it moved to its present location at Cerro Maravilla, some 11 miles north-northeast of Ponce and about 36 miles from San Juan (the site of WSUR–TV is quite close to this location). In November 1968 it took over San Juan studios formerly used by WKAQ–TV. In July 1969 (affirmed on reconsideration in September 1969) the Commission denied WRIK's request for waiver of § 73.652(a) of the Rules to identify WRIK–TV as a Ponce-San Juan station; the chief ground of denial was possible impact on UHF development in San Juan, and the large distance between the two cities was also noted. The decision also imposed conditions on use of the San Juan studios: more than 50% of the programming other than network and entertainment

must originate at Ponce, and if the San Juan studios have color capability the Ponce "main studio" must be similarly equipped. See Ponce Television Corporation, 17 FCC 2d 411 and 18 FCC 2d 543 (1969). Also in July 1969, a transfer agreement was entered into by which United Artists Broadcasting was to acquire 80% of PTC stock from Alfredo de Arellano III for $6.1 million. The transfer was approved by the Commission in March 1970, and the United Artists assumed control in April.[3] The application to move to the La Santa site was filed in March 1971.

10. *UHF development*—WVEO, the new Aguadilla station, is the only UHF station now operating in Puerto Rico (25 channels are assigned, including 6 reserved for educational use). Four UHF stations have previously broadcast there: WTSJ at San Juan from mid-1964 until November 30, 1972; two stations commonly owned with WTSJ, at Mayaguez and Ponce, from 1970 until the same date; and WITA–TV, San Juan, for about 18 months in 1966–67. WTSJ presented English-language programming, the same type of operation proposed by the new UHF applicant for Ch. 18 at San Juan. (The Mayaguez UHF station rebroadcast WKAQ–TV). WTSJ and the two commonly owned stations ceased operating, and their authorizations were surrendered, after the Commission designated their applications (for renewal or license to cover permit) for hearing on the basis of matters going to character qualifications. Three other permits were issued but surrendered without construction.[4] See Telesanjuan, Inc. 34 FCC 2d 754 (April 1972); see also Telemundo, Inc., 39 FCC 2d 522, 829 (1972).

II. OUTLINE OF ARGUMENTS CONCERNING THE MERITS OF WRIK'S REQUEST

A. *Arguments of the Proponents.* 11. WRIK's argument in support of its proposal runs essentially as follows:

(1) Puerto Rico is a single market for television purposes, with stations in the four distribution systems mentioned (par. 7) competing with each other for programming and advertising presented on an island-wide basis (as the rules adopted in Docket 18179 have recognized).

(2) San Juan is the vitally important core of this market in terms of population, economic activity, cultural and governmental life, entertainment and programming, TV revenues, etc., and equal access to it is vital for the success of any of the four systems and its originating or "flagship" station—comparable in U.S. terms to equal access to New York, Los Angeles and Chicago. This is because of the demand of advertisers and program suppliers for complete island-wide coverage including the key San Juan area. The four systems, corresponding to the U.S. networks, are vitally important in Puerto Rican television, both because they originate the bulk of the island's programming and as a means of furnishing San Juan-generated revenues to stations elsewhere, which have never been able to operate successfully without such a tie to San Juan programs and revenues (per capita income outside of the San Juan area is extremely small).

(3) The Commission has adopted for the U.S. a definite policy favoring competitive equality for networks and their flagship stations, which applies equally here since there are no strong countervailing considerations. WRIK cites the VHF Drop-in decision of 1963 (41 FCC 1119, 1127), particularly the statements of Chairman Minow and Commissioner Cox; the ABC–ITT Merger Case, 9 FCC 2d 546, 571 (1967); and the ABC–KOB controversy (American Broadcasting-Paramount Theatres, Inc. v. FCC, 280 F. 2d 631 (1960) and 345 F. 2d 954 (1965), and Clear Channel Broadcasting, 17 FCC 2d 257 (1969)).

(4) WRIK–TV is at a serious technical disadvantage in the San Juan area, compared to its competitors, with an inferior signal because of greater distance, "high-band" VHF whereas Channels 2 and 4 are low-band, and receiving antenna orientation toward them and away from WRIK–TV resulting in roughly 6 dB difference, for an overall disadvantage of about 15 dB in effective signal level,[5] the equivalent of two, or at least one, grade in TASO's standards of signal acceptability. A survey shows that only 54% of TV homes in the area find WRIK–TV's signal good or acceptable, compared to 85–93% for the other three stations; there are extensive shadow areas; and WRIK–TV gets correspondingly low ratings (of 63 half-hours in the audience survey week, it was last in 61 and 3rd in two).

(5) The low San Juan ratings reflect poor coverage rather than programming, since WRIK–TV does very well elsewhere (the "South-West region", an area apparently delineated for the purpose of this analysis, which includes Ponce, Mayaguez and Aguadilla, where WRIK–TV ranked first or second in 62 of 63 half-hours and WAPA and WKBM did about as well as in greater San Juan). The poor San Juan ratings mean less audience in the island as a whole.

(6) As a result of this San Juan coverage inferiority, WRIK and its Rikavision system are unable to compete effectively, despite very large programming expenditures ($8,325,000 since early 1970, or over $2 million a year, exclusive of a $720,000 annual payment to WORA–TV for rebroadcasting the programs). It cannot compete effectively for advertisers interested in island-wide coverage or for programming (suppliers similarly seek maximum exposure), and has incurred huge losses, aggregating $11,656,000 since early 1970, necessitating cash advances of $12,416,000 from its corporate parent. These obviously cannot continue.

(7) If the signal inferiority continues, the result, at best, will be the demise of the Rikavision network with its relatively expensive program efforts, to the detriment of the public through loss of program diversity and of the more expensive programming which only a station with a network base can provide, as well as the potential which a network has as a strong alternate source of news and public affairs and otherwise. It is not claimed that WRIK–TV would necessarily go dark, but its existence would be jeopardized, since no station has ever operated successfully as an independent without San Juan access, and the San Juan stations do not now need Ponce affiliates. In any event, at the minimal level which alone could be afforded as a local operation, its service would be poorer, with less elaborate programming efforts and use of material rejected by its competitors.

(8) The existence of WORA–TV, Mayaguez, would be similarly jeopardized, with the same potential for loss to the public. WORA supports this argument in a brief pleading giving no details, stating that San Juan programming and revenues are indispensable to a Mayaguez station, and that without parity of access there would be critical impairment or destruction of WORA–TV's viability.

(9) There are no other satisfactory approaches to the problem. A UHF translator, or operating a regular UHF station, would simply not do the job, as well as meaning additional expense, particularly for the latter. A new receiver-orientation program, similar to that conducted in earlier years, would be a costly and never-ending process, useless as to the numerous indoor antennas.

(10) None of the problems asserted with respect to the WRIK proposal, mentioned in the 1972 hearing order and above, are of significance as reason to deny it in light of the public-interest concerns mentioned; rather, they are simply matters urged by the opponent

[3] There is no direct ownership connection between WORA–TV and WRIK–TV, but the controlling stockholder of the former, Alfredo de Arellano II, is the father of the 20% stockholder of PTC. WAPA and WKBM claim that this casts doubt on whether the $720,000 rebroadcast payment is really an arm's-length transaction, and assert that the figure is improvidently high, for example nearly 3 times what WSUR–TV received when it was a satellite of WAPA–TV.

[4] Two of these permits were for stations commonly owned with WITA–TV. After the latter ceased operating, an assignment application covering the three permits, specifying a total price of $200,000, was granted but rescinded because of questions concerning the assignee's financial qualifications.

[5] The analysis is based on measurements, at 200 regularly spaced locations in greater San Juan, of the four commercial stations, and plotting of these measurements. In terms of level exceeded at a given percentage of locations, at the 50th percentile, WRIK–TV's signal is less than that of the Channel 2, 4 and 11 stations by 3.5, 3.1 and 14.2 dBu respectively, with corresponding differences at the 70th and 90th percentile. At the median (50%) location, WRIK–TV's signal strength is 79.0 dBu; at the 90% location it is 67 dBu; and it provides a 77 dBu or better signal to 60.8% of the locations covered. WAPA's engineering exhibit accepts the accuracy, though not the claimed significance, of these measurements.

for delay. These matters are discussed more fully below.

(11) Since the Commission in earlier years permitted the two San Juan stations to move south so as to serve Ponce, equity requires that WRIK–TV now be permitted to move so as to serve San Juan.

12. *Comments of WSTE*—We do not deal at this time with the case involving WSTE–TV, Fajardo (par. 3, above), but it is appropriate to note those of its arguments which have general significance. WSTE urges that in assigning stations and applying "307(b)" principles, the Commission must look at economic realities and not rigidly adhere to technical rules if 307(b) indicates otherwise. WSTE also supports the "one market" argument mentioned above, and urges a policy statement to the effect that all Puerto Rican stations must have access to San Juan with a principal-city signal in order to be viable, and this consideration will be given substantial weight in connection with waiver requests.

B. *Arguments of the Opponents.* 13. The three San Juan-area licensees, WAPA, WKAQ and WKBM, vigorously oppose WRIK's move proposal, claiming that it represents an effort to further WRIK's private interests by bailing it out from the consequences of an improvidently costly purchase, a poor and extravagant operation, at the expense of the public interest in numerous respects. It is also urged that a hearing on any move application is obviously required just as much now as it appeared to be in 1972, both to give these parties their § 309 hearing rights as interested parties and to permit the exploration which the public interest requires of various aspects of this matter, including what are the real causes of WRIK–TV's low ratings and losses, the facts as to potential UHF impact, testing the audience reception surveys advanced by WRIK, etc. Among the various more specific points urged are the following:

(a) WRIK–TV is, assertedly, not at a significant signal disadvantage in and around San Juan, since it provides a generally strong signal there and has line of sight over much of the city and surrounding area (over 85% of the population and 71% of the area of the city, and 65% of the population and 29% of the area of the larger San Juan Rating Area.).[6] Rather, its audience deficiences are due to generally unattractive programming; it is claimed that the station should have continued its earlier receiver-orientation program, which would be cheaper than a move and more in the public interest, and the lack of orientation shows viewer disinterest in the station's programs. See par., below, for a discussion of some of the rating survey material.

(b) WRIK's losses do not stem from signal deficiency in the San Juan area, but from a combination of other factors including poor programming, the inordinately high price paid for the station by United Artists apparently on the erroneous assumption that it could be a San Juan station; the high price paid WORA–TV for tis rebroadcasting (said to be higher than any other past or present arrangement and at least twice what the added coverage is worth), and other very high expense levels, for example program expenses in 1970–72, six to 10 times those of WKBM–WSUR, and total expenses four to five times as high and higher than many stations in markets larger than San Juan. WKBM states that it is modestly profitable (from an operating standpoint) on revenues consistently less than those of WRIK–TV. Another argument urged as to WRIK's lack of success is its allegedly meager efforts to serve and to sell time in Ponce (small sales effort and no separate rate card, only 6 employees located in Ponce out of nearly 100 employed by the station; relatively small studios and amounts of equipment, and origination of only 8 hours 10 minutes from Ponce out of 98 hours a week of WRIK–TV programming).

(c) The "survivability" of WRIK–TV, or of WORA–TV, Mayaguez, cannot be regarded as at issue or in jeopardy here. As to WRIK–TV, a more modest operation, with more vigorous local efforts, is a clear possibility; independent operation really has never been tried in Puerto Rico, and the number of U.S. independent stations has increased in recent years. Given the resources and high profitability of WRIK's corporate parents, it is simply not realistic to assume the station will go off the air. In reply, WRIK states that survivability is not the issue; the issue is the continuation of a local Ponce station plus a network flagship. As to WORA–TV, the opponents urge that if it does choose to continue rebroadcasting WRIK–TV it could no doubt get another San Juan connection, with enough revenue to permit successful operation even if not the inflated present payments; independent operation should also be possible in this fairly populous city.[7]

(d) WRIK seeks not equality but dominance, combining parity in San Juan coverage with a significant coverage advantage in the Western part of the island through WORA–TV (a great advantage over WKAQ, which has no Western regular-station outlet, and some over the other two systems). WKBM claims that this would be particularly harmful because of WRIK's parents' resources and its access to United Artists films, and particularly dangerous to WKBM as the network presently with the lowest revenues and the only one truly Puerto Rican-owned. WKBM urges also that to the extent that WRIK should obtain parity with WAPA, now dominant, the other two systems would indeed be placed in serious jeopardy. WRIK replies that Western coverage is of minuscule importance compared to San Juan coverage and these arguments are speculative and irrelevant; the public is served by the maximum number of competing networks and disserved to the extent there is no real present competition for the WAPA system. If WRIK were to cut its expenses as its opponents urge, then there would be real competition for WKBM, which now reaches a basically different audience than WRIK.

(e) The four problems which led the Commission to designate the earlier WRIK–TV application for hearing in 1972—UHF impact, shadowing over Ponce, de facto reallocation, and general losses in service—are serious matters, and a hearing concerning them is clearly required just as it was earlier. The more specific points urged in this connection are mentioned below.

(f) There is no established Commission policy of promoting equality among network flagship facilities at the expense of other values, and even if there were, it would not apply here in view of the small degree of similarity between U.S. mainland TV networks and the Puerto Rican systems, particularly since what is urged is encouragement for a fourth network (compared to three in the U.S. mainland) and the concept would not even be limited necessarily to four. It is claimed that there is no need for a fourth network here any more than in the U.S., and WRIK–TV's lack of success so far may simply indicate that there is lack of economic support for more than three. Moreover, Puerto Rico is not "one market" for television but really three, or at least two.

(g) The WRIK move does violence to the importance of localism in broadcast-

[6] WAPA's engineering exhibit claims that a signal as strong as that of WRIK–TV—79.0 dBu at the median location—is within the range of intensity where a difference such as 15 dB is not going to affect reception significantly. It is asserted that this value is well beyond the value designed to overcome urban noise (71 dBu, or Grade A), and indeed more than the principal-city standard. It is claimed that TASO regards values above 60 dBu at a given location as usually adequate for a "good" or better picture, a value exceeded by WRIK–TV at 98% of the locations covered. It is also claimed that the orientation argument is misleading; antenna orientation is often not to get maximum signal but to avoid ghosting, and viewers may well tune toward WRIK–TV and accept less than maximum signals from the stronger signals of the other stations.

[7] The opponents advance data on various matters including past profitability of WRIK–TV in the 1960's, and comparisons with U.S. stations and markets, including markets with smaller radio revenues than Ponce and having one to three TV stations, markets with smaller average audiences and markets with smaller retail sales. We agree with WRIK that these comparisons are of rather little significance because usually they do not present the same "over shadowed" situation as does the Ponce market now. The opponents also mention the fact that the new Aguadillo UHF station proposed a limited but viable independent operation; but since the comments were filed this station has become affiliated with WKBM–WSUR. Neither WRIK nor the opponents discuss at length the fact that Ponce has not one but two stations, both presenting some local programming. WKAQ cites Grand Junction, Colo. (38 FCC 2d 1167) (1973) in this connection, where the Commission added a second VHF channel in rule making.

ing, which the Commission has emphasized strongly in many past actions as it is obliged to do under section 307(b) of the Act.[8] There is need for stations serving as local outlets for their individual communities of license with respect to programming and advertising, in television just as in radio where 29 Puerto Rican communities have stations, rather than turning the whole island into a dependency of San Juan. WRIK in reply reemphasizes its intention to serve as a Ponce station as well as a network flagship, presenting programming more elaborate than it could afford as a local station.

14. *Comments of Suburban Broadcasting Corporation*—Suburban, the licensee of UHF Station WSNL-TV, Patchogue, New York (ceased operation in June 1974) applied in September 1973 for Channel 18 at San Juan, formerly occupied by WTSJ. Like WTSJ, it proposes an English-language operation. In its comments herein, Suburban notes WTSJ's failure and states that its new station cannot survive additional VHF fractionation of the market; WRIK should have the burden of showing that it would not make Suburban's task impossible. Asserting that WRIK's proposal is clearly a de facto reallocation of the channel, Suburban states that a hearing is required and if there is to be any reallocation (de facto or formal), the channel should be available to all, and Suburban would apply, so that it could have much greater opportunity to serve the English-speaking minority.

III. DISCUSSION AND CONCLUSIONS CONCERNING THE POLICY STATEMENT REQUEST

15. After careful consideration of the material submitted by the parties herein, both that mentioned and other material, we conclude that the WRIK request—a policy statement to the effect that the four problems connected with its move proposal are clearly of less importance than the public interest benefits asserted from the move so that a hearing is not required—must be denied.[9] We reach this conclusion for reasons discussed in the next several paragraphs. These include the absence of any established policy such as that asserted even as to the mainland U.S. networks, the substantial differences between the U.S. networks and the distribution systems involved here, the absence of any real issue as to station survival, our conclusion that the four problems mentioned in the 1972 hearing order are still substantial, WRIK's failure to establish some of the essential factual elements in its case supporting the move, and the possibility that the move might have adverse consequences in terms of the relationship among the four systems. It must be borne in mind that in considering this matter, we must assume that WRIK has two burdens: First, that of persuading us that our 1972 decision, to order a hearing, was wrong; and second, that of establishing whatever facts or absence of facts are essential to the case for the move, to the degree necessary to support a motion for summary judgment in its behalf if this were a lawsuit. WRIK agrees that the arguments of WRIK and its opponents should be weighed as if on demurrer.

16. *The "equal facilities for network flagship stations" concept.* We cannot agree with WRIK that we should approve its proposal at this point on the basis of analogy with an assertedly established "equal facilities for network flagship stations" policy applying to U.S. networks. First, there is not now such a policy with respect to U.S. networks, in any sense meaningful here. In a general sense the Commission favors, and has long favored, equality among the national television networks, for example, in the ABC–ITT Merger decision of 1967 (9 FCC 2d 546). In the early 1960's this objective led to a number of actions to provide for third VHF channels or third competitive transmitter sites even at less than standard mileage separations (e.g., Peninsula Broadcasting Corp. 3 R.R. 2d 243 (1964)). However, in the television allocation area—which is that most pertinent here—this policy as an overriding consideration was largely abandoned in the 1963 VHF drop-in decisions, 41 FCC 1119, and instead the Commission turned to efforts to further UHF, including adherence to the "UHF impact" policy under which new VHF assignments, transmitter moves or power increases are closely scrutinized for their impact on the viability of present or potential UHF stations. The ABC–KOB litigation cited by WRIK, from which the term "network flagship station" stems, is simply not pertinent here.[10]

17. Second, the systems involved here are considerably different from the mainland U.S. networks in certain respects. First, here the originating stations serve the bulk of the area and population, relying on only four affiliated rebroadcasting stations among the four systems to serve about 25% of Puerto Rico, and one system having no regular-station rebroadcasting at all. Each of the mainland networks includes well over 150 affiliates, relied on to serve more than 75% of the U.S. population which is not served by the network's owned stations. Moreover, while we do not know a great deal about the programming of the four systems (and practically nothing from WRIK's filings), it appears that a large part of the entertainment material is filmed or taped programming which has been produced and used elsewhere—either current or former U.S. network programs with Spanish dialogue dubbed in, or Spanish-language material produced in other countries.[11] To the extent this is true, these systems differ from the mainland U.S. networks, which, while they do not themselves produce a great amount of their own entertainment programming, are responsible for the development of material through the ordering each year of new or continuing programs to meet their needs. In Puerto Rico, "network equality" appears to be largely a matter of roughly equal revenues and resources with which to buy syndicated material. Another point of difference, of course, is that the mainland U.S. decisions cited by WRIK have involved three networks, whereas here there are four systems and the concept would not necessarily be limited even to that number.

18. *The "survivability" of WRIK–TV and WORA–TV*—It is clear that we cannot assume for present purposes that WRIK–TV or WORA–TV, Mayaguez, will not survive if the WRIK move is not permitted, nor, even, that their survival is placed in serious jeopardy. It is not claimed that either of these stations will have to go dark, but that their survival is in jeopardy, and, in the case of WRIK, that it cannot continue as a Ponce outlet plus a network flagship station. While we recognize the magnitude of WRIK's losses (par. 11, above), the fact that these cannot be expected to continue indefinitely regardless of the resources of WRIK's corporate parents, and the fact that there are two Ponce stations, we must also take into account other matters, such as the tremendously high level of expenses in relation to those of WKBM–WSUR and the fact that the latter operation is marginally profitable on consistently lower revenues, the anuual $720,000 payment to WORA–TV, and other high levels of expenditures involved in WRIK–TV's op-

[8] It is urged that the Commission adhere to rule-making decisions such as Baytown, Texas, 11 FCC 2d 941 (1968), and two in which we refused to delete channels from Ponce or from the Virgin Islands (13 R.R. 1553 (1956) and 18 R.R. 1528 (1959)).

[9] In view of our conclusions concerning the substance of the request, it is not necessary to discuss here the various arguments advanced as to whether or not a general policy statement in this particular situation is an appropriate mode of procedure, or what the legal significance of such a statement may be.

[10] Unlike the present case, the ABC–KOB situation involved a series of affirmative Commission actions in different proceedings which resulted in disparate treatment of ABC's New York City "flagship" AM clear channel station, as compared to the CBS and NBC clear channel stations in the same city. Moreover, the original action adversely affecting WABC (taken in 1941) was taken as a temporary measure and without hearing, and inconsistently with the rules then prevailing as to the use of clear channels. Here, it is WRIK who seeks a result inconsistent with the rules in at least one respect (shadowing over the city of license) and seeks to attain its objectives without going through a hearing.

[11] According to the programming exhibit submitted by WAPA, of some 84½ hours per week before midnight during which WRIK–TV is rebroadcast, about 48 hours are devoted to filmed or taped entertainment material.

eration.[12] It clearly cannot be concluded that there are no choices except WRIK–TV's being permitted to move or go dark. A more limited but still viable operation appears, at this point, at least a possibility. Similarly, it cannot be concluded that the non-survivability of WORA–TV, Mayaguez, in the absence of present WRIK programs is established. That station is the only regular commercial outlet in a city of over 65,000, with the largest coverage area of any of the three western stations. It might not be able to get an affiliation with one of the systems other than WRIK (since there are now two other regular western outlets), but it cannot be assumed that this is necessarily the case. Moreover, there appears no reason why it could not continue to rebroadcast WRIK–TV, or to carry some of the same programs on an independent basis (while the rules adopted recently in Docket 18179 permit island-wide exclusivity, they certainly do not require it). Independent operation does not appear to be out of the question since, apparently, it has not been tried. Certainly, on analysis of WORA–TV's financial showing, and in the absence of any supporting details in its rather brief comments, we cannot conclude that its non-survivability or serious jeopardy is established any more than is that of WRIK–TV.

19. *The problems presented by the move proposal*—The March 1972 designation order concerning WRIK's move application (33 FCC 2d 940) mentioned, and specified hearing issues concerning, the four problems presented by the move proposal: (1) "UHF impact"; (2) signal deficiency and shadowing over the city of license, Ponce; (3) loss of television service generally; and (4) whether the move would amount to a de facto reallocation of the channel from Ponce to San Juan. After carefully considering the material submitted herein, we are still of the view that at least as to three of these—those other than "loss of service"—the problems remain substantial, and appear to require hearing exploration if anything like the regular approach to cases of this kind is to be followed. It is not necessary to discuss at length the "loss of service" question. The facts appear to be, prima facie, reasonably well established, and, while there would be a net loss in predicted Grade A coverage from WRIK–TV, all of the "loss" population receives at least two other predicted Grade A signals.[13] While this is an adverse aspect of a move application which must be considered (Hall v. FCC, 237 F. 2d 567 (C.A.D.C. 1956)), it may be outweighed if the grant would further other public interest objectives. This is likely not the most formidable obstacle which WRIK's proposal faces; if it develops that there are public-interest reasons for the move strong enough to overcome the other three problems, it appears likely that they would overcome this one as well. No further discussion is necessary.

20. *UHF Impact*—The "UHF impact" policy, under which proposals for new VHF assignment or improvements in VHF facilities, are closely scrutinized and usually denied if it appears that they are likely to have substantial impact on existing or potential UHF stations, has been settled for over a decade, in Triangle Publications, Inc., 37 F.C.C. 307 (1961), and numerous later cases, including one (KTVO, Inc.), designated for hearing in June 1974. Scrutiny does not, of course, mean automatic denial even where there might be some small degree of impact, e.g. Mont Vernon, Illinois, 17 R.R. 2d 1620, 34 FR 18036 (1969), and Selma Television, Inc., 29 FCC 2d 522 (1971). In another case cited by WRIK, the VHF application was granted without the scrutiny of a hearing. Atlantic Telecasting Corp., 3 FCC 2d 442 (1966). However, in those cases the service benefits were obvious, whereas here there would be a net loss of predicted Grade A coverage and possible deficiencies in service to the city of license; and those proposals were more consistent with the rules.[14]

21. WRIK urges three main arguments as to why this policy should not apply so as to require hearing scrutiny in this case. Two of these do not require extended discussion. We simply cannot accept WRIK's argument that the record of UHF in Puerto Rico is so bleak as to negate any realistic possibility of UHF development in the near future. In this connection it must be noted that the previous English-language San Juan UHF station, WTSJ, operated for more than 8 years and ceased only after designation for hearing on other issues, and there were other UHF operations as mentioned in par. 10, above. The pending UHF application, while it currently has some uncertainties, at least indicates a present interest. We find that the general climate and prospects for UHF dictate scrutiny here just as much as they would in most parts of the U.S. WRIK's second argument is that the move is immaterial in this connection because it would simply mean the improvement of a VHF signal already in the area, permitting WRIK–TV to provide a principal-city signal to San Juan in fact as it already does in theory. We cannot find this reason not to require close scrutiny, any more than we did in the 1972 WRIK–TV designation order or in WLCY–TV, Inc., 16 FCC 2d 506 (1969) and numerous other cases. If the improvement should be as great as WRIK intends it to be, clearly it would increase the amount of VHF competition to a new UHF station.

22. WRIK's third argument is that the improved signal from its Spanish-language station would not have a significant impact on Suburban's proposed all-English operation, emphasizing in this connection the Review Board's decision early in 1972 concerning the WSTE–TV move-in application (WSTE–TV, Inc., 33 FCC 2d 438, later affirmed by the Commission, 40 FCC 2d 773). There, where the proposed operation under consideration contemplated 30% English broadcasting, the Board held that significant potential impact on WTSJ was not established, though the application was denied for other reasons. WRIK calls attention to Suburban's proposed emphasis on material, such as mainland U.S. news in English, primarily of interest to a limited audience.

23. We cannot find in these circumstances reason why the general policy would not apply, just as we concluded in the 1972 hearing order decision (33 FCC 2d 942). We have to consider in this connection the impact which WRIK's proposal might have on a UHF's access to the rather large minority of the population which is bilingual, as well as the fact that Suburban, or whatever other party ultimately puts a UHF station into operation in San Juan, might later choose to present partly or wholly

[12] During the years 1970–1973, WRIK–TV's annual losses ranged from about $2,270,000 to $3,315,000, and its annual total expenses from about $4,975,000 to $5,960,000. With respect to both total expenses and programming expenses, WRIK–TV's figures were on roughly the same order of magnitude as WAPA–TV and WKAQ–TV, usually neither the highest nor the lowest of the three, and several times those of WKBM–WSUR. In one expense category, general and administrative expenses, WRIK–TV in these years has been higher than the other stations in the market, in 1973 more than $500,000 higher, and also in 1973 higher than at least 90% of U.S. TV stations (over $2 million).

[13] There would be no loss in population receiving a Grade B signal. The loss in population receiving a Grade A signal would be slightly more than 300,000; some 268,000 of these are also within the Grade A coverage area of WORA–TV. Thus, as far as "Rikavision" service is concerned, the net loss is only about 33,000, although it would be over 300,000 with respect to WRIK–TV's local programming. WRIK also claims credit for improved service to more than 100,000 persons in the San Juan area, a claim we do not here pass upon.

[14] Atlantic involved an application for transmitter move by VHF Station WECT, Wilmington, N.C., originally granted without hearing or opinion although the Commission has been informed that an application for a new UHF station at Fayetteville, N.C., would shortly be tendered. The application was then tendered and the new applicant sought reconsideration of the grant on the basis of UHF impact, which was denied in the decision cited. That case is different from the present situation for several reasons, including the two mentioned in the text, the fact that there the UHF applicant had the burden of showing that a Commission action taken before tender of the application was wrong (whereas here WRIK clearly has the burden), and the fact that the key factual issue in the case was the effect of the VHF move on the availability of network programs to the new UHF station, as to which the applicant would be expected to have the information but did not present any.

Spanish material,[18] and that WRIK–TV appears to present a small amount of English-language material (an hour a week or slightly more). We do not consider the 1972 WSTE–TV decision, representing simply a failure to establish a matter which was not necessary to the decision finally reached, applicable here so as to lessen the need for scrutiny, where different parties and a somewhat different situation are involved (new UHF and established VHF, instead of vice versa).

24. Although not mentioned as such by WRIK, another point might be noted—that in past "UHF impact" cases involving transmitter changes (rather than VHF channel assignments) there has generally been a specific UHF station to be considered in this respect, as there was here in 1972, but is no longer. The difference is not significant. As we have pointed out in numerous cases, e.g., WLCY–TV, Inc., 28 FCC 2d 353 (1971), where reconsideration was sought on the basis of this specific point, the UHF impact policy concerns UHF development generally as well as in particular respects. Here, we must consider the possibility that the WRIK move would tend to limit Puerto Rico to no more than 9 commercial TV stations, the 8 VHF assignments (assuming Ch. 13 will be activated) plus the Aguadilla UHF. This is a serious question, and, if the general policy is to apply, certainly dictates close scrutiny under the circumstances here, where there is a record of past operation and indication of present interest in the form of an application. It is also noted that the policy has been held to require a hearing (and ultimate denial of the application) even where the survival of the applying station was at issue, or claimed to be, which is not really the case here (par. 18, above). See Central Coast Television, 14 FCC 2d 985, 994 (1968); WATR–TV, Inc., 28 FCC 2d 501 (1971).

25. *Shadowing and signal deficiency over Ponce*—WAPA claims that if WRIK–TV operates from the proposed La Santa site, some 46% of the population of Ponce would be within areas of optical shadow, and therefore some 43% of the population would receive a signal of less than 77 dBu. WRIK in reply claims that the number of substandard locations would be about 36% less than that claimed by WAPA, which (assuming roughly uniform population distribution) would still leave some 28% of the city's population receiving less than the signal required by the rules for service to the city of license. This is much greater than anything which has been approved in the past, and considerably more than the deficiencies held reason for denial in Central Coast Television, 14 FCC 2d 985 (1968), or to require a hearing (Louisiana Television Corp. v. FCC, 347 F. 2d 808 (C.A.D.C. 1965)). However, WRIK's chief reliance is on two other arguments: First, that it will remedy any signal deficiencies with a translator; and second, that WRIK–TV, operating from the same location as WAPA–TV and WKAQ–TV, would put a signal comparable to theirs over Ponce. That their signals are satisfactory is said to be shown by audience ratings, a Ponce reception survey made for WRIK, some 52 letters from prominent Ponce persons supporting the move provided the resulting signal is at least comparable to the others, and the fact that these stations do not use translators to serve Ponce though they do in other places.

26. These concepts, embodied in § 73.685 of the rules, are important, both to guarantee that viewers generally receive a good technical grade of service from their community's stations, and to insure that TV channels are used reasonably in conformity with the assignment pattern set forth in § 73.606, listing channels in communities throughout the nation. We cannot find in either of WRIK's arguments, above, reason why exploration of this issue is not required. Reliance on translators to remedy signal deficiencies to the city of license is not permitted (Central Coast Broadcasters, Inc., 18 FCC 2d 794 (1969)), since this would reverse the usual order of priorities under which a station's first obligation is to provide good service to its city of license, improving coverage elsewhere by whatever means appear appropriate. As to the argument based on the existing signals in Ponce, there are far too many uncertainties to make this acceptable as a matter of decisional significance at this point. Perhaps the most important is the fact that all three stations now at La Santa, two commercial and one educational, are "low-band" VHF, whereas WRIK–TV on Ch. 7 is high-band, and there might well be significant propagation differences, as WRIK–TV's engineer asserts there are in San Juan coverage. This sharply limits the probative value of any such comparison. WRIK's reception survey shows the Ch. 6 educational station less well received, and it attributes this to lack of viewer interest and therefore unfamiliarity with the tuning steps necessary; but this raises a question as to whether such adjustments should be required, on a large scale, in the city of license. The audience rating data advanced is ambiguous, as discussed in note 18, below, since it is advanced both to show comparative program attractiveness and comparative signal acceptability. In sum, WRIK's proposal in these respects still presents serious questions.

27. *"De facto reallocation"*—The March 1972 hearing order included an issue as to de facto reallocation, on the basis that the proposed site would be closer to San Juan than to Ponce and the signal stronger in the former city. WRIK, asserting its intention to continue serving as a Ponce station, cites several decisions, including Versluis Radio and Television, Inc., 19 FCC 1 (1954), to the effect that there is no automatic test; one must look at all of the circumstances, including the purpose of the move, here not to abandon one city for a larger one but simply to achieve competitive equality. The opponents emphasize the various ways in which WRIK–TV has less of a nexus with Ponce than with San Juan (program origination, smaller staff and studios, etc.), and WAPA, in particular, claims that WRIK since early 1970 has never really intended to serve as a Ponce station. WAPA emphasizes the violation of the main-studio rule and the 1969 order (par. 9, above), which was one of the 1972 hearing issues and for which WRIK paid a $10,000 forfeiture. It is claimed that this non-service to Ponce would simply be accentuated if the move were permitted.

28. There are some facts in WRIK's favor, such as its origination of a not insubstantial amount of Ponce programming, including news and regular public affairs. The letters submitted by WAPA opposing the move, as well as those tendered by WRIK supporting it, appear to indicate regard for WRIK–TV as a local outlet. Nonetheless, taking all of the aspects of the matter into account, it appears clear that a substantial question does exist, as to whether the proposed use of the channel would not in fact be as a San Juan rather than as a Ponce station.[19] In this connection, it appears appropriate to give some weight to WRIK's past record, including the forfeiture mentioned above.

29. *The elements of WRIK's case*—Besides the problems noted above, there are some substantial factual uncertainties in the various points advanced by WRIK as part of its case, bearing in mind that, as mentioned, the situation must be viewed as on motion for summary judgment. WRIK claims that its signal is quite deficient in and around San Juan as compared to those of the three other commercial stations, and that for that reason (and despite the fact that its programming is at least as attractive as theirs) it gets much lower audience in that part of Puerto Rico and is at a very substantial disadvantage in selling to advertisers seeking maximum Island-wide coverage and good San Juan coverage in particular. For present purposes, it may be assumed that its signal is generally inferior to the others in this area; if this were not the case it is doubtful that the other three stations would be fighting this battle so hard, as WRIK points out. We assume that this deficiency extends to the point that even if WRIK's pro-

[18] This possibility was noted in our recent decision (April 1975) adopting rules permitting dual-language TV/FM broadcasting in Puerto Rico (52 FCC 2d 451, Docket No. 19825). While it could be said that that decision looks the other way from this one on the question of UHF protection (since there we rejected Suburban's arguments), there are differences too obvious to need elaboration, for one thing the difference between a final decision in a proceeding adopting long-term rules, and consideration here simply of the need for hearing exploration of the UHF impact issue.

[19] The Versluis and other cases emphasized that despite the relative distances and signal strengths with the respective cities, the operation would continue to comply with the rules with respect to coverage of the city of license. This does not appear to be true here.

gramming is or should be of the same overall attractiveness as that of its opponents, it would get less audience in and around San Juan. For example, WAPA's island-wide rating survey material shows WRIK–TV with less audience in the San Juan metropolitan area than in any other part of the island except the East (a small area in which WRIK–TV would not expect to have significant audience) 8.1% share of audience in San Juan compared to 13.9% in the North, an area where WAPA claims none of the systems has a coverage advantage (WORA–TV, rebroadcasting WRIK–TV, had an additional 0.7% in the North). At the other end of the chain of elements in the case, it is readily apparent that WRIK–TV gets less than a proportionate share of revenues and therefore, with an expense level roughly comparable to those of two of the other stations and much more than the third, it incurs large losses whereas the market as a whole is profitable.[27] While survivability is not in issue, obviously if the present revenue situation continues there will have to be change in WRIK–TV's mode of operation, likely reduced program expenses.

30. Otherwise, there are substantial uncertainties, for example as to the exact extent of audience deficiency and what causes it, particularly with respect to island-wide audience. The rating material submitted by both sides shows the WRIK system in fourth position island-wide (its material shows average weekly evening audience share of 17.7%, compared to 21.3% for WKBM–WSUR and 30.6 and 28.6 for the other two), but it does have some higher positions (3 firsts and 4 seconds in 63 half-hours) and WAPA claims that this reflects its occasional use of attractive programs such as Kung Fu and Streets of San Francisco. WRIK emphasizes its very good showing in the "South-West" Region, where it is the highest of all systems, as a true measure of its popularity; but the opponents reply that this simply reflects coverage advantages in both South and West (in the South (Ponce) over the two San Juan stations, and in the West over all the others and particularly, at that time, WKAQ and WKBM–WSUR). WRIK does not deal, in reply comments, with WAPA's assertion that the North section of the island is one with no coverage advantage and there WRIK–TV comes off only a little better than in San Juan and still much less than WAPA and WKAQ (approximately the same as WKBM–WSUR). WRIK's Ponce data advanced in reply comments is too speculative to warrant serious consideration here.[28]

31. Audience preferences, as among stations with different locations or facilities, obviously may represent either signal differences, or programming differences, or both. Therefore there is no way of drawing any meaningful conclusion as to how much WRIK's island-wide audience deficiency results from one rather than the other, particularly given the coverage advantages which it does have in the island generally outside of the San Juan area. It appears possible to conclude that if WRIK–TV were permitted to move as proposed, it would increase its audience in and around San Juan to some extent, and therefore to some extent its island-wide audience; but it cannot be concluded how substantial the latter increase would be or—equally important—that the island-wide share would be much different from what it is now if all systems used the present programming but had equal coverage throughout the island.

32. *WRIK "dominance" and similar considerations*—Another troublesome aspect of this case is the arguments of the opponents that WRIK seeks not equality but dominance—combining equality with respect to San Juan and a coverage advantage elsewhere over all of the other networks, or that WRIK and WAPA would be dominant, and the other two networks in a seriously inferior position. It is not necessary to dwell at length on this subject now; probably in any adjudication, these are matters as to which the opponents would have the burden of proof. It is enough to say that, bearing in mind the extraordinary nature of the relief sought by WRIK here, there is clearly something to be said for the idea that we should look at the whole picture, and—since there is no way of equalizing coverage conditions on the island completely—at least give the opponents a chance to make their case in this respect if they can.

33. *Conclusions as to the WRIK request*—It is clear from the foregoing discussion that the WRIK request—for a statement to the effect that a WRIK–TV application to move transmitter to the La Santa location would be approved without hearing despite the various problems mentioned—must be denied. As indicated in connection with the various problems presented by the application proposal (pars. 19–28 above), approval without hearing would involve a sharp departure from, and reversal of, past Commission policies and decisions in a number of respects, including several which are of high importance. There is neither an established policy applicable, nor the imminence of station demise, to serve as reason for shortcut approval without the scrutiny required by established policies (pars. 16–18 above). Rather, the public benefit question presented—forgetting for a moment the factual infirmities in WRIK's case—is whether the public interest would be served by elevating WRIK–TV to a point where it can afford to spend amounts on programming and other expenditures roughly equal to two of its competitors but considerably more than a third. It clearly cannot be concluded that this rather nebulous concept warrants our closing our eyes to the importance of the other public interest problems which the application presents, so as to approve it without exploration and scrutiny. Moreover, there are the uncertainties mentioned above concerning some of the aspects of WRIK's case in support of its move, how much it really is at a disadvantage as a result of this particular inequality compared to what it would be if all of the four systems were equal. Related to the point just mentioned, in connection with a request for this kind of extraordinary relief, we believe that further opportunity must be given for opposing parties to raise affirmative considerations against the proposal if they are able to do so, e.g., the matters discussed in the last paragraph. Lastly, it is extremely doubtful that approval on this basis, without hearing, would gain Court affirmance as appropriate, in view of many past decisions emphasizing the need for close scrutiny where deviation from such policies is involved (e.g., Hall v. FCC and Louisiana Television Corp. v. FCC, supra).

34. In arriving at this conclusion, we emphasize that it is a decision reached only with respect to "advance approval", without hearing exploration of the matters mentioned. It is possible that there is a definite and important public benefit involved in equalizing conditions among stations which compete with each other, particularly where the stations involved originate all of their material (either by production or by individual purchase of syndicated material) and provide it, and revenues obtained through presenting it, to stations located elsewhere. While there are obvious differences between these systems and the mainland U.S. networks, there are also some similarities. Moreover, in par. 26 of the Notice beginning this proceeding, we raised the question as to whether considerations of competitive equality might indicate that the traditional policies concerning principal-city coverage, studio location and program origination, etc., should be relaxed in the case of stations licensed to smaller communities relatively close to large

[27] Viewing the four San Juan and Caguas-San Juan stations and WRIK–TV as a group, WRIK's share of the group's revenues declined from 18.2% in 1971 ($2.4 million out of $13.2 million) to 15.2% in 1973 ($2.6 million out of $17.1 million). A very general idea of the stations' comparative revenues may be obtained from the prime time hourly rates as reported in Television Digest (1974–75 edition, pp. 907–b and 908–b): WAPA–TV, $1,800; WKAQ–TV, $1,700; WKBM–TV, $1,350; WRIK–TV, $1,300 (however, as it points out in its comments, WKBM's revenues are less than those of WRIK).

[28] This material shows, for the city of Ponce, average Monday–Sunday evening audience figures for WRIK–TV, WSUR–TV, WAPA–TV, and WKAQ–TV as follows: 17.4, 14.6, 14.6 and 9.9. Monday–Friday the figures are 19.0, 16.6, 13.3 and 10.2. This material is said to show both high WRIK–TV program popularity and good coverage of Ponce by WAPA–TV and WKAQ–TV. To the extent it supports one proposition it obviously does not support the other, although it may have some significance as between the two Ponce stations.

cities.[39] In any ultimate decision as to a WRIK–TV move-in application, these are matters which may well be appropriate for consideration. But they cannot, at this point, afford the basis for ignoring long-established and important policies and decisions.

35. *The "Puerto Rico is one market" argument*—We have not discussed an argument dealt with at some length by the opposing parties, whether or not Puerto Rico should be regarded as "one market" for television broadcast purposes. The point is not of present decisional significance. The Commission in a number of past cases has rejected the idea that a station is entitled—at the expense of other public-interest considerations such as "UHF impact"—to bring a good and competitively comparable signal to all of the cities which make up a given "market" as that concept is recognized in the industry. See WLVA, Inc., 14 FCC 2d 660 (1968) and 25 FCC 2d 453 (1972) concerning Lynchburg-Roanoke, Va.; WLCY–TV, Inc., 16 FCC 2d 506 (1969) concerning Tampa-St. Petersburg, Fla., and West Michigan Telecasters, Inc., 22 FCC 2d 943 and 26 FCC 2d 668 (1970), as to Grand Rapids-Kalamazoo-Battle Creek, Michigan. This concept is clearly not one which could now be applied as warrant for shortcut approval of WRIK's proposal. For whatever significance it may have, our view is that Puerto Rico is not one market, any more than the entire mainland U.S. is one market just because networks programs and advertising are presented throughout the area. Rather, it is at least two markets—San Juan and other areas to the East, and the West. Whether Ponce should be included in the same market as San Juan we do not here decide, in view of the distance between the cities but coverage of Ponce by two San Juan stations, and the varying industry practice with respect to mainland U.S. situations.

36. *"Equal treatment" of San Juan and Ponce stations*—One WRIK argument is that since we permitted WAPA–TV and WKAQ–TV to move away from San Juan so as to serve Poce, we should now permit the reverse. Whatever significance this argument may ultimately have, as part of the general "equality of originating stations" concept, it is without present relevance, since the situations are not comparable. The earlier move applications were consistent with our rules and policies; the present one is not.

IV. PROPOSED CHANNEL ASSIGNMENT CHANGES

37. We are not adopting herein any changes in TV channel assignments, either the Notice proposal to "hyphenate" Channel 7 as a "Ponce-San Juan channel, or others suggested in comments. WRIK and nearly all of the other commenting parties opposed the hyphenation of Channel 7, WRIK urging that it should be done only as a last resort (if the Commission cannot conclude that WRIK–TV could serve as a Ponce station from its proposed site). It is urged that the change would tend to disserve the important cause of localism in broadcasting by increasing the likelihood of use at San Juan, and would be inconsistent with the Commission's usual standards for hyphenating channels. Suburban, the UHF San Juan applicant, tends to favor making the channel available for application by it, claiming that service to the English-speaking minority is a form of localism cognizable under § 307(b) of the Act, and certainly to be preferred over the kind of use proposed by WRIK as a station licensed to Ponce in name only. WRIK in reply urges that service to such a small group would be an efficient use of a valuable VHF channel.

38. We agree that this assignment should not be made, both because it is inconsistent with the usual practice as to hyphenation and because it is not warranted in light of "307(b)" considerations and traditional assignment priorities, with the other Ponce channel being used by a station which operates 97% of the time as a satellite (WSUR–TV) and San Juan being well served by two commercial VHF stations licensed there plus another at nearby Caguas. As to Suburban's suggestion, it is well settled that in applying § 307(b) concepts, either in adjudication or rule-making, the first look is at the needs of the respective communities, and only then at the manner in which the proposed station or assignment would meet those needs. FCC v. Allentown Broadcasting Corp., 349 U.S. 358 (1955); West Allis and Hartford, Wis. (Docket 19161), 32 FCC 2d 839, 841–842 (1972). One reason for this policy is the uncertainty involved in determining whether a channel will in fact be used in a particular manner, for example, current uncertainties as to the Suburban UHF application in light of the fact that its New York station has recently gone dark. It is also certainly premature to assume at this time that the WRIK–TV operation proposed would in fact constitute de facto reallocation of the channel, just as it would be premature to assume the reverse.

39. WRIK's opponents suggest that one way to achieve true equality would be to move Channel 7 from Ponce to Mayaguez; WKBM also advances as a possibility, if the Commission really believes that four "networks" are needed, an arrangement resulting in four VHF stations at the La Santa site and four in the West (using all 8 VHF commercial assignments). However, these suggestions were advanced before the commencement of operation by the new Aguadilla UHF station, late in 1974. With that development, the need for an additional station in the West to create system equality becomes less, and of course "UHF impact" becomes a tremendous consideration against any additional VHF assignments in the same area. We do not adopt these suggestions.

ORDER

40. In view of the foregoing, *it is ordered*, That:

(1) The Petition for Declaration of Policies with respect to Television Service in Puerto Rico filed by Ponce Television Corporation on September 19, 1973, and the request for a statement of policy concerning a transmitter move by Station WRIK–TV, Ponce, P.R. contained therein, are denied; and

(2) This proceeding, Docket 19974, is terminated.

Adopted: August 1, 1975.

Released: August 13, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-21508 Filed 8-14-75;8:45 am]

[39] Whatever its validity in a more typical "suburban community" situation, there would be a substantial question as to whether any relaxation should apply to a station licensed to Ponce, the second largest city in Puerto Rico, some 47 miles from San Juan and on the other side of the island. This is one of the questions which would have to be decided.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[7 CFR Part 1822]

[FmHA Instruction 444.9]

RURAL HOUSING LOANS AND GRANTS

Conditional Commitments

Notice is hereby given that the Farmers Home Administration has under consideration the revision of Subpart H of Part 1822, Title 7, Code of Federal Regulations (35 FR 11015; 37 FR 11052). This revision will further improve the operation and administration of the rural housing conditional commitment program and make the following changes and additions:

1. Section 1822.304 is changed to include the requirement that applicants must be an "owner" as defined in § 1822.4.

2. Section 1822.305(c)(2) is changed to permit State Directors to issue more than 15 conditional commitments per county.

3. Section 1822.308(a) is changed to increase the conditional commitment approval authority of County Supervisors from $25,000 to the loan approval authority for section 502 RH loans.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed revision to the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6315, South Building, Washington, D.C. 20250, on or before September 15, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Chief, Directives Management Branch, during regular business hours (8:15 a.m. to 4:45 p.m.).

As proposed, Subpart H of Part 1822 will read as follows:

Subpart H—Rural Housing Conditional Commitments

Sec.
1822.301 General.
1822.302 Objective.
1822.303 Definitions.
1822.304 Eligibility.
1822.305 Limitations.
1822.306 Application.
1822.307 Fees.
1822.308 Responsibilities.
1822.309 Processing applications.
1822.310 Inspections.
1822.311 Changes in plans, specifications and/or commitment price.
1822.312 Folder maintenance.
1822.313 Conditional commitments involving packaging of applications.
1822.314 Builders warranty.

AUTHORITY: 42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.

Subpart H—Rural Housing Conditional Commitments

§ 1822.301 General.

This subpart sets forth the policies and procedures and delegation of authority for issuing conditional commitments by the Farmers Home Administration (FmHA) to qualified developers and sellers to finance single family dwellings with Rural Housing (RH) loans.

§ 1822.302 Objective.

Conditional commitments are issued to encourage construction and rehabilitation of dwellings in rural areas by providing builders and sellers with conditional assurance that dwellings to be built or rehabilitated will meet FmHA lending requirements and that, subject to the availability of funds, FmHA will make loans to qualified loan applicants to buy the homes.

§ 1822.303 Definitions.

(a) "Conditional commitment" is assurance from FmHA to the commitment applicant that the dwellings to be built or rehabilitated and offered for sale will be suitable for purchase at a price not above a specified maximum amount by loan applicants who are qualified for RH loans if built in accordance with FmHA approved plans and specifications. The conditional commitment does not reserve funds for a loan nor does it assure that a loan applicant will be available to buy the dwellings.

(b) A "commitment applicant" is an individual, partnership or corporation who can provide a dwelling which meets the requirements of FmHA for sale to an eligible applicant at a specified price.

(c) A "loan applicant" is an individual or family that is applying for an RH loan.

(d) "Commitment price" is the asking price for the property after planned improvements are completed or the amount that could be included in an RH loan to be paid the commitment applicant for the purchase of the property, whichever is less. This will never be more than the appraised value minus customary closing costs.

(e) "Rural area" is open country or rural places as defined in § 1822.3(c).

(f) Dwellings "built" or "constructed" are new dwellings to be built by the customary method as well as manufactured dwellings to be erected. They do not include dwellings on which construction has started or on which conditional commitments have been issued by the Federal Housing Administration or Veterans Administration.

(g) "Rehabilitation" means major repairs and improvements such as the installation of major items of equipment, additions or structural changes to existing dwellings.

(h) "County Supervisor" as used in this regulation also includes GS–9 Assistant County Supervisors.

§ 1822.304 Eligibility.

To be eligible for conditional commitments, commitment applicants must:

(a) Be the owner, as defined in Subpart A of this Part, of the site on which the dwelling is located or to be built.

(b) Have the ability to complete the type of proposed work in a competent and workmanlike manner.

(c) Be financially responsible and have the ability to finance or obtain financing for the proposed housing construction or rehabilitation.

(d) Agree to certify that there will be no discrimination in the sale of the dwellings.

(e) Plan to build or rehabilitate dwellings that will qualify for purchase by RH applicants.

(f) Conform with any applicable laws, ordinances, codes, and regulations governing such matters as construction, heating, plumbing, electrical installation, fire prevention, health, sanitation, zoning and protective convenants.

(g) Have the legal capacity to enter into the required agreements and the actual capacity to carry them out.

§ 1822.305 Limitations.

(a) Conditional commitments will be issued by FmHA only for new homes to be constructed or existing homes to be rehabilitated. The commitment applicant must provide plans, specifications and other information required by Form FmHA 422–8, "Property Information and Appraisal Report (Rural Housing Nonfarm Tract)."

(b) Conditional commitments will be issued only in cases where the commitment applicant's selling price does not exceed the commitment price.

(c) Number of conditional commitments. (1) The total number of commitments issued in any locality will not exceed the number of homes for which there is an immediate and ready market in that locality.

(2) The number of houses on which conditional commitments will be outstanding to a commitment applicant at any time will not exceed 15 in any one county unless authorized by the State Director after he:

(i) Determines that a larger number of commitments must be made to meet the immediate housing needs in the area;

(ii) Determines that authorizing more than 15 commitments to one commitment applicant will not reduce the participation of the small volume builders in the rural housing program; and

(iii) Provides guidelines to the County Supervisor to assure that all builders active in the area have equal opportunity to obtain more than 15 conditional commitments.

(3) The total number of commitments under this regulation outstanding in the area served by a County Supervisor will not exceed the number on which the County Supervisor can reasonably expect to be able to approve RH loans within three months after the houses covered by the commitments are completed, considering the availability of loan funds and the number of applications in the County Office.

(d) The period of the conditional commitment will be for 12 months from the date of issue. The commitment may be extended for an additional six months if justified because of unexpected delays in construction caused by such factors as bad weather or materials shortages, or marketing difficulties.

§ 1822.306 Application.

The application will be in the form of a letter specifying the number of dwellings for which commitments are being requested, the number of previous commitments issued by FmHA on dwellings that are unsold as of the date of the application, and a narrative description of the type and location of the dwellings to be built or rehabilitated. Attached to the letter will be one copy of Form FmHA 422–8 for each dwelling on which a commitment is requested. The commitment applicant will complete Part I of the form, submit necessary attachments specified on the front of the form, and sign the form on Page 3.

§ 1822.307 Fees.

(a) Each commitment applicant will pay an application fee at the time he submits an application for conditional commitment. The fee for each house will be:

(1) For proposed construction of new dwellings—$50.

(2) For existing dwellings to be rehabilitated—$40.

(b) The County Supervisor will transmit application fees with all other payments for the day in accordance with Part 1862 of this Chapter and other applicable FmHA regulations.

(c) The fee will be refunded if for any reason preliminary inspection of the property or investigation of the commitment applicant indicates that a conditional commitment cannot be issued on the property. For example, the property might be located in a nonrural area or the dwellings may not be of a type that the FmHA can appropriately finance. Fees will not be refunded, however, for any property on which the appraisal has been made. If a refund is required, a memorandum should be sent to the Finance Office indicating the commitment applicant's name together with the date and amount of fees he paid. The memorandum should also indicate the number of commitments being canceled and amount of fees to be refunded.

§ 1822.308 Responsibilities.

(a) *County Supervisor.* The County Supervisor is responsible for evaluating applications for conditional commitments and is authorized to approve commitments provided the commitment price does not exceed the Supervisor's loan approval authority for section 502 RH loans.

(b) *State Director.* The State Director will keep informed of the number of conditional commitments made and the number outstanding and will provide adequate training and assistance to County Supervisors in processing applications.

§ 1822.309 Processing applications.

(a) *Evaluation of applications.* The County Supervisor will carefully evaluate each application and will issue a conditional commitment only if:

(1) The dwelling will be well located and on a good residential site.

(2) The commitment applicant meets the requirements of §§ 1822.304 and 1822.305.

(3) The dwelling is one that FmHA can finance.

(4) The dwelling and site comply with the local codes and ordinances and the requirements of the local health department are met. When the property is located in a subdivision, the subdivision must meet the requirements of Subpart D of Part 1804 of this Chapter.

(5) A market appears to exist for the house for which a commitment is to be issued.

(b) *Appraisal.* Each dwelling and site will be appraised in accordance with applicable FmHA regulations. The commitment price will be shown on Form FmHA 444–11, "Conditional Commitment."

(c) *Issuing conditional commitments (Form FmHA 444–11).* After the commitment application has been evaluated and if it is approved, approval will be evidenced by the County Supervisor's signing Form FmHA 444–11.

(1) Form FmHA 444–11 will be completed and distribution of copies made by the County Supervisor in accordance with guidelines available in all FmHA offices for preparation of this form.

(2) In case any commitment applicant or dwelling does not qualify for a conditional commitment, the documents attached to the letter of application will be returned to the commitment applicant with a letter explaining why the application was not approved.

(3) When a qualified family applies for a loan to buy a dwelling on which a conditional commitment has been issued, the commitment documents will be transferred to the RH loan docket.

§ 1822.310 Inspections.

Inspections of work to be done will be performed in accordance with Subpart A of Part 1804 of this Chapter. The original and one copy of Form FmHA 424–12, "Inspection Report," will be prepared. The County Supervisor will give the commitment applicant the original of Form FmHA 424–12 and the copy will be retained in the County Office case file. Failure to correct any deficiencies or to complete the work in accordance with plans and specifications approved by FmHA will be a basis for canceling the conditional commitment.

§ 1822.311 Changes in plans, specifications and/or commitment price.

The County Supervisor is authorized to approve changes in plans and specifications that are consistent with good construction practices. If a change will reduce or increase the appraised value of the property, the County Supervisor will revise the commitment price and inform the commitment applicant. Also, in cases when the holder of a commitment reports to the County Supervisor that costs associated with the construction or repair of a dwelling have increased substantially and requests that the commitment price be increased, the approval official may increase the commitment price provided the property has not been optioned by an RH applicant and he determines that the increase is clearly justified, the circumstances causing the price increase were beyond the commitment applicant's control and the value of the property is adequate to permit the increased commitment price. Changes made in the appraisal report and conditional commitment form will be initialed and dated by the person authorizing the change.

§ 1822.312 Folder maintenance.

Documents prescribed in this regulation will be filed in accordance with applicable FmHA regulations.

§ 1822.313 Conditional commitments involving packaging of applications.

A conditional commitment may be made to a builder or seller who packages a rural housing application for a family to buy the property. In cases when the information on the house and the loan applicant is submitted at the same time, all of the following conditions must be met to avoid misunderstanding of FmHA's obligation to either the RH applicant or the conditional commitment applicant:

(a) The conditional commitment will not be approved until the RH loan has been approved.

(b) Construction will not begin until the County Office has received notice from the Finance Office that funds are obligated for the RH loan.

(c) The RH loan will be closed only after the home is constructed or repairs completed and final inspection has been made.

§ 1822.314 Builders warranty.

The builder or seller, as appropriate, will execute Form FmHA 424–19, "Builders Warranty," when the loan to buy the dwelling is closed.

Dated: August 12, 1975.

JOSEPH R. HANSON,
Acting Administrator,
Farmers Home Administration.

[FR Doc.75–21535 Filed 8–14–75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 310]

[Docket No. 75N–0052]

ENFORCEMENT POLICY FOR DRUGS SUBJECT TO THE EFFECTIVENESS REQUIREMENTS OF THE DRUG AMENDMENTS OF 1962

Extension of Time for Comments

The Commissioner of Food and Drugs issued a notice of proposed rule making, published in the FEDERAL REGISTER of June 20, 1975 (40 FR 26142), to codify present enforcement policy for certain drugs. A period of 60 days was provided for filing comments. This proposal was one of four published as a Part II in the FEDERAL REGISTER of June 20, 1975. The Commissioner is extending the time for comment on this proposal to September 19, 1975. Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner is providing similar extensions of time for comment on the other three proposals.

The Commissioner has received requests for extension of the comment period on the grounds that the four proposals are inter-related and must be reviewed and analyzed as one package with respect to their impact on currently available drug product lines and new drug research development, and that evaluation and useful comment by interested persons are being impeded by the traditional vacation season.

Good reasons therefore appearing, the Commissioner hereby extends the period for filing comments to close of business September 19, 1975.

Written comments regarding the June 20, 1975 proposal package shall be submitted to the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852. Comments shall be filed in quintuplicate (except that individuals may submit single copies).

The action is taken under the Federal Food, Drug, and Cosmetic Act (secs. 501, 502, 505, 510, 701(a), 704, 52 Stat. 1049–1053, 1055, 1057 as amended, 76 Stat. 794 as amended (21 U.S.C. 351, 352, 355, 360, 371(a), 374)) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: August 11, 1975.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.75–21448 Filed 8–14–75;8:45 am]

[21 CFR Part 314]

[Docket No. 75N–0054]

PROPOSED REVISION OF REQUIREMENTS FOR INFORMATION IN ABBREVIATED NEW DRUG APPLICATIONS

Extension of Time for Comments

The Commissioner of Food and Drugs issued a notice of proposed rule making, published in the FEDERAL REGISTER of June 20, 1975 (40 FR 26156), to revise

the format for abbreviated new drug applications. A period of 60 days was provided for filing comments. This proposal was one of four published as a Part II in the FEDERAL REGISTER of June 20, 1975. The Commissioner is extending time for comment on this proposal to September 19, 1975. Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner is providing similar extensions of time for comment on the other three proposals.

The Commissioner has received requests for extension of the comment period on the grounds that the four proposals are inter-related and must be reviewed and analyzed as one package with respect to their impact on currently available drug product lines and new drug research development, and that evaluation and useful comment by interested persons are being impeded by the traditional vacation season.

Good reasons therefore appearing, the Commissioner hereby extends the period for filing comments to close of business September 19, 1975.

Written comments regarding the June 20, 1975 proposal package shall be submitted to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852. Comments shall be filed in quintuplicate (except that individuals may submit single copies).

This action is taken under the Federal Food, Drug, and Cosmetic Act (secs. 502 (a) and (f), 505, 701(a), 52 Stat. 10501053, 1055, as amended (21 U.S.C. 352 (a) and (f), 355, 371(a))) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: August 11, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-21446 Filed 8-14-75;8:45 am]

[21 CFR Parts 314 and 320]

[Docket No. 75N-0050]

PROCEDURES FOR ESTABLISHING A BIOEQUIVALENCE REQUIREMENT

Extension of Time for Comments

The Commissioner of Food and Drugs issued a notice of proposed rule making, published in the FEDERAL REGISTER of June 20, 1975 (40 FR 26164), regarding procedures for establishing bioequivalence requirements for certain drug products. A period of 45 days was provided for filing comments. This proposal was one of four published as a Part II in the FEDERAL REGISTER of June 20, 1975. The Commissioner is extending the time for comment on this proposal to September 19, 1975. Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner is providing similar extensions of time for comment on the other three proposals.

The Commissioner has received requests for extension of the comment period on the grounds that the four proposals are inter-related and must be reviewed and analyzed as one package with respect to their impact on currently available drug product lines and new drug research development, and that evaluation and useful comment by interested persons are being impeded by the traditional vacation season.

Good reasons therefore appearing, the Commissioner hereby extends the period for filing comments to close of business September 19, 1975.

Written comments regarding the June 20, 1975 proposal package shall be submitted to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852. Comments shall be filed in quintuplicate (except that individuals may submit single copies).

This action is taken under the Federal Food, Drug, and Cosmetic Act (secs. 201 (p), 502, 505, 701(a), 52 Stat. 1041-1042 as amended, 1050-1053 as amended, 1055 (21 U.S.C. 321(p), 352, 355, 371(a))) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: August 11, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-21445 Filed 8-14-75;8:45 am]

[21 CFR Parts 314 and 320]

[Docket No. 75-0051]

PROCEDURES FOR DETERMINING THE IN VIVO BIOAVAILABILITY OF DRUG PRODUCTS

Extension of Time for Comments

The Commissioner of Food and Drugs issued a notice of proposed rule making, published in the FEDERAL REGISTER of June 20, 1975 (40 FR 26157), regarding methods and procedures for in vivo testing to determine the bioavailability of drug products. A period of 45 days was provided for filing comment. This proposal was one of four published as a Part II in the FEDERAL REGISTER of June 20, 1975. The Commissioner is extending the time for comment on this proposal to September 19, 1975. Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner is providing similar extensions of time for comment on the other three proposals.

The Commissioner has received requests for extension of the comment period on the grounds that the four proposals are inter-related and must be reviewed and analyzed as one package with respect to their impact on currently available drug product lines and new drug research development, and that evaluation and useful comment by interested persons are being impeded by the traditional vacation season.

Good reasons therefore appearing, the Commissioner hereby extends the period for filing comments to close of business September 19, 1975.

Written comments regarding the June 20, 1975 proposal package shall be submitted to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852. Comments shall be filed in quintuplicate (except that individuals may submit single copies).

This action is taken under the Federal Food, Drug, and Cosmetic Act (secs. 201 (p), 501, 502, 505, 701(a), 52 Stat. 1041-1042, 1049-1053 as amended, 1055 (21 U.S.C. 321(p), 351, 352, 355, 371(a))) and under the authority delegated to the Commissioner (21 CFR 2.120).

Dated: August 11, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-21447 Filed 8-14-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 42]

[CGD 75-139]

LOAD LINE ASSIGNMENT AND SURVEYS; FEES AND OTHER EXPENSES

Proposed Revision of Fee Schedule

The Coast Guard is considering amending Subpart 42.35 of Chapter I of Title 46 of the Code of Federal Regulations by revising the schedule of fees to be paid to the assigning authority by the owner of a vessel for the assignment or reissue of load lines, and for the annual load line survey. These fees have not been increased since 1969. Due to the assigning authority's continually escalating costs, it is necessary to increase the fees which it is permitted to charge for its services.

Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments to the Executive Secretary, Marine Safety Council (G-CMC/82), U.S. Coast Guard, Washington, D.C. 20590. Each person submitting a comment should include his name and address, identify this notice (CGD 75-139) and the specific section of the proposal to which his comment applies, and give the reasons for his comments. The proposal may be changed in light of the comments received.

All comments received before September 29, 1975, will be considered before final action is taken on the proposal. Copies of all written comments received will be available for examination by interested persons in Room 8234, Nassif Building, 400 Seventh Street, SW., Washington, D.C.

No public hearing is planned but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

In consideration of the foregoing, it is proposed that Subpart 42.35 of Chapter I of Title 46 of the Code of Federal Regulations be amended as follows:

§ 42.35-1 [Amended]

1. In § 42.35-1, by revising Table 42.35-1 to read as follows:

TABLE 42.35–1.—*Fees for assignment of load line*

Fee numeral [1] or gross tonnage	Fee classed vessels	Fee unclassed vessels
Under 200	$35	$170
200 and under 400	35	220
400 and under 700	40	265
700 and under 1,000	45	325
1,000 and under 1,500	45	400
1,500 and under 2,500	55	465
2,500 and under 3,500	70	535
3,500 and under 5,000	80	605
5,000 and under 6,500	100	675
6,500 and under 8,000	115	740
8,000 and under 10,000	125	810
10,000 and under 12,000	140	880
12,000 and under 15,000	150	950
15,000 and above	160	1,020

[1] Fee numeral is equal to

$$\frac{L \times B \times D}{140}$$

in which L, B, and D are the molded dimensions. The fee numeral shall be used when it is greater than the gross tonnage.

2. In paragraph (d) of § 42.35–1, by striking the figure "$100" and inserting the figure "$125", in place thereof.

§ 42.35–5 [Amended]

3. In paragraph (a) of § 42.35–5, by striking the words "fees for condition survey and reissue of load line certificate" in the first sentence, and inserting the words "fee for periodical condition survey for renewal of the Load Line Certificate in place thereof.

4. In § 42.35–5 by adding a new paragraph (c) to read as follows:

* * * * *

(c) The minimum charge for the reissuance of load line certificates, such as for a change of flag or short term extension, shall be $70. This assumes one visit equivalent to an annual load line inspection.

§ 42.35–10 [Amended]

5. In paragraph (a) of § 42.35–10, by striking the figure "$45" and inserting the figure "$65", in place thereof; and by striking the figure "$55" and inserting the figure "$70", in place thereof.

(46 U.S.C. 86; (49 U.S.C. 1655(b)(1)); 49 CFR 1.4(b) and 1.46(b)).

Dated: August 8, 1975.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.75-21493 Filed 8-14-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 417-3]

FLORIDA

Approval and Promulgation of Implementation Plans; Proposed Plan Revisions

On May 31, 1972 (37 FR 10842), the Administrator approved portions of the Florida plan to attain and maintain the national ambient air quality standards in that State. Florida now proposes to revise its approved plan by changing the limits it provides for sulfur dioxide emissions from fossil-fuel-fired steam generators. The changes described below were adopted on May 20, 1975, after notice and public hearing, and were submitted to the Agency's Region IV office as a proposed plan revision on July 16, 1975. The purpose of the present notice is to describe the proposed changes in the Florida implementation plan and to invite public comment on them.

The original limits set in the Florida plan for fossil-fuel-fired steam generators with a heat input exceeding 250 million Btu per hour are 1.1 pounds of sulfur dioxide per million Btu input if liquid fuel is burned and 1.5# $SO_2/10^6$ Btu input if solid fuel is burned (section 17-2.04(6)(e) 2.c and 2.d, Florida Administrative Code), with compliance required by July 1, 1975.

The State's new limit for the burning of liquid fuel by such sources is 2.75# $SO_2/10^6$ Btu except that: (i) In Duval County the limit is 2.5# $SO_2/10^6$ Btu for sources north of Hacksher Drive, and 1.65# $SO_2/10^6$ Btu for all other sources; (ii) in Hillsborough County the limit is 1.1# $SO_2/10^6$ Btu for all sources.

If solid fuel is burned, the new limit is 6.17 pounds of sulfur dioxide per million Btu heat input except for certain sources in Hillsborough County, where the limit is 2.4# $SO_2/10^6$ Btu for Units 5 and 6 of Tampa Electric Company's Gannon Station, and 6.5# $SO_2/10^6$ Btu for the same firm's Big Bend Station.

The State proposes to revoke all existing compliance schedules for sources subject to the new emission limits as of the effective date of the proposed revision, June 30, 1975, and to require that all fossil-fuel-fired steam generators, regardless of size, comply as expeditiously as possible with the new limits or, in the case of sources with a heat input of 250 million Btu or less, the limit obtainable by use of the latest reasonably available control technology.

All of the new emission limits are to be reevaluated in a public hearing before July 1, 1977. If, contrary to the State's expectation, they have proved inadequate to assure attainment and maintenance of the national ambient air quality standards, all existing fossil-fuel-fired steam generators shall be subject to compliance schedules, to be submitted to the State on or before August 1, 1977, which will bring them as expeditiously as possible into compliance with these emission limits: 1.1# $SO_2/10^6$ Btu for liquid fuel and 1.5# $SO_2/10^6$ Btu for solid fuel. It should be noted, however, that the Administrator will take approval/disapproval action on the new emission limits on the basis of their adequacy to assure attainment of the national ambient air quality standards by the date provided in the Florida plan, July 1, 1975.

The State submitted with the new emission limits a revised sulfur dioxide control strategy intended to show that approval of the proposed changes will not interfere with the attainment and maintenance of the national ambient air quality standards in the State of Florida.

Under the proposed plan revision, owners of fossil-fuel-fired steam generators would be required to monitor their emissions as ordered by the State. Owners were to have submitted to the Department of Environmental Regulation a written proposal for such monitoring by July 1, 1975.

Copies of the materials submitted by the State in support of the proposed plan revision may be examined during normal business hours at the following locations:

Air Programs Branch, Air & Hazardous Materials Division, Environmental Protection Agency, Region IV, 1421 Peachtree Street, N.E., Atlanta, GA 30309.

Florida Department of Environmental Regulation, 2562 Executive Center Circle, East, Montgomery Building, Tallahassee, FL 32301.

Interested persons are encouraged to submit written comments on the changes described above; to be considered, such comments must be received on or before September 15, 1975, and should be addressed to the Agency's Region IV Air Programs Branch at the address given above. After weighing relevant comments and all other available information in the light of requirements set forth in the Clean Air Act and in the Agency's implementing regulations (40 CFR Part 51), the Administrator will act on the Florida proposal.

(Section 110(a) of the Clean Air Act (42 U.S.C. 1857c-5(a)))

Dated: August 7, 1975.

JACK E. RAVAN,
Regional Administrator, Region IV.

[FR Doc.75-21549 Filed 8-14-75;8:45 am]

[40 CFR Part 52]

[FRL 417-4]

NEVADA

Approval and Promulgation of Implementation Plans

In the matter of Open Burning Restrictions and Particulate Matter Emission Limitations for Basic Refractories Division, Basic Incorporated.

On May 31, 1972 (37 FR 10878), the Administrator, pursuant to section 110 of the Clean Air Act, as amended, and 40 CFR Part 51 approved with exceptions the Nevada implementation plan for the attainment and maintenance of national ambient air quality standards at 40 CFR Part 52. Included in the disapproved portions of the plan were particulate matter restrictions applicable to the Nevada Intrastate Air Quality Control Region because of their insufficiency in attaining and maintaining the national standards for particulate matter and emergency episode provisions because of a lack of open burning prohibitions.

PARTICULATE AT GABBS, NEV.

On November 12, 1974 the State of Nevada submitted an implementation plan revision which contained regulations for the control of particulate matter from process equipment at Basic Refractories Division, Basic Incorporated

at Gabbs, Nevada. The purpose of this proposed rulemaking is, in part, to propose approval of Articles 7.2.5 and 7.2.6 of the Nevada Air Quality Regulations, a regulatory revision to the Nevada implementation plan which requires a decrease in particulate matter emissions in the Nevada Intrastate Air Quality Control Region. The deficiency promulgated on May 31, 1972 of 40 CFR 52.1476(a) remains because violations of the national standards for particulate matter are expected to continue in other isolated portions of the air quality control region.

OPEN BURNING

The Administrator on May 31, 1972 at 40 CFR 52.1477(a) indicated that the Nevada implementation plan did not meet the requirements of 40 CFR 51.16 (b) (3) since the emission control actions in the plan did not prohibit open burning during emergency episode stages. On May 14, 1973 (37 FR 12708), the Administrator revised 40 CFR 52.1477(a) indicating that open burning restrictions in Clark and Washoe Counties were sufficient to satisfy the emergency episode requirements of 40 CFR 51.16. The implementation plan portions affecting the rest of the State remained unchanged as did the Administrator's disapproval regarding emergency episode actions and open burning.

The State's November 12, 1974 plan revision contained a revision to Article 5 of the Nevada Air Quality Regulations-Open Burning. The purpose of this proposed rulemaking is, in part, to rescind the deficiency promulgated at 40 CFR 52.1477(a) and to propose approval of Article 5 of the Nevada Air Quality regulations, a regulatory revision to the Nevada implementation plan which restricts open burning practices.

PUBLIC REVIEW

Copies of the portions of the Nevada Air Quality Regulations under consideration and the EPA evaluation reports and supporting documentation are available for public inspection during normal business hours at the addresses listed below:

Environmental Protection Agency, Regional Office, Region IX, 100 California Street, San Francisco, California 94111.

Nevada Bureau of Environmental Health, 1209 Johnson Street, Carson City, Nevada 89701.

Freedom of Information Center, Environmental Protection Agency, 401 M Street S.W., Room 329, Washington, D.C. 20460.

SOLICITATION OF PUBLIC COMMENTS

Interested persons may participate in this rulemaking by submitting written comments to:

Regional Administrator (Z-1), Environmental Protection Agency, Region IX, 100 California Street, San Francisco, California 94111.

Comments received on or before September 15, 1975 will be considered in the final approval/disapproval promulgation. Receipt of comments will be acknowledged but substantive responses to individual comments will not be provided. Comments received will be available for public inspection during normal business hours at the Region IX and Freedom of Information Center addresses listed above.

(Sec. 110(a), Clean Air Act, as amended, 42 U.S.C. 1857c-5(a))

Dated: August 1, 1975.

L. RUSSELL FREEMAN,
Deputy Acting Regional Administrator, Region IX.

It is proposed to revise Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

Subpart DD—Nevada

1. In § 52.1470, Paragraph (c) is revised to read as follows:

§ 52.1470 Identification of Plan.

* * * * *

(c) Supplemental information was submitted on June 12, July 14, and November 17, 1972, January 19, 1973, April 1, 1974 (Article 13 of the Nevada Air Quality Regulations (NAQR) for the review of Complex Sources, as amended and resubmitted on November 12, 1974—Administrative procedure submitted (December 11, 1974), June 14, 1974 (Article 4 of the NAQR-Visible Emissions From Stationary Sources) and November 12, 1974 (Article 5 of the NAQR-Open Burning Articles 7.2.5 and 7.2.6 of the NAQR-Particulate Matter-Industrial Sources).

§ 52.1477 [Revoked]

2. In Subpart DD—Nevada, § 52.1477, Prevention of air pollution emergency episodes, is revoked.

[FR Doc.75-21548 Filed 8-14-75;8:45 am]

[40 CFR Part 414]

[FRL 415-7]

ORGANIC CHEMICALS MANUFACTURING POINT SOURCE CATEGORY

Ethylene Oxide, Ethylene Glycol, Methyl Amines and Oxo Chemicals Processes

On April 25, 1974, The Environmental Protection Agency pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, *et seq.*, promulgated effluent limitations guidelines for the Organic Chemicals Manufacturing Point Source category (39 FR 14676) creating a new Part 414 of 40 CFR Ch. I, Subchapter N. These regulations included limitations on discharges from the following manufacturing processes: ethylene oxide and methyl amines (40 CFR §§ 414.20-414.23 and 414.25) and ethylene glycol and oxo chemicals (40 CFR 414.30-414.33 and 414.35).

Several corporations soon thereafter filed petitions for review with the United States Court of Appeals for the Fourth Circuit (No. 74-1459, etc.). On October 1, 1974, the Court ordered all the actions consolidated for consideration and determination into two groups, the first group relating to effluent limitations and the second group relating to standards of performance for new sources. On October 7, 1974, the Court granted a joint motion and stipulation to sever consideration of Pretreatment Standards for New Sources and to defer consideration of Pretreatment Standards for New Sources until Pretreatment Standards for existing sources were promulgated.

On September 6, 1974, the DuPont Company requested EPA to reconsider its regulations as they pertain to methyl amines. On September 20, 1974, in reliance on representations that substantial additional information would be forthcoming, EPA entered into a stipulation and joint motion to the Court, calling for the review by EPA of data the Petitioners had supplied and were to supply, with respect to the production of methyl amines. Under this stipulation and motion, which was granted by the Court on November 19, 1974, EPA was to make a determination, on the basis of the new data, and recommend regulations for control of discharges resulting from production of methyl amines. On this basis methyl amines were segregated from other processes at issue before the court.

On September 18, 1974, the Celanese Chemical Company requested EPA to reconsider the regulations for ethylene oxide. On September 27, 1974, Union Carbide Corporation requested that the regulations for the ethylene glycol and ethylene oxide processes be reconsidered. On October 3, counsel for Exxon Chemical Company and Union Carbide Corporation asked for reconsideration of the limitations for the oxo chemicals process lines. On the basis of representations from the companies noted above, and others, that substantial new data would be forthcoming, EPA joined in a stipulation and motion for reconsideration of the effluent guideline limitations and new source performance standards for ethylene oxide, ethylene glycol, and oxo chemicals, which stipulation called for issuance of a determination respecting these manufacturing process lines by January 15, 1975, and for removing these categories from the cases before the Court for review. This motion was granted on November 19, 1974.

In early November EPA sent letters to manufacturers of all four chemicals under review at that time, requesting detailed information that would be useful in review of the existing limitations for those manufacturing processes. In response to these letters and as part of the general review some additional data was provided to EPA. This information was insufficient for EPA to determine that changes to the existing regulations were warranted. The industry representatives agreed that additional data was necessary, and requested additional time to collect and submit these data.

In January, 1975, EPA sent letters to manufacturers of the four chemicals being reconsidered, requesting additional information, citing section 308 of the Federal Water Pollution Control Act as authority for EPA to require dischargers to submit information for the purpose of developing effluent limitations. On January 27, 1975, the industry petitioners and EPA filed with the Court a joint motion and stipulation to extend the time for completion of reconsideration and

issuance of a determination as to all four chemicals, to April 1, 1975. This motion was granted on January 29, 1975.

During February and March, 1975, the active industry petitioners in the cases pending before the Court of Appeals for the Fourth Circuit asked for additional time to develop and submit data. EPA agreed with petitioners that if substantial new information were submitted, EPA also would require additional time to review it. The information that had been submitted to the Agency was too fragmented to provide a legitimate basis for revising the existing effluent guideline limitations. The Court ordered that any additional information must be submitted to EPA by June 10, 1974, and that EPA was to complete its review of the information by July 31, 1975. It is in compliance with that order that EPA publishes this notice of proposed rulemaking, which will in some respects alter the regulations for the four chemical processes under review.

One of the major issues raised by the industries petitioning EPA for a review of these regulations was the effect use of "acclimated seed" would have on the regulations. Briefly stated, the petitioners suggested that the determination of the five-day biochemical oxygen demand (BOD5) is greatly affected depending on the type of microorganisms ("seed" or "bugs") used in the measurement. The industry counsel stated that use of microorganisms that have not been exposed to a particular waste source will result in a particularly low BOD5 because these species are not properly accustomed to consumption of the organic materials in the waste; and since oxygen is consumed proportionately to the activity of the microorganisms, the amount of oxygen consumed will be unrealistically low. When an effluent standard is calculated by the application of an accepted BOD5 reduction percentage to the raw waste load BOD5 determined using unacclimated seed the final standard will be too stringent, argued the industry counsel.

The four chemicals for which reconsideration was requested, on initial examination by the industry engineers, evidenced BOD5 raw waste loads which were significantly higher than those values found by EPA's contractor. The counsel for the industry in the cases now pending before the Fourth Circuit Court of Appeals have not asked for specific reconsideration of chemical process lines other than the four addressed today in this notice (although they have argued the acclimated seed question in general); the Agency has assumed that of the product/process lines in the Phase I Organic Chemical regulations, the four under reconsideration were considered by the industry to be the most likely to have been affected by the use of unacclimated seed.

The Agency has carefully reviewed the substantial BOD5, COD, and other new data supplied by industry, the suggested changes in the use of that data, the EPA contractor's procedure for calculating the BOD5 raw waste load, and the BOD5, COD and other data upon which the original regulations were based. From this review, several important features stand out: First, the terms "acclimated seed" and unacclimated seed" as used by counsel for the industry denote a more precise distinction than is warranted. The existence of an acclimated seed is a theoretical condition in which the seed microorganisms are completely adapted to the waste material. This assumes a waste which is fed at a constant rate, temperature, concentration, and which has uniform constituents. It also assumes that there is sufficient time for the microorganisms to completely adapt to the feed material. This steady-state condition essentially never occurs in actual practice because the raw industrial waste waters are variable both in the constituents and in concentration. Also, complete acclimation to a specific waste sample cannot be achieved in practice because the time required to achieve this acclimation is so long that the sample would change characteristics in the interim.

The time within which microorganisms are exposed to a food supply in a BOD bottle is approximately 120 hours, whereas the time in most actual biological waste water treatment plants is 5–10 hours. The growth rate (time to double population) in a BOD bottle may be 18 hours on the average whereas in an actual treatment plant it may be 200 hours.

In the waste water treatment plant, where the detention time is relative short, the microorganisms are in a state of constant change as they attempt to adjust or acclimate to the waste constituents and treatment environment (i.e. time, temperature and concentration of the wastes). In the BOD bottle adequate time is available for a substantial change in the cultural composition during the initial adjustment period which can result in a lag in response and which then results in a highly acclimated group of microorganisms during most of the test period. The normal waste water treatment plant functions as a large averaging basin to equalize the food supply over time to be available to a biological population; if this were not true then the variability question, discussed later, would in fact be unnecessary. The fact that the system, i.e. the wastewater treatment plant, is dynamic in nature and is therefore continually averaging indicates that the food supply to the microorganisms is continually changing to approach an average value in response to a varying input. This is in fact the design and operational basis for waste treatment plants which has decades of good practice behind it.

While it is impossible to provide an environment suitable for achieving complete acclimation of the microorganisms, the EPA contractor attempted to approach this condition by the use of an adapted seed consisting of a heterogeneous population of microorganisms exposed to a broad range of organic constituents under conditions which assure a high degree of acclimation.

The approach of the EPA contractor, the Roy F. Weston Company, Inc., for the development of organic chemicals effluent limitations and guidelines, was to obtain approximately three days of composited samples from each product/process during a typical production period. Following each plant survey a report was prepared by the contractor and sent to the industry for confirmation of the accuracy of the observations. In most instances, the analytical data itself was forwarded for industry verification.

The counsel for the industries petitioning for review of the four effluent limitations and guidelines covered by today's notice have raised questions concerning the procedure used by the EPA contractor to develop its BOD5 seed. Very briefly, that procedure is to obtain microorganisms from industrial and domestic sewage which are grown in an aquatic culture supplied with sources of ethyl alcohol, ethylene glycol, acetic acid, and dextrose as the primary food supply. Control samples are routinely analyzed by the contractor's laboratory and samples are reviewed with the EPA Cincinnati, Ohio, laboratory quality control program. Where a discrepancy occurs the test procedures are reviewed in detail and modifications made as appropriate.

The BOD5 seed used in the test was developed by Weston from a number of procedures developed seven years ago and in their judgement was the most accurate seed which could be used. If an industry had an adapted seed available either from an operating pilot plant or a treatment plant Weston used that seed. It was the conclusion of the contractor that it is impossible or, at best, very difficult, to obtain a completely acclimated seed and that using an adapted seed under carefully proscribed, identified, and reproducible conditions provided the best estimate of the BOD5 raw waste load both for the purposes of preparing effluent standards and for designing treatment plants to comply with those effluent standards. The EPA contractor also performed COD and TOC analysis on the industry waste water samples to confirm the BOD5 results obtained by the use of an adapted seed.

Following the entering of the stipulations calling for reconsideration of the four product/processes, EPA's contractor, the Roy F. Weston, Company reanalyzed the raw waste data from the organic chemical industry with respect to the possible impact of the use of acclimated seed. (In this effort they attempted to incorporate historical industry data whenever it was available. They were able to find industry data only in 14 of the 56 products/process lines evaluated). The conclusion reached by the contractor after this analysis was that the impact on the raw waste loads of the use of the adapted versus acclimated seed is negligible and is within the normal accuracy of the test method. It was also the conclusion of the contractor that the BOD5 analytical procedure used by that firm more accurately characterizes the sample of waste water than does the procedure in which the sample is allowed to acclimate over a lengthy period of time since that sample after a lengthy time

period probably does not accurately represent the same characteristics of the raw waste water from which it was collected.

Data was submitted by petitioners representing the production of methyl amines, ethylene oxide, ethylene glycol and oxo chemicals. Replicate BOD5 analyses using acclimated seed in one sample and using a domestic seed (non-acclimated seed) in a similar sample were statistically analyzed by the Effluent Guidelines Division to determine effects from the use of acclimated seed (or nonacclimated seed).

Twenty-four sets of such data were analyzed. The initial tests were organized to determine symmetry of the data. All such tests (tests assuming normal distribution, such as the F test, t test and chi squared test) indicated that the data was skewed to the right, i.e., did not fit normal distributions. Three non-parametric tests (Wilcoxon signed—rank test, the Sign test and the Wilcoxon-Mann-Whitney test) were evaluated. The Sign test was judged to be the most appropriate. A confidence level of 0.05 was assumed and of the twenty-four sets of data representing all portions of the waste sources from the four product/processes, fifteen showed no measurable difference, eight indicated a measurable difference with the acclimated seed sets being higher than the nonacclimated seed sets for 6 data sets and the reverse being true for two data sets. One set of the data points was insufficient to give a reliable estimate. Only in the case of methyl amines data sets could a reliable difference be ascribed to the use of acclimated seed data.

In addition to considering substantial new data on the BOD5 raw waste loads for methyl amines, ethylene oxide, ethylene glycol, and oxo chemicals the Agency also reviewed substantial information supplied by the industry relating to COD, flow and TOC for the above four product/process lines. The exhaustive review of this information indicates that modifications are appropriate in the effluent limitations and guidelines for the four organic chemicals.

In addition, the review process has indicated that modifications in the methodology employed in the development of Phase I Organic Chemical Effluent Guidelines and Limitations is also appropriate. Specifically, the Agency intends to propose revised Phase I Effluent Guidelines and Limitations which will be based upon individual product/process line raw waste loads for those product/process descriptions currently covered by Phase I regulations, rather than based upon the use of the arithmetic mean of the pollutant parameters within a subcategory, to which is applied a standard reduction factor or a final effluent concentration.

The Agency does intend to propose in the near future the extention of the mean of the revised subcategories to those product/process lines which can logically be included in the description and definition of the subcategories. However, before an effluent limitation guideline based upon the mean of a subcategory is promulgated, economic and technological feasibility analyses will be conducted to assure that there will be no unreasonable impact upon the product/process lines governed by the effluent limitation guideline generated by use of the mean.

The present Phase I Organic Chemical regulations (40 CFR Part 414) established effluent standards for various subcategories comprised of product/processes with similar process definitions. For each subcategory there was calculated an arithmetic mean of the flow, BOD, and COD raw waste load. Effluent limitations were then calculated using the mean subcategory raw waste loads and applying an appropriate reduction factor. For example, the design basis for an effluent limitation, to which variability factors were applied, for BPCTCA BOD5 were determined in the following manner:

1. An average reduction factor for 93 percent removal of BOD5 was used whenever the resultant effluent concentration of BOD5 was 20–30 mg/1.

2. If the resultant effluent concentration was less than 20 mg/1, a less stringent limit based on 20 mg/1 was selected as the design basis for limitation.

3. If the resultant effluent concentration was greater than 30 mg/1 the design basis for the limitation was based on 30 mg/1 BOD5 up to but not to exceed 99 percent reduction of the BOD5 load.

The limitations derived in this manner were considered long term design limitations. The limitation for a daily maximum and 30 day maximum average basis was established by multiplying the design limitation by a variability factor. The variability factors for the daily maximum and 30 day maximum average limitations were 4.5 and 2.0 respectively for BPCTCA, BOD5 and TSS limitations.

The review of the four chemical product/process lines which brings about the modification in the regulation for those processes reveals that it is more appropriate to base the final effluent standard for a given process line on the flow and pollutant parameters for that individual process line rather than by use of the mean of several process lines in those cases where the entire industry is represented adequately by the data base used for calculation of the limitation. In the situation in which a great many organic chemical product/process lines are not presently described or covered with an extensive data base it would be more appropriate to use the mean from the subcategory to which that product could logically be assigned.

For methyl amines, ethylene glycol, ethylene oxide and oxo chemicals, the Agency has recalculated the effluent standards by determining the average of the best plants. This was accomplished by selecting those plants which have BOD5 raw waste loads below the median value of all similar plants and averaging the flow, BOD and COD for these plants. The appropriate reduction factors for BPCICA, NSPS and BATEA are all based upon the treatment technology data generated by, and incorporated in the Phase I Development Document, the Phase II Development Document, and the specific review process pursuant to the court orders issued with respect to the four chemicals being revised today. The Phase I regulations other than the regulations for the four chemicals for which revisions are proposed today will be revised by notice of proposed rulemaking to be issued in the near future. Additionally, the Phase II effluent limitations and guidelines will be issued shortly. Both the revision of the Phase I regulation and the Phase II regulations will incorporate the methodology which has been applied to the redrafting of the standards and guidelines for the four chemicals under review today.

Derivation of the variability factors discussed in the Phase I Development Document was based on data supplied by the industry representing the variation of actual measurements from operating installations. The variability factors represent the observed annual average compared to a daily and a monthly average of BOD and COD of effluents from waste treatment facilities treating mixtures of waste waters discharged from complex organic chemical plants. The results for that set of data represented a probability of attaining the mean 95% of the time. The resulting multipliers used to adapt the design limitations to monthly and daily limitation were 2.0 and 4.5. The variability factors applied to COD reduction were 1.8 and 2.5 for average and maximum values respectively. These factors were derived from the same performance data and represent a ninety percent probability of attaining the mean using the design load and appropriate variability factor. Later data available to the agency covering operation of 21 plants producing organic chemicals and petrochemical complexes indicated that use of multipliers of 2.1 and 3.9 for BOD5 would result in a 99% probability of attaining the mean. The same data, based on the average of the best (9 plants below the median) indicated that for Best Available Technology Economically Achievable the appropriate multipliers (99% probability of the best plants attaining the mean) are 1.7 and 2.6. The Phase I document used, and this reconsideration used, 1.7 and 3.0 for BATEA determinations. The Agency did not judge it necessary to convert to the more stringent multipliers at this time but did find that the design basis used is in fact technically correct in light of the substantial body of new data available for examination. Further revisions will enable the agency to propose variability factors appropriate to the ability of the industry to design and operate treatment facilities.

Generally, the costs of compliance with the changes proposed are low and are not expected to significantly affect prices, profitability, industry production, or growth. In most cases, it is expected that these costs can be passed on to the consumer through price increases ranging from 0.3 to 8.7 percent for 1977. However, in the ethylene glycol segment up to three producers which are not in-

tegrated backward into the production of ethylene oxide may discontinue ethylene glycol production. This results from the very large abatement capital investment for BPT relative to process investment which cannot be averaged over both processes as is possible for the integrated producers. These plants are believed to represent no more than five percent of industry capacity, and would, thus, have minimal impact on industry capacity, employment, balance of trade, or industry growth. The Agency is continuing the economic impact analysis for these products in order to refine the conclusions for both 1977 and 1983 requirements on a continuing basis.

Executive Order 11821 (November 27, 1974) requires that major proposals for legislation and promulgation of regulations and rules by Agencies of the executive branch be accompanied by a statement certifying that the inflationary impact of the proposal has been evaluated.

OMB Circular A-107 (January 28, 1975) prescribes guidelines for the identification and evaluation of major proposals requiring preparation of inflationary impact certifications. The circular provides that during the interim period prior to final approval by OMB of criteria developed by each Agency, the Administrator is responsible for identifying those regulations which require evaluation and certification. The Administrator has directed that all regulatory actions which are likely to result in capital investment exceeding $100 million or annualized costs in excess of $50 million will require certification.

The Agency's analysis of the potential economic impacts of these regulations indicates that the incremental capital investment and annualized costs of this revision relative to the promulgated regulations associated with compliance are estimated to be less than these amounts.

Ethylene Glycol

Data and information on the production of ethylene glycol were requested from ten companies. Responses to the request supplied new data from eight plants. There was one failure to respond with data and there was reuse of previously available data from one plant. One plant responded that they no longer manufactured the product.

The data received were considered to be long term averages since it generally was collected over a 30 day or longer period. The following is a summary of the available data.

Summary of data and responses—ethylene glycol

Source	Flow, gallons per 1,000 lb	BOD5, pounds per 1,000 lb	COD, pounds per 1,000 lb
Citgo Corp., Lake Charles, La	120	0.07	11.30
Dow Chemical Corp.,[1] Freeport, Tex	584	.34	8.70
Union Carbide Corp., Ponce, P.R	20	.50	.80
Jefferson Chemical Co., Port Neches, Tex	178	1.02	2.18
Union Carbide Corp., Taft, La	66	3.50	9.70
Texas Eastman Co., Longview, Tex	2	7.00	12.00
Shell Chemical Co.,[2] Houston, Tex	5,430	10.50	22.60
Houston Chemical Co.,[2] Houston, Tex	14,300	11.30	12.30
Olin Corp.,[2] Brandenburg, Ky	7,000	12.40	200.0

[1] This data was taken from the Development Document in lieu of new data promised but not made available to the Agency.
[2] Barometric condenser water accounts for 99 percent of flow.
[3] Barometric condenser water accounts for high flow.

Of the nine groups of data evaluated, four plants were below the median BOD5 raw waste load. The plants with BOD5 raw waste loads below the median are Dow, Freeport; Union Carbide, Ponce; Citgo, Lake Charles; and Jefferson Chemical, Port Neches. The average of the best, in terms of BOD5, is therefore 0.48 lb/1,000 lb product. The mean flow from the same plants is: 228 gallons/1,000 lb product. The mean COD from the same plants is 5.76 lb/1,000 lb product.

From these raw waste loads, the appropriate reduction factors (or concentration limits), the design limit is calculated; application of the appropriate variability factors results in the effluent limitations and guideline values proposed for this product/process in subcategory C.

for BPCTCA:

BOD5 = 228 × 8.34 × 10−6 × 10 mg/l = 0.019 lb/1,000 lb
0.038 × 2 = 0.076 lb/1,000 lb (30 d maximum average)
0.038 × 4.5 = 0.17 lb/1,000 lb (daily maximum)
TSS = 228 × 8.34 × 10−6 × 30 mg/l = 0.057 lb/1,000 lb
0.057 × 2 = 0.11 lb/1,000 lb (30 d maximum average)
0.057 × 4.5 = 0.26 lb/1,000 lb (daily maximum)

for NSPS:

BOD5 = 0.038 × (1 − 0.17) = 0.032 lb/1,000 lb
0.032 × 2 = 0.064 lb/1,000 lb (30 d maximum average)
0.032 × 4.5 = 0.14 lb/1,000 lb (daily maximum)
TSS = 228 × 8.34 × 10−6 × 15 mg/l = 0.028
0.028 × 2 = 0.056 lb/1,000 lb (30 d maximum average)
0.028 × 4.5 = 0.13 lb/1,000 lb (daily maximum)

for BATEA:

COD = 5.76 × (1 − 0.92) = 0.46 lb/1,000 lb
0.46 × 1.8 = 0.83 lb/1,000 lb (30 d maximum average)
0.46 × 2.5 = 1.15 lb/1,000 lb (daily maximum)
BOD5 = 228 × 8.34 × 10−6 × 20 mg/l = 0.038 lb/1,000 lb
0.019 × 1.7 = 0.032 lb/1,000 lb (30 d maximum average)
0.018 × 3.0 = 0.054 lb/1,000 lb (daily maximum)
TSS = 228 × 8.34 × 10−6 × 15 mg/l = 0.028 lb/1,000 lb
0.028 × 1.7 = 0.048 lb/1,000 lb (30 d maximum average)
0.028 × 3.0 = 0.084 lb/1,000 lb (daily maximum)

Ethylene Oxide. Data and information on the production of ethylene oxide were requested from ten companies. Eight companies responded by supplying data, one responded that it no longer manufactured the product and one company promised data but did not supply it to the Agency. The data supplied generally represents production over a 30 day period or longer for each plant site and are considered long-term averages:

Summary of data and responses—ethylene oxide

Source	Flow, gallons per 1,000 lb	BOD, pounds per 1,000 lb	COD, pounds per 1,000 lb
Houston Chemical Co.,[1] Houston, Tex.	0	0	0
Jefferson Chemical Co., Port Neches, Tex.	12	.0028	.014
Dow Chemical Co.,[2] Freeport, Tex.	131	.71	5.28
Texas Eastman Co., Longview, Tex.	40	1.20	2.61
Union Carbide Corp., Taft, La.	100	2.48	4.61
Union Carbide Corp., Ponce, P.R.	176	4.60	14.0
Celanese Corp.	20	5.60	8.20
Shell Chemical Co.,[3] Houston, Tex.	1,206	9.10	20.00
Citgo Corp.,[4] Lake Charles, La.	890	.51	88.00
Olin Corp.,[4] Brandenburg, Ky.	980	8.40	24.50

[1] All waste waters are generated from the ethylene glycol process in a combined process train.
[2] This data was taken from the Development Document in lieu of new data promised but not made available to the Agency.
[3] 75 percent of waste waters are from undescribed miscellaneous sources.
[4] Barometric condensers account for the high flow.

The best plants, with BOD5 loads less than the median plant, are: Houston Chemical, Jefferson Chemical, Dow Chemical, Texas Eastman and, Union Carbide (Taft plant). The raw waste load BOD5 represented by the average of the best is therefore 0.88 lb/1,000 lb of product. The mean flow from the same plants is 57 gallons/1,000 lb product. The raw waste load COD is 2.49 lbs/1,000 lb of product.

From these raw waste loads, the appropriate reduction factors (or concentration limit), the design limit is calculated; application of the appropriate variability factors results in the effluent limitation and guideline values proposed for this product/process in subcategory B.

for BPCTCA:

BOD5 = 57 × 8.34 × 10 − 6 × 30 = 0.014 lb/1,000 lb
0.014 × 2 = 0.028 lb/1,000 lb (30 d maximum average)
0.014 × 4.5 = 0.063 lb/1,000 lb (daily maximum)
TSS = 57 × 8.34 × 10 − 6 × 30 mg/l = 0.014 lb/1,000 lb
0.014 × 2 = 0.028 lb/1,000 lb (30 d maximum average)
0.014 × 4.5 = 0.063 lb/1,000 lb (daily maximum)

for NSPS:

BOD5 = 0.014 (1 − 0.17) = 0.012 lb/1,000 lb
0.012 × 2 = 0.015 lb/1,000 lb (30 d maximum average)
0.012 × 4.5 = 0.054 lb/1,000 lb (daily maximum)
TSS = 57 × 8.34 × 10 − 6 × 15 mg/l = 0.0071 lb/1,000 lb
0.0071 × 2 = 0.014 lb/1,000 lb (30 d maximum average)
0.0071 × 4.5 = 0.032 lb/1,000 lb (daily maximum)

for BATEA:

COD = 2.49 × (1 − 0.92) = 0.2 lb/1,000 lb
0.2 × 1.8 = 0.36 lb/1,000 lb (30 d maximum average)
0.2 × 2.5 = 0.5 lb/1,000 lb (daily maximum)
BOD = 57 × 8.34 × 10 − 6 × 10 mg/l = 0.0048 lb/1,000 lb
0.0048 × 1.7 = 0.0082 lb/1,000 lb (30 d maximum average)
0.0048 × 3 = 0.014 lb/1,000 lb (daily maximum)
TSS = 57 × 8.34 × 10 − 6 × 15 mg/l = 0.0071 lb/1,000 lb
0.0071 × 1.7 = 0.012 lb/1,000 lb (30 d maximum average)
0.0071 × 3 = 0.021 lb/1,000 lb (daily maximum)

Oxo Chemicals. Data and information or the production of oxo chemicals were requested from six companies. Five companies responded with data and data already available from the contractors survey was also available for evaluation. These data are considered long term averages since they were generally collected over a 30 day period or longer.

Source	Flow, gallons per 1,000 lb	BOD, pounds per 1,000 lb	COD, pounds per 1,000 lb
Dow Badische[1] Freeport, Tex.	430	3.20	4.25
Exxon Chemical Co., Houston, Tex.	1,400	5.40	9.15
Shell Chemical Co., Houston, Tex.	15	11.20	14.40
Texas Eastman Co., Longview, Tex.	165	13.50	25.00
Union Carbide Corp., Texas City, Tex.	816	20.60	40.80
Union Carbide Corp., Seadrift, Tex.	1,121	24.30	45.40
USS Chemicals Co.,[2] Ironton, Ohio.	212	NA	NA

[1] This data was obtained from the Development Document.
[2] Raw waste load data were not available.

From the six plants with BOD5 raw waste load data, the three plants with BOD5 raw waste load below the median value are Dow Badische, Exxon at Houston, and Shell at Houston. The raw waste load BOD5 for the average of the best is therefore 6.6 lb/1,000 lb of product. The corresponding average flow is 612 gallons/1,000 lb of product. The COD raw waste load is calculated to be 9.27 lb/1,000 lb of product.

From these values, the appropriate reduction factors (or concentration limits) the design limit is calculated. Application of the appropriate variability factors results in the effluent limitations and guidelines proposed for this product/process in subcategory C.

for BPCTCA:

BOD5 = 612 × 8.34 × 10−6 × 30 mg/l = 0.15 lb/1,000 lb
0.15 × 2 = 0.30 lb/1,000 lb (30 d maximum average)
0.15 × 4.5 = 0.69 lb/1,000 lb (daily maximum)
TSS = 612 × 8.34 × 10−6 × 30 mg/l = 0.15 lb/1,000 lb
0.51 × 2 = 0.30 lb/1,000 lb (30 d maximum average)
0.15 × 4.5 = 0.69 lb/1,000 lb (daily maximum)

for NSPS:

BOD5 = 0.15 × (1 − 0.17) = 0.12
0.12 × 2 = 0.24 lb/1,000 lb (30 d maximum average)
0.12 × 4.5 = 0.57 lb/1,000 lb (daily maximum)
TSS = 612 × 8.34 × 10−6 × 15 mg/l = 0.076 lb/1,000 lb
0.076 × 2 = 0.15 lb/1,000 lb (30 d maximum average)
0.076 × 4.5 = 0.34 lb/1,000 lb (daily maximum)

for BATEA:

COD = 9.3 (1 − 0.92) = 0.74 lb/1,000 lb
0.74 × 1.8 = 1.34 lb/1,000 lb (30 d maximum average)
0.74 × 2.5 = 1.86 lb/1,000 lb (daily maximum)
BOD5 = 612 × 8.34 × 10−6 × 10 mg/l = 0.051 lb/1,000 lb
0.051 × 1.7 = 0.087 lb/1,000 lb (30 d maximum average)
0.051 × 3 = 0.15 lb/1,000 lb (daily maximum)
TSS = 612 × 8.34 × 10−6 × 15 mg/l = 0.077 lb/1,000 lb
0.077 × 1.7 = 0.13 lb/1,000 lb (30 d maximum average)
0.077 × 3 = 0.23 lb/1,000 lb (daily maximum)

Methyl Amines. Data and information were requested from five companies on the manufacture of methyl amines. Two companies, DuPont and Commercial Solvents responded with data. Another company, GAF Corporation, offered to respond with data, but has not. The Pennwalt Corporation and Air Products and Chemicals Company responded that they no longer manufacture this product.

Both sets of new data available to the Agency were obtained over a 30 day period or longer and are considered long term averages. Data submitted from the Commercial Solvents Corporation, Terre Haute, Indiana plant was determined to be significantly different from the DuPont process since the former does not employ recovery and recycle of methanol. The resultant waste loads from this process are, as a result, very high. It is also noted that waste water effluent from this plant is not discharged but applied to land by a spray irrigation system.

The DuPont, Houston data was taken over a 60 day period and reported on the basis of net saleable production and on the basis of gross throughput production. Data was also available from another DuPont plant but was of short duration and it was judged to be less reliable than the Houston plant data. This data is summarized as follows:

Basis for production

	Gross throughput production	Net saleable production
Flow, gallons per 1,000 lb	700	175
BOD, pounds per 1,000 lb	2.74	.69
COD, pounds per 1,000 lb	5.30	1.17

It was determined that the most appropriate basis for calculation of methyl amines limitations is the basis of total reactor throughput.

From these data and application of the appropriate reduction factor (or concentration limits) the design effluent limitations are derived. Limitations based on the daily maximum and 30 day maximum average are derived as follows by use of the appropriate variability factors for this product/process in subcategory B.

for BPCTCA:

BOD5 = 0.6 × (1 − 0.93) = 0.042 lb/1,000 lb
0.042 × 2 = 0.084 lb/1,000 lb (30 d maximum average)
0.042 × 4.5 = 0.19 lb/1,000 lb (daily maximum)
TSS = 175 × 8.34 × 10−6 × 30 mg/l = 0.044
0.044 × 2 = 0.088 (30 d maximum average)
0.044 × 4.5 = 0.2 (daily maximum)

for NSPS:

BOD5 = 0.042 × (1 − 0.17) = 0.35 lb/1,000 lb
0.035 × 2 = 0.07 lb/1,000 lb (30 d maximum average)
0.035 × 4.5 = 0.16 lb/1,000 lb (daily maximum)
TSS = 175 × 8.34 × 10−6 × 15 mg/l = 0.022 lb/1,000 lb
0.022 × 2 = 0.044 lb/1,000 lb (30 d maximum average)
0.022 × 4.5 = 0.1 lb/1,000 lb (daily maximum)

for BATEA:

COD = 1.7 × (1 − 0.92) = 0.094 lb/1,000 lb
0.094 × 1.8 = 0.17 lb/1,000 lb (30 d maximum average)
0.094 × 2.5 = 0.23 lb/1,000 lb (daily maximum)
BOD = 175 × 8.34 × 10−6 × 10 mg/l = 0.015 lb/1,000 lb
0.015 × 1.7 = 0.025 lb/1,000 lb (30 d maximum average)
0.015 × 3 = 0.045 lb/1,000 lb (daily maximum)
TSS = 175 × 8.34 × 10−6 × 15 mg/l = 0.022 lb/1,000 lb
0.022 × 1.7 = 0.037 lb/1,000 lb (30 d maximum average)
0.022 × 3 = 0.066 lb/1,000 lb (daily maximum)

It follows from the above calculations of design limits and effluent limitations and guidelines that the Agency, in this reconsideration, has maintained the treatment guidelines previously outlined in technical support documents. These are interpreted to require a 93 percent reduction in raw waste load to a minimum of 20 mg/l of BOD5. If 93 percent reduction results in design loads exceeding 30 mg/l, a higher reduction, up to but not exceeding 99 percent reduction for BPCTCA. Just as 20 mg/l for BPTCA has been established as a lower design limit so, also, has a lower limit of practicability of design for COD reduction in BATEA been set as 50 mg/l. It is not intended that application of these limitations and guidelines impose an effluent limit more stringent than these values.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the EPA Information Center, Environmental Protection Agency, Washington, D.C. 20460, Attention: Ms. Ruth Brown. Comments on all aspects of this request for public participation are solicited. In the event comments are in the nature of criticism, as to the adequacy of data which is available, or which may be relied upon by the Agency, comments should identify and, if possible, provide any additional data which may be available and should indicate why such data is essential to the development of regulations.

In the event comments address the approach taken by the Agency, EPA solicits suggestions as to what alternative approach should be taken and why and how these alternatives better satisfy the detailed requirements of sections 301, 304 and 306 of the Act.

A copy of all comments will be available for inspection and copying at the EPA Freedom for Information Center, Room 204, West Tower, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. The EPA information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying. All comments received not later than September 15, 1975 will be considered.

Dated: August 7, 1975.

RUSSELL F. TRAIN,
Administrator.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter I, Subchapter N, Part 414, as set forth below.

1. The phrases, "ethylene oxide" and "methyl amines" are deleted from the following 414.22(a), 414.23(a) and 414.25 (a). The phrase "ethylene glycol" is deleted from the following sections: 414.32(a), 414.33(a) and 414.35(a). The phrase "oxo chemicals" is deleted from the following Sections: 414.32(b), 414.33 (b), and 414.35(b).

2. Section 414.22 is amended by adding a paragraph (c) and (d) to read as follows:

§ 414.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

* * * * *

(c) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of methyl amines by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day (kg/kkg)	or	Average of daily values for 30 consecutive days shall not exceed— (lb/1,000 lb)
BOD5	0.19		0.084
TSS	0.2		0.088
pH	Within the range 6.0 to 9.0.		

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of ethylene oxide by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day (kg/kkg)	or	Average of daily values for 30 consecutive days shall not exceed— (lb/1,000 lb)
BOD5	0.063		0.028
TSS	0.063		0.028
pH	Within the range 6.0 to 9.0.		

3. Section 414.23 is amended by adding a paragraph (c) and (d) to read as follows:

§ 414.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

* * * * *

(c) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of methyl amines by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day (kg/kkg)	or	Average of daily values for 30 consecutive days shall not exceed— (lb/1,000 lb)
COD	0.23		0.17
BOD5	0.045		0.025
TSS	0.066		0.037
pH	Within the range 6.0 to 9.0.		

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of ethylene oxide by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day (kg/kkg)	or	Average of daily values for 30 consecutive days shall not exceed— (lb/1,000 lb)
COD	0.5		0.36
BOD5	0.014		0.0062
TSS	0.021		0.012
pH	Within the range 6.0 to 9.0.		

4. Section 414.25 is amended by adding a paragraph (c) and (d) to read as follows:

§ 414.25 Standards of performance for new sources.

* * * * *

(c) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of methyl amines by a new source subject to the provision of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day (kg/kkg)	or	Average of daily values for 30 consecutive days shall not exceed— (lb/1,000 lb)
BOD5	0.16		0.07
TSS	0.1		0.044
pH	Within the range 6.0 to 9.0.		

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of ethylene oxide by a new source subject to the provisions of this subpart.

Effluent characteristic	Effluent limitations: Maximum for any 1 day (kg/kkg)	or	Average of daily values for 30 consecutive days shall not exceed— (lb/1,000 lb)
BOD5	0.054		0.024
TSS	0.032		0.014
pH	Within the range 6.0 to 9.0.		

5. Section 414.32 is amended by adding a paragraph (f) and (g) to read as follows:

§ 414.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology available.

* * * * *

(f) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of ethylene glycol by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day (kg/kkg)	or	Average of daily values for 30 consecutive days shall not exceed— (lb/1,000 lb)
BOD5	0.17		0.076
TSS	0.26		0.11
pH	Within the range 6.0 to 9.0.		

(g) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of oxo chemicals by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day (kg/kkg)	or	Average of daily values for 30 consecutive days shall not exceed— (lb/1,000 lb)
BOD5	0.69		0.30
TSS	0.69		0.30
pH	Within the range 6.0 to 9.0.		

* * * * *

6. Section 414.33 is amended by adding a paragraph (f) and (g) to read as follows:

§ 414.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(f) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of ethylene glycol by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day (kg/kkg or lb/1,000 lb)	Average of daily values for 30 consecutive days shall not exceed— (kg/kkg or lb/1,000 lb)
COD	1.15	0.83
BOD5	0.054	0.032
TSS	0.084	0.048
pH	Within the range 6.0 to 9.0.	

(g) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of oxo chemicals by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day (kg/kkg or lb/1,000 lb)	Average of daily values for 30 consecutive days shall not exceed— (kg/kkg or lb/1,000 lb)
COD	1.86	1.34
BOD5	0.15	0.087
TSS	0.23	0.13
pH	Within the range 6.0 to 9.0.	

7. Section 414.35 is amended by adding a new paragraph (f) and (g) to read as follows:

§ 414.35 Standards of performance for new sources.

* * * * *

(f) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of ethylene glycol by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day (kg/kkg or lb/1,000 lb)	Average of daily values for 30 consecutive days shall not exceed— (kg/kkg or lb/1,000 lb)
BOD5	0.14	0.064
TSS	0.13	0.056
pH	Within the range 6.0 to 9.0.	

(g) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of oxo chemicals by a new source subject to the provisions of this subpart.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	kg/kkg or lb/1,000 lb	
BOD5	0.57	0.24
TSS	0.34	0.15
pH	Within the range 6.0 to 9.0.	

[FR Doc.75-21373 Filed 8-14-75;8:45 am]

[40 CFR Part 190]

[416-1]

ENVIRONMENTAL RADIATION PROTECTION FOR NUCLEAR POWER

Extension of Comment Period

On May 29, 1975, the Environmental Protection Agency proposed environmental standards for normal releases of radioactive materials from operations of the uranium fuel cycle (40 FR 23420). That notice provided a 60-day comment period which expired on July 28, 1975. Due to the complexity of the considerations involved in this proposed rulemaking, the Agency is extending the period for comment until September 15, 1975.

A number of parties have also indicated their desire to participate in a public hearing on this proposed rulemaking following expiration of the above comment period. The Agency will hold such hearings in order to provide further opportunity for the full presentation of information and views that will assist the Agency in formulating this proposed rule in final form. The date, location and format for such hearings will be announced following expiration of the above comment period.

Dated: August 11, 1975.

ROGER STRELOW,
Assistant Administrator for Air and Waste Management.

[FR Doc.75-21371 Filed 8-14-75;8:45 am]

FEDERAL MARITIME COMMISSION

[46 CFR Part 536]

[General Order 13; Docket No. 75-28]

GENERAL RATE INCREASES AND CERTAIN SURCHARGES FILED BY COMMON CARRIERS, CONFERENCES, AND MEMBER CARRIERS OF RATE AGREEMENTS

Submission of Revenue and Cost Data; Correction

In the Commission's notice of proposed rulemaking in this proceeding (40 FR 33688; August 11, 1975), the phrase "Aggregate Statement of Net Profit or Loss" appearing in proposed paragraph (a)(4)(iv)(B) should read "Statement of Revenue and Expense."

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-21533 Filed 8-14-75;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 200]

[Release Nos. 33-5605, 34-11580, 35-19122, 39-406, IA-469, IC-8883]

PRIVACY ACT OF 1974

Exemptions

Notice is hereby given that the Chairman of the Securities and Exchange Commission proposes to exempt certain systems of records that are maintained by the Securities and Exchange Commission from specified provisions of the Privacy Act of 1974. Pursuant to section (k) of the Act, the head of any Federal agency that maintains a system of records, from which records pertaining to an individual can be retrieved by reference to the individual's name or to an identifying number, symbol or other identifying particular assigned to the individual, may promulgate certain exemptive rules.

Among the systems of records that are maintained by the Commission[1] are the following, each of which includes investigatory materials that were compiled in connection with the Commission's enforcement responsibilities under the federal securities laws.

1. Division of Enforcement Investigative Working Files.
2. Securities Violation Records and Bulletin.
3. Investigatory Files—SEC.
4. Division of Enforcement Preliminary Market Surveillance Inquiries.
5. Atlanta Regional Office General Index of Files and Atlanta Regional Office Investigatory Files.
6. Boston Regional Office Investigation Index File System and Boston Regional Office Investigatory Files.
7. Chicago Regional Office Index Cards and Chicago Regional Office Investigatory Files.
8. Cleveland Branch Office Investigatory Files and Cleveland Branch Office Index Cards.
9. Denver Regional Office Cross-Reference Index Cards and Denver Regional Office Investigatory Files.
10. Detroit Branch Office Investigatory Files and Detroit Branch Office Index Cards.
11. Fort Worth Regional Office General Indices and Fort Worth Regional Office Investigatory Files.
12. Houston Branch Office General Indices and Houston Branch Office Investigatory Files.
13. Los Angeles Regional Office Investigative Files.
14. Miami Branch Office General Index of Files and Miami Branch Office Investigatory Files.
15. New York Regional Office Master Card Index and New York Regional Office Investigatory Files.
16. New York Regional Office Index of Complaints.
17. Philadelphia Branch Office Investigatory Files.
18. Saint Louis Branch Office Investigative Files and Saint Louis Branch Office Inquiry, Complaint and General Reference Files.
19. Salt Lake City Branch Office Cross-Reference Index Cards and Salt Lake City Branch Office Investigatory Files.
20. San Francisco Branch Office Investigative Files and San Francisco Branch Office Regulation A Files.
21. Seattle Regional Office Master Card Index and Related Regulatory, Investigatory, and Legal Files Systems.
22. Washington Regional Office Investigatory Files.
23. Office of the General Counsel Working Files.
24. Office of the Chief Accountant Working Files.
25. Investigations and Actions Index.
26. Complaint Processing System.
27. Investor Service Complaint Index.
28. Name-Relationship Index System.
29. Rule 2(e) of the Commission's Rules of Practice—Appearing or Practicing Before the Commission.
30. Division of Enforcement Liaison Working Files.

To the extent that these systems of records contain materials that were compiled for law enforcement purposes, they would be exempted pursuant to section (k)(2) of the Act, 5 U.S.C. 552a(k)(2), from sections (c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act, 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f), except under the circumstances set forth in the proviso to section (k)(2) of the Act, 5 U.S.C. 552a(k)(2).[2]

The Commission's systems of records also include the following systems:

1. Office of Personnel Code of Conduct and Employee Performance Files.
2. Personnel Security Files.

These files contain investigatory materials that were compiled in connection with the individual's initial appointment to the staff of the Commission as well as investigatory materials compiled in connection with consideration of the individual's continued suitability to be an employee of the Commission. Such records often contain information that has been obtained from individuals pursuant to a promise by the Commission to maintain the confidentiality of their identity.

[1] These systems of records will be described in greater detail in the notices of the Commission's systems of records which will shortly be published in the FEDERAL REGISTER pursuant to Section (e)(4) of the Privacy Act, 5 U.S.C. 552a(e)(4).

[2] Section (k)(2) of the Act provides that the head of an agency may promulgate rules exempting:

Investigatory materials compiled for law enforcement purposes * * * *Provided, however*, That if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal Law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence or, prior to the effective date of this section, under an implied promise that the identity of the source will be held in confidence.

Pursuant to section (k)(5) of the Privacy Act, 5 U.S.C. 552a(k)(5), this system of records would be exempted from sections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Act, 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f), insofar as it contains investigatory material compiled for determining the individual's suitability for employment by the Commission. This exemption will be applicable only to the extent that the disclosure of such investigatory materials would reveal the identity of a source who furnished information to the Government under an express promise that the individual's identity will be held in confidence, or, prior to September 27, 1975, an implied promise by the Commission that the individual's identity will be held in confidence.

Any person interested in these proposed exemptions is invited to submit written data, views or arguments pertaining to them to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 on or before September 12, 1975. Envelopes should be marked "Privacy Act Exemptions" to ensure expeditious consideration. Reference should be made to file number S7-576. All communications will be available for public inspection.

The text of the proposed exemptions is as follows:

§ 200.312 Specific exemptions.

Pursuant to section (k) of the Privacy Act of 1974, the Chairman of the Securities and Exchange Commission has deemed it necessary to promulgate the following exemptions to specified provisions of the Privacy Act:

(a) Pursuant to, and limited by 5 U.S.C. 552a(k)(2), the following systems of records maintained by the Commission shall be exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f) insofar as they contain investigatory materials compiled for law enforcement purposes: (1) Division of Enforcement Investigative Working Files; (2) Securities Violation Records and Bulletin; (3) Investigatory Files—SEC; (4) Division of Enforcement Preliminary Market Surveillance Inquiries; (5) Atlanta Regional Office General Index of Files and Atlanta Regional Office Investigatory Files; (6) Boston Regional Office Investigation Index File System and Boston Regional Office Investigatory Files; (7) Chicago Regional Office Index Cards and Chicago Regional Office Investigatory Files; (8) Cleveland Branch Office Investigatory Files and Cleveland Branch Office Index Cards; (9) Denver Regional Office Cross-Reference Index Cards and Denver Regional Office Investigatory Files; (10) Detroit Branch Office Investigatory Files and Detroit Branch Office Index Cards; (11) Fort Worth Regional Office General Indices and Fort Worth Regional Office Investigatory Files; (12) Houston Branch Office General Indices and Houston Branch Office Investigatory Files; (13) Los Angeles Regional Office Investigative Files; (14) Miami Branch Office General Index of Files and Miami Branch Office Investigatory Files; (15) New York Regional Office Master Card Index and New York Regional Office Investigatory Files; (16) New York Regional Office Index of Complaints; (17) Philadelphia Branch Office Investigatory Files; (18) Saint Louis Branch Office Investigative Files and Saint Louis Branch Office Inquiry, Complaint and General Reference Files; (19) Salt Lake City Branch Office Cross-Reference Index Cards and Salt Lake City Branch Office Investigatory Files; (20) San Francisco Branch Office Investigative Files and San Francisco Branch Office Regulation A Files; (21) Seattle Regional Office Master Card Index and Related Regulatory, Investigatory, and Legal Files Systems; (22) Washington Regional Office Investigatory Files; (23) Office of the General Counsel Working Files; (24) Office of the Chief Accountant Working Files; (25) Investigations and Actions Index; (26) Complaint Processing System; (27) Investor Service Complaint Index; (28) Name-Relationship Index System; (29) Rule 2(e) of the Commission's Rules of Practice—Appearing or Practicing Before the Commission; (30) Division of Enforcement Liaison Working Files.

(b) Pursuant to 5 U.S.C. 552a(k)(5) the system of records containing the Commission's Office of Personnel Code of Conduct and Employee Performance Files shall be exempt insofar as it contains investigatory material compiled to determine an individual's initial or continued employment with the Commission but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 8, 1975.

[FR Doc.75-21386 Filed 8-14-75;8:45 am]

[17 CFR Part 200]

[Release Nos. 33-5604, 34-11579, 35-19121, 39-405, IC-8881, IA-468]

PRIVACY ACT OF 1974

Implementation

Notice is hereby given that the Securities and Exchange Commission proposes to amend 17 CFR Part 200 by adding Subpart H to implement provisions of the Privacy Act of 1974, 5 U.S.C. 552a (Pub. L. No. 93-579, 88 Stat. 1896).

The proposed regulations, among other things, would specify (1) the procedures whereby an individual could be advised whether any of the systems of records maintained by the Commission contain records that pertain to him; (2) the procedures for gaining access to those records that pertain to the individual; and (3) procedures whereby an individual can seek to amend the contents of records that pertain to him. The regulations specify the time, place and method of submitting requests to the Commission under the Act and provide procedures to obtain agency review of initial denials of requests for access or amendment.

A proposal to promulgate exemptions for certain records from specified provisions of the Privacy Act is being published simultaneously for comment and reference should be made to those proposals inasmuch as they may affect an individual's rights under the rules that follow.

Subpart H—Regulations Pertaining to the Privacy of Individuals and Systems of Records Maintained by the Commission

Sec.

200.301 Purpose and scope.
200.302 Definitions.
200.303 Times, places and requirements for requests pertaining to individual records in a record system and for the identification of individuals making requests for access to the records pertaining to them.
200.304 Disclosure of requested records.
200.305 Special procedure: medical records.
200.306 Requests for amendment or correction of records.
200.307 Review of requests for amendment.
200.308 Appeal of initial adverse agency determination on access or correction or amendment.
200.309 General provisions.
200.310 Fees.
200.311 Penalties.

AUTHORITY: Pub. L. 93-579; secs. (f) and (k), 5 U.S.C. 552a (f) and (k).

Subpart H—Regulations Pertaining to the Privacy of Individuals and Systems of Records Maintained by the Commission

§ 200.301 Purpose and Scope.

(a) The Privacy Act of 1974, 88 Stat. 1896, is based, in part, on the finding by Congress that "in order to protect the privacy of individuals identified in information systems maintained by Federal agencies, it is necessary and proper for the Congress to regulate the collection, maintenance, use, and dissemination of information by such agencies." To achieve this objective the Act, among other things, provides with some exceptions that Federal agencies shall advise an individual upon request whether records maintained by the agency in a system of records pertain to the individual and shall grant the individual access to such records. The Act further provides that individuals may request amendments or corrections to records pertaining to them that are maintained by the agency and that the agency shall either grant the requested amendments or set forth fully its reasons for refusing to do so.

(b) The Securities and Exchange Commission, pursuant to subsections (f) and (k) of the Privacy Act, proposes to adopt the following rules and procedures to implement the provisions of the Act summarized above and other provisions of the Act. These rules and procedures will be applicable to all requests for in-

formation, access or amendment to records pertaining to an individual that are contained in any system of records that is maintained by the Commission.

§ 200.302 Definitions.

The following definitions shall apply for purposes of this part:

(a) The terms "individual," "maintain," "record," "system of records," and "routine use" are defined for purposes of these rules as they are defined in 5 U.S.C. 552a (a)(2), (a)(3), (a)(4), (a)(5), and (a)(6).

(b) "Commission" means the Securities and Exchange Commission.

§ 200.303 Times, places and requirements for requests pertaining to individual records in a record system and for the identification of individuals making requests for access to the records pertaining to them.

(a) *Place to make request.* Any request by an individual to be advised whether any system of records maintained by the Commission and named by the individual contains a record pertaining to him or any request by an individual for access to records pertaining to him that are contained in a system of records maintained by the Commission shall be submitted by the individual during normal business hours at the Commission's Public Reference Room located at 1100 L Street, NW., Washington, D.C., or by mail addressed to the Securities and Exchange Commission, Privacy Act Officer, Public Reference Section, 1100 L Street, NW., Washington, D.C. 20549. All requests will be required to be put in writing and signed by the individual making the request.

(1) *Information to be included in requests.* Each request by an individual concerning whether the Commission maintains a record in a system of records that pertains to him or for access to any record pertaining to the individual that is maintained by the Commission in a system of records shall include such information as will assist the Commission in identifying those records as to which the individual is seeking information or access. Where practicable the individual should identify the system of records that is the subject of his request by reference to the Commission's notices of systems of records published in the FEDERAL REGISTER. Where a system of records is compiled on the basis of a specific identification scheme, the individual should include in his request the identification number or other identifier assigned to him. In the event the individual does not know the specific identifier assigned to him, he shall provide such other information, including his full name, address, date of birth and subject matter of the record, to aid in processing his request. If additional information is required before a request can be processed, the individual shall be so advised.

(2) *Verification of identity.* When the fact of the existence of a record is not required to be disclosed under the Freedom of Information Act, 5 U.S.C. 552, as amended, or when a record as to which access has been requested is not required to be disclosed under that Act, the individual seeking the information or requesting access to the record shall be required to verify his identity before access will be granted or information given. For this purpose, individuals shall appear at the Commission's Public Reference Room located at 1100 L Street, NW, Washington, D.C., during normal business hours of 9 a.m. to 5:30 p.m. e.s.t. Monday through Friday, or at one of the Commission's Regional or Branch Offices. The addresses and business hours of those Offices are listed below:

Atlanta Regional Office, 1371 Peachtree Street, NE., Suite 138, Atlanta, Georgia 30309, Office hours—8:30 a.m.–5 p.m. e.s.t.

Boston Regional Office, 150 Causeway Street, Boston, Massachusetts 02114, Office hours—9 a.m.–5:30 p.m. e.s.t.

Chicago Regional Office, Everett McKinley Dirksen Bldg., 219 South Dearborn Street, Room 1708, Chicago, Illinois 60604, Office hours—8:45–5:15 p.m. e.s.t.

Cleveland Branch Office, Federal Office Building, 1240 East Ninth Street, Room 899, Cleveland, Ohio 44199, Office hours—8:30 a.m.–5 p.m. e.s.t.

Denver Regional Office, Two Park Central, Room 640, 1515 Arapahoe Street, Denver, Colorado 80202, Office hours—8 a.m.–4:30 p.m. m.s.t.

Detroit Branch Office, 1044 Federal Building, Detroit, Michigan 48226, Office hours—8:30 a.m.–5 p.m. e.s.t.

Fort Worth Regional Office, 503 U.S. Court House, 10th and Lamar Streets, Fort Worth, Texas 76102, Office hours—8:30 a.m.–5 p.m. e.s.t.

Houston Branch Office, Federal Office and Courts Building, 515 Rusk Avenue, Room 7615, Houston, Texas 77002, Office hours—8:30 a.m.–5 p.m. e.s.t.

Los Angeles Regional Office, U.S. Court House, 312 North Spring Street, Room 1043, Los Angeles, California 90012, Office hours—8 a.m.–4:30 p.m. p.s.t.*

Miami Branch Office, Dupont Plaza Center, 300 Biscayne Boulevard Way, Suite 701, Miami, Florida 33131, Office hours—8:30 a.m.–5 p.m. e.s.t.

New York Regional Office, 26 Federal Plaza, New York, New York 10007, Office hours—9 a.m.–5:30 p.m. e.s.t.

Philadelphia Branch Office, William J. Green Jr. Federal Building, 600 Arch Street, Room 2204, Philadelphia, Pennsylvania 19106, Office hours—9 a.m.–5:30 p.m. e.s.t.

Saint Louis Branch Office, 210 North 12th Street, Room 1452, Saint Louis, Missouri 63101, Office hours—8:30 a.m.–5 p.m. e.s.t.

Salt Lake City Branch Office, Federal Reserve Bank Building, 120 South State Street, Salt Lake City, Utah 89111, Office hours—8 a.m.–4:30 p.m. m.s.t.

San Francisco Branch Office, 450 Golden Gate Avenue, Box 36042, San Francisco, California 94102, Office hours—8 a.m.–4:30 p.m. p.s.t.

Seattle Regional Office, 1411 4th Avenue Building, Room 810, Seattle, Washington 98101, Office hours—8:30 a.m.–5 p.m. p.s.t.

Washington, D.C., Regional Office, Ballston Centre Tower, 4015 Wilson Boulevard, Arlington, Virginia 22203, Office hours—9 a.m.–5:30 p.m. e.s.t.

None of the Commission's offices are open on Saturday, Sunday or the following legal holidays: New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Columbus Day, Thanksgiving Day or Christmas Day.

(3) *Methods for verifying identity—appearance in person.* For the purpose of verifying his identity, an individual seeking information as to records pertaining to him or access to those records shall furnish documentation that may reasonably be relied on to establish the individual's identity. Such documentation might include a valid birth certificate, driver's license, employee or military identification card, or medicare card.

(4) *Method for verifying identity by mail.* Where an individual cannot appear at one of the Commission's Offices for the purpose of verifying his identity, he may submit along with the request for information or access a signed and notarized statement attesting to his identity. Where access is being sought the sworn statement shall include a representation that the records being sought pertain to the individual and a stipulation that the individual is aware that knowingly and willfully requesting or obtaining records pertaining to an individual from the Commission under false pretenses is a criminal offense.

(5) *Additional procedures for verifying identity.* When it appears appropriate there may be made such other arrangements for the verification of identity as are reasonable under the circumstances and appear to be effective to prevent unauthorized disclosure of or access to individual records.

(b) *Acknowledgement of requests for information pertaining to individual records in a record system or for access to individual records.* (1) Except where an immediate acknowledgement is given for requests made in person, the Commission will acknowledge receipt of a request for information pertaining to individual records in a record system within 10 days after the receipt of such request. The Commission will process requests as promptly as possible and a response to such requests will be given within 30 days (excluding Saturdays, Sundays, and legal holidays) unless, within the 30 day period and for cause shown, the Commission shall notify the individual making the request in writing that a longer period is necessary.

(2) When an individual appears in person at the Commission's Public Reference Room in Washington, D.C., or at one of its Regional or Branch Offices to request access to records pertaining to him, and such individual provides the required information and verification of identity, the Commission's staff, if practicable, will indicate at that time whether it is likely that the individual will be given access to the records and, if so, when and under what circumstances such access will be given. In the case of requests received by mail, the Commission, whenever practicable, will acknowledge receipt of the request within 10 days after receipt (excluding Saturdays, Sundays, and legal holidays). The acknowledgement will indicate, if practicable,

* In September, 1975, the Los Angeles Regional Office will be relocated to 10960 Wilshire Boulevard, Los Angeles, California.

whether or not access likely will be granted and, if so, when and under what circumstances.

§ 200.304 Disclosure of requested records.

(a) *Initial review.* Requests by individuals for access to records pertaining to them will be referred to the Commission's Privacy Act Officer who initially will determine whether access will be granted, *Provided, however,* That a Director of a staff Division of the Commission or Office head whose zone of responsibility relates to the record requested (see 17 CFR 200.13 et seq.), may make a determination that access is not lawfully required to be granted and should not be granted, in which case he, and not the Privacy Act Officer, shall make the required notification to the individual making the request.

(b) *Grant of request for access.* (1) If it is determined that a request for access to records pertaining to an individual will be granted, the individual will be advised by mail that access will be given at the designated Office of the Commission or a copy of the requested record will be provided by mail if the individual shall so indicate. Where the individual requests that copies of the record be mailed to him or requests copies of the record upon reviewing it at a Commission Office, the individual shall pay the cost of making the requested copies, as more fully described in § 200.310 of this Subpart.

(2) In granting access to an individual to a record pertaining to him the Commission shall take such steps as are necessary to prevent the unauthorized disclosure at the same time of information pertaining to individuals other than the person making the request or of other information that does not pertain to the individual.

(c) *Denial of request for access.* If it is determined that access will not be granted, the individual making the request will be notified of that fact and given the reasons why access is being denied. The individual also will be advised (1) of his right to seek review by the Commission of the initial decision to deny access, in accordance with the procedures set forth in § 200.308 of this Subpart; and (2) of his right ultimately to obtain judicial review pursuant to 5 U.S.C. 552a(g)(1)(A) of a final denial of access by the Commission.

(d) *Time for acting on requests for access.* Access to a record pertaining to an individual normally will be granted or denied within 30 days (excluding Saturdays, Sundays and legal holidays) after the receipt of the request for access by the Commission unless the Commission notifies the individual making the request within the 30 day period that, for good cause shown, a longer time is required. In such cases, the Commission shall inform the individual who made the request in writing of the difficulties encountered and indicate when it is anticipated that access may be granted.

(e) *Authorization to allow designated person to review and discuss records pertaining to another individual.* An individual who is granted access to records pertaining to him and who appears at a Commission Office to review the records may be accompanied by another person of his choosing. Where the records as to which access has been granted are not required to be disclosed under provisions of the Freedom of Information Act, 5 U.S.C. 552, as amended, the individual requesting the records, before being granted access, shall execute a written statement, signed by him and the person accompanying him, which specially authorizes the latter individual to review and discuss the records. If such authorization has not been given as described, the person who has accompanied the individual making the request will be excluded from any review or discussion of the records.

(f) *Exclusion for certain records.* Nothing contained in these rules shall allow an individual access to any record pertaining to him that was compiled in reasonable anticipation of a civil action or proceeding.

§ 200.305 Special procedure—medical records.

(a) *Statement of physician or mental health professional.* When an individual requests access to records pertaining to him that include medical and/or psychological information, the Commission, if it deems it necessary under the particular circumstances, may require the individual to submit with the request a signed statement by his physician or a mental health professional indicating that, in his view, disclosure of the requested records or information directly to the individual will not have an adverse effect on the individual.

(b) *Designation of physician or mental health professional to receive records.* If the Commission believes, in good faith, that disclosure of medical and/or psychological information directly to an individual could have an adverse effect on that individual, the individual may be asked to designate in writing a physician or mental health professional to whom he would like the records to be disclosed, and disclosure that otherwise would be made to the individual will instead be made to the designated physician or mental health professional.

§ 200.306 Requests for amendment or correction of records.

(a) *Place to make requests.* Requests by an individual to amend records pertaining to him may be made in person during normal business hours at the Commission's Public Reference Room located at 1100 L Street, NW., Washington, D.C., or by mail addressed to the Securities and Exchange Commission, Privacy Officer, Public Reference Section, Washington, D.C. 20549.

(1) *Information to be included in requests.* Each request to amend a Commission record shall reasonably describe the record sought to be amended. Such description should include, for example, relevant names, dates and subject matter to permit the record to be located among the records maintained by the Commission. An individual who has requested that a record pertaining to him be amended will be advised promptly if the record cannot be located on the basis of the description given and that further identifying information is necessary before his request can be satisfied. An initial evaluation of a request presented in person will be made immediately to ensure that the request is complete and to indicate what, if any, additional information will be required. Verification of the individual's identity as set forth in § 200.303(a) (2), (3), (4) and (5) of this Subpart may also be required.

(2) *Basis for amendment or correction.* An individual requesting an amendment or correction to a record pertaining to him shall specify the substance of the amendment or correction and set forth facts and provide such materials that would support his contention that the record pertaining to him as maintained by the Commission is not accurate, timely or complete, or why it is not necessary and relevant to accomplish a statutory purpose of the Commission as authorized by law or by executive order of the President.

(b) *Acknowledgement of requests for amendment or correction.* The Commission normally will acknowledge in writing the receipt of a request to amend a record pertaining to an individual within 10 days after such request has been received. When a request to amend is made in person, the individual making the request will be given a written acknowledgement when the request is presented. The acknowledgement will describe the request received and indicate when it is anticipated that action will be taken on the request. No acknowledgement will be sent when the request for amendment will be reviewed and an initial decision made within 10 days from the date the request is received.

§ 200.307 Review of requests for amendment.

(a) *Initial review.* As in the case of requests for access, requests by individuals for amendment to records pertaining to them will be referred to the Commission's Privacy Act Officer for an initial determination, except that such requests may be considered by a Division Director or Office Head as set forth in § 200.304(a).

(b) *Standards to be applied in reviewing requests.* In reviewing requests to amend or correct records, the Privacy Act Officer will be guided by the criteria set forth in 5 U.S.C. 552a(e)(1) that records maintained by the Commission contain only such information as is necessary and relevant to accomplish a statutory purpose of the Commission as required by statute or executive order of the President and that such information also is accurate, timely, and complete. These criteria will be applied whether the request is to add material to a record or to delete information from a record.

(c) *Time for acting on requests.* Review of a request by an individual to amend a record pertaining to him shall

be completed as promptly as is reasonably possible and normally within 30 days (excluding Saturdays, Sundays and legal holidays) from the date the request for amendment was received, unless unusual circumstances preclude completion of review within that time. If the anticipated completion date indicated in the acknowledgement cannot be met, the individual requesting the amendment will be advised in writing of the delay and the reasons therefor and also when action is expected to be completed.

(d) *Grant of requests to amend or correct records.* If the request to amend a record is granted in whole or part, the Privacy Act Officer will: (1) Advise the individual making the request in writing of the extent to which it has been granted; (2) correct the record accordingly; and (3) where an accounting of disclosures of the record has been kept pursuant to 5 U.S.C. 552a(c), advise all previous recipients of the record of the fact that the record has been amended and the substance of the amendment.

(e) *Denial of requests to amend or correct records.* If an individual's request to amend records pertaining to him is denied in whole or in part, the Privacy Act Officer will: (1) Promptly advise the individual making the request in writing of the extent to which the request has been denied; (2) state the reasons for the denial of the request; (3) describe the procedures established by the Commission to obtain further review within the Commission of the request to amend, including the name and address of the person to whom the appeal is to be addressed; and (4) inform the individual that the Privacy Act Officer will provide information and assistance to the individual in perfecting an appeal of the initial decision.

§ 200.308 Appeal of initial adverse agency determination as to access or as to correction or amendment.

(a) *Administrative review.* Any person who has been notified pursuant to § 200.304(c) that his request for access to records pertaining to him has been denied or pursuant to § 200.307(e) that his request for amendment has been denied in whole or in part, or who has received no response to a request for access or to amend within 30 days (excluding Saturdays, Sundays and legal holidays) after his request was received by the Commission's staff (or within such extended period as may be permitted in accordance with § 200.304(d) and § 200.307(c)), may appeal the adverse determination or failure to respond by applying for an order of the Commission determining and directing that access to the record be granted or that the record be amended or corrected in accordance with his request:

(1) The application shall be in writing and shall describe the record in issue and set forth the proposed amendment and the reasons therefor.

(2) The application should be delivered to the Office of the Privacy Act Officer or mailed to the Securities and Exchange Commission, Privacy Act Officer, Washington, D.C. 20549.

(3) The applicant, if he wishes, may state such facts and cite such legal or other authorities as he may consider appropriate in support of his application.

(4) The Commission will make a determination with respect to any appeal within 30 days after the receipt of such appeal unless, for good cause shown, the Chairman of the Commission shall extend that period. If such an extension is made, the individual who is appealing shall be advised in writing of the extension, the reasons therefor and the anticipated date when the appeal will be decided.

(5) In considering an appeal from a denial of a request to amend a record, the Commission shall apply the same standards as set forth in § 200.307(b).

(6) If the Commission shall conclude that access should be granted it shall issue an order granting access and instructing the Privacy Act Officer to comply with § 200.304(b).

(7) If the Commission shall conclude that the request to amend should be granted in whole or in part, it shall issue an order granting the requested amendment in whole or in part and instructing the Privacy Act Officer to comply with the requirements of § 200.307(d).

(8) If the Commission affirms the initial decision denying access, it shall issue an order denying access and advise the individual seeking access of (i) the Commission's order; (ii) the Commission's reasons for denying access; and (iii) the individual's right to obtain judicial review of the Commission's decision pursuant to 5 U.S.C. 552a(g)(1)(B).

(9) If the Commission determines that the decision of the Privacy Act Officer should be upheld it shall issue an order denying the request to amend and the individual shall be advised of (i) the Commission's order refusing to amend the record and the reasons therefor; (ii) his right to file a concise statement setting forth his disagreement with the Commission's decision not to amend the record; (iii) the procedures for filing such a statement of disagreement with the Commission; (iv) the fact that any such statement of disagreement will be made available to anyone to whom the record is disclosed, together with, if the Commission deems it appropriate, a brief statement setting forth the Commission's reasons for refusing to amend; (v) the fact that prior recipients of the record in issue will be provided with the statement of disagreement and the Commission's statement, if any, to the extent that an accounting of such disclosures has been maintained pursuant to 5 U.S.C. 552a(c); and (F) the individual's right to seek judicial review of the Commission's refusal to amend pursuant to 5 U.S.C. 552a(g)(1)(A).

(b) *Statement of disagreement.* As noted in paragraph (a)(9)(ii) of this section, an individual may file with the Commission a statement setting forth his disagreement with the Commission's denial of his requested amendment.

(1) Such statement of disagreement shall be delivered to the Office of the Privacy Act Officer or mailed to the Securities and and Exchange Commission, Privacy Act Officer, Washington, D.C. 20549, within 30 days after receipt by the individual of the Commission's order denying the amendment. For good cause shown this period can be extended for a reasonable period.

(2) Such statement of disagreement shall concisely state the basis for the individual's disagreement. Generally a statement should be no more than two pages in length except where an individual may submit a slightly longer statement if it is necessary to set forth his disagreement effectively. Unduly lengthy or irrelevant materials will be returned to the individual by the Commission for appropriate revisions before they become a permanent part of the individual's record.

(3) The record about which a statement of disagreement has been filed will clearly note which part of the record is disputed and the Commission will provide copies of the statement of disagreement and, if the Commission deems it appropriate, provide a concise statement of its reasons for refusing to amend the record, to persons or other agencies to whom the record has been or will be disclosed.

§ 200.309 General provisions.

(a) *Extensions of time.* Pursuant to §§ 200.303(b), 200.304(d), 200.307(c) and 200.308(a)(4) the Commission may, for good cause shown or because of unusual circumstances, extend the time within which it normally would process requests for information, access or amendment by an individual with respect to records maintained by the Commission that pertain to him. As used in these rules, "good cause" and "unusual circumstances" shall include, but only to the extent reasonably necessary to the proper processing of a particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the Office processing the request. Many records of the Commission are stored in Federal Records Centers in accordance with law—including many of the documents which have been on file with the Commission for more than 2 years—and cannot be made available promptly. Other records may temporarily be located at a regional or branch office of the Commission. Any person who has requested for personal examination a record stored at the Federal Records Center or temporarily located in a regional or branch office of the Commission will be notified when the record will be made available to him.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which may be demanded in a single request. While every reasonable effort will be made fully to comply with each request as promptly as possible on a first-come, first-served basis, work done to search for, collect and appropriately ex-

amine records in response to a request for a large number of records will be contingent upon the availability of processing personnel in accordance with an equitable allocation of time to all members of the public who have requested or wish to request records.

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components within the Commission having substantial subject-matter interest therein.

(b) *Effective date of action.* Whenever it is provided in this Subpart that an acknowledgement or response to a request will be given by specific times, deposit in the mails of such acknowledgement or response by that time, addressed to the person making the request, will be deemed full compliance.

(c) *Records in use by a member of the Commission or its staff.* Although every effort will be made to make a record in use by a member of the Commission or its staff available when requested, it may occasionally be necessary to delay making such a record available when doing so at the time the request is made would seriously interfere with the work of the Commission or its staff.

(d) *Missing or lost records.* Any person who has requested a record or a copy of a record pertaining to him will be notified if the record sought cannot be found. If he so requests, he will be notified if the record subsequently is found.

(e) *Oral requests; misdirected written requests.*—(1) *Telephone and other requests.* Before responding to any request by an individual for information concerning whether records maintained by the Commission in a system of records pertain to him or requests for access to records by an individual, such requests must be in writing and signed by the individual making the request. The Commission will not entertain any appeal from an alleged denial or failure to comply with an oral request. Any person who has orally requested information or access to records pertaining to him that he believes to have been improperly denied to him should resubmit his request in appropriate written form in order to obtain proper consideration and, if need be, administrative review.

(2) *Misdirected written requests.* The Commission cannot assure that a timely or satisfactory response will be given to written requests for information, access or amendment by an individual with respect to records pertaining to him that are directed to the Commission other than in the manner prescribed in §§ 200.303(a), 200.306(a), 200.308(a)(2) and § 200.310. Any staff member who receives a written request for information, access or amendment should promptly forward the request to the Public Reference Section. Misdirected requests for records will be considered to have been received by the Commission only when they have been actually received by the Public Reference Section or Privacy Act Officer in cases under § 200.308(a)(2). The Commission will not entertain any appeal from an alleged denial or failure to comply with a misdirected request, unless it is clearly shown that the request was in fact received by the Public Reference Section or Privacy Act Officer.

§ 200.310 Fees.

A request by an individual for copies of his record may be made in person during normal business hours at the Public Reference Room at 1100 L Street, NW., Washington, D.C., or by mail addressed to the Securities and Exchange Commission, Public Reference Section, Washington, D.C. 20549. If the request is granted, there will be no charge assessed to the individual for the Commission's expense involved in searching for or reviewing the record. Copies of the Commission's records will be provided by a commercial copier or by the Commission at rates established by a contract between the copier and the Commission. Records will be copied onto 8¼" x 14" pages at the cost of 15 cents per page. Copying machines are provided at the Washington, D.C., New York, Los Angeles, and Chicago public reference rooms, where the individual may make for himself copies at a cost of 12 cents per page.

§ 200.311 Penalties.

Title 18 U.S.C. 1001 makes it a criminal offense, subject to a maximum fine of $10,000 or imprisonment for not more than 5 years or both, to knowingly and willingly make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States. 5 U.S.C. 552a(i) makes it a misdemeanor punished by a fine of not more than $5000 for any person to knowingly and willfully request or obtain any record concerning an individual from the Commission under false pretenses. 5 U.S.C. 552a(i)(1) and (2) provide criminal penalties for certain violations of the Privacy Act by officers and employees of the Commission.

Any person interested in these proposed regulations is invited to submit written data, views or arguments pertaining to them to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, on or before September 12, 1975. Comments should be marked "Privacy Act Regulations" to ensure expeditious consideration and, in addition, reference should be made to file number S7-575. All communications will be available for public inspection.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 8, 1975.

[FR Doc.75-21385 Filed 8-14-75;8:45 am]

[17 CFR Parts 230 and 240]

[Rel. No. IC-8879; File No. S7-568]

STANDARDIZATION OF MONEY MARKET FUND YIELD QUOTATIONS

Notice of Extension of Time for Comment

On June 12, 1975, the Commission published for comment proposed Guidelines which, if adopted, would standardize money market fund yield quotations on the basis of the yield to average life of the fund's portfolio (Investment Company Act Release No. 8816) (40 FR 27492, June 30, 1975). The Commission has received several requests for additional time to study this proposal. In view of the significance and complexity of the proposed Guidelines, the Commission has extended from July 31, 1975, to August 31, 1975, the period within which written views and comments may be submitted on this proposal.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 7, 1975.

[FR Doc.75-21459 Filed 8-14-75;8:45 am]

[17 CFR Part 240]

[Release No. 11561; File No. S7-573]

MUNICIPAL SECURITIES BROKERS AND DEALERS AND SPECIALISTS

Application of Net Capital Requirements

Correction

The document in the above entitled matter appearing in the issue of Monday, August 11, 1975, at page 33747, was inadvertently published in the Notices section. It should have been published as a Proposed Rule.

notices

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

DEPARTMENT OF THE TREASURY

CHEESE FROM FINLAND

Receipt of Countervailing Duty Petition and Initiation of Investigation

A petition in satisfactory form was received on June 11, 1975, alleging that payments or bestowals conferred by the Government of Finland upon the manufacture, production, or exportation of cheese constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

Pursuant to section 303(a)(4) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Department of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of that statute within 6 months of the receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final decision must be issued within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than December 11, 1975, as to whether or not the alleged payments or bestowals conferred by the Government of Finland upon the manufacture, production, or exportation of cheese constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than June 11, 1976.

This notice is published pursuant to section 303(a)(3), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and section 159.47(c), Customs Regulations (19 CFR 159.47(c)).

[SEAL] G. R. DICKERSON,
Commissioner of Customs.

Approved: August 5, 1975.

David R. Macdonald,
Assistant Secretary of the Treasury.

[FR Doc.75-21380 Filed 8-14-75;8:45 am]

CHEESE FROM SWEDEN

Receipt of Countervailing Duty Petition and Initiation of Investigation

A petition in satisfactory form was received on June 18, 1975, alleging that payments or bestowals conferred by the Government of Sweden upon the manufacture, production, or exportation of cheese constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

Pursuant to section 303(a)(4) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Department of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of that statute within 6 months of the receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final decision must be issued within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than December 18, 1975, as to whether the alleged payments or bestowals conferred by the Government of Sweden upon the manufacture, production, or exportation of cheese constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than June 18, 1976.

This notice is published pursuant to section 303(a)(3), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and section 159.47(c), Customs Regulations (19 CFR 159.47(c)).

Approved: August 11, 1975.

[SEAL] G. R. DICKERSON,
Acting Commissioner of Customs.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.75-21381 Filed 8-14-75;8:45 am]

[T. D. 75-203]

EXCESS COST OF PRECLEARANCE OPERATIONS

Reimbursable Services

AUGUST 11, 1975.

Notice is hereby given that pursuant to section 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning August 17, 1975.

Installation	*Biweekly excess cost*
Montreal, Canada	$9,473.00
Toronto, Canada	14,862.00
Kindley Field, Bermuda	5,034.00
Nassau, Bahama Islands	10,965.00
Vancouver, Canada	1,981.00
Winnipeg, Canada	735.00

KENNETH L. WILSON,
Acting Assistant Commissioner of Customs Administration.

[FR Doc.75-21453 Filed 8-14-75;8:45 am]

[T. D. 75-204]

FOREIGN CURRENCIES, CERTIFICATION OF RATES

Rates of Exchange Certified to the Secretary of the Treasury by the Federal Reserve Bank of New York

JULY 28, 1975.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Decision 75-176 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following daily rates:

Austria schilling:	
July 17, 1975	$0.0568
July 18, 1975	.0566
Germany deutsche mark:	
July 17, 1975	$0.4016
July 18, 1975	.4003
Malaysia dollar:	
July 18, 1975	$0.4097
Norway krone:	
July 17, 1975	$0.1907
July 18, 1975	.1907
Sweden krona:	
July 17, 1975	$0.2402
July 18, 1975	.2397

JAMES D. COLEMAN,
Acting Director, Duty Assessment Division.

[FR Doc.75-21454 Filed 8-14-75;8:45 am]

PRELIMINARY COUNTERVAILING DUTY DETERMINATIONS

Amendment to Notices

On June 30 and July 3, 1975, there were published in the FEDERAL REGISTER (40 CFR 27498-27499 and 40 CFR 28103-28106) preliminary countervailing duty determinations with respect to the following:

Belgium — Float glass.
Brazil — Leather handbags.
EEC—Canned hams.
France—Float glass.
India—Cast iron soil pipe, textiles.
Italy—Float glass.
Mexico — Processed asparagus, carbon steel & high strength plate.
Republic of South Africa — Ferrochrome.
South Korea—All footwear.
Switzerland—Cheese.
Taiwan—All footwear.
United Kingdom—Float glass.
West Germany—Float glass.

These notices of June 30 and July 3, 1975, are hereby amended by extending the time period to September 3, 1975, within which views or arguments with

respect to the existence or nonexistence and the net amount of the bounty or grant must be received by the Commissioner of Customs.

[SEAL] G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: August 7, 1975.

David R. Macdonald,
Assistant Secretary
of the Treasury.

[FR Doc.75-21379 Filed 8-14-75;8:45 am]

Office of the Secretary

[Treasury Department Order No. 107, Revision 19]

DIRECTOR, OFFICE OF ADMINISTRATIVE PROGRAMS, ET AL.

Authority To Affix Seal of the Treasury Department

By virtue of the authority vested in the Secretary of the Treasury, including the authority conferred by 5 U.S.C. 301, and by virtue of the authority delegated to me by Treasury Department Order No. 190 Revised, it is hereby ordered that:

1. The following officers are authorized to affix the Seal of the Treasury Department in the authentication of originals and copies of books, records, papers, writings, and documents of the Department, for all purposes, including the purposes authorized by 28 U.S.C. 1733(b):

a. In the Office of Administrative Programs.

(1) Director, Office of Administrative Programs.

(2) Deputy Director, Office of Administrative Programs.

(3) Departmental Paperwork Management Officer.

(4) Chief, Document Management Branch.

(5) Chief, Document Distribution Section.

b. In the Internal Revenue Service.

(1) Commissioner of Internal Revenue.

(2) Assistant Commissioner (Compliance).

(3) Deputy Assistant Commissioner (Compliance).

(4) Chief, Disclosure Staff.

(5) Assistant Chief, Disclosure Staff.

c. In the United States Customs Service.

(1) Commissioner of Customs.

(2) Deputy Commissioner of Customs.

(3) Assistant Commissioner of Customs (Administration).

(4) Assistant Commissioner of Customs (Investigations).

(5) Assistant Commissioner of Customs (Operations).

(6) Assistant Commissioner of Customs (Regulations and Rulings).

(7) Assistant Commissioner of Customs (Security and Audit).

d. In the Bureau of the Public Debt.

(1) Commissioner of the Public Debt.

(2) Assistant Commissioners of the Public Debt.

e. In the Bureau of Alcohol, Tobacco and Firearms.

(1) Director.

(2) Deputy Director.

(3) Regional Directors.

(4) Assistant Director for Technical and Scientific Services.

(5) Chief, Technical Services Division.

f. In the Bureau of Government Financial Operations.

(1) Commissioner of Government Financial Operations.

(2) Deputy Commissioner of Government Financial Operations.

(3) Assistant Commissioner Disbursements and Claims.

(4) Director Division of Check Claims.

2. The Director of Administrative Programs, the Commissioner of Internal Revenue, the Commissioner of the Public Debt, the Director, Bureau of Alcohol, Tobacco and Firearms, the Commissioner of Customs, and the Commissioner of Government Financial Operations are authorized to procure and maintain custody of the dies of the Treasury Seal.

Treasury Department Order No. 107 (Revision 18) dated November 13, 1974 is superseded.

Dated: August 11, 1975.

J. ELTON GREENLEE,
Acting Assistant Secretary (Administration).

[FR Doc.75-21514 Filed 8-14-75;8:45 am]

KNITTING MACHINERY FOR LADIES' SEAMLESS HOSIERY FROM ITALY

Antidumping Proceeding

On July 15, 1975, information was received in proper form pursuant to sections 153.26, 153.27, Customs Regulations (19 CFR 153.26, 153.27), indicating a possibility that knitting machinery for ladies' seamless hosiery from Italy is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*).

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States. This evidence indicates that substantial unit and dollar volume decreases, as well as decreases in employment, have occurred in the United States industry during the last 3 years. During that period, the number of units of the knitting machinery imported from Italy exceeded sales of units manufactured in the United States. On the basis of such evidence, it is not deemed necessary to refer the case to the International Trade Commission pursuant to section 201(c)(2) of the Act (19 U.S.C. 160(c)(2)).

Having conducted a summary investigation as required by section 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the constructed value.

This notice is published pursuant to section 153.30 of the Customs Regulations (19 CFR 153.30).

[SEAL] DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

AUGUST 11, 1975.

[FR Doc.75-21382 Filed 8-14-75;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

Working Group B (Mainly Low Power Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, 9th Floor, New York, New York 10014 on 10 September 1975.

The purpose of the Advisory Group is to provide the Director of Defense Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The low power devices area includes such programs as integrated circuits, charge coupled devices and memories. The review will include classified program details and will result in advice or recommendations to government research and development agencies preliminary to decisions or actions, the preliminary disclosure of which would interfere with the orderly conduct of government.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in Section 552(b) of Title 5 of the United States Code, specifically Subparagraphs (1) and (5) thereof, and that accordingly this meeting will be closed to the public.

Dated: August 12, 1975.

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

[FR Doc.75-21500 Filed 8-14-75;8:45 am]

JUSTICE DEPARTMENT

Law Enforcement Assistance Administration

NATIONAL ADVISORY COMMITTEE ON CRIMINAL JUSTICE STANDARDS AND GOALS, PRIVATE TASK FORCE

Meeting

Notice is hereby given of a correction in the location of a meeting previously announced in the FEDERAL REGISTER.

An ad hoc working committee of the Private Security Task Force to the National Advisory Committee on Criminal Justice Standards and Goals is scheduled to meet Friday and Saturday, August 22 and 23, 1975, in Philadelphia, Pennsylvania. The meeting is still scheduled to convene at 9:00 a.m. Friday August 22, in the East Conference Room, 12th Floor, I.N.A. Building, at 1600 Arch Street. The location of Saturday's portion of the meeting has been changed to the Citizens' Crime Commission Office, 12 South 12th Street, also in Philadelphia.

Discussion at this meeting will focus upon the area of private security personnel training and education. The meeting will be open to the public.

For further information, please contact: Mr. William T. Archey, Director, Policy Analysis Division, Office of Planning and Management, LEAA, U.S. Department of Justice, 633 Indiana Avenue, N.W., Washington, D.C. 20531. 202/376-3762.

GERALD H. YAMADA,
Attorney-Advisor,
Office of General Counsel.

[FR Doc.75-21452 Filed 8-14-75;8:45 am]

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

OUTER CONTINENTAL SHELF OFFSHORE, SOUTHERN CALIFORNIA

Availability of Final Environmental Impact Statement Regarding Proposed Oil and Gas Lease Sale

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental impact statement relating to a proposed Outer Continental Shelf (OCS) general oil and gas lease sale of 297 tracts of submerged lands on the OCS offshore southern California.

The final environmental impact statement has been submitted to the Council on Environmental Quality and made available to government agencies and the public for review for a 30-day period from the date of availability. During this period, comments on any aspect of the final statement will be accepted and considered by the Department of the Interior. This comment period will overlap in part with the 60-day comment period for the OCS Programmatic FEIS. This is the last of three commenting periods provided by the Department of the Interior in the review of a site-specific environmental impact statement for this proposed lease sale. The first two commenting periods were announced in the FEDERAL REGISTER editions of February 21, 1975 (40 F.R. 7692) (site-specific DEIS comment period from February 21 through May 23, 1975) and April 8, 1975 (40 F.R. 15917-15918) (comments on site-specific DEIS, and FEIS when issued, during 60-day OCS Programmatic FEIS comment period which commenced on July 11 and will extend through September 9, 1975).

Single copies of the final environmental statement can be obtained from the Office of the Manager, Pacific Outer Continental Shelf Office, Bureau of Land Management, 7663 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012, and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the final environmental statement will also be available for review in the main public libraries in various coastal cities in the sale area.

CURT BERKLUND,
Director,
Bureau of Land Management.

Approved:
STANLEY D. DOREMUS,
Deputy Assistant Secretary
of the Interior.

AUGUST 1, 1975.

[FR Doc.75-21092 Filed 8-14-75;8:45 am]

Geological Survey

DISPOSAL OF PRODUCED WATER

Comments Requested

On May 13, 1975, the Geological Survey published in the FEDERAL REGISTER (Vol. 40, No. 93, pp. 20834-20835), a Notice which (1) suspended the performance dates prescribed in NTL-2 and NTL-2A; (2) advised of the intent to modify and combine the requirements of said Notices into a new NTL; and, (3) invited the submittal of written comments in that regard by July 15, 1975.

Written and oral comments received by the Geological Survey have been carefully considered in the preparation of a proposed new Notice. All written comments are on file with the Geological Survey. Certain of these comments have been adopted or essentially satisfied, and the Geological Survey has made other changes on its own motion. The principal changes are discussed below:

FORMAT. The format has been changed to incorporate all requirements for the disposal of produced water into a single Notice.

APPROVAL AUTHORITY. Approval of all applications and compliance enforcement has been made the responsibility of the District Engineer.

APPLICATIONS. The information to be submitted with the application for approval of each type disposal system has been specified.

DISPOSAL IN UNLINED PITS. The criteria under which the disposal of produced water in unlined pits will be permitted has been clarified.

TIME FOR COMPLIANCE. The compliance date has been extended to October 1, 1977.

Due to the number of changes in both format and content, the Geological Survey is soliciting written comments, suggestions, and objections concerning the requirements of the proposed Notice. Such comments are to be submitted to the Chief, Conservation Division, U.S. Geological Survey, Mail Stop 650, 12201 Sunrise Valley Drive, Reston, Virginia 22092, by September 12, 1975.

It is hereby certified that the economic and inflationary impacts of proposed Notice to Lessees and Operators, NTL-2B, have been carefully evaluated in accordance with OMB Circular A-107.

V. E. MCKELVEY,
Director.

[NTL-2B]

DISPOSAL OF PRODUCED WATER

NOTICE TO LESSEES AND OPERATORS OF FEDERAL AND INDIAN OIL AND GAS LEASES

This Notice supersedes NTL-2 and 2A dated _____, and March 1, 1975, respectively, and is issued pursuant to the authority prescribed in 30 CFR 221.4 and 221.32.

Lessees and operators of onshore Federal and Indian oil and gas leases or fee and State leases committed to federally-supervised unitized or communitized areas shall comply with the following requirements for the handling, storing, or disposing of water produced from oil and gas wells on such leases.

I. Disposal Requirements and Applications for Approval of Disposal Methods

By October 1, 1977, all produced water must be disposed of by (1) injection into the subsurface; (2) lined pits; or (3) by other acceptable methods. All such disposal methods must be approved in writing by the District Engineer. Any method of disposal which has not been approved as of October 1, 1977, will be considered as an incident of noncompliance and will be grounds for issuing a shut-in order until an acceptable manner of disposing of said water is provided and approved by the District Engineer.

No additional approval is required for facilities previously approved by the Geological Survey which involve the disposal of produced water into the subsurface or in lined surface pits. Likewise, no further approval is necessary for existing injection facilities utilized for pressure maintenance or secondary recovery operations.

Lessees and operators who are presently disposing of water in unlined surface pits must timely file applications with the District Engineer for approval of present or proposed disposal methods.

Likewise, lessees and operators who are presently disposing of produced water in the subsurface or in lined surface pits without approval of the Geological Survey must also file applications for approval thereof by the District Engineer.

As a minimum, such applications must specify the method of disposal and provide information concerning the quantity, quality, and source of the produced water, i.e., the daily average volume and a water analysis which includes total dissolved solids, Ph, and the concentration of chlorides and sulphates. Additional information may be required by the District Engineer.

A. *Disposal in the Subsurface*

If approval is requested for subsurface disposal, the lessee or operator must also furnish information with respect to:

1. The injection formation and interval.

2. The quality of the fluids in the injection interval, i.e., total dissolved solids.

3. The size, weight, grade, and casing point of all casing strings, the size hole drilled to accommodate each string, the amount and type of cement used in cementing the separate strings, and the top of the cement behind each string.

4. The total and plugged back depth of the well.

5. The present or proposed method of completing the well for injection including the type and size of tubing and packer to be utilized, the setting depth of the packer, anticipated injection pressure, and information concerning any corrosion inhibitor fluid which is to be placed in the tubing-casing annulus.

6. Plans for monitoring the system to assure that injection is confined to the injection interval.

In order to be approved, subsurface disposal must be confined to formations which contain connate water of similar or poorer quality than the injected water. In general, it will be required that subsurface disposal be accomplished through tubing utilizing a packer which is designed to hold pressure from above and below. The packer should be set at a depth where the casing is protected by competent cement but usually not more than 50 feet above the injection interval. Other procedures or methods of subsurface disposal may be approved by the District Engineer when justified by the lessee or operator.

B. *Disposal in Lined Pits*

Where approval is requested for surface disposal in a lined pit, the lessee or operator must also supply information with respect to:

1. Size and location of pit.

2. Evaporation rate for the area compensated for annual rainfall.

3. Method for periodic disposal of precipitated solids.

4. Type of material to be used for lining the pit and the method of installation.

5. Method to be employed for the detection of leaks.

The material used in lining pits must be impervious, weather-resistant, and not subject to deterioration when contacted by hydrocarbons, aqueous acids, alkalis, fungi, or other substances likely to be contained in the produced water. Lined pits constructed after the issuance of this Notice must have an underlying gravel-filled sump and lateral system or other suitable devices for the detection of leaks. The District Engineer shall be provided an opportunity to inspect the leak detection system prior to the installation of the pit liner.

C. *Disposal in Unlined Pits*

Surface disposal into unlined pits will not be approved unless the lessee or operator can show by application that such disposal meets any of the following criteria:

1. The water to be disposed of does not contain more than 5,000 ppm of total dissolved solids on an annual weighted average basis, provided that such water does not contain objectionable or toxic levels of any constituent.

2. The volume of water to be disposed of per facility does not exceed five barrels per day or the quantity of dissolved solids does not exceed 600 pounds on a monthly basis, whichever is greater.

For the purpose of determining the total dissolved solids in produced water, the Geological Survey will use the following formula:

Pounds/Month = Parts/Million (PPM) $\times$ .00035 $\times$ Barrels/Month

3. That all, or a substantial part, of the produced water is being used for beneficial purposes. For example, produced water used for irrigation, livestock, or wildlife watering shall be considered as being beneficially used.

4. The specific method of disposal has been granted a surface discharged permit under the National Pollutant Discharge Elimination System (NPDES).

5. The water to be disposed of is not of poorer quality than the surface and subsurface water in the area which reasonably might be affected by such disposal.

Applications for approval of unlined surface pits must include the following additional information:

1. Size and location of the pit.

2. Evaporation rate for the area compensated for annual rainfall.

3. Percolation rate.

4. Where beneficial use is the basis for the application, written confirmation from the user(s). The water analysis submitted must also include the oil and grease content, temperature, chemical oxygen demand, and the concentration of other constituents which are toxic to animal, plant, or aquatic life.

5. If disposal is pursuant to an NPDES permit, a copy of the approved permit and the most recent "Discharge Monitoring Report."

6. Where an assertion is made that surface and subsurface fresh waters will not be affected by disposal in an unlined pit, the justification must include:

a. Analyses of all surface and subsurface waters in the area which might reasonably be affected by the proposed disposal.

b. Maps or plats showing the location of surface waters, fresh water wells, and existing water disposal facilities within two miles of the proposed disposal facility.

c. Reasonable geologic and hydrologic evidence showing that the proposed disposal method will not adversely impact on existing water quality or major uses of such waters, the depth of the shallowest fresh water aquifer in the area, and the presence of any impermeable barrier(s).

II. *General Requirements for Permanent Surface Pits*

Lined and unlined pits approved for water disposal shall:

1. Have adequate storage capacity to safely contain all produced water even in those months when evaporation rates are at a minimum.

2. Be constructed, maintained, and operated to prevent unauthorized surface discharges of water. Unless surface discharge is authorized, no siphon, except between pits, will be permitted.

3. Be fenced, when necessary, to prevent livestock or wildlife entry to the pit.

4. Be kept free from surface accumulations of liquid hydrocarbons by use of approved skimmer pits, settling tanks, or other suitable equipment.

5. Have a continuous embankment surrounding the pit to prevent entrance of surface water.

III. *Temporary Use of Surface Pits*

Unlined surface pits may be used for handling or storage of fluids used in drilling, redrilling, reworking, deepening, or plugging of a well provided that such facilities are promptly emptied and restored upon completion of the operations. Unless otherwise specified by the District Engineer, unlined pits may be used for well evaluation purposes for a period of 30 days.

Unlined pits may also be retained as temporary containment pits for use only in an emergency provided such pits have been approved by the District Engineer. Any emergency use of such pits shall be reported to the District Engineer as soon as possible and the pit shall be emptied and the liquids disposed of in an approved manner within 48 hours following its use, unless such time is extended by the District Engineer.

IV. *Disposal Facilities for New Wells*

With the approval of the District Engineer, produced water from wells completed after the issuance date of this Notice may be temporarily disposed of into unlined pits for a period of 30 days. During this period, an application for approval of the permanent disposal method along with all required water analysis and other information must be submitted for the District Engineer's approval. Failure to timely file an application within the time allowed will be considered an incident of noncompliance and will be grounds for issuing a shut-in order until the application is submitted. Disposal may be continued pending the District

Engineer's determination. Once the District Engineer has determined the proper method of disposal, the lessee or operator will have until October 1, 1977, or 60 days following receipt of the District Engineer's determination, whichever is the longer, in which to make any changes necessary to bring the disposal method into compliance.

V. *Unavoidable Delay*

A single extension of time not to exceed three months may be granted by the District Engineer where the lessee or operator conclusively shows by application that, despite the exercise of due care and diligence, he has been unable to timely comply with the requirements of this Notice, provided that such delay will not adversely affect the environment.

VI. *Reports*

All unauthorized discharges or spills from disposal facilities must be reported to the District Engineer in accordance with the provisions of NTL-3.

An annual report for each facility which includes the total volume disposed of during the reporting period and a current water analysis which provides the same type of information required for approval of the original application.

VII. *Compliance*

Compliance with this Notice does not relieve a lessee or operator of the responsibility for complying with more stringent applicable Federal or State water quality laws or regulations or with other written orders of the Geological Survey.

Date

Area Oil and Gas Supervisor.

APPROVED: RUSSELL G. WAYLAND,
Chief, Conservation Division.

[FR Doc.75-21475 Filed 8-14-75;8:45 am]

GEOTHERMAL RESOURCES OPERATIONAL (GRO) ORDER NO. 4

Central and Western Regions

Notice is hereby given that pursuant to 30 CFR 270.2, the Chief, Conservation Division, U.S. Geological Survey, has approved GRO Order No. 4 for the Central and Western Regions.

The purpose of GRO Order No. 4 is to provide General Environmental Protection Requirements for geothermal resources operations in the Central and Western Regions.

The proposed Order was published in the FEDERAL REGISTER on January 28, 1975, (Vol. 40, No. 19, pages 4166-4168), with a solicitation for comments. All comments on the proposed Order were considered in preparing the final version of GRO Order No. 4. In addition, the Geological Survey, on its own motion, has revised some sections of the proposed Order to strengthen and clarify it.

Significant modifications made in the draft Order and the rationale for them are as follows:

The introduction has been amended to reflect recent changes in the Freedom of Information Act (P.L. 89-487, as amended by P.L. 93-502), with respect to treatment of proprietary data submitted under this Order and to clarify the necessary acquisition of environmental baseline data one year prior to submission of a plan for production as required by 30 CFR 270.34(k).

Paragraph 2, LAND USE AND RECLAMATION, has been amended to consider vehicular traffic in environmentally fragile areas and temporary fencing, as needed, to facilitate revegetation in reclaimed areas.

Paragraph 4, RECREATION, has been amended to provide for the relocation of recreation sites and/or access routes thereto where such relocation is approved by the Supervisor with the concurrence of the Authorized Officer.

Paragraph 5, SLOPE STABILITY AND EROSION CONTROL, has been broadened to ensure that sites for wells and surface facilities in potentially unstable areas are designed by and constructed under the supervision of a qualified engineer or engineering geologist.

Paragraph 6, BIOTA, has been extensively revised and clarified with respect to soliciting expert advice and assistance from other Government agencies or private groups to detect adverse floral and faunal trends and to provide realistic mitigating measures. A section has been added which requires reasonable replacement of species or their habitat which are significantly damaged by a lessee's operations.

Paragraph 8, SUBSIDENCE AND SEISMICITY, has been broadened to include seismicity. The introduction has been reworded for clarification of surveying and data required.

Subparagraph 8B, BENCH MARKS, has been modified to include periodic resurveying of bench marks as necessary.

Subparagraph 8D, SEISMICITY, has been retitled and modified to require monitoring and remedial actions where production or injection results in induced seismicity.

Subparagraph 9A (1), LIQUID DISPOSAL, has been modified to allow liquid waste disposal by means other than injection if all applicable water quality standards are met.

Subparagraph 9A (3) has been retitled AIR QUALITY.

Subparagraph 9A (4), PITS AND SUMPS, has been reworded for clarification, and has been modified to require fencing of unattended pits and sumps when necessary to protect wildlife, livestock, and the public.

Subparagraph 9B (2), POLLUTION REPORTS, has been changed to eliminate distinction between "minor" and "substantial" spills, and now requires a uniform reporting procedure for all pollution incidents.

Subparagraph 9C (1), PLAN OF INJECTION, has been modified to eliminate the requirement that a lessee furnish a copy of his plan of injection to adjacent lessees.

Subparagraph 9C (3), INSPECTION, has been expanded to require the immediate cessation of injection operations in the event of an injection well failure which may damage surface or fresh water aquifers.

Paragraph 10, WATER QUALITY, has been clarified regarding water analysis requirements and to provide for a suspension of a production where a health hazard exists.

Subparagraph 11C, NOISE CRITERIA, has been clarified with respect to the conditions under which a noise level of 65 dB(A) may be exceeded.

It is hereby certified that the economic and inflationary impacts of Geothermal Resources Operational Order No. 4 have been carefully evaluated in accordance with OMB Circular A-107.

V. E. MCKELVEY,
Director.

UNITED STATES DEPARTMENT OF THE INTERIOR

GEOLOGICAL SURVEY CONSERVATION DIVISION

Geothermal Resources Operational Order No. 4

Effective August 1, 1975

General Environmental Protection Requirements

This Order is established pursuant to the authority prescribed in 30 CFR 270.11 and in accordance with 30 CFR 270.2, 270.34(k), 270.37, 270.41, 270.42, 270.43, 270.44, and 270.76. Lessees shall comply with the provisions of this Order. All variances from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 270.48. References in this Order to approvals, determinations, or requirements are to those given or made by the Area Geothermal Supervisor (Supervisor) or his delegated representative.

All data submitted under this Order shall be available for inspection in accordance with the Freedom of Information Act of 1966 (P.L. 89-487), as amended in 1974 (P.L. 93-502), except information such as geological, geophysical, reservoir, trade secrets, and financial data and interpretations of such data, maps, and related files for which a lessee requests proprietary status, provided that such status is determined by the Supervisor to be warranted and is approved by appropriate officials of the Department of the Interior.

Protection of the environment includes the lessee's responsibility to: conduct exploration and development operations in a manner that provides maximum protection of the environment; rehabilitate disturbed lands; take all necessary precautions to protect the public health and safety; and conduct operations in accordance with the spirit and objectives of all applicable Federal environmental legislation and supporting executive orders.

Adverse environmental impacts from geothermal-related activity shall be prevented or mitigated through enforcement of applicable Federal, State, and local standards, and the application of exist-

ing technology. Inability to meet these environmental standards or continued violation of environmental standards due to operations of the lessee, after notification, may be construed as grounds for the Supervisor to order a suspension of operations.

The lessee shall be responsible for the monitoring of readily identifiable localized environmental impacts associated with specific activities that are under the control of the lessee. Monitoring of environmental impacts may be conducted by the use of aerial surveys, inspections, periodic samplings, continuous recordings, or by such other means or methods as required by the Supervisor. Due to the differing natural environmental conditions among geothermal areas, the extent and frequency of such monitoring activities will be determined by the Supervisor on an individual basis. In the event the Supervisor determines that the degree and adequacy of existing environmental protection regulations in certain areas are insufficient, the Supervisor may establish additional and more stringent requirements by the issuance of field orders or by modifying existing orders.

Lessees shall provide for acquisition of environmental baseline data as required in accordance with 30 CFR 270.34 (k) for a period of one year prior to submission of a plan for production. Techniques and standards to be used by the lessee for meeting these requirements shall receive prior approval by the Supervisor. The lessee, in accordance with the requirements of 30 CFR 270.76, shall file in duplicate with the Supervisor, on or before March 1 of each year, an annual report of compliance with environmental protection requirements for the previous calendar year.

1. *Aesthetics.* The lessee shall reduce visual impact, where feasible, by the careful selection of sites for operations and facilities on leased lands. The design and construction of facilities shall be conducted in a manner such that the facilities will blend into the natural environmental setting of the area by the appropriate use of landscaping, vegetation, compatible color schemes, and minimum profiles. Native plants or other compatible vegetation shall be used, where possible, for landscaping and revegetation.

2. *Land Use and Reclamation.* Operating plans shall be designed so that operations will result in the least disturbance of land, water, and vegetation. Existing roads shall be used where suitable. Entry upon certain environmentally fragile land areas, as designated by the surface management agency, may be either seasonally restricted or restricted to special vehicles or transportation methods which will minimize disturbance to the surface or other resources as specified by the Supervisor and surface management agency.

Operating plans shall provide for the reclamation and revegetation of all disturbed lands in a manner approved by the Supervisor and the appropriate surface management agency. Land reclamation may include preparation and seeding with prescribed wildlife food and plant cover or improved and acceptable substitutes thereof which will equal or enhance the food values for indigenous wildlife species and domesticated animals. Temporary fencing for such reclaimed areas may be required to facilitate restoration thereof.

The lessee shall at all times maintain the leased lands in a safe and orderly condition and shall perform the operations in a workmanlike manner. The lessee shall remove or store all supplies, equipment, and scrap in a timely and orderly fashion.

Operations under a geothermal lease shall not unreasonably interfere with or endanger operations under any other lease, license, claim, permit, or other authorized use on the same lands.

3. *Public Access.* The public shall have free and unrestricted access to geothermal leased lands, excepting however, where restrictions are necessary to protect public health and safety or where such public access would unduly interfere with the lessee's operations or the security thereof. The lessee shall provide warning signs, fencing, flagmen, barricades or other safety measures deemed necessary by the Supervisor to protect the public, wildlife, and livestock from hazardous geothermal or related activities.

4. *Recreation.* Recreational values shall be adequately protected through planning and designing of site development to minimize the aesthetic degradation of the particular recreation area. The lessee shall generally be restricted from surface locations for drilling and other lease operations within 61 metres (200 feet) of established recreation sites and access routes thereto. However, the lessee may relocate a recreational site and/or access routes thereto when approved by the Supervisor with the concurrence of the land management agency.

5. *Slope Stability and Erosion Control.* Operations shall be conducted in such a manner so as to minimize erosion and disturbance to natural drainage. The lessee shall provide adequate erosion and drainage control to prevent sediments from disturbed sites from entering water courses for soil and natural resource conservation protection.

Mitigating measures to lessen environmental damage may include reseeding of disturbed soils, chemical stabilization, and dust and erosion control on well sites, roads, and construction areas.

All operating plans shall give proper consideration to the potential hazards of slope instability. Where potentially unstable ground conditions exist, design of proposed roads, drill sites, and surface facilities shall be approved by and constructed under the supervision of a qualified engineer or engineering geologist satisfactory to the Supervisor.

6. *Biota.* The lessee shall conduct all operations in such a manner as to afford reasonable protection of fish, wildlife, and natural habitat. The lessee shall take such measures as are necessary for the conservation of endangered and threatened species of flora and fauna as set forth in applicable executive orders, regulations, and State or Federal legislation such as the Endangered Species Act of 1973 and the Migratory Bird Act of 1966. When such species would be adversely affected by the lessee's operations on the leased lands, the lessee shall implement those measures necessary to minimize or eliminate such adverse effects and to protect the flora and fauna as specified by the Supervisor in accordance with recommendations by appropriate Federal and State agencies. Such measures may be in addition to provisions set forth in the lease or accompanying stipulations.

The Supervisor may receive information from recognized experts that a delicate balance of flora and/or fauna exists in the area of operations or proposed operations. Upon receiving such notice, the Supervisor will request timely advice and assistance from appropriate Federal and State agencies regarding: (1) an assessment of the status of flora and fauna in the area which may be adversely affected by operations, and (2) advice as to reasonable mitigating measures appropriate to minimizing or preventing adverse trends in populations, growth, vegetative recovery, or repopulations in potentially affected flora and/or fauna. Based on timely receipt of advice from appropriate agencies, the Supervisor will direct the lessee to take appropriate measures to minimize significant adverse trends in flora and fauna. Such measures may include, but not be limited to, revegetation with grasses, shrubs, or other vegetation of high forage values desirable for habitat, replacement of fauna where lost, replacement of water supply, or sources where destroyed.

Where the lessee's operations have destroyed significant flora and/or fauna or their natural habitat and replacement by natural processes will not take place in a normal growth cycle, the lessee shall take reasonable measures to replace those species or their habitat with the same or other acceptable species or habitat as directed by the Supervisor. The Supervisor's requirements shall be based on recommendations and advice received from appropriate Federal and State agencies.

7. *Cultural Resources Preservation.* The lessee shall exercise due diligence in the conduct of his operations to protect and preserve significant archaeological, historical, cultural, paleontological, and unique geologic sites. The lessee shall not disturb any known cemetery or burial ground of any group or culture.

Previously unknown sites uncovered by the lessee shall be immediately reported to the Supervisor, and operations on the particular site shall cease until said site can be assessed for its archaeological value and preservation. Necessary controls and remedial actions for the protection and preservation of cultural resources shall be issued on an individual site basis by the Supervisor as warranted.

The preservation, restoration, maintenance, and nomination of all resources for purposes of the National Register of Historic Places shall be in accordance with the provisions of Executive Order 11593 (36 FR 8921) entitled, "Protection and Enhancement of the Cultural Environment," or any amendments thereto.

8. *Subsidence and Seismicity.* Surveying of the land surface prior to and during geothermal resources production will be required for determining any changes in elevation of the leased lands. Lessees shall make such resurveys as required by the Supervisor to ascertain if subsidence is occurring. Production data, pressures, reinjection rates, and volumes shall be accurately recorded and filed monthly with the Supervisor as provided in 30 CFR 270.37. In the event subsidence activity results from the production of geothermal resources, as determined by surveys by the lessee or a governmental body, the lessee shall take such mitigating actions as are required by the lease terms and by the Supervisor.

If subsidence is determined by the Supervisor to present a significant hazard to operations or adjoining land use, then the Supervisor may require remedial action including, but not limited to, reduced production rates, increased injection of waste or other fluids, or a suspension of production.

A. *Surveys.* All required surveys shall be second order or better and shall be conducted under the direct supervision of a registered civil engineer or licensed land surveyor using equipment acceptable by the National Ocean Survey for second order surveys. All such work shall be coordinated with the county surveyor of the county in which the surveys and bench marks are to be established. Level lines and networks shall be tied to available regional networks.

Adjusted survey data shall be filed with the Supervisor within 60 days after leveling is completed. Any lessee having a commercially productive geothermal well or wells shall participate in cooperative County/State subsidence detection programs. All survey data filed with the Supervisor shall be available to the public.

B. *Bench Marks.* One or more wellsite bench marks shall be required at each completed well prior to prolonged production and said bench marks shall be located in a manner such that there is a minimal probability of destruction or damage to said bench marks. Wellsite bench marks shall be tied to existing regional networks. Additional bench marks between the wellsites and the regional network shall be at 0.8-km (one-half mile) intervals or as otherwise specified by the Supervisor. These bench marks shall be resurveyed during well production operations on a periodic basis as determined by the Supervisor.

Acceptable bench marks include, but are not limited to, a brass rod driven to refusal or 9 metres (about 30 feet) and fitted with an acceptable brass plate or a permanent structure with an installed acceptable brass plate.

C. *Reservoir Data.* Initial reservoir pressure and temperature shall be reported to the Supervisor in duplicate on Well Completion or Recompletion Report (Form 9-330C) for all completed wells within 30 days after the completion of measurements or tests conducted for the purpose of obtaining such data. Initial production test data including steamwater ratio, surface pressure and temperature, quality, and quantity of well effluent shall also be filed with the Supervisor on Form 9-330C within 30 days after a well is completed.

D. *Seismicity.* The installation of seismographs or other like instruments in producing geothermal areas for the purpose of detecting potential seismic activity may be initiated from time to time by appropriate public agencies. Lessees shall cooperate with the appropriate public agencies in this regard. The lessee and the appropriate public agency should take care not to unreasonably interfere with or endanger each other's respective operations. The Supervisor shall coordinate such detection programs between the appropriate public agency conducting the program and the lessee.

Where induced seismicity caused by the production of geothermal fluids is determined to exist by the Supervisor, then the Supervisor may require the lessee to install such monitoring devices as necessary to adequately quantify the effects thereof. If induced seismicity is determined to represent a significant hazard, the Supervisor may require remedial actions including, but not limited to, reduced production rates, increased injection of waste or other fluids, or suspension of production.

9. *Pollution, Waste Disposal, and Fire Prevention.* The lessee shall comply with all applicable Federal and State standards with respect to the control of all forms of air, land, water, and noise pollution, including the control of erosion and the disposal of liquid, solid, and gaseous wastes. The Supervisor may, at his discretion, establish additional and more stringent standards. Plans for disposal of well effluents must be approved by the Supervisor before any implementation action is undertaken. Immediate corrective action shall be taken in all cases where pollution has occurred.

The lessee shall timely remove or dispose of all waste including human waste, trash, refuse, and extraction and processing waste generated in connection with the lessee's operations in a manner acceptable to the Supervisor.

The lessee shall provide safeguards to minimize potential accidental fires and shall instruct field personnel in fire-prevention methods. The lessee shall maintain firefighting equipment in working order at strategic locations on the leased lands.

A. *Pollution Prevention.* In the conduct of all geothermal operations, the lessee shall not contaminate any natural waters and shall minimize adverse effects on the environment.

(1) *Liquid Disposal.* Liquid well effluent or the liquid residue thereof containing substances, including heat, which may be harmful or injurious and cannot otherwise be disposed of in conformance with Federal, State, and regional standards, shall be injected into the geothermal resources zone or such other formation as is approved by the Supervisor.

Toxic drilling fluids shall be disposed of in a manner approved by the Supervisor and in conformance with applicable Federal, State, and regional standards.

(2) *Solid Waste Disposal.* Drill cuttings, sand, precipitates, and other solids shall be disposed of as directed by the Supervisor either on location or at other approved disposal sites. Containers for mud additives for chemicals and other solid waste materials shall be disposed of in a manner and place approved by the Supervisor.

(3) *Air Quality.* Noncondensible gases such as carbon dioxide, ammonia, and hydrogen sulfide may be vented or ejected into the atmosphere, provided, however, that the volume and the measured concentration of such vented gas or gases shall not exceed applicable Federal, State, or regional air pollution standards. Copies of each permit issued by the appropriate air pollution control agency and the reports required thereunder shall be submitted to the Supervisor.

(4) *Pits and Sumps.* Pits and sumps shall be lined with impervious material and purged of environmentally harmful chemicals and precipitates before backfilling. In no event shall the contents of a pit or sump be allowed to contaminate streams, lakes, and ground waters. Pits and sumps shall be constructed in a manner and in such locations so as to minimize damage to the natural environment and aesthetic values of the lease or adjacent property. When no longer used or useful, pits and sumps shall be backfilled and the premises restored to as near a natural state as reasonably possible. Temporary fencing of unattended pits and sumps to protect wildlife, livestock, and the public may be required by the Supervisor and the surface management agency.

(5) *Production Facilities Maintenance.* Production facilities shall be operated and maintained at all times in a manner necessary to prevent pollution. The lessee's field personnel shall be instructed in the proper maintenance and operations of production facilities for the prevention of pollution.

B. *Inspection and Reports.* Lessees shall comply with the following pollution inspection and reporting requirements.

(1) *Pollution Inspections.* Drilling and production facilities shall be inspected daily by the lessee. Appropriate preventative maintenance shall be performed as necessary to prevent failures and malfunctions which could lead to pollution. Wells and areas not under production shall be inspected by the lessee at intervals prescribed by the Supervisor. Necessary repairs or maintenance shall be made as required.

(2) *Pollution Reports.* All pollution incidents shall be reported orally within 18 hours to the appropriate Geothermal District Supervisor and shall be followed within 30 days thereof by a written report stating the cause and corrective action taken.

C. *Injection.* The use of any subsurface formation, including the geothermal resources zone for the disposal of well effluent, the residue thereof, or the injection of fluids for other purposes such as subsidence prevention shall not be permitted until the lessee has submitted a plan of injection covering the proposed injection project and has subsequently received the Supervisor's written approval thereof.

(1) *Plan of Injection.* The plan of injection shall include the quantity, quality, and source of the proposed injection fluid; the means and method by which the fluid is to be injected; a structure map contoured on the intended injection zone; and cross-sections showing producing well locations and the proposed injection well location(s).

(2) *Injection Report.* The lessee shall file in duplicate with the Supervisor a Monthly Water Injection Report in a form approved by the Supervisor. The subject report shall be filed on or before the last day of the month following the month in which the injection took place.

(3) *Inspection.* Injection wells and facilities shall be inspected by the lessee at intervals as prescribed by the Supervisor to ascertain that all injected fluids are confined to the approved injection zone. A spinner survey, a radioactive tracer survey, and a cement bond log may be required on each injection well within 30 days after injection begins. The lessee shall furnish to the Supervisor two legible exact copies of any and all such surveys and logs. In the event of a casing failure, inadequate annular cement, or other mechanical failure, the lessee shall without unreasonable delay repair, suspend, or abandon the well. Where failure occurs in a zone which may damage surface or fresh water aquifers, injection shall immediately cease.

(4) *New Wells.* The drilling of new injection wells in accordance with an approved plan of injection shall be in conformance with the provisions of GRO Order No. 2. An Application for Permit to Drill, Form 9–331C, shall be filed in triplicate and approved for each injection well.

(5) *Conversions.* The conversion of an existing well to an injection well in accordance with or modification of an approved plan of injection shall be in conformance with the requirements of GRO Order No. 2. The lessee shall demonstrate to the satisfaction of the Supervisor by appropriate testing and logging that the well is mechanically sound and suitable for injection purposes. A Sundry Notice, Form 9–331, shall be filed in triplicate and approved for each conversion.

10. *Water Quality.* The primary responsibility for water quality and pollution control has been delegated to the States where such States have standards approved by the Environmental Protection Agency. Such State standards must meet basic Federal requirements prohibiting the deterioration of waters whose existing quality is higher than established water quality standards. The lessee shall comply with the State water quality control organization's standards in such States as have federally-approved standards. The Supervisor, at his discretion, may establish additional and more stringent standards.

The lessee shall file, in duplicate, a detailed water analysis report for all completed geothermal wells within 30 days after completion and annually thereafter or as otherwise specified by the Supervisor. Unless otherwise prescribed by the Supervisor, such analyses shall include a determination of arsenic, boron, radioactive content, and radioactivity of the produced fluids. In the event that a health hazard exists, the Supervisor shall require appropriate health and safety precautions, periodic monitoring, or the suspension of production.

11. *Noise Abatement.* The lessee shall minimize noise during exploration, development, and production activities. The method and degree of noise abatement shall be as approved by the Supervisor.

The lessee shall conduct noise level measurements during exploration, development, and production operations to determine the potential objectionability to nearby residents as well as the potential health and safety danger due to noise emissions.

Noise level measurements and accompanying data shall be filed with the Supervisor. Such data shall provide the basis for operational and noise control decisions by the Supervisor and shall be based on an assessmcnt of the noise relative to Federal or State criteria including adjustments for the area involved, meteorological conditions, and the time of day of the noise occurrence.

The lessee shall comply with Federal occupational noise exposure levels applicable to geothermal activity under the Occupational Safety and Health Act of 1970 as set forth in 29 CFR 1910.95, which are incorporated herein by reference, or with State standards for protection of personnel where such State standards are more restrictive than Federal standards.

A. *Measurement Condition.* Outdoor noise measurements shall be made at least 3 metres (10 feet) from structures, facilities, or other sound reflecting sources and approximately 1 metre (3 feet) above ground level. Extreme weather conditions, electrical interference, and unusual background noise levels shall be avoided or given due consideration when measuring sound levels.

B. *Measurements.* The lessee shall monitor and measure noise levels using an octave band noisɔ analyzer with an A-weighted frequency response or a standard sound level meter that conforms to the requirements set forth in USA Standard Specifications for General Purpose Sound Level Meters USASI S1.4-1961 or the latest approved revision thereof. Bandpass filters shall conform to the requirements of USASI S1.11–1966. The lessee shall measure noise level frequency distribution as required by the Supervisor. Sound levels shall be measured in conformance with the USA Standard-Method for the Physical Measurement of Sound USASI S1.2–1962.

C. *Criteria.* In the absence of more restrictive criteria as may be established in this paragraph, the lessee shall not exceed a noise level of 65 dB(A) for all geothermal-related activity including but not limited to, exploration, development, or production operations as measured at the lease boundary line or 0.8 km (one-half mile) from the source, whichever is greater, using the A-weighted network of a standard Sound Level Meter. However, the permissible noise level of 65 dB(A) may be exceeded under emergency conditions or with the Supervisor's approval if written permission is first obtained by the lessee from all residents within 0.8 km (one-half mile).

D. *Assessment.* The lessee shall be responsible for taking such noise level measurements as are deemed necessary by the Supervisor. The background noise level shall serve as the criterion for the rating and assessment, by the Supervisor, of the objectionableness of noise emission from a particular source. The background or ambient noise is defined hereby as the minimum sound level at the relevant place and time in the absence of the source noise and shall include consideration for the type of land use, the season, atmospheric conditions, and the time of day.

E. *Attenuation.* To attenuate objectionable noise, the lessee shall utilize properly designed muffling devices as required by the Supervisor.

F. *Relationships.* Reference levels and relationships for noise measurements shall be as follows:

(1) Reference sound pressure for airborne sounds shall be 20 MN/m (20 micronewtons per square metre).

(2) Reference power shall be 10–12 watts.

(3) Sound levels shall be measured using a standard Sound Level Meter with an "A" frequency response characteristic (weighting network).

(4) Sound level meter controls shall be set for as uniform a frequency response as possible when measuring sound pressure levels.

(5) Octave band noise levels shall be reported in equivalent A-weighted levels.

G. *Record of Sound Measurements.* The Supervisor may require sound level measurements during drilling, testing, and producing operations. Such measurements shall be filed in duplicate with the Supervisor and shall include the following data:

(1) Date, time, and location.

(2) Name of observer.

(3) Description of primary noise source emitter under test.

(4) Kind of operation and operating conditions.

(5) Description of secondary noise sources including location, type, and kind of operation.

(6) Type and serial numbers on all microphones, sound level meters, and octave band analyzers used. Length and type of microphone cables.

(7) Position of observer.

(8) Direction of arrival of sound with respect to microphone orientation.

(9) Approximate temperature of microphone.

(10) Results of maintenance and calibration tests.

(11) Weighting network and meter speed used.

(12) Measured overall response and band levels at each microphone position and extent of meter fluctuation.

(13) Background overall response and band levels at each microphone position with primary noise source not operating.

(14) Cable and microphone corrections.

(15) Any other pertinent data such as personnel exposed directly and indirectly, time pattern of the exposure, atmospheric conditions, attempts at noise control and personnel protection.

REID T. STONE,
Area Geothermal Supervisor.

APPROVED: RUSSELL G. WAYLAND,
Chief, Conservation Division.

[FR Doc.75-21476 Filed 8-14-75;8:45 am]

National Park Service

HISTORIC AMERICAN BUILDINGS SURVEY ADVISORY BOARD

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Historic American Buildings Survey (HABS) Advisory Board will be held on September 12 and 13, starting at 9:15 a.m., in the Conference Room of the Herbert F. Johnson Museum of Art, at Cornel University, Ithaca, New York.

The HABS Advisory Board was established by the Secretary of the Interior on November 17, 1933, and sanctioned by an Act of Congress, August 21, 1935, to render advice on matters related to the task of preserving records of the historic architectural monuments of the United States.

The present membership of the HABS Advisory Board is as follows:

Mr. D. O. Davies, New Castle, Pennsylvania.
Dr. John Douglas Forbes, Charlottesville, Virginia.
Dr. Richard W. Hale, Jr., Boston, Massachusetts, Secretary.
Mr. John D. Henderson, AIA, San Diego, California, Vice-Chairman.
Mrs. Victorine Du Pont Homsey, FAIA, Wilmington, Delaware.
Dr. Barclay G. Jones, AIA, AIP, Ithaca, New York.
Mr. George McMath, AIA, Portland, Oregon.
Prof. F. Blair Reeves, AIA, Gainesville, Florida, Chairman.
Miss Barbara Wriston, Chicago, Illinois.
Mr. Thomas B. Muths, Jackson, Wyoming, ex officio member, from the American Institute of Architects.
The Librarian of Congress, ex officio member (represented by Dr. Alan Fern, Chief, Div. of Prints and Photographs), Washington, D.C.

Among other things, the Advisory Board agenda will consist of reports from the Chief of the Historic American Buildings Survey and staff reports on summer measured drawing projects and HABS publications. There will also be a viewing of three significant exhibitions related to HABS work. In the Olin Library, an exhibit will be based on Cornell's rare book collection, and developed from "Architectural Measured Drawings: Their Evolution, Use, and Influence on the Study of Architectural History," a Ph.D. thesis by John Poppeliers, HABS Chief. Two other exhibits will be in the Museum of Art: "Terminal, Station, and Depot," a historic development and adaptive-use photographic exhibition developed by HABS, and a retrospective show of the work of Jack E. Boucher, historic architectural protographer for the Office of Archeology and Historic Preservation.

The meeting is open to the public, and any person may file with the Board a written statement concerning the matters being discussed; however, facilities and space for accommodating members of the public are limited.

Further information concerning these meetings may be obtained from the Office of Archeology and Historic Preservation, National Park Service, Washington, D.C. (202) 523-5295. Minutes of the meeting may be acquired through the Executive Secretary of the Board, Mrs. Lucy Pope Wheeler, HABS (202) 523-5474, after the succeeding meeting of the Advisory Board.

A. R. MORTENSEN,
Director, Office of Archeology and Historic Preservation.

[FR Doc.75-21534 Filed 8-14-75;8:45 am]

Bureau of Reclamation

GENERAL ADJUSTMENTS IN POWER RATES

Final Procedures for Public Participation in General Adjustments in Power Rates

On May 21, 1975, the Bureau of Reclamation published in the FEDERAL REGISTER a draft of "Proposed Procedures for Public Participation in General Adjustments in Power Rates," 40 FR 22156. On June 16, 1975, a short notice was published that corrected the omission of the name of the Bureau from the title and extended the time for public comment to July 7, 1975.

Fifteen communications were received in response to these notices.

A detailed review of these comments were made, and copies of the comments and of that review are available for public inspection at the office listed below.

Chief, Division of Power, Bureau of Reclamation, Room 7612, Department of the Interior, Washington, D.C. 20240, Telephone: (202) 343-5337.

Based on the review, the final procedures have been adopted and appear below. The principal changes made from the proposed procedures as a result of the review include clarification of the fact that the procedures apply only to the Bureau of Reclamation, that copies of the tentative proposal will be mailed to all customers, and that copies of the entire record developed during the proceeding will be available on request for a fee. The public information meeting has been changed to a "public information forum," and the formal public hearing has been changed to a "public comment forum." Both forums will be conducted by a chairman who will be responsible for orderly procedures. The Department has rejected the recommendations that rates be set through an adjudicatory proceeding involving sworn testimony, cross-examination, and an initial decision by the administrative law judge as inappropriate since it would divorce ratesetting from responsibility for administering reclamation projects.

JACK O. HORTON,
Assistant Secretary of the Interior.

AUGUST 4, 1975.

PROCEDURES FOR PUBLIC PARTICIPATION IN GENERAL ADJUSTMENTS IN POWER RATES

1. *Purpose and scope.* The purpose of these procedures is to afford interested members of the public a reasonable opportunity for meaningful participation in the development of general adjustments in power rates of the Bureau of Reclamation. It applies to general adjustments in the power rates for a project that are necessary to assure financial feasibility, but it does not apply to other rate actions that have a minor impact on financial feasibility, such as technical adjustments in rates, the adoption of special rates for limited purposes, the adoption of rates for use in connection with power pool operations, and the like.

2. *Statutory authority.* The establishment of power rates by the Bureau of Reclamation for Federal Reclamation projects is pursuant to the Reclamation Act of 1902, as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c), and the acts specifically applicable to the project in question. Consideration also is given to the statutes under which other Interior power marketing agencies operate, particularly section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, and the Bonneville Project Act, as amended, 16 U.S.C. 832 et seq.

3. *Definitions.* As used herein—

a. "Departmental" refers to all personnel and components of the Department of the Interior, including, but not limited to, the Office of the Secretary, the Office of the Solicitor, and the Bureau of Reclamation.

b. "Secretary" includes the following officers of the Department of the Interior: Secretary, Acting Secretary, Under Secretary, Acting Under Secretary, Deputy Under Secretary, Assistant Secretary, Acting Assistant Secretary, and Deputy Assistant Secretary.

4. *Tentative rates.* The Secretary will announce by the issuance of a press release that tentative adjusted rates for the project have been prepared and are under consideration. Notice also shall be published in the FEDERAL REGISTER. The Department will mail to the power customers of the project and other interested persons information in writing concerning (1) the tentative rates, (2) the principal criteria used in developing the tentative rates, and (3) the schedule for public participation in the review of the tentative rates and in the development of the final rates.

5. *Consultation and comment period.* For a period ending 90 days after the issuance of the press release, or 15 days after the close of the public comment forum described in paragraph 7 below, whichever is later, all interested persons will have the opportunity to consult with, and obtain information from, departmental representatives, to examine backup data, and to make suggestions for modification of the rates or criteria. At any time during this period, any person may file written comments with the Regional Director of the Bureau of Reclamation responsible for power marketing from the project. Copies of all written comments will be available on request for a fee.

6. *Public information forums.* During the consultation and comment period, one or more public information forums will be held, during which departmental representatives will explain the tentative rates and criteria, answer questions concerning them, and receive comments from interested persons. The forum will be conducted by a chairman who will be responsible for orderly procedure. Questions which cannot be answered by departmental representatives at the forum will either be answered at a subsequent information forum, if one is held, or answered in writing at least 15 days before the public comment forum described in paragraph 7 below. The number of such forums will depend upon the size of the power marketing area of the project, the number of power customers, and the degree of interest shown. A transcript of each forum will be made, and copies of the transcript, of all documents introduced, and of the written answers to questions will be available on request for a fee.

7. *Public comment forum.* Not less than 60 days after the issuance of the press release, a public comment forum will be held for the primary purpose of permitting interested persons to submit written comments or make oral presentations of their views and comments. It will be conducted by a chairman who will be responsible for orderly procedure. Departmental representatives will be present, and they and the chairman may ask questions of the witnesses. Persons interested in speaking should submit a request to the Regional Director at least 3 days before the forum so a witness list can be developed. The chairman may allow others to speak if time allows. A transcript of the forum will be made, and copies of the transcript and of all documents introduced will be available on request for a fee.

8. *Proposed decision on rate adjustment.* Following departmental review of the information and comments gathered in the course of the proceedings described above, the Secretary will announce his proposed decision on the rate adjustment. He will issue an explanation of the principal factors leading to such decision.

9. *Review period.* Interested persons will be given at least 30 days to submit comments in writing to the Secretary on the proposed decision.

10. *Final decision on rate adjustment.* Following departmental review of the further written comments, the Secretary will announce his final decision on the rate adjustment and the effective date of the adjusted rates. He will issue an explanation of the principal reasons therefore. The effective date shall be not less than 60 days after the announcement.

[FR Doc.75-21163 Filed 8-14-75;8:45 am]

[INT DES 75-44]

ALASKA NATURAL GAS TRANSPORTATION SYSTEM, DRAFT ENVIRONMENTAL IMPACT STATEMENT

Locations and Dates of Public Hearings

In accordance with 40 CFR 1500.7, public hearings will be held on the Alaska Natural Gas Transportation System Draft Environmental Impact Statement. This notice is prepared as a supplement to that of July 28, 1975, 40 FEDERAL REGISTER 145, pages 31617-31618, which announced the availability of the draft EIS.

Hearings will be held in eleven cities on the following dates, each beginning at 9:00 A.M. local time:

SEPTEMBER 25-26

Northern Hotel, Broadway and 1st Ave. North, Billings, Montana.
Performing Arts Center, Building K, University of Alaska, Anchorage, Alaska.
Ceremonial Courtroom, Room 2525, 219 S. Dearborn Street, Chicago, Illinois.
Bonneville Power Auditorium, 1002 NE Holladay Street, Portland, Oregon.

SEPTEMBER 29-30

Traveller's Inn, 813 Noble Street, Fairbanks, Alaska.
Yuba Room, Sacramento Community Center, 14th & K Streets, Sacramento, California.
Highway Department Auditorium, Capitol Hill, Bismarck, North Dakota.
Washington Water Power Company Auditorium, 1411 E. Mission Street, Spokane, Washington.

OCTOBER 2-3

Baranof Hotel, 127 North Franklin Street, Juneau, Alaska.
Pioneer Inn, 221 S. Virginia Street, Reno, Nevada.
Department of the Interior Auditorium, 18th & C Streets, NW., Washington, D.C.

The hearings will provide the Secretary with information on the adequacy of the draft EIS in addition to that received during the 90-day review and comment period announced July 28, 1975. The hearings will also provide the Secretary with an opportunity to receive additional views of interested state and local agencies.

A draft Environmental Impact Statement was released on July 28, 1975. Copies of this statement are available for review at the locations listed at the close of this announcement. Copies may also be obtained by mail from the EIS Task Force, Room 1538, Bureau of Land Management, (302) Department of the Interior, 18th & C Sts., NW., Washington, D.C. 20240.

Interested persons, representatives of organizations, and public officials wishing to testify are requested to contact the designated local Interior office in their city. A list of designated offices is included in this announcement. The Department requests that notice of intent to testify be given as early as possible. All parties should contact the local designated office by eight days before the hearing at which they expect to testify.

The hearings will be conducted by an Administrative Law Judge and will be heard by a panel composed of Interior officials. Time limitations make it necessary to limit the length of oral presentations to 10 minutes per speaker. Those wishing to supplement their oral testimony by the submission of written testimony may do so. Any person or organization so doing is requested to submit twenty (20) copies for the convenience of the hearing panel and the audience.

Testimony and comments received will be analyzed preparatory to the writing of a Final Environmental Impact Statement.

Locations of review copies, Alaska Natural Gas Transportation System Draft EIS:

EIS Task Force, Alaska Natural Gas Transportation System, Bureau of Land Management (302), Room 1538, U.S. Department of the Interior, 18th & C Sts., NW., Washington, D.C. 20240.
Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska.
Bureau of Land Management, Nevada State Office, Room 3008, 300 Booth Street, Reno, Nevada.
Bureau of Land Management, Oregon State Office, 729 N.E. Oregon Street, Portland, Oregon.
Bureau of Land Management, California State Office, 2800 Cottage Way, Sacramento, California.
Bureau of Land Management, Fairbanks District Office, 1028 Aurora District, Fairbanks, Alaska.
Juneau Memorial Library, 114 West 4th, Juneau, Alaska.
Bureau of Land Management, Montana State Office, 316 N. 26th Street, Billings, Montana.
Office of the Special Assistant to the Secretary of the Interior, 32nd Floor, 230 S. Dearborn Street, Chicago, Illinois.
North Dakota State Planning Agency, State Capitol, Bismarck, North Dakota.
Spokane Public Library, 906 W. Main Ave., Spokane, Washington.

Designated local Department of the Interior Offices:

ALASKA HEARINGS

Art Kennedy, Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

WASHINGTON AND OREGON HEARINGS

Robert Hofstetter, Bureau of Land Management, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208.

MONTANA AND NORTH DAKOTA HEARINGS

Bryan Robinson, Bureau of Land Management, Montana State Office, Federal Building and U.S. Courthouse, 316 N. 26th Street, Billings, Montana 59101.

NEVADA HEARINGS

Stu Gearhart, Bureau of Land Management, Nevada State Office, Federal Building, Room 3008, 300 Booth Street, Reno, Nevada 89502.

CALIFORNIA HEARINGS

Robert Metzger, Bureau of Land Management, California State Office, Federal Office Building, Room E-2841, 2800 Cottage Way, Sacramento, California 95825.

CHICAGO HEARINGS

Madonna McGrath, Special Assistant to the Secretary of the Interior, 32nd Floor, 230 S. Dearborn Street, Chicago, Illinois 60604.

WASHINGTON, D.C. HEARINGS

Thomas DeRocco, EIS Task Force, Alaska Natural Gas Transportation System, Room 1538, Bureau of Land Management (302), Department of the Interior, 18th & C Streets, NW., Washington, D.C. 20240.

Dated: August 13, 1975.

WILLIAM W. LYONS,
Deputy Under Secretary.

[FR Doc.75-21674 Filed 8-14-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

COOPERATIVE FORESTRY RESEARCH ADVISORY COMMITTEE

Meeting

The Cooperative Forestry Research Advisory Committee will meet September 28, 1975, at Washington, D.C., at 9 a.m.

The meeting is open to the public and will be held in the Ohio Room at the Statler-Hilton Hotel, 16th and K Streets.

The Advisory Committee will review a draft document, "National Program for Cooperative Foresry Research", prepared by the SubCommittee on Research Priorities and complete the statement of priorities for forestry research.

The names of Committee members and agenda are available upon requests to the recording secretary of the Committee, John D. Sullivan, USDA, CSRS, Washington, D.C. 20250. Written statements may be filed with the Committee before or after the meeting.

EDWARD C. MILLER,
Acting Administrator.

[FR Doc.75-21468 Filed 8-14-75;8:45 am]

Packers and Stockyards Administration

DAVIS RANCH HORSE SALE, FT. MORGAN, COLORADO, ET AL.

Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Facility No., name, and location of stockyard	*Date of posting*
CO-116—Davis Ranch Horse Sale, Fort Morgan, Colo.	Nov. 22, 1961.
CO-119—Grand Junction Livestock Center, Grand Junction, Colo.	Nov. 4, 1965.
CO-122—Colorado Livestock Sales Co., Inc., Greeley, Colo.	May 23, 1957.
CO-125—Hotchkiss Sale Yard, Hotchkiss, Colo.	Oct. 26, 1959.
CO-127—R. P. Lewis & Son Auction Co., LaJunta, Colo.	June 11, 1957.
CO-134—Melott Livestock Commission Co., Pueblo, Colo.	Mar. 7, 1957.
CO-138—Springfield Livestock Commission Co., Springfield, Colo.	May 3, 1962.
CO-139—Steamboat Sales Barn, Steamboat Springs, Colo.	Mar. 20, 1957.
CO-141—Trinidad Livestock Auction, Trinidad, Colo.	Mar. 7, 1957.
GA-139—Wayne County Stockyard, Jesup, Ga.	May 16, 1959.
IN-108 — Montgomery County Sale Pavilion, Crawfordsville, Ind.	June 10, 1959.
KS-130—Schooler Brothers, Inc., Frankfort, Kans.	May 25, 1959.
MO-147—Lamar, Cattle Auction, Lamar, Mo.	May 26, 1959.
NM-102—Artesia Livestock Commission Company, Artesia, N. Mex.	Nov. 22, 1960.
OK-177—Tonkawa Livestock Auction Company, Inc., Tonkawa, Okla.	Apr. 29, 1959.
PA-142—Montague Livestock Auction, Inc., Union City, Pa.	Dec. 9, 1959.

Notice or other public procedure has not preceded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule relieving a restriction and may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective August 15, 1975.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 *et seq.*)

Done at Washington, D.C., this 5th day of August 1975.

EDWARD L. THOMPSON,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.75-21367 Filed 8-14-75;8:45 am]

MOORES' LIVESTOCK AUCTION NORCO, CALIFORNIA, ET AL.

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. et seq.), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on the respective dates specified below.

Facility No., name, and location of stockyard	*Date of posting*
CALIFORNIA	
CA-167—Moores' Livestock Auction, Norco.	July 15, 1975.
GEORGIA	
GA – 180 — Wayne County Stockyard, Jesup.	July 22, 1975.
KENTUCKY	
KY-113—Farmers Livestock Market of Glasgow, Inc., Glasgow.	June 24, 1975.
MARYLAND	
MD – 118 — Meteor Stables, Inc., Capitol Heights.	July 18, 1975.
MONTANA	
MT-118—Falls Livestock Exchange, Great Falls.	June 12, 1975.
NEW YORK	
NY-154—Empire Livestock Marketing Cooperative, Inc., Bath.	July 17, 1975.
TEXAS	
TX-312—Nacogdoches County Livestock Arena, Inc., Nacogdoches.	July 24, 1975.
WASHINGTON	
WA-128—Quincy Livestock Commission, Inc., Quincy.	June 25, 1975.

Done at Washington, D.C. this 8th day August, 1975.

EDWARD L. THOMPSON,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.75-21366 Filed 8-14-75;8:45 am]

COMMERCE DEPARTMENT

Bureau of the Census

CENSUS ADVISORY COMMITTEE OF THE AMERICAN STATISTICAL ASSOCIATION

Public Meetings

The Census Advisory Committee of the American Statistical Association will convene on September 18 and 19, 1975 at 9:00 a.m. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Maryland.

The Census Advisory Committee of the American Statistical Association was established in 1919 to advise the Director, Bureau of the Census in all aspects of the Bureau's statistical programs, and to respond to the Bureau's requests for

opinions and judgments in the whole area of its operations.

The Committee is composed of 14 members appointed by the President of the American Statistical Association.

The agenda for the September 18 meeting is: 1) Topics of current interest at the Bureau of the Census, 2) publication criteria and disclosure analysis, 3) Census provision of analytic tools for data users, 4) plans for evaluating state estimates of children in poverty (Public Law 93-380), 5) plans for improvement of coverage in the 1980 census, and 6) framework for establishing the income/labor force data package for the 1980 census.

The agenda for the September 19 meeting, which will adjourn at 12:30 p.m., is: 1) Review of Census procedures for new surveys, 2) discussion of other American Statistical Association committees having potential interest in Census Bureau Programs, and 3) discussion of Census Bureau responses to previous committee recommendations.

The meetings will be open to the public, and a brief period will be set aside on September 19 for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting should contact the Committee Control Officer, Mr. James L. O'Brien, Acting Chief, Center for Census Use Studies, Bureau of the Census, Room 3540, Federal Building 3, Suitland, Maryland. (Mail address: Washington, D.C. 20233). Telephone 301-763-7490.

Dated: August 11, 1975.

VINCENT P. BARABBA,
Director,
Bureau of the Census.

[FR Doc.75-21384 Filed 8-14-75;8:45 am]

CENSUS ADVISORY COMMITTEE ON PRIVACY AND CONFIDENTIALITY

Public Meeting

The Census Advisory Committee on Privacy and Confidentiality will convene on September 22, 1975 at 9:30 a.m. in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Maryland.

The Census Advisory Committee on Privacy and Confidentiality was established on October 7, 1971 to advise the Director, Bureau of the Census, on policy and procedure concerning the purpose and scope of census inquiries and on all aspects of privacy and confidentiality as they relate to the statistical work of the Bureau.

The Committee is composed of 15 members appointed by the Secretary of Commerce.

The agenda for the meeting is: 1) Topics of current interest at the Bureau of the Census, 2) impact of the Privacy Act of 1974, 3) legislative developments, 4) survey questions on voter attitudes, and 5) 1980 census planning.

The meeting will be open to the public, and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting should contact the Committee Control Officer, Mr. Ted Clemence, Program Planning Officer, Bureau of the Census, Room 2419, Federal Building 3, Suitland, Maryland. (Mail address: Washington, D.C. 20233) Telephone: 301-763-2758

Dated: August 12, 1975.

VINCENT P. BARABBA,
Director,
Bureau of the Census.

[FR Doc.75-21527 Filed 8-14-75;8:45 am]

Domestic and International Business Administration

ARMY INSTITUTE OF DENTAL RESEARCH

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the March 18, 1975 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket number: 76-00009-33-46040. Applicant: U.S. Army Institute of Dental Research, Walter Reed Army Medical Center, Washington, D.C. 20012. Article: Electron Microscope, Model EM 301. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article is intended to be used for research projects on ceramic bone substitutes, implant materials, sealant attachment to dental surfaces, and endodontic sealing techniques. The materials to be investigated will include hard and soft tissue as well as synthetic oral surgical implant substances. Research goals with this material are to demonstrate acceptance of these materials by oral soft tissue and bone. Application received by Commissioner of Customs: July 9, 1975.

Docket number: 76-00017-33-90000. Applicant: Purdue University, ADMS Building, West Lafayette, IN 47907. Article: Rotating X-ray generator, Model GX20 3.5''. Manufacturer: AEI Scientific Apparatus, United Kingdom. Intended use of article: The article is intended to be used as a high intensity fine focus X-ray source for the investigation of the crystal and molecular structure of small spherical RNA viruses. Application received by Commissioner of Customs: July 10, 1975.

Docket number: 76-00018-33-46040. Applicant: Northwestern University Medical School, 303 E. Chicago Avenue, Chicago, Illinois 60611. Article: Electron Microscope HS-9. Manufacturer: Hitachi Inc., Japan. Intended use of article: The article is intended to be used to scan large areas of tissue at low magnifications followed by photography of the nerve endings found therein at low and high magnifications in the study of nerve terminals in the peripheral nervous system. The article will also be used for training of graduate students in the following courses: (1) Research Rotation: Course No. 1445-E90, (2) Pharmacology of the Autonomic Nerve System: Course No. 1445-D24-I and Pharmacology of the CNS: Course No. 1445-D24-II, and (3) Ultrastructural Correlations. Application received by Commissioner of Customs: July 18, 1975.

Docket number: 76-00019-00-17500. Applicant: University of Miami, P.O. Box 248184, Coral Gables, Fla. 33124. Article: 30 Minute Timing Plug for Current Meter. Manufacturer: Ivar Aanderaa, Norway. Intended use of article: The article is a spare part for a recording current meter being used in an experiment to distinguish between motions of the density surface due to internal waves and apparent motions of a temperature surface. This study has a significant bearing on the usual method of measuring internal waves by measuring the temperature field. Application received by Commissioner of Customs: July 10, 1975.

Docket number: 76-00020-33-90000. Applicant: St. Joseph's Hospital & Medical Center, 350 West Thomas Road, P.O. Box 2071, Phoenix, Arizona 85001. Article: EMI Scanner with Magnetic Tape Transport System and Diagnostic Display Console. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended for use in the following areas of study: 1. In dementia and confusional states differentiation of normal pressure hydrocephalus from cerebral atrophy and occult neoplasm; 2. Determination of those seizure patients for whom surgery could be beneficial; 3. Evaluation of the efficacy of various chemotherapeutic agents in the treatment of brain tumors; 4. Evaluation of different agents for the treatment of the difficult problem of cerebral edema either that following surgery or following head trauma; 5. The nontraumatic assessment of congenital

brain defects; 6. More accurate non-invasive categorization of the stroke victim as regards underlying pathology be it ischemic, hemorrhagic or neoplastic; and 7. Assessment of tumor vascularity with contrast enhancement and its relationship to the blood brain barrier and the possibility of histopathologic determination. The article is also intended for use in teaching normal and pathological intracranial conditions to resident physicians and neuroradiology to residents from Departments of Neurology, Neurosurgery and radiology. Application received by Commissioner of Customs: July 10, 1975.

Docket number: 76-00021-85-80200. Applicant: Bryn Mawr College, Bryn Mawr, Pennsylvania 19010. Article: Microthermometric Apparatus and Crushing Stage. Manufacturer: The Chaixmeca Company, France. Intended use of article: The article is intended to be used for the study of small inclusions of fluids trapped in minerals in rocks. These will include metamorphic rocks and rocks associated with ore deposits. The fluids in the inclusions are in the liquid and/or gaseous state. The purpose of the article is to liquefy and solidify the inclusions. The objective is to determine the compositions of the fluids and the temperatures and pressures at which they were trapped in the rocks. In addition the article will be used in the following courses: Mineralogy—which involves the study of the physical and chemical properties of minerals and conditions under which they form; Petrology—which involves the study of the origin of rocks; Economic geology—which involves the study of the origin, nature and occurrence of metallic and non-metallic mineral resources; and Thermodynamics—which involves the study of the basic parameters which determine the properties of a system. Application received by Commissioner of Customs: July 10, 1975.

Docket number: 76-00022-75-42900. Applicant: University of Michigan, 500 E. University, Ann Arbor, MI. 48104. Article: Superconducting Magnet. Manufacturer: Canada Superconductor and Cryogenics Company, Canada. Intended use of article: The article is intended to be used to measure the magnetic moment (g-2) of the electron positrons. Experiments will consist of trapping polarized electron or positrons of 10 MeV energy, in a precisely shaped magnetic well in the center of the magnet. Application received by Commissioner of Customs: July 10, 1975.

Docket number: 76-00023-33-90000. Applicant: Saint Bernardine Hospital, 2101 North Waterman Avenue, San Bernardino, California 92404. Article: EMI-Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used in the hospital Radiology Department to study diseases of the central nervous system. A study will be undertaken of the comparative results of the scanner system and more dangerous techniques in hopes that patient care will be improved by diagnosing brain diseases earlier and with less discomfort. In addition, patients will have isotope brain scans and cerebral angiograms. Specifically, it is hoped that the scanner can identify and differentiate cerebral tumors, infarctions and abscesses as well as identify orbital diseases. The article will also be used in courses covering the indication, effectiveness and accuracy of the scanner system. Application received by Commissioner of Customs: July 10, 1975.

Docket number: 76-00024-33-90000. Applicant: Community Medical Center, 316 Colfax Ave., Scranton, Pa. 18510. Article: EMI Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used to evaluate intracranial mass lesions, including neoplasms, vascular abnormalities and alterations in ventricular size thus determining the value of the article in comparison with other standard approaches. Clinical investigations will be performed on a wide number of lesions as well as a large number of patients in order to determine the validity of surgery without invasive diagnostic studies. The article will also be used for educational purposes by medical students in neurology and neurological surgery as well as residents in the neurological program. The article will also be used to expand the knowledge of medical students, general practice residents and x-ray technologists in the utilization of such equipment. Application received by Commissioner of Customs: July 10, 1975.

Docket number: 76-00025-33-46040. Applicant: The Rockefeller University, York Avenue and 66th Street, New York, N.Y. 10021. Article: Electron Microscope, Model EM 201 and accessories. Manufacturer: Phillips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for the study of cell growth. The materials to be studied in a large variety of biochemical experiments will be primarily nucleic acids from mammalian cells and viruses including cancer viruses which will affect mammalian cells. Application received by Commissioner of Customs: July 10, 1975.

Docket number: 76-00027-33-90000. Applicant: St. Alphonsus Hospital, Dept. of Neuro-Diagnostics, 1055 West Curtis Road, Boise, Idaho 83704. Article: EMI Scanner System including Magnetic Tape System, Diagnostic Display Console, and Data Transfer Module. Manufacturer: EMI Ltd., United Kingdom. Intended use of article. The article is intended to be used for computerized axial tomography study of patients with neurological diseases involving brain tissue and cerebrospinal fluid spaces. Various disorders such as brain tumors, infections, stroke trauma and degenerative neurological problems will be studied. Properties of brain and adjacent tissues altered by disease will be determined. The data provided by the article will be available for study and continuing medical education for physicians and medical technicians. Physicians in family practice residency programs will be instructed in the procedures and the usefulness of this particular equipment and its accessories. Application received by Commissioner of Customs: July 11, 1975.

Docket number: 76-00028-33-14900. Applicant: Northwestern University, 619 Clark Street, Evanston, Ill. 60201. Article: 502/ADC Analogue to digital converter. Manufacturer: Cambridge Electronic Design Ltd., United Kingdom. Intended use of article: The article is intended to be used for studies of the responses to time-varying stimuli of retinal ganglion cells of the cat. Application received by Commissioner of Customs: July 11, 1975.

Docket number: 76-00029-33-46040. Applicant: Andrews University, Biology Department, Berrien Springs, Michigan 49104. Article: Transmission Electron Microscope EM9S-2 & Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in the teaching of biological research procedures to graduate students in the fields of histology, cytology, microbiology and parasitology. Studies will be conducted on the effects of protozoan parasites on the surrounding tissues in animal gut as well as ultrastructural changes due to the effect of toxins of poisonous reptiles on the nervous system. The article will also be used for educational purposes in the following courses: Animal Histology, Parasitology, Protozoology and Techniques in Electron Microscopy. Application received by Commissioner of Customs: July 11, 1975.

Docket number: 76-00030-33-87100. Applicant: Yale University, 20 Ashmun Street, New Haven, Conn. 06520. Article: Voltage Clamp for Myelinated Nerves. Manufacturer: Medica GMBH, West Germany. Intended use of article: The article is intended to be used for the study of the electro-physical properties of nerve. Experiments will be conducted on single rat or rabbit myelinated fibers and the results obtained will be used to understand (and thus perhaps treat clinically) the nature of the electrophysiological disorders in demyelinating disease, such as multiple sclerosis. Application received by Commissioner of Customs: July 15, 1975.

Docket number: 76-00031-33-46040. Applicant: Harvard University, Purchasing Department, 75 Mt. Auburn Street, Cambridge, Mass. 02138. Article: Electron Microscope, Model EM 10A. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in research to detect and interpret changes in cellular ultrastructure induced by mutations through study of the soil round worm, *Caenorhabditis elegans*. Other research will include the following: (1) Studies of the structure of chromosomes; (2) Studies of DNA replications apparatus in *E. coli*, SV40 and mammalian cells; (3) Analysis of restriction endonuclease cleaved DNAs; and (4) Studies of hormonally induced fine structural changes in the silk gland

of the silk moth *Bombyx mori*. The article will also be used in training graduate students in electron microscopy techniques. Application received by Commissioner of Customs: July 15, 1975.

Docket number: 76–00033–33–90000. Applicant: St. Luke's Hospital Association, Inc., 2900 West Oklahoma Avenue, Milwaukee, Wisconsin 53215. Article: EMI-Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used in the diagnosis of brain disease. This article will be used to differentiate between subtle differences in x-ray absorptions, thus making it possible to distinguish between tissues such as brain tissue, water-filled ventricular system, blood, spinal fluid, tumor or blood clot. Scan experiments will be performed with the article to evaluate its usefulness in trauma. The enhancement of the images produced by the article by means of various contrast media will be investigated. Clinical investigations will include scanning neurological disorder, Parkinsonism, Huntington's chorea, multiple sclerosis and other diseases, lead intoxication, cerebral palsy, hydrocephalus and drug abuse. In addition, the article will be used in post-graduate education courses on-going at St. Luke's Hospital for training of specalists in radiology. Application received by Commissioner of Customs: July 15, 1975.

Docket number: 76–00034–33–46040. Applicant: New York State Dept. of Health, New Scotland Avenue, Division of Laboratories and Research, Albany, New York 12201. Article: Electron Microscope, Model EM 301. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article is intended to be used for the investigation of phenomena related to the production of metastatic disease in animal model systems. Structural features of both natural host and tumor cells will be examined for basic clues to the transport of malignant cells from the site of origin to the malignancy. Experiments will be conducted in congenic responder and nonresponder mouse strains. In vitro experiments with human pathologic tissue will also be undertaken to determine the responsiveness to plant lections. Effects of immunosuppression and immune enhancement on the relationship of high and low affinity antibodies to tumor cells will also be studied in mouse systems. Application received by Commissioner of Customs: July 16, 1975.

Docket number: 76–00035–33–46040. Applicant: Lincoln University, Lincoln University, Pennsylvania, 19352. Article: Transmission Electron Microscope EM 9S–2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in research to study the effects of light on retinal degeneration in hyperthermic rats. The objectives of the research program are to determine the threshold values of light intensity and duration of exposure necessary to produce retinal damage; to determine the extent that drugs causing hyperpyrexia augment the retinal damage caused solely by environmental lighting conditions; and to document the time sequence of light-induced photo-receptor degeneration. Application received by Commissioner of Customs: July 17, 1975.

Docket number: 76–00037–33–46500. Applicant: Massachusetts General Hospital, Dept. of Pathology, Boston, Mass. 02114. Article: LKB 8800A Ultramicrotome III. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of materials and phenomena necessary for the understanding of cellular interactions in culture systems including tumor destruction, and those necessary for the understanding of vesicular transport of macromolecules into and out of individual cells under varying experimental conditions. Application received by Commissioner of Customs: July 17, 1975.

Docket number: 76–00038–33–46500. Applicant: City of Hope National Med. Center, 1500 E. Duarte Road, Duarte, California 91010. Article: LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of tissue from (1) human autopsy and biopsy of central and peripheral nerves, muscle, and tumors; and (2) independent and collaborative animal research on islets of Langerhands, arterial walls (atherosclerosis), mesenteric vessels, and myelin. Application received by Commissioner of Customs: July 17, 1975.

Docket Number: 76–00039–75–27000. Applicant: University of California-Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, New Mexico 87545. Article: 2 (Two) Microchannel Plane Cathode Ray Tubes TMC–4. Manufacturer: Laboratoires D'Electronique Et De Physique Applique, France. Intended use of article: The article is intended to be used to measure fast transient phenomena related to the generation of nuclear radiation from large scale thermonuclear reactions. These reactions occur in nuclear weapons tests and in laboratory implosion studies. Application received by Commissioner of Customs: July 17, 1975.

Docket number: 76–00040–90–77030. Applicant: Clark University, 950 Main St., Worcester, MA 01610. Article: Coherent CPS–2 NMR Pulse Spectrometer. Manufacturer: Spin Lock Electronics Ltd., Canada. Intended use of article: The article is intended to be used in general pulsed nuclear magnetic resonance experiments to study spin-spin and spin-lattice relaxation times and resonance frequencies of most liquids and solids that contain hydrogen or fluorine nuclei. In addition, the article will be used in the following courses: (1) 119.2 Physical Instrumentation Laboratory—an introduction to modern physical research instrumentation emphasizing measurements on fundamental particles, such as protons, muons, gamma rays, electrons, and positrons; and (2) 219.2 Physical Instrumentation Laboratory—a course the same as Physics 119.2 execpt that interpretation of experiments must be at the advanced undergraduate and beginning graduate level. Application received by Commissioner of Customs: July 17, 1975.

Docket number: 76–00041–33–90000. Applicant: Rockford Memorial Hospital, 2400 North Rockton Avenue, Rockford, Illinois 61101. Article: EMI Brain Scanner. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used by radiologists, neurosurgeons, neurologists, pathologists, and radiotherapists, to study a wide variety of neurological disorders of the brain, including brain tissue injuries due to trauma, benign and malignant tumors of the brain, cerebral vascular accidents (strokes, changes in brain tissue due to aging (i.e., atrophy), and hydrocephalus in children). In addition, the article will be used to give students instruction in the use of the machine including x-ray techniques and physics, and in the anatomy of the brain. Students will also be given instructions in the significance of the results of the EMI versus other modalities. Application received by Commissioner of Customs: July 17, 1975.

Docket number: 76–00042–33–46040. Applicant: Tennessee State University, 3500 Centennial Blvd., Nashville, Tennessee 37203. Article: Electron Microscope, Model EM 201. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used in extensive studies of the development of a better than 90 percent incidence of leukemia in young AKR mice. In addition, the article will be used for educational purposes in the courses: (1) Bio 460—Junior Honors Research designed to acquaint outstanding students with modern tools of research and research techniques; and (2) Bio 511 and 512—Graduate research in which students will be taught the routine procedures employed in transmission electron microscopy. Application received by Commissioner of Customs: July 17, 1975.

Docket number: 76–00043–33–90000. Applicant: St. Francis Hospital of Lynwood, 3630 East Imperial Highway, Lynwood, California 90262. Article: EMI Scanner System with Diagnostic Display Console. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used to study patients with suspected neurological diseases involving the brain. Specific projects of investigation include the following: 1. The normal anatomical changes in the aging brain in which the cortical sulci and ventricular size will be followed in the elderly who are asymptomatic neurologically; 2. Ventricular size changes in the hydrocephalic patients who have been treated with ventriculo-atrial and ventriculo-peritoneal shunts. In addition, the symptoms and the size of the ventricles will be correlated with time in the course of the followup of these patients; and 3. The antomical changes of traumatic lesions of the brain with time. Application received by Commissioner of Customs: July 17, 1975.

Docket number: 76-00044-33-90000. Applicant: Saint Agnes Hospital, 1303 E. Herndon Avenue, Fresno, California 93710. Article: EMI Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used for the investigation of intracranial disease; strokes, brain masses, head trauma, brain atrophy and inflammatory disease. Analysis of data obtained by use of computerized axial tomography of the head will be compared with current diagnostic modalities used, e.g., cerebral angiography, pneumencephalography, radioisotope scanning and ultrasound to determine the following: (1) Reliability and validity of each method in determining the anatomical localization, size, and morphological characteristics of intracranial lesions; (2) Feasibility of use of computerized axial tomography in the diagnostic evaluation of head trauma in a trauma and neurosurgical center; (3) Cost effectiveness of EMI Scanning compared with currently available methods in establishing diagnosis of intracranial disease; and (4) Reliability and validity in establishing the diagnosis of intracranial inflammatory disease especially coccidioidomycosis, a mycotic infectious disease, endemic in Fresno County. Publicized data obtained in the studies listed above will be used for physician and other health science personnel education; to consist of lectures and conferences regarding the results of investigative studies to insure proper selection of techniques for diagnosis and follow-up studies in patients with strokes, brain masses, head trauma, brain atrophy and intracranial inflammatory diseases. Application received by Commissioner of Customs: July 17, 1975.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Acting Director,
Special Import Programs Division.

[FR Doc.75-21477 Filed 8-14-75;8:45 am]

INDIANA UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 F.R. 12253 et seq., 15 CFR 701, 1974.)

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 75-00480-35-54500. Applicant: Indiana University, Purchasing Department, 1101 East 17th Street, Bloomington, Indiana 47401. Article: 1 Topcon Slit Lamp Haag-Streit type, Model SL-3 and 1 Haag-Streit Corneal Pachymeter No. 1. Manufacturer: Tokyo Kogaku Kikai K.K., Japan. Intended use of article: The article is intended to be used to study structural changes in the human cornea, especially changes in thickness, which accompany the wearing of contact lenses. The article will also be used in the courses V533 Contact Lenses and Subnormal Vision Aids, and V658 Specialty Clinics to provide optometry students with complete knowledge and experience in the fitting and evaluation of contact lenses made of various materials.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article consists of a combined slit lamp and pachymeter. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated July 25, 1975 that the combination described above is pertinent to the applicant's intended purposes. HEW also advises that it knows of no combined instrument of equivalent scientific value to the foreign article for such purposes as the article is intended to be used which is domestically available.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Acting Director,
Special Import Programs Division.

[FR Doc.75-21478 Filed 8-14-75;8:45 am]

NATIONAL RADIO ASTRONOMY OBSERVATORY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 F.R. 12253 et seq., 15 CFR 701, 1974).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 75-00487-00-80050. Applicant: National Radio Astronomy Observatory, Associated Universities, Inc., 2015 Ivy Road, Charlottesville, Virginia 22903. Article: Three (3) Waveguide Signal Distributors. Manufacturer: Hitachi Shibaden Corp., Japan. Intended use of article: The article is intended to be used as part of the Very Large Array radio telescope to transmit radio wavelengths radiation received from extraterrestrial objects to recording apparatus. The study of this radiation enables astronomers to study the sources of energy, origin and evaluation of the universe.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign articles which are custom made provide (1) low loss of signal strength over the long transmission paths (21 kilometers) required by the Very Large Array radio telescope under construction by the applicant, (2) transmission of wide signal bandwidths, needed for handling very high data rates, (3) very low signal distortion (VSWR) and (4) elimination of the need for complex electronic amplifiers (repeaters) at 800 meters along the transmission line. The National Bureau of Standards (NBS) advises in its memorandum dated July 29, 1975 that the capabilities of the articles described above are pertinent to the applicant's intended use. NBS also advises that it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for such purposes as the articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Acting Director,
Special Import Programs Division.

[FR Doc.75-21479 Filed 8-14-75;8:45 am]

NEW YORK STATE DEPARTMENT OF HEALTH

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6 (c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act (40 F.R. 12253 et seq., 15 CFR 701, 1974) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket number: 76-00032-33-46040. Applicant: New York State Dept. of Health, New Scotland Avenue, Division of Laboratories and Research, Albany, New York 12201. Article: Electron Microscope, Elmiskop 102. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is intended to be used for the following research: (1) Investigation of the detailed ultrastructure of clinical as well as the identification or ultrastructural characteristics of virus-like agents obtained from intestinal tract and other organs of cases of Reyes syndrome; (2) Examination of the matrix, protein organization and the membrane of mitochondria of liver and central nervous system; (3) Examination of the disruption of nucleic acids within the nucleus and nucleolar of pancreatic acinar cells: (4) Examination of a variety of cell types infected with virus-like material obtained from clinical cases to determine the effects on relationship of nascent RNA molecules to the DNA: (5) Association of protein with elongating nascent RNA molecules in the synthesis of early viral proteins: (6) Determination of the relationship of structural features of "aflatoxin-induced Reye's syndrome" to Reye's syndrome as it occurs in the United States; and (7) Relationship of disease induced in primate animal model systems to the clinical syndrome. Application received by Commissioner of Customs: July 16, 1975.

Docket number: 76-00045-65-86300. Applicant: Washington State University, Division of Purchasing, Pullman, Washington 99163. Article: Rheovibron Viscoleastometer. Manufacturer: Toyo Baldwin Co., Ltd., Japan. Intended use of article: The article is intended to be used in studies of the structure-property correlations of epoxy composites and polymers in which dynamic mechanical properties will be evaluated as a function of frequencies at constant temperature and of different temperature at constant frequencies. The article will also be used for educational purposes in the courses: MSE 543 Natural and synthetic polymers; MSE 501 Advanced Topics in Materials Science. Application received by Commissioner of Customs: July 21, 1975.

Docket number: 76-00046-33-46040. Applicant: National Cancer Institute, National Institutes of Health, Laboratory of Pathophysiology, DCBD, Bldg. 10/5B-36, Bethesda, MD 20014. Article: Electron Microscope, Model JEM 100C and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of pathogenic and nonpathogenic microorganisms (e.g. bacteria, fungus, human and animal viruses), mammalian tissues derived from experimental animals to exhibit normal and pathologic structure. The experiments to be conducted include: (1) Experiments to study localization and distribution of enzymes in both microbial and mammalian cell membrane; (2) Experiments to elucidate the supramolecular architecture of the biological membrane system; (3) Experiments to study the physiologic and pathologic changes in tumor cell ultrastructure; and (4) Experiments to study the molecular organization of intestinal brush border membrane and its changes under experimentally induced malignancy. Application received by Commissioner of Customs: July 21, 1975.

Docket Number: 75-00047-33-90000. Applicant: Scripps Memorial Hospital, 9888 Genesee Avenue, P.O. Box 28, La Jolla, Ca. 92037. Article: EMI Scanner System. Maufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used in studying acute changes seen in the brain under various pathological conditions utilizing phantoms and patients in the specific areas of the eyes, optic nerves, cranial nerves in general, cerebrospinal fluid, gray matter, white matter, blood vessels, bone and calcification. Pathologic entities to be studied include brain tumors, nerve tumors, active bleeding, old hemmorrhage, retinal detachment, orbital tumors, hydrocephalus, and acute brain injury. The article will also be used in the education of physicians as to the advantages and limitations of the technique of computerized axial tomography with instruction in specific findings seen in various disease states. Technical personnel will be instructed in the operation of the equipment and patient care during the procedure, as well as instruction in the findings in various disease states. Application received by Commissioner of Customs: July 21, 1975.

Docket Number: 76-00048-33-90000. Applicant South Miami Hospital, 7400 S. W. 62nd Avenue, South Miami, Florida 33143. Article: EMI Scanner System with High Definition Display. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used to conduct a series of selected brain scans the results of which will be used for comparison with conventional X-ray findings of brain disorders to evaluate the risks to the patients from both methods, to show if the new method can avoid hospitalization of the patient for diagnostic tests, and to prove that the diagnostic capabilities of the article will reduce the risk to the patent for both therapy and surgery. Application received by Commissioner of Customs: July 21, 1975.

Docket Number: 76-00050-33-46040. Applicant: Veterans Administration Hospital, 16111 Plummer Street, Sepulveda, California 91343. Article: Electron Microscope, Model EM 201C and accessories. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article is intended to be used for research on the fine structure, biochemistry and pathology of aging in laboratory animals and man. The materials to be studied will include cells and tissues of animal and human origin obtained through biopsy, autopsy or surgical removal (for example, tumor tissues); chemical constituents extracted from these tissues (for example, proteins, polysaccharides and nucleic acids); subcellular fractions and organelles, such as microtubules and mitochondria; and viral preparations. Studies will be carried out to provide information on the cellular and molecular mechanisms of the pathological changes that occur during "normal" aging as well as in some of the degenerative and neoplastic conditions associated with aging; to evaluate the efficacy of some current therapeutic measures for age-related pathological conditions, and to devise more effective methods of treatment and prevention. The article will also be used to train investigators and technicians in the use of the electron microscope and basic electron microscopic methods so that they can make effective use of the electron microscope facility in the conduct of their own research projects. Application received by Commissioner of Customs: July 22, 1975.

Docket number: 76-00051-33-46500. Applicant: California State University, Northridge, 18111 Nordhoff Street, Northridge, California 91324. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter, Sweden. Intended use of article: The article is intended to be used for research studies of a variety of biological specimens including cancer cells, Sarcoma-180 ascites tumor cells, eggs and sperms of marine organisms, other pathological mammalian tissues, and plant materials. The experiments to be conducted include fine structural and cytochemical analyses of tumor cell surfaces with special emphasis on cell surface labelling of receptor sites with ferritin-conjugated compounds. The article will also be used in the following courses related to cellular fine structure: 540F a graduate course in Electron Microscopy; 380, Cell Biology; 411, Animal Histology; 440, Cell Physiology. Application received by Commissioner of Customs: July 25, 1975.

Docket number: 76-00052-33-46040. Applicant: U.S. Public Health Service Hospital, Bay Street & Vanderbilt Avenue, Staten Island, New York 10304. Article: Electron Microscope, Model EM 10A. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for the examination of all structure and membrane features using the preparative techniques of sectioning and freeze fracture. Tissue will be derived from experiments in which physiological parameters of the toad urinary bladder and rat kidney have been measured. Also pathological specimens from human renal biopsies and other tissues will be examined with the article. Experiments will be conducted to describe the relationship between structure and function in epithelia. In particular the effect of vassopressin on membrane structure and the effect of extra-cellular volume expansion on the structure of renal epithelial tight junctions will be investigated. Application

received by Commissioner of Customs: July 25, 1975.

Docket number: 76-00053-33-46040. Applicant: University of Florida, Dept. of Entomology, Institute of Food and Agricultural Sciences, 345 Archer Rd. Lab., Gainesville, Florida 32611. Article: Electron Microscope, Model HS-9. Manufacturer: Eitachi, Ltd., Japan. Intended use of article: The article is intended to be used for research in the following areas: (1) the ultrastructure, site of infection, and multiplication of a new complex microsporida associated with the imported fire ant and (2) the structure, multiplication, and translocation of insect viruses in various economic insect pests. The article will also be used in a number of graduate courses in entomology. Application received by Commissioner of Customs: July 25, 1975.

Docket number: 76-00049-00-00500. Applicant: University of Rochester, Nuclear Structure Research Laboratory, River Campus Station, Rochester, New York 14627. Article: Five (5) Accelerator Tubes. Manufacturer: Dowlish Development Ltd., United Kingdom. Intended use of article: The articles are newly designed essential components to an existing Van de Graaf accelerator which is being used in a variety of nuclear studies. Application received by Commissioner of Customs: July 22, 1975.

Docket number: 76-00054-33-46500. Applicant: Children's Hospital Medical Center, 300 Longwood Avenue, Boston, Massachusetts 02115. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for ultrastructural study of the developing monkey brain: in particular, the time of synapse formation in the visual cortex, retina, lateral geniculate body and cerebellum. The tissue to be investigated is fragile embryonic nervous system that requires embedding in a special mixture of plastics (Epon-Arladite). Studies will be performed to gain an understanding of how primate brain develops and to elucidate mechanisms of the congenital malformation and developmental brain diseases. Application received by Commissioner of Customs: July 25, 1975.

Docket number: 76-00055-33-46040. Applicant: University of Georgia, Dept. of Botany, Athens, Georgia 30602. Article: Electron Microscope, Model EM 10A. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in carrying out a variety of research projects which will include: (1) Studies of the development and reproduction of lower fungi, namely phycomycetes; (2) Elucidation of characteristics of higher plants which contribute to their capacity to both gain and lose carbon dioxide; (3) Studies of the changes in subcellular organization during encystment germination, growth and differentiation of the phycomycete *Blastochladiella emersonii*; (4) Investigation of the transport of organic compounds in plants, particularly with regard to the structural features of the cells involved in such transport; (5) Further studies of ascocarp development (Sporomia), conidium ontogeny (Aspergillus, Cunninghamella, Phoma, Pestalotia), and ascosporogenesis (Byssochlamys, Eleutherascus); (6) Research centered on the developmental biology of Volvox; (7) Determination of the complete life cycles of pyrenomycetous Ascomycetes, including developmental morphology of conidial and ascigerous states and substrate relationships of mycelium, particularly the host cell-fungus interactions of the biotrophic parasites; and (8) Studies concerning the various aspects of the biology of the Labyrinthulales and Thraustochytriales including their distribution, morphology, taxonomy and phylogenetic position. Application received by Commissioner of Customs: July 28, 1975.

Docket number: 76-00056-01-46500. Applicant: The Institute for Cancer Research, 7701 Burholme Avenue, Fox Chase, Philadelphia, Pa. 19111. Article: Ultramicrotome, Model Om U3. Manufacturer: C. Reichert Optische Werke, AG Austria. Intended use of article: The article is intended to be used in research concerned with the recognition of cell surface changes specific for infection and transformation by viruses. Specifically labelled proteins will be attached to a variety of molecular species such as antigens of bacterial and animal cells, as well as to capsid components of virus particles. For the electron microscope recognition of the molecules, immune labelling (with ferritin conjugates) in combination with enzymatic digestion of some of the compounds will be used. The objective of this research is to discern and to quantitate with high resolution microscopy the production sites of lipopolysaccharides and capsular polysaccharides as well as virus specific proteins. The antigens are to be followed as they are transferred from intracytoplasmic to membrane-bound positions. Application received by Commissioner of Customs: July 28, 1975.

Docket number: 76-00057-01-77030. Applicant: U.S. Department of Agriculture, Fruit & Vegetable Chemistry Laboratory, 263 South Chester Avenue, Pasadena, California 91106. Article: Fourier Transform Nuclear Magnetic Resonance Spectrometer, Model FX60 and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of natural products isolated from plant or microbial sources, or derivatives prepared from these products. They include bitter constituents of citrus, sweeteners derived from these bitter constituents, carotenoid pigments, and bioregulators. Research will be carried out to determine the chemical structures of these materials or to determine how they bind to proteins and enzymes. Application received by Commissioner of Customs: July 28, 1975.

Docket number: 76-00058-99-90000. Applicant: Daniel Freeman Memorial Hospital, 333 N. Prairie Avenue, Inglewood, CA 90301. Article: EMI Scanner System with Magnetic Tape Storage System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used in the education and training of various professionals: Radiologists, Neurologists, Neurosurgeons, Neuropathologists, Radiologic Technologists and Neuro Diagnostic Technologists. A formal educational program will be initiated to familiarize physicians in the diagnostic aspects of the scanner for brain and meningeal diseases. Additional courses will be offered to instruct physicians and technologists in the technical aspects of EMI testing, the mechanical construction and in the use and care of the various associated components. Application received by Commissioner of Customs: July 28, 1975.

Docket number: 76-00059-00-41200. Applicant: NEROC, Haystack Observatory, Off Route 40, Westford, Massachusetts 01886. Article: Two Varian CW klystrons, Model #VRE-2103B. Manufacturer: Varian Associates Ltd., Canada. Intended use of article: The article is a component part of a K-band maser microwave radiometric receiver used at a radio/radar observatory engaged in radio spectral-line studies. Application received by Commissioner of Customs: July 28, 1975.

Docket number: 76-00060-33-90000. Applicant: Baylor University Medical Center, 3500 Gaston Avenue, Dallas, Texas 75246. Article: Computerized Axial Body Scanner. Manufacturer: Emitronics Inc., United Kingdom. Intended use of article: The article is intended to be used for comparison of computerized axial body scanning with the following: (1) Existing non-invasive diagnostic techniques with emphasis on: (a) Radionuclide scanning, (b) Ultrasonic imaging and in an effort to determine justification of expenditures of the magnitude indicated; (2) Invasive techniques such as visceral angiography to determine whether accuracy of diagnosis is such that the vascular procedures with their high inherent risk can be avoided or minimized; (3) Present techniques of staging neoplasm and determination of tumor extent, hence operability of a lesion with emphasis placed on staging: (a) Malignant lymphoma, (b) Pancreatic carcinoma, (c) Lung cancer and its intrathoracic spread, (d) Carcinoma of uterine cervix; (4) Present methods of radiation therapy port planning including: (a) Therapy port simulators, (b) transaxial tomography. In addition, the article will be used in training physicians in use and interpretation of body scans and radiology technologists in the operation of the instrument. Application received by Commissioner of Customs: July 29, 1975.

Docket number: 76-00061-99-61800. Applicant: Grace H. Flandrau Planetarium, University of Arizona, Tucson, Arizona 85721. Article: Mark IV Viewlex-Minolta Planetarium Projector. Manufacturer: Minolta Camera Co., Japan. Intended use of article: The article is intended to be used in general astronomy courses which have been

modified to include formal laboratory sessions in the planetarium as a working laboratory instrument, namely, an analog computer, designed to solve problems encountered in the positional astronomy. In addition to the extensive academic program, the article is intended to be used to provide information, educational public programs on various timely and relevant topics in astronomy and environmental sciences. Application received by Commissioner of Customs: July 29, 1975.

Docket number: 76-00062-80-62800. Applicant: Colorado School of Mines, Basic Engineering Dept., Golden, Colorado 80401. Article: Tunnel Mucking System. Manufacturer: Radmark Engineering, Canada. Intended use of article: The article is intended to be used in a study to advance the technology of tunnel excavation by increasing the rate of muck removal in tunnels by means of a pneumatic pipeline system. Data will be gathered by operating the system under a variety of throughputs, with varying size distributions and moisture contents. Appropriate measurements will be taken to determine wear, energy requirements, etc. for each given set of operating conditions. Application received by Commissioner of Customs: July 29, 1975.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Acting Director,
Special Import Programs Division.

[FR Doc.75-21480 Filed 8-14-75;8:45 am]

PENNSYLVANIA HOSPITAL

Consolidated Decision on Applications for Duty-Free Entry of EMI Scanner Systems

The following is a consolidated decision on applications for duty-free entry of EMI Scanner Systems pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq.). (See especially Section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 75-00469-33-90000. Applicant: Pennsylvania Hospital, Eighth and Spruce Streets, Philadelphia, Pa. 19107. Article: EMI Scanner with Magnetic Tape Storage System and Diagnostic Display Console. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used in research in cerebral blood flow and metabolism, specifically the effects of ischemia and brain swelling on regional brain metabolism. The studies, though principally for experimental animals, are applicable to humans. Certain aspects of the diagnostic tests which have no untoward side effects are applied to humans with severe forms of stroke and those individuals recovering from brain surgery. The article will also be used in the study of chemotherapy of brain tumors, which will include periodic evaluation of patients during treatment via serial EMI scanning. Application received by Commissioner of Customs: April 7, 1975. Advice submitted by the Department of Health, Education, and Welfare on: July 17, 1975. Article ordered: January 3, 1975.

Docket number: 75-00452-33-90000. Applicant: Mayo Foundation, 200 First Street, Southwest, Rochester, Minnesota 55901. Article: EMI Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used to conduct research to determine the efficacy of the article in the diagnosis of the intracranial lesions. A study will also be conducted comparing transverse axial tomograms of stroke patients with the localization obtained by clinical neurological examinations and scintillation scans, and with autopsy findings in fatal cases. In addition, the article will be used in a program for computerized roentgenologic diagnostic methods in the detection of cancer and for studies of patients with multiple sclerosis. The article will also be used as an essential part of the Neuroradiological phase of a diagnostic roentgenology residency training program in which each resident receives training in neuroradiological techniques including use of the article. Application received by Commissioner of Customs: March 27, 1975. Advice submitted by the Department of Health, Education, and Welfare on: July 17, 1975. Article ordered: May 14, 1975.

Docket number: 75-00454-33-90000. Applicant: Madison General Hospital, 202 South Park Street, Madison, Wisconsin 53715. Article: EMI Scanner System with Diagnostic Display Console. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used in the promotion and education of area physicians concerning the availability and capabilities of the CAT system and evaluate the effectiveness of the system and the extent of its utilization by physicians to ensure effective planning for future units that might be needed takes place. Application received by Commissioner of Customs: March 27, 1975. Advice submitted by the Department of Health, Education, and Welfare on: July 17, 1975. Article ordered: January 3, 1975.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the foreign articles were ordered. Reasons: Each foreign article is a newly developed system which is designed to provide precise transverse axial X-ray tomography. The Department of Health, Education, and Welfare (HEW) advised in its respectively cited memoranda that the sensitivity and the non-invasive methodology of each article are pertinent to the purposes for which each foreign article is intended to be used. HEW also advised that it knows of no domestic instrument of equivalent scientific value to any of the articles to which the foregoing application relate for such purposes as these articles are intended to be used which was being manufactured in the United States at the time the articles were ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States at the time the articles were ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Acting Director,
Special Import Programs Division.

[FR Doc.75-21481 Filed 8-14-75;8:45 am]

VETERANS ADMINISTRATION HOSPITAL, MEMPHIS

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR 701, 1974).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 75-00493-33-70700. Applicant: Veterans Administration Hospital, 1030 Jefferson Avenue, Memphis, Tennessee 38104. Article: Specialized Electronic Analysis Instruments consisting of UV Recorder, Electro Aerometer, Electro-Glottograph Intensity Meter, and Fundamental Frequency Meter. Manufacturer: F—J Electronic A/S, Denmark. Intended use of article: The article is intended to be used for studies of a number of acoustic/physiologic correlates of perceptual speech dimensions in order to determine objective measurement parameters that can be used in differential diagnosis and therapy planning for individuals who exhibit a wide range of speech/voice disorders. The article will also be used to instruct student clinicians as well as practicing clinicians in the practical, clinical applications of the principles of speech/hearing science.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended

to be used, is being manufactured in the United States. Reasons: The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated July 25, 1975 that the article is an integrated system especially designed for analysis of physical attributes pertaining to speech. HEW further advises that (1) the system design, quality of subsystems and interfacing are pertinent to the applicant's use in studies of fundamental phenomena and in training of students and practitioners in corrective therapy and (2) it knows of no domestic manufacturer that offers an integrated package system with equivalent properties.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Acting Director,
Special Import Programs Division.

[FR Doc.75-21482 Filed 8-14-75;8:45 am]

Maritime Administration

[Docket No. S-460]

MATHIASEN'S TANKER INDUSTRIES, INC.

Application

Notice is hereby given that Mathiasen's Tanker Industries, Inc., Public Ledger Building, Philadelphia, Pa. 19106 has filed application to amend its Operating-Differential Subsidy Agreement, Contract No. MA/MSB-212 (the Agreement) by reinstating the tanker *Joseph D. Potts*. The Operator engages in the carriage of export bulk raw and processed agricultural commodities from the United States (U.S.) to the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge. Liquid and dry bulk cargoes may be carried from the U.S.S.R. and other foreign ports, inbound, to U.S. ports during voyages subsidized for the carriage of export bulk raw and processed agricultural commodities to the U.S.S.R.

Full details concerning the U.S.-U.S.S.R. export bulk raw and processed agricultural commodities subsidy program, including terms, conditions, and restrictions upon both the subsidized operators and vessels, appear in Title 46 of the Code of Federal Regulations, Part 294.

The Agreement was approved by the Maritime Subsidy Board (Board) on December 13, 1972 and presently includes four tankers. The Agreement will expire on December 31, 1975, unless further extended. Each voyage under the Agreement must be approved for subsidy before commencement of the voyage. The Board will act on each request for a subsidized voyage as an administrative matter under the terms of the Agreement, for which there is no requirement for further notices under section 605(c) of the Act.

Any person having an interest in the granting of the application and who would contest a finding of the Board that the service now provided by vessels of U.S. registry for the carriage of cargoes as previously specified is inadequate, must, on or before August 28, 1975, notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's rules of practice and procedure (46 C.F.R. Part 201).

Each statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Act and, with as much specificity as possible, the facts that the intervenor would undertake to prove at such hearing.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to the subject application, the purpose of such hearing will be to receive evidence relevant to (1) whether the application hereinabove described is the application hereinabove described is one with respect to the vessel to be operated in an essential service, served by citizens of the U.S., which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of U.S. registry is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such action as may be deemed appropriate.

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

Date: August 12, 1975.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.75-21537 Filed 8-14-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

INDIAN EDUCATION

Acceptance of Nominations for Membership on the National Advisory Council on Indian Education

1. *Introduction.* In accordance with 20 U.S.C. 1221g, National Advisory Council on Indian Education—Establishment; Membership; Appointment; and Geographic Representation, announcement is hereby made that the Commissioner of Education will be accepting nominations of Indians and Alaska Natives, as defined below, for membership on the National Advisory Council on Indian Education. Nominations may only be submitted by Indian tribes and Indian organizations and must be received no later than October 15, 1975.

2. *Definition.* "Indian" means any individual who (a) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (b) is considered by the Secretary of the Interior to be an Indian for any purpose, or (c) is an Eskimo or Aleut or other Alaska Native, or (d) is determined to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Advisory Council on Indian Education, which regulations shall further define the term "Indian."

(P. L. 92-318, Title IV, Part E, Section 453)

3. *Nominations.* Nominations should be made according to the following categories:

(a) Professional educators,
(b) Laymen involved in education,
(c) Students, and
(d) Individuals with other than education experience. These categories are explained further below.

Nomination Categories. (a) Individuals with a minimum of three years of active experience as education professionals dealing in Indian education, for example: teachers/professors, administrators, specialists (e.g., curriculum, language, math, etc.), counselors, researchers, or other education professionals.

(b) Individuals with a minimum of three years of active experience as laymen involved in education, for example: School board members, education committee members, Parent/Teacher Association members, parents of school-age children, or those with other lay involvement.

(c) An Indian student who is a college student or who has reached his or her junior year of high school at the time of nomination.

(d) Individuals with a minimum of three years of active experience in a field involving Indian affairs, but one that does not have Indian education as its major concern, for example: tribal government experience, administration of an Indian organization, health experience, economic experience, business experience, environmental experience, agriculture experience, local, State, or National government experience, or other such related experience.

It is suggested that tribes and Indian organizations nominate at least two individuals in the professional educator category and at least one individual in each of the other categories, but this is not mandatory. In any case, individuals should be identified by the category under which they are being nominated.

4. *Selections.* Dependent upon the nominations received, two-thirds of the members will be from the professional educator category and the remaining one-third from the other categories. Nominees also will be considered on the basis of their knowledge of and experience with both local community and national issues. Attempts will be made to

select individuals representing diverse geographic areas of the country, particularly from those areas with large Indian populations. Questions pertaining to the representation of urban, rural, reservation, non-reservation, male, and female interests will be addressed by giving adequate consideration during the final selection process.

In the interest of maintaining continuity while broadening the base of Indian community involvement, five members will be selected for one-year terms, five for two-year terms, and five for three-year terms. Following initial appointments, vacancies will be filled by three-year appointments.

5. *Nominating Procedure.* Nomination forms may be obtained by writing or calling the Office of Indian Education. The address and telephone number are as follows: Office of Indian Education, U.S. Office of Education, Room 4043, FOB–6, 400 Maryland Avenue, S.W., Washington, D.C. 20202; (202) 245–8060.

Nominations must be received by the Office of Indian Education, at the above address, no later than October 15, 1975.

Dated: August 11, 1975.

T. H. BELL,
U.S. Commissioner of Education.

[FR Doc.75–21444 Filed 8–14–75;8:45 am]

Health Resources Administration

NATIONAL COMMITTEE ON VITAL AND HEALTH STATISTICS

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to assemble during the month of September 1975:

Name: United States National Committee on Vital and Health Statistics.

Date and time: September 24–26, 1975, 9:30 a.m.

Place: HEW—North Building, The Snow Room, Room 5051, Washington, D.C. 20201.

Open for entire session.

Purpose: The Committee advises and assists in delineating statistical problems bearing on health and health services which are of national or international interest and stimulates studies of such problems. The Committee also determines, approves, and revises the terms, definitions, classifications, and guidelines for assessing health status and health services, their distribution and costs. Additionally, the committee reviews and comments on findings and proposals developed by other organizations and agencies and makes recommendations on their adoption, or implementation.

Agenda: Discussion items include the charter of the Committee; relationship to the National Center for Health Statistics Advisory Committee on the Cooperative Health Statistics System; standardization of data elements; medical problem classification; collection of data on sub-national populations; periodic revision of minimum basic data sets; long-term care statistics and continuing activities of the abolished U.S. National Committee on Vital and Health Statistics concerning statistics needed for national policy related to fertility; statistics needed for determining health effects of environmental conditions and disease classification for various purposes.

Agenda items are subject to change as priorities dictate.

Anyone wishing to obtain a roster or other relevant information should contact Dr. James M. Robey, Parklawn Building, Room 8–11, 5600 Fishers Lane, Rockville, Maryland, Telephone (301) 443–1471.

Dated: August 11, 1975.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc.75–21455 Filed 8–14–75;8:45 am]

Public Health Service

ASSISTANT SECRETARY FOR HEALTH

Statement of Organization, Functions, and Delegations of Authority

Part 11, Chapter 11, in the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare, entitled Office of the Assistant Secretary for Health (38 FR 18571–74, as amended) is amended to reflect the establishment of the Office of Child Health Affairs.

Section 11–B Organization and Functions is amended by inserting the following statement for the newly created Office of Child Health Affairs (1N15) after the statement for the President's Council on Physical Fitness and Sports (1N14):

Office of Child Health Affairs (1N15). Provides assistance and guidance to the Assistant Secretary for Health on child health affairs within the Public Health Service (PHS); reviews all regulations and policies which affect programs that impact on the health of mothers and children; in coordination with the Office of Program Implementation, monitors the implementation activities of programs related to child health affairs; in coordination with the Office of Policy Development and Planning, PHS, and other PHS components, provides technical consultation to the PHS agencies in the planning process, and supports program effectiveness evaluations of child health program efforts; and coordinates and maintains liaison with other Departmental Principal Operating Components in matters related to child health affairs.

Dated: August 7, 1975.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

[FR Doc.75–21518 Filed 8–14–75;8:45 am]

Office of the Secretary

ASSISTANT SECRETARY FOR PLANNING AND EVALUATION

Statement of Organization, Functions, and Delegations of Authority

Part I of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare is amended to revise the functional statement of the Office of Special Concerns of the Office of the Assistant Secretary (Planning and Evaluation) (39 FR 1652, 1/11/74). The revised functional statement is appended to Chapter 1G, and reads as follows:

g. The Office of Special Concerns is responsible for the conduct of a program of policy relevant research and evaluation regarding the health, education, and welfare needs of ethnic/racial minorities and women. The Office shall, through the application of social science principles and knowledge of these special groups, initiate and advise on the development of major DHEW policies and legislation and shall undertake special research and policy analysis and other project assignments from the Secretary (DHEW) and the Assistant Secretary (Planning and Evaluation).

1. The Office for Black American Affairs serves as the principal staff advisor on Black American affairs for the Office of the Secretary; is responsible to the Director (OSC) and the Assistant Secretary (Planning and Evaluation) for the development and implementation of a basic social science research, evaluation and policy analysis strategy for increasing the effective impact of Department programs regarding Black Americans; advises staff of the Assistant Secretary (Planning and Evaluation), as well as the Secretary, Agency Heads, other Assistant Secretaries, Office Directors, and other Department officials in the development or revision of broad policies and operations of the Department; participates in the development of, or review and comment on, legislation, regulations and guidelines for all DHEW programs as they impact upon Black Americans; reflects responsibly and gives professional expression to the special needs and interests of Black American communities in operational decisions within the Department by advising the Secretary on ways and means for building and sustaining effective communication with Black American communities, and by insuring an appropriate degree of community participation in the development, implementation, and evaluation of DHEW programs; undertakes additional special assignments at the request of the Secretary, Assistant Secretary (Planning and Evaluation) or the Director (OSC).

2. The Women's Action Program serves as the principal staff advisor on the status of women for the Office of the Secretary; is responsible to the Director (OSC) and the Assistant Secretary (Planning and Evaluation) for the development and implementation of a basic social science research, evaluation and policy analysis strategy for increasing the effective impact of Department programs regarding women; advises staff of the Assistant Secretary (Planning and Evaluation), as well as the Secretary, Agency Heads, other Assistant Secretaries, Office Directors and other Department officials in the development or revision of broad policies and operations of the Department; participates in the development of, or review and comment

on, legislation, regulations and guidelines for all DHEW programs as they impact upon women; undertakes additional special assignments at the request of the Secretary, Assistant Secretary (Planning and Evaluation) or Director (OSC).

4. The Office for Asian American Affairs serves as the principal staff adviser on Asian American Affairs for the Office of the Secretary; is responsible to the Director of OSC and the Assistant Secretary (Planning and Evaluation) for participation in Department policies and programs pertaining to Asian Americans particularly through the development and implementation of a basic social science research, evaluation and policy analysis strategy for increasing the effective impact of the Department programs to Asian Americans; advises staff of the Assistant Secretary (Planning and Evaluation), as well as the Secretary, Agency Heads, other Assistant Secretaries, Regional Office Directors, and other Department officials in the development or revision of broad policies and operations of the Department; participates in the development, review and/or comment on legislation, regulations and guidelines for all DIIEW programs as they impact on Asian and Pacific Americans; reflects responsibly, with professional expertise, the special needs of the Asian and Pacific American communities in operational decisions within the Department by advising the Secretary on ways for establishing and sustaining effective communication with the Asian American and Pacific communities, and by insuring an appropriate degree of community participation in the development, implementation and evaluation of DHEW programs; provides a central information resource for the collection and dissemination of materials related to Asian and Pacific Americans; undertakes additional special assignments at the request of the Secretary, Assistant Secretary (Planning and Evaluation) or the Director (OSC).

3. The Office for Spanish Surnamed Americans serves as the principal staff advisor on Spanish-surnamed affairs for the Office of the Secretary; is responsible to the Director (OSC) and the Assistant Secretary (Planning and Evaluation) for the development and implementation of a basic social science research, evaluation and policy strategy for increasing the effective impact of Department programs regarding Spanish-surnamed Americans; advises staff of the Assistant Secretary (Planning and Evaluation) as well as the Secretary, other Assistant Secretaries, Agency Heads, Office Directors, and other Department officials in the development or revision of broad policies and operations of the Department; participates in the development and review of legislation, regulations, and guidelines for all DHEW programs; represents the Spanish-surnamed communities in operational decisions by advising the Secretary on ways for building and sustaining effective communication with Spanish-surnamed communities, and by insuring an appropriate degree of community participation in the implementation and evaluation of DHEW programs; undertakes additional special assignments at the request of the Secretary and the Assistant Secretary (Planning and Evaluation) or Director (OSC).

Date: August 8, 1975.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

[FR Doc.75-21520 Filed 8-14-75;8:45 am]

OFFICE OF FACILITIES ENGINEERING AND PROPERTY MANAGEMENT

Statement of Organization, Functions, and Delegations of Authority

The statement of organization, functions, and delegations of authority for the Department of Health, Education, and Welfare is amended to make certain changes regarding the *Surplus Property Utilization Program*. Section 1T80 (39 FR 5811) February 15, 1974, as amended, is further amended to redesignate the *Office of Surplus Property Utilization* as the *Office of Federal Property Assistance* and to prescribe a revised internal organizational structure. Section 1T80.10 "Organization" is amended to delete "Office of Surplus Property Utilization: Administration Division, Planning Division, Operations Division," and substitute therefor:

"Office of Federal Property Assistance: Division of Real Property Assistance, Division of Personal Property Assistance."

Section 1T80.20 "Functions" is amended to delete paragraph F, "Office of Surplus Property Utilization" (and the list of functions which follows) and to substitute therefor the following new paragraph:

F. Office of Federal Property Assistance through the Division of Real Property Assistance and Division of Personal Property Assistance shall be responsible for:

1. Developing regulations, policies, procedures, standards, guidelines, and training materials in coordination with other Agencies of the Federal and State Governments for effective operation of the real and personal property assistance programs under the provisions of sections 203(j), 203(k), and 203(n) of the Federal Property and Administrative Services Act of 1949, including the preparation of materials for the information of health and educational institutions and civil preparedness organizations;

2. Providing technical and programmatic direction to the Regional Offices for accomplishing the goals of the Federal Property Assistance Program;

3. Making determinations and allocations for educational, public health, and civil defense purposes as outlined by section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended, and Federal Civil Defense Administration (Civil Defense Preparedness Agency) Delegation 5; taking such action as may be necessary in connection with the assignment, transfer, and utilization of surplus property for educational and public health purposes pursuant to section 203(k) of the Act; and entering into cooperative agreements pursuant to section 203(n) of the Act;

4. Maintaining a continuing appraisal and analysis of program performance and reviewing the Federal property assistance functions in the Regional Offices;

5. Monitoring a continuing program of compliance reviews to ensure that uses of real and personal properties conveyed are in accordance with the programs set forth in the transferees' applications;

6. Developing techniques and planning for effective inspection, screening, and use of all personal and real property which may become available and developing special methodologies when required to expedite donations and conveyances;

7. Serving as a member of the President's Economic Adjustment Committee, assisting in the disposal of closed or curtailed military installations together with related personal property for health and eduational programs; and

8. Directing a program for return of personal property from overseas operations of the United States for donation under the provisions of section 402(c) of the Act.

Dated: August 7, 1975.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

[FR Doc.75-21519 Filed 8-14-75;8:45 am]

OFFICE OF ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part I of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare is amended to revise Chapter 1T30, Office of Administration, (40 FR 11621, 3/12/75) to reflect the assignment of responsibility to the Department to support the President's Commission on Olympic Sports, established by an Executive Order approved on June 19, 1975. The new assignment reads as follows:

Add to Section 1T30.20—Functions.—A. OFFICE OF THE DIRECTOR. Furnishes staff, supplies, facilities, and other administrative services for the President's Commission on Olympic Sports, to the extent permitted by law.

Dated: August 7, 1975.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

[FR Doc.75-21517 Filed 8-14-75;8:45 am]

Social and Rehabilitation Service

WORK INCENTIVE PROGRAM—SOCIAL AND SUPPORTIVE SERVICES

Interim Funding Limits

Correction

In FR Doc. 75-20294, appearing on page 32861, in the issue of Tuesday, Au-

gust 5, 1975, make the following changes:

1. In the table of interim funding, "Nevada..... 176,239" should be inserted just below "Montana".

2. "New Jersey.....6,506,408" should read as follows:

"New Jersey.....6,506,048".

Social and Rehabilitation Service

COMMUNITY SERVICES ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 5 of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare, Social and Rehabilitation Service (34 F.R. 1279, January 25, 1969, as amended) is hereby further amended to reflect the reorganization of the Community Services Administration. For such purposes, section 5.20 is amended as follows:

By striking out all that follows the heading "Community Services Administration" and inserting in lieu thereof the following:

"COMMUNITY SERVICES ADMINISTRATION

"The mission of the Community Services Administration is to provide leadership in the planning, development, management and coordination of all Social and Rehabilitation Service social services programs authorized under the Social Security Act. Provides leadership for social services programs to improve the capability of eligible families and individuals to achieve self-support and self-sufficiency, to reduce institutionalization and institutionalized care, including services programs to improve the welfare of children, to strengthen family life for disadvantaged families and children, to assist in family planning, to improve the social functioning of disadvantaged individuals including aged, blind or permanently and totally disabled persons, drug addicts and alcoholics and to secure appropriate institutionalization and deinstitutionalization for eligible persons. Within the authorities delegated to it, the Administration establishes program and training goals, objectives, standards, policies, criteria and guidelines; provides professional consultation to the Regional Office staff and assists in the guidance and leadership of State and local agencies. It cooperates with the SRS Office of Planning, Research, and Evaluation in the promotion of demonstration programs to evolve new and more effective approaches and methods for the organization and delivery of services, and in the design and execution of research and evaluation programs. It develops proposals for legislation and legislative amendments in coordination with the SRS Office of Legislative Affairs. It works through SRS Regional Offices and other appropriate organizations to develop capability in State public welfare agencies to plan, manage and evaluate the effective delivery of social services. It develops program policies and guidance with respect to Federal financial participation. It coordinates its activities and program with Social and Rehabilitation Service units, the Office of Child Development, other Department of Health, Education, and Welfare and other Federal, as well as other public and private organizations. It manages Federal training grant programs for social service training and provides leadership in planning, development, and management of SRS programs which fund training to increase the competence of State and local agency and other social service manpower.

"OFFICE OF THE COMMISSIONER—5201

"Responsible for directing the activities of the Community Services Administration.

"Has special responsibility for high level relationships with Department of Health, Education, and Welfare, Federal and other public and private organizations on matters relative to social service programs, for coordinating planning and training activities; for coordinating efforts to improve State and local public agency capability to plan and manage social service programs, and for final review and approval of all Bureau publications and issuances.

"EXECUTIVE OFFICE—520102

"Is responsible for management and direction of matters relating to internal planning, coordination, and implementation of administrative activities essential to the operation of the Community Services Administration, including corespondence and mail control; personnel administration; organization and manpower, internal orientation, training and staff development activities; and business management, including salaries and expenses budget.

"POLICY DEVELOPMENT, INTERPRETATION AND COORDINATION STAFF—520104

"Is responsible for the development, issuance and interpretation of Community Services Administration program and fiscal policies and policy related materials, and for the coordination of all Community Services Administration policy and policy material-related activities. It reviews on a selective basis program materials, proposals and documents for conformity to applicable laws, regulations and policy. It is responsible for liaison with SRS and other program bureaus on all matters relating to the interpretation of Community Services Administration policies, records and procedures to implement the unit's functions in Social Services Administration and related offices.

"STATE MANAGEMENT AND TRAINING STAFF—520105

"Is responsible for direction and coordination of the planning, management, and training activities related to State administration of social services programs. This includes Community Services Administration's responsibility for programs under section 426, section 707, and title XX, of the Social Security Act. It is responsible for liaison within SRS and DHEW, and with Federal-State and local agencies and universities in matters relating to State administration of social services programs.

"DIVISION OF PROGRAM DEVELOPMENT—5213

"Responsible for planning, directing, and providing leadership in the national program of comprehensive social services under the appropriate titles of the Social Security Act that will emphasize protection of children and adults, service to achieve self-care, self-sufficiency and other legislative goals and encourage appropriate linkages between social services and other community resources for low-income families and individuals.

"To carry out these responsibilities the Division engages in program analysis, utilizing available data from the Office of Information Systems and other sources. Utilizes information concerning patterns and trends in States as a basis for program planning, development and modification, including recommendations with respect to policies and standards. Prepares a variety of program materials in response to State needs and as a basis for program assistance through the Central and Regional Office. Also prepares issue papers around critically important problems in social service areas raised by States in the implementation of the program. Utilizes the management-by-objectives approach to identity program priorities and to carry out these priorities in behalf of the Bureau. Provides consultation to Regional Offices on program planning, content and delivery of services and, upon request of such offices, to State agencies administering social services plans.

"Participates in program policy formulation and interpretation. Participates in joint activities with other SRS and HEW components (OCD, AOA, RSA, etc. . .). Maintains liaison with other Federal Government and national non-governmental agencies or organizations whose work is directly or indirectly related to the Division's functions.

"DIVISION OF BUDGET AND FINANCIAL MANAGEMENT—5214

"Develops social services program policies and standards with respect to Federal financial participation. Provides liaison with financial management units of SRS. Carries program responsibility and input to SRS budgeting functions, including budget preparation, estimating, trend analysis and general forecasting for social and child welfare services and training programs.

"DIVISION OF MONITORING, RESEARCH AND EVALUATION—5215

"Serves as the focus for Community Services Administration in monitoring, information systems, research and evaluation of social services programs. Serves as Community Services Administration liaison for these activities with SRS Office of Information Systems, SRS Office of Planning, Research, and Evaluation, other related SRS and HEW components, and public and private agencies

and organizations in the fulfillment of these functions. Ensures that programmatic input is reflected in R&D, evaluation, and information systems efforts.

"Responsible for supporting Division of Program Development and Division of Budget and Financial Management through development of program monitoring instruments, providing technical assistance to States and Regional Offices in the use of such instruments and assisting in the national monitoring of social services program administration and service delivery. In support of the SRS Office of Planning, Research, and Evaluation, participates in the development of guides and criteria for the evaluation of social services programs at national and State levels, the development of evaluation projects related to the administration and delivery of social services provides project consultants on all contracts fo rsocial services evaluation projects and analyzing the dissemination of evaluation findings.

"Provides technical assistance to States and Regional Offices regarding evaluation methodology and related areas, in accordance with SRS Office of Planning, Research, and Evaluation policies.

"In support of the SRS Office of Planning, Research, and Evaluation, participates in the development of strategies for research and demonstration programs related to social services and training, and provides project consultants on all contracts or grants for social services R&D projects. Initiates and conducts indepth studies of new program developments or problems.

"Responsible for providing leadership and direction for monitoring the procedural aspects of State plan requirements and Federal statutory requirements such as fair hearings, confidentiality, merit systems, eligibility and Statewideness and for coordinating all Social Service Administration activities related to compliance procedures.

"Participates in the establishment of goals, objectives, policies, and the setting of program priorities, and their translation into budget and legislative terms."

Dated: August 6, 1975.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

[FR Doc.75-21516 Filed 8-14-75;8:45 am]

SOCIAL SERVICES PROGRAMS FOR INDIVIDUALS AND FAMILIES-WAIVERS OF SINGLE STATE AGENCY REQUIREMENTS

Expiration of the Social Services Waivers Under the Intergovernmental Cooperation Act of 1968

Since the enactment of the Intergovernmental Cooperation Act, P.L. 90-577 of October 16, 1968 (42 U.S.C. 4214), a number of waivers of the single State agency requirement have been granted in connection with States' provision of social services under titles IV-A and VI of the Social Security Act. Title VI and the social services provisions of title IV-A (except for Puerto Rico, the Virgin Islands and Guam) have been repealed effective October 1, 1975 by P.L. 93-647. Since the underlying statutory bases upon which these waivers were made will be repealed as of October 1, 1975, the Department considers that the corresponding waivers will also lapse on October 1, 1975. Accordingly, all waivers of the single State agency requirement with respect to social services, previously granted to a State or the District of Columbia pursuant to section 204 of the Inter-Governmental Cooperation Act of 1968, will no longer be of any force or effect after September 30, 1975.

Dated: July 22, 1975.

JOHN A. SVAHN,
Acting Administrator, Social and Rehabilitation Service.

Approved: August 8, 1975.

CASPAR W. WEINBERGER,
Secretary.

[FR Doc.75-21463 Filed 8-14-75;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-75-407]

CHIMNEY RANCH

Order of Suspension

In the matter of Chimney Ranch OILSR No. 0-2137-05-214 Docket No. Y-584.

Notice is hereby given that: On or about November 15, 1974, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, mailed by certified mail to Charter Corporation, 1115 Broadway, Denver, Colorado 80203, a letter requesting certain documents and that the return receipt requested was returned showing delivery had been made; that the requested documents were not furnished and on or about February 3, 1975, the Department attempted to serve upon A. F. Doyle, President, Charter Corporation, an Order of Suspension by certified mail and service of process was not possible. Accordingly, pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Order of Suspension is being issued as follows:

ORDER OF SUSPENSION

1. The Developer, having filed a Statement of Record for the above captioned subdivision pursuant to the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 *et seq.* and the Rules and Regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, had its Statement of Record become effective pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been delegated to the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Interstate Land Sales Administrator may make an examination to determine whether a Suspension Order should be issued under 15 U.S.C. 1706(d), and if a developer or any agents thereof shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record.

4. Under the authority of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), a letter dated *on or about November 15, 1974*, was sent to the Developer, the body of said letter being in the form and substance of the form letter attached hereto and made part hereof as Exhibit A. The Developer has failed to comply with the request for the documents referred to in the third paragraph of said letter.

5. Therefore, purusant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of the receipt of this Order of Suspension by the Said Developer. This Order of Suspension shall remain in full force and effect until the Developer has complied with the requirements of the order.

6. If the Developer desires a hearing in this matter, he shall file a request for hearing accompanied by an answer and three copies thereof within fifteen days after service of this order pursuant to 24 CFR 1720.145 and 24 CFR 1720.165. Any request for hearing, answer, motion, amendment to pleading, offer of settlement or correspondence during the pendency of this proceeding shall be filed with the General Counsel's Clerk for Administrative Proceedings, Room 10150, HUD Building, 451 Seventh Street, SW., Washington, D.C. 20410. All such papers shall clearly identify the subdivision, the type of matter and the docket number as set forth in this order.

Issued in Washington, D.C. Aug. 11, 1975.

By the Secretary.

JOHN R. MCDOWELL,
Acting Interstate Land Sales Administrator.

EXHIBIT A

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

OFFICE OF INTERSTATE LAND SALES REGISTRATION

Washington, D.C. 20410

Subject: Submission of Property Reports and Contracts

GENTLEMEN: On or about September 12, 1974, you were advised by letter from this Office of the necessity for mailing to us, not later than midnight, October 20, 1974, revised Property Report cover pages and lot sales or lease contract revisions. The revisions were, as explained in that letter, caused by the amendments by Congress to Section 1404(b) of the Interstate Land Sales Full Disclosure Act which extended the 48 hour rescission period to 3 business days and also abolished the provisions for waiver of this time by pur-

chasers. These amendments were signed into law August 22 and became effective October 21, 1974. They apply to all sales or leases made on or after that date.

As of today the required revisions to your Property Report and contracts have not been received by us as required by the above referenced letter and the amended Regulations, published October 29, 1974, in the FEDERAL REGISTER on pages 38098–38101. Therefore, we are conducting an examination to determine what further action is warranted by us pursuant to Section 1407(e) of the Interstate Land Sales Full Disclosure Act. You will note that Section 1407(e) also provides "If the developer or any agents shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuing of an order suspending the Statement of Record."

You are hereby requested to send to this Office, within 15 days of the receipt of this letter (1) a copy of the Property Report or Reports presently on file in your office and used in your lot sales or leasing program, and (2) a copy of the sales or lease contract or agreement presently on file in your office and used in your lot sales or leasing program. Failure to respond as requested will result in issuance of an order suspending your Statement or Statements of Record with our Office under the authority of Section 1407(e) of the Interstate Land Sales Full Disclosure Act (15 USC 1706(e)).

In your response, please put your OILSR file number or numbers on your letter and copies of the Property Report and contract.

Sincerely,

GEORGE K. BERNSTEIN,
Interstate Land Sales Administrator.

[FR Doc.75-21471 Filed 8-14-75;8:45 am]

[Docket No. N-75-408]

JOSHUA GROVES

Order of Suspension

In the matter of Joshua Groves OILSR No. 0-1180-04-202 Doc. No. Y-1118IS.

Notice is hereby given that: On or about November 15, 1974, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, mailed by certified mail to Joshua Groves, Inc., Post Office Box 232, Covina, California 91722, a letter requesting certain documents and that the return receipt requested was returned showing delivery had been made; that the requested documents were not furnished and on or about June 18, 1975, the Department attempted to serve upon Robert J. Oberdick, President, Joshua Groves, Inc. an Order of Suspension by certified mail and service of process was not possible. Accordingly, pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), an Order of Suspension is being issued as follows:

ORDER OF SUSPENSION

1. The Developer, having filed a Statement of Record for the above captioned subdivision pursuant to the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 *et seq.* and the Rules and Regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, had its Statement of Record become effective pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been delegated to the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Interstate Land Sales Administrator may make an examination to determine whether a Suspension Order should be issued under 15 U.S.C. 1706(d), and if a developer or any agents thereof shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record.

4. Under the authority of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), a letter dated *on or about November 15, 1974*, was sent to the Developer, the body of said letter being in the form and substance of the form letter attached hereto and made part hereof as Exhibit A. The Developer has failed to comply with the request for the documents referred to in the third paragraph of said letter.

5. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of the receipt of this Order of Suspension by the Said Developer. This Order of Suspension shall remain in full force and effect until the Developer has complied with the requirements of the order.

6. If the Developer desires a hearing in this matter, he shall file a request for hearing accompanied by an answer and three copies thereof within fifteen days after service of this order pursuant to 24 CFR 1720.145 and 24 CFR 1720.165. Any request for hearing, answer, motion, amendment to pleading, offer of settlement or correspondence during the pendency of this proceeding shall be filed with the General Counsel's Clerk for Administrative Proceedings, Room 10150, HUD Building, 451 Seventh Street, S.W., Washington, D.C. 20410. All such papers shall clearly identify the subdivision, the type of matter and the docket number as set forth in this order.

Issued in Washington, D.C., Aug. 11, 1975.

By the Secretary.

JOHN R. MCDOWELL,
Acting Interstate Land Sales Administrator.

EXHIBIT A

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

OFFICE OF INTERSTATE LAND SALES REGISTRATION

Washington, D.C. 20410

Subject: Submission of Property Reports and Contracts

GENTLEMEN: On or about September 12, 1974, you were advised by letter from this Office of the necessity for mailing to us, not later than midnight, October 20, 1974, revised Property Report cover pages and lot sales or lease contract revisions. The revisions were, as explained in that letter, caused by the amendments by Congress to Section 1404(b) of the Interstate Land Sales Full Disclosure Act which extended the 48 hour rescission period to 3 business days and also abolished the provisions for waiver of this time by purchasers. These amendments were signed into law August 22 and became effective October 21, 1974. They apply to all sales or leases made on or after that date.

As of today the required revisions to your Property Report and contracts have not been received by us as required by the above referenced letter and the amended Regulations, published October 29, 1974, in the *Federal Register* on pages 38098–38101. Therefore, we are conducting an examination to determine what further action is warranted by us pursuant to Section 1407(e) of the Interstate Land Sales Full Disclosure Act. You will note that Section 1407(e) also provides "If the developer or any agents shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuing of an order suspending the Statement of Record."

You are hereby requested to send to this Office, within 15 days of the receipt of this letter (1) a copy of the Property Report or Reports presently on file in your office and used in your lot sales or leasing program, and (2) a copy of the sales or lease contract or agreement presently on file in your office and used in your lot sales or leasing program. Failure to respond as requested will result in issuance of an order suspending your Statement or Statements of Record with our Office under the authority of Section 1407(e) of the Interstate Land Sales Full Disclosure Act (15 USC 1706(e)).

In your response, please put your OILSR file number or numbers on your letter and copies of the Property Report and contract.

Sincerely,

GEORGE K. BERNSTEIN,
Interstate Land Sales Administrator.

[FR Doc.75-21472 Filed 8-14-75;8:45 am]

CIVIL AERONAUTICS BOARD

[Order 75-8-53; Docket 27903]

CESKOSLOVENSKE AEROLINIE

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 12th day of August 1975. Application of CESKOSLOVENSKE AEROLINIE for renewal of its foreign air carrier permit[1] pursuant to section 402 of the Federal Aviation Act of 1958.

Pursuant to Order 75-5-105 approved by the President on May 23, 1975 (Docket 27498), the foreign air carrier permit held by Ceskoslovenske Aerolinie (CSA)[1] authorizing the carrier to engage in foreign air transportation of persons, property and mail between a point or points in Czechoslovakia and New York, via intermediate points, was extended with a termination date of May 31, 1975, which coincided with the expiration date of the United States-Czechoslovakia Air

[1] Permit filed as a part of the original document.

Transport Agreement of February 28, 1969, effected by Protocol dated May 24, 1972, and extended by an Exchange of Notes dated May 28, 1974.

By Exchange of Notes dated July 29, 1975, the Agreement was extended to December 31, 1976. CSA has applied for renewal of its permit pursuant to terms of the extended Agreement. No person has filed an answer to the application. The Board finds that it is in the public interest to direct interested persons to show cause why applicant's foreign air carrier permit should not be renewed without hearing for a period terminating on December 31, 1976.

Since May 1970 CSA has continuously served the Prague-New York market with 2 weekly one-stop round-trip flights utilizing Russian-made IL-62 jet aircraft. During the summer peak periods the weekly flights are routed over Amsterdam while in the winter season 1 round trip serves Amsterdam and the other serves Montreal. Based upon this history of successful operations, the Agreement extended by Note dated July 29, 1975, and the Board's findings in Orders 73-2-12 and 75-5-105 with respect to the public interest and the carrier's fitness, it is tentatively found and concluded that:

(a) Ceskoslovenske Aerolinie is fit, willing and able properly to perform the foreign air transportation authorized by the specimen permit attached hereto and to conform to the provisions of the Act and the rules, regulations and requirements of the Board thereunder;

(b) Ceskoslovenske Aerolinie is substantially owned and effectively controlled by nationals of the Czechoslovak Socialist Republic;

(c) It is in the public interest to renew the foreign air carrier permit of Ceskoslovenske Aerolinie for a period terminating on December 31, 1976;

(d) The public interest requires that the exercise of the privileges granted by said permit be subject to the terms, conditions and limitations contained in the specimen permit attached hereto[1] and to such other reasonable terms, conditions and limitations required by the public interest as may from time to time be prescribed by the Board; and

(e) A hearing on the application of Ceskoslovenske Aerolinie is not required by the public interest.

All interested persons will be given 20 days following the adoption of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to direct their objections, if any, to specific issues and to support such objections with detailed analyses. If an evidentiary hearing is requested, each objector should name the specific markets or other issues with respect to which a hearing is requested and should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing. Vague, general, or unsupported objections will not be entertained.

Accordingly, it is ordered that:

1. All interested persons be and they hereby are directed to show cause why the Board should not make final the tentative findings and conclusions herein and why an order should not be issued, subject to approval by the President pursuant to section 801 of the Act, issuing a renewed foreign air carrier permit to Ceskoslovenske Aerolinie in the specimen form attached hereto;

2. Any interested persons having objections to the issuance of an order making final the tentative findings and conclusions herein or to the issuance of the proposed renewed foreign air carrier permit shall, within 20 days after adoption of this order, file with the Board and serve on the persons named in paragraph 5 a statement of objections specifying the part or parts of the tentative findings or conclusions objected to, together with a summary of testimony, statistical data and such evidence expected to be relied upon to support the statement of objections;

3. If timely and properly supported objections hereto are filed, full consideration will be accorded the matters or issues raised therein before further action is taken by the Board: Provided, that the Board may proceed to enter an order in accordance with the tentative findings and conclusions herein if it determines that there are no factual issues presented that warrant the holding of an evidentiary hearing;[4]

4. In the event no objections are filed to this order, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions herein; and

5. This order shall be served upon Ceskoslovenske Aerolinie, Pan American World Airways, Inc., the Ambassador of the Czechoslovak Socialist Republic, and the Department of State.

This order shall be published in the FEDERAL REGISTER and transmitted to the President.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-21525 Filed 8-14-75;8:45 am]

[Order 75-8-60; Docket No. 28017]

DELTA AIR LINES, INC.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 12th day of August 1975. Application of DELTA AIR LINES, INC. for a renewal and amendment of its certificate of public convenience and necessity for International Route 114, so as to authorize continued service to Maracaibo, Venezuela.

On June 27, 1975, Delta Air Lines, Inc. (Delta) filed an application for renewal and amendment of its certificate of public convenience and necessity to provide for permanent authority for service to Maracaibo, Venezuela, as an intermediate point between New Orleans and Caracas, Venezuela, on its route 114.[1] Delta has also filed a motion requesting the issuance of an order to show cause why its certificate should not be amended.[2]

In support of its application and motion, Delta alleges: that it offers the only nonstop service between Maracaibo and Montego Bay, and the only single-plane service between Maracaibo and New Orleans, Dallas, and Las Vegas; that it offers a host of single-carrier connecting services between Maracaibo and various United States cities, including Chicago, Detroit, Houston, Los Angeles, Phoenix and San Francisco.[3] In addition, Delta states that its Maracaibo/Caracas route has been near the breakeven level and that during the period May 1974, through April 1975, 3,807 passengers used Delta to travel from the United States and Montego Bay to Caracas and Maracaibo and of these 2,142 or 56.3 percent traveled to Maracaibo. During the same period 5,914 passengers from Caracas and Maracaibo traveled to Montego Bay or points in the United States and of these 3,598 or 60.8 percent originated in Maracaibo. Therefore, Delta alleges that without the Maracaibo backup traffic on its route 114, the viability of its operations to Caracas could be jeopardized or even terminated.

On July 9, 1975 the Chamber of Commerce of the New Orleans area filed an answer in support of Delta's motion stat-

---

[1] The permit was originally issued pursuant to Order 70-1-62, approved January 12, 1970.

[2] We have included the initial tariff condition which the Board has recently included in permits of foreign carriers. The condition permits the Board to deal with such-initial tariffs as to which Board suspension power is more limited under the recent amendments to the Federal Aviation Act authorizing the Board generally to suspend fares in foreign air transportation. (P.L. 92-259, March 22, 1972.) Otherwise, the specimen permit is identical in all substantive aspects to the permit issued pursuant to Order 75-5-105 including the provisions (a) requiring CSA to appoint Pan American as its general sales agent and airport ground handling agent in the United States, and (b) stipulating that CSA shall not operate more than 2 round-trip scheduled flights per week between Czechoslovakia and the United States unless prior approval for additional scheduled flights is otbained.

[4] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

[1] Delta's certificate for route 114 provides that "The holder's authority to serve Maracaibo, Venezuela shall expire on October 30, 1975."

[2] If necessary, Delta intends to rely on section 9(b) of the Administrative Procedure Act. By Order 75-7-102 issued July 21, 1975, a waiver of the timeliness to file requirements of section 377.10(c) was granted.

[3] Pan American World Airways, Inc. (PAA) also serves Maracaibo, but through the Miami gateway.

ing that said service was vital to the welfare of the community. No other comments relative to Delta's application and motion have been received.

Upon consideration of Delta's request and all relevant facts, we have decided to issue an order to show cause which proposes to grant the requested amendment of Delta's route 114. We tentatively find and conclude that the public convenience and necessity require the amendment of Delta's certificate so as to authorize it to serve Maracaibo, Venezuela, on an indefinite basis, as an intermediate point between New Orleans and Caracas, Venezuela, on route 114.[4]

In support of our ultimate conclusion, we make the following tentative findings and conclusions. The Air Transport Agreement entered into between the United States and Venezuela and signed February 11, 1972, provides, among other things, for a route from the Central Zone of the United States, via Cuba, Jamaica, and the Netherlands West Indies to Maracaibo and Caracas. Delta was originally authorized by the Board to serve Maracaibo not only to provide improved service to New Orleans and the Midwest/Texas points but also to enable the carrier to improve the efficiency of its service to Caracas. We believe these factors remain unchanged. Since inauguration of service in 1972, Delta has played a significant role in air transportation between Maracaibo and points in the United States and Delta's Maracaibo operations have provided important backup support for its U.S.-Caracas services. Further, Delta's application and motion are unopposed and, since no other U.S. carrier provides service between New Orleans and Maracaibo, no U.S. carrier will be adversely affected by the relief granted herein.[5]

All interested persons will be given 30 days following the date of adoption of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to direct their objections, if any, to specific issues, and to support such objections with detailed analyses. If an evidentiary hearing is requested, the objectors should state the issues with respect to which a hearing is requested and should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing. Vague, general, and unsupported objections will not be entertained.

[4] We further find that our proposed action does not result in a major Federal action significantly affecting the quality of the environment within the meaning of the National Environmental Policy Act of 1969. Our decision will leave the existing service more or less unaffected, thus maintaining the status quo.

[5] We further tentatively find that Delta is a citizen of the United States within the meaning of the Act and is fit, willing, and able properly to perform the transportation pursuant to the amended certificate proposed and to conform to the provisions of the Act and the Board's rules, regulations and requirements thereunder.

Accordingly, it is ordered that:

1. All interested persons are directed to show cause why the Board should not make final the tentative findings and conclusions stated herein and why an order should not be issued amending Delta Air Lines' certificate of public convenience and necessity for route 114 to authorize air transportation at the intermediate point, Maracaibo, Venezuela on an indefinite basis;

2. Any interested persons having objections to issuance of an order making final the tentative findings and conclusions herein, or to the issuance of the proposed amended certificate, shall, within 30 days after adoption of this order, file with the Board and serve on the persons named in paragraph 5 a statement of objections together with a summary of testimony, statistical data and such evidence expected to be relied upon to support the statement of objections;

3. If timely and properly supported objections hereto are filed, full consideration will be accorded the matters or issues raised therein before further action is taken by the Board: *Provided*, That the Board may proceed to enter an order in accordance with the tentative findings and conclusions herein if it determines that there are no factual issues presented that warrant the holding of an evidentiary hearing; [6]

4. In the event no objections are filed to this order, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions herein; and

5. This order shall be served upon all certificated trunk and local service airlines, The Governors of Nevada, Texas, Louisiana; The Mayors of Las Vegas, Dallas, New Orleans, Ft. Worth, the Ambassador of Venezuela, and the Department of State.

This order shall be published in the FEDERAL REGISTER and transmitted to the President.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-21524 Filed 8-14-75;8:45 am]

[Order 75-8-54, Docket No. 26494]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order; Agreements Relating to Passenger Fares

AUGUST 12, 1975.

Agreements adopted by Traffic Conference 2 of the International Air Transport Association relating to passenger fares, Docket 26494, Agreement C.A.B. 25317, Agreement C.A.B. 25320.

[6] Since provision is made for the filing of objections to this order petitions for reconsideration will not be entertained.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of Traffic Conference 2 of the International Air Transport Association (IATA). The agreements, adopted by mail vote, have been assigned the above C.A.B. agreement numbers.

Agreement C.A.B. 25317 would increase all normal and special fares between the United Kingdom and Ireland by eight percent, and will be approved as they are combinable with fares to/from U.S. points and thus have indirect application in air transportation as defined by the Act.

Agreement C.A.B. 25320 would amend creative tour fares from Germany to Ireland and the Board will disclaim jurisdiction since the agreement involves fares which are not combinable with fares to/from U.S. points and hence have no application in air transportation as defined by the Act.

Pursuant to authority duly delegated by the Board in the Board's Regulations 14 CFR 385.14.

1. It is not found that resolution 200(Mail 254)005b, incorporated in Agreement C.A.B. 25317 as indicated, and which has indirect application in air transportation as defined by the Act, is adverse to the public interest or in violation of the Act; and

2. It is not found that resolution 200(Mail 260)072g, incorporated in Agreement C.A.B. 25320, affects air transportation within the meaning of the Act.

Accordingly, it is ordered That:

1. Agreement C.A.B. 25317 described in finding paragraph 1 above, which has indirect application in air transportation as defined by the Act, be and hereby is approved; and

2. Jurisdiction be and hereby is disclaimed with respect to that Agreement C.A.B. 25320 described in finding paragraph 2 above.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

By James L. Deegan, Chief, Passenger and Cargo Rates Division, Bureau of Economics.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-21522 Filed 8-14-75;8:45 am]

[Order 75-8-63; Docket No. 26494]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order; Agreement Relating to Delayed Inaugural Flights

AUGUST 12, 1975.

Agreement adopted by the Traffic Conferences of the International Air Transport Association relating to delayed inaugural flights; Docket 26494; Agreement C.A.B. 25319.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carries embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreement, adopted by mail vote, has been assigned the above C.A.B. agreement number.

The agreement would permit Trans World Airlines, Inc. to postpone to a date not later than November 30, 1975, the performance of its inaugural flights Los Angeles-New York-Lisbon-Casablanca.

Pursuant to authority duly delegated by the Board in the Board's Regulations 14 CFR 385.14, it is not found that resolution JT12(Mail 867)200h incorporated in Agreement C.A.B. 25319 as indicated, is adverse to the public interest or in violation of the Act.

Accordingly, it is ordered that:

Agreement C.A.B. 25319 be and hereby is approved.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

By James L. Deegan, Chief, Passenger and Cargo Rates Division, Bureau of Economics.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

[FR Doc.75-21523 Filed 8-14-75;8:45 am]

COMMISSION ON CIVIL RIGHTS

CONNECTICUT STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Connecticut State Advisory Committee (SAC) to this Commission will convene at 7:30 p.m. and end at 11 p.m. on September 11, 1975, at the Sheraton Park Plaza, 155 Temple Street, New Haven, Connecticut.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York 10007.

The purpose of this meeting is a follow-up to the Committee's hearing on June 12 on public employment.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 8, 1975.

ISAIAH T. CRESWELL, Jr., *Advisory Committee Management Officer.*

[FR Doc.75-21387 Filed 8-14-75;8:45 am]

DELAWARE STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Delaware State Advisory Committee (SAC) to this Commission will convene at 12 noon and end at 3 p.m. on September 26, 1975, at 11th and Washington Streets, Wilmington, Delaware 19899.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, Room 510, 2120 L Street, N.W., Washington, D.C. 20037.

The purpose of this meeting is to plan activities for 1975-76.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 8, 1975.

ISAIAH T. CRESWELL, Jr., *Advisory Committee Management Officer.*

[FR Doc.75-21388 Filed 8-14-75;8:45 am]

ILLINOIS STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois State Advisory Committee (SAC) to this Commission will convene at 1 p.m. and end at 4:30 p.m. on September 10, 1975, at 230 S. Dearborn Street, Room 3251-Conference Room, Chicago, Illinois 60604.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to discuss and approve Community Development project.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 11, 1975.

ISAIAH T. CRESWELL, Jr., *Advisory Committee Management Officer.*

[FR Doc.75-21389 Filed 8-14-75;8:45 am]

MAINE STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given pursuant to the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine State Advisory Committee (SAC) to this Commission will convene at 7:30 p.m. and end at 11 p.m. on September 3, 1975, at the Maine Teachers Association, 35 Community Drive, Augusta, Maine.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York 10007.

The purpose of this meeting is to ascertain status of affirmative action as re: equal employment.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 8, 1975.

ISAIAH T. CRESWELL, Jr., *Advisory Committee Management Officer.*

[FR Doc.75-21390 Filed 8-14-75;8:45 am]

MAINE STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine State Advisory Committee (SAC) to this Commission will convene at 7:30 p.m. and end at 11 p.m. on September 10, 1975, at the Maine Teachers Association, 35 Community Drive, Augusta, Maine.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York 10007.

The purpose of this meeting is to discuss new projects.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 8, 1975.

ISAIAH T. CRESWELL, Jr. *Advisory Committee Management Officer.*

[FR Doc.75-21391 Filed 8-14-75;8:45 am]

MARYLAND STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil

Rights, that a planning meeting of the Maryland State Advisory Committee (SAC) to this Commission will convene at 8 p.m. and end at 10:30 p.m. on September 1, 1975, at Johns Hopkins University-Levering Hall, Baltimore, Maryland.

Persons wishing to attend this meeting should contact the Commission Chairperson, or the Mid-Atlantic Regional Office of the Commission, Room 510, 2120 L Street NW., Washington, D.C. 20037.

The purpose of this meeting is to: 1. Review data for Maryland S&L's Institutions. 2. Review draft project proposal. 3. Identify potential interviews for Maryland S&L.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 11, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-21392 Filed 8-14-75;8:45 am]

MARYLAND STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maryland State Advisory Committee (SAC) to this Commission will convene at 8 p.m. and end at 10:30 p.m. on September 15, 1975, at Johns Hopkins University-Levering Hall, Baltimore, Maryland.

Persons wishing to attend this meeting should contact the Commission Chairperson, or the Mid-Atlantic Regional Office of the Commission, Room 510, 2120 L Street NW., Washington, D.C. 20037.

The purpose of this meeting is to: 1. Review data for Maryland S&L's Instiitions. 2. Review draft project proposal. 3. Identify potential interviews for Maryland S&L hearing.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 11, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-21393 Filed 8-14-75;8:45 am]

NEW JERSEY STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Jersey State Advisory Committee (SAC) to this Commission will convene at 7:30 p.m. and end at 11 p.m. on September 16, 1975, at the Holiday Inn, Jetport Route 1-9 Southbound, Elizabeth, New Jersey.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York 10007.

The purpose of this meeting is to discuss regional SAC conference.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 8, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-21394 Filed 8-14-75;8:45 am]

OHIO STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Ohio State Advisory Committee (SAC) to this Commission will convene at 12 noon and end at 4:30 p.m. on September 17, 1975, at the Downtowner Motel—6th Street, N.W., Canton, Ohio.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Midwestern Regional Office of the Commission, Room 1428, 230 South Dearborn Street, Chicago, Illinois 60604.

The purpose of this meeting is to discuss the development of the bilingual and bicultural education project.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 11, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-21395 Filed 8-14-75;8:45 am]

VERMONT STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Vermont State Advisory Committee (SAC) to this Commission will convene at 7:30 p.m. and end at 11 p.m. on September 18, 1975, at the Tavern Motor Inn.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York 10007.

The purpose of this meeting is to discuss regional SAC conference and new projects for the committee.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 8, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-21396 Filed 8-14-75;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1975

Addition

Notice of proposed addition to Procurement List 1975, November 12, 1974 (39 FR 39964) was published in the FEDERAL REGISTER on June 9, 1975 (40 FR 24552).

Pursuant to the above notice the following commodity is added to the Procurement List:

Class 6530	*Price*
Urinal, Incontinent (IB) 6530-00-290-8292 (with plastic disc)	EA. $0.190

By the Committee.

E. R. ALLEY, Jr.,
Acting Executive Director.

[FR Doc.75-21496 Filed 8-14-75;8:45 am]

PROCUREMENT LIST 1975

Proposed Addition

Notice is hereby given pursuant to Section 2(a)(2) of Public Law 92-28; 85 Stat. 79, of the proposed addition of the following commodity to Procurement List 1975, November 12, 1974 (39 F.R. 39964).

Class 4910

Creeper, Mechanic 4910-00-251-6981

Comments and views regarding this proposed addition may be filed with the Committee not later than 30 days after the date of this Federal Register. Communications should be addressed to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

This notice is automatically cancelled six months from the date of this FEDERAL REGISTER.

By the Committee.

E. R. ALLEY, Jr.,
Acting Executive Director.

[FR Doc.75-21497 Filed 8-14-75;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

List of Statements Received

Environmental impact statements received by the Council on Environmental

Quality from August 4 through August 8, 1975. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements in forty-five (45) days from this FEDERAL REGISTER notice of availability. (September 29, 1975). The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies will also be available at cost from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Dr. Fowden G. Maxwell, Coordinator of Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 359–A, Washington, D.C. 20250, (202) 447–3965.

FOREST SERVICE

Draft

Lone Peak Wilderness Study, Uinta, Wasatch National Forest, Salt Lake and Utah Counties, Utah, August 4: The statement concerns the proposed wildnerness classification of the Lone Park Wilderness Study Area. Three alternatives, each with different social and economic impacts, are presented. (ELR Order No. 51155.)

Final

Herbicide Use, Washington National Forest's Supplement, several counties in Washington, August 4: The supplement statement concerns the use of herbicides 2,4-D, 2,4,5-T, 2,4,5-TP, Amtrole-T, atrazine, picloram, dicamba, and MSMA to reduce the competition from native and introduced vegetation where it hampers forest management activities in Olympic, Mt. Baker, Snoqualmie, and Gifford Pinchot National Forests. Aesthetic deterioration of treated tracts may result. Comments made by: USDA, DOC, COE, HEW, DOI, DOT, and EPA. (ELR Order No. 51142.)

RURAL ELECTRIFICATION ADMINISTRATION

Final

230 kV Transmission Lines, Boone to Lamar, several counties in Colorado, August 4: The statement concerns the loan application by Colorado-Ute Electric Association, Inc., for construction of approximately 98 miles of 230 kV transmission line between Boone and Lamar, Colorado. The project also includes a 2.5 section of 115 kV tie lines between the Boone Substation and the existing Midway-LaJunta 115 kV line, and a 13 mile 115 kV tie line between the proposed Lamar Substation and the existing South Lamar Substation. The major adverse impact will be the intrusion of the transmission facilities upon the landscape. Comments made by: DOT, DOI, USDA, COE, EPA, FPC, and State and regional agencies. (ELR Order No. 51148.)

SOIL CONSERVATION SERVICE

Draft

Big Muddy Creek Watershed, Butler and Logan Counties, Ky., August 4: Proposed is a project for the 65,140 acre Big Muddy Creek Watershed project. Included in the plan is the construction of a floodwater retarding structure, alteration of 17.5 miles of stream channel, and continued application of the current land treatment. Adverse impacts of the project include the elimination of most of streamside vegetation within the area inundated, loss of 2,408 acres of pasture and oldfield to increased cultivation, permanent loss of carrying capacity for wildlife, and increased competition pressures in the watershed from land elimination and/or diversion. (ELR Order No. 51159.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attn: DAEN–PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20314, (202) 693–6861.

Draft

Chevron Oil Co., Dredging Permit, Baldwin County, August 6: Proposed is the issuance of a permit to Chevron Oil Company for the dredging of a slip in the Mobile River Delta to accommodate inland drilling operations. Adverse impacts include the destruction of about 2.1 acres of swamp, increased noise levels in the vicinity, degradation of the aesthetic quality of the area, and the potential effects of accidental oil spills and blowouts on Mobile Delta and surrounding areas. (Mobile District.) (ELR Order No. 51175.)

Offshore Oil & Gas Development, Alaskan Arctic Coast, Alaska, August 4: The statement concerns the issuance of permits for structures in navigable waters off the Alaskan Arctic Coast associated with exploration and development of oil and gas resources. Adverse impacts associated with such development are: water pollution with resulting losses in marine terrestrial plants and animals, loss of aesthetics, decrease of a nonrenewable resource, possible loss or degradation of historic and archeological sites, and possible adverse climatic alteration. (Anchorage District.) (ELR Order No. 51146.)

New London Hurricane Protection (Supplement), Connecticut, August 4: The proposed action is to construct an earth berm and flood wall to provide hurricane protection to approximately 35 acres in the downtown area of New London behind Shaw Cove. Approximately 3,400 feet of berm will be constructed primarily along the shoreline. The elevation of the berm varies from 12.0 feet to 14.5 feet above mean sea level. The project will result in increases in levels of noise, turbidity and traffic congestion and a decrease in air quality during construction. Approximately 2,600 feet of shoreline will be committed to the project. (ELR Order No. 51147.)

Draft

Northfield Mountain and Millers River Diversion (2), Massachusetts, August 5: The statement involves solutions for meeting future water supply requirements for Eastern Massachusetts and explores various alternative ways to meet the projected needs for this region. Proposals include diversion during high flow periods from the Connecticut River via the Northfield Mountain pumped storage facility directly to Quabbin Reservoir and by three other alternative methods to utilize and transport water from the Millers River Basin to the Quabbin Reservoir. The project may result in a temperature rise below the diversion point of the Millers River as well as a probable lessening of the sediment load. (ELR Order No. 51161.)

Lake St. Clair, Channel Dredging, Michigan, August 4: The proposed project is the maintenance dredging of the Lake St. Clair Federal Navigation Channels and the construction of diked disposal areas for polluted dredged materials. Adverse impacts will include decreased local water quality in the dredging area and increased turbidity, which which will discourage fish from frequenting the area. (Detroit District.) (ELR Order No. 51141.)

Pembilier Lake and Dam, Pembina River Basin, Cavalier and Pembina Counties, N. Dak., August 4: The project would include a rolled earth type dam across the Pembina River about 2 miles southwest of Walhalla, North Dakota on or near the Cavalier-Pembina County Line. The project would result in the permanent inundation of about 800 acres of the valley, including 365 acres of woodlands, 355 acres of agricultural lands, and 9.5 miles of free-flowing river. At design flood-pool, an additional 2,400 acres of the valley and 12 miles of river would be inundated for varying durations. The project would affect wildlife in the area and would require the relocation of persons from about 9 farmsteads and residences. (St. Paul District.) (ELR Order No. 51143.)

Diked Disposal Site #14, Cleveland Harbor, Ohio, August 4: Proposed is the construction and operation of a 88-acre diked facility to receive polluted sediments to be dredged from Cleveland Harbor. The site will provide a 10-year capacity for containing sediments. Approximately 80 acres of Lake Erie's water/bottom surface will be permanently removed from the inventory of aquatic habitat. Temporary adverse impacts upon aquatic life, water quality, aesthetics, and boat traffic are expected during construction of the facility. (Cleveland District.) (ELR Order No. 51158.)

Willapa River and Harbor Navigation Project (2), Pacific County, Wash., August 4: Proposed is the maintenance dredging of the navigation channels in Willapa River and Harbor through 1977. This includes the outer bar channel, inner bay channel and Willapa River channel. Dredge material will be deposited in two deepwater areas within Willapa Bay. Due to the low cost benefit ratio, the project will be dredged to minimum depths during the interim period and terminated after 1977. Dredging will result in reduced water quality and destruction of benthic habitat, and termination of the project will result in the loss of jobs. (Seattle District.) (ELR Order No. 51160.)

Final

Mission Bay Harbor, San Diego County, Calif., August 5: Proposed is the periodic maintenance dredging of Mission Bay entrance channel, San Diego County, California. Dredging spoils will be used to nourish adjacent beaches. Adverse impacts include the destruction of bottom dwelling organisms in the project areas and increased turbidity. (Los Angeles District.) Comments made by: USDA, DOC, HUD, DOI, DOT, EPA, AEC, and State and local agencies. (ELR Order No. 51168.)

Morro Bay Harbor, Operation and Maintenance, San Luis Obispo County, Calif., August 5: The project involves the performance of maintenance dredging within Morro Bay Harbor to maintain Federal channels at presently authorized depths. Spoils will be deposited in the Pacific Ocean about 2,500 ft. seaward of the entrance to Morro Bay. Adverse effects include: short-term loss of benthic organisms on the channel floor and at the offshore disposal site; temporary increase of turbidity; and possible temporary inconvenience to harbor traffic. (Los Angeles District.) Comments made by: USDA, DOC, DOI, EPA, and State and local agencies. (ELR Order No. 51169.)

Sacramento River, Major and Minor Tributaries, several counties in California, Au-

gust 6: The project involves the protection of extensive areas in the Sacramento River Basin flood plains from widespread damages and loss of life due to flooding. Loss of wildlife and associated natural riparian values along the streams cannot be avoided at some sites. (Sacramento River.) Comments made by: EPA, DOI, HEW, USDA, DOT, and State and local agencies. (ELR Order No. 51180.)

Fulton Local Flood Protection Project, Whiteside County, Ill., August 5: The project consists of constructing 10 miles of levee designed to protect 9,000 plus acres within the project area against a Mississippi River Design flood. Additional structures would consist of 3 new railroad bridges, 1 new highway bridge, sand bag closures, outlet structures and 3 pumping stations. Three ponding areas planned involve approximately 2400 acres. Adverse impacts are loss of 27 acres of bottomland woods, loss and disruption of the benthic community, siltation in the ponding areas, and the draining of current wetland habitat for agriculture. (Rock Island District.) Comments made by: EPA, DOI, USDA, DOT, DOC, HUD, AHP, and State agencies. (ELR Order No. 51162.)

Cave Run Lake, Licking River Basin, several counties in Kentucky, August 4: The statement refers to the proposed construction of the Cave Run Dam and related project works on the Licking River, for purposes of flood control, general recreation, water quality, and fish and wildlife recreation. Thirty-one thousand acres, 14,870 of which will be inundated, will be converted to public ownership as a result of the project. Fifty miles of free flowing stream with 21 miles of tributaries will be converted to slack water impoundment. An influx of visitors will affect the tranquility which presently prevails. (Louisville District.) (33 pages.) Comments made by: DOI, EPA, USDA, DOC, DOT, HEW, and State and local agencies and citizen groups. (ELR Order No. 51144.)

Stockton Lake, Sac River, Mo., August 7: The statement refers to the continued operation and maintenance of Stockton Lake and its project lands. The Lake is operated for hydroelectric power generation, flood control, public recreation, and fish and wildlife habitat maintenance. Lake fluctuation during hydroelectric power production has impact upon fish spawning habitat and shoreline vegetation. (Kansas City District.) Comments made by: USDA, HUD, DOI, USCG, EPA, FPC, AHP, and State and local agencies. (ELR Order No. 51182.)

Scajaquada Creek and Tributaries, Flood Control, New York, August 6: The statement refers to the flood control project for Scajaquada Creek and Tributaries. The plan involves 9,100 Ft. of channel improvement, a total of about 16,800 ft. of channelization on tributaries, two sections of levee, removal, replacement or enlargement of obstructive bridges, culverts and conduits, and the sealing of sanitary sewer manholes subject to submergence. Adverse impacts are increased turbidity, loss of land and vegetation, and construction disturbance. (Buffalo District.) Comments made by: USDA, EPA, DOI, DOC, DOT, State and local agencies.) (ELR Order No. 51178.)

August 6: The project involves navigation improvements to Huron Harbor. The proposed plan entails the deepening and lakeward extension of the lake approach channel deepening the river channel, and enlarging and deepening the turning basin. Project construction activities will have temporary adverse aesthetic value, boat traffic, and noise levels. (Buffalo District.) Comments made by: HUD, USCG, USDA, HEW, EPA, DOI, and DOC. (ELR Order No. 51179.)

Beach Erosion Control, Lakeview Park, Ohio, August 4: The statement discusses the construction of an offshore breakwater system, initial sand placement, and periodic sand nourishment to maintain a beach at Lakeview Park, Lorain, Ohio. Periodic sand nourishment is expected to be required every 2 years. Adverse impacts are increased noise and air pollution during construction, temporary turbidity, and loss of some aquatic life. (Buffalo District.) Comments made by: USC, DOC, HUD, HEW, DOI, EPA, and one State agency. (ELR Order No. 51153.)

Diked Disposal Site No. 7, Lorain Harbor, Lorain County, Ohio, August 7: The statement refers to the proposed Diked Disposal Site No. 7, Lorain Harbor, Lorain Harbor, Ohio. The project involves construction and operation of a 58-acre rubble-mound diked disposal facility to receive polluted sediments. Adverse impacts are temporary turbidity, destruction of some bottom organisms, and odor during spoil discharge operations. (Buffalo District.) (107 pages.) Comments made by: DOI, DOC, EPA, HEW, and State and local agencies. (ELR Order No. 51183.)

McClellan-Kerr Arkansas River System, Oklahoma, August 5: The statement refers to operation and maintenance activities associated with the McClellan-Kerr Arkansas River Navigation System. Included are the operation of locks; maintenance of project structures; hydroelectric power generation; and control of erosion. Adverse impacts include those associated with dredging and the disturbance of waterfowl. (Tulsa District.) Comments made by: EPA, HUD, DOI, DOT, FPC, USDA, AHP, DOC, and HEW. (ELR Order No. 51170.)

Fort Gibson and Tenkiller Ferry Lakes, Okla., August 5: The statement refers to operation and maintenance activities at Fort Gibson Lake on the Grand (Neosho) River and at Tenkiller Ferry Lake on the Illinois River. The lakes are operated for reservoir regulation, flood control, the generation of hydroelectric power, and the management of land resources. Adverse impact includes that resulting from lake fluctuations and from heavy recreational use. (Tulsa District.) (117 pages.) Comments made by: EPA, HUD, DOI, USDA, AHP, DOC, HEW, and FPC—2. (ELR Order No. 51173.)

Eufaula Lake and Canadian River, Oklahoma County, Okla., August 5: The statement evaluates operation and maintenance activities at Eufaula Lake, a multi-purpose project on the Canadian River. The major impacts of project operation are those which result from heavy recreational use and from lake fluctuations. (Tulsa District.) (84 pages.) Comnients made by: EPA, FPC, HUD, DOI, DOT, USDA, AHP, and HEW. (ELR Order No. 51174.)

Tamaqua Local Protection Project, Schuylkill County, Pa., August 8: Proposed is the construction of a concrete-lined tunnel 2,930 feet long and 10 feet in diameter with appropriate entrance and exit appurtenances, to divert a major portion of Wabash Creek flows from the western edge of the Borough to the Little Schuylkill River near the southern edge of the Borough at about the same point where the streams now converge. The project will provide a 100-year degree of flood protection and contribute to economic development. The statement indicates no adverse effects. (Philadelphia District.) Comments made by: DOI, USDA, HEW, FPC, EPA, USCG, DOC, and State agencies. (ELR Order No. 51185.)

Channel to Port Bolivar, Maintenance Dredging, Galveston County, Tex., August 5: The statement refers to the maintenance of the existing Federal navigation project in Galveston County by periodic removal of shoaled materials. Maintenance will be accomplished by hydraulic pipeline dredges, and dredged materials will be disposed of in an open water area near the project. Adverse impacts include the loss of some marine habitat, and increased turbidity during dredging. (Galveston District.) Comments made by: HEW, DOC, DOI, DOT, USCG, AHP, and State and local agencies. (ELR Order No. 51166.)

Matagorda Ship Channel, Matagorda and Calhoun Counties, Tex., August 5: The statement refers to the maintenance of the existing navigation project in Calhoun and Matagorda Counties. The authorized project includes a 3.2 mile long entrance channel, a 22 mile long channel through Matagorda and Lavaca Bays, a turning basin at Point Comfort, two shallow-draft branch channels, and a 20.2 mile long shallow-draft channel. Adverse impacts are the loss of vegetation, destruction of benthic organisms and oysters, temporary turbidity; objectionable odors may result from deposition of dredged materials on land areas. (Galveston District.) Comments made by: HEW, EPA, DOC, DOI, USCG, USDA, AHP, and State and local agencies. (ELR Order No. 51167.)

Brazos Island Harbor, Maintenance, Cameron County, Tex., August 5: The statement refers to the proposed continued maintenance of Brazos Island Harbor, Cameron County, Texas. Dredged materials will be disposed of in leveed land areas in the Gulf of Mexico. Adverse impacts are retarded benthic productivity, and loss of some wildlife habitat. (Galveston District.) Comments made by: EPA, DOC, DOI, AHP, DOT, USDA, HEW, HUD, and State agencies. (ELR Order No. 51171.)

Texas City Channel, Maintenance Dredging, Texas, August 5: The statement refers to the proposed maintenance dredging of the Texas City Channel, an existing Federal navigation project in Galveston County. The authorized project includes a 6.7 mile long channel, 40 ft. deep and 400 ft. wide, from Galveston Harbor Channel to a turning basin, 40 ft. deep, 1,000 ft. wide, and 4,253 ft. long at Texas City. Dredging will be performed by hydraulic pipeline dredge with material being disposed of in open water and land disposal areas. Adverse impacts involve the loss of motile and benthic organisms, cover marsh and land vegetation, and increased turbidity. (Galveston District.) Comments made by: HEW, EPA, DOC, DOI, AHP, and State and local agencies. (ELR Order No. 51172.)

Seattle Harbor Navigation Project, King County, Wash., August 5: The statement refers to the proposed maintenance dredging of 150,000 cu. yds. of material annually from the Duwamish River, Seattle Harbor. Adverse impact of the project will be to water quality. (Seattle District.) Comments made by: EPA, DOC, HUD, DOI, DOT, OEO, and State and local agencies. (ELR Order No. 51165.)

Manitowac and Two Rivers Harbors, Wisconsin County, Wis., August 6: Proposed is the periodic maintenance dredging of the Manitowac and Two Rivers Harbors. A diked spoil containment structure with an incorporated effluent filter would be constructed adjacent to the existing breakwater at Manitowac. There would be adverse impact to local benthic organisms. Twenty-four acres of land would be formed at the disposal site; this land would be suitable for community development. (Chicago District.) Comments made by: USDA, DOC, HUD, DOI, USCG, EPA, and State and local agencies. (ELR Order No. 51177.)

ENERGY RESEARCH AND DEVELOPMENT ADMIN.

Contact: Mr. W. Herbert Pennington, Office of Assistant Administrator, E-201, ERDA, Washington, D.C. 20545, (301) 973-4241.

Draft

Light Water Breeder Reactor Program, August 8: The statement concerns the continued development of Light Water Breeder Reactor technology, which has been under-

way since 1965. An essential part of this development is the operation of the LWBR Core in the Shippingport Atomic Power Station in Beaver County, Pennsylvania to develop and test the technical feasibility of a breeder reactor concept and confirm the workability of its individual systems and components as part of the overall reactor system. Although the plant is designed to contain the release of fission products, the potential for accidental exposure still exists (4 volumes). (ELR Order No. 51184.)

FEDERAL POWER COMMISSION

Contact: Dr. Richard F. Hill, Acting Advisor on Environmental Quality, 441 G Street, N.W., Washington, D.C. 20426, (202) 386-6084.

Draft

El Paso, Transco LNG Terminal (Supplement), Gloucester County, N.J., August 4: The statement is a supplement to a draft eis filed with CEQ 17 July 1974 and includes new data on vapor cloud travel which could result from a massive spill of LNG on water. (ELR Order No. 51152.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7258, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6308.

Draft

Park Central Development, Port Arthur, Jefferson County, Tex., August 4: Proposed is the transformation of 701 acres of coastal prairie land into a planned urban development. The tract, formerly undevelopable because of the threat of hurricanes, is now considered for development since the construction of the Port Arthur hurricane levee system. The statement indicates no significant adverse effects. (ELR Order No. 51151.)

SECTION 104(h)

Final

Grays Ferry Urban Renewal, Philadelphia County, Philadelphia, Pa., August 6: The statement concerns a 160.9-acre urban renewal project in southwest Philadelphia. The plan includes residential, commercial, and semi-public rehabilitation, active and passive recreation facilities, and street improvements. The project has displaced 272 families, 95 individuals, and 43 businesses. Construction disruption will result. Comments made by: EPA, HEW, DOT, and State and local agencies. (ELR Order No. 51176.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, (202) 343-3891.

BUREAU OF RECLAMATION

Final

Granite Reef Aqueduct Transmission System, Arizona and New Mexico, August 4: The statement describes the impact associated with constructing an electric power transmission system to supply power to pumping plants and check structures along the Granite Reef Aqueduct Transmission System, Central Arizona Project. Approximately 275 miles of backbone 230-kV transmission line, at 230-kV and 115-kV will be constructed. Also, 77 miles of radial transmission line, at 230-kV and 115-kV will be constructed. Adverse impacts are negative effects on aesthetic values, acquisition of 4,200 acres for right-of-way, and temporary disturbance to biota. Comments made by: DOI, AHP, HUD, EPA, FPC, COE, and State and local agencies. (ELR Order No. 51150.)

BUREAU OF SPORTS FISHERIES AND WILDLIFE

Final

J. N. "Ding" Darling National Wildlife Refuge, Lee County, Fla., August 5: The statement refers to the proposed legislative designation of 2,735 acres of the J. N. "Ding" Darling National Wildlife Refuge as wilderness within the National Wilderness Preservation System. Comments made by: EPA, DOI, and Florida Clearinghouse. (ELR Order No. 51163.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

U.S. 81 and U.S. 30, Columbus; Polk, Butler, and Platte Counties, Nebr., August 7: The project consists of the improvement of two separate roadways, U.S. 81 and U.S. 30 south of Columbus, and L-71-D, U.S. 81 to U.S. 30 connection, in the city of Columbus. The improvement includes the construction of new bridges over Platte and Loup Rivers as well as over various creeks and drainageways. The project will require the acquisition of 50 acres of land for right-of-way and the displacement of families and businesses. A 4(f) statement concerning Pawnee Park is included. (ELR Order No. 51181.)

L.R. 1071, Sec. 5, I-70 Replacement, Washington, Fayette, and Westmoreland Counties, Pa., August 4: Proposed is the replacement of a six-mile link of I-70 connecting Washington and Westmoreland Counties with legislative Route 1071, Section 50. The road runs from a proposed interchange with the Monogahela Valley Expressway to its existing Arnold City Interchange. Detrimental impacts include the relocation of an unspecified number of families and businesses; the possible abuse of rural land by developers; the acquisition of farm land; and air, noise and water pollution during construction. (ELR Order No. 51145.)

Beltway 8, I-45 South to U.S. 59 South, Harris County, Tex., August 4: Proposed is the construction of a 21.4 miles increment of overall 87.5 mile Beltway 8 facility to encircle Houston approximately 12 miles from the downtown area. Four main lanes and three-lane continuous frontage roads in each direction are included in the project. Noise generated from the predicted traffic on the proposed project will exceed the design noise levels set by EPA, and the project will displace an unspecified number of businesses and residences. Logs of wildlife acreage will occur. (ELR Order No. 51156.)

Final

State Road 60, Vero Beach, Indian River County, Fla., August 4: The project involves the construction of 1.8 miles of multi lane highway between N.W. 20th Avenue and Indian River Boulevard on State Road 60 in Indian River Road. Adverse impacts are increased air pollution, degradation of water quality, and displacement of 1 residence and 2 businesses. Comments made by: EPA, HEW, DOT, and State and regional agencies. (ELR Order No. 51149.)

Overpass of I-95, Blythe Island, Glynn County, Ga., August 4: The proposed project is located on Blythe Island, Glynn County, Georgia, and affects an area located between the Turtle River on the northeast to approximately 6,000 feet to the southwest along I-95. The overpass will be a grade separation structure with or without an interchange and access roads. The project may encourage future Blythe Island Development. Comments made by: HUD, DOI, EPA, and HEW (ELR Order No. 51157.)

Espanola Bridge, Espanola, Rio Arriba County, N. Mex., August 4: The project involves the construction of the Espanola bridge over the Rio Grande River in the city of Espanola. The proposed construction will consist of a 4-lane road and bridge to relieve the demand on the present crossing. Adverse impacts are the loss of some farm land, some siltation, increased noise levels, and the displacement of 2 residences and 1 business. Comments made by: EPA, HEW, COE, DOI, and State agencies and groups. (ELR Order No. 51154.)

S.H. 44, Nueces County, Tex., August 5: The statement concerns improvement of S.H. 44 from a 4-lane divided highway with at-grade crossings and crossovers over a narrow median to a full control access freeway with interchanges and grade separations over major intersecting roads from S.H. 358 in Corpus Christi to U.S. 77 in Robstown all in Nueces County. The total length is 11.5 miles. Adverse impacts are the use of 387.59 acres of land, the displacement of a few families, and air and noise levels (160 pages). Comments made by: HEW, COE, DOI, USDA, EPA, and State and local agencies. (ELR Order No. 51164.)

U.S. COAST GUARD

Final

Ports and Waterways Safety Act of 1972, August 8: Proposed is the addition of interim regulations to implement the Ports and Waterways Safety Act of 1972, dealing with construction standards for U.S. tank vessels engaged in the coastal trade. The proposed regulations are based on standards adopted by the International Conference for Prevention of Pollution from Ships, 1973. The discharge criteria and associated equipment and practices are expected to result in a substantial reduction of oil influx to the sea from U.S. tank vessels. Construction standards are expected to improve damage resistance and limit oil outflow resulting from a casualty. Comments made by: EPA, COE, DOC, DOT, and conservation interests. (ELR Order No. 51186.)

GARY L. WIDMAN,
General Counsel.

[FR Doc.75-21464 Filed 8-14-75;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

[ERDA-1541]

LIGHT WATER BREEDER REACTOR PROGRAM

Availability of Draft Environmental Statement and Announcement of Public Hearing

Notice is hereby given that a four-volume Draft Environmental Statement, "Light Water Breeder Reactor Program" (ERDA-1541), was issued August 8, 1975, pursuant to the Energy Research and Development Administration's (ERDA) regulations for implementation of the National Environmental Policy Act of 1969. The preparation of the Statement and intent to conduct a public hearing were announced in the FEDERAL REGISTER July 8, 1974.

The objective of the Light Water Breeder Reactor (LWBR) program which began in 1965, is to devlop the technology necessary to improve significantly the utilization of the energy potentially available in nuclear fuel for pressurized light water reactors including the instal-

lation and operation of a breeding reactor core in the ERDA-owned reactor at the Shippingport Atomic Power Station, Shippingport, Beaver County, Pennsylvania. The operation of this, the third reactor core in the Shippingport Station, is expected to confirm that breeding can be achieved in a light water reactor system using the thorium-uranium 233 fuel system. If the LWBR is successful, it will confirm the technical feasibility of operating breeder cores of this type in existing and future light water reactors.

In addition to evaluating the environmental aspects of operating the LWBR core in the Shippingport Station and conducting subsequent LWBR technology development, the draft statement considers the environmental aspects of future commercial application of Light Water Breeder Reactors.

Copies of the Draft Statement are being distributed for review and comment to Federal agencies, states and organizations and individuals that have expressed an interest in the LWBR Program. Copies of the Draft Statement are available for public inspection in the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania and ERDA's Public Document Rooms at 1717 H Street, N.W., Washington, D.C.; Albuquerque Operations Office, Kirtland Air Force Base East, Albuquerque, New Mexico; Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois; Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho; Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nevada; Oak Ridge Operations Office, Federal Building, Oak Ridge, Tennessee; Richland Operations Office, Federal Building, Richland, Washington; San Francisco Operations Office, 1333 Broadway, Oakland, California; Savannah River Operations Office, Savannah Plant, Aiken, South Carolina.

Comments and views concerning the Draft Statement are requested from other interested agencies, organizations and individuals. Single copies of the Draft Environmental Statement will be furnished for review and comment upon request addressed to W. H. Pennington, Office of the Assistant Administrator for Environment and Safety, Mail Station E-201, U.S. Energy Research and Development Administration, Washington, D.C. 20545 (301) 973-4241. Comments should be sent to the same address.

In accordance with the guidelines from the Council on Environmental Quality, agencies and members of the public submitting comments on the Draft Environmental Statement should endeavor to make their comments as specific, substantive, and factual as possible without undue attention to matters of form in the impact statement. It would assist in the review of comments if the comments were organized in a manner consistent with the structure of the draft statement. Emphasis should be placed on the assessment of the environmental impacts of the LWBR Program specifically, and the acceptability of those impacts on the quality of the environment, particularly as contrasted with the impacts of reasonable alternatives. Commenting entities may recommend modifications and/or new alternatives that will enhance environmental quality and avoid or minimize adverse environmental impacts.

Copies of comments on the Draft Environmental Statement will be placed in the above referenced Document Rooms and Library for inspection and will be considered in the preparation of the Final Environmental Statement if received at ERDA by October 15, 1975.

In order to provide further opportunity for public comment on the Draft Statement, ERDA will conduct a public hearing in Pittsburgh, Pennsylvania, following the close of the comment period. Information on the date, specific location, presiding board and procedures for the public hearing will be published in a future issue of the FEDERAL REGISTER. Known interested parties will be notified directly.

Dated at Germantown, Maryland, this 11th day of August 1975.

For the Energy Research and Development Administration.

JAMES L. LIVERMAN,
Assistant Administrator
For Environment and Safety.

[FR Doc.21498 Filed 8-14-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 416-3]

NATIONAL AIR POLLUTION CONTROL TECHNIQUES ADVISORY COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given that a meeting of the National Air Pollution Control Techniques Advisory Committee will be held at 9:00 a.m. on September 3 and 4, 1975, at the Crystal Mall, Building 2, Room 1112, 1921 Jefferson Davis Highway, Arlington, Virginia (22202), telephone (703) 557-8273.

The purpose of the meeting will be to discuss New Source Performance Standards to be proposed under Section 111 of the Clean Air Act for by-product coke ovens (charging and topside leaks), municipal refuse combustion in steam generators, and the crushed stone industry.

The meeting will be open to the public. Anyone wishing to attend or submit a paper should contact Mr. Don R. Goodwin, Director, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

The telephone number and area code are (919) 688-8146, extension 271.

Date: August 11, 1975.

ROGER STRELON,
Assistant Administrator
for Air and Waste Management.

[FR Doc.75-21374 Filed 8-14-75;8:45 am]

[FRL 416-5; OPP-33000/303]

RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by each applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street, SW., Washington, D.C. 20460.

On or before October 14, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street, SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after October 14, 1975.

Dated: August 8, 1975.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

APPLICATIONS RECEIVED (OPP-33000/303)

EPA File Symbol 12265-U. Acme Chemex, 239 S. Cooper St., Memphis TN 38104. ACME CHEMEX PENTA GENERAL WEED KILLER. Active Ingredients: Pentachlorophenol 6.88%; Other Chlorophenols 0.80%; Aromatic Petroleum Derivative Solvent

89.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM24

EPA File Symbol 35377-R. Arizona Sulphur Co., 5340 W Bethany Home Rd., Glendale AZ 85311. DUSTING SULPHUR. Active Ingredients: Sulphur 95%. Method of Support: Application proceeds under 2(c) of interim policy. PM22

EPA File Symbol 2311-RG. Haag Lab., Inc., 14010 S. Seeley, Blue Island IL 60406. QAT 450 DISINFECTANT FUNGICIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 2311-RN. Haag Lab., Inc., 14010 S. Seeley, Blue Island IL 60406. QAT 900 CONCENTRATED DETERGENT, SANITIZER, FUNGICIDE, DISINFECTANT. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 4.5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 4.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium Carbonate 4.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 6418-I. Magee Chem Co., 415 W Touhy Ave., Des Plaines IL 60018. MC-20 L SANITIZER DISINFECTANT. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chloride 3.1%; Sodium Carbonate 3.1%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 6418-O. Magee Chem. Co., 415 W Touhy Ave., Des Plaines IL 60018. MC-20 P SANITIZER DISINFECTANT. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chloride 3.1%; Sodium Carbonate 3.1%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 72-LTG. Miller Chem. & Fertilizer Co., PO Box 333, Hanover PA 17331. MILLER KILL ALL. Active Ingredients: 2,4-bis (isopropylamino)-6-methoxy-s-triazine 3.73%; Petroleum distillate 81.04%. Method of Support: Application proceeds under 2(c) of interim policy. PM25

EPA File Symbol 8591-ET. The Mogul Corp., Chagrin Falls OH 44022. MOGUL AG-411. Active Ingredients: Didecyl dimethyl ammonium chloride 20%; Isopropanol 8%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 8591-EA. The Mogul Corp., Chagrin Falls OH 44022. MOGUL AG-412. Active Ingredients: Didecyl dimethyl ammonium chloride 50%; Isopropanol 20%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 8317-E. J.M. Sales Co., Inc., Box 2336, St. Louis MO 63114. DOG CHASER. Active Ingredients: Methylene Chloride 45%; Oil of Lemongrass 2%; Oil of Camphor 1%. Method of Support: Application proceeds under 2(a) of interim policy. PM11

EPA File Symbol 36416-R. Shawnee Mission Plumbing, Heating, Cooling Inc., Brook Hollow, PO Box 5282, Lenexa KS 66215. ROOTINE ROUTINE. Active Ingredients: Copper Sulphate 100%. Method of Support: Application proceeds under 2(c) of interim policy. PM24

EPA File Symbol 36296-G. Solvean Lab., Inc., 501 Green Island Rd., Vallejo CA 94590. 2.2% COPPER NEOLEATE. Active Ingredients: Copper Oleate 19.25%; Copper as Metallic 2.2%. Method of Support: Application proceeds under 2(c) of inteirm policy. PM22

EPA File Symbol 36296-E. Solvean Lab., Inc., 8% COPPER DRIER CATALYST. Active Ingredients: Copper Oleate 70%; Copper as Metallic 8%. Method of Support: Application proceeds under 2(c) of interim policy. PM22

EPA File Symbol 36296-R. Solvean Lab., Inc. 6% COPPER NEOLEATE. Active Ingredients: Copper Oleate 50.6%; Copper as Metallic 6%. Method of Support: Application proceeds under 2(c) of interim policy. PM22

[FR Doc.21377 Filed 8-14-75;8:45 am]

[FRL 416-4]

SODIUM CYANIDE

Applications To Register Sodium Cyanide for Use in the M-44 Device To Control Predators

On July 15, 1975, EPA published notice in the FEDERAL REGISTER (40 CFR 29755) of public hearings to be held in Washington, D.C. on August 12-15, 1975, with respect to an application filed by the United States Department of the Interior (USDI), Fish and Wildlife Service, to register sodium cyanide M-44 capsules for use as a predacide. Registrations of sodium cyanide for predator control had been cancelled and suspended on March 9, 1972, by EPA Administrative Order (37 FR 5718). The hearings were called pursuant to the provisions of Subpart D, Part 164, 40 CFR, upon a finding by the Administrator that, based on the USDI application and supporting data, there appeared to be substantial new evidence which may materially affect the 1972 cancellation and suspension Order and, hence, reconsideration of the 1972 Order was warranted.

The notice of the hearings invited others to submit registration applications by July 31, 1975, in order that the applications could be reviewed in accordance with the provisions of Subpart D in time for the scheduled hearings. The notice also provided that applicants could, with the consent of the USDI, incorporate in their applications the information and supporting data set forth in the USDI application. Applications were submitted on or before July 31 by the Montana Department of Livestock, Helena, Montana; the Wyoming Department of Agriculture, Cheyenne, Wyoming; the Colorado Department of Agriculture, Division of Animal Industry, Denver, Colorado; State of Oregon, Department of Agriculture, Salem, Oregon; the Nevada State Department of Agriculture, Reno, Nevada; the Texas Department of Agriculture, Austin, Texas; and the M-44 Safety Predator Control Co., Midland, Texas. Each applicant relied on the USDI application.

In accordance with the Subpart D procedures, the applications and supporting data have been reviewed, and it has been determined that each applicant has presented substantial new evidence with respect to sodium cyanide which may materially affect the 1972 Order. Most applicants relied heavily, and, in some instances, exclusively on the USDI application and supporting data; however, while some applicants presented additional evidence, no substantial new evidence was presented by any applicant which differed in any material respect from that presented by the USDI. Therefore, it has been determined that the substantial new evidence presented by each applicant will be considered to be the same as that presented by the USDI in its application, and the issues to be adjudicated at the hearings as specified in the July 15 notice of the hearings remain unchanged.

Dated: August 8, 1975.

JOHN QUARLES,
Deputy Administrator.

[FR Doc.75-21375 Filed 8-14-75;8:45 am]

[FRL 417-2]

REGISTRATIONS OF PESTICIDES CONTAINING HEPTACHLOR OR CHLORDANE

Clarification of Evidence Which May be Introduced

On July 29, 1975 the Administrator issued "Notice of Intent to Suspend and Findings of the Imminent Hazard Posed By Registrations of Pesticides Containing Heptachlor or Chlordane." Copies of this notice have been served on all affected registrants. Since that time some uncertainty has arisen with respect to whether registrants or other parties to the hearing are permitted to introduce evidence in challenge to the basis for evaluating the carcinogenicity of pesticides which was referred to in the Administrator's July 29 Notice of Intent. The Notice of Intent set forth the basis for that evaluation and pointed out that such basis was applied "in evaluating the cancer hazard posed by the use of heptachlor and chlordane for purposes of (the) suspension notice and which shall be applied to evaluate that hazard in an expedited suspension hearing . . . ."

That statement was not intended to foreclose registrants or other parties from introducing evidence in challenge to the basis for evaluation. Rather, it was intended to make it clear that in satisfying its burden of going forward to present an affirmative case in accordance with 40 CFR § 164.80(a), the proponent of suspension is not required to present evidence to establish the points referred to as the basis for evaluating carcinogenicity. In satisfying its ultimate burden of persuasion, however, in accordance with 40 CFR § 164.80(b), the proponent of registration shall have the right to submit relevant evidence in challenge to those points, subject, of course, to rebuttal opportunity by the proponent of suspension.

The purpose of these rulings was to simplify and expedite the hearing process while preserving a full opportunity for a hearing on all material issues.

Dated: August 6, 1975.

JOHN QUARLES,
Deputy Administrator.

[FR Doc.75-21465 Filed 8-14-75;8:45 am]

[FRL 417-1]

REGISTRATIONS OF PESTICIDES CONTAINING HEPTACHLOR OR CHLORDANE

Intent To Suspend Findings of Imminent Hazard

On November 18, 1974, I determined that the continued registration and use of pesticides containing heptachlor or chlordane posed a substantial question of safety and accordingly I issued "Notice of Intent to Cancel" such registrations pursuant to Section 6(b) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended ("FIFRA"). New evidence has recently come to my attention which confirms and heightens the human cancer hazard posed by these pesticides. In addition it is now apparent that the ongoing cancellation proceedings would not be concluded in time to avert substantial additions of these persistent and ubiquitous compounds to already serious human and environmental burdens. In view of these recent developments which are discussed in greater detail below, I find that continued use of these pesticides during the time required for completion of the cancellation proceedings would be likely to result in unreasonable adverse effects on the environment. Accordingly, pursuant to FIFRA Section 6(c), I hereby issue notice of intent to suspend the registrations and prohibit the production for use of all pesticides containing heptachlor or chlordane other than those registrations exempted from the heptachlor/chlordane cancellation order. This suspension order shall become effective within five days of the receipt by affected registrants unless the registrants request an expedited hearing pursuant to FIFRA Section 6(c)(2) and in accordance with the provisions of 40 C.F.R. Section 164.121. The suspension hearing, if requested, shall take no longer than 40 hearing days from the commencement of the hearing, unless for good cause shown and upon recommendation of the presiding officer I extend the hearing time for not more than 10 additional hearing days.

The Cancellation Notice. The Notice of Intent To Cancel Registrations Of Certain Pesticide Products Containing Heptachlor Or Chlordane[1] was based upon the following:

data from human monitoring studies showing that more than 90% of the American people have residues of heptachlor epoxide and oxychlordane in their tissues;

data from human stillborn infant monitoring studies showing that heptachlor epoxide is transferred from mother to child across the placenta;

data from human milk monitoring studies showing that heptachlor epoxide is present in a substantial percentage of mothers' milk at levels ranging from trace amounts to 0.49 ppm;

data from human food monitoring studies showing that heptachlor epoxide is commonly found in the dairy, meat, fish and poultry components of the human diet at levels ranging from 0.001 to 0.03 ppm;

data from two test animal feeding studies showing that heptachlor and heptachlor epoxide caused cancer and the conclusion of the Carcinogenicity Panel of the HEW Secretary's Commission on Pesticides and their Relationship to Environmental Health that heptachlor epoxide was "positive for tumor induction"; and

data from nationwide residue monitoring studies indicating that heptachlor and chlordane are highly persistent, lipid soluble and ubiquitous.

Additional Cancer Evidence. Since the issuance of the cancellation notice in November, 1974, I have received additional evidence which confirms the cancer hazard posed by these chemicals.

First, additional expert pathologists have reviewed both of the 1959 and the 1965 test animal feeding studies referred to in the cancellation notice. Their reviews support and strengthen the finding that these two studies demonstrate the carcinogenicity of heptachlor and heptachlor epoxide.

Second, new evidence of the results of additional 1973 test animal feeding studies conducted for Velsicol Chemical Corporation with heptachlor and chlordane have been submitted to EPA.[2] The heptachlor study reported a statistically significant increase of hyperplastic nodules in exposed animals with relatively few carcinomas. This result is itself indicative of carcinogenic action. In recent months, independent review of selected heptachlor and heptachlor epoxide tissue slides from this study by EPA consultant pathologists found substantial numbers of carcinomas. The analysis of the EPA consultant pathologist who reviewed all of the more than 650 heptachlor and heptachlor epoxide tissue slides found statistically significant increases in carcinomas of exposed animals over controls. In addition, a review of the animal tissues by pathologists consulted by Velsicol which has recently been brought to my attention found that substantial numbers of lesions originally reported as hyperplastic nodules were carcinomas.

The chlordane study reported a statistically significant increase in hyperplastic nodules and a substantial increase in carcinomas. Independent statistical analysis by EPA consultants demonstrates that at one feeding level (25 ppm) male mice exhibited statistically significant increases in carcinomas. Independent review of selected slides by the EPA consultant pathologists also found substantial numbers of carcinomas. A review of virtually all of the chlordane test slides by an EPA consultant pathologist demonstrated statistically significant increases in carcinomas of exposed animals over controls in both sexes at two feeding levels (25 ppm and 50 ppm). Selected tissue review by the Velsicol consultants also found substantial numbers of carcinomas in animals exposed to chlordane.[3]

Third, human adipose tissue studies for FY 1973 have now been completed and confirm the residues discovered in prior years samplings, finding heptachlor epoxide in 97.71% and oxychlordane in 98.35% of the people sampled. Similarly, whereas the cancellation notice referred to a 1972 human milk study which found heptachlor epoxide residues in mothers' milk, new evidence from an EPA survey shows heptachlor epoxide residues in 35.09% and oxychlordane residues in 45.61% of human milk samples taken.

Fourth, it is now anticipated that the cancellation hearing could require as much as 18 months of additional litigation before a final decision could be reached. During that period more than 38 million pounds of technical heptachlor and chlordane are likely to be released into the environment through uses contested in the cancellation proceeding.

In view of the mounting evidence that these compounds cause cancer and in view of the large quantity which will be added to human and environmental burdens in the interim, I find that the continued registration of the contested uses of heptachlor and chlordane pending completion of the cancellation proceeding poses an unreasonable risk to the American people and thus constitutes an "imminent hazard" under Sections 6(c) and 2(e) of FIFRA.

Legal Authority. Section 6(b) of FIFRA authorizes the Administrator to issue notice of intent to cancel if it appears to him "that a pesticide or its labeling . . . does not comply with the provisions of this Act or, when used in accordance with widespread and commonly recognized practice, generally causes unreasonable adverse effects on the environment . . . ." The phrase "unreasonable adverse effects on the environment" is defined by FIFRA Section 2(bb) to mean "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide."

In accordance with FIFRA section 6(c), where the Administrator finds that "action is necessary to prevent an imminent hazard during the time required for cancellation . . ." he may by order suspend the registration after providing an opportunity for an expedited hearing

[1] 39 Fed. Reg. 41298 (November 26, 1974). For purposes of clarification, the result of a final order of suspension will be to prohibit the manufacture of heptachlor/chlordane pending completion of the cancellation proceedings for any registered use except for subsurface ground insertion for termite control and the dipping of roots and tops of non-food plants. The permitted termite use was clarified by notice published on July 21, 1975 (40 Fed. Reg. 30522).

[2] Technical chlordane contains approximately 7% heptachlor and technical heptachlor contains approximately 20% of the gamma isomer of chlordane.

[3] A preliminary report of the analysis of test animal feeding studies conducted for the National Cancer Institute further indicates that carcinogenicity of heptachlor and chlordane. Since the final report of the analysis of this study has not been issued, however, my decision to suspend heptachlor and chlordane registrations does not rely on this study.

on the question of "whether an imminent hazard exists." The term "imminent hazard" is defined by FIFRA section 2(*l*) to mean a "situation which exists when the continued use of a pesticide during the time required for cancellation proceeding would be likely to result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the Secretary of Interior under Public Law 91-135."

The courts have repeatedly "cautioned that the term 'imminent hazard' is not limited to a concept of crisis: 'It is enough if there is *substantial likelihood* that serious harm will be experienced during the year or two required in any realistic projection of the administrative [cancellation] process.' " *Environmental Defense Fund, Inc.* v. *Environmental Protection Agency*, 510 F. 2d 1292, 1297 (D.C. Cir. 1975) (emphasis in original), quoting from *Environmental Defense Fund, Inc.* v. *Environmental Protection Agency*, 465 F. 2d 528, 540 (D.C. Cir. 1972). Of course, as in the cancellation proceeding, the Administrator does not have the burden of proving that a pesticide is unsafe since the statute and case law place "[t]he burden of establishing the safety of a product requisite for compliance with the labeling requirements . . . at all times on the applicant and registrant." *EDF* v. *EPA*, 510 F. 2d at 1297; *EDF* v. *EPA*, 465 F. 2d at 540.

The courts have consistently held that "the function of the suspension decision is to make a preliminary assessment of evidence and probabilities, not an ultimate resolution of difficult issues. We cannot accept the proposition . . . that the Administrator's findings [are] insufficient because controverted by respectable scientific authority. It [is] enough that the administrative record contain respectable scientific authority supporting the Administrator." *EDF* v. *EPA*, 510 F. 2d at 1298; *EDF* v. *EPA*, 465 F. 2d at 537.

As I have repeatedly stated,[4] after extensive EPA experience in evaluating the cancer hazard of pesticides, we do not begin our evaluation of the cancer threat of heptachlor/chlordane in a vacuum. In my prior orders relating to DDT and Aldrin/Dieldrin, and in the Preamble to the FIFRA registration regulations, I have set forth the basis for evaluating the carcinogenicity of pesticides which I am applying in evaluating the cancer hazard posed by the use of heptachlor and chlordane for purposes of this suspension notice and which shall be applied to evaluate that hazard in an expedited suspension hearing, if a hearing is requested. This basis for evaluation can be summarized as follows:

The use of animal test data to evaluate human cancer risks has been widely accepted by the scientific community and by public policy-making agencies. Such data are particularly appropriate because the relatively short life span of test animals allows for testing for the entire latency period for tumor development and because of our relatively well-developed understanding of the pathological development of tumors in mice and rats. When compared to the millions of people who may be exposed to a pesticide, the number of animals used in tests to evaluate oncogenicity is extremely small. The variability of human response to carcinogens is generally greater than that of the test animals. Epidemiological cancer data are desirable, but because of the long latency period of tumor induction in humans, because of frequently encountered widespread contamination which makes it impossible to establish an uncontaminated control group and because of the obvious ethical and legal problems associated with conducting cancer research on humans, reliable epidemiological data are rarely available. Accordingly a positive oncogenic effect in test animals is sufficient to characterize a pesticide as posing a cancer risk to man. By the same reasoning, negative results from oncogenic animal tests have only limited significance. The number and sensitivity of the test animals as compared to the general human population are the principal reasons for this limited utility. Because of these inherent limitations of animal testing a pesticide that induces tumors in experimental animals at any dose level must be considered to be a carcinogen. As noted above, negative results are of limited value since they do not rule out the possibility that the chemical will induce tumors in test animals if, for example, the number of exposed animals or the length of exposure were increased. Although a no-effect level may theoretically exist for carcinogens, as yet there is no scientific basis for establishing such a level. Thus, human exposure to a carcinogen at levels below those which induced positive effects must be considered to present a cancer risk. Finally, although the distinction between "benign" and "malignant" tumors is of primary importance to the individual, it is not a meaningful distinction in determining the cancer hazard to man on the basis of tests conducted on laboratory animals. Given the increasing evidence that many "benign" tumors can develop into cancers, for purposes of determining whether a pesticide poses a cancer hazard to man on the basis of laboratory experiments, the terms "benign" and "malignant" should be considered synonymous.

With respect to the benefits of continued use of a pesticide subject to a notice of intent to suspend, the courts have ruled that because of the expedited and provisional nature of the suspension process it is not necessary to explore all of the available information on alternative pest control methods to the same degree as in a cancellation proceeding. Although consideration of such alternative methods will be undertaken in the suspension process, the responsibility to demonstrate that the benefits of continued registration during the cancellation proceeding outweigh the risks is upon the proponents of continued registration.

Some uncertainty has arisen concerning the Agency's burden of going forward with evidence of alternative means of pest control in its affirmative case. In the Opinion of the Administrator with respect to *Stevens Industries, Inc.* (37 F.R. 13369) reference was made to the burden of the respondent to show "the availability of a registered chemical or other means of control which this Agency's Pesticides Office is prepared to recommend as a substitute. . . ." 37 F.R. 13372. It was not intended by that statement, nor does the applicable law require, that the Agency staff—as part of its affirmative case—offer such an Agency "recommendation" or that it provide evidence that alternatives which are registered for the uses in question are actually obtainable, efficacious or available at reasonable prices. It is sufficient for purposes of its presentation that the Agency staff present evidence that alternatives are registered for the uses in question. This may be accomplished by an affidavit by the appropriate official certifying that the substances listed therein are registered for the uses indicated. The burden of demonstrating that any alternatives established by respondent in this fashion are not actually obtainable, are not efficacious or are not available at reasonable prices remains on the proponents of contained registration of the pesticides under review in a cancellation or suspension proceeding.

Finally, the Court of Appeals has held that the Agency is under a heavy burden to justify any decision that the benefits outweigh the risks with respect to a chemical known to produce cancer in experimental animals.

Findings of Imminent Hazard. On the basis of the data before me at the time of my November, 1974 cancellation notice and the additional data which has been brought to my attention in the intervening nine months, pursuant to FIFRA Section 6(c)(1) I make the following findings as to imminent hazard which shall constitute the issues to be adjudicated at a suspension hearing, if such a hearing is requested:

1. Virtually every person in the United States has residues of heptachlor epoxide and oxychlordane—the principal metabolites of heptachlor and chlordane—in his body tissues. Analysis of human tissue samples by the EPA National Human Monitoring Program shows that during FY 1970, 1971, 1972 and 1973 heptachlor epoxide was present in human adipose tissue at quantifiable levels in 90.29% to 97.71% of all the people tested. During each of these years the arithmetic mean of the concentration of heptachlor epoxide in human

[4] *See* Opinion of the Administrator, Environmental Protection Agency, on the Suspension of Aldrin-Dieldrin, 39 Fed. Reg. 37265 (October 18, 1974); State of Louisiana Request for Emergency Use of DDT on Cotton, Statement of Reasons for Denial and Supplemental Statement of Reasons for Denial, 40 Fed. Reg. 1934, 15949 (April 8, 1975); Preamble to Subpart A—Registration, Reregistration and Classification Procedures, 40 Fed. Reg. 28242, 28253 (July 3, 1975).

tissues ranged from 0.12 to 0.17 ppm and the highest concentration was 10.62 ppm. Oxychlordane, which was first included in the EPA Human Monitoring Program in FY 71, was present in FY 1972 and 1973 human adipose tissue samples at quantifiable levels in 92.33% to 98.35% of all the people tested. During each of these years the arithmetic mean of the concentration of oxychlordane in human tissues was 0.15 ppm and the highest concentration was 1.87 ppm.

2. Data from human stillborn monitoring studies show that heptachlor epoxide crosses the placental barrier and enters the human fetus. The stillborn study found that heptachlor epoxide residues were present in 4 out of 10 adipose tissue samples in amounts ranging from 0.07 to 0.51 ppm. In addition, heptachlor epoxide residues were detected in the brain, adrenals, heart, lungs, liver, kidney and spleen. The concentrations ranged as high as 1.56 ppm in the heart and 1.67 ppm in the liver. Of 30 live term babies examined, 90% had heptachlor epoxide residues in their cord blood in amounts ranging from 0.0002 to 0.0043 ppm.

3. Recently obtained data demonstrates that 35.09% of human mothers' milk sampled contains quantifiable residues of heptachlor epoxide and that 45.16% of mothers' milk sampled contains quantifiable residues of oxychlordane.

4. For the most recent reporting period of FY 1974, the Food and Drug Administration, in its market basket survey, reports that measurable amounts of heptachlor, heptachlor epoxide or chlordane were found in composite samples of 73 percent of all dairy products and 77 percent of all meat, fish, and poultry samples. Residues of these chemicals have consistently been detected throughout the preceding ten years in dairy products and meat, fish and poultry. During the ten fiscal years from 1965 to 1974, residues of these three chemicals have been detected in all of the twelve food composite categories.

5. Approximately 50% of the heptachlor/chlordane used under contested registrations is applied for home, lawn and garden purposes as well as commercial turf. These uses accounted for more than 7,500,000 pounds of technical chlordane in 1974. Use of this chemical under these conditions presents special problems of human exposure. These applications are in and around the home and thus are generally in much closer proximity to the general population than agricultural uses. Similarly, many of these applications are carried out by individual homeowners who may expose themselves, their family members and their neighbors by direct contact with the skin, by inhalation, by contamination of clothing as well as by ingestion. In addition, many of these uses around the home appear to result in residues in urban and suburban soils. Soil monitoring studies of urban and suburban areas show that residues of chlordane were detected in the soils of all 37 cities sampled between fiscal years 1969 and 1974. For many cities chlordane was detected in approximately 20% to 40% of the samples. Residues of heptachlor epoxide were detected in the soils of 28 of the cities sampled and heptachlor residues were detected in the soils of 13 of the cities sampled. In several cities heptachlor epoxide residues were present in 10% to 20% of the soil samples. Common experience demonstrates that contaminated soil and turf around the home may present special hazards to family members through transport by pets and direct contact—this hazard would appear to be particularly alarming in the case of young children.

6. Heptachlor epoxide has been found to produce significant increases in tumors in a 1965 mouse experiment conducted by FDA. Based upon data from this experiment the Carcinogenicity Panel of HEW Secretary's Commission on Pesticides and Their Relationship to Environment Health found heptachlor epoxide to be "positive for tumor induction." Independent review of this experiment by EPA consultants has shown that there was a statistically significant increase in carcinomas in animals fed both heptachlor and heptachlor epoxide. Statistical review of a 1959 experiment testing heptachlor epoxide in rats has shown that this compound also produced significant increases in tumors. Histological review by EPA consultants has shown that the treated animals in this experiment had substantial increases in carcinomas.

As noted above, recent data from mouse experiments conducted for Velsicol Chemical Corporation have shown that heptachlor and heptachlor epoxide significantly increased the incidence of hyperplastic nodules in treated mice. Although this finding itself is indicative of carcinogenesis, review of these data by pathology consultants for both Velsicol and EPA has shown that substantial numbers of these lesions were carcinomas. These same experiments have shown a significant increase in tumors and hyperplastic nodules for animals fed chlordane. Review of the chlordane data by consultants for Velsicol and EPA has revealed that substantial numbers of lesions originally diagnosed as nodules were carcinomas.

7. Based upon estimated production figures supplied by Velsicol Chemical Corporation for the last 6 months of 1975, a total of more than 38 million pounds of heptachlor and chlordane intended for domestic use under contested registrations are likely to be produced during the 18 months required to conclude the cancellation hearings. The 18 month production of heptachlor for contested uses is estimated to be almost 10 million pounds while chlordane production for contested uses is estimated to exceed 28 million pounds.

8. Finally, although heptachlor/chlordane are widely used as insecticides, the major agricultural use of heptachlor and chlordane is on corn, with over 70% of the agricultural use being devoted to use on corn. According to statistics of the United States Department of Agriculture, the maximum estimated loss to corn production from cancellation of heptachlor/chlordane and aldrin/dieldrin taking into account numerous registered alternative pesticides would be approximately 0.4% of the nation's 1973 total corn production. The USDA forecast of a bumper corn harvest for 1975 demonstrates that even for the current crop year total losses would not exceed approximately 0.4%. Although a few individual corn growers may experience some losses in production if heptachlor/chlordane are not available, these potential losses should not be widespread and in view of the serious risks certainly do not justify continued use.

Additional agricultural uses of heptachlor/chlordane are small and varied. Alternative pesticides are registered for almost all of these uses and in the few instances where no alternative is presently registered, there has been no indication that serious crop losses would occur pending completion of the cancellation process. Similarly, although we are also sensitive to the needs of homeowners who use chlordane, there is a wide selection of registered alternative pesticides to replace the numerous uses of chlordane in and around the home.

* * * * *

Although we cannot determine precisely the magnitude of the human cancer risk as a result of the past and continuing exposure to heptachlor and chlordane, I have found that these compounds cause cancer in laboratory animals and that laboratory tests are reliable indications of the human cancer hazard. In addition, although any single component of human exposure—such as intake through poultry—may not appear to be significant, it alone poses a cancer hazard to certain of the more susceptible individuals and together with the several other components of human exposure presents a serious human cancer threat. This threat is made even more alarming by evidence that human exposure begins in the mother's womb and continues without interruption throughout life. In addition, because these chemicals are ubiquitous, the major souces of human exposure are largely unavoidable by individual action.

I have invoked the "Special Rule" provision of section 15(b)(2) permitting continued use of those existing stocks of EPA registered pesticides containing heptachlor or chlordane which have been formulated as of the date of this notice. It seems clear considering the use patterns of heptachlor and chlordane that there would be no stocks realistically retrievable following a suspension notice. The major use, home, lawn and garden, which constitutes more than 40% of the uses covered by this notice, is a nationwide use made available to the homeowner through a complex distribution network. It would not be feasible to monitor such a network and to retrieve such stocks. Any such stocks are probably already in the hands of homeowners and other users or local retail stores and their immediate distributors. In addi-

tion, use under corn, which constitutes more than 35% of the contested uses, has already occurred and thus there should not be substantial existing stocks for that purpose.

Dated: July 29, 1975.

RUSSELL E. TRAIN,
Adminis' ator.

[FR Doc.75-21466 Filed 8-14-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

COMMON CARRIER SERVICES INFORMATION [1]

[Report No. 766]

Domestic Public Radio Services Applications Accepted for Filing [2]

AUGUST 11, 1975.

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 one 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 cut-off 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] VINCENT J. MULLINS,
Secretary.

[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 cut-off 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).

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20115-CD-P-76, Illinois Bell Telephone Company (New). Application for developmental authority to construct and operate a cellular mobile radio telephone system in the Chicago Metropolitan area on frequencies specifically allocated for such cellular systems in the 825-845 and 870-890 MHz bands.

20116-CD-P-76, Contact, Inc. (KGA807). C.P. to relocate facilities operating on base frequency 35.22 MHz located at 1 Investment Place, Towson, Maryland, described as location 4.

21817-CD-P-75, Miami Valley Radiotelephone (KQK592). C.P. to add transmitter operating on base frequency 454.20 MHz at Loc. #4: I-75 and WDAO tower, Dayton, Ohio.

20171-CD-P-76, South Shore Radio-Telephone, Inc. (KUD238). C.P. to add transmitter site to oper. on 454.075 MHz (Base) at WYCA-FM tower, 150 Marble, Burnham, Ill., to be described as loc. #2.

20172-CD-P-76, Mobile Phone of Texas, Inc. (KLB502). C.P. for additional facilities to operate on 152.03 MHz (Base) at Loc. #1: Corner of Foxhall and Third Sts., Jacksboro, Texas.

20173-CD-P-76, Empire Mobilcomm Systems, Inc. (KOK331). C.P. for additional facilities to operate on 152.06 MHz (Base) at Loc. #1: Blanton Heights, 2.2 miles S. of Eugene, Oregon.

20174-CD-P-76, Airsignal International, Inc. (KIF653). C.P. for additional facilities to operate on 43.58 MHz (Base) at Loc. #1: First National Building, 165 Madison Ave., Memphis, Tennessee.

20175-CD-P-(3)-76, Stockton Mobilphone, Inc. (KMA616). C.P. to add new base and repeater facilities operating on 152.15 and 72.58 MHz, respectively at new site described as Loc. #4: Atop mtn. peak, approximately 10 miles N. of Livermore, California; also to add new control facilities operating on 75.64 MHz at new site described as Loc. #5: 2171 Ralph Avenue, Stockton, California.

20176-CD-AL-76, Albemarle Communications, Inc. (KFL935). Consent to Assignment of License from Albemarle Communications, Inc., Assignor, to Coastal Carolina Communications, Inc., Assignee. (Elizabeth City, North Carolina.)

20177-CD-P-(3)-76, Commercial Radio, Inc. (KJU796). C.P. to relocate base facilities operating on 152.03 and 152.18 MHz at NE corner of South and Fourth Avenues, Waycross, Georgia; also to add new facilities to operate on 454.050 MHz (base) at the aforementioned location.

20178-CD-P-76, Seattle Radiotelephone Service (KOA799). C.P. to add antenna location #3: 1311 South Massachusetts, Seattle, Washington, to be operated on 152.09 MHz (base).

20179-CD-P-76, Commercial Radio, Inc. (New). C.P. for a new station to operate on 152.24 MHz (Base) located at NE Corner of South and Fourth Avenues, Waycross, Georgia. (1-way-signaling.)

20057-CD-MP-76, Samuel W. Waldenberg (KUS355). Mod. Constr. Permit to change the base frequency from 152.18 MHz to 152.06 MHz at Loc. #1: Blacktail Mtn., 12 miles S. of Kalispell, Montana.

20180-CD-P-76, Phone Depots of Connecticut, Inc., d/b/a Liberty Communications, Inc. C.P. to change antenna location 2 operating on 35.58 MHz at Intersection of New Lebanon & Hoseye Coach Rds., Botsford, Connecticut.

Major amendments

20517-CD-P-74, Miami Valley Radiotelephone (New), Columbus, Ohio. Amend to change base frequency 35.22 MHz to 35.58 MHz. All other particulars are to remain as reported on Public Notice #723, dated October 15, 1974.

20568-CD-P-(2)-75, Delta Mobile Phone of Arkansas, Inc. (New). Amend to change frequency 152.21 MHz to 152.03 MHz. Other particulars to remain as reported on Public Notice #724, dated October 21, 1974.

20062-CD-P-(3)-76, E. B. Brownell, d/b/a Worland Services (KOP254), Thermopolis, Wyo. Amend to change control station location #3 at 112 N. Eighth Street, Thermopolis, (Hot Springs) Wyoming to 337 N. 6th Street, Thermopolis, Wyoming. All other particulars are to remain as reported on Public Notice #763, dated July 21, 1975

Informative

APPLICATIONS FOR EXTENSION OF EXPIRATION DATE OF CONSTRUCTION PERMIT IN THE DOMESTIC PUBLIC LAND MOBILE RADIO AND RURAL RADIO SERVICES—FCC FORMS 701

At the present time, a great many extension applications in the above services have been defective. Common deficiencies include untimely filing, form entry omissions, inadequate and incomplete supporting data, unclear applicant intentions and rationale, when needed, and the omission of copies of relevant documents. We wish to emphasize that it is a grantee's duty to order equipment within a reasonable time after receipt of a construction permit. Thus, an extension of time on the basis that equipment has not been received is only warranted if the grantee submits evidence that a timely order was made.

We urge that all concerned review the requirements of 21.14(d) of the Commission's Rules and assist us by filing timely and thorough applications, and only in situations permitted by the Rules. Failure to do so will lead to forfeiture of the authorization.

RURAL RADIO SERVICE

60040-CR-P-76, RCA Alaska Communications, Inc. (New). Constr. Permit for a new Rural Subscriber station to operate on 157.83 and 157.92 MHz located at Village located 22 miles SW of Homer, Port. Graham, Alaska.

60041-CR-P/L-76, Daniel F. Christopherson, d/b/a Commercial Communications (New). C.P. and License for a new Rural Subscriber station to operate on 158.49 and 158.61 MHz at any temporary-fixed location within the territory of the grantee.

Informative

APPLICATIONS FOR EXTENSION OF EXPIRATION DATE OF CONSTRUCTION PERMIT IN THE DOMESTIC PUBLIC LAND MOBILE RADIO AND RURAL RADIO SERVICES—FCC FORMS 701

At the present time, a great many extension applications in the above services have been defective. Common deficiencies include untimely filing, form entry omissions, inadequate and incomplete supporting data, unclear applicant intentions and rationale, when needed, and the omission of copies of relevant documents. We wish to emphasize that it is a grantee's duty to order equipment within a reasonable time after receipt of a construction permit. Thus, an extension of time on the basis that equipment has not been received is only warranted if the grantee submits evidence that a timely order was made.

We urge that all concerned review the requirements of 21.14(d) of the Commission's Rules and assist us by filing timely and thorough applications, and only in situations permitted by the Rules. Failure to do so will lead to forfeiture of the authorization.

POINT-TO-POINT MICROWAVE

4682–CF–P–75, West Texas Microwave Company (KLR75), Estes Ranch, 3.8 Miles North of Abilene, Texas. Lat. 32°30'32" N., Long. 99°45'58" W. C.P. to add 6078.6V MHz, 6049.0H MHz and 6019.3V MHz, via path intercept, toward Merkel, Texas, on azimuth 267°32'.

4772–CF–P–75, CPI Microwave, Inc. (WQQ88), Parkway Central, Texas. Lat. 32°45'44" N., Long. 97°06'08" W. C.P. (reinstatement) to add 10915H MHz toward Dallas (One Main Place), Texas, an azimuth 85°50'; to add 10955H MHz toward Fort Worth, Texas, on azimuth 267°06'; and construction permit to replace transmitters.

4773–CF–P–75, CPI Microwave, Inc. (WPE55), One Main Place, Dallas, Texas. Lat. 32°46' 49" N., Long. 96°48'07" W. C.P. to (reinstatement) to add 11405H MHz toward Parkway Central, Texas, on azimuth 266°00' and construction permit to replace transmitter.

4774–CF–P–75, CPI Microwave, Inc. (WPE37), Fort Worth, Texas. Lat. 32°45'08" N., Long. 97°19'52" W. C.P. (reinstatement) to add 11245V MHz toward Parkway Central, Texas, on azimuth 87°00' and construction permit to replace transmitter.

54–CF–P/L–76, Eastern Microwave, Inc. (New). In any temporary fixed location within the territory of the grantee. C.P. and License for a new station on 6172.5 MHz and 6177.5 MHz and 11190.0 MHz and 11195.0 MHz.

180–CF–MP–76, Microwave Transmission Corporation (WDD52), San Antonio Hill, California. Lat. 34°50'30" N., Long. 120°29'53" W. Mod. of C.P. (3407–CF–MP–75) to relocate receive site at Vandenberg AFB, California, to new coordinates, Lat. 34°44'46" N., Long. 120°31'23" W. and to change azimuth to 192°11' toward Vandenberg AFB.

118–CF–P–76, Southwest Texas Transmission Company (KKY46), Las Moras, Texas. Lat. 29°21'33" N., Long. 100°23'11" W. C.P. to replace six Motorola transmitters with four Collins MWV–108A transmitters; change 6182.4V MHz to 6137.9V MHz toward Eagle Pass, 6182.4H MHz to 6137.9H MHz toward Del Rio 6135.0H MHz and 6256.5H MHz to 6137.9H MHz and 6241.7H MHz toward Wardlow Ranch; and change power on existing frequencies.

332–CF–P–76, Pilot Butte Transmission Compay, Inc. (New), South Pass, 31.0 Miles SW of Lander, Wyoming. Lat. 42°32'29" N., Long. 108°50'34" W. C.P. for a new station on 6360.0H MHz toward White Mountain (KPK29), Wyoming on azimuth 200°00'.

333–CF–P–76, Pilot Butte Transmission Company, Inc. (KPK29), White Mountain, 5.0 Miles West of Rock Springs, Wyoming. Lat. 41°34'43" N., Long. 109°19'06" W. C.P. to replace transmiter on existing paths toward Little America, Rock Springs, Medicine Butte, and Green River, all in Wyoming.

4674–CF–ML–75, South Central Bell Telephone Company (KJH23), 421 West Chestnut Street, Louisville, Kentucky. Lat. 38° 14'58" N., Long. 85°45'39" W. Mod. of License to delete frequencies 6197.2V, 6286.2H, 6345.5H, 6404.8H MHz toward Brooks, Kentucky; replace transmitter and change power on frequencies 6226.9H, 6256.5V MHz towards Brooks on azimuth 176°46'.

4675–CF–ML–75, Same, 2.5 Miles NW. of Brooks, Kentucky. Lat. 38°04'43" N., Long. 85°44'55" W. Mod. of License to delete frequencies 5945.2H, 6004.5H, 6093.5V MHz toward Louisville, Kentucky and 6004.5V, 6063.8V, 6123.1V, 6152.8H toward Elizabethtown, Kentucky; replace transmitters and change power on 5974.8V, 6963.8H MHz toward Louisville on azimuth 356°46', and 5945.2V, 6034.2H MHz toward Elizabethtown on azimuth 179°35'.

4676–CF–ML–75, Same (KJJ59), 6 Miles East of Elizabethtown, Kentucky. Lat. 37°41'08" N., Long. 85°44'42" W. Mod. of License to delete frequencies 6197.2H, 6226.9V, 6404.8V MHz toward Brooks, Kentucky, and 6286.2H, 6345.5H, 6404.8H MHz toward Horse Cave, Kentucky; replace transmitters and change power on 6315.9H, 6345.5V MHz toward Brooks on azimuth 359°35', and 6226.9H MHz toward Horse Cave on azimuth 190°36'.

4677–CF–ML–75, Same (KJJ60), 2.5 Miles NE. of Horse Cave, Kentucky. Lat. 37°11'04" N., Long. 85°51'44" W. Mod. of License to delete frequencies 6123.1H, 5945.2H, 6004.5H MHz toward Elizabethtown, Kentucky, and 6093.5H, 6004.5H, 6034.2H, 6123.1V MHz toward Smiths Grove, Kentucky; replace transmitters and change power on 6063.8H MHz toward Elizabethtown on azimuth 10° 32', 5974.8H MHz toward Smiths Grove on azimuth 252°13', and 10795H, 11035V MHz toward Glasgow, Kentucky, on azimuth 192°36'.

4678–CF–ML–75, Same (KJJ61), 3.8 Miles NE. of Smiths Grove, Kentucky. Lat. 37°60'60" N., Long. 86°10'58" W. Mod. of License to delete frequencies 6286.2V, 6197.2H, 6404.8V MHz toward Horse Cave, Kentucky, and 6375.2V, 6286.2H, 6345.5H MHz toward Bowling Green, Kentucky; replace transmitters and change power on 6315.9H MHz toward Horse Cave on azimuth 72°02', and 6226.9H MHz toward Bowling Green on azimuth 242°03'.

4679–CF–ML–75, Same (KJJ62), 1150 State Street, Bowling Green, Kentucky. Lat. 36° 59'24" N., Long. 86°26'40" W. Mod. of License to delete frequencies 5945.2H, 6123.1H MHz toward Smiths Grove, Kentucky; replace transmitters and change power on 6004.5H, 6063.8H MHz toward Smiths Grove on azimuth 61°54'.

2987–CF–ML–75, Pacific Northwest Bell Telephone Company (KPC61), Prospect Hill #2, 3 Miles East of Independence, Oregon. Lat. 44°51'15" N., Long. 123°07'20" W. Mod. of License to change polarity from Horizontal to Vertical on frequency 6115.7 MHz toward Marya Peak, Oregon on azimuth 222°58'.

217–CF–P–76, Idaho Telephone Company (New), Garden Valley, on State Hwy. 17, 600 Feet SE. of U.S. Post Office, Idaho. Lat. 44°05'08" N., Long. 115°56'54" W. C.P. for a new station on frequency 2121.8V MHz toward a new point of communication located at Packer John Mtn., Idaho on azimuth 323°57'.

218–CF–P–76, Idaho Telephone Company (New), Packer John Mountain, 8 Miles SSE of Smiths Ferry, Idaho. Lat. 44°12'05" N., Long. 116°03'56" W. C.P. for a new station on frequencies 10895H, 11095V MHz toward Squaw Butte, Idaho, on azimuth 233°19', and 2171.8V MHz toward a new station located at Garden Valley, Idaho, on azimuth 143°53'.

220–CF–P–76, Southern Bell Telephone and Telegraph Company (WOF31), Air Traffic Control Tower, Hartsfield Airport, Atlanta, Georgia. Lat. 33°38'24" N., Long. 84°25'17" W. C.P. to change antenna system and location.

221–CF–P–76, Same (WOF32), FAA Air Traffic Control Center, Hampton, Georgia. Lat. 33°22'47" N., Long. 84°17'49" W. C.P. to change point of communication to Hartsfield Airport, Atlanta, Georgia, for frequency 2126.8V MHz on azimuth 338°12'.

226–CF–R–76, Illinois Bell Telephone Company (WAN84). In any temporary fixed location within the State of Illinois and Lake and Porter Counties in Indiana. Application for Renewal of Radio Station License (Developmental) for the term ending August 26, 1975. Term: August 26, 1975 to August 26, 1976.

227–CF–P–76, The Ohio Bell Telephone Company (KVI38), 111 North Fourth Street, Columbus, Ohio. Lat. 39°57'54" N., Long. 82°59'51" W. C.P. to replace transmitters and change power on frequencies 6323.3H and 11565V MHz toward Olive Green, Ohio, on azimuth 20°05'.

228–CF–P–76, Same (KVI39), Twp. Rd., 3 Miles S. 19° W. of Olive Green, Ohio. Lat. 40°18'58" N., Long. 82°49'47" W. C.P. to replace transmitters and change power on frequencies 6056.4V, 10915H MHz toward Blooming Grove, Ohio, on azimuth 13°08', and 6071.2H, 11115V MHz toward Columbus, Ohio, on azimuth 200°12'.

229–CF–P–76, Same (KVI40), County Rd. 57, 3.9 Miles (S. 8° W.) of Blooming Grove, Ohio. Lat. 40°39'09" N., Long. 82°43'36" W. C.P. to add frequency 6301.0V MHz toward a new point of communication at Woodland, Ohio, on azimuth 64°01'; replace transmitters and change power on 6308.4V, 11365H MHz toward Olive Grove, Ohio, on azimuth 193°12', and 6323.3V, 11565H MHz toward Upper Sandusky, Ohio, on azimuth 291°04'.

230–CF–P–76, Same (KVI41), County Rd. 128, 5.5 Miles (S. 60° E.) of Upper Sandusky, Ohio. Lat. 40°47'13" N., Long. 83°11'21" W. C.P. to change alarm center location, replace transmitters and change power on frequencies 6071.2V, 11115H MHz toward Blooming Grove, Ohio, on azimuth 110°46', and 6056.4H, 10915V MHz toward New Riegel, Ohio, on azimuth 330°58'.

231–CF–P–76, Same (KVI42), County Rd. 45, 3.0 Miles SW. of New Riegel, Ohio. Lat. 41°01'20" N., Long. 83°21'42" W. C.P. to change alarm center location, replace transmitters and change power on frequencies 6308.4H, 11365V MHz toward Upper Sandusky, Ohio, on azimuth 150°51', 6390.0H, 11345H MHz toward Findlay, Ohio, on azimuth 273°30', and 11245V, 11565V MHz toward Bowling Green, Ohio, on azimuth 333°52'; change frequencies 6204.7H, 6323.3H MHz to 5212.1H, 6330.7H MHz toward Bowling Green, Ohio, and change power.

232–CF–P–76, Same (KQN71), 121 West Harding Street, Findlay, Ohio. Lat. 41°02'07" N., Long. 83°39'05" W. C.P. to change alarm center location, replace transmitters and change power on frequencies 6108.3H, 10935H MHz toward New Riegel, Ohio, on azimuth 93°19'.

233–CF–P–76, Same (KQN69), Dirlam Rd., 3.3 Miles SE. of Bowling Green, Ohio. Lat. 41°22'08" N., Long. 83°35'15" W. C.P. to change alarm center location, replace transmitters and change power on frequencies 5997.1V, 6056.4V, 11075H MHz toward Toledo, Ohio, on azimuth 07°23', and 10795V, 11115V MHz toward New Riegel, Ohio, on azimuth 153°44'; change frequencies 5952.6H, 6071.2H MHz to 5960.0H, 6078.6H MHz toward New Riegel and change power.

234–CF–P–76, Same (KQH44), 121 Huron Street, Toledo, Ohio. Lat. 41°39'01" N., Long. 83°32'20" W. C.P. to change alarm center location, replace transmitters and change power on frequencies 6249.1V, 6308.4V, 11525H MHz toward Bowling Green, Ohio, on azimuth 187°25'.

235–CF–P–76, Hawaiian Telephone Company (KUR98), 115 Kalakaua St., Hilo, Hawaii. Lat. 19°43'41" N., Long. 155°05'26" W. C.P. to change antenna system and add frequency 2115.6H MHz toward an additional point of communication at Summit of Mauna Kea, Hawaii, on azimuth 285°12'.

240–CF–P/ML–76, American Telephone and Telegraph Company (KEL79), 811 Tenth Avenue, New York, New York. Lat. 40°46'-02" N., Long. 73°59'30" W. C.P. and Mod.

of License to cover to replace transmitters and change power on frequency 3990H MHz toward Roslyn Harbor, New York, on azimuth 81°41'.

241-CF-P-76, The Mountain States Telephone and Telegraph Company (KPR45), Billings Jct., 6.5 Miles SE. of Billings, Montana. Lat. 45°43'44" N., Long. 108°23'43" W. C.P. to add frequencies 11405H, 11645V MHz toward Fort Custer, Montana, on azimuth 120°31'.

242-CF-P-76, Same (KPZ97), Fort Custer, 20 Miles SW. of Hardin, Montana. Lat. 45°-30'55" N., Long. 107°52'57" W. C.P. to add frequencies 10955H, 10715V MHz toward Billings Jct., Montana, on azimuth 300°53'.

245-CF-ML-76, Hawaiian Telephone Company (KKU39), Summit of Mauna Kea, 18.6 Miles SE. of Kamuela, Hawaii. Lat. 19°49'33" N., Long. 155°28'20" W. Mod. of License to change point of communication from Kemuela to Hilo, Hawaii, on azimuth 105°04' for frequency 2165.6H.

148-CF-MP-76, United States Transmission Systems, Inc. (WAH497), Bacon Hill Road, 5 Miles North of West Chester, Pennsylvania. Lat. 40°02'50" N., Long. 75°35'11" W. Mod. C.P. to replace transmitter and change 6197.2V to 6226.9H towards Oxford, Pennsylvania, on azimuth 230°21'.

149-CF-MP-76, Same (WAH498), Highway 10, 1 Mile North of Oxford, Pennsylvania. Lat. 39°48'06" N., Long. 75°58'10" W. Mod. of C.P. to replace transmitter, change antenna location, coordinates, power and change to 6093.5V to 5945.2H towards West Chester, Pennsylvania, on azimuth 50°05'; 6152.8H to 5945.2H towards Delta, Pennsylvania, on azimuth 259°21'.

150-CF-MP-76, Same (WAH499), Highway 851, 2½ Miles Northwest of Delta, Pennsylvania. Lat. 39°44'40" N., Long. 75°21'32" W. Mod. C.P. to replace transmitter, change antenna location, coordinates, power and change 6345.5V to 6226.9H towards Oxford, Pennsylvania, on azimuth 79°06' and 6197.2H to 6226.9H towards Jacksonville, Maryland, on azimuth 214°09'.

151-CF-MP-76, Same (WAH500), Jarettsville Pike-South Jacksonville, Maryland. Lat. 39°30'54" N., Long. 76°33'35" W. Mod. C.P. to replace transmitter, change antenna location coordinates, power and change 6093.5H to 5945.2H towards Delta, Pennsylvania, on azimuth 34°02' and 6152.8V to 5945.2H towards Ellicott City, Maryland, on azimuth 229°27'.

152-CF-MP-76, Same (WAH501), 11910 Carroll Mill Road, 7 Miles West of Ellicott City, Maryland. Lat. 39°16'00" N., Long. 76°55'56" W. Mod. C.P. to replace transmitter, change antenna location, coordinates, power and change 6345.5V to 6226.9H towards Jacksonville, Maryland, on azimuth 49°13' and 6034.2V to 6226.9V towards a new point of communication at Rockville, Maryland, on azimuth 226°37'.

143-CF-P-76, Same (New), Suburbia Building, 5602 Baltimore National Pike, Baltimore, Maryland. Lat. 39°17'24" N., Long. 76°43'38" W. C.P. for a new station on 6197.2H towards Jacksonville, Maryland, on azimuth 29°56'.

144-CF-P-76, Same (New), 1.3 Miles north of Rockville, Maryland. Lat. 39°06'10" N., Long. 77°01'45" W. C.P. for a new station on 6004.5H towards Silver Spring, Maryland, on azimuth 136°57' and 5945.2V towards Ellicott City, Maryland, on azimuth 46°28'.

145-CF-P-76, Same (New), Fenton Office Building, Fenton Avenue, Silver Spring, Maryland. Lat. 38°59'53" N., Long. 77°01'-45" W. C.P. for a new station on 6226.9H towards Rockville, Maryland, on azimuth 317°02'.

147-CF-P-76, United States Transmission Systems, Inc. (New), C.P. for a Fixed-Developmental station between New York, New York, to Houston, Texas, on frequency bands 5925.0-6425.0 and 10700.0-11200.0.

309-CF-P-76, Southern Pacific Communications Company (New), Chamber of Commerce Building, 7th Avenue and Smithfield Street, Pittsburgh, Pennsylvania. Lat. 40°26'35" N., Long. 79°59'49" W. C.P. for a new station on 11625.0H to Mount Washington, Pennsylvania, on azimuth 213°20'.

Major Amendments

2372-CF-P-75, Southern Pacific Communications Co. (New), 111 Shiloh Street and Grandview Avenue, Mount Washington, Pennsylvania. Add 10735.0H to a new point of communication at Pittsburgh, Pennsylvania, on azimuth 33°19'.

Correction

88-CF-P-75 and 89-CF-P-75, Southern Pacific Communications Company, correct File Numbers to read 88-CF-P-76 and 89-CF-P-76. All other particulars remains the same, as reported on Public Notice dated July 28, 1975.

[FR Doc.75-21513 Filed 8-14-75;8:45 am]

PUBLIC INTEREST MAILING LIST

Notification by FCC

AUGUST 7, 1975.

The Commission has adopted a procedure whereby a limited number of public interest groups will be notified by mail of major FCC actions in which their participation is invited. Individuals who express a desire to submit comments on Commission actions will also be considered for inclusion on the mailing list. In its deliberations the Commission emphasized that its new procedure is not simply another information service but a means of insuring that a representative cross section of public interest groups have the opportunity of providing meaningful comments in FCC proceedings.

Each week, beginning in early September, the Commission will issue a summary of major actions including rule making proposals, proposed policy statements, notices of inquiry, notices of hearing, and other actions inviting public participation. The summary will include a brief synopsis of each Commission action, its docket and mimeo numbers, deadlines for comments and replies, and (when available) the FEDERAL REGISTER publication date.

These summaries will be mailed directly to mailing list addressees and also will be available from the FCC's Public Information Office, Room 207, 1919 M Street, N.W., Washington, D.C. 20554. Further information on summarized items will be available from the Public Information Office upon written request.

The Commission has developed an initial mailing list of 270 public interest groups. These groups will be notified that their confirmation is required to remain on the list.

A public interest group may be considered for inclusion on the mailing list by providing the following information: name of organization, mailing address of office which should receive the information, telephone number, average number of members, purpose of organization, geographical scope (i.e., national, state, etc.), and communications subject matter(s) of interest. Individuals may be added to the mailing list by providing written justification including name, mailing address, telephone number, need for receiving the information, and communications subject matter(s) of interest. The above written requests may be addressed to Public Information Office, Federal Communications Commission, 1919 M Street, N.W., Room 202, Washington, D.C. 20554.

Action by the Commission August 1, 1975. Commissioners Wiley (Chairman), Lee, Reid, Hooks, Quello, Washburn and Robinson.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-21512 Filed 8-14-75;8:45 am]

[FCC 75-895; Docket No. 20559; File Nos. BTC-7600, 7601, 7602]

CROSBY N. BOYD, ET AL. AND PERPETUAL CORP. OF DELAWARE

Memorandum Opinion and Order

In re applications of Crosby N. Boyd, Godfrey W. Kauffmann, John M. Kauffmann, Willmott Lewis, Jr., *et al.* (Transferors) and Perpetual Corporation of Delaware (Transferee), for transfer of *de facto* control of Washington Star Communications, Inc., parent of the licensees of station WCIV(TV), Charleston, South Carolina, (First Charleston Corporation); stations WMAL, WMAL-FM and WMAL-TV, Washington, D.C. (the Evening Star Broadcasting Company); and stations WLVA and WLVA-TV, Lynchburg, Virginia (WLVA, Incorporated); FCC 75-895 Docket No. 20559; File Nos. BTC-7600, 7601, 7602.

1. The Commission has before it for consideration: (i) the above-captioned applications for transfer of control, and a request for waiver of Sections 73.35, 73.240 and 73.636 of the Commission's rules, filed November 18, 1974, by Washington Star Communications, Inc.; (ii) a

[1] The applicants challenge the standing of Concerned Citizens, questioning whether that organization, formed by its chairman, Mr. Donald Morency of Washington, D.C., solely for the purpose of opposing the transfer of the WMAL stations, is a responsible, representative group of the listening public within the meaning of the *Office of Communications of United Church of Christ* v. *F.C.C.*, 123 U.S. App. D.C. 328, 359 F. 2d 994 (1966). The standing of McGoff, a non-resident of the Washington area who unsuccessfully attempted to acquire the transferor's *Washington Star-News*, is also contested. "Today," we recently pointed out in *Harrea Broadcasters, Inc.*, 52 FCC 2d 998, 1001 (1975), "it is established that even a single individual residing within a station's service area has standing to file a petition to deny." See also *Central States Broadcasting, Inc.*, 37 FCC 2d 500 (1972). Accordingly, Concerned Citizens is a "party in interest" with standing to submit the instant protest. McGoff, however, has not demonstrated a similar right. *Frontier Broadcasting Co.*, 21 FCC 2d 570 (1970). See, however, paragraph 35, *infra*.

petition to deny and objection to waiver, filed January 6, 1975, by the Adams Morgan Organization, the National Capital Area Chapters of the National Organization for Women and the D.C. Media Taskforce (Combined Citizens); (iii) a joint petition to deny; designate for full and public evidentiary hearing; or condition application to transfer control of WMAL–TV–AM–FM, filed January 6, 1975, by the Concerned Citizens for Balance in News Media (Concerned Citizens) and by Mr. John P. McGoff (McGoff);[1] and (iv) various responsive and related pleadings.[2]

2. The Evening Star Broadcasting Company (Broadcasting) is the corporate licensee of Stations WMAL, WMAL–FM and WMAL–TV, Washington, D.C. It is also the sole stockholder of WLVA, Incorporated, the licensee of Stations WLVA and WLVA–TV, Lynchburg, Virginia, and First Charleston Corporation, the licensee of Station WCIV(TV), Charleston, South Carolina. Broadcasting, in turn, is the wholly-owned subsidiary of Washington Star Communications, Inc. (WSCI), which owns The Evening Star Newspaper Company, the publisher of one of Washington, D.C.'s two daily newspapers, the *Washington Star-News* (*Star-News*). WSCI also owns the Washington Star Syndicate, Inc. which syndicates newspaper copy to various other newspapers. WSCI is a closely-held corporation, almost entirely owned by representatives of three families, the Adams, Kauffmanns and Noves. On July 16, 1974, Perpetual Corporation of Delaware (Perpetual), a wholly-owned subsidiary of Perpetual Corporation, a California corporation whose sole stockholder is Mr. Joe L. Allbritton (Allbritton), entered into an agreement looking toward acquisition of a substantial equity and managerial interest in WSCI. Since WSCI's holdings include control of corporate licensees of broadcast stations, the subject applications seeking Commission approval of a transfer of *de facto* control of these stations were filed on November 18, 1974.

3. This transfer of *de facto* control is to be accomplished in two distinct steps. First, at an interim closing on September 27, 1974, Perpetual acquired approximately ten percent of the 19,828 outstanding shares of WSCI from its existing stockholders[3] and Allbritton and his designee were elected to WSCI's 12-member Board of Directors. At that time, Perpetual also lent five million dollars to the *Star-News* and obtained operational control of the newspaper, through an irrevocable proxy to vote 67 percent of that corporation's issued shares. In addition, three Perpetual designees were elected to the *Star-News'* nine-member Board of Directors and Allbritton was elected Chairman of the Board and Chief Executive Officer of the *Star-News*. The second step is to take place at final closing. Subject to Commission approval, Perpetual will then acquire for a cash outlay of almost $16.2 million an additional 23.5 percent interest in WSCI through the purchase of 7,018 shares of unissued stock. It will also purchase for $4.3 million five-year bonds, convertible into another 4.3 percent interest in WSCI. Thereafter, Perpetual will be entitled to designate three-eights of WSCI's Board of Directors, and it is envisioned that Allbritton will be elected Chairman of the Board and Chief Executive Officer of WSCI. The five million dollar loan is repayable at the final closing.

4. Since the instant transaction involves transfer of *de facto* control of television and radio stations in both Washington, D.C. and Lynchburg, Virginia, and a newspaper-broadcast combination in Washington, D.C., WSCI has requested the Commission to waive its multiple ownership rules, specifically the one-to-a-market and newspaper-broadcast cross-ownership provisions. In the event the Commission does not unconditionally waive its rules, Perpetual has the right, pursuant to its agreement with WSCI, to determine whether final closing will take place. If final closing does not occur, Perpetual has the option of purchasing a 55 percent interest in *Star-News* for $11.5 million and, under certain circumstances, of exchanging its present interest in WSCI for an additional 25 percent of the *Star-News'* stock. WSCI, on the other hand, has reserved the discretion to refuse to consummate the transaction if Commission approval is conditioned on divesture of any of the WMAL stations or the *Star-News*.

5. To place the instant proceeding in proper prospective and to facilitate an understanding of the positions of the respective parties, a brief review of the development of the Commission's one-to-a-market and newspaper-broadcast cross-ownership rules may prove useful. On March 25, 1970, following a two-year inquiry of the matter, we issued a *First Report and Order* in Docket No. 18110, revising Sections 73.35, 73.240 and 73.636 of our rules relating to the multiple ownership of radio and television stations. 22 FCC 2d 306. Generally speaking, the revised rules provided that no license for an AM, FM or TV broadcast station would be granted to a party that already owned, operated or controlled one or more full-time stations in the same market. The revised rules applied to applications, not only for new stations, but also for assignments of license or transfer of control. Specifically exempted, however, were involuntary or *pro forma* assignments and transfers as defined by Rules 1.540(b) and 1.541(b), and applications for assignment or transfer to heirs or legatees by will or intestacy that would not otherwise be in violation of the multiple ownership rules. No divestiture, by any licensee, of the existing facilities was called for. In short, we did not seek through the adoption of the one-to-a-market rules an abrupt change in existing broadcast ownership patterns. We attempted, instead, to produce diversity gradually, by separation of broadcast combinations in the same market upon voluntary sale or transfer.[4]

6. The purpose, underlying the Commission's action, was to place into many, rather than a few hands the control of the broadcast media in the same area. "For," as we pointed out in that *Report*, "centralization of control over the media of mass communications is, like monopolization of economic power, *per se* undesirable. The power to control what the public hears and sees over the air waves matters, whatever the degree of self-restraint which may withhold its arbitrary use." 22 FCC 2d at 310. Although the principal purpose of the revised rules was to foster diversity of program and service viewpoints in the same area, it was also believed that local competition would be promoted by the removal of the potential of competitive advantage over single station owners. Again, it was not felt that a finding of some specific improper conduct or practice was a prerequisite to the Commission's action in this area. Notwithstanding the overall importance of distributing broadcast ownership more broadly, the Commission recognized that some other relevant public interest consideration might be found to outweigh the importance of diversifying control in a particular situation, and indicated that it would entertain applications inconsistent with the revised rules, provided they were accompanied by requests for waiver setting out adequate reasons why the applicants should be permitted to obtain more than one station in an area. For example, "Where a showing is made that establishes the interdependence of [combined AM–FM] stations and the impracticability of selling and operating them as separate stations," the Commission indicated it would permit assignments or transfers of these stations to a single party.[5]

---

[1] On April 1, 1975, the transferee filed a pleading commenting on Concerned Citizens' supplement to joint reply and requesting the Commission to strike that unauthorized pleading. In view of the nature of the allegations set forth in the unauthorized pleading (see paragraphs 27 and 28, *supra*), we will deny the request and consider fully both supplemental pleadings. *See Columbia Broadcasting System, Inc.*, 46 FCC 2d 903 (1974). For the same reasons, we will also consider Concerned Citizens' further supplement which was filed July 14, 1975.

[2] To effectuate this and other parts of the transaction, certain restrictions on the transferability of WSCI stock, such as a right of first refusal for existing stockholders, were eliminated through amendments to WSCI's articles of incorporation as provided for in that corporation's by-laws.

[3] At the same time, however, we instituted a further inquiry to examine whether the public interest would be further served by the fashioning of rules relating to the common ownership of newspaper and co-located broadcast stations and to the divestiture of broadcast and other media holdings in the same locality. See *Further Notice of Proposed Rule Making* in Docket No. 18110, 22 FCC 2d 339 (1970).

[4] In considering the common ownership of AM and FM stations in the same market again in February, 1971, we decided to delete the proscriptions relating thereto. See *Memorandum Opinion and Order*, 28 FCC 2d 662, 671–72. At present, the formation of new AM–FM combinations in the same market is not prohibited by rule and there is no requirement of a special showing on the sale or transfer of such combinations to a single party.

7. On January 28, 1975, we terminated our inquiry in Docket No. 18110 with the adoption of a *Second Report and Order* dealing with the common ownership of newspapers and broadcast facilities serving the same area.[6] 50 FCC 2d 1046. Again, the public policy considerations favoring greater diversity of ownership, upon which the Commission had earlier relied in the *First Report and Order*, formed the basis for our action, although consideration was also given to the impact of any possible divestiture requirement on the public and affected parties alike. Essentially, divestiture is required by January 1, 1980 where the only daily newspaper of general circulation published in a community is under common ownership with the only TV or the only radio station(s) placing respective city-grade signals over the entire community. Separation of existing commonly-owned radio and television stations in the same market and existing newspaper-broadcast combinations in situations other than the aforenoted circumstances is not required. Similar to the approach we earlier took with respect to co-located broadcast combinations, our newly-revised rules prohibit the creation of new newspaper-broadcast cross-ownerships in the same area and the perpetuation of such existing combinations through voluntary assignments or transfers to a single party. With respect to the latter situation, we did not perceive our approach to be unduly harsh since the disposal of such combination is a voluntary action by the owner. However, we stated that "[p]arties believing that survival of both entities depends on their joint sale may make such an argument in seeking waiver of this requirement."[7] 50 FCC 2d. at 1076.

8. In paragraphs 117 and 119 of the *Second Report and Order*, we discussed some of the circumstances in which waiver of the divestiture requirement might be appropriate. The considerations which we explored in those paragraphs apply, we believe, with present and equal force to waiver requests involving other aspects of our newspaper-broadcast prohibitions and should be reiterated here. First, it was not our intention that the newly-revised rules should work a forfeiture; only a sale, not a loss was contemplated. Inability to sell or to sell at other than an artificially depressed price would be a basis for waiver.[8] We recognized, however, the need to protect against a newspaper or broadcast station being offered for sale at a price out of keeping with its true value so that waiver could be sought on the basis of an inability to sell. We therefore stated that (50 FCC 2d at 1084):

> In connection with any attempt to show the inability to dispose of an interest to conform to the rules, we shall not give any weight to a showing that does not include a full description of the effort made to sell that interest, the price at which it was listed and a certification of a station (or if it applies, newspaper) broker that in his view this price is consistent with the fair market value of the station (or newspaper) in question.

We also expressed our intention to fashion any waiver to the exigencies of the situation before us. Waivers of reasonable duration only were contemplated, "so that we shall not always be bound by a result based on outdated information" and because "problems in disposing of these interests would not be expected to endure indefinitely." While we did not intend to relitigate issues considered and rejected when the newspaper-broadcast cross-ownership rules were adopted, we noted that the parties could bring to the Commission's attention whatever special circumstances they thought had a bearing on the appropriateness of granting waiver.

9. Turning to the matter before us, it is argued that the one-to-a-market and the newspaper-broadcast cross-ownership provisions of the Commission's multiple ownership rules were not intended to apply to a situation like the instant one.[9] According to WSCI, the proposed transfer of *de facto* control to Perpetual is not a truly voluntary action, but one compelled by the serious financial plight of the *Star-News* and the need for the infusion of operating capital which is unavailable either internally or through traditional sources for debt financing. In support thereof, WSCI submits that from 1971 through 1973 the *Star-News* suffered aggregate operating losses in excess of $15 million; that the loss in 1974 amounted to $7,720,264.00; and that the proceeds from the five million dollar loan extended the *Star-News* at the interim closing were absorbed by operating expenses in less than three months. It is claimed that WSCI's long-time stockholders cannot provide the necessary capital infusion and that the *Star-News'* ability to obtain necessary financing by institutional borrowings is approaching exhaustion. It is further related that since 1969 The Evening Star Broadcasting Company (Broadcasting) has transferred to WSCI funds equivalent to Broadcasting's quarterly federal income tax payments (as if it were taxed separately) from which, if needed, cash has been advanced to the *Star-News*. According to WSCI, these funds have not completely counterbalanced the *Star-News'* operating losses, for it has experienced, on a consolidated basis, before tax losses of $1,488,529.00 in 1973 and $1,189,281.00 in 1972. WSCI expects that Allbritton's $20 million capital investment at final closing "will provide a source of funds which, like the profits from the broadcast properties may be used to offset the operating losses of the [*Star-News*] until the publication is 'turned around'" and that these funds "will provide stability and some financial security, and should instill some confidence in advertisers in the future of the *Star-News*."

10. WSCI also argues that the proposed transfer of control is compatible with the underlying purpose of the multiple ownership rules and that waiver thereof would serve the public interest. WSCI contends that without the Commission's unqualified approval of the instant transaction, final closing may not take place and media diversity in Washington would likely be decreased by the demise of one of the community's two daily newspapers for "it is improbable that [the *Star-News*] could survive a search for another buyer." Waiver, on the other hand, argues WSCI, would not only maintain the status quo of media control both in the Washington metropolitan area, which is served by seven television and forty-five radio stations, and in Lynchburg, Virginia,[10] but it would also ensure a substantial continuity of ownership, with WSCI's long-time stockholders retaining a majority equity interest and with the broadcast facilities operating under the same management and station policies as before. According to WSCI, the instant transfer represents a good faith attempt to preserve the *Star-News* which was entered into only reluctantly, "as the only viable means to save one of the two * * * daily newspapers in Washington, D.C." In support thereof, it is alleged that on March 7, 1974, WSCI's president met with Mr. Vincent Manno, a newspaper broker who, apprised of the annual loss situation and rough ratios of total payroll to total revenues, was "pessimistic concerning possible sale of the [*Star-News*]"; that discussions by representatives of the newspaper, with several domestic and foreign publishers were unproductive;[11] and that neither of the offers to purchase the *Star-News*, which WSCI received from Mr. Rupert Murdoch and from McGoff, was adequate. WSCI maintains that Murdoch's offer to purchase all of the *Star-News* stock for $20 million in cash—with satisfaction of the newspaper's existing obligations of $13.6 million from the sale proceeds—was rejected since after-tax proceeds would have been minimal "due to a negative tax basis of the newspaper stock * * * of approximately $4.5 million." McGoff's proposal was similarly unacceptable, states WSCI, since adjustments reflecting the decline in the *Star-News'* net worth subsequent to February 28, 1974 and the disposition

[6] The rules promulgated therein were modified somewhat in a *Memorandum Opinion and Order*, FCC 75-627, released June 5, 1975, which disposed of various petitions for reconsideration of the *Second Report and Order*.

[7] The newly-revised rules become effective February 12, 1975. "All applications not granted by that date," stated the Commission, "shall be subject to the new rules." 50 FCC 2d at 1089-90.

[8] The locality's demonstrated inability to sustain the separate ownership and operation of the newspaper and broadcast station likewise appeared to be an appropriate reason for waiver.

[9] On February 11, 1975, following the issuance of the *Second Report and Order*, WSCI submitted a petition seeking waiver of the prohibition against transfer of co-located newspaper-broadcast combinations to a single party for essentially the same reasons earlier advanced in support of its request with respect to the one-to-a-market provisions of our multiple ownership rules.

of an investment in a computer systems company would have reduced the proceeds from the proposed purchase price of $25 million to approximately $5.2 million as of June 30, 1974 and, by the end of September, 1974, no payment to WSCI stockholders for their equity in the *Star-News* would have resulted from this proposal.[10] WSCI concludes that there were no reasonable alternatives to the Allbritton proposal for despite serious affirmative efforts, it was unable to find a buyer willing to purchase the newspaper alone for an adequate price.

11. As previously noted, the one-to-a-market and newspaper-broadcast cross-ownership provisions of our multiple ownership rules apply to applications for assignment of license and transfer of control of existing stations, and only involuntary or *pro forma* assignments and transfers, as defined in Sections 1.540 (b) and 1.541(b) of our rules, are exempted therefrom. The proposed transfer does not fall within the definitions set forth in Rules 1.540(b) and 1.541(b); nor does it present a situation not envisioned by the Commission in adopting the multiple ownership rules. That WSCI may have entered into the instant transaction only out of severe economic distress and may have given up only as much control as was necessary to acquire the needed infusion of capital in no way removes the proposed transfer of *de facto* control from the proscriptions of our multiple ownership rules. WSCI voluntarily chose to comply with these rules not through relinquishment of any of its co-located broadcast stations, but by disposition of its newspaper. That this election was occasioned by financial problems that beset one of the licensee's media holdings does not place the resultant transfer of control beyond the purview of the multiple ownership rules.[11] See *W. S. Retherford*, 26 FCC 2d 478 (1970). Similarly, the inability to obtain a reasonable offer for the financially troubled newspaper—if such is truly the case—does not alter the applicability of these rules. It is a factor which, under appropriate circumstances, may lead to waiver of the multiple ownership rules. It does not, however, warrant their avoidance.

12. Before turning to the specifics of WSCI's showing in support of the requested waiver and the petitioners' criticism thereof, it would be appropriate to note the Commission's responsibility and the perimeters of its concern in such matters. The manner in which compliance with our multiple ownership rules is sought is the prerogative of the licensee. That other courses of action might be available, that other measures might be possible, and that other media interests might be disposable, may be matters properly the subject of our scrutiny. Here, however, our primary concern lies with the alternative chosen by the licensee—namely, the sale of the *Star-News* to a separate party. It is upon this selected course of action and the application resulting therefrom that the Commission's attention must focus. WSCI requests the subject waiver of our multiple ownership rules to effectuate the instant transfer of *de facto* control since it found that despite its reasonable, good faith efforts it was unable to obtain a reasonable offer for the separate sale of its financially troubled newspaper. The Commission's first responsibility is to determine the reasonableness of that finding by examination of the premises upon which it is based. Thereupon, we must determine whether the waiver requested would serve the public interest, convenience, and necessity.

13. Fundamental to the claimed inability to sell the *Star-News* separately is a showing of reasonable, good faith efforts by WSCI to dispose of the newspaper and the absence of a buyer ready, willing, and able to purchase at a price in keeping with the newspaper's true value. The efforts of WSCI to dispose of the *Star-News* separately have been fully set forth in paragraph 10, *supra*. Concerned Citizens regards those efforts as "desultory at best, * * * hardly the activities of a company seeking seriously to dispose of an ailing property." Similarly, Combined Citizens questions whether the efforts made by WSCI were reasonable and adequate. Based on the information before us, it appears that WSCI's attempts to sell the *Star-News* separately were largely informal and somewhat limited in scope. Full particulars concerning these sales efforts have not been supplied. The dates, times, duration and manner of the unproductive discussions with foreign and domestic publishers are not specified. Nor are the matters explored at these discussions stated other than in general, conclusory terms without any attempted substantiation by the unnamed corporate officials who participated thereat on behalf of WSCI and the *Star-News*. Also missing from WSCI's recitation—and essential to a waiver request premised upon an inability to sell the media interest separately—is the asking price of the *Star-News* and the valuation placed upon the newspaper by these prospective purchasers. The same is true with respect to the meeting with Mr. Manno, the newspaper broker. That meeting appears to have been no more than exploratory, for WSCI has not shown that Manno's professional services were retained or that the *Star-News* was listed for sale with Manno or any other newspaper broker. Despite what seemingly were limited efforts on WSCI's part, two offers to purchase the newspaper alone were received.[14] Both were deemed by WSCI to be unacceptable; however, their rejection does not appear to have been predicated upon a less than fair market appraisal of the *Star-News'* worth. In view of the foregoing, we must conclude that an evidentiary hearing is necessary to explore, fully and completely, the actions of WSCI relative to its attempts to dispose of the *Star-News* separately.

14. The inquiry being ordered herein will also allow full exploration of the appropriateness of conditioning or limiting any waiver of the multiple ownership rules that may be authorized. In considering requests for waiver of the multiple ownership rules, it is the Commission's policy to fashion any waiver to the exigencies of the situation before it, to accomodate the private interests of the parties and the public's interest in greater diversity of program and service viewpoints which underlie these rules. Here, we are urged by WSCI to approve the waiver in its requested form lest Allbritton decide not to consummate the transaction. We cannot, however, disregard the fact that the transferee has not explicitly committed itself by its agreement with WSCI or otherwise to the continued publication of the *Star-News* following approval of the requested waiver. Neither has Perpetual articulated the basis for its optimism that the situation at the *Star-News* can be "turned around"; nor has it projected the period of time necessary to implement its unspecified plan of action and to effectuate this financial transformation. More importantly, we cannot overlook the lack of full and complete information with respect to the financial posture of the *Star-News*, including the extent to which each of the

[10] As a further reason for waiver of the Commission's one-to-a-market rules with respect to the Lynchburg stations, WSCI alludes to economies made possible by common ownership, namely, the sharing by WLVA and WLVA-TV of the same building, studios and community relations department.

[11] Assertedly, the discussions with a syndicate headed by Mr. William Buckley, with officials of Time, Inc., and with representatives of Power Company of Canada failed to advance beyond the preliminary stage once the financial condition of the *Star-News* and the competitive nature of the Washington market were brought to light. Through an intermediary, a close associate of the head of the Newhouse Newspaper Chain was allegedly advised of the *Star-News'* availability; however, the Newhouse organization showed no interest in pursuing the matter relates WSCI.

[12] In its pleadings, WSCI sets forth several other major deficiencies in the McGoff proposal, such as, the failure to provide for complete assumption of certain contingent liabilities, the assurance of an alternate lender in the event McGoff would not be permitted to assume an existing $7 million loan, and the failure to show the positive availability of financing should the transaction be approved. It also describes the negotiations with McGoff and his representatives that took place from January 14, 1974 through September 24, 1974, the date on which the WSCI stockholders approved the Allbritton agreement.

[13] In the same vein, Note 1 of Sections 73.35, 73.240 and 73.636 of our rules makes it clear that the multiple ownership rules are to be applied in cases involving the transfer of "actual working control." Thus, retention of majority, *de jure* control, by the present owners does not effect the applicability of the multiple ownership rules to the instant transfer.

[14] In this regard, we also note that Allbritton has reserved the right to acquire a substantial ownership interest in the *Star-News* alone. See paragraph 4, *supra*.

Washington, Lynchburg and Charleston stations have supported the operations of the newspaper.[15] The necessity for the continued monetary support of the *Star-News* by each of the WMAL and WLVA stations has not been demonstrated. Instead, WSCI posits that these stations represent an important consideration in securing Perpetual's investment and that Allbritton may chose not to consummate the transaction without WSCI's continued ownership of these broadcast properties. The transferee's concern in fully securing its investment, however, does not relieve the Commission of its responsibility of ascertaining whether the public interest would, under the circumstances present herein, be better served by the required divestiture of one or more of WSCI's Washington and Lynchburg stations. Our unqualified approval of the requested waiver may be warranted; however, we cannot reach that conclusion without first exploring and resolving in the crucible of an evidentiary hearing the concerns outlined above.

15. The petitioners have also challenged the qualifications of Perpetual to be a Commission licensee. Both petitioners maintain that Perpetual's ascertainment of community problems is deficient, with Concerned Citizens further questioning the adequacy of the program service proposed by the transferee. Concerned Citizens also submits that Perpetual has failed to demonstrate its financial and legal qualifications and that the transferee's character qualifications are suspect in view of its involvement in an unauthorized transfer of control, an illegal political contribution, and an attempt to improperly promote its position before the Commission. Before examining these allegations, we should turn to Section 309(d) of the Communications Act which governs the provisions for filing a formal protest to the grant of an application seeking the transfer of *de facto* control of a broadcast licensee. In pertinent part, Section 309(d) requires that a petition to deny a transfer of control application set forth specific allegations of fact sufficient to show that the petitioner is a party in interest and that a grant of the challenged application would be *prima facie* inconsistent with the public interest, convenience and necessity. Such allegations of fact, except for those of which official notice may be taken, must also be supported by affidavit of a person or persons with personal knowledge thereof. Hearsay, rumor, opinion or broad generalization do not satisfy the specificity requirements of Section 309(d). See also Section 1.580(i) of the Commission's rules which implements that provision of the Communications Act.

[15] In this regard, we must note that WSCI's showing has not elucidated the contribution, if any, which Stations WLVA and WLVA–TV have made to the support of the *Star-News*. Nor is the mere description of the common ownership attributes of the WLVA stations (see note 10, *supra*) a satisfactory showing to permit waiver of the Commission's one-to-a-market rules.

ASCERTAINMENT OF COMMUNITY PROBLEMS

16. Perpetual has submitted a lengthly ascertainment showing with its transfer of control application for radio and television Stations WMAL. A voluminous (320 page) exhibit details the nature of the service area, setting forth demographic information concerning the makeup of the community and its environs and including maps, charts and graphs from the *City and County Data Book*, U.S. Census Reports, Council of Governmental Reports, and D.C. Government Reports. The governmental activities, as well as the racial and economic characteristics of each of the component jurisdictions are detailed at length. A listing of the numerous civic, social and eleemosynary organizations in the service area is also supplied. Within the 90-day period immediately preceding the filing of the WMAL application, 381 Washington area community leaders were interviewed by proposed management-level employees and the particulars of that survey, including a description of the participants, have been supplied. A random survey of the general public was conducted by Media Statistics, Inc., a professional research organization, in October of 1974. The methodology employed in consulting with the general public is fully described and the results of this survey, based on 1,010 individual contacts, are even broken down among the areas sampled.

17. The petitioners raise several objections to Perpetual's ascertainment showing, particularly the adequacy of the community leader survey. According to Combined Citizens, Allbritton should have familiarized himself with the community's problems and needs by personally conducting at least some of the community leader interviews.[16] Combined Citizens also criticizes the use of existing personnel from the WMAL stations to conduct the transferee's community leader survey. Concerned Citizens, on the other hand, contends that the transferee has failed to particularize contacts with leaders of the community's significant black population and that significant contacts with representatives of the area's tourist industry and military establishment have not been shown. These omissions, submit petitioner, render the transferee's community leadership survey fatally deficient.

18. Contrary to the petitioners' accusations, Perpetual's ascertainment showing fully comports with the requirements of the Commission's *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650 (1971). The purpose of a community leader survey is the establishment and maintenance of a dialogue between the station's decision-making personnel and leaders of the significant groups in the community of license and surrounding areas the station will serve. Accordingly, we specifically indicated in the *Primer* that either principals *or* management-level personnel, prospective as well as existing employees, could consult with community leaders. See Question and Answer 11. No substantial changes in the operation and management of the WMAL stations are envisioned by Perpetual. The individuals, who interviewed the 381 Washington area leaders listed in the transferee's survey, are identified by name and position at the WMAL stations. Therefore, the use of these existing WMAL employees who are proposed to be retained in management-level positions by the transferee is fully consistent with the *Primer's* requirements. See *The Agintour Corp.*, 43 FCC 2d 325 (1973). With respect to the allegations of Concerned Citizens, it should initially be pointed out that while leaders from the significant groups extant in the community must be consulted, the number and selection of the specific group spokesmen to be interviewed is left to the good faith discretion of the applicant. Here, the transferee has contacted representatives of the area's tourist industry and the military. Specifically, Perpetual consulted with a hotel owner, the Executive Vice President of the Metropolitan Washington Board of Trade, the Director of the Mayor's Office for the Bicentennial, the Executive Director of the D.C. Chamber of Commerce, and the Chairman of the Taxicab Industry Group.[17] Perpetual has also identified contacts with various representatives of the area's military establishment, such as the Commanding General of the D.C. National Guard, the Assistant Director of Public Information at Andrews Air Force Base, a female navy officer from Wash-

[16] As a further example of the transferee's alleged disinterest in local community matters, Combined Citizens points to Allbritton's refusal to personally meet with representatives of its group to discuss the instant application. In petitioner's opinion, Allbritton's refusal and the action of his representative in "sabotaging" a subsequently scheduled meeting with members of Combined Citizens by insisting that counsel not be present thereat reflect adversely upon the qualifications of the transferee. We disagree. While the Commission encourages local discussion and dialogue between broadcasters and the public they are licensed to serve, it has at no time required licensees (or transferees) to participate in negotiations regarding terms and conditions upon which prospective protestants would refrain from filing a petition to deny. See *WKBN Broadcasting Corp.*, 30 FCC 2d 958 (1971), reconsideration denied 39 FCC 2d 116 (1972). Nor have we attempted to prescribe the format or appropriate participants in such negotiations. Based upon the information before us, we cannot conclude that the transferee acted in bad faith by designating as its representative Mr. Richard Stakes, the Executive Vice President in general charge of the WMAL stations who will be retained in that capacity by the transferee and who has, in the past, met with various other local community groups. Nor can we find that Stakes acted to "sabotage" meeting with the petitioner since prior to the submission of the Combined Citizens petition, counsel for the parties did meet to discuss the matters of concern to that petitioner.

[17] In this regard, Perpetual notes that Richard Stakes, the WMAL stations' Executive Vice President who participated in the survey and supervised the transferee's proposed programming efforts, is a member both of the Board of Directors and the Executive Committee of the Convention and Visitors Bureau.

ington's Naval Yard, and the commander of a U.S. Army recruiting station. In the same vein, Perpetual has pointed to contacts with twenty-two specific individuals and organizations whose primary identification is with the area's black community,[18] and submits that eighty-seven of the community leader contacts in Washington alone are black. In view of the foregoing, it does not appear that Perpetual has omitted significant elements of the community from its ascertainment efforts or has otherwise unreasonably exercised its discretion in this area.

PROPOSED PROGRAMMING

19. Combined Citizens faults the transferee for its proposal to reduce the amount of weekly broadcast time devoted by Station WMAL-TV to local and informational programming. Specifically, petitioner objects to a cutback in local programming from 25 hours 43 minutes to 21 hours 55 minutes and a 2.8 percent net reduction (from 24.3 percent to 21.5 percent) in the total amount of broadcast time to be devoted to news, public affairs and other non-entertainment programming. The transferee's deemphasis of local and informational programming is, in Combined Citizens' opinion, incompatible with the public interest. Petitioner also suggests that the WMAL stations' continued subsidy of the *Star-News* may result in employment reductions and other economies adversely affecting the operations and broadcast services of these stations.

20. As pointed out by the United States Court of Appeals in *Hartford Communications Committee* v. *F.C.C.*, 151 U.S. App. D.C. 354, 360, 467 F. 2d 408, 414 (1972): "The program schedule, time or percentage of a licensee need not be identical with those of the previous licensee. The test for diminution of service is not mathematical equality, but the public interest." To raise a material and substantial question concerning future program proposals, a petitioner to deny must therefore set forth specific factual allegations sufficient to show that the amount of total broadcast time the applicant plans to devote each week to local and informational programming will not meet the community's ascertained problems or that the applicant has otherwise abused its discretion in this area. See *RadiOhio, Inc.*, 38 FCC 2d 721 (1973), affirmed *sub, nom. Columbus Broadcasting Coalition* v. *F.C.C.*, —— U.S. App. D.C. ——, 509 F. 2d 320 (1974); *Mahoning Valley Broadcasting Corporation*, 39 FCC 2d 52 (1972). Here, Combined Citizens has not challenged the results of Perpetual's ascertainment surveys; nor has petitioner addressed itself to the responsiveness of the programs proposed by the transferee to meet the ascertained community problems and needs as evaluated. Rather, Combined Citizens relies upon a bare comparison between the station's actual performance during the 1974 composite week and the transferee's estimate of the minimum amounts of broadcast time it plans to allocate to these program types and categories during a typical week of operation.[19] Petitioner's allegations, while true, fail to raise a serious question as to the transferee's program proposals. In the same vein, Combined Citizens' remaining contentions, premised on conjecture and surmise, are insufficient to raise a hearing issue.

FINANCIAL QUALIFICATIONS

21. To offset contemplated acquisition expenditures totalling $16,141,400.00,[20] Perpetual's amended financial plan envisions the use of $450,000.00 in existing funds and $20,250,000.00 from either advances by financial institutions or loans or equity investments by related companies. However, no loan agreement or extension of credit from a financial institution has been supplied. Nor has Perpetual submited any firm loan commitments from its related companies or shown these companies' financial ability to provide the required funds. Instead, the transferee submits a January 20, 1975 letter from Allbritton who states that his gross assets and those of his wholly-owned companies exceed $100 million and that the necessary funds will be made available to Perpetual from these assets. A more elaborate financial showing has not been made, submits Perpetual, in view of the prohibitive expense of maintaining an institutional loan commitment during the pendency of the subject applications and the potentially disruptive effect on the Commission's processes of frequent revisions in a financial showing which is subject to fluctuations based upon market conditions and other economic developments. If the Commission views its tendered financial showing to be insufficient, Perpetual suggests that we either resolve the non-financial issues before requiring the transferee to submit a more definitive statement of its finances or grant the subject applications conditioned on a subsequent, satisfactory financial submission.

22. It is clear that a substantial and material question of fact exists as to the financial qualifications of Perpetual. Paragraph 4 (a) and (b) of Section III, FCC Form 315, requires that a transferee furnish, for each person assisting it in financing the transaction, "a copy of the agreement by which each person is so obligated, showing the amount, rate of interest, terms of repayment, and securinterest, terms of repayment, and security, if any" [21] and "a balance sheet or, in lieu thereof, a financial statement [of that person] showing all liabilities and containing current and liquid assets sufficient in amount to meet current liabilities * * * and, in addition, to indicate financial ability to comply with the terms of the agreement." The showing submitted by Perpetual falls far short of the required specificity and documentation necessary to permit reliance upon the assets of either Allbritton or his wholly-owned companies. See *Continental Broadcasting Corp. (WHOA)*, FCC 59-676, 18 RR 826. To delay the institution of the hearing being ordered herein while the transferee is afforded an additional opportunity to submit a further financial showing and petitioners are accorded their right to comment thereon would not be conducive to the orderly and expeditious dispatch of our processes. Nor would the transferee's other suggestive course of action be appropriate. See Section 308(b) of the Communications Act of 1934, as amended. In view of the foregoing deficiencies in the subject financial showing, the Commission believes that an evidentiary inquiry into the question of whether Perpetual has funds available to effectuate its proposal is warranted.[22]

LEGAL QUALIFICATIONS

23. Section II of FCC Form 315, which seeks information concerning the applicant's legal qualifications, calls for the submission of copies of the corporate applicant's articles of incorporation with a specific reference to those provisions empowering the applicant to operate the station for which authority is sought. Paragraph 4 of Section II states that: "If the articles of incorporation do not specifically authorize the kind of business sought to be entered into, attach a statement from the Secretary of State or other officer interpreting the language relied upon." Concerned Citizens alleges that Perpetual's articles speak only of a broad,

[18] See *Mel-Lin, Inc.*, 48 FCC 2d 536 (1974).

[19] According to Perpetual, its program forecasts do not include specials and other non-regularly scheduled presentations, whose frequency and length cannot readily be anticipated, and its future program "percentages represent a *minimum* [of service] which the applicant expects to exceed." In this regard, it should also be noted that the total amount of broadcast time allocated by Perpetual to informational programming is identical to the minimum proposed for Station WMAL-TV in its 1972 license renewal application.

[20] Working capital during the initial period of operation is expected to be derived from the stations' existing assets and from their broadcast revenues which, in past years, have substantially exceeded the stations' operating expenses.

[21] A similar presentation is required for financial institutions which have agreed to make a loan or extend credit to a transferee. See paragraph 4(e) of Section III, FCC Form 315.

[22] In its pleadings, Concerned Citizens asserts that the incompleteness of the transferee's financial presentation warrants the dismissal of the WMAL application. We disagree. The inadequacies in the financial showing before us do not constitute a basis for summarily rejecting an otherwise substantially complete application. See *W.M.E.D. Associates, Inc.*, 39 FCC 2d 292, reconsideration denied 40 FCC 2d 651 (1973). Petitioner also urges the Commission to require Perpetual to budget at least an additional $2 million to offset WSCI's expected consolidated losses for the year following consummation of the instant transfer of control. Such requirement, however, does not appear warranted in view of the substantial, additional capital to be provided WSCI at final closing. See paragraph 3, *supra*.

general corporate power; that the required interpretive statement from the Secretary of the State of Delaware, the transferee's state of incorporation, has not been submitted; and that Perpetual has therefore failed to demonstrate its legal capacity to consummate the transaction and to carry on the business proposed.[23]

24. As set forth in its articles of incorporation, Perpetual's corporate purpose is "to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware." According to the transferee, such a statement of corporate purposes would, pursuant to Section 102(a)(3) of the Delaware General Corporation Law, encompass all lawful acts and activities except those expressly excluded by the corporation. In keeping with the directives set forth in paragraph 4 of Section II, a definitive statement was requested from Delaware officials; however, the transferee was advised by the Office of Solicitor for the State of Delaware that it is not the policy of the Secretary of State to supply written interpretations to private parties. In lieu of the state official's statement, the transferee has supplied an opinion of its corporate counsel who represents that Perpetual is empowered under the laws of the State of Delaware "to carry out the terms and conditions of the Agreement, including without limitation the acquisition of equity interests in [WSCI] * * *"[24] In view of the foregoing circumstances, we find that Perpetual has substantially complied with the requirements of paragraph 4, Section II. While Concerned Citizens suggests that the advisory opinion should have been obtained from a Delaware attorney, it cites us to no statutory or other legal authority which would call in question counsel's interpretation. Based upon the information before us, it appears that Perpetual has the requisite legal capacity to effectuate and implement the instant transaction.

Character Qualifications

25. *Unauthorized Transfer of Control.* Concerned Citizens contends that control of WSCI has been transferred to Perpetual and, ultimately, Allbritton without the Commission's prior approval. According to petitioner, the only purpose served by the transferee's acquisition of approximately ten percent of WSCI's outstanding stock was to establish Allbritton as a substantial ower who thereupon was able, with his election to WSCI's Board of Directors and the added leverage vested in him because of the five million dollar loan, to influence substantially, if not dominate, corporate action.[25] Petitioner also refers to several provisions of the July 16, 1974 transfer agreement which, in its opinion, virtually prohibit WSCI from taking other than strictly routine actions without the prior written consent of Perpetual. It is argued that these negative covenants and the contractual requirement that the transferee be supplied with WSCI's financial statements on a continuing basis constitute at least a transfer of negative control over WSCI's corporate activities. Further, Concerned Citizens suggests that several personnel changes at Station WMAL–TV, which have occurred subsequent to Allbritton's assumption of control of the *Star-News*, may have been the result of Allbritton's intervention. "It would be naive in the extreme," submits petitioner, "to believe that [Allbritton] is exercising no control over the broadcasting subsidiary of WSCI or over the parent corporation, in light of the substantial control he exercises over [the *Star-News*]."

26. Our review of the information set forth in the parties' various pleadings leads us to conclude that specification of an issue relating to a possible premature transfer of control in violation of Section 310(d) of the Communications Act is not warranted. That Allbritton has assumed the responsibility for the operation of the *Star-News* and has acted accordingly with respect thereto is not controverted. To premise the requested inquiry upon a presumption that a similar transferral has occurred with respect to the operations of WSCI's broadcast properties merely because of the personality involved is to substitute speculation and surmise for the factual specificity and documentation required by Section 309(d) of the Communications Act and Section 1.580(i) of the Commission's rules. Admittedly, petitioner has "no direct knowledge" that the personnel changes at Station WMAL–TV were occasioned by the transferee's intervention, and no other purported examples of Allbritton's actual control over either the operations or the program policies of the WMAL stations are alleged. Nor does it appear that Allbritton has acquired effective working control over WSCI during the pendency of the subject application. As noted by Concerned Citizens, Allbritton and his designee have been placed on WSCI's twelve-member Board of Directors; however, their appointment was consistent with Perpetual's stock interest in WSCI[26] and there is no indication that the remaining directors were either dominated by the transferee's representatives or otherwise failed to exercise their own judgments in corporate matters. With respect to petitioner's remaining allegation, we do not view the requirement that Perpetual be regularly apprised of the transferor's financial condition and specifically consent to major alterations thereof, such as the sale or other disposition of assets in excess of either $100,000.00 for any single transaction or series of related transactions or $500,000.00 for all such transactions in any 12-month period, as prematurely vesting in the transferee effective control of WSCI's corporate activities. The negative covenants set forth in the transfer agreement are directed to extraordinary expenditures and acquisitions and are in accord with the reason advanced by the transferor for their adoption—"to ensure that neither party materially and unilaterally changes, prior to consummation, the basis upon which the deal was made."

27. *Illegal Political Contribution.* Concerned Citizens next alleges that the transferee may have violated Title 18, Section 610,[27] of the United States Code, which governs corporate contributions to political candidates. Petitioner's accusation is largely premised upon a December 18, 1971 article in a Houston, Texas newspaper which relates that during Senator Edmund Muskie's campaign for the Democratic nomination for President in 1971 an airplane was leased to the Senator's Travel Committee by Pierce Leasing Corporation, a subsidiary of the Pierce National Life Insurance Company which, in turn, is wholly-owned by Allbritton. Noting that one of Perpetual's principals, Mr. Robert L. Nelson, was an official of the Muskie Campaign Committee, Concerned Citizens submits that a possible violation of Title 18 may have

[23] Petitioner also points out that complete information with respect to the present and recent business interests of all the officers and directors of the transferee's parent corporation was not included in the WMAL application as required by Table II of Section II. As Perpetual had indicated in Exhibit C of that application, however, the required information was to be supplied by amendment. On January 21, 1975, Perpetual amended its application to provide additional Table II information. Under these circumstances, no serious question is raised as to the transferee's reliability to furnish complete and accurate information to the Commission. See also note 29, *infra*.

[24] Perpetual has also supplied a certificate of authority, which is signed by the acting superintendent of corporations for the District of Columbia and dated August 22, 1974, permitting it to transact business within that locality. Specifically, the transferee is authorized to publish and sell newspapers, to own and operate radio and television broadcast facilities, and "to acquire, and pay for in cash, stock, bonds or otherwise, the good will, rights, assets and property, and to undertake or assume the whole or any part of the obligations or liabilities of any person, firm, association or corporation" in the District of Columbia.

[25] As an indication of the transferee's control over the corporate affairs of WSCI, petitioner maintains that Perpetual insisted upon and obtained certain amendments to WSCI's articles of incorporation. These changes, however, occurred prior to Allbritton's acquisition of an ownership interest in WSCI and appear incident to effectuation of the instant transaction. See note 3, *supra*.

[26] WSCI explains that the reason for the stock acquisition as two-fold: "first, to provide some cash to the [WSCI] shareholders who might otherwise not have been interested in the transaction; and second, to give Mr. Allbritton an immediate economic stake in the transaction and eventual FCC approval, and a disincentive to work away from the deal."

[27] Section 610 provides, in pertinent part, that it is unlawful for "any corporation whatever" to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors are to be voted for or in connection with any primary election, or for any candidate, political committee or other person to accept any contribution prohibited by this section.

occurred and that this matter should be explored in an evidentiary hearing. The need for an inquiry concerning this matter is reinforced, argues petitioner in its supplemental reply pleading, by an article which was published in the *Washington Post* on March 1, 1975. As noted by Concerned Citizens, that article relates that Allbritton was an " * * * avid Muskie supporter and, at the suggestion of Muskie campaign aid, Berl Bernhard, he brought an Electra prop-jet and arranged a leasing deal so that Muskie would have a campaign plane" and that the arrangement "* * * produced a small profit for the leasing concern * * * [but] represented a substantial saving and a major convenience for Muskie."

28. We do not agree with Concerned Citizens that the facts surrounding the leasing agreement raise substantial and material questions of fact regarding Perpetual's qualifications. As noted by the transferee, Concerned Citizens' allegations are based upon newspaper articles and, as such, they are hearsay and do not meet the specificity and personal knowledge requirements of Section 1.580 (i) of the Commission's rules. See *Jimmie H. Howell*, 45 FCC 2d 50, 577–58 (1974); and *CBS, Inc.*, 49 FCC 2d 743, 745 (1974). More significant, however, Concerned Citizens would have the Commission inquire into allegedly illegal campaign contributions when they can point to no specific "contribution or expenditure" in violation of Section 610 of Title 18, United States Code. Petitioner has merely noted several facts including that Pierce Leasing Corporation made a profit on the lease agreement while providing a valuable service to the Muskie campaign. That the agreement may have resulted in a savings to the Muskie campaign does not establish, in the Commission opinion, that the agreement was other than a legitimate business transaction. Such broad and conclusory allegations do not raise substantial and material questions of fact warranting exploration in an evidentiary showing. Moreover, based on the uncontradicted statements of Mr. Berl Bernhard, the Treasurer of the Muskie campaign,[28] it appears that the Senator's campaign finances, including the leasing arrangement, were investigated by federal officials and no charges of illegal campaign contributions were ever brought against Pierce Leasing Corporation. In view of the above, departure from the Commission's customary practice of declining to intervene in matters of alleged violations of federal law where the matters have not been presented to or acted upon by the authority charged with the responsibility of interpreting and enforcing those laws does not appear warranted.[29]

29. *Improper Promotion of Private Interests.* Concerned Citizens alleges that Allbritton through the facilities of the *Star-News* has improperly sought to advance his position in the instant proceeding. In support thereof, petitioner submits that the *Star-News'* coverage of the filing of the transferee's opposition pleading herein was more extensive and visible than the newspaper's earlier news story concerning the Concerned Citizens' opposition to the proposed transfer of control and the submission of its petition to deny. Petitioner also points to an article from the March 5, 1975, edition of the *Star-News* which described an interview with FCC Chairman Richard Wiley and allegedly appraised his performance as chairman in flattering and uncritical terms. These incidents, in petitioner's opinion, represent attempts by Allbritton to influence the *Star-News* readers, including the staff and members of the Commission.

30. The allegations advanced by petitioner are speculative and lack the substantiation necessary to permit exploration of the complained of matters in an evidentiary hearing. There is no showing that the placement and lineage accorded the reports dealing with the positions of the parties and the matters at issue in the proceding before us were determined other than by the journalistic judgment of the *Star-News'* editors. *Cf. Sun Newspapers, Inc.*, 41 FCC 2d 988 (1973); *Hunger in America*, 20 FCC 2d 143 (1969). Petitioner's mere suspicions concerning the motivation behind the March 5th article about Chairman Wiley appear similarly unfounded. The transferee in its supplemental pleading (see note 2, *supra*) has submitted an affidavit of the reporter who conducted the interview in question and who explains that the story was one of a series of interviews he has had with the chairman of the regulatory agencies he is responsible for covering. The affiant further avers that "no management official at Washington Star Communications, Inc.—at any level—suggested an article of Wiley" and that "I was given complete discretion on how to handle the story." Under these circumstances, further consideration of these matters by the Commission does not appear warranted.[30]

31. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned transfer of control applications are designated for expedited hearing a a time and a place to be specified in a subsequent Order, upon the following issues:

(1) To determine the facts and circumstances surrounding the efforts made by Washington Star Communications, Inc. and its subsidiary corporations to dispose of The Evening Star Newspaper Company separately and to otherwise come into compliance with Sections 73.-35, 73.240 and 73.636 of the Commission's rules.

(2) To determine whether, in light of the evidence adduced with respect to the foregoing issue, those efforts were reasonable.

(3) To determine whether, in light of the facts and circumstances presented, the provisions of Sections 73.35, 73.240 and 73.636 of the Commission's rules should be waived and, if so, whether that waiver should be limited as to duration and/or conditioned upon the divestiture of one or more of the transferors' broadcast stations.

(4) To determine whether sufficient funds to effectuate the instant transaction are available to Perpetual Corporation of Delaware, and whether, in light of the evidence adduced, the transferee is financially qualified.

(5) To determine whether, in light of all the evidence adduced pursuant to the foregoing issues, grant of the above-captioned applications for transfer of *de facto* control would serve the public interest, convenience and necessity.

32. It is further ordered, That, the aforenoted petitions to deny, filed January 6, 1975, by the Adams Morgan Organization, the National Capital Area Chapters of the National Organization for Women and the D.C. Media Taskforce, and by the Concerned Citizens for Balance in News Media, are granted to

[28] In an affidavit of January 21, 1975, Bernhard states that the Senate Select Committee on Presidential Campaign Activities investigated all aspects of the financing of the Muskie campaign including the Pierce lease arrangement, and that that matter was also pursued by the Federal Bureau of Investigation at the Select Committee's request. Mr. Bernhard further states that he is unaware of any finding of impropriety by any agency regarding the lease arrangement.

[29] Concerned Citizens also alleges that Perpetual violated Section 1.514 of the Commission's rules by failing to disclose the existence of Pierce Leasing Corporation in Table II, Section II of its original application. Perpetual, however, contends that in 1973 Pierce Leasing Corporation's name was changed to Wiltern Investment Corporation in conjunction with a broadening of its corporate charter and that an appropriate identification of this business interest, including its relationship to the Pierce National Life Insurance Company, and a listing of Mr. Robert L. Nelson as an officer and director of that corporation were set forth in its applications. That the Wiltern Investment Corporation was the successor-in-interest to the Pierce Leasing Corporation was ascertainable from the description supplied by the transferee in response to Table II of Section II. To suggest that a more explicit reference was omitted in an attempt to obfuscate the involvement of the transferee and its principals with Pierce Leasing Corporation is purely speculative on petitioner's part.

[30] In a further supplemental pleading, filed July 14, 1975, Concerned Citizens questions the motivation behind the *Star-News'* refusal to print a letter from McGoff in response to references to matters at issue herein that were contained in a recent New York Times article, which dealt with an alleged disagreement among the WSCI directors concerning the continued operation of the *Star-News* and which had been reprinted *verbatim* in the June 28, 1975 edition of the *Star-News*. Again, there is no showing that the newspaper's decision with respect to McGoff's letter or its "failure" to remind its readers of petitioner's position on the matters referred to in the *New York Times* article were prompted by a deliberate intent to advance Allbritton's position in the instant proceeding.

the extent indicated above and are denied in all other respects.

33. It is further ordered, That, the motion for expedited consideration, filed January 21, 1975, by Washington Star Communications, Inc., is dismissed as moot.

34. It is further ordered, That, the motions for permission to file additional pleadings, filed March 21, 1975 and July 14, 1975, by Concerned Citizens for Balance in News Media, are granted and that the pleadings tendered therewith are accepted.

35. It is further ordered, That, the Adams Morgan Organization, the National Organization for Women and the D.C. Media Taskforce; and the Concerned Citizens for Balance in News Media are made parties to the hearing ordered herein. For the limited purpose of participating with respect to issues (1) and (2), Mr. John P. McGoff is also accorded party status.[51]

36. It is further ordered, That, in accordance with Section 309(e) of the Communications Act of 1934, as amended, the burden of proceeding with the introduction of evidence and burden of proof with respect to issues (1), (2) and (3) shall be upon the transferors. The burdens of proceeding and proof as to issue (4) shall be upon Perpetual Corporation of Delaware. The burden of proof with respect to issue (5) shall be upon the applicants.

37. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein and the parties respondent, in person or by attorney, shall, within five (5) days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in the Order.

38. IT IS FURTHER ORDERED, That, The Evening Star Broadcasting Company, First Charleston Corporation and WLVA, Incorporated, shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 1.594 of the Commission's rules, given notice of the hearing within the time and in the manner prescribed in such rules, and shall advise the Commission of the publication of such notice as required by Section 1.594(g) of the rules.

[51] Notwithstanding our previous discussion relative to the standing of Mr. McGoff (see note 1, *supra*), it appears that he is qualified for present relevant and important information relating to issues (1) and (2) and that his participation in the hearing will assist the Commission in the determination of those issues. Thus, we will accord McGoff a limited right to participate in the hearing being ordered herein.

Adopted: July 28, 1975.

Released: August 1, 1975.

FEDERAL COMMUNICATIONS COMMISSION,[52]

[SEAL] VINCENT J. MULLINS, *Secretary.*

[FR Doc.75-21511 Filed 8-14-75;8:45 am]

FEDERAL ENERGY ADMINISTRATION

POWER PLANT PRODUCTIVITY CONFERENCE

Meeting

Notice is hereby given that a "Conference to Discuss Power Plant Productivity," will be held from 8:30 a.m. to 6 p.m., September 17, 1975, in Room 305, 26 Federal Plaza, New York, N.Y.

The purpose of the conference is to provide for an exchange of information and ideas among owner/operators of nuclear and large fossil fired electric power generating units aimed at improving the productivity of these units.

Invitees to the Conference will be from electric utilities located in FEA Region II, i.e., New York, New Jersey, Puerto Rico, and the Virgin Islands that own/operate or have under construction or in planning nuclear and 390 megawatts and larger oil or coal-fired generating units.

The agenda for the meeting is as follows:

8:30—8:45 a.m., FEA introductory remarks.
8:45—9:15 a.m., FEA review of report on improving the productivity of electric powerplants.
9:15—12:15 p.m., utility statements.
12:15—1:30 p.m., lunch break.
1:30—4:30 p.m., utility statements.
4:30—5:30 p.m., statements by others.
5:30—6:00 p.m., summary by FEA & questions/answers.
6:00 p.m., Adjourn.

The meeting is open to the public. The meeting chairman is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the conference chairman will be permitted to do so either before or after the meeting. Members of the public who wish to make oral statements should inform Evan Kovacic, telephone (202) 961-6193, at least five days before the meeting and reasonable provision will be made for their appearance on the agenda. Further information concerning this meeting also may be obtained from Mr. Kovacic.

Minutes of the meeting will be made available for public inspection at the Federal Energy Administration, Washington, D.C. and New York, New York.

FEA intends to hold similar meetings in the near future in other FEA Regions. These will be announced in the FEDERAL REGISTER.

Issued at Washington, D.C., on August 13, 1975.

ROBERT E. MONTGOMERY, Jr., *General Counsel.*

[FR Doc.75-21597 Filed 8-13-75;12:05 pm]

FEDERAL MARITIME COMMISSION

CITY OF LOS ANGELES HARBOR DEPARTMENT AND MATSON TERMINALS, INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 4, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

CITY OF LOS ANGELES HARBOR DEPARTMENT AND MATSON TERMINALS, INC.

Notice of Agreement Filed by

Winston F. Tyler, Deputy City Attorney, Harbor Division, P.O. Box 151, San Pedro, California 90733.

Agreement No. T-3139, between the City of Los Angeles Harbor Division (City) and Matson Terminals, Inc., (Matson), permits Matson, for a term

[52] Commissioner Lee dissenting and issuing a statement; Commissioner Hooks concurring in the result; Commissioner Washburn concurring and issuing a statement. Statements of Commissioners Lee and Washburn filed with the original document.

revocable on 30 days' notice, to use approximately 4½ (four and one-half) acres of land at the Port of Los Angeles, California, for the storage of automobiles, trailers and truck chassis and for purposes incidental thereto. As compensation, the City is to receive $3,141.26 monthly. This property is adjacent to land preferentially assigned to Matson under FMC Agreement No. T-2356.

By Order of the Federal Maritime Commission.

Dated: August 12, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-21528 Filed 8-14-75;8:45 am]

[INDEPENDENT OCEAN FREIGHT FORWARDER LICENSE]

JAMES F. MURRAY ET AL.

Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to Section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

James F. Murray, 222 East 19th Street, New York, New York 10003.

Delcher Intercontinental Moving Service, Inc., 4219 Central Avenue, St. Petersburg, Florida 33733, Officers: Patricia Alexander, President, Stan Taylor, Executive Vice President, Barry Mosteller, Senior Vice President, Dan S. Cannistra, Secretary/Treasurer.

K-C International Freight Forwarders Ki Tai Chang d/b/a, 2270 Palou Avenue, San Francisco, California 94124.

International Freight Forwarder, Gilbert Reyna d/b/a, 6936 Avenue, Houston, Texas 77011.

Latin American Express Corporation, P.O. Box 557456, Miami Florida 33155, Officers: Alfonso Robles, President, Aida Robles, Secretary, Allan Krosskove, Treasurer.

Inter-Harbor (Freight) Forwarding Co., Nessim Albert Abastado d/b/a, P.O. Box 409, Redondo Beach, California 90277.

The Jennings Company, William Allen Jennings d/b/a, P.O. Box 10126, Savannah, Georgia 31402.

D. B. Grant, 341 Lyme Street, Hartford, Connecticut 06112.

Manuel A. Ronquillo, 42-02 Kissena Blvd., Flushing, New York 11355.

Trans Mar Corporation, 2800 International Trade Mart Bldg., New Orleans, Louisiana 70130, Officers: F. Ernesto Lugo, President, Thomas B. Wheeler, Vice President, F. C. Parker, Secretary/Treasurer.

By the Federal Maritime Commission.

Dated: August 12, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-21532 Filed 8-14-75;8:45 am]

MARYLAND PORT ADMINISTRATION AND MAHER TERMINALS, INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before September 4, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

MARYLAND PORT ADMINISTRATION AND MAHER TERMINALS, INC.

Notice of Agreement Filed by:

Gary E. Koecheler, Director of Transportation, Maryland Department of Transportation, 19 South Charles Street, Baltimore, Maryland 21201.

Agreement No. T-3138, between the Maryland Port Administration (MPA) and Maher Terminals (Maher), provides for a month-to-month lease of certain facilities at Dundalk, Maryland, including 75,000 square feet of floor space in Shed 2 and approximately 2.22 acres of paved outside storage area. Maher shall have exclusive control over the scheduling of vessels at Berth 2, with MPA retaining secondary rights to the use of the berth. Maher will publish its own tariff and collect for its own account all terminal charges incurred by vessels at Berth 2, with exceptions as specified in the agreement. MPA's tariff shall apply to berths other than Berth 2 and to any vessels berthed other than at Berth 2, and MPA shall charge, invoice and collect all tariff charges incurred at such berths with exceptions as outlined in the agreement. As rental, Maher will pay MPA a monthly fee of $12,433.95 plus all taxes and assessments arising out of its operations as well as all taxes on improvements placed on premises by Maher.

By Order of the Federal Maritime Commission.

Dated: August 12, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-21530 Filed 8-14-75;8:45 am]

PAN ISLAMIC STEAMSHIP CO., LTD., ET AL.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before September 4, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

PAN ISLAMIC STEAMSHIP CO., LTD., TRANS OCEANIC STEAMSHIP CO., LTD., CHITTAGONG STEAMSHIP CORP., LTD., PAKISTAN SHIPPING LINE LIMITED, CRESCENT SHIPPING LINES LIMITED, GULF SHIPPING CORPORATION LIMITED, UNITED ORIENTAL STEAMSHIP CO., EAST & WEST STEAMSHIP CO. (1961), AND MUHAMMADI STEAMSHIP CO., LTD.

Notice of Agreement Filed by:

Thomas J. Kane, Esq., Cichanowicz & Callan, 80 Broad Street, New York, New York 10004.

Agreement No. 10172 would establish a joint service agreement among Pan Islamic Steamship Co., Ltd., Trans Oceanic Steamship Co., Ltd., Chittagong Steamship Corp., Ltd., Pakistan Shipping Line Limited, Crescent Shipping Lines Limited, Gulf Shipping Corporation Limited, United Oriental Steamship Co., East & West Steamship Co. (1961), and Muham-

madi Steamship Co., Ltd., operating in the trade from U.S. Atlantic and Gulf ports to the Persian Gulf, Red Sea and Pakistan. The joint service will act as a single member or party within any conference, pooling agreement or any other agreement subject to the Shipping Act, 1916, to which it belongs and will be represented by the Pakistan Shipping Corporation. The parties will establish, maintain and file with the Commission, as a joint service, rates, charges and practices in those trades where they are not members of a conference. The parties will cooperate as to the tonnage to be contributed by each. They shall contribute to and share the costs, expenses, profits and losses incurred by and derived from the joint service.

By Order of the Federal Maritime Commission.

Dated: August 11, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-21529 Filed 8-14-75;8:45 am]

PHILIPPINES NORTH AMERICAN CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573 on or before September 4, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

PHILIPPINES NORTH AMERICA CONFERENCE

Notice of Agreement Filed by:

E. H. Bosch, Secretary-Manager, Philippines North America Conference, P.O. Box 1376, Manila D-406, Philippines.

Agreement No. 5600-32, entered into by the member lines of the Philippines North America Conference amends the conference agreement and the appendix attached thereto containing the by-laws, rules and regulations by deleting certain obsolete and/or duplicate phrases contained therein.

By Order of the Federal Maritime Commission.

Dated: August 12, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-21531 Filed 8-14-75;8:45 am]

FEDERAL POWER COMMISSION

[Project No. 2165 and 2203—Alabama]

ALABAMA POWER CO.

Availability of Staff Draft Environmental Impact Statement

Notice is hereby given in the captioned Project, that on August 15, 1975, as required by Section 2.81(b) of Commission Order No. 415-C, a draft environmental impact statement prepared by the Staff of the Federal Power Commission was made available for comments. This statement deals with the environmental impact of Alabama Power Company's proposal that the installation of turbine aerator devices in the draft tubes of Bankhead Project No. 2165 and Holt Project No. 2203 satisfies its obligation under Article 43 of the Holt license. The statement was prepared pursuant to Commission Order No. 625.

This statement has been circulated for comments to Federal, State and local agencies, has been placed in the public files of the Commission, and is available for public inspection both in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426 and at its Atlanta Regional Office located at 730 Peachtree Building, Room 500, Atlanta, Georgia 30308. Copies may be ordered from the Commission's Office of Public Information, Washington, D.C. 20426.

Any person who wishes to do so may file comments on the staff draft statement for the Commission's consideration. All comments must be filed on or before September 30, 1975.

Any person who wishes to present evidence regarding environmental matters in this proceeding must file with the Commission a petition to intervene pursuant to Section 1.8 of the Commission's Rules of Practice and Procedure. Petitioners must also file timely comments on the draft statement in accordance with Section 2.81(c) of Order No. 415-C.

All petitions to intervene must be filed on or before September 30, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21559 Filed 8-14-75;8:45 am]

[Docket No. E-6893]

ALABAMA POWER CO.

Filing of Settlement Agreement

AUGUST 12, 1975.

Public notice is hereby given that on April 22, 1974, the Alabama Power Company filed a Settlement Agreement entered into by the Company and the Southeastern Power Administrative of the Department of the Interior, concerning the Federal Power Commission's investigation of headwater benefits realized by the Alabama Power Company pursuant to the operation of the Federally-owned Allatoona Project located upstream on the Coosa River from several of the Company's hydroelectric projects under license by this Commission. The assessment of headwater benefits which the Company must pay will be made by the Federal Power Commission pursuant to Section 10(f) of the Federal Power Act (16 U.S.C. 803).

The Southeastern Power Administrative and Alabama Power Company agreed that the Commission assess, and the Company pay, $982,000 in full satisfaction of headwater benefits received during the years 1964 through 1973, for the Alabama-Coosa River Basin. Further, that Alabama Power Company make an annual payment of $140,000 payable at the end of each year, in full satisfaction of headwater benefits received for each of the years 1974 through 1976 for the same river basin. This latter amount would be subject to review by the Commission and with an opportunity for hearing if another amount should be paid by the Company for headwater benefits received during that period, if notice is given on or before June 1, 1977.

The parties further agreed that an additional sum of $52,000 be assessed to cover the costs of Commission Staff studies made relative to the subject docket for the years 1964-1976 inclusive.

The parties also agreed that Southeastern make minimum declarations of energy from the Project as set forth in Exhibit 1 attached to the Settlement for the years 1974 through 1976.

Any person desiring to be heard or to make protest with reference to the Settlement Agreement concerning the assessment of headwater benefits payments to be made by the Alabama Power Company, should on or before September 15, 1975, 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). Furthermore, any person wishing to make comments on the Settlement Agreement, including the Staff of this Commission, shall do so on or before the same date herein set for the filing of petitions of intervention and protests. All protests and comments 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 or commentors parties to the proceedings. Persons wishing to become parties to the proceeding or to participate as a party therein must file a petition to intervene in accordance with the Commission's Rules of Practice and Procedure.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21560 Filed 8-14-75;8:45 am]

[Docket No. ER76-48]

CENTRAL HUDSON GAS & ELECTRIC CORP., ET AL.

Filing of Revised New York Power Pool Agreement

AUGUST 7, 1975.

In the matter of: Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation, Power Authority of the State of New York.

Take notice that on July 31, 1975, the Chairman of the Executive Committee of the New York Power Pool filed on behalf of the above listed organizations a revised New York Power Pool Agreement dated April 27, 1975. This Agreement will replace an existing agreement among the above listed organizations. The filing proposes that the revised Agreement become effective as of April 27, 1975.

The Agreement changes the generating reserve margin criteria under the existing Agreement and establishes a generating reserve factor of 18% for all parties. Except for this change the Agreement does not affect or in any way change the nature or scope of the transactions in operating capability and energy provided under the existing Agreement, nor the rates, charges, classifications or practices relating thereto. The Agreement also changes the title of Director of Environmental Affairs of the New York Power Pool to Manager of Environmental Affairs. There has been no change in the duties of the person holding the title.

Any person desiring to be heard or to make any protest with reference to the revised New York Power Pool Agreement should, on or before August 25, 1975, file with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR Sections 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The Revised New York Power Pool Agreement is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21413 Filed 8-14-75;8:45 am]

[Docket No. ER76-43]

CENTRAL ILLINOIS PUBLIC SERVICE CO.

Filing Notice of New Rate Schedule

AUGUST 7, 1975.

Take notice that on July 30, 1975, Central Illinois Public Service Company (Central Illinois) tendered for filing notice to the Village of Greenup (Greenup) of the application of Rate Schedule W-2 to the service provided to Greenup on and after September 1, 1975, under the Agreements between Greenup and Central Illinois heretofore filed with the Commission and designated FPC Rate Schedule 43 and Supplemental No. 1 to FPC Rate Schedule 43. Central Illinois states that the Commission's letter order in Docket No. E-9415 dated May 29, 1975, accepted for filing to become effective June 1, 1975, Rate Schedule W-2, designated as FPC Electric Tariff Original Volume No. 2, for Wholesale Electric Service to Municipalities, to be applicable upon expiration of the effective period for the rates and charges as specified in the various municipals' agreements.

Central Illinois states further that the term of the principal Agreement between Greenup and Central Illinois is for a period of twenty years from and after September 1, 1965, the date on which service was first delivered to the Greenup. Paragraph 13 of the Agreement provides that the rates and charges for service set forth shall apply only during the first ten years of the period. Accordingly Central Illinois gives notice of the application as of September 1, 1975, of the W-2 rate schedule to service provided to Greenup.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 25, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21414 Filed 8-14-75;8:45 am]

[Docket No. ER76-44]

CENTRAL ILLINOIS PUBLIC SERVICE CO.

Filing Notice of New Rate Schedule

AUGUST 7, 1975.

Take notice that on July 30, 1975, Central Illinois Public Service Company (Central Illinois) tendered for filing notice to the City of Flora (Flora) of the application of Rate Schedule W-2 to the service provided to the City on and after September 1, 1975, under the Agreements between Flora and Central Illinois heretofore filed with the Commission and designated FPC Rate Schedule 42 and Supplemental No. 1 to FPC Rate Schedule 42. Central Illinois states that the Commission's letter order in Docket No. E-9415 dated May 29, 1975, accepted for filing to become effective June 1, 1975, Rate Schedule W-2, designated as FPC Electric Tariff Original Volume No. 2, for Wholesale Electric Service to Municipalities, to be applicable upon expiration of the effective period for the rates and charges as specified in the various municipals' agreements.

Central Illinois states further that the term of the principal Agreement between Flora and Central Illinois is for a period of twenty years from and after September 1, 1965, the date on which service was first delivered to the Flora. Paragraph 13 of the Agreement provides that the rates and charges for service set forth shall apply only during the first ten years of the period. Accordingly Central Illinois gives notice of the application as of September 1, 1975, of the W-2 rate schedule to service provided to Flora.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 22, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21415 Filed 8-14-75;8:45 am]

[Docket No. E-9407]

COLUMBUS & SOUTHERN OHIO ELECTRIC CO.

Extension of Procedural Dates

AUGUST 8, 1975.

On August 6, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued May 30, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff Testimony, November 11, 1975.
Service of Intervenor Testimony, November 25, 1975.
Service of Company Rebuttal, December 16, 1975.
Hearing, January 20, 1976 (10 a.m., est).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21428 Filed 8-14-75;8:45 am]

[Docket No. CP73-206]

CONSOLIDATED GAS SUPPLY CORP., ET AL.

Amendment to Petition To Amend

AUGUST 8, 1975.

Take notice that on August 1, 1975, Consolidated Gas Supply Corporation (Consolidated), 445 West Main Street,

Clarksburg, West Virginia 26301; Texas Eastern Transmission Corporation (Texas Eastern), Southern National Bank Building, Houston, Texas 77001; Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001; and the following (referred to as the Original East Coast Companies): Algonquin Gas Transmission Company (Algonquin), 1284 Soldiers Field Road, Boston, Massachusetts 02135; The Brooklyn Union Gas Company (Brooklyn Union), 195 Montague Street, Brooklyn, New York 11201; Elizabethtown Gas Company (Elizabethtown), One Elizabethtown Plaza, Elizabeth, New Jersey 07207; Long Island Lighting Company (LILCo), 250 Old Country Road, Mineola, New York 11501; New Jersey Natural Gas Company (New Jersey Natural), 601 Bangs Avenue, Asbury Park, New Jersey 07712; Philadelphia Electric Company (PEC) 2301 Market Street, Philadelphia, Pennsylvania 19102; Philadelphia Gas Works (PGW), 1518 Walnut Street, Philadelphia, Pennsylvania 19102; and Public Service Electric and Gas Company (Public Service), 80 Park Place, Newark, New Jersey 07101; and the following (referred to as Additional East Coast Companies): Eastern Shore Natural Gas Company (Eastern Shore), P.O. Box 615, Dover, Delaware 19901; South Jersey Gas Company (South Jersey), Number One South Plaza, Route 54, Folsom, New Jersey 08037 and Piedmont Natural Gas Company, Inc. (Piedmont), P.O. Box 1968, Charlotte, North Carolina 28233, (the Original" and the "Additional" East Coast Companies hereinafter referred to collectively as the "East Coast Companies"), jointly Petitioners, filed in Docket No. CP73-206 a petition to amend their petition to amend filed in said docket on April 7, 1975, pursuant to Section 7(c) of the Natural Gas Act to include Piedmont as a party petitioner and to request the inclusion in any further Commission authorization of a proviso that Consolidated and the East Coast Companies may adjust or shift their volumes of gas as mutually agreed among them by entering into and filing with the Commission appropriate amendatory agreements, all as more fully set forth in the amendment to the petition to amend on file with the Commission and open to public inspection.

Petitioners amend their petition to amend of April 7, 1975, to include Piedmont in the 1975–1976–1977 storage service program therein proposed and to provide for Piedmont under Consolidated's supplemental storage service program an annual storage capacity volume of 600,000 Mcf of gas and a daily demand volume of 3,973 Mcf at 14.73 psia. It is stated that no additional facilities would be required to render the proposed service to Piedmont. It is further stated that the proposed service would provide Piedmont with gas storage by delivery of volumes of gas to be stored to Consolidated through Transco and by the return of gas from Consolidated through Transco to Piedmont.

Petitioners further request that the Commission include the proviso in any further authorization that Consolidated and the East Coast Companies would be able to shift or adjust storage volumes as mutually agreed upon among them by entering into and filing with the Commission appropriate amendatory agreements.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before August 29, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21429 Filed 8-14-75;8:45 am]

[Docket No. G-18671]

DORCHESTER GAS PRODUCING CO.

Extension of Hearing Date

AUGUST 8, 1975.

On July 23, 1975, Staff Counsel filed a motion to extend the hearing dates fixed by order issued June 11, 1975 in the above-designated matter.

Upon consideration, notice is hereby given that the hearing date in the above matter is extended to September 3, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21430 Filed 8-14-75;8:45 am]

[Docket No. RI74-261]

EXCELSIOR OIL CORP.

Order Setting Date for Hearing

AUGUST 5, 1975.

On June 12, 1974, Excelsior Oil Corporation (Excelsior) filed an application for special relief from the applicable area rate (Hugoton-Anadarko Area) pursuant to Section 154.94[1] of the Commission's Regulations and Section 2.76[2] of the Commission's General Policy and Interpretations in the form of an increase in rate for sales of natural gas to Kansas-Nebraska Natural Gas Company, Inc. (Kansas-Nebraska)[3] pursuant to a renegotiated contract dated November 28, 1973.

More specifically, Excelsior seeks an increase to a base rate of 50 cents per Mcf at 14.65 psia, including one cent per Mcf annual escalations, adjusted for Btu content and tax reimbursement, for sales of gas currently produced from four wells in the Buffalo Wallow Field, Hemphill County, Texas (Texas R.R. District No. 10, Hugoton-Anadarko Area).[4] Currently, Excelsior is receiving a base rate of 19 cents per Mcf for sales pursuant to its July 11, 1968 base contract on file as its FPC Gas Rate Schedule No. 8, and 21.5 cents per Mcf for sales pursuant to its April 21, 1971 base contract on file as its FPC Gas Rate Schedule No. 10.[5] Excelsior avers that it has experienced increases in normal operating expenses, in addition to increased salt water disposal and scaling expenses and, without relief in the form of a rate increase, it will continue to suffer annual losses in revenue thereby accelerating the abandonment of these wells. On May 20, 1975, Staff conducted a field audit of Excelsior's books in order to verify certain information received from Kansas-Nebraska on April 18, 1975, in response to a Staff information request of Excelsior dated July 16, 1974.

Notice of Excelsior's application for relief was issued on June 26, 1974, and appeared in the FEDERAL REGISTER at 39 FR 24429 on July 2, 1974. The period for filing petitions to intervene closed on July 19, 1974. No petitions to intervene have been filed to date.

An examination of Excelsior's application and the audit of data supplied in support thereof raises a question of whether there is sufficient basis to find that the proposed rate is just and reasonable. Therefore, we deem it necessary that a hearing be held in this matter to determine what relief, if any, should be granted Excelsior.

The Commission finds:

It is necessary and in the public interest that the above-captioned proceeding be set for hearing.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 7, 14 and 16 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act (18 CFR, Chapter I), Docket No. RI74-261 is set for the purpose of hearing and disposition.

(B) A public hearing on the issues presented by the application herein shall be held commencing on September 30, 1975, at 10 a.m. (edt) in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5 (d)), shall preside at the hearing in this

---

[1] 18 CFR 154.94.

[2] 18 CFR 2.76

[3] Excelsior is a wholly-owned subsidiary of Kansas-Nebraska.

[4] Excelsior indicates that it has an 8.61322% working interest in the Fillingim Well, a 48.43750% working interest in the Meadows #1 Well, a 37.5000% working interest in the Abraham "A" #1 Well, and a 46.8750% working interest in the Flowers "A" #1 Well.

[5] Sales under Excelsior's Rate Schedule Nos. 8 and 10 were certificated in Docket Nos. CI69-1032 and CI72-475, respectively.

proceeding pursuant to the Commission's Rules of Practice and Procedure.

(D) Excelsior and any intervenor supporting the application shall file their direct testimony and evidence on or before September 2, 1975. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, the Commission Staff, and all parties to this proceeding.

(E) The Commission Staff, and any intervenor opposing the application, shall file their direct testimony and evidence on or before September 16, 1975. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, and all other parties to this proceeding.

(F) All rebuttal testimony and evidence shall be served on or before September 23, 1975. All parties submitting rebuttal testimony and evidence shall serve such testimony upon the Presiding Administrative Law Judge, the Commission Staff, and all other parties to the proceeding.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21431 Filed 8-14-75;8:45 am]

[Docket No. E-6730]

GEORGIA POWER CO.

Filing of Settlement Agreement and Recommendations

AUGUST 12, 1975.

Public notice is hereby given that on April 11, 1974, the Department of the Interior filed an Agreement and Recommendations jointly entered into by the Georgia Power Company and the Southeastern Power Administration of the Department of the Interior, concerning this Commission's investigation of headwater benefits realized by the Georgia Power Company pursuant to the operation of the Federally-owned Buford Project located upstream on the Chattahoochee River from several of the Company's hydroelectric projects under license by this Commission. The assessment of headwater benefits which the Company must pay will be made by the Federal Power Commission pursuant to Section 10(f) of the Federal Power Act (16 U.S.C. 803).

The Southeastern Power Administration and the Company agreed and recommended to the Commission that the Company pay the sum of $1,470,000 in full satisfaction of headwater benefits received by it from the Federal Buford Project during the years 1966 through 1973. These parties further agreed and recommended that for the years prior to 1966, the Commission assess no further payment for headwater benefits received beyond that previously assessed and collected, and they further agreed that the additional sum of $34,000 be assessed for the cost of the Commission Staff studies undertaken relative to this docket for the years 1966 through 1973.

On June 16, 1975, Georgia Power Company filed a unilateral amendment to the original Agreement in which it withdraws from this Agreement and its previous offer of $1,470,000. The Company states that this action is necessary because it believes there were no capacity benefits received during the years in question, and furthermore, studies based on more accurate data indicate that the energy gains should be valued at only $974,000. The Company now states that they will pay $974,000 for energy gains during the years 1966–1973 inclusive.

Any person desiring to be heard or to make protest with reference to the Agreement and Recommendations, as amended, concerning the assessment of headwater benefits payments to be made by the Georgia Power Company, should on or before September 15, 1975, 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). Furthermore, any person wishing to make comments on the Agreement and Recommendations, as amended, including the Staff of this Commission, shall do so by filing such comments on or before the same date herein set for the filing of petitions of intervention and protests. All protests and comments 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 or commentors parties to the proceedings. Persons wishing to become parties to the proceeding or to participate as a party therein must file a petition to intervene in accordance with the Commission's Rules of Practice and Procedure.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21501 Filed 8-14-75;8:45 am]

[Docket No. ER76-29]

HARTFORD ELECTRIC LIGHT CO.

Termination

AUGUST 7, 1975.

Take notice that on July 28, 1975, Hartford Electric Light Company (HELCO) tendered for filing Notice of Termination of FPC Rate Schedule No. 92, which became effective April 1, 1975, and was terminated in accordance with its terms. HELCO states that the termination became effective April 30, 1975 and that notice of the proposed termination has been served on Central Maine Power Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before August 18, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21416 Filed 8-14-75;8:45 am]

[Docket No. ER76-32]

HARTFORD ELECTRIC LIGHT CO.

Termination

AUGUST 7, 1975.

Take notice that on July 28, 1975, Hartford Electric Light Company (HELCO) tendered for filing Notice of Termination of FPC Rate Schedule No. 67, which became effective December 1, 1972 and was terminated in accordance with its terms. HELCO states that the termination became effective May 31, 1975 and that notice of the proposed termination has been served on The United Illuminating Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before August 18, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are no file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21417 Filed 8-14-75;8:45 am]

[Docket No. E-9533]

ILLINOIS POWER CO.

Application

AUGUST 7, 1975.

Take notice that on July 31, 1975, Illinois Power Company (Applicant), filed an application pursuant to Section 203 of the Federal Power Act, with the Federal Power Commission for authorization to enter into a Purchase Agreement with the City of Springfield, Illinois to provide for the sale and conveyance by Applicant to the City of Springfield, Illinois, of approximately 19.52 circuit miles of the Applicant's 69 Kv line from East Springfield Substation to a point two miles west of Illiopolis, Illinois for a cash consideration of $100,000 in accordance with the Purchase Agreement.

Applicant is incorporated under the laws of the State of Illinois, with its principal business office at Decatur, Illinois and is qualified to transact business in the State of Illinois. Applicant is engaged, among other things, in the business of generation, distribution and sale of electric energy in substantial portions of the State of Illinois.

Applicant represents that the proposed sale of electric transmission plant

and necessary appurtenances will facilitate for an interconnection between Applicant and City of Springfield as described in Supplement No. 8 to Rate Schedule FPC No. 65.

Any person desiring to be heard or to make any protest with reference to said application should, on or before August 28, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. This application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21418 Filed 8-14-75;8:45 am]

[Docket No. G-4579, *et al.*]

JURISDICTIONAL SALES OF NATURAL GAS

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

AUGUST 7, 1975.

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 September 2, 1975, 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.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-4579 D 7-28-75	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., acreage in Texas County, Okla.	Applicant assigned its interest to the other unit coowners.	.....
G-15429 C 7-21-75	Sun Oil Co., P.O. Box 2880, Dallas, Tex. 75221.	West Lake Natural Gasoline Co. and Atlantic Richfield Co., S. Lake Trammel and Nena Lucia Fields, Nolan County, Tex.	[1] 16.5	14.65
CI68-1281 D 7-28-75	The California Co., a division of Chevron Oil Co., 1111 Tulane Ave., New Orleans, La. 70112.	Trunkline Gas Co., South Pelto Block 16, offshore Louisiana.	Depleted	.....
CI75-395 C 7-23-75	Transco Exploration Co., P.O. Box 1396, Houston, Tex. 77001.	Transcontinental Gas Pipe Line Corp., South Ewing Field, San Patricio County, Tex.	[2] 61.580480	14.65
CI76-39 (G-3117) F 7-23-75	The Superior Oil Co. (successor to Exxon Corp.), P.O. Box 1521, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., South Crowley Field, Acadia Parish, La.	[3] 61.0	15.025
CI76-46 A 7-23-75	Texaco Inc. (Operator), et al., P.O. Box 60252, New Orleans, La. 70160.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Sweet Bay Lake Field, Terrebonne Parish, La.	[4] 68.809	15.025
CI76-47 (G-3982) F 7-23-75	Thayer H. Laurie and David N. Mills, trustees (successor to Northeast Blanco Development Corp.), c/o R. E. George, National Bank of Detroit, P.O. Box 223-A, Detroit, Mich. 48232.	El Paso Natural Gas Co., Blanco Field, San Juan and Rio Arriba Counties, N. Mex.	[5] 61.88	15.052
CI76-48 (G-3982) F 7-23-75	Thayer H. Laurie (successor to Northeast Blanco Development Corp.), c/o R. E. George, National Bank of Detroit, P.O. Box 223-A, Detroit, Mich. 48232.	do	[5] 61.88	15.025
CI76-49 A 7-23-75	Sun Calvert Co., P.O. Box 2880, Dallas, Tex. 75221.	Michigan Wisconsin Pipe Line Co., Laverne Field, Beaver County, Okla.	[7] 57.8709	14.65
CI76-50 A 7-25-75	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	El Paso Natural Gas Co., Cinta Roja Field, Lea County, N. Mex.	[8] 56.73	14.65
CI76-52 A 7-28-75	Atlantic Richfield Co.	Transwestern Pipeline Co., South Empire Deep Nos. 3 and 5 Wells, Eddy County, N. Mex.	[4] [9] 51.10	14.65
CI76-53 A 7-28-75	Mobil Oil Corp., Three Greenway Plaza East, Suite 800, Houston, Tex. 77046.	Natural Gas Pipeline Co. of America, South Addition, Blocks 532 and 533, West Cameron Area, offshore Louisiana.	[4] [9] 51.44	15.025
CI76-54 A 7-28-75	Amoco Production Co., Security Life Building, Denver, Colo. 80202.	Cities Service Gas Co., Hamon Locke Field, Hemphill County, Tex.	[4] 80.0	14.65
CI76-55 (C872-162) F 7-28-75	Gulf Oil Corp. (successor to Cenard Oil & Gas Co.), P.O. Box 1589, Tulsa, Okla. 74102.	United Gas Pipe Line Co., Houma Field, Terrebonne Parish, La.	[4] [10] 34.775	15.025
CI76-56 A 7-28-75	Skelly Oil Co., P.O. Box 1650, Tulsa, Okla. 74102.	El Paso Natural Gas Co., Austin College No. 1 Well, Block 106, G. Nance Survey, A-4691, Pecos County, Tex.	[3] 56.6351	14.73
CI76-57 (C872-162) F 7-28-75	Gulf Oil Corp. (successor to Cenard Oil & Gas Co.), P.O. Box 1589, Tulsa, Okla. 74102.	Transcontinental Gas Pipe Line Corp., North Live Oak Field, Vermilion Parish, La.	[13] 26.0	15.025
CI76-60 A 7-25-75	Texas Gas Exploration Corp., 1100 First City National Bldg., Houston, Tex. 77002.	Transcontinental Gas Pipe Line Corp., Mula Pasture Field, McMullen County, Tex.	[4] [9] 52.0	14.65
CI76-61 (C872-162) F 7-30-75	Gulf Oil Corp. (successor to Cenard Oil & Gas Co.).	El Paso Natural Gas Co., Tapacito and S. Blanco Fields, Rio Arriba County, N. Mex.	[3] 24.4807	15.025
CI76-62 (C872-162) F 7-30-75	do	El Paso Natural Gas Co., Basin (Dakota) Field, San Juan and Rio Arriba Counties, N. Mex.	[3] 24.4807	15.025
CI76-63 (G-3473) B 7-25-75	Phillips Petroleum Co., Bartlesville, Okla. 74004.	United Gas Pipe Line Co., Sibley Field, Webster Parish, La.	Expiration of contract.	.....

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.

[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
CI76-65..... (G-2648) (G-4226) B 7-28-75	Columbia Drilling Co., 3700 Buffalo Speedway, Suite 601, Houston, Tex. 77006.	Tennessee Gas Transmission Co., Deckers Prairie Field, Montgomery County, Tex.	Depleted	

[1] Includes 1.5¢/M ft³ upward British thermal unit adjustment.
[2] Includes 6.744780¢/M ft³ upward British thermal unit adjustment.
[3] Subject to upward and downward British thermal unit adjustment.
[4] Applicant is willing to accept a certificate in accordance with sec. 2.56a of the Commission's "General Policy and Interpretations."
[5] Includes 1.594¢/M ft³ upward British thermal unit adjustment.
[6] Includes 4.34¢/M ft³ tax reimbursement and 5.52¢/M ft³ upward British thermal unit adjustment.
[7] Includes 3.28¢/M ft³ upward British thermal unit adjustment.
[8] Subject to upward and downward British thermal unit adjustment; includes 4.52¢/M ft³ tax reimbursement and 1.49¢/M ft³ gathering allowance.
[9] Subject to downward British thermal unit adjustment; includes 5.275¢/M ft³ tax reimbursement.
[10] Applicant is willing to accept a certificate in accordance with opinion No. 598.
[11] Applicant states that it is authorized in docket No. G-18879 to sell gas from this well to Louis Crouch and that there is pending in docket No. CI73-442 an application for permission and approval to abandon said sale.
[12] Subject to downward British thermal unit adjustment.

[FR Doc.75-21441 Filed 8-14-75;8:45 am]

[Docket No. G-13293, et al.]

JURISDICTIONAL SALES OF NATURAL GAS

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

AUGUST 7, 1975.

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 or 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 August 28, 1975, 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-13203 ..... D 7-17-75	The California Co., a Division of Chevron Oil Co., 1111 Tulane Ave., New Orleans, La. 70112.	Transcontinental Gas Pipe Line Corp., Lucy Field, St. Charles Parish, La.	Depleted	.....
C160-323 ..... C163-925 C166-883 E 7-8-75	Gulf Energy Producing Co. (successor to Gulf Energy & Development Corp.), P.O. Box 17349, San Antonio, Tex. 78217.	Tennessee Gas Pipeline Co., a Division of Tenneco Inc., Acreage in Zapata County, Tex.	.....	.....
C161-182 ..... C 7-21-75	General American Oil Co. of Texas, Meadows Bldg., Dallas, Tex. 75206.	Transcontinental Gas Pipe Line Corp., Johnson's Bayou Field, Cameron Parish, La.	[1] 59.53	15.025
C165-248 ..... E 7-18-75	Kewanee Oil Co. (successor to Irwin Miller (Operator), *et al.*), P.O. Box 2239, Tulsa, Okla. 74101.	United Gas Pipe Line Co., South Mermentau Field, Acadia Parish, La.	[2] 26.1125	15.025
C176-31 ..... A 7-21-75	Perry R. Bass and Bass Enterprises Production Co., 3100 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.	Natural Gas Pipeline Co. of America, Big Eddy #41 Area, Eddy County, N. Mex.	[1] 80.0	14.65
C176-32 ..... A 7-21-75	Perry R. Bass and Bass Enterprises Production Co.	Natural Gas Pipeline Co. of America, South Salt Lake Area, Lea County, N. Mex.	[1] 80.0	14.65
C176-33 ..... (C170-407) B 7-21-75	Anadarko Production Co., P.O. Box 1330, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., Schonlau "A" #1 Unit, Meade County, Kans.	Well has been plugged and abandoned and lease expired.	.....
C176-34 ..... A 7-21-75	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Columbia Gas Transmission Corp., Grand Isle Block 43 Field, offshore Louisiana.	[3] [4] 75.0	15.025
C176-35 ..... A 7-21-75	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Columbia Gas Transmission Corp., Lake Sand Field, Iberia and St. Mary Parishes, La.	[3] [5] 82.0	15.025
C176-36 ..... A 7-18-75	Arkla Exploration Co., P.O. Box 1734, Shreveport, La. 71151.	Arkansas Louisiana Gas Co., South Drew Area, Ouachita Parish, La.	[1] 59.02	15.025
C176-37 ..... A 7-18-75	Arkla Exploration Co., (Operator), *et al.*	Arkansas Louisiana Gas Co., Walnut Area, Caddo County, Okla.	[1] 54.59	14.65
C176-38 ..... A 7-21-75	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	Transwestern Pipeline Co., South Empire Deep Units No. 3 and No. 5, Eddy County, N. Mex.	[1] $1.10	14.65
C176-40 ..... A 7-23-75	Transwestern Gas Supply Co., P.O. Box 2521, Houston, Tex. 77001.	Transwestern Pipeline Co., Taurus Field, Ward County, Tex.	[1] [3] 80.0	14.65
C176-42 ..... A 7-24-75	Tenneco Oil Co., P.O. Box 2511, Houston, Tex. 77001.	El Paso Natural Gas Co., Undesignated Pictured Cliffs Field, San Juan County, N. Mex.	[1] 51.0	14.73
C176-43 ..... A 7-24-75	Anadarko Production Co., P.O. Box 1330, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., S.E. Tracy Field, Texas County, Okla.	[1] [3] 65.0	14.65
C176-44 (C871-22) F 7-24-75	Amoco Production Co., (successor to John B. Hawley, Jr. Trust No. 1), Security Life Bldg., Denver, Colo. 80202.	Cities Service Gas Co., Hugoton Field, Finney County, Kans.	[1] 13.5	14.65
C176-45 ..... A 7-24-75	PWG Partnership, P.O. Box 451, Albuquerque, N. Mex. 87103.	El Paso Natural Gas Co., Blanco Mesaverde Field, Rio Arriba County, N. Mex.	[1] 51.0	14.73

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.

[1] Subject to upward and downward British thermal unit adjustment.
[2] Subject to downward British thermal unit adjustment; includes 4.1125¢/Mc ft³ tax reimbursement.
[3] Applicant is willing to accept a certificate in accordance with sec. 2.56a of the Commission's "General Policy and Interpretations".
[4] Subject to upward and downward British thermal unit adjustment; estimated upward adjustment is 0.53¢/Mc ft³.
[5] Subject to upward and downward British thermal unit adjustment; estimated upward adjustment is 0.38¢/M ft³; includes 7¢/M ft³ tax reimbursement.

[FR Doc.75-21440 Filed 8-14-75;8:45 am]

[Docket No. RP74-26, AP76-1]

LOUISIANA-NEVADA TRANSIT CO.

Proposed Changes in FPC Gas Tariff

AUGUST 8, 1975.

Take notice that Louisiana-Nevada Transit Company (LNT) on August 1, 1975, tendered for filing proposed changes in its FPC Gas Tariff, Volume 1. The proposed changes are to reflect advance payments tracking as provided in the Settlement Agreement approved by Commission Order dated April 1, 1975, in Docket No. RP74-26. The change provides for an adjustment of 1.26¢ per Mcf. LNT proposes an effective date of September 2, 1975, for the adjustment.

LNT states that copies of the filing were served upon the company's jurisdictional customer and the Arkansas Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 21, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21432 Filed 8-14-75;8:45 am]

[Docket Nos. RP74-26, PGA 76-1]

LOUISIANA-NEVADA TRANSIT CO.

Proposed PGA Rate Adjustment

AUGUST 8, 1975.

Take notice that on July 14, 1975, Louisiana-Nevada Transit Company (LNT), tendered for filing Third Revised Sheet No. PGA-1 to FPC Gas Tariff, Original Volume No. 1, reflecting a proposed PGA rate decrease. LNT states that the filing would effectuate a PGA decrease of 0.79¢ per Mcf reflecting a 1.92¢ per Mcf decrease in the current cost of purchased gas, and about $96,000 of which about 20% is jurisdictional, and a 1.13¢ increase in the surcharge, from minus 0.04¢ to 1.09¢, to recover the balance in the deferred purchase gas cost account of $7,763. LNT states that the adjustment would lower the rate under Rate Schedule G-1 from 41.52¢ per Mcf to 40.73¢ per Mcf. LNT states that the proposed PGA decrease complies satisfactorily with Section 10 (PGA Clause) of its tariff. LNT requests an effective date for the proposed PGA rate decrease of September 1, 1975.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 26, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21433 Filed 8-14-75;8:45 am]

[Rate Schedule Nos. 8, etc.]

MARATHON OIL COMPANY, ET AL.

Rate Change Filings

AUGUST 8, 1975.

Take notice that the producers listed in the Appendix attached hereto have filed proposed increased rates to the applicable new gas national ceiling based on the interpretation of vintaging concepts set forth by the Commission in its Opinion No. 699-H, issued December 4, 1974. Pursuant to Opinion No. 699-H the rates, if accepted, will become effective as of the date of filing.

The information relevant to each of these sales is listed in the Appendix.

Any person desiring to be heard or to make any protest with reference to said filings should on or before August 28, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). A protest will not serve to make the protestant a party to the proceeding. Any party wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

Filing date	Producer	Rate schedule No.	Buyer	Area
Aug. 4, 1975....	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840.	8	Tennessee Gas Pipeline Co.	Texas Gulf Coast.
Do.....	George R. Brown, 800 San Jacinto Bldg., Houston, Tex. 77002.	12	Transcontinental Gas Pipe Line Corp.	South Louisiana.

[FR Doc.75-21442 Filed 8-14-75;8:45 am]

[Docket No. G-18419, etc.]

MICHIGAN WISCONSIN PIPE LINE CO.

Order Approving Refund Plan and Requiring Further Refunds

AUGUST 8, 1975.

On October 22, 1968, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) filed herein a proposed plan to refund to its customers the amount of $1,025,791.83, covering periods from 1960 through August 31, 1966. These refunds represent the flow-through by Michigan Wisconsin of various supplier refunds.

Notice of the filing of the subject refund plan was issued on May 25, 1973, providing for protests or petitions to intervene to be filed on or before June 5, 1975. No protests, petitions to intervene, or other comments have been received in response to the notice.

In addition to the above refunds of $1,025,971.83, Michigan Wisconsin's refund plan shows an amount of $227,270.05 in refunds received from Northern Natural Gas Company (Northern Natural) and applicable to the same refund period. Michigan Wisconsin does not propose to flow this amount through to its customers.

In a letter dated December 14, 1968, Michigan Wisconsin contends it is not required to flow through the $227,270.05 since its rates during the refund period, which were established in Opinion No. 387, issued May 16, 1963, (29 FPC 932), were based on a stipulated test year cost of service which did not include the purchase from Northern Natural. The test year utilized in that docket was the 12 months ended August 31, 1960. Michigan Wisconsin's purchase from Northern Natural did not commence until January, 1962.

We cannot agree with Michigan Wisconsin. Ordering paragraph (M)(3) of Opinion 387 established Michigan Wisconsin's refund flow-through obligations as follows (29 FPC 952):

In conformity with paragraph (L) of the Examiner's decision, if Michigan Wisconsin receives any refunds from any gas suppliers applicable to the period subsequent to September 15, 1957 by virtue of any final Commission order, Michigan Wisconsin shall pass on to its customers the amounts of such refunds, with interest, as the Commission's order approving Michigan Wisconsin's proposed plan for making such refunds may prescribe, but refunds shall not be required until the refunds received from the suppliers aggregate $265,000. Michigan Wisconsin shall file its plan for making such refunds with the Commission within 30 days of the date such refunds aggregate $265,000, and shall simultaneously serve such plan on its customers.

The above-quoted order evidences no intent to limit the refund flow-through obligation on grounds such as that now claimed by Michigan Wisconsin. Moreover, Michigan Wisconsin's obligation to flow-through all future supplier refunds is not diminished by the subsequent settlement agreement approved by the Commission by order of April 13, 1967, in Docket No. RP64-38. Article V(2) of the settlement stipulation provided that:

Refunds received by Michigan Wisconsin from any of its suppliers relating to gas purchases made prior to September 1, 1966, shall be refunded in accordance with the provisions of presently outstanding Commission orders. Nothing in this Paragraph (2) is intended to diminish any of the refund obligations of Michigan Wisconsin under any of its prior Settlement Agreements or Commission orders.

Finally, Michigan Wisconsin's all-inclusive flow-through obligation with respect to supplier refunds is all the more certain when contrasted with its obligation regarding supplier rate reductions pursuant to ordering paragraph (M)(2) of Opinion 387 (29 FPC 952). This latter obligation is specifically limited to the flow-through of reductions in those suppliers' rates used to compute the cost of service upon which Michigan Wisconsin's rates were based.

In conclusion we find that Michigan Wisconsin is required, under the terms of ordering paragraph (M)(3) of Opinion 387, to flow-through to its customers the $227,270.05 of refunds received from Northern Natural. Since we are separately ordering the additional flow-through of refunds, and since Michigan Wisconsin's refund plan of October 22, 1968, showing the proposed disbursement of $1,025,791.82 appears correct in all respects as to the refunds there proposed to be made, such refund plan will be approved.

The Commission orders:

(A) The refund plan submitted herein by Michigan Wisconsin on October 22, 1968, is hereby approved subject to the terms of this order.

(B) Michigan Wisconsin shall, within 30 days from the date of this order, make its refunds in accordance with the plan approved in paragraph (A) above, and shall file a report thereof with the Commission.

(C) Michigan Wisconsin shall, within 30 days from the date of this order, disburse to its customers the additional sum of $227,270.05 plus any accrued interest, and shall file a report thereof with the Commission.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21434 Filed 8-14-75;8:45 am]

[Docket No. E-9502]

MINNESOTA POWER & LIGHT CO.

Filing of Revised Data Pursuant to Order

AUGUST 8, 1975.

Take notice that Minnesota Power & Light Company on August 4, 1975, tendered for filing revised data reflecting the exclusion of construction work in progress from rate base for facilities that will not be placed in service prior to January 1, 1976. The filing was made in compliance with the Commission's Order issued July 18, 1975, in the above-referenced proceedings.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 25, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21435 Filed 8-14-75;8:45 am]

[Docket No. E-9046]

MONTAUP ELECTRIC CO.

Further Extension of Procedural Dates

AUGUST 8, 1975.

On August 5, 1975, Staff Counsel filed a motion to extend the procedural dates

fixed by order issued December 18, 1974, as most recently modified by notice issued June 16, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff Testimony, September 24, 1975.
Service of Intervenor Testimony, October 8, 1975.
Service of Company Rebuttal, October 22, 1975.
Hearing, November 4, 1975 (10 a.m. est).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21436 Filed 8-14-75;8:45 am]

[Docket No. RP71-125; PGA 74-4A]

NATURAL GAS PIPELINE CO. OF AMERICA

Extension of Procedural Dates

AUGUST 8, 1975.

On August 4, 1975, Natural Gas Company of America (Natural) filed a motion to extend the procedural dates fixed by order issued July 7, 1975, in the above-designated matter.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Natural and Producer Direct Evidence, September 17, 1975.
Hearing, October 7, 1975 (10 a.m. edt).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21437 Filed 8-14-75;8:45 am]

[Docket No. RP74-80]

NORTHERN NATURAL GAS CO.

Filing of Stipulation and Agreement

AUGUST 8, 1975.

On April 11, 1974, Northern Natural Gas Company (Northern) filed revised tariff sheets providing increased rates of approximately $42,949,000 annually to jurisdictional customers, based on adjusted sales for the twelve (12) months ended December 31, 1973. An effective date of May 27, 1974 was requested, but the increase was suspended until October 27, 1974 by the Commission's suspension order issued May 20, 1974. The increase as effectuated subject to refund, was reduced to approximately $42,256,000 annually to comply with certain conditions imposed by the Commission's suspension order of May 20, 1974, *supra* and the order of July 15, 1974. On August 1, 1975, Northern filed a Stipulation and Agreement which, according to Northern provides a total increase of approximately $31,424,000 which includes $6,085,293 attributable to the reserved issue relating to Northern's request for cost-of-service treatment for its exploration efforts in the Hugoton-Anadarko Area which is pending hearing in the proceedings at Docket No. RP74-75.

Northern states that the Stipulation provides for separate composite depreciation rates which, when applied to test period gross depreciable plant balances, result in a 4.25% annual weighted average rate. Northern further states that the Stipulation and Agreement contemplates and requests that the Commission decide on the merits based on record evidence that Northern should be permitted to continue the group billing procedures as authorized in Northern Natural Gas Company FPC Gas Tariff, Third Revised Volume No. 1.

On August 6, 1975, Northern Illinois Gas Company (NI-Gas) filed a request that the notice of Northern's Stipulation and Agreement recognize that fact that NI-Gas has filed with the Presiding Administrative Law Judge a Motion to sever and set for hearing the issue of the appropriate credit to Northern's cost of service for sales of extracted liquids.

The Stipulation and Agreement is on file with the Commission and is available for public inspection. Comments with respect to the Stipulation and Agreement may be filed with the Commission on or before August 21, 1975. Any replies thereto may be filed on or before August 28, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21420 Filed 8-14-75;8:45 am]

[Docket Nos. E-8850, E-8993, and E-8994]

PUGET SOUND POWER & LIGHT CO.

Tendered Compliance Filing

AUGUST 6, 1975.

Take notice that on June 19, 1975, Puget Sound Power & Light Company (Puget), submitted for filing copies of certain rate schedules and attachments pursuant to paragraph E of the Commission's Order issued June 3, 1975, Approving Settlement Agreement Subject to Conditions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 22, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21421 Filed 8-14-75;8:45 am]

[Project No. 2161]

ST. REGIS PAPER CO.

Extension of Time

AUGUST 8, 1975.

On August 5, 1975, St. Regis Paper Company filed a request for an extension of the time within which to accept the Commission's order of June 3, 1975, in the above-designated matter.

Upon consideration, notice is hereby given that St. Regis Paper Company has until August 20, 1975 to accept the June 3, 1975 order, in the above matter.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21438 Filed 8-14-75;8:45 am]

[Docket No. RP71-6, *et al.*]

TENNESSEE GAS PIPELINE CO.

Extension of Time

AUGUST 7, 1975.

On July 28, 1975, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. filed a motion for an extension of time for disbursement of refunds as required by order issued February 7, 1975, as modified by order issued June 16, 1975, in the above-designated matter.

Notice is hereby given that the time for disbursement of refunds in the above matter is extended to and including October 7, 1975.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21422 Filed 8-14-75;8:45 am]

[Docket Nos. RP71-130, *et al.*]

TEXAS EASTERN TRANSMISSION CORP.

Proposed Changes in FPC Gas Tariff

AUGUST 7, 1975.

Take notice that Texas Eastern Transmission Corporation, on July 29, 1975, tendered for filing proposed changes in its FPC Gas Tariff, Fourth Revised Volume No. 1. The proposed changes would extend until August 1, 1976, the provision in the General Terms and Conditions which exempts small customers (10,000 Mcfd or less) of Texas Eastern from curtailment on a daily basis by allowing them to take daily quantity of gas up to their MDQ contractual entitlements on days of peak demand.

This provision was initially filed October 16, 1973, and approved by Commission Order dated November 2, 1973, to be effective Novmeber 1, 1973. By its express terms the provision was to expire August 31, 1974, or on the date an Order of the Commission made effective an approved curtailment plan for Texas Eastern in the subject Docket, whichever occurred first. As a result of conferences held on June 27, 1974 and July 16, 1974 in this Docket, Texas Eastern agreed to continue the effectiveness of the small customer exemption provision until August 31, 1975. Texas Eastern now proposes to extend the small customer provision until August 31, 1976, since a curtailment plan for the subject Docket has not been approved.

Copies of the filing were served upon all parties of record.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal

Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 19, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21423 Filed 8-14-75;8:45 am]

[Docket No. E-7929]

TOLEDO EDISON CO.

Filing of Revised Tariff Sheets

AUGUST 7, 1975.

Take notice that on August 1, 1975, the Toledo Edison Company (Toledo) tendered for filing revised tariff sheets to its FPC Electric Service Tariff, Original Volume 1 applicable to sales to Municipalities for Resale. The following revised sheets are filed pursuant to Ordering Paragraph II of the Commission's Order Conditionally Approving Settlement, issued June 17, 1975 in the above captioned docket, and part 35 of the Commission's Regulations :

Third Revised Sheet No. 5 superseding Second Revised Sheet No. 5.
Third Revised Sheet No. 6 superseding Second Revised Sheet No. 6.
Third Revised Sheet No. 7 superseding Second Revised Sheet No. 7.
Third Revised Sheet No. 8 superseding Second Revised Sheet No. 8.
Second Revised Sheet No. 12 superseding First Revised Sheet No. 12.

Toledo states that the Municipal Resale Service Rate (Sheet 5), the Monthly Billing Demand (Sheet 7) and the Monthly Minimum Charge (Sheet 8) have been revised to exclude costs for providing spinning reserves for the benefit of the Municipalities of Bryan and Napoleon, and that the fuel adjustment charge (Sheets 6 and 12) has been revised to conform to the provisions of Commission Regulation 35.14 in effect on April 30, 1973. These revisions are made pursuant to Ordering Paragraph (A)(1) and Paragraph (A)(4), respectively, of the Commission's June 17, 1975, Order.

Toledo's filing also contained an unexecuted form of agreement between Toledo and the municipalities of Bryan and Napoleon, Ohio detailing a spinning reserve charge. Toledo states that this form of agreement is submitted in compliance with Ordering Paragraph (A)(2) and (3) of the Commission's Order issued June 17, 1975.

Toledo states that copies of this filing have been served upon its jurisdictional customers and all parties of record in this docket.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 25, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21425 Filed 8-14-75;8:45 am]

[Docket Nos. RP72-99, RP75-51]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Order Directing Issuance of Subpoena Duces Tecum for the Production of Certain Books and Records

AUGUST 8, 1975.

The proceeding in Docket No. RP72-99 involves the determination of a permanent curtailment plan to be invoked on the system of Transcontinental Gas Pipe Line Corporation (Transco). Certain determinations made in that proceeding have been appealed in the Court. *Transcontinental Gas Pipe Line Corporation* v. *F.P.C.*, CADC No. 74-2036. On August 1, 1975, the Court issued an order to this Commission directing it, *inter alia*, (*Transco, ibid.*) :

Now, therefore, this Court will hold in abeyance any decision under the order of the Federal Power Commission concerning Transco's plan for allocating the allegedly scarce gas supply until the Commission has completed its own investigation and report to this Court of Transco's claims of reduced reserves by immediate subpoena of Transco's books and records pertaining to all gas supplies in which it has any legal interest, whether by ownership, lease, contract, or other means and by field investigation has determined the extent of the reduced reserves and the bona fides of Transco and its suppliers in meeting their past and future contract requirements;

We have instructed our Solicitor to seek rehearing *en banc* of the Court's order. However, pending that review, we direct the Secretary to issue a subpoena in compliance with the Court's order and instruct the Staff assigned to the investigation in Docket No. RP75-51 to conduct a "field investigation" to determine "the extent of the reduced reserves and the bona fides of Transco and its supplies in meeting their past and future contract commitments." Our action in complying with the Court's order is an endeavor to not delay the initiation of the investigation ordered by the Court in the event that our petition for rehearing is denied. However, we feel constrained to note that even with the immediate compliance with the Court's order here initiated, in our judgment the investigation as detailed by the Court cannot be finished within the thirty day completion deadline set in the Court's order.

Since the proceeding in Docket No. RP75-51 involves an investigation into the necessity for any curtailment on Transco's system, the material to be subpoenaed under the Court's order is also relevant to that ongoing investigation. We will, therefore, direct that the subpoena be issued in that docketed proceeding. However, such a joint issuance of a subpoena should not be construed as requiring in any manner or for any reason the consolidation of the proceedings in Docket Nos. RP72-99 and RP75-51 and does not require Transco to make a duplicate filing.

The Commission finds. In compliance with the Court's order, good cause exists to direct the Secretary of the Commission to issue a *subpoena duces tecum* as hereinafter ordered.

The Commission orders. The Secretary of the Commission is hereby directed to immediately issue a *subpoena duces tecum* addressed to William J. Bowen, President and Chief Executive Officer of Transcontinental Gas Pipe Line Corporation to produce or cause to be produced Transco's "books and records pertaining to all gas supplies in which it has any legal interest, whether by ownership, lease, contract, or other means," and to produce or cause to be produced those books and records in the office of the Secretary of the Commission, 825 North Capitol, NE., Washington, D.C., 20426, on or before August 15, 1975.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21564 Filed 8-14-75;8:45 am]

[Docket No. ER76-51]

UNION ELECTRIC CO.

Change in Rates

AUGUST 8, 1975.

Take notice that on August 4, 1975, Union Electric Company (UE) tendered for filing a proposed change in its Wholesale Electric Service Agreement for service to the City of St. James, Missouri. UE states that the proposed changes provide for increasing contract capacity and a second source of supply. UE states that a copy of the Agreement has been sent to the City of St. James and the Missouri Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in

accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21439 Filed 8-14-75;8:45 am]

[Docket No. ER76-49]

VIRGINIA ELECTRIC & POWER CO.

Tendered Revised Contract Supplements

AUGUST 6, 1975.

Take notice that on July 31, 1975, Virginia Electric and Power Company (VEPCO), tendered for filing revised supplements to contracts between VEP CO and Shenandoah Valley Electric Cooperative. VEPCO states that the revised contract supplements correct certain items to reflect changes made in the past at various delivery points as set forth below:

Delivery point	Present FPC No.	Proposed FPC No.	Requested effective date	Item corrected
Dayton	84-13	84-30	May 16, 1975	5(2), 5(3).
Gardner Springs	84-6	84-31	Dec. 19, 1974	4, 5(2), 5(3), 7, 9.
Timberville	84-8	84-32	July 19, 1975	5(3), 9.
Cold Springs	84-4	84-33	July 1, 1975	5(3), 7, 9.
Woodstock	84-16	84-34	June 18, 1975	5(2), 5(3), 7.

VEPCO states that the revised contract supplements are intended to supersede the listed FPC Rate Schedules and requests that the revised supplements be allowed to become effective on the requested effective dates.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 22, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21426 Filed 8-14-75;8:45 am]

[Docket No. ER 76-46]

MONTAUP ELECTRIC CO.

Filing of Revision of Wholesale Rates

AUGUST 7, 1975.

Take notice that on July 30, 1975, Montaup Electric Company ("Montaup") filed revisions providing for a new rate "M-2" for its bulk power supply service at wholesale for resale to the three retail subsidiaries of Eastern Utilities Associates, a public utility holding company. Those subsidiaries are the Brockton Edison Company and Fall River Electric Light Company in Massachusetts and the Blackstone Valley Electric Company in Rhode Island. Montaup states that it also furnishes bulk power supply service at wholesale for resale to four non-affiliated customers: the Pascoag Fire District, the Tiverton Division of The Narragansett Electric Company and Newport Electric Corporation, all in Rhode Island, and the Town of Middleboro, Massachusetts. Montaup also states that its bulk power supply service to its owner companies and non-affiliated customers is presently rendered pursuant to the M-1 rate as effective subject to refund since May 19, 1975, under the Commission's order issued December 18, 1974, in Docket No. E-9046.

According to Montaup, the M-2 rate would increase by $7,789,157, or 8.4 percent, Montaup's charges under the M-1 rate based on the test Period II consisting of the 12 months ended August 31, 1976. The filing allegedly does not affect the presently effective wholesale rates for Blackstone's subtransmission service to Pascoag, for Fall River's subtransmission service to Tiverton, or for Montaup's 115 kv radial service to Middleboro. The filing is requested to become effective on September 1, 1975.

According to Montaup the M-2 rate would increase the M-1 demand charge from $3.71 per kilowtt per month to $4.51 per month and would decrease the M-1 energy charge from 17.19 mills per kilowatt hour to 15.85 mills per kilowatt hour. Montaup states that the purpose of the filing is primarily to recover an increase in its demand costs when two generating units—Canal No. 2 jointly owned by Montaup and Canal Electric Company and Cleary No. 9, owned by the City of Taunton, Massachusetts—go into service. According to Montaup, those units are scheduled to go into service on September 1, 1975.

Copies of the filing were, according to Montaup, served on its jurisdictional wholesale customers affected by the filing and on the state commissions in Rhode Island and Massachusetts.

Any persons desiring to be heard or to make say protest with reference to said filing, should, on or before August 20, 1975, filed 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 participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The documents filed by Montaup are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21419 Filed 8-14-75;8:45 am]

[Docket No. ER76-41]

TOLEDO EDISON CO.

Tariff Change

AUGUST 7, 1975.

Take notice that The Toledo Edison Company, on July 16, 1975 tendered for filing proposed changes in its F.P.C. Electric Service Tariff, Original Volume No. 1 applicable to Sales to Municipalities for Resale. The changes consist of filing Service Agreements executed by the City of Napoleon and the Villages of Pemberville and Woodville, all in Ohio, and a Notice of Cancellation of Wholesale Sales to the Village of Liberty Center, Ohio.

Toledo Edison states that the executed Service Agreements with the City of Napoleon and the Village of Pemberville replace unexecuted agreements previously filed with the Commission. The Service Agreement with the Village of Woodville replaces a contract (Rate Schedule F.P.C. No. 19) which expired on May 31, 1975. An effective date of June 1, 1975 for the Agreements with Napoleon and Woodville and June 1, 1974 for the Agreement with Pemberville has been requested to comply with the terms of said Agreements.

Toledo Edison states that termination of wholesale service to the Village of Liberty Center is a result of the sale by the Village of its distribution system to the Company. The former customers of the Village are now being served by the Company at retail. The Commission has been requested to assign to this Notice of Cancellation the earliest effective date permitted by the Commission's rules.

Toledo Edison states that copies of this filing were served upon the jurisdictional customers affected by this action as well as the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 18, 1975. Protests will be considered by the Commission in de-

termining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-21424 Filed 8-14-75;8:45 am]

FEDERAL RESERVE SYSTEM

ALABAMA BANCORP.

Acquisition of Bank

Alabama Bancorporation, Birmingham, Alabama, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to Gadsden Mall Bank, Gadsden, Alabama. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 11, 1975.

Board of Governors of the Federal Reserve System, August 7, 1975.

[SEAL] ROBERT SMITH, III,
Assistant Secretary of the Board.

[FR Doc.75-21483 Filed 8-14-75;8:45 am]

BOULEVARD BANCSHARES, INC.

Order Approving Formation of Bank Holding Company

Boulevard Bancshares, Inc., Prairie Village, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) for formation of a bank holding company through the acquisition of 80 per cent or more of the voting shares of Boulevard State Bank, Wichita, Kansas ("Bank").

Notice of the application, affording an opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act (40 FR 25042 (1975)). The time for filing comments has expired, and the application and all comments received have been considered in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a nonoperating corporation with no subsidiaries, was organized for the purpose of becoming a bank holding company through the acquisition of Bank. Upon acquisition of Bank, Applicant would control the 23rd largest bank in Kansas holding 0.50 per cent of total deposits in commercial banks in the State. Bank, with deposits of $36.8 million,[1] is the sixth largest of the 27 banks in the relevant banking market[2] and controls 3.35 per cent of the total commercial bank deposits therein.

The purpose of the transaction is to effect a transfer of the ownership from individuals to a corporation owned by the same individuals. The principals of the Applicant also have ownership interests in two one-bank holding companies in Kansas and one in Missouri. The subsidiary banks of these holding companies are located in separate banking markets. Consummation of the proposal would not have any adverse effects on existing or potential competition, nor would it increase the concentration of banking resources or have an adverse effect on other banks in the relevant market. Thus, competitive considerations are consistent with approval of the application.

The future prospects of Applicant are entirely dependent upon the financial resources of Bank. Applicant proposes to service the acquisition debt over an 11-year period through dividends of Bank. In light of the past earnings of Bank and its anticipated growth, the projected earnings of Bank appear to provide Applicant with the necessary financial flexibility to meet its annual debt servicing requirements and to maintain an adequate capital position for Bank. Therefore, considerations relating to banking factors are consistent with approval of the application.

Consummation of the proposal would effect no changes in the banking services offered by Bank, and considerations relating to the convenience and needs of the community to be served are consistent with approval. It has been determined 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 hereby approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the date of this Order, nor (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board of Governors or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Acting Secretary of the Board, acting pursuant to delegated authority from the Board of Governors, effective August 7, 1975.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.75-21484 Filed 8-14-75;8:45 am]

CHEMICAL FINANCIAL CORP.

Order Approving Acquisition of Bank

Chemical Financial Corporation, Midland, Michigan, 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 100 percent of the voting shares of The Bank of Albion, Albion, Michigan ("Bank").

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 the application and all comments received have been considered in light of the factors set forth in Section 3(a) of the Act (12 U.S.C. 1842(c)).

Applicant has one bank subsidiary, Chemical Bank and Trust Company, Midland, Michigan (deposits $137 million),[1] and one nonbank subsidiary. Applicant is the 25th largest bank holding company in Michigan, holding less than one percent of the total commercial bank deposits in the State. Upon acquisition of Bank, Applicant's share of commercial bank deposits in the State would continue to be less than one percent and its rank would not change. The proposed acquisition would not result in a significant increase in the concentration of banking resources in Michigan.

Bank holds deposits of $8.7 million, representing 2.2 percent of the total deposits of commercial banks in the relevant market, and is the fourth largest of seven banking organizations operating therein.[2] The office of Applicant's subsidiary bank closest to an office of Bank is located 103 miles away in Midland, Michigan. No meaningful competition presently exists between Applicant's subsidiary bank and Bank, nor does it appear likely that any significant competition would develop between them in the future in view of the distance involved and Michigan's restrictive branching laws. Although Applicant has the resources to enter the market *de novo*, consummation of the transaction would not foreclose potential competition, since Bank holds a small share of the relevant market deposits and is not now regarded as a significant competitor in the market. In addition, Bank's access to Applicant's greater financial and managerial resources should stimulate competition in a highly concentrated market in which the largest two banks hold over 87 percent of the commercial bank deposits. Accordingly, it is concluded that consummation of the proposal will have no significantly adverse effects on competition in any relevant area, and that competitive considerations are consistent with, and add some weight toward, approval of the application.

Considerations relating to the financial and managerial resources and future prospects of Applicant and Bank are gen-

[1] All banking data are as of June 28, 1974.
[2] Relevant banking market is approximated by Sedgwick County.

[1] All banking data are as of December 31, 1974.
[2] The relevant market is approximated by Jackson County and the eastern one-third of Calhoun County.

erally satisfactory and consistent with approval of the application. Accordingly, it is the judgment of this Reserve Bank that the proposed transaction would be in the public interest and that the application should be approved.

Applicant proposes to help Bank upgrade the services it offers to the public. Trust services not now available in the local Albion area would be introduced. Considerations relating to the convenience and needs of the community to be served are consistent with, and lend some weight toward, approval of the application.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three 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 Chicago pursuant to delegated authority.

By order of the Federal Reserve Bank of Chicago, acting pursuant to delegated authority for the Board of Governors, effective August 5, 1975.

[SEAL] DANIEL M. DOYLE,
First Vice President.

[FR Doc.75-21485 Filed 8-14-75;8:45 am]

GENERAL ACCOUNTING OFFICE

FEDERAL POWER COMMISSION

Regulatory Reports Review; Approval of Report Proposal Previously Denied

On July 1, 1975, the General Accounting Office (GAO) advised the Federal Power Commission (FPC) that it was denying clearance of the proposed FPC Form 40, Annual Report of Proved Domestic Gas Reserves. Notice of such action was published in the FEDERAL REGISTER on July 7, 1975 (40 FR 28528).

Since that time, the FPC has continued to furnish GAO with information regarding further efforts to eliminate duplication, reduce burden, explain the intended use of the data and explain changes it will recommend to the Commission as substantial revisions in the form's requirements and respondent universe. GAO has reviewed this information and has considered a revised Form 40 to have been resubmitted for clearance.

Notice is hereby given that GAO has considered the resubmission and has provided clearance only for the initial collection of data. GAO believes that much can be learned from analysis of the initial responses and the form perhaps could be improved as a result. Should FPC desire to continue to collect such information beyond the first collection, a resubmission of the form to GAO next year would be necessary. Such clearance was provided to the FPC by letter dated August 11, 1975, and limits the clearance through August 1, 1976. The clearance number is B-180228 (R0162).

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.75-21550 Filed 8-14-75;8:45 am]

NUCLEAR REGULATORY COMMISSION

DR. SPENCER BUSH

Certification Pursuant to 18 U.S.C. §§ 208 and 205

Pursuant to Sections 208 and 205, Title 18 U.S.C. (Pub. L. 87-849, 76 Stat. 1124), it is hereby certified by the Nuclear Regulatory Commission, for the reasons set forth below, that the national interest requires that an exemption from said sections be granted to Dr. Spencer Bush, an employee of Battelle Memorial Institute, Battelle Northwest (BNW), and a member of the Nuclear Regulatory Commission's Advisory Committee on Reactor Safeguards (ACRS), so that he may be permitted to act as agent for BNW before the Nuclear Regulatory Commission's staff in the performance of work under contract E(45-1)-1830 between BNW and the Energy Research and Development Administration.

The Commission believes that the national interest requires that the work performed for it by BNW be of the highest possible caliber and fully responsive to the Commission's needs. Because of his many years experience in nuclear technology and reactor safety and his outstanding scientific and technical abilities Dr. Bush is uniquely qualified to advise the NRC on matters involving his areas of expertise. This exemption from sections 208 and 205 of Title 18 U.S.C. shall not permit Dr. Bush to act as agent for BNW in dealing with the ACRS in any particular matter involving BNW.

Dated at this 11th day of August 1975.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.75-21487 Filed 8-14-75;8:45 am]

DR. STEPHEN LAWROSKI

Certification Pursuant to 18 U.S.C. §§ 208 and 205

Pursuant to Sections 208 and 205, Title 18 U.S.C. (Pub. L. 87-849, 76 Stat. 1124), it is hereby certified by the Nuclear Regulatory Commission, for the reasons set forth below, that the national interest requires that an exemption from said sections be granted to Dr. Stephen Lawroski, an employee of University of Chicago (which operates Argonne National Laboratory for the Energy Research and Development Administration) and a member of the Nuclear Regulatory Commission's Advisory Committee on Reactor Safeguards (ACRS), so that he may be permitted to act as agent for the laboratory before NRC staff in the performance of work under contract W-31-109-ENG-38, between the University and ERDA.

The Commission believes that the national interest requires that the work performed for it by ANL be of the highest possible caliber and fully responsive to the Commission's needs. Dr. Lawroski has played a leading role in work involving the development of standards and criteria relating to safeguards against the unauthorized diversion of special nuclear materials. For this reason, and because of his outstanding scientific and technical abilities Dr. Lawroski is uniquely qualified to advise the NRC on matters involving his areas of expertise. This exemption from sections 208 and 205 of Title 18 U.S.C. shall not permit Dr. Lawroski to act as agent for the laboratory in dealing with the ACRS in any particular matter involving the University.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

Dated at this 11th day of August 1975.

[FR Doc.75-21488 Filed 8-14-75;8:45 am]

DR. WILLIAM R. STRATTON

Certification Pursuant to 18 U.S.C. §§ 208 and 205

Pursuant to Sections 208 and 205, Title 18 U.S.C. (Pub. L. 87-849, 76 Stat. 1124), it is hereby certified by the Nuclear Regulatory Commission, for the reasons set forth below, that the national interest requires that an exemption from said sections be granted to Dr. William R. Stratton, an employee of the University of California (which operates Los Alamos Scientific Laboratories for the Energy Research and Development Agency) and a member of the Nuclear Regulatory Commission's Advisory Committee on Reactor Safeguards (ACRS), so that he may be permitted to act as agent for the laboratory before the Commission's staff in the performance of work under contract W-7405-ENG-36 between the University and ERDA.

The Commission believes that the national interest requires that the work performed for it by LASL be of the highest possible caliber and fully responsive to the Commission's needs. Dr. Stratton has had a leading and unique role for many years in the development of an analytical model to calculate nuclear transients in fast reactor systems. For this reason, and because of his outstanding scientific and technical abilities Dr. Stratton is uniquely qualified to advice the NRC on matters involving his areas of expertise. This exemption from sections 208 and 205 of Title 18 U.S.C. shall not permit Dr. Stratton to act as agent for the laboratory in dealing with the

ACRS in any particular matter involving the laboratory.

For the Nuclear Regulatory Commission.

Dated at this 11th day of August 1975.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.75-21489 Filed 8-14-75;8:45 am]

[Docket Nos. 50-280 and 50-281]

VIRGINIA ELECTRIC & POWER CO.

Issuance of Amendments to Facility Operating Licenses

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments No. 9 to Facility Operating Licenses No. DPR-32 and DPR-37 issued to Virginia Electric & Power Company (VEPCO) which revised Technical Specifications for operation of the Surry Power Station, Units 1 and 2, located in Surry County, Virginia. The amendments are effective as of the date of issuance.

The amendments revise the provisions in the Technical Specifications relating to a revision of the high steam flow setpoints.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments is not required since the amendments do not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendments dated July 5, 1974, as supplemented November 13, 1974, April 11 and July 10, 1975, (2) Amendments No. 9 to Licenses No. DPR-32 and DPR-37, with Change No. 24, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commision's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Swem Library, College of William & Mary, Williamsburg, Virginia 23185.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland, this 7th day of August 1975.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,
Chief, Operating Reactors Branch #1, Division of Reactor Licensing.

[FR Doc.75-21491 Filed 8-14-75;8:45 am]

[Docket Nos. 50-338 and 50-339]

VIRGINIA ELECTRIC AND POWER CO. (NORTH ANNA POWER STATION, UNITS 1 AND 2)

Order Rescinding Suspension of Certain Construction Activities

On February 4, 1972, the Director of Regulation of the Atomic Energy Commission issued an order suspending construction activities involving the offsite portions of the transmission lines from the North Anna Power Station, Units 1 and 2, pending completion of the Commission's review of such activities pursuant to the National Environmental Policy Act of 1969 (NEPA) and the Commission's regulations, 10 CFR Part 50, Appendix D. Three 500-kV transmission lines were proposed as a part of Units 1 and 2 and were affected by this order. They are known as the North Anna-Ladysmith transmission line, the North Anna-Morrisville transmission line, and the North Anna-Midlothian transmission line.

Due to the applicant's need for additional transmission capacity to carry electrical energy to the site for plant construction requirements, the AEC Regulatory staff completed its review of the North Anna-Ladysmith line prior to the remainder of the review of Units 1 and 2. The Director of Regulation then made a determination that offsite construction activities related to this line should no longer be suspended pending completion of the full NEPA review and issued an order to this effect on September 29, 1972. The North Anna-Ladysmith line was then constructed and is now complete. However, suspension of such activities relative to the two other 500-kV transmission lines from Units 1 and 2 remained in effect.

The AEC Directorate of Licensing issued its Final Environmental Statement in April 1973 "relative to the continuation of construction and the operation of Units 1 and 2 and the construction of Units 3 and 4." In this statement the Regulatory staff reviewed and found acceptable these facilities, including all three transmission lines from North Anna Units 1 and 2 and a fourth 500-kV transmission line which is to be constructed from North Anna to Possum Point as a part of Units 3 and 4.

Pursuant to the Commission's Regulations in 10 CFR Part 50, Appendix D, Section B, on December 19, 1972, a Notice of Hearing was published (37 FR 28313, December 22, 1972). The Notice provided that a hearing was to be held to determine whether the construction permits for North Anna Units 1 and 2 should be terminated, continued, or modified, or conditioned for the protection of the environment. In response to that Notice, intervention was requested, and granted, respecting the routing of Applicant's proposed North Anna-to-Morrisville line. In August 1974, a hearing was held in accordance with the Notice. By agreement of all parties—the staff, the Applicant, and Intervenors—the presiding Atomic Safety and Licensing Board postponed consideration of the contested North Anna-Morrisville transmission line. The Board did consider the North Anna-Ladysmith line and the North Anna-Midlothian line and concluded that adverse environmental impacts of these two transmission lines "can be expected to be small." The Board issed an order dated October 31, 1974, which authorized the Director of Regulation to rescind his Order of February 4, 1972, suspending work on the Applicant's North Anna-Midlothian line, subject to the conditions set forth in Section VIII of the Board's Partial Initial Decision dated October 31, 1974.

IT IS HEREBY ORDERED, That the suspension of construction activities related to the North Anna-Midlothian 500-kV transmission line is lifted, subject to the following conditions:

1. The applicant shall endeavor to minimize the impacts of the transmission lines to be constructed from the Station and to include the following procedures.

(i) Retain and augment as necessary the vegetation at road and river crossings, homesites and major water bodies to screen the transmission lines.

(ii) Change the alignment of transmission lines on both sides of major road crossings where vegetation will be inadequate to avoid long views down the right-of-way.

(iii) Place the tower structures along the lower slopes in hilly terrain, rather than on the commonly visible high points, unless a long span is necessary that cannot otherwise be reasonably accomplished.

(iv) Control the application of herbicides to rights-of-way so as to prevent drift and apply no herbicides on rights-of-way over pasture, cropland and irrigation ditches or near water bodies, homes and recreation areas.

2. A control program shall be established by the Applicant to provide a periodic review of all construction activities to assure that those activities conform with the environmental conditions set forth in the construction permit.

3. Before engaging in a construction activity which may result in a significant adverse environmental impact that was not evaluated in the Environmental Statement, the Applicant shall provide written notification to the Division of Reactor Licensing.

4. If unexpected harmful effects or evidence of irreversible damage are detected during facility construction, the Applicant shall provide an acceptable analysis of the problem and a plan of action to eliminate or significantly reduce these harmful effects or this damage.

The suspension order of February 4, 1972, continues in effect with regard to the North Anna-Morrisville transmission line.

Dated at Bethesda, Maryland this 4th day of August 1975.

For the Nuclear Regulatory Commission.

BEN C. RUSCHE,
Director,
Office of Nuclear Reactor Regulation.

[FR Doc.75-21490 Filed 8-14-75;8:45 am]

[Docket No. 50-331]

IOWA ELECTRIC LIGHT AND POWER CO., ET AL.

Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-49 issued to Iowa Electric Light and Power Company, Central Iowa Power Company, and Corn Belt Power Cooperative, (the licensees), for operation of the Duane Arnold Energy Center, located in Linn County, Iowa.

The amendment would revise the provisions in the Technical Specifications to permit operation of the facility using a partial fuel loading of 8 x 8 fuel assemblies and with modifications to the rod sequence control system in accordance with the licensees' application for license amendment dated May 30, 1975. The amendment, among other things, would modify operating limits in the technical specifications based upon an evaluation of emergency core cooling system (ECCS) performance calculated in accordance with an acceptable evaluation model that conforms to the requirements of the Commission's regulations in 10 CFR Part 50, § 50.46.

The licensees intend to supplement this application in October 1975 by submitting the following to the Commission:

1. Submittal in the format of Appendix A to NEDO-20360 as approved at that time which includes the appropriate safety and transient analyses. These analyses must demonstrate compliance of the Duane Arnold Energy Center with the Final Acceptance Criteria for emergency core cooling systems embodied in 10 CFR § 50.46 and 10 CFR Part 50, Appendix K;

2. Proposed revisions to the technical specifications based on the results of the appropriate safety and transient analyses;

3. Proposed revisions to the technical specifications for operation with the modified rod sequence control system;

4. Other information filed as a result of Commission requests.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By September 15, 1975 the licensees may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Jack R. Newman, Esquire, Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue, N.W., Washington, D.C. 20036, the attorney for the licensees.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine the witnesses.

For further details with respect to this action, see (1) the application for amendment dated May 30, 1975, (2) the Technical Report on the General Electric Company 8 x 8 Fuel Assembly dated February 5, 1974, by the Directorate of Licensing, (3) the Report of the Advisory Committee on Reactor Safeguards dated February 12, 1974, (4) the Licensing Topical Report, General Electric Boiling Water Reactor Generic Reload Application for 8 x 8 Fuel, NEDO-20360, as supplemented May 30, 1975, and (5) Amendment No. 15 to Duane Arnold Energy Center Final Safety Analysis Report, dated January 8, 1975, which describes the proposed modifications to the rod sequence control system. All of these documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Reference Service, Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401. The Commission is also considering NEDE-20360, as supplemented May 30, 1975, which is General Electric's proprietary supplement to NEDO-20360. The supplement to this application, to be filed in October 1975, will also be available for inspection at the above locations as soon as received. The license amendment and the Safety Evaluation, when issued, may be inspected at the above locations and a copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 7th day of August 1975.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Reactor Licensing.

[FR Doc.75-21286 Filed 8-14-75;8:45 am]

[Docket No. 50-285]

OMAHA PUBLIC POWER DISTRICT

Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-40 issued to Omaha Public Power District (the licensee), for operation of the Fort Calhoun Station Unit 1 located in Washington County, Nebraska.

The amendment would revise the provisions in the Technical Specifications to: (1) Allow reactor operation at fuel exposures greater than 3000 MWD/MTU and; (2) incorporate operating limits that result from analyses performed using predicted Cycle 2 core conditions for fuel exposures greater than 3000 MWD/MTU, in accordance with the licensee's application for amendment, dated July 11, 1975. By License Amend-

ment No. 7, dated July 30, 1975, the licensee, was authorized to operate Fort Calhoun Station Unit 1 at 100% power up to a fuel exposure of 3000 MWD/MTU.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations.

By September 15, 1975, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations.

A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and Section 2.714, and must be filed with the Secretary of the Committee, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Hope Babcock, Esquire, LeBoeuf, Lamb, Leiby & MacRae, 1757 N Street, NW., Washington, D.C. 20036, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated July 11, 1975, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Blair Public Library, 1665 Lincoln Street, Blair, Nebraska 68008. The license amendment and the Safety Evaluation, when issued, may be inspected at the above locations and a copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 12th day of August, 1975.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch #3, Division of Reactor Licensing.

[FR Doc.75-21588 Filed 8-14-75;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on August 8, 1975 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

VETERANS ADMINISTRATION

Application for Authority to Close Section 1819 (Mobile Home) Loans on an Automatic Basis-Nonsupervised Lenders, 26-8742, on occasion, lenders, Caywood, C. P., 395-3443.

ENVIRONMENTAL PROTECTION AGENCY

Fuel Manufacturer Notification—Reports Other (See SF-83), petroleum industry, Lowry, R. L., 395-3772.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service Exchange of Old Series Coupons for New Series Coupons—Food Stamp Program, single-time, food stamp reporting points, Lowry, R. L., 395-3772.

DEPARTMENT OF DEFENSE

Departmental and other Armed Forces Advertising Effectiveness Questionnaire, single-time, individuals in 24 SMSAS, Dick Eisinger, 395-6140.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development National Day Care Study: Research Program Information System, single-time, day care cehters, Reese, B. F., 395-3211.

Office of Human Development National Day Care Study: Parent Interview, on occasion, parents of 3 and 4 yr. olds, Reese, B. F., 395-3211.

Health Services Administration Professional Standards Review Organization Routine Federal Reporting Requirements, BQA 0606, quarterly, professional standards review organizations, Lowry, R. L., 395-3772.

DEPARTMENT OF LABOR

Departmental and other Interdepartmental Workers' Compensation Task Force—Claim Survey IWCTF 01, single-time, business firms, Strasser, A., 395-5867.

REVISIONS

VETERAN'S ADMINISTRATION

Veterans Application for Work-Study Allowance, 20-8691, on occasion, veterans, Caywood, C. P., 395-3443.

ENVIRONMENTAL PROTECTION AGENCY

Fuel Additives Registration—Additive Manufacturer, NAPCA-HQ, on occasion, chemical manufacturers, petroleum industry, Lowry, R. L., 395-3772.

DEPARTMENT OF DEFENSE

Defense Civil Preparedness Agency Program Paper for Local Civil Defense, DCPA 744-A, annually, local civil preparedness directors/coordinators, Lowry, R. L., 395-3772.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration Youth Alcohol Education Material Dissemination and Promotion, single-time, teachers, Planchon, P., 395-6140.

Federal Aviation Administration Measuring the Effects of System Operating Policies on the Travel Behavior and Desires of Individuals, single-time, samples of households in Los Angeles, Calif., Strasser, A., 395-5867.

EXTENSIONS

VETERANS ADMINISTRATION

Follow-Up Letter to Educationally Disadvantaged Veterans, FL23-657, on occasion, disadvantaged veterans, Caywood, D. P., 395-3443.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.75-21569 Filed 8-14-75;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on August 12, 1975 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202–395–4529), or from the reviewer listed.

NEW FORMS

TENNESSEE VALLEY AUTHORITY

Electric Load Survey Guide, TVA 6233, TVA 6233A, TVA 6233B, semi-annually, households and business firms, Hulett, D. T., 395–4730.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration Application for Fishing Information and Questionnaire, single-time, tuna fishermen, Caywood, D. P., 395–3443.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health DHEW Secretary's Task Force on Compensation of Injured Research Subjects Survey Questionnaire, OSNIH OD–7, single-time, medical doctors, Dick Eisinger, 395–6140.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Administration (Office of Ass't. Sec'y.) HUD Relocation Evaluation Questionnaire, single-time, households relocated by urban renewal in 2 cities, Community & Veterans Affairs Division, 395–3532.

Administration (Office of Ass't. Sec'y.) HUD Real Estate Sector Study: Buyers and Sellers Questionnaire, single-time, buyers and sellers in six neighborhoods, Community & Veterans Affairs Division, Hulett, D. T. 395–3532.

DEPARTMENT OF JUSTICE

Departmental and Other:
Innovation Checklist for Defenders, 3600, single-time, chief defenders or their designates, George Hall, 395–6140.
Innovation Checklist for Prosecutors, 3600, single-time, chief prosecutors or their designates, George Hall, 395–6140.

DEPARTMENT OF THE INTERIOR

National Park Service Visitor Use Questionnaire—Yosemite and Sequoa-Kings Canyon National Parks, single-time, visitors to two national parks, Hulett, D. T., 395–4730.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration Application for Federal Assistance (Construction Program), 5100–100, on occasion, airport sponsors, Caywood, D. P., 395–3443.
Federal Highway Administration Highway Tunnel Inventory, single-time, highway tunnel operating authority, Strasser, A., 395–5867.

DEPARTMENT OF JUSTICE

Departmental and other Innovation Checklist for Courts, 3600, single-time, chief judges or their designates, George Hall, 395–6140.

REVISIONS

DEPARTMENT OF AGRICULTURE

Forest Service Wood Use in Single and Double-Wide Mobile Home Manufacture, 1974, single-time, mobile home manufacturers, Caywood, D. P., 395–3443.

DEPARTMENT OF COMMERCE

Bureau of Census:
Annual Survey of Manufactures, MA–100, annually, sample of manufacturing establishments, Hulett, D. T., 395–4730.
Survey of Gallonage Sales of Gasoline, SG–1, SG–2, SG–3, monthly, retail gasoline service stations, Hulett, D. T., 395–4730.

EXTENSIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Administration (Office of Ass't. Sec'y.):
Recertification for Benefits Under Section 226(B) Disaster Relief Act of 1970, HUD–9954, on occasion, recipients of sec. 226 (B) benefits, Community & Veterans Affairs Division, 395–3532.
Letter Requesting Welfare Agency Verification-No Further Assistance, HUD–9950.1, on occasion, welfare agencies, Community & Veterans Affairs Division, 395–3532.
Mortgage or Rent Assistance Application for Benefits Sec. Under 226(B) Disaster Relief Act of 1970, HUD–9950, on occasion, disaster victims, Community & Veterans Affairs Division, 395–3532.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration Statement of Qualification—(FAA Representatives or Examiners), FAA8110–14, on occasion, airmen, Caywood, D. P., 395–3443.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.75–21632 Filed 8–14–75;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

BBI, INC.

Suspension of Trading

AUGUST 11, 1975.

The common stock of BBI, Inc., being traded on the American, and the Philadelphia-Baltimore-Washington Stock Exchanges pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of BBI, Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

THEREFORE, pursuant to Section 12 (k) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange is suspended, for the period from August 12, 1975 through August 21, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.75-21499 Filed 8-14-75;8:45 am]

[Rel. No. 19123; 70-5720]

CONNECTICUT LIGHT AND POWER CO.

Proposal To Issue and Sell First Mortgage Bonds and Preferred Stock at Competitive Bidding

AUGUST 8, 1975.

NOTICE IS HEREBY GIVEN that The Connecticut Light and Power Company ("CL&P"), an electric utility subsidiary company of Northeast Utilities, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transactions. All interested parties are referred to said application, which is summarized below, for a complete statement of the proposed transactions.

CL&P proposes to issue and sell, at competitive bidding, up to $50 million principal amount of its First and Refunding Mortgage ——% Bonds, Series CC ("bonds"). The maturity date of the bonds will be not less than five nor more than thirty years from September 1, 1975. The interest rate, which shall be a multiple of ⅛ of 1%, and the price, which will be not less than 99% nor more than 102.75% of the principal amount thereof, will be determined by competitive bidding. The bonds will be issued under the Indenture of Mortgage and Deed of Trust dated as of May 1, 1921 ("Indenture") between CL&P and Bankers Trust Company, Trustee, as supplemented and amended from time to time, and as further supplemented by a supplemental indenture to be dated September 1, 1975 ("supplemental indenture"). The supplemental indenture provides, among other things, that bonds shall not be redeemed at the applicable general redemption price prior to September 1, 1980, from the proceeds of borrowings secured by CL&P at an effective interest cost to CL&P of less than the effective interest cost of the bonds. The supplemental indenture further provides for a mandatory cash sinking fund, so long as any bonds are outstanding in the annual amount of $2,500,000 commencing September 1, 1975 continuing to and including September 1, 1999.

CL&P also proposes to issue and sell, at competitive bidding, 400,000 shares of its Preferred Stock—Series L ("preferred stock"), par value $50 per share. The dividend rate, which shall be a multiple of $0.04 and the price to be paid to CL&P, which will be not less than $50 nor more than $51.375 per share, will be determined by the competitive bidding. The terms of the preferred stock include a prohibition, until September 1, 1980, against redeeming the preferred stock through the use, directly or indirectly, of borrowings or the proceeds of the issuance of stock ranking prior to or on a parity with the preferred stock as to dividends or assets, if such borrowings or stock have an effective interest or dividend cost to CL&P of less than the effective dividend cost of the preferred stock. The terms of the preferred stock also provide for a cumulative sinking fund commencing September 1, 1980, to the extent any funds of CL&P are legally available therefor, for the annual redemption or purchase of 20,000 shares of the preferred stock. The redemption price will equal the initial public offering price plus accrued dividends to the date of redemption.

The application states that CL&P will use the net proceeds from the sale of the bonds and preferred stock, together with a capital contribution of $20 million which Northeast Utilities will make in December, 1975, to repay short-term borrowings incurred for the purpose of financing CL&P's 1974–1975 construction program. Such short-term borrowings will aggregate an estimated $60 million at the time of the aforementioned sales. The balance of the proceeds of the sales will be used to finance, in part, CL&P's 1975–1976 construction program.

A statement of the fees, commissions, and expenses incurred or to be incurred in connection with the proposed transactions will be supplied by amendment. The approval of the Connecticut Public Utilities Commission is required for the issuance of the bonds and preferred stock. It is stated that no other State commission, and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

NOTICE IS FURTHER GIVEN that any interested person may, not later than September 2, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.75-21526 Filed 8-14-75;8:45 am]

[70-5717; Rel. No. 19120]

DELMARVA POWER & LIGHT CO.

Proposal To Lease Coal Cars

AUGUST 7, 1975.

Notice is hereby given, That Delmarva Power & Light Company ("Delmarva") 800 King Street, Wilmington, Delaware 19899, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6, 7, 9 and 10 of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested parties are referred to said declaration, which is summarized below, for a complete statement of the proposed transaction.

Delmarva proposes to enter into a leveraged-lease agreement under which Delmarva will sublease from PLM Leasing Company, a subsidiary of Professional Lease Management, Inc. ("PLM"), seventy-seven, 100 ton open top hopper cars. The cars will be used solely by Delmarva to transport coal from various mining locations to Delmarva's Indian River generating station. The cars will be operated by the Penn Central Transportation Company and maintained under an agreement between Delmarva and a subsidiary of PLM.

A trust, with Continental Illinois Bank & Trust Co. as trustee, will be formed for the purpose of purchasing the cars from Pullman, Inc. for an approximate total

cost of $2,200,000. International Paper Credit Corporation will provide approximately 37% of the total cost of the cars through its purchase of the entire equity interest in the trust. The remaining 63% of the cost will be provided through Lincoln National Life Insurance Company's purchase of the Conditional Sale Indebtedness. The trust will lease the cars to PLM Leasing, which will sublease such cars to Delmarva over a period of 15 years at a rental rate to Delmarva approximating $282,000 per annum. It is stated that the effective cost to Delmarva under this lease is estimated at 10.86% per annum. Under the terms of the sublease Delmarva retains an option to extend the sublease for two year periods not to extend beyond January 15, 1997. It is stated that the Company intends to account for this transaction as a rental expense. PLM Leasing Company will secure the transaction by assigning its rights under its non-cancellable 15 year net sublease agreement with Delmarva.

Fees and expenses to be incurred in connection with the transaction are estimated at $18,000, including legal fees of $12,000. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given, That any interested person may, not later than September 2, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20 (a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-21456 Filed 8-14-75;8:45 am]

[70-5722;Rel. No. 19119]

POTOMAC EDISON CO.

Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding

AUGUST 7, 1975.

Notice is hereby given, That The Potomac Edison Company ("Potomac") Downsville Pike, Hagerstown, Maryland 21740, an electric utility subsidiary company of Allegheny Power System, Inc., a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6 and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Potomac proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, up to $30,000,000 principal amount of First Mortgage Bonds, in one or more series, each such series to mature in not less than 5 and not more than 30 years ("bonds"). Prospective bidders for the bonds will be notified of the maturity of the bonds not less than 72 hours prior to the day the bonds are to be offered. The interest rate (which will be expressed in a multiple of ⅛ of 1%) and the price of the bonds (which shall not be less than 99% nor more than 102.75% of the principal amount thereof) will be determined by the competitive bidding. Terms of the bonds will preclude Potomac from redeeming any of the bonds prior to October 1, 1980, if such redemption is for the purpose of refunding the bonds with proceeds of funds borrowed at a lower effective interest cost. The bonds will be issued under an Indenture dated as of October 1, 1944, between Potomac and Chemical Bank, as Trustee, as heretofore supplemented and as to be further supplemented by a Supplemental Indenture to be dated as of October 1, 1975.

Proceeds from the sale of the bonds will be used to pay or prepay outstanding short-term debt of Potomac and for Potomac's construction program. Potomac expects that at the time of issuance of the bonds, it will have $50,000,000 in short-term debt outstanding.

Fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that the Public Service Commission of Maryland, the State Corporation Commission of Virginia and the Pennsylvania Public Utility Commission have jurisdiction over the proposed transaction and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given, That any interested person may, not later than September 10, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by such application-declaration which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-21457 Filed 8-14-75;8:45 am]

[File No. 500-1]

ROYAL PROPERTIES INC.

Suspension of Trading

AUGUST 8, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Royal Properties Incorporated being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from August 11, 1975 through August 20, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-21458 Filed 8-14-75;8:45 am]

VETERANS ADMINISTRATION

ADVISORY COMMITTEE ON CEMETERIES AND MEMORIALS

Meeting

The Veterans Administration gives notice that a meeting of the Administrator's Advisory Committee on Cemeteries and Memorials, authorized by section 1001, title 38, United States Code, will be held at the Union Center Plaza, Room 9517, 941 North Capitol Street, NE., Washington, D.C., on September 8 and 9, 1975, at 9 a.m. The meeting will be held to conduct routine business.

The meeting will be open to the public up to the seating capacity of the conference room which is about 40 persons. Because of the limited seating capacity and the need for building security, it will be necessary for those wishing to attend to contact Ms. Charlotte Withers in the office of the Director, National Cemetery System, Veterans Administration Central Office (phone 202-389-5211) prior to September 8, 1975.

Any interested person may attend, appear before, or file statements with the Committee—which statements, if in written form, may be filed before or after the meeting.

Oral statements and/or reports from the public will be heard only between 3 pm and 4:30 pm on September 9, 1975, due to the number of items on the agenda for the meeting.

Dated: August 12, 1975.

By direction of the Administrator.

[SEAL] ODELL W. VAUGHN,
Deputy Administrator

[FR Doc.75-21551 Filed 8-14-75;8:45 am]

CENTRAL OFFICE EDUCATION AND TRAINING REVIEW PANEL

Meeting

The Veterans Administration gives notice pursuant to Public Law 92-463 that a meeting of the Central Office Education and Training Review Panel, authorized by Section 1790(b), Title 38, United States Code, will be held in Room 119, Veterans Administration Central Office, 810 Vermont Avenue, N.W., Washington, D.C. on September 8, 1975, at 10 a.m. The meeting will be held for the purpose of reviewing the June 17, 1975, decision of the Director, Veterans Administration Regional Office, Nashville, Tennessee that benefits to all eligible persons enrolled in Jett Barber School, 3740 North Watkins Street, Memphis, Tennessee be discontinued, effective July 1, 1975.

The meeting will be open to the public up to the seating capacity of the conference room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Mr. Halsey A. Dean, Chief Appraisal and Compliance, Education and Rehabilitation Service, Veterans Administration Central Office (Phone 202 389-2850) prior to September 1, 1975.

Dated: August 12, 1975.

By direction of the Administrator.

[SEAL] ODELL W. VAUGHN,
Deputy Administrator.

[FR Doc.75-21552 Filed 8-14-75;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[V-75-11]

STONE CONTAINER CORP.

Application for Variance and Interim Order; Grant of Interim Order

I. *Notice of application.* Notice is hereby given that Stone Container Corporation, Stone Container Building, 360 North Michigan Avenue, Chicago, Illinois 60601 has made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1910.213 (c)(1) which specifies the type of guard required for circular hand-fed ripsaws.

The address of the place of employment that will be affected by the application is as follows:

Stone Container Corporation, Die Making Department, 20 South Dutoit Street, Dayton, Ohio 45402.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by the standard.

In the applicant's business it is necessary to cut ¾" plywood into very small pieces, some as small as 3/16" in width. These cuts must be precise to the thousandths of an inch. The applicant has stated that it is unable to utilize the guard required by § 1910.213(c)(1) because a portion of the guard is required to be self-adjusting and rest on the workpiece. This would tend to affect the accuracy of the cut.

Instead, the applicant has developed a special guard for use on its circular ripsaws. The applicant contends that these guards will provide safety to employees while making precise cuts on small pieces of cross-bonded plywood. The guard consists of two parts: a steel guard is rigidly secured in a slot behind the saw and covers the top of the blade; a clear plastic guard covers the portion of the steel guard which is over the blade, extending straight down on both sides of the blade leaving ½" space between the guard and the blade, and extending to a position 1" in front of the blade. This guard leaves a space of ¼" or less between the top of the workpiece and the guard. The operator can hold the block of wood against the guide with a pick and, the applicant contends, be protected from contacting the blade.

In addition, the applicant states that cross-bonded plywood is the only kind used, and that this type will not close behind the blade, binding the saw.

A copy of the application will be made available for inspection and copying upon request at the Office of Compliance Programming, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N3603, aWshington, D.C. 20210, and at the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, 230 South Dearborn Street, 32nd Floor—Room 3259, Chicago, Illinois 60604.

U.S. Department of Labor, Occupational Safety and Health Administration, 230 South Dearborn—10th Floor, Chicago, Illinois 60604.

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Office Building—Room 4028, 550 Main Street, Cincinnati, Ohio 45202.

All interested persons, including employers and employees, who believe they would be affected by the grant or denial of the application for a variance are invited to submit written data, views and arguments relating to the pertinent application no later than September 15, 1975. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than September 15, 1975, in conformity with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Compliance Programming at the above address.

II. *Interim Order.* It appears from the application for a variance and interim order, and from photographs submitted with the application that, as required by section 6(d) of the Act, the guard designed by the applicant for use on its circular ripsaws will provide to the affected employees a place of employment as safe as that which would be provided if the applicant complied with 29 CFR 1910.213(c)(1). It further appears that an interim order is necessary to prevent undue hardship to the applicant and its employees pending a decision on the variance. Therefore it is ordered, pursuant to authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, and 29 CFR 1905.11(c) that Stone Container Corporation be, and it is hereby, authorized

to operate its circular hand-fed ripsaws while utilizing the specially designed guard described in its application.

Stone Container Corporation shall give notice of this interim order to employees affected thereby, by the same means required to be used to inform them of the application for a variance.

Effective date. This interim order shall be effective as of August 15, 1975, and shall remain in effect until a decision is rendered on the application for variance.

Signed at Washington, D.C. this 12th day of August, 1975.

JOHN T. DUNLOP,
Secretary of Labor.

[FR Doc.75-21474 Filed 8-14-75;8:45 am]

WASHINGTON STATE STANDARDS

Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Assistant Regional Director for Occupational Safety and Health (hereinafter called the Assistant Regional Director) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the FEDERAL REGISTER (38 FR 2421) of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1952.123 of Subpart F sets forth the State's schedule for adoption of Federal standards. By letters dated October 25, 1974, and October 9, 1974, from John E. Hiller, Supervisor, Department of Labor and Industries to James W. Lake, Assistant Regional Director, and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR Part 1910 Subpart R sections 1910.263 and 1910.264, respectively. Both of these standards, which are contained in Chapter 296-302 WAC of the Safety Standards for Bakery Equipment and in Chapter 296-303 WAC of the Safety Standards for Laundry Machinery and Operations, respectively, were promulgated after due notice and a public hearing held at Olympia, Washington on April 8, 1974 and adopted by the Department of Labor and Industries on April 8, 1974, pursuant to Chapter 34.04 RCW and Chapter 1-12 WAC.

2. *Decision.* Having reviewed the State submissions in comparison with the Federal standards it has been determined that the State standards are identical to the Federal standards and are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Assistant Regional Director, Occupational Safety and Health Administration, Room 6048, Federal Office Building,, 909 First Avenue, Seattle, Washington 98174; Department of Labor and Industries, General Administration Building, Olympia, Washington 98504; and Office of the Associate Assistant Secretary for Regional Programs, Room N-3112, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Regional Director's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards and are therefore deemed to be at least as effective.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective August 15, 1975.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Seattle, Washington this 25th day of July, 1975.

JAMES W. LAKE,
Assistant Regional Director.

[FR Doc.75-21473 Filed 8-14-75;8:45 am]

Office of the Secretary

[TA-W-108]

CHRYSLER CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On August 5, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the International Union of Electrical, Radio and Machine Workers on behalf of the workers and former workers of Dayton, Ohio, plants of Chrysler Corporation, Detroit, Michigan (TA-W-108). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with heating & air conditioning components for Chrysler cars & trucks and residential air conditioners produced by Chrysler Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, on or before August 25, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 6th day of August 1975.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.75-21398 Filed 8-14-75;8:45 am]

[TA-W-47; TA-W-51]

INTERNATIONAL SHOE CO.

Certification and Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 The Department of Labor herein presents the results of TA-W-47 and TA-W-51; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

Investigations were initiated on June 5 and June 10, 1975 in response to worker petitions received on June 5 filed by the Boot and Shoe Workers Union on behalf of workers formerly producing infants' footwear at Evansville, Illinois plant, and on June 6 filed on behalf of workers producing men's footwear at the Perryville, Missouri plant; both are plants of International Shoe Company, St. Louis, Missouri, a subsidiary of Interco, Incorporated, St. Louis, Missouri.

The Notices of Investigations were published in the FEDERAL REGISTER (40 FR 25647) on June 17, 1975. No public hearings were requested and none were held.

The information upon which the determination was made was obtained principally from officials of International Shoe Company, its customers, the U.S. International Trade Commission, U.S. Department of Commerce, American Footwear Industries Association, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assist-

ance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant total or Partial Separations. All workers of the Evansville plant of the International Shoe Company were separated in December 1974 and January 1975 when production was shifted to the Perryville plant. Total or partial separations of workers engaged in employment related to the production of men's footwear at the Perryville plant occurred from October 1974 through April 1975, when employment declined 16 percent.

Sales or Production, or Both, Have Decreased Absolutely. Sales and Production of men's footwear at the Perryville plant declined 40.2 percent and 42.6 percent respectively from 1974 to 1975.

Sales and Production of men's footwear at the Perryville plant forced the company to close the Evansville plant and consolidate operations at Perryville.

Increased Imports Contributed Importantly. Imports of men's nonrubber footwear increased from about 45 million pairs in 1970 to about 69 million pairs in 1974. The import/consumption and import/production ratios increased from 35.4 percent and 54.7 percent respectively in 1970 to 44.5 percent and 80.1 percent in 1974.

Imports of men's leather footwear increased from about 29 million pairs in 1970 to about 56 million pairs in 1974. The ratios of imports to domestic consumption and production increased significantly from 35.0 percent and 53.7 percent respectively in 1970 to 54.2 percent and 118.3 percent respectively in 1974.

International Shoe Company imports of men's footwear constituted about 25 percent of the company's available supply of men's footwear in fiscal year 1975 for sale to its customers.

Imports of infants' and babies' nonrubber footwear declined from 9 million pairs in 1972 to 6.8 million pairs in 1974. The import/consumption and import/production ratios declined from 25.5 percent and 34.2 percent respectively in 1972 to 22.7 percent and 29.3 percent respectively in 1974.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's footwear produced by the Perryville, Missouri plant of International Shoe Company contributed importantly to the total or partial separation of workers of that plant. I further conclude that increases of imports like or directly competitive with infants' and babies' footwear produced by the Evansville, Illinois plant of International Shoe Company did not contribute importantly to the total or partial separation of workers of that plant. Section 223(b)(2) of the Trade Act of 1974 provides that certification of eligibility to apply for worker adjustment assistance may not apply to any worker last separated from the firm or subdivision more than six months before April 3, 1975, the effective date of the new program. In accordance with this provision of the Act I make the following certification:

"That all workers, hourly, piecework and salaried of the Perryville, Missouri plant of the International Shoe Company who became totally or partially separated from employment related to the production of men's footwear on or after October 3, 1974 and before May 1, 1975 be certified as eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974; and that certification of eligibility for adjustment assistance for workers employed at the Evansville, Illinois plant be denied."

Signed at Washington, D.C., this 4th day of August 1975.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.75-21397 Filed 8-14-75;8:45 am]

[TA-W-107]

GENERAL MOTORS CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On August 5, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the International Union of Electrical, Radio and Machine Workers on behalf of the workers and former workers of Frigidaire Division of General Motors Corporation, Dayton, Ohio (TA-W-107). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with home appliances and auto parts produced by General Motors Corporation, or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, on or before August 25, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitutional Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 5th day of August 1975.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.75-21399 Filed 8-14-75;8:45 am]

[TA-W-106]

MIDLAND ROSS CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On August 5, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the International Union of Electrical, Radio and Machine Workers on behalf of the workers and former workers of the Easton, Pennsylvania plant, Midland Ross Corporation, Cleveland, Ohio (TA-W-106). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with rubber gaskets for IBM machine produced by Midland Ross Corporation, or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, on or before August 25, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 5th day of August 1975.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.75-21400 Filed 8-14-75;8:45 am]

[TA-W-105]

WESTINGHOUSE ELECTRIC CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On July 31, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the International Union of Electrical, Radio and Machine Workers on behalf of the workers and former workers of East Pittsburgh, Pennsylvania plant of Westinghouse Electric Corporation, Pittsburgh, Pennsylvania (TA-W-105). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with turbo generators and motors, water wheel generators and pumps, power circuit breakers, and switchgear apparatus produced by Westinghouse Electric Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, on or before August 25, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 31st day of July 1975.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.75-21401 Filed 8-14-75;8:45 am]

Wage and Hour Division

FULL-TIME STUDENTS EMPLOYED IN RETAIL AND SERVICE ESTABLISHMENTS

Certificates Authorizing Employment at Subminimum Wages

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulations on employment of full-time students (29 CFR 519), and Administrative Order 621 (36 F.R. 12819), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly wage rates not less than 85 percent of the wage rates otherwise applicable under section 6 of the Act.

The establishments listed hereinafter consist of department, variety and miscellaneous general merchandise stores engaged in the selling of a number of lines of merchandise, such as dry goods, apparel and accessories, furniture and home furnishings, small wares, hardware, and food.

These certificates provide for monthly limitations on the percentage of hours of employment of full-time students at subminimum wage rates to the total hours of employment of all employees. The range of these limitations for each establishment is indicated in the following list.

The authority provided by any of these certificates was not effective before March 21, 1975, and expires not later than June 11, 1976, but in no instance does the effective period of any one certificate exceed one year.

Allen's of Hastings, Inc., 1115 West Second Street, Hastings, NE, 20 percent during any month.

Anderson & Basta Enterprises, Inc., 109 Naganoba Street, Northport, MI, 10 to 17 percent.

Ben Franklin Store: No. 1953, Bensenville, IL, 10 to 40 percent; No. 1003, Glenwood, IL, 28 to 40 percent; No. 1269, Homewood, IL, 10 to 40 percent; No. 1842, Elkhart, IN, 17 to 29 percent; 3938 Lincoln Way West, South Bend, IN, 13 to 28 percent; 1129 East Grand River, Howell, MI, 10 to 40 percent; No. 4815, Albuquerque, NM, 13 to 24 percent; Peachtree Plaza Shopping Center, Greer, SC, 10 to 45 percent; 123 Franklin Street, Port Washington, WI, 13 to 22 percent; 828 South Main Street, West Bend, WI, 10 to 40 percent.

Big K Department Store: Fort Campbell Boulevard, Hopkinsville, KY, 11 to 59 percent; Clarksdale Shopping Center, Clarksdale, MS, Corinth Plaza Shopping Center, Corinth, MS and Oakwood Plaza Shopping Center, Oxford, MS, 10 to 18 percent; Charlotte Square Shopping Center, Nashville, TN, 11 to 21 percent.

The Big Store, Inc., New London, MN, 10 to 17 percent.

Conley's: No. 8, Magnolia, OH, 10 to 32 percent; No. 9, Midvale, OH, 10 to 20 percent; No. 5, North Eaton, OH, 10 to 32 percent.

Duckwall Stores: No. 62, Colorado Springs, CO, 10 to 29 percent; No. 64, Colorado Springs, CO, 10 to 15 percent; No. 66, Colorado Springs, CO, 10 to 20 percent; Nos. 74, 98 and 100, Colorado Springs, CO, 13 to 32 percent; No. 75, Denver, CO, 20 to 49 percent; No. 84, Northglenn, CO, 19 to 49 percent; No. 65, Pueblo, CO, 15 to 51 percent; No. 76, Pueblo, CO, 22 to 48 percent; No. 1, Abilene, KS, 15 to 28 percent; No. 5, Concordia, KS, 20 to 44 percent; No. 11, Dodge City, KS, 15 to 28 percent; No. 78, Elkhart, KS and No. 12, Garden City, KS, 14 to 26 percent; No. 21, Goodland, KS, 24 to 55 percent; No. 115, Great Bend, KS, 15 to 28 percent; No. 17, Hays, KS, 14 to 26 percent; No. 99, Hutchinson, KS, 15 to 28 percent; No. 103, Junction City, KS, 20 to 44 percent; No. 18, Larned, KS, 24 to 55 percent; No. 106, Leavenworth, KS., 20 to 44 percent; No. 14, Liberal, KS, 14 to 26 percent; No. 45, Manhattan, KS, 20 to 44 percent; No. 97, Newton, KS, 15 to 28 percent; No. 25, Norton, KS, 10 to 26 percent; No. 102, Olathe, KS, No. 110, Ottawa, KS and No. 19, Pratt, KS, 24 to 55 percent; No. 2, Salina, KS, Nos. 104, 109, Topeka, KS and No. 108, Beatrice, NE, 20 to 44 percent; No. 111, Kearney, NE and No. 114, McCook, NE, 14 to 26 percent; Nos. 57 and 89, Albuquerque, NM and No. 81, Roswell, NM, 10 to 48 percent.

Duke & Ayres, Inc., No. 10, Clarksville, TX, 10 to 41 percent.

Eagle Store, No. 24, Clinton, NC, 10 to 18 percent.

Edward's of Canton, 102 North Main Street, Canton, IL, 22 to 50 percent.

Edward's, Inc.: No. 35, Savannah, GA, 10 to 14 percent; Augusta Highway I-78, Clearwater, SC, 10 to 15 percent; No. 31, Easley, SC and West Evans & Cashua Drive, Florence, SC, 10 to 14 percent.

Fleishman Company, 115 South Main Street, Anderson, SC, 10 to 27 percent.

W. T. Grant Company: No. 400, Rumford, ME, 10 to 13 percent; No. 175, Kalamazoo, MI, 10 to 22 percent; No. 121, Burlington, VT, 10 to 13 percent.

Harry From's, Inc., 103 West Main Street, Union, SC, 10 to 20 percent.

W. H. Hudson Company, Inc., 215 South Lafayette Street, Shelby, NC, 10 to 13 percent.

Kramer's Department Store of Wallace, Inc., Rockfish Plaza, Wallace, NC, 10 to 12 percent.

K Mart: No. 4210, Atlanta, GA, 10 to 13 percent; No. 4450, Hinsdale, IL, 12 to 20 percent; No. 4568, Niles, IL, 18 to 39 percent; No. 7042, Valparaiso, IN, 14 to 25 percent; No. 9028, Kingsford, MI and No. 7031, Menominee, MI, 10 to 25 percent; No. 3190, Duluth, MN, 10 to 32 percent; No. 4318, Burlington, NC, 11 to 22 percent; No. 7013, College Station, TX, Nos. 4060 and 4328, Houston, TX, 10 to 27 percent.

Kuhn's Variety Store: Third & Main, Russellville, KY, 10 to 19 percent; 606 Taylor Street, Corinth, MS, Corner Rose & Reynolds Street, Pontotoc, MS and 401 West Main Street, Tupelo, MS, 10 to 18 percent; 129 Main Street, Dickson, TN, 10 to 16 percent; 109 South Elk Street, Fayetteville, TN, 10 to 18 percent; Gallatin Plaza Shopping Center, Gallatin, TN, 11 to 21 percent; 110 West

Broadway, Lenoir City, TN, 10 to 20 percent; 4816 Charlotte Road and Belle Meade Plaza Shopping Center, Harding Road, Nashville, TN, 11 to 21 percent; 210–214 Cedar Avenue, South Pittsburgh, TN, 10 to 20 percent.

Leggett Department Store: 1289 Dabney Drive, 301–07 Garnett Street, Henderson, NC and West Nash Street, Louisburg, NC, 13 to 39 percent; 118 College Street, Oxford, NC, 1040–44 Roanoke Avenue, Roanoke Rapids, NC, 124 South Main Street, Roxboro, NC, 120 Main Street, Warrenton, NC and 117 Washington Avenue, Weldon, NC, 13 to 39 percent; 150 South Main Street, Lexington, VA, 18 to 31 percent.

McCrory Store: No. 205, Waterbury, CT, 10 to 28 percent; No. 286, Lake Wales, FL, 10 to 40 percent; No. 368, Ormond Beach, FL, 10 to 22 percent; No. 670, Westbrook, ME, 19 to 36 percent; No. 242, Springfield, MA, 10 to 28 percent; No. 6434, Meridian, MS, 10 to 27 percent; No. 378, Camden, NJ, 14 to 29 percent; Nos. 248 and 294, Albuquerque, NM, 10 to 27 percent; No. 268, Kinston, NC, 10 to 24 percent; No. 50, Altus, OK, 10 to 20 percent; No. 30, Hazleton, PA, 15 to 32 percent; No. 206, Westerly, RI, 10 to 28 percent; No. 128, Johnson City, TN, 10 to 30 percent; No. 6372, Austin, TX and No. 6486, Houston, TX, 11 to 15 percent.

McLeod's, Inc., 910 Towne East Square, Wichita, KS, 10 to 15 percent.

G. McNew Store, No. 117, Frederick, MD, 10 to 18 percent.

Magic Mart: Pine Plaza Shopping Center, Arkadelphia, AR, 10 to 25 percent; 101–108 Main Street, Crossett, AR, 16 to 41 percent; Highway 62–65 North, Harrison, AR, 10 to 23 percent; Indiandale Shopping Center, Hot Springs, AR, 10 to 22 percent; 660 Main Street, Jacksonville, AR, 17 to 40 percent; 5919 Baseline Road at Geyer Springs, 1701 Main Street and 105 North Rodney Parham Road, Little Rock, AR, 10 to 17 percent; State Highway 81, Monticello, AR, 10 to 36 percent; 4701 John F. Kennedy Boulevard, North Little Rock, AR, 10 to 17 percent, 2700 Pike Avenue, North Little Rock, AR, 12 to 32 percent; 3003 East Race Avenue, Searcy, AR, 10 to 14 percent; 609 South Main Street, Springhill, LA, 16 to 41 percent; 110 Shoppers Square, Batesville, MS, 11 to 38 percent; Canton East Shopping Center, Canton, MS, 10 to 39 percent; 417 South Street, Cleveland, MS and Mississippi Highway 8, Grenada, MS, 11 to 38 percent; U.S. Highway 82, Indianola, MS, 10 to 39 percent.

Mattingly's: No. 55, Blue Springs, MO, 22 to 30 percent; No. 12, Boonville, MO, 10 to 19 percent; No. 16, Brookfield, MO, 10 to 23 percent; No. 17, Clinton, MO, No. 40, Columbia, MO, No. 22, Eldon, MO, No. 19, Fulton, MO, No. 39, Jefferson City, MO, No. 47, Jefferson City, MO, Nos. 48 and 51, Kirksville, MO, No. 23, Lebanon, MO, No. 54, Lee's Summit, MO, No. 37, Marshall, MO, No. 50, Nevada, MO, No. 42, St. Joseph, MO and Nos. 32 and 44, Sedalia, MO, 22 to 30 percent.

Mid State Sales, Inc., Route 45, S., Effingham, IL, 10 to 15 percent.

Morgan & Lindsey: No. 3006, Mansfield, LA, 10 to 16 percent; No. 3089, New Orleans, LA, 10 to 31 percent; No. 3002, Oakdale, LA, 10 to 27 percent; No. 3122, Forest, MS, 10 to 21 percent; Nos. 3062 and 3085, Gulfport, MS, 10 to 22 percent; No. 3036, Pascagoula, MS, 10 to 18 percent.

M. E. Moses Co.: No. 44, Arlington, TX, 19 to 50 percent; No. 7, Dallas, TX, 20 to 38 percent; No. 14, Dallas, TX, 19 to 50 percent; Nos. 20 and 28, Dallas, TX, 22 to 30 percent; No. 35, Dallas, TX, 20 to 38 percent; No. 39, Dallas, TX, 22 to 30 percent; No. 43, Dallas, TX, 19 to 50 percent; No. 51, Dallas TX and No. 33, Denton, TX, 19 to 41 percent; No. 9, Henderson, TX, 19 to 50 percent; No. 16, Lewisville, TX and No. 30, Longview, TX, 22 to 30 percent; No. 34, Mathis, TX, 19 to 50 percent; No. 22, Mesquite, TX, 28 to 40 percent; No. 12, Pampa, TX, and No. 13, Vernon, TX, 19 to 41 percent.

E. B. Mott Co., 22 to 30 percent: No. 27, Azle, TX; No. 56, Brownwood, TX; No. 2, Burleson, TX; No. 25, Dallas, TX; Nos. 11, 19, 29, 31, 43 and 61, Fort Worth, TX; No. 6, Grand Prairie, TX; No. 46, Lancaster, TX; No. 10, Sweetwater, TX.

G. C. Murphy Company: No. 255, Daytona Beach, FL, 10 to 24 percent; No. 289, Gainesville, FL, 10 to 27 percent; No. 276, Hialeah, FL, 10 to 17 percent; No. 279, Holly Hill, FL, 10 to 16 percent; No. 262, Jacksonville, FL, 10 to 27 percent; No. 264, Miami, FL, 10 to 17 percent; No. 284, Orlando, FL, 10 to 24 percent; No. 287, Panama City, FL, Nos. 253 and 292, Pensacola, FL, 12 to 25 percent; No. 272, St. Petersburg, FL, 10 to 13 percent; No. 290, West Hollywood, FL, 10 to 17 percent; No. 274, West Palm Beach, FL, 12 to 24 percent; No. 243, Moultrie, GA, 10 to 14 percent; No. 251, Berwyn, IL, 14 to 32 percent; No. 439, Effingham, IL, 10 to 13 percent; No. 457, Flora, IL, 10 to 16 percent; No. 112, Pontiac, IL, 10 to 13 percent; No. 113, Streator, IL, 10 to 19 percent; No. 461, Aurora, IN, 13 to 30 percent; No. 401, Bluffton, IN, 10 to 17 percent; No. 101, Brazil, IN, 10 to 19 percent; No. 99, Clinton, IN, 10 to 28 percent; No. 423, Crawfordsville, IN, 10 to 19 percent; No. 407, Decatur, IN, 10 to 20 percent; No. 404, Elwood, IN, 10 to 21 percent; No. 103, Fort Wayne, IN, 10 to 16 percent; No. 412, Franklin, IN, 10 to 12 percent; No. 223, Greensburg, IN, 10 to 13 percent; No. 341, Goshen, IN, 10 to 16 percent; No. 408, Hartford City, IN, 10 to 15 percent; No. 425, Huntingburg, IN, 10 to 13 percent; No. 123, Indianapolis, IN, 10 to 16 percent; No. 235, Indianapolis, IN, 10 to 22 percent; No. 244, Indianapolis, IN, 11 to 26 percent; No. 260, Indianapolis, IN, 10 to 16 percent; No. 445, Kendallville, IN, 10 to 20 percent; No. 300, Kokomo, IN, 11 to 26 percent; No. 203, Linton, IN and No. 405, Portland, IN, 10 to 15 percent; No. 420, Princeton, IN, 10 to 17 percent; No. 72, Seymour, IN, 10 to 12 percent; No. 105, Shelbyville, IN, 10 to 14 percent; No. 114, Washington, IN, 10 to 11 percent; No. 282, Shreveport, LA, 12 to 25 percent; No. 220, Hancock, MD, 10 to 18 percent; No. 444, Coldwater, MI, 10 to 11 percent; No. 437, Marshall, MI, 10 to 16 percent; No. 424, Owosso, MI, 10 to 25 percent; No. 120, St. Joseph, MI, 10 to 29 percent; No. 451, South Haven, MI, 10 to 37 percent; No. 161, Minneapolis, MN, and No. 270, St. Paul, MN, 13 to 22 percent; No. 249, Hickory, NC, 10 to 27 percent; No. 337, Smithfield, NC, 17 to 24 percent; No. 181, Alliance, OH, 10 to 24 percent; No. 140, Barnesville, OH, 10 to 15 percent; No. 65, Bellaire, OH, 10 to 24 percent; No. 36, Bellefontaine, OH, 10 to 21 percent; No. 415, Bryon, OH, 10 to 19 percent; No. 110, Circleville, OH; 10 to 11 percent; No. 291, Cleveland, OH, 10 to 18 percent; No. 265, Columbus, OH, 10 to 26 percent; No. 281, Dayton, OH, 10 to 18 percent; No. 418, Defiance, OH, 10 to 21 percent; No. 460, Galion, OH, 10 to 22 percent; No. 2, Gallipolis, OH, 10 to 19 percent; No. 37, Greenville, OH, 10 to 21 percent; No. 456, Hillsboro, OH, 10 to 15 percent; No. 459, Jackson, OH, 10 to 21 percent; No. 269, Kettering, OH, 10 to 18 percent; No. 446, Lebanon, OH, 10 to 23 percent; No. 230, Marion, OH, 10 to 24 percent; No. 257, N. Ridgeville, OH, 10 to 18 percent; No. 41, Piqua, OH, 10 to 11 percent; No. 453, St. Mary, OH, 10 to 15 percent; No. 40, Sidney, OH, 10 to 14 percent; No. 419, Urbana, OH, 10 to 16 percent; No. 20, Washington Court House, OH, 10 to 11 percent; No. 192, Wilmington, OH, 10 to 20 percent; No. 222, Youngstown, OH, 10 to 21 percent; No. 303, Aliquippa, PA, 10 to 18 percent; No. 311, Altoona, PA and No. 321, Belle Vernon, PA, 10 to 23 percent; No. 701, DuBois, PA, 10 to 30 percent; No. 602, Greenville, PA, 10 to 22 percent; No. 210, Oakmont, PA, 10 to 12 percent; No. 316, San Antonio, TX, 10 to 28 percent; No. 198, Alexandria, VA, 10 to 24 percent; No. 214, Arlington, VA, 15 to 32 percent; No. 308, Culpeper, VA, No. 107, Danville, VA and No. 278, Lynchburg, VA, 10 to 16 percent; No. 24, Newport News, VA, 11 to 20 percent; No. 142, Richmond, VA, 10 to 16 percent; No. 208, Richmond, VA, 10 to 20 percent; No. 245, Richmond, VA, 10 to 17 percent; No. 286, Roanoke, VA, 10 to 16 percent; No. 156, Woodbridge, VA, 13 to 23 percent; No. 132, Beckley, WV, 10 to 12 percent; No. 50, Buckhannon, WV, 10 to 17 percent; No. 171, Clarksburg, WV, 10 to 15 percent; No. 15, Elkins, WV, 10 to 14 percent; No. 22, Keyser, WV, 10 to 31 percent; No. 197, Morgantown, WV, 10 to 13 percent; No. 18, Moundsville, WV, 10 to 25 percent; No. 168, North Fork, WV, 10 to 11 percent; No. 213, Oak Hill, WV, 10 to 15 percent; No. 212, Parkersburg, WV, 10 to 30 percent; No. 49, Piedmont, WV, 10 to 21 percent; No. 62, Point Pleasant, WV, 10 to 11 percent; No. 154, Princeton, WV, 10 to 23 percent; No. 207, South Charleston, WV, 10 to 11 percent; No. 195, Spencer, WV, 10 to 16 percent; No. 254, Weirton, WV, 10 to 23 percent; No. 21, Weston, WV, 10 to 19 percent; No. 33, Wheeling, WV, 10 to 17 percent; No. 131, Williamson, WV, 10 to 22 percent; No. 275, Milwaukee, WI, 10 to 20 percent.

Neisner Brothers, Inc.: No. 35, Chicago, IL, 20 to 41 percent; No. 76, Chicago, IL, 12 to 36 percent; No. 203, Tampa, FL, 10 to 29 percent.

J. J. Newberry Co., 320 East Overland Street, El Paso, TX, 10 to 18 percent.

Raylass Department Store: 835/841 Broad Street, Augusta, GA, 10 to 22 percent; 1123/5 Broadway, Columbus, GA, 11 to 29 percent; 315 West Main Street, Durham, NC, 10 to 29 percent; 202 Hay Street, Fayetteville, NC, 10 to 25 percent; 102/04 West Main Street, Gastonia, NC, 10 to 19 percent.

Rose's Store: No. 258, Waycross, GA, 13 to 32 percent; No. 230, Slidell, LA, 13 to 33 percent; No. 229, Columbus, MS, 13 to 32 percent; No. 205, Laurel, MS and No. 203, Meridian, MS, 13 to 32 percent; No. 180, Fayetteville, NC, 10 to 25 percent; No. 153, Shelby, NC, 11 to 27 percent.

Royal's, Inc., 183 South Lake Avenue, Pahokee, FL, 10 to 42 percent.

Scott Store: No. 9228, Sioux City, IA, 10 to 16 percent; No. 9127, Allen Park, MI, No. 9328, Alpena, MI, No. 9114, Farmington, MI and No. 9306, Saginaw, MI, 10 to 20 percent; No. 9325, Bellevue, NE, 15 to 29 percent; No. 9124, Fremont, NE, 10 to 16 percent.

Sernett Family Center, 10 to 21 percent; 224 West Fifth Street, Carroll, IA; 101 East 7th, Spencer, IA.

Sharpe's Department Store: 118–24 Main, Pryor, OK and 314 North 3rd Street, Stroud, OK, 20 percent during any month; 221 West Main, Tishomingo, OK, 12 to 28 percent.

Spurgeon's: 4400 West Route 120, McHenry, IL, 12 to 20 percent; 317–319 Liberty Street, Morris, IL, 10 to 12 percent; 100 West Washington, Pittsfield, IL, 128 East Main Street, Ottumwa, IA, 10 to 15 percent; Red Oak, IA and Webster City, IA, 10 to 13 percent; Parkland Mall, Muskego, WI, 14 to 20 percent.

Sterling Stores Company, Inc.: 209 East Cypress, Brinkley, AR and Conway, AR, 10 to 57 percent; 126 Main Street, Crossett, AR, 110 South Main, Dumas, AR and Northwest Village Shopping Center, El Dorado, AR, 10 to 36 percent; 109–111 North Vine, Harrison, AR; 10 to 23 percent; 417 Cherry Street, Helena, AR, 10 to 38 percent; Caraway Plaza Shopping Center, Jonesboro, AR, 10 to 31 percent; Geyer Springs Road at Interstate 30, Little Rock, AR, 11 to 32 percent; University Avenue & Markham Street, Little Rock, AR, 17 to 40 percent; 109 West Front Street, Lonoke, AR and 212 North Main Street,

Monticello, AR, 10 to 36 percent; 121–123 Moose Street, Morrilton, AR, 10 to 18 percent; Ozark Shopping Center, Mountain Home, AR, 10 to 23 percent; 4201 East Broadway, North Little Rock, AR, 11 to 32 percent; 104 East Hale Street, Osceola, AR, 10 to 19 percent; 101–105 North Pruett Street, Paragould, AR, 16 to 69 percent; 206 West Everett Street, Pocahontas, AR, 10 to 31 percent; 100 West First South Street, Prescott, AR, 10 to 25 percent; Glenn Dale Shopping Center, Amory, MS, 12 to 43 percent; 148 North Liberty Street, Canton, MS, 10 to 39 percent; Gateway Shopping Center, Columbus, MS, 16 to 43 percent; Magnolia Mall Shopping Center, Natchez, MS, 10 to 21 percent; Lamar Shopping Center, New Albany, MS, 10 to 39 percent; 5030 Park Avenue, Memphis, TN, 12 to 43 percent.

Sterling Jewelry & Distributing Company, 106 Mercantile Continental Building, Dallas, TX, 10 to 27 percent.

Storkville, Inc., 3970 Sibley Memorial Highway, St. Paul, MN, 17 to 42 percent.

T. C. & Y. Stores Company: No. 195, Phoenix, AZ, 26 to 30 percent; No. 174, Port Smith, AR and No. 2105, Hope, AR, 11 to 34 percent; No. 247, Little Rock, AR, 10 to 21 percent; No. 2100, Little Rock, AR, 11 to 34 percent; No. 9206, Nashville, AR, 18 to 41 percent; No. 248, Pine Bluff, AR, 11 to 34 percent; No. 2102, Russelville, AR, 11 to 30 percent; No. 712, Texarkana, AR, 14 to 34 percent; No. 1101, Baxley, GA, Nos. 1107 and 1108, Columbus, GA, 18 to 30 percent; No. 9317, Ames, IA and No. 314, Atchison, KS, 10 to 16 percent; No. 1417, Colby, KS, 19 to 30 percent; 5950 Leavenworth, Kansas City, KS, 10 to 16 percent; No. 455, Kansas City, KS, 15 to 29 percent; No. 9351, Harlan, KY, 10 to 23 percent; No. 764, Abbeyville, LA, 10 to 30 percent; No. 239, Baker, LA and No. 223, Baton Rouge, LA, 29 to 30 percent; No. 225, Baton Rouge, LA, 30 percent during any month; No. 710 Baton Rouge, LA, 29 to 30 percent; No. 725, Ferriday, LA and No. 793, Gretna, LA, 13 to 30 percent; No. 795, Gonzales, LA, 10 to 22 percent; No. 709, Kaplan, LA, 13 to 29 percent; No. 792, Kenner, LA, Nos. 221 and 794, Lake Charles, LA, No. 219, LaPlace, LA, No. 797, Luling, LA, No. 777, Minden, LA and No. 783, Rayne, LA, 13 to 30 percent; No. 132, Kansas City, MO, 14 to 30 percent; No. 156, Kansas City, MO, 11 to 30 percent; No. 480, Kansas City, MO, 22 to 30 percent; No. 9255, Kansas City, MO, 10 to 16 percent; No. 457, St. Joseph, MO, 11 to 30 percent; No. 475, Warrenburg, MO, 22 to 30 percent; No. 1900, Alamogordo, NM, Nos. 181, 198, 283, 284, 285, 291 and 294, Albuquerque, NM, 13 to 24 percent; No. 286, Santa Fe, NM, 10 to 30 percent; No. 2306, Louisburg, NC, No. 2305, Smithfield, NC, 18 to 30 percent; No. 427, Ardmore, OK, 10 to 30 percent; No. 1021, Bartlesville, OK, 20 to 30 percent; No. 17, Carnegie, OK and No. 464, Chickasha, OK, 22 to 30 percent; No. 32, Clinton, OK, 10 to 23 percent; No. 4, Duncan, OK, 10 to 30 percent; No. 410, Edmond, OK, 22 to 30 percent; No. 8, Elk City, OK, 10 to 12 percent; No. 25, Fairview, OK, 14 to 30 percent; No. 1011, Lawton, OK, 10 to 30 percent; No. 86, Nicoma Park, OK and No. 70, Norman, OK, 22 to 30 percent; No. 400, Norman, OK, 10 to 21 percent; No. 409, Norman, OK, 22 to 30 percent; No. 5, Oklahoma City, OK, 13 to 34 percent; Nos. 56, 59, 60, 84, 88, 412, 415 and 418, Oklahoma City, OK, 22 to 30 percent; Nos. 423 and 431, Oklahoma City, OK, 18 to 30 percent; No. 460, Oklahoma City, OK, 22 to 30 percent; No. 72, Ponca City, OK, 23 to 30 percent; Nos. 36 and 46, Stillwater, OK, 14 to 30 percent; No. 1018, Tahlequah, OK, 10 to 16 percent; No. 41, Tulsa, OK, 16 to 25 percent; No. 67, Tulsa, OK, 14 to 30 percent; Nos. 75 and 1006, Tulsa, OK, 24 to 30 percent; No. 47, Weatherford, OK, 10 to 30 percent; No. 1152, Clarksville, TN, 14 to 30 percent; No. 108, Abilene, TX, No. 864, Angleton, TX, Nos. 244 and 394, Baytown, TX, No. 833, Beaumont, TX, Nos. 355 and 826, Big Spring, TX, No. 817, Deer Park, TX, No. 772, Galveston, TX, Nos. 343, 351, 371, 382, 383 and 847, Houston, TX, No. 407, Midland, TX, Nos. 279 and 822, Odessa, TX, 30 percent during any month; No. 232, Orange, TX, 10 to 20 percent; No. 867, Palestine, TX, 30 percent during any month; No. 227, Port Arthur, TX, 10 to 20 percent.

Tomlinson Store, Inc., 811 South Madison Street, Whiteville, NC, 10 to 20 percent.

Troy Department Store, 6401 West Cermak Road, Berwyn, IL, 14 to 32 percent.

Variety Investments, Inc., 1347 Portage Avenue, South Bend, IN, 13 to 28 percent.

Wood's 5 & 10 Stores, Inc., Laurinburg, NC, 15 to 39 percent.

Zimmerman's Department Store, Inc.: 200 South Main Street, Lexington, NC and 110 North Main Street, Salisbury, NC, 45 to 57 percent.

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at subminimum wage rates is necessary to prevent curtailment of opportunities for employment and the hiring of full-time students at subminimum wage rates will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under a certificate. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof on or before September 29, 1975.

Signed at Washington, D.C., this 7th day of August, 1975.

ARTHUR H. KORN,
Authorized Representative of the Administrator.

[FR Doc.75-21402 Filed 8-14-75;8:45 am]

FULL-TIME STUDENTS EMPLOYED IN RETAIL AND SERVICE ESTABLISHMENTS

Certificates Authorizing Employment at Subminimum Wages

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulations on employment of full-time students (29 CFR 519), and Administrative Order 621 (36 FR 12819), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly wage rates not less than 85 percent of the wage rates otherwise applicable under section 6 of the Act.

This group of establishments consists of retail stores primarily engaged in selling food for home preparation and consumption.

These special certificates authorize the establishments listed to employ full-time students at subminimum wage rates for percentages not to exceed 10 percent of the total hours of all employees in the establishment in any calendar month during the effective period of the certificate.

The authority provided by any of these certificates was not effective before March 21, 1975, and expires not later than June 12, 1976, but in no instance does the effective period of any one certificate exceed one year.

Andy's Supermarket, Inc., Vesper, WI.

Annis Finer Foods': Lakeville, IN; Lapaz, IN.

B & C Supermarket, 1001 North College, El Dorado, AR.

Bay Grocery, 500 East First, Chandler, OK.

Beller's Supermarket, Inc., Woodruff, WI.

Big B's Supermarket, Belle Rose, LA.

Big John Super Stores, Inc.: No. 8, Carmi, IL; No. 10, Olney, IL.

Big Star Store, 113 Carmel, Lafayette, LA.

Blue Ribbon Market, Inc., 914 Parade Street, Erie, PA.

Bob's Warehouse Market, Sidney, MT.

Breister's Food Mart, 512 South Military Road, Fond du Lac, WI.

Brooks Super Market, Ashley Wilson Road, Sweeny, TX.

Bud's Red Owl Food Center, 4450 Service Road, Winona, MN.

Buy Rite Food Center, Inc., 1704 Okoboji Avenue, Milford, IA.

Callsen's Supermarket, 108 Liberty Street, Valders, WI.

Carl's: Nos. 2 and 5, McAllen, TX; No. 4, Mission, TX; No. 3, San Juan, TX.

Carl's Food Market, 2315 North Sheridan Road, Lawton, OK.

Centerville Supermarket, Inc., 1551 Centerville Road, Dallas, TX.

Central Market, Inc.: 280 4th Avenue, Yuma, AZ; 83 East Main Street, McConnelsville, OH.

El Centro Super Markets, Inc.: No. 2 and 4425 East 14th Street, Brownsville, TX.

Champagne's Super Market, 202 South Kibbe, Erath, LA.

Claiborne Hill Super Market, Inc., Covington, LA.

Convenient Food Mart, Inc.: No. 363, Ashtabula, OH; No. 333, Brecksville, OH; No. 335, North Olmsted, OH; 27112 Detroit, Westlake, OH.

Cooley's Super Market, 208 South Washington, Kaufman, TX.

Cox Food Market, Afton, OK.

Crestview Minimax, Inc., 7108 Woodrow Avenue, Austin, TX.

Curtis Rainbow Supermarket, 405 Main Street, Palacios, TX.

Dailey's Food Mart, Buffalo, TX.

Dave's Food Market, 401 Harrisburg, Houston, TX.

Davis Food Store, 1638 West Randol Mill Road, Arlington, TX.

Davis Thrift-Tee Food Store, 402 Clarice, Grand Prairie, TX.

Dee's Food Market, 522 West Milam, Wharton, TX.

Dehart & Brooks, Red Oak, OK.

Dembling's 736 West Grand Avenue, Rahway, NJ.

Dibble's: Huntoon & Lane, 21st & Fairlawn, 29th & Topeka and 29th & Gage, Topeka, KS.

Dick's Lone Tree Supermarket, 2215 Lone Tree Road, Victoria, TX.

Dixie Dandy Store, Bunkie, LA.

Dobson's Supermarket, Inc., Manchester, KY.

Don's Food Market, 3702 Laura Koppe Road, Houston, TX.

Don's Super Market, 318 Central Avenue, Reserve, LA.

Dorignac's Food Center, Inc., 710 Veterans Boulevard, Metairie, LA.

Dyche Jones Food Store: Nos. 1 and 3, London, KY; No. 4, Manchester, KY; No. 5, Middlesboro, KY.

Farmers Market, 200 West Broadway Street, Bloomfield, NM.

Ferdie's Superette, Paincourtville, LA.

Fontenot Food Mart, 209 South Lake Arthur Drive, Jennings, LA .

Food Basket, Inc.: No. 1, Dallas, TX; No. 3 and 912, East Irving Boulevard, Irving, TX.

Food Center: 100 East St. John Street, Osceola, AR; No. 34, Bay St. Louis, MS; No. 25, Beauvior, MS; No. 33, Biloxi, MS; No. 32, Gulfport, MS; Nos. 1, 2 and 38, Jackson, MS; No. 4, Meridian, MS; No. 37, Pascagoula, MS.

Food Circus, Inc., 302 Ontario Street, Cohoes, NY.

Food Fair, Inc.: Highway 27, Burnside, KY; Main Street, East Bernstadt, KY; 710 East Main Street, Hazard, KY; Jackson, KY; Broad Street, London, KY; Williams and Main Streets, Mount Vernon, KY; North Highway 27, Somerset, KY; Main Street, Whitley City, KY.

Food Town, Inc.: Highway 62 North and Highway 71 South, Rogers, AR.

Ford's Purity Bakery, Inc., 522 George Street, De Pere, WI.

Foret's, Inc., Iota, LA.

Friendly Stores, Inc., 24 East 7th Street, Norris, MN.

Furr's, Inc.: Nos. 22, 24, 25, 26, 31, 32 and 38, Albuquerque, NM; No. 10, Clovis, NM; No. 6, Hobbs, NM; Nos. 30 and 37, Roswell, NM; No. 36, Santa Fe, NM; Nos. 27 and 28, Abilene, TX; Nos. 51, 53, 54, 55, 56, 57, 58, 59, 60 and 64, Amarillo, TX; No.15, Big Springs, TX; No. 61, Borger, TX; No. 9, Brownfield, TX; Nos. 40, 41, 42, 44, 45, 46, 48, 49, 50 and 65, El Paso, TX; No. 63, Hereford, TX; No. 18, Lamesa, TX; No. 7, Levelland, TX; No. 20, Littlefield, TX; Nos. 1, 2, 3, 4, 5, 16, 19 and 33, Lubbock, TX; Nos. 14 and 29, Midland, TX; No. 12, Monahans, TX; Nos. 11, 17 and 23, Odessa, TX; No. 62, Pampa, TX; No. 8, Plainview, TX; No. 21, Snyder, TX.

G & M Foods, Inc., 4131 Griggs, Houston, TX.

Garner Super Valu, 320 Division Street, Garner, IA.

Gilliland Supermarket, Mathiston, MS.

Gilmore Wood Supermarket, Parkin, AR.

H. E. B. Food Store: No. 98, Brenham, TX; No. 117, Crystal City, TX; No. 110, Georgetown, TX; No. 109, Marble Falls, TX.

H & H Super Markets, Inc., 10242 Midway Road, Dallas, TX.

H & K Supermarket, Cumming, GA.

Haberer's Grocery, Mulberry, AR.

Hammell's Cash Store, 404 Patterson Street, Trumann, AR.

Hampton Heights Fine Foods, 10135 West Hampton Avenue, Milwaukee, WI.

Hank's Food Center, 400 Bolton Avenue, Alexandria, LA.

Hardin's Food Center, 502 South 13th, Clinton, OK.

Hastings Eisner Agency, Route 45 South, Effingham, IL.

Hathaway's Country Store, Locke Milles, ME.

Heavener Superette, Highway 59, Heavener, OK.

Hebert's Market, 340 High Street, Somersworth, NH.

Hennekes Super Market, Brookshire, TX.

Hofbauer's Food & Locker Service, East Division Highway 82, Muenster, TX.

Holiday Foods, Inc., Holly Plaza, Santa Claus, IN.

Huntingburg Kay Market, Inc., 432 4th Street, Huntingburg, IN.

IGA: Mount Ida, AR; Highway 29 South, South Flomaton, FL; Midtown Shopping Center, Donalsonville, GA; 312-317 Jackson Street, Hope, IN. 701 South Main, Monticello, IN; Elkton, KY; Des Allemands, LA; 207 North Lewis Street, New Iberia, LA; 225 South Washington, Charlotte, MI; 8751 Monroe Road, Durand, MI; 715 South Main, Eaton Rapids, MI; 512 South Clinton, Grand Ledge, MI; 375 Woodward Avenue, Kingsford, MI; 3820 Huron Street, North Branch, MI; 228 Bridge Street, Portland, MI; 300 North Broadway, Spring Valley, MN; 945 South Main Street, Ada, OH; 305 Sunnydale Avenue, Elida, OH; 2525 Shawnee Road, Lima, OH; 932 North Perry Street, Ottawa, OH; 105 North Main Street, Tonkawa, OK; 104 West Madison Street, Crandon, WI and 142 South Mill, West Salem, WI.

Ideal Food Saver, 3118 Jay Avenue, Sioux City, IA.

Ideal Market: Rushville, NE and Valentine, NE.

J & L Super Valu, Inc., 322 South Main Street, Park Rapids, MN.

J & N Thrif-Tee: No. 1, Arlington, TX and No. 2, Fort Worth, TX.

Jacks: 160 Arizona Avenue, Chandler, AZ and 703 West Main, Mesa, AZ.

Jenk's Inc., 1712 East Mason, Green Bay, WI.

Jerry's By-Rite Market, 236 Division, Hesperia, MI.

Jerry's Markets, 2117 South Weinbach Avenue, Evansville, IN.

Jim's Eisner Agency, 249 North Morgan, Shelbyville, IL.

Jitney-Jungle: No. 15, Canton, MS; No. 10, Clinton, MS; No. 6, Greenville, MS; No. 21, Hattiesburg, MS; No. 3, Hazlehurst, MS; Nos. 5, 7, 9, 12, 14, 16, 18, 19 and 23, Jackson, MS; Nos. 11 and 26, Laurel, MS; No. 20, McComb, MS; No. 27, Petal, MS; Nos. 17 and 28, Yazoo City, MS.

John Abdouch Produce, 621 South Stanton, El Paso, TX.

Johnsons Eisner Agency, Route 36, Illiopolis, IL.

Jutte Foodliner Company, 404 West North Street, Coldwater, OH.

Kaleva Mercantile & Produce Co., Kaleva, MI.

King's Food Store, 315 South Center Street, Archer City, TX.

Kinnamons Grocery, 314 North 4th, Stroud, OK.

L & W Star Market, 227 South Main, Moweaqua, IL.

Lagen's, 8859 South California, Evergreen Park, IL.

Landers Bros Food Store, 201 West Frank Phillips Boulevard, Bartlesville, OK.

Larry's Food Market, Crescent, OK.

Lee's Super Market: No. 1, Arlington, TX; No. 2, Mansfield, TX.

Leo's Super Valu, Commerce Street, Galena, IL.

Les Foodland, Ind., 106 South Estey, Luverne, MN.

Lester's Thriftway, Lewisville, AR.

Ludlum's Eisner Agency, 370 North Main, Canton, IL.

McGinnis Country Dell, 2800 Brownsville Road, Pittsburgh, PA.

Mainway Supermarket, Inc.: 381 Valley Road, Clifton, NJ; 680 Main Street, Paterson, NJ.

Malmstadts Market, 1301 Elizabeth Avenue, Marinette, WI.

Marables Market, Inc., 1924 South Osprey, Sarasota, FL.

Marek's Super Market, East Bernard, TX.

Marengo Super Valu, 155 North State Street, Marengo, IL.

Mark-It Food Stop, 1802 16th Avenue, Sterling, IL.

Martin's Foods, Inc., 3685 East Broad Street, Columbus, OH.

Meekins Super Market, Inc., No. 1, Cleveland, TX.

Milgram Food Stores, Inc.: No. 7, Dardanelle, AR; No. 9, Russellville, AR; No. 6, Van Buren, AR.

Minyard Food Store, No. 8, Dallas, TX.

Neumann Food Store, 1507 East Juan Linn, Victoria, TX.

No. Am., Inc., Route 1, Rockford, MN.

North Side Big Value, 338 West North Avenue, Milwaukee, WI.

Northern Supermarkets, Inc.: 725 Mount Pleasant Avenue, Houghton Lake Heights, MI; 1960 M-76, St. Helen, MI.

O'Brien's Food Markets, Inc.: 704 North Alexander Drive, 2304 North Alexander Drive and 2100 North Main, Baytown, TX; 801 West Main, Tomball, TX.

Osceola Big Star, Inc., Gateway Center, Osceola, AR.

Paka Plaza Apparel, Inc., No. 505, Jackson, MI.

Panama Superette, Highway 271, Panama, OK.

Paps Food Center, Inc., 1937 Mirabeau Avenue, New Orleans, LA.

Park and Shop: 1339 Mayflower Avenue, 2709 Business Hi Way 141 South, 823 South 8th Street and 1807 Erie Avenue, Sheboygan, WI.

Passmore Super Market, Inc., 809 North Park Drive, Broken Bow, OK.

Pay-N-Save: No. 3, Amherst, TX; No. 5, Earth, TX; No. 11, Farwell, TX; No. 2, Hart, TX; Nos. 6 and 8, Littlefied, TX; Nos. 4 and 10, Muleshoe, TX; No. 1, Olton, TX; No. 9, Plains, TX; No. 7, Sudan, TX.

Pic-Pac Foods, 500-1 West Broadway, West Memphis, AR.

Piggly Wiggly: No. 16, Hot Springs, AR; Nos. 068 and 115, Nashville, AR; No. 40, Stuttgart, AR; 10th Street, De Funiak Springs, FL; 617 Ohio Avenue, Lynn Haven, FL; 171 Second Avenue, Cairo, GA; West Oakland Avenue, Camilla, GA; 42 Curry Street, Pelham, GA; 217 West Main Street, Haynesville, LA; 1120 South Reynolds Street and Main Street, Springhill, LA; 110 North Pine Street, Vivian, LA; No. 2, Idabel, OK; Highway 25 South at Pershing Street, Belmont, MS; 212 East Government Street, Brandon, MS; Fir Avenue, Collins, MS; Highway 13 West, Columbia, MS; 408 Corner Courthouse & Pass Road, Gulfport, MS; Main Street, Leakesville, MS; Highway 98 West Lucedale, MS; 510 Hattiesburg Drive, Magee, MS; Highway 37 North, Taylorsville, MS; 813 Beaulah Avenue, Tylertown, MS; 1000 C Mississippi Drive, Waynesboro, MS; 116 South Second Street, Wiggins, MS; No. 37, Ridgeland, SC; Honey Grove, TX; No. 1, Huntsville, TX; Nos. 1 and 2, Jacksonville, TX; 321 Beaty Street, Livingston, TX; Whitehouse, TX.

Pronto Mart, Route 9, Albuquerque, NM.

Prots Food Center, 11081 Kinsman Road, Newbury, OH.

Queen's Super Market, 910 Queens Road, Pasadena, TX.

Quik-Trip: Nos. 32 and 42, Bartlesville, OK; Nos. 49 and 64, Broken Arrow, OK; Nos. 30 and 55, Miami, OK; Nos. 34 and 38, Muskogee, OK; Nos. 36, 40 and 52, Ponca City, OK; Nos. 12 and 17, Sand Springs, OK; Nos. 43, 44, 45, 48 and 68, Stillwater, OK; No. 46, Tahlequah, OK; Nos. 1, 3, 4, 5, 6, 7, 9, 10, 11, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 31, 47, 53, 56, 57, 58, 59, 60, 61, 62, 66, 67, 69, 72 and 73, Tulsa, OK; No. 65, Vinita, OK.

Ralph's Food Store, Main & Choctaw, Haskell, OK.

Rana's Grocery, Route 1, Watson, AR.

Red and White, Aurora, NE.

Red Owl Store, No. 484, Menominee, MI.

Reeb's Qualtiy Dairy Center, 4527 West Main Street, Belleville, IL.

Richard's Eisner Agency, Route 150 & Richardson, Farmer City, IL.

Road Runner Market, Estancia, NM.

Ron's Foods, Inc.: 510 James Street, De Pere, WI; Route 2, Pulaski, WI.

Rubal Markets, Inc., 75 Ferry Street, Troy NY.

Saveway Supermarket, Inc.: 217 West Main Street, Houma, LA; 319 West Park, Orange, TX.

Serrhel Glynn Adams, Inc., Destrehan, LA.
Simon's Grocery, Inc., 814 Front, Conway, AR.
Simoneaud Grocery & Market, Inc., 502 Ashton Avenue, New Iberia, LA.
Sliva's Food Store, 107 Casway, Lott, TX.
Smith's Food King: Nos. 360, 361, 362, 363, 365, 366, 367, 369 and 370, Las Vegas, NV.
Sonny's Market, 4th & Miss., Atoka, OK.
Stephens Brothers, 103 East St. Louis Street, Effingham, IL.
Stigler Food Mart, 312 East Main, Stigler, OK.
Strock's Supermarket, Lincolndale Plaza, Union City, IN.
Sunny Super Market, 5 South Lincolnway, North Aurora, IL.
Super S Foods: 610 East Main, Fredricksburg, TX; 1731 W W White Road, San Antonio, TX.
Taft Grocery, 1615 Taft Avenue, Lawton, OK.
Tang's Market, 4102 North 24th Street, Phoenix, AZ.
Theriot Super Market, Inc., 1917 South Bayou Drive, Golden Meadow, LA.
Thies A.G. Supermarket, No. 1327, Effingham, IL.
Tooties Hom-ond Super Markets, Inc., 512 North Dal Paso, Hobbs, NM.
Town and Country Market, 6981 North Winton Way, Winton, CA.
Turkey Hill Minit Markets Store: No. 35, Landisville, PA; No. 10, York, PA.
U-Wag-M: No. 1, Giddings, TX; No. 3, Lexington, TX.
United Super Save: Guthrie Center, IA; Stuart, IA.
Wag-A-Bag, Inc., No. 3, Georgetown, TX.
Wagner's Market, Inc., Bakerstown, PA.
Walker's Super Market, 700 S.E. 6th Ave.
Walter's Discount Foods, 108 West Wallace, San Saba, TX.
Ward's Thriftway, 316 Elm Street, Prescott, AR.
Wedels Fine Foods, 124 South Main, Fairview, OK.
West Helena Big Star, Inc., 212 North Sebastian Street, West Helena, AR.
White House Superette Food Market, 906 First Street, Rosenberg, TX.
Wilcox Minimax Grocery, 200 South McCarty Avenue, Eagle Lake, TX.
Wilson Big Star, 1 Park Avenue, Wilson, AR.
Woodson's Super Market, 1044 Highway 25W, LaFollette, TN.
Woody's Grocery, Park & Chesnut, Hammond, LA.
Wrights Shopping Center, 422 East Broadway, Mesa, AZ.
Zoom In Market: Nos. 19 and 20, Fort Worth, TX.

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at subminimum wage rates is necessary to prevent curtailment of opportunities for employment and the hiring of full-time students at subminimum wage rates will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under a certificate.

The certificate may be annulled or withdrawn, as indicated therein, in the manner provided in part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof on or before September 29, 1975.

Signed at Washington, D.C., this 11th day of August 1975.

ARTHUR H. KORN,
Authorized Representative of the Administrator.

[FR Doc.75-21403 Filed 8-14-75;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 832]

ASSIGNMENT OF HEARINGS

AUGUST 12, 1975.

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 99493 Sub 4, Central Storage & Transfer Co., now assigned September 15, 1975, at Philadelphia, Pa., is postponed to October 20, 1975, at Harrisburg, Pa. (1 week), in a hearing room to be later designated.

MC 133591 Sub 15, Wayne Daniel Truck, Inc., now being assigned October 16, 1975 at Kansas City, Missouri (1 day), in a hearing room to be later designated.

MC 108393 Sub 88, Signal Delivery Service, Inc., now being assigned October 17, 1975 (1 day), at Kansas City, Missouri, in a hearing room to be later designated.

MC 111401 Sub 445, Groendyke Transport, Inc., now being assigned October 20, 1975 (1 day), at Kansas City, Missouri, in a hearing room to be later designated.

MC 66886 Sub 45, Belger Cartage Service, Inc., now being assigned October 21, 1975 (2 days), at Kansas City, Missouri, in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-21539 Filed 8-14-75;8:45 am]

BUD'S MOVING AND STORAGE, INC.

Declaratory Order

No. MC-C-8687 (Petition for declaratory order), filed June 24, 1975. Petitioner: BUD'S MOVING & STORAGE, INC. Petitioner's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, D.C. 20006. By petition filed June 24, 1975, petitioner seeks the issuance of a declaratory order for the purpose of determining whether petitioner is required to hold operating authority from the Commission in its own name as a motor common carrier of household goods, as defined by the Commission, in order lawfully to perform the services required under a "pack and crate" contract between petitioner and the United States Air Force, covering services in connection with household goods and unaccompanied baggage for the Air Force base at Minot, N. Dak. Petitioner performs all of the services described in the government contract with the exception of the transportation of containerized household goods within the pertinent area of performance. This transportation service, interstate movements of which require appropriate operating authority from the Commission, has been subcontracted out to North American Van Lines, Inc., a motor common carrier of household goods, as defined by the Commission, holding operating authority to transport such commodities between all points in the 48 continental United States under Certificate No. MC 107012 and subs thereunder. North American Van Lines, Inc., performs the drayage service under an intermittent lease arrangement of the equipment and drivers of petitioner, as provided for by the Interstate Commerce Act and the Commission's regulations. Petitioner is also an agent for North American Van Lines, Inc. The government contract in question authorizes the subcontracting out of any of the involved services, including the transportation service, under the terms of the Invitation for Bid and under the Armed Services Procurement Regulations (ASPR 7-1601.19). The legality of this subcontracting and lease arrangement between petitioner and North American Van Lines, Inc., has been questioned in a protest lodged with the Air Force by Red River Transfer & Storage, Inc., a bidder on the government contract holding appropriate operating authority in its own name. The protest was overruled by the Air Force in reliance on petitioner's representation that the matter would be promptly brought before the Commission for disposition.

Petitioner urges that the Commission issue a declaratory order finding (1) that petitioner's subcontracting out of the transportation service to North American Van Lines, Inc., and North American's performance of that service under a lease arrangement with petitioner is lawful inasmuch as appropriate motor carrier operating authority for the transportation service need not be held by the contractor in its own name, and (2) that while the operations in question herein may constitute those of a motor carrier broker, no broker's license from the Commission is required under section 211 of the Act since the statute exempts from its licensing requirements arrangements for motor carrier transportation when made by a bona fide agent of the motor carrier involved.

An oral hearing does not appear to be necessary and none is contemplated at this time. Anyone interested in presenting their views and evidence, either in support of or in opposition to, the re-

lief sought in the petition is hereby invited to do so by the submission of written data, views, or arguments. An original and 15 copies of such data, views, or arguments shall be filed with the Commission, on or before October 1, 1975. All such statements will be considered as evidence and as a part of the record in the proceeding. All written material will be available for public inspection at the Offices of The Interstate Commerce Commission, 12th and Constitution, N.W., Washington, D.C.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-21544 Filed 8-14-75;8:45 am]

CHICAGO AND NORTH WESTERN TRANSPORTATION CO.

Order

[Docket No. AB 1 (Sub-No. 36)]

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY ABANDONMENT BETWEEN WISCONSIN RAPIDS AND WEST BANCROFT, IN WOOD AND PORTAGE COUNTIES, WISCONSIN

Finance Docket No. 27748

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY—TRACKAGE RIGHTS—OVER A LINE OF RAILROAD BETWEEN WISCONSIN RAPIDS AND NECEDAH, IN WOOD AND JUNEAU COUNTIES, WISCONSIN

Finance Docket No. 27749

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY—CONSTRUCTION OF A LINE OF RAILROAD—AT NECEDAH, JUNEAU COUNTY, WISCONSIN

AUGUST 12, 1975.

Upon consideration of the record in the above-entitled proceedings, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, That no environmental impact statement need be issued in these proceedings because these proceedings do not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321, *et seq.*; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Wood, Portage, and Juneau Counties, Wisconsin, on or before August 28, 1975 and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 6th day of August, 1975.

By the Commission, Commissioner Brown.

[SEAL] ROBERT L. OSWALD, *Secretary.*

NOTICE

[Docket No. AB 1 (Sub-No. 36)]

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY ABANDONMENT BETWEEN WISCONSIN RAPIDS AND WEST BANCROFT, IN WOOD AND PORTAGE COUNTIES, WISCONSIN

Finance Docket No. 27748

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY—TRACKAGE RIGHTS—OVER A LINE OF RAILROAD BETWEEN WISCONSIN RAPIDS AND NECEDAH, IN WOOD AND JUNEAU COUNTIES, WISCONSIN

Finance Docket No. 27749

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY—CONSTRUCTION OF A LINE OF RAILROAD—AT NECEDAH, JUNEAU COUNTY, WISCONSIN

The Interstate Commerce Commission hereby gives notice that by order dated August 6, 1975, it has been determined that (1) the proposed abandonment of the Chicago and North Western Transportation Company railroad line between Wisconsin Rapids and West Bancroft, all in Wood and Portage Counties, Wis., a distance of approximately 16.2 miles, (2) the proposed acquisition of trackage rights by the Chicago and North Western Transportation Company over approximately 37.42 miles of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company line between Wisconsin Rapids and Necedah, all in Wood and Juneau Counties, Wis., and (3) the proposed construction of a 4,544 foot connection at Necedah, Juneau County, Wis., if approved by the Commission, do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321, *et seq.*, and that preparation of a detailed environmental impact statement will not be required under Section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because no definitive industrial development plans would be affected, no diversion of traffic from rail to motor carriers is involved, and the fuel consumption, air pollution, safety, historic, ecological, and other environmental impacts are absent or minor. Furthermore, the proposed abandonment is consistent with Wisconsin Rapids' plan to utilize the railroad right-of-way and the Wisconsin River bridge for a future highway corridor.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-2086.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before September 3, 1975.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[FR Doc.75-21542 Filed 8-14-75;8:45 am]

[AB 7 (Sub-No. 8)]

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILWAY COMPANY ABANDONMENT BETWEEN ST. CLAIR JUNCTION AND ST. CLAIR, IN FREEBORN, WASECA AND BLUE EARTH COUNTIES, MINNESOTA

Environmental Assessment

AUGUST 12, 1975.

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available for public inspection upon request; and

It appearing, That no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321, *et seq.*; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Freeborn, Waseca, and Blue Earth Counties, Minn., on or before August 27, 1975 and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 6th day of August, 1975.

By the Commission, Commissioner Brown.

[SEAL] ROBERT L. OSWALD, *Secretary.*

NOTICE

[AB 7 (Sub-No. 8)]

Chicago, Milwaukee, St. Paul and Pacific Railway Company Abandonment Between St. Clair Junction and St. Clair, in Freeborn, Waseca and Blue Earth Counties, Minnesota

The Interstate Commerce Commission hereby gives notice that by order dated August 6, 1975, it has been determined that the proposed abandonment

by the Chicago, Milwaukee, St. Paul and Pacific Railway Company of its line of railroad between St. Clair Junction and St. Clair, Minn., a distance of 41.26 miles, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321, *et seq.*, and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because the associated environmental impacts are considered insignificant because area environmental quality will only be degraded slightly due to increased air pollution, energy consumption, and noise instrusion, and due to reduction of acreage in wildlife habitat.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-2086.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before September 2, 1975.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[FR Doc.75-21541 Filed 8-14-75;8:45 am]

[AB 43 (Sub-No. 9)]

ILLINOIS CENTRAL GULF RAILROAD COMPANY ABANDONMENT OF OPERATIONS BETWEEN CORINTH, MISSISSIPPI, AND MEMPHIS, TENNESSEE, IN SHELBY, FAYETTE, HARDEMAN AND McNAIRY COUNTIES, TENNESSEE, AND ALCORN COUNTY, MISSISSIPPI

Environmental Assessment

Service date August 12, 1975.

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, That no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321, *et seq.*; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Shelby, Fayette, Hardeman and McNairy Counties, Tennessee, and Alcorn County, Mississippi, on or before August 28, 1975, and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 6th day of August, 1975.

By the Commission, Commissioner Brown.

[SEAL] ROBERT L. OSWALD, *Secretary.*

INTERSTATE COMMERCE COMMISSION NOTICE

AB 43 (Sub-No. 9)

ILLINOIS CENTRAL GULF RAILROAD COMPANY ABANDONMENT OF OPERATIONS BETWEEN CORINTH, MISSISSIPPI, AND MEMPHIS, TENNESSE, IN SHELBY, FAYETTE, HARDEMAN AND MCNAIRY COUNTIES, TENNESSEE, AND ALCORN COUNTY, MISSISSIPPI

The Interstate Commerce Commission hereby gives notice that by order dated August 6, 1975, it has been determined that the proposed abandonment of operations on 87.34 miles of Southern Railway Company Line by the Illinois Central Gulf Railroad Company between Corinth, Mississippi, and Memphis, Tennessee, if approved by the Commission, does not constitutes a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321, *et seq.*, and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because no Illinois Central Gulf traffic has moved on the line in two years, no stations are involved as the prior movement was all bridge traffic between the two points in question, and no developmental plans are dependent upon the continuation of the instant line. The bridge traffic has been moving over the applicant's line via Fulton, Kentucky.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-2086.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before September 3, 1975.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[FR Doc.75-21540 Filed 8-14-75;8:45 am]

[Notice No. 55]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

AUGUST 14, 1975.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before September 3, 1975. Pursuant to Section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-76018. By order entered August 11, 1975, the Motor Carrier Board approved the transfer to James J. Borda, doing business as Hart's Rapid Delivery, Laconia, N.H., of that portion of the operating rights set forth in Certificate No. MC 34564, issued January 26, 1950, to Adolph J. Daroska, Pittsfield, N.H., authorizing the transportation of household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, between Pittsfield, N.H., and points in New Hampshire within 25 miles of Pittsfield, on the one hand, and, on the other, points in that part of Massachusetts on and east of U.S. Highway 5. James J. Borda, 127 Court St., Laconia, N.H. 03246, transferee, and Adolph J. Daroska, 50 Concord Hill, Pittsfield, N.H. 03263, transferor.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-21538 Filed 8-14-75;8:45 am]

[AB 55 (Sub-No. 3)]

SEABOARD COAST LINE RAILROAD COMPANY ABANDONMENT BETWEEN MALMO AND WHITEVILLE, IN BRUNSWICK AND COLUMBUS COUNTIES, NORTH CAROLINA

Environmental Assessment

Service date Aug. 12, 1975.

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, That no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act

of 1969, 42 U.S.C. §§ 4321, *et seq.*; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Brunswick and Columbus Counties, N.C., on or before August 27, 1975, and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 6th day of August, 1975.

By the Commission, Commissioner Brown.

[SEAL] ROBERT L. OSWALD,
Secretary.

INTERSTATE COMMERCE COMMISSION

NOTICE

AB 55 (Sub-No. 3)

SEABOARD COAST LINE RAILROAD COMPANY ABANDONMENT BETWEEN MALMO AND WHITEVILLE, IN BRUNSWICK AND COLUMBUS COUNTIES, NORTH CAROLINA

The Interstate Commerce Commission hereby gives notice that by order dated August 6, 1975, it has been determined that the proposed abandonment by the Seaboard Coast Line Railroad Company of its line of railroad between Malmo and Whiteville, N.C., a distance of 32.18 miles, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321, *et seq.*, and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because of the negligible degree of increased energy consumption and environmental degradation resulting from the diversion of rail traffic to motor carrier transport and from increased circuity in a small number of commodity trips. The lack of direct rail service may impede the consolidation of local efforts at industrial development, although there are no identifiable plans intrinsically dependent upon continued rail access. There would be no effect upon historic sites in the area. Local highways are capable of accommodating the slight addition to motor carrier transport which would result from the proposed abandonment. There is considerable potential for recreational use of the right-of-way, and the State Department of Natural and Economic Resources has expressed interest in such usage.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–343–2086.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C., 20423, on or before September 2, 1975.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[FR Doc.75-21543 Filed 8-14-75;8:45 am]

federal register

FRIDAY, AUGUST 15, 1975



PART II:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration
Public Health Service

■

MAXIMUM ALLOWABLE COST FOR DRUGS

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 5, further amended]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Principles of Reimbursement for Provider Costs and for Services by Hospital-Based Physicians

DETERMINING ALLOWABLE COST FOR DRUGS

On January 20, 1975, there was published in the FEDERAL REGISTER (40 FR 3219) a notice of proposed rule making with a proposed amendment to Subpart D of Regulations No. 5 (20 CFR Part 405), regarding the allowable cost for any drug that is a multiple-source drug and providing that such allowable cost may not exceed the cost that would have been incurred if the drug had been obtained from the lowest-priced source that is widely and consistently available, (whether sold by generic or trade name) or the maximum allowable cost established by the Department, consistent with regulations on the "Maximum Allowable Cost for Drugs" (45 CFR Part 19), proposed by the Secretary of Health, Education, and Welfare and published in the FEDERAL REGISTER on November 15, 1974 (39 FR 40302). The proposed amendment provided that a list of multiple-source drugs and their maximum allowable costs, and periodic revisions of such list, would be published in the FEDERAL REGISTER. The maximum allowable cost limitation would not be applied to an individual drug until that particular drug has appeared on the list.

The proposed amendment provided that, for purposes of reimbursement to providers under the Medicare program, the allowable cost for a multiple-source drug could not exceed the lesser of (1) the actual cost, (2) the amount which would be paid by a prudent and cost-conscious provider if the drug had been obtained from the lowest-priced source which is widely and consistently available (whether sold by generic or trade name), or (3) the applicable maximum allowable cost for such drug. The drug-ingredient costs incurred in the purchase of multiple-source drugs which are in excess of such allowable cost that would have been incurred in purchasing multiple-source drugs would be disallowed. The cost of drugs not appearing on the list would also be evaluated by intermediaries so that the allowable cost of such drugs does not exceed what a prudent and cost-conscious buyer would pay for the given drugs.

It is recognized that providers purchase drugs from manufacturers, wholesalers, or retail pharmacies, or from a combination of these sources. Therefore, the proposed amendment provided that, in determining what a prudent and cost-conscious provider would pay for the lowest-priced, multiple-source drug widely and consistently available, the cost of the drugs specified in the list would be evaluated in terms of the similar quantities and the similar purchasing arrangements at which the drugs were, in fact, purchased. The effectiveness of the purchasing practices of providers would be reviewed periodically to determine compliance with provisions of this regulation. Based on these reviews, the Social Security Administration would continue to evaluate the necessity for establishment of more extensive guidelines, at the same time avoiding burdensome recordkeeping requirements for providers where no significant savings would accrue to the Medicare program.

Interested parties were given 60 days from the date of publication of the notice of proposed rule making in which to submit data, comments, or suggestions thereon. Since most of the comments were directed to the Secretary, more detailed comments are found in the preamble to the Department's regulations. Comments and suggestions received with regard to the Social Security Administration Notice of Proposed Rule Making, responses thereto, and changes in the proposed regulation are summarized below.

Drug Equivalency Issue.—By far, the largest number of comments that were received expressed concern whether all drugs subject to the regulation are, in fact, equivalent products. As provided for by 45 CFR Part 19 on the maximum allowable cost (MAC) for drugs, published in the FEDERAL REGISTER by the Department of Health, Education, and Welfare (40 FR 32283), a Pharmaceutical Reimbursement Board will be created to identify those multiple-source drugs for which there are significantly different prices charged by various product formulators or labelers. The Board will publish in the FEDERAL REGISTER a listing which will identify those multiple-source drugs which will be subject to the maximum allowable cost (MAC) limitations, and establish the MAC limitation for those drugs. The criteria which the Board will use in developing the list will be prescription volume, extent of price differences, and quality. Responsibility for quality assurance will reside in the Food and Drug Administration. A more detailed response to the equivalency issue may be found in the preamble to the Department's regulations regarding maximum allowable cost for drugs (40 FR 32283).

In addition, it should be recognized that these regulations do not mandate use of any specific drug—the participating hospital pharmacies need only to comply with hospital and State prescribing practices. Section 405.433 of Regulations No. 5 of the Social Security Administration, which is set forth below, merely prescribes limits which are set on the reasonable cost reimbursable by the health insurance program for the multiple-source drugs.

Exception.—Many comments expressed concern with the provision for the physician's waiver. The main concern was that the physician was required to certify that only a specific brand of drug could be tolerated by, or would be effective for, a particular patient, before the restriction on allowable cost for multiple-source drugs could be waived. It was pointed out that a physician could never be certain that his patient could tolerate (or would realize a therapeutic effect from) only one particular brand, without testing all brands of a specific drug on the patient. For this reason, the regulation has been revised so that the exception will be granted with respect to a particular brand product if the physician certifies in his own handwriting that that specific brand is medically necessary for his particular patient.

Clarification on Charging Beneficiaries.—The question was raised whether beneficiaries could be charged the difference between the amount reimbursed by the health insurance program for a drug and the higher cost incurred for the actual drug dispensed. The regulation has been clarified to explicitly state the beneficiary may not be charged for such difference. A more detailed explanation of the Department's response to this comment is found in the preamble to the Department's regulations (see 40 FR 32283).

Although the Department's regulations have been changed to limit reimbursement to the lowest of (i) the maximum allowable cost of a drug; (ii) the acquisition cost of the drug; or (iii) the provider's usual and customary charge to the public for the drug, it is unnecessary to make a conforming change in Regulations No. 5. § 405.433 does not itself contain the "usual and customary" limitation since that limit is imposed on all reasonable cost reimbursement pursuant to section 1814(b) of the Social Security Act, 42 U.S.C. 1395f(b) and 20 CFR 405.455. The "acquisition cost" limitation, which refers to the price generally and currently paid by providers, is encompassed by the provisions in § 405.433, which limit allowable costs to the amount which a prudent and cost-conscious buyer would pay. The "prudent buyer" concept has been employed administratively by the Social Security Administration in defining reasonable cost since the inception of the Medicare program. The Social Security Administration and its intermediaries have experience and existing procedures for applying this limit.

In view of the quadruple limitation that will apply to multiple-source drug reimbursement under title XVIII—"maximum allowable cost," the provider's customary charge, the "prudent buyer" rule, and actual cost (§ 405.433(a)(1)(i))—no program purpose would be served by including "acquisition cost" as a limitation, and its omission will avoid unnecessary administrative cost and complication.

Various editorial changes have also been made in the interest of clarity.

Accordingly, with these changes and additions, the proposed amendment is adopted and is set forth below.

(Sections 1102, 1861(v), and 1871 of the Social Security Act, 49 Stat. 647, as amended, 79 Stat. 322, as amended, 79 Stat. 331; 42 U.S.C. 1302, 1395x(v) and 1395hh; 223 (a),

(b), (c), and (d) of P.L. 92-603, 86 Stat. 1393, 1394 (42 U.S.C. 1395x(v)(1)(A)).

Effective date: This regulation shall be effective on April 26, 1976.

(It is hereby certified that we have evaluated the inflationary impact of the MAC Regulations in accordance with the requirements of Executive Order 11821 and OMB Circular A-107. We find that the regulations do not have inflationary impact. Therefore, an inflation impact statement is not required.)

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged-Hospital Insurance.)

Dated: July 30, 1975.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: August 8, 1975.

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

Part 405 of Chapter III of Title 20 of the Code of Federal Regulations is amended by adding § 405.433 to read as follows:

§ 405.433 Determining allowable cost for drugs.

(a) *Principle.* (1) The allowable cost for any multiple-source drug (as described in paragraph (b)(1) of this section) may not exceed the lesser of:

(i) The actual cost;

(ii) The amount which would be paid by a prudent and cost-conscious buyer for such drug if obtained from the lowest-priced source that is widely and consistently available (whether sold by generic or trade name), or

(iii) The "maximum allowable cost" as defined in 45 CFR 19.5(c).

(2) The allowable cost for any other drug may not exceed what a prudent and cost-conscious buyer would pay for that particular drug.

(b) *Application.* (1) *Multiple-source drugs.* (i) The Department of Health, Education, and Welfare will publish in the FEDERAL REGISTER, from time to time, a list of specific multiple-source drugs and their "maximum allowable cost" limitations. (See 45 CFR Part 19.) For these drugs, the allowable cost (see §§ 405.402 and 405.403) may not exceed the drug-ingredient costs incurred in purchasing such drugs that would be paid by a prudent and cost-conscious provider for such drugs if obtained from the lowest-priced source that is widely and consistently available (whether sold by generic or trade name); except that the drug-ingredient cost incurred in purchasing such drugs may, in no case, exceed the maximum allowable cost published in the FEDERAL REGISTER.

(ii) The provisions of this paragraph (b)(1) are applicable to those multiple-source drugs purchased by providers on or after the effective date of the final MAC determination pursuant to 45 CFR, Part 19. Similarly, an amendment to a maximum allowable cost determination for a drug is applicable to purchases of such drug by providers on or after the effective date of the amended determination.

(2) *Other drugs.* For drugs other than those described in paragraph (b)(1) of this section, the allowable cost (see §§ 405.402 and 405.403) may not exceed what a prudent and cost-conscious buyer would pay for that particular drug.

(3) *Evaluation.* The cost of any drugs will be evaluated in terms of the quantities and purchasing arrangements at which the drugs were, in fact, purchased.

(4) *Charge to beneficiaries.* No charge may be made to the beneficiary for any amount of any drug cost not reimbursed as a result of application of the rule of this section.

(c) *Exception.* Where a physician certifies that in his medical judgment a specific brand is medically necessary for a particular patient, the provisions of paragraph (b)(1) of this section shall not apply. However, the physician must certify in his own handwriting the medical necessity for the exception. An example of an acceptable statement would be "This brand is medically necessary—dispense as written." Merely checking a box on a form will not constitute an acceptable certification. The provider must retain such certification in its records.

(d) *Appeals.* (1) *Amount of reimbursement.* A provider may appeal the amount of reimbursement determined under this section (see Subpart R of this part) except that it may not appeal under Subpart R of this part:

(i) The inclusion of any multiple-source drugs on the published listing, or

(ii) The established maximum allowable cost for any drug.

(2) *Inclusion on listing or maximum allowable cost.* The procedures covering the issues described in paragraphs (d)(1)(i) and (d)(1)(ii) of this section are set forth in 45 CFR Part 19.

[FR Doc.75-21461 Filed 8-14-75;8:45 am]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 50—POLICIES OF GENERAL APPLICABILITY

Maximum Allowable Cost for Drugs

On January 20, 1975, there was published in the FEDERAL REGISTER (40 FR 3218) a notice of proposed rulemaking which proposed to add a new subpart E, entitled "Maximum Allowable Cost for Drugs", to Part 50 of Title 42, Code of Federal Regulations. The proposed new subpart E was designed to establish upper limits for the amount of program funds (i.e., Federal funds and non-Federal funds required to be expended as a condition to receiving such Federal funds) which may be expended for the purchase of any drug under any health services delivery program covered by subpart E, and was in conformance with the November 15, 1974, proposed regulations governing all health programs of the Department (39 FR 40302).

The January 20 notice of proposed rulemaking specified that, for a list of selected multiple source drugs, the amount of program funds which may be expended would be limited to the lower of the Maximum Allowable Cost (MAC) established for each such drug by a Pharmaceutical Board appointed by the Secretary or the actual acquisition cost of the drug plus 25 percent of the amount, if any, by which the MAC for such drug exceeds the actual acquisition cost, plus, in certain circumstances, a reasonable dispensing fee.

Comments on the proposed Public Health Service regulations were received from 12 respondents. With the exception of one comment, all referred to the proposed Departmental MAC regulations; so that responses thereto are incorporated in the preamble to the final Departmental MAC regulations (45 CFR Part 19) which was published in the FEDERAL REGISTER on July 31, 1975 (40 FR 32283). The only comment which explicitly addressed the proposed PHS regulations indicated opposition to the statement in proposed § 50.504(a)(2)(ii) that the Secretary, in determining whether a dispensing fee is reasonable, will take into account the professional fee as determined by the State for purposes of Title XIX (Medicaid) of the Social Security Act. The objection was based on the respondent's contention that the reimbursement policies of the State Medicaid programs are inadequate. The Secretary has concluded that the State Medicaid fee must be taken into account. It should be noted, however, that such fee is one of several factors to be evaluated in determining whether a dispensing fee is reasonable, and is not necessarily controlling.

The regulations as set out below have been changed in several respects to conform with the final Departmental MAC regulation. Accordingly, the reasons for such changes are set forth in detail in the preamble to the Departmental regulations. In summary, however, the PHS regulations as set out below provide (in accordance with the Departmental regulations) that the upper limit for the amount of program funds which may be expended for acquisition of a drug has been changed to be, in general, the lower of (1) the MAC, if any, for the drug plus a reasonable dispensing fee; (2) the acquisition cost of the drug plus a reasonable dispensing fee; and (3) the provider's usual and customary charge to the general public for the drug. "Acquisition cost" is defined to mean the price generally, and currently paid by providers for a drug marketed or sold by a particular formulator or labeler in the package size most frequently purchased by providers. Where a particular brand of drug is prescribed for a patient and the prescriber certifies in his own handwriting that that brand is medically necessary for that particular patient, however, the MAC does not apply.

Accordingly, subpart E of Part 50 of Title 42, CFR, is adopted as set forth below.

Effective date: These regulations shall become effective on April 26, 1976.

(It is hereby certified that we have evaluated the inflationary impact of the MAC Regulations in accordance with the require-

ments of Executive Order 11821 and OMB Circular A-107. We find that the regulations do not have inflationary impact. Therefore, an inflation impact statement is not required).

Dated: July 30, 1975.

THEODORE COOPER,
Assistant Secretary for Health.

Approved: August 8, 1975.

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

Subpart E is added to Part 50 as follows:

Subpart E—Maximum Allowable Cost for Drugs

Sec.
50.501 Applicability.
50.502 Definitions.
50.503 Policy.
50.504 Limitation to maximum allowable cost of drugs.

AUTHORITY: Secs. 215, 58 Stat. 690, as amended (42 U.S.C. 216).

Subpart E—Maximum Allowable Cost for Drugs

§ 50.501 Applicability.

This subpart is applicable to programs or projects for health services which are supported in whole or in part by Federal financial assistance, whether by grant or contract, administered by the Public Health Service. It applies to Federal funds and to non-Federal funds which are required to be expended as a condition to receiving Federal funds under such programs or projects.

§ 50.502 Definitions.

As used in this subpart:

(a) "Public Health Service" means the Office of the Assistant Secretary for Health, Health Services Administration, Health Resources Administration, National Institutes of Health, Center for Disease Control, Alcohol, Drug Abuse and Mental Health Administration, Food and Drug Administration, and all of their constituent agencies.

(b) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(c) "Program funds" means (1) Federal funds provided through grant or contract to support a program or project covered by § 50.501, and (2) any non-Federal funds that are required as a condition of such grant or contract to be expended to carry out such program or project.

(d) "Provider" means one who furnishes medical or pharmaceutical services or supplies for which program funds may be expended under any of the programs or projects described in § 50.501.

(e) "Acquisition cost" means the price generally and currently paid by providers for a drug marketed or sold by a particular formulator or labeler in the package size of drug most frequently purchased by providers, as determined by the Secretary on the basis of drug price information furnished by the Department.

§ 50.503 Policy.

It is the policy of the Secretary that program funds which are utilized for the acquisition of drugs be expended in the most economical manner feasible. In furtherance of this policy, the Secretary has established, in 45 CFR Part 19, a procedure for determining the Maximum Allowable Cost for drugs which are purchased with program funds.

§ 50.504 Allowable cost of drugs.

(a) The maximum amount which may be expended from program funds for the acquisition of any drug shall be the lowest of

(1) the maximum allowable cost (MAC) of the drug, if any, established in accordance with 45 CFR Part 19, plus a dispensing fee determined by the Secretary in accordance with paragraph (b) of this section, to be reasonable;

(2) the acquisition cost of the drug plus a dispensing fee determined by the Secretary, in accordance with paragraph (b) of this section, to be reasonable; or

(3) the provider's usual and customary charge to the public for the drug: *Provided*, That the MAC established for any drug shall not apply to a brand of that drug prescribed for a patient which the prescriber has certified, in accordance with paragraph (c) of this section, is medically necessary for that patient; *And Provided further*, That where compensation for drug dispensing is included in other costs allowable under the applicable program statute and regulations, the terms and conditions of the grant or contract, and the applicable cost principles prescribed in 45 CFR Part 74, no separate dispensing fee will be recognized.

(b) In determining whether a dispensing fee is reasonable, the Secretary will take into account (1) cost components such as overhead, professional services, and profits, (2) payment practices of third-party payment organizations, including other Federal programs such as titles XVIII and XIX of the Social Security Act; and (3) any surveys by States, universities or others of costs of pharmacy operations and the fees charged in the particular area.

(c) a certification by a prescriber, pursuant to paragraph (a) of this section, that a brand of drug is medically necessary for a particular patient shall be in the prescriber's own handwriting, in such form and manner as the Secretary may prescribe. An example of an acceptable certification is the notation "brand necessary". A procedure for checking a box on a form will not constitute an acceptable certification.

[FR Doc.75-21462 Filed 8-14-75;8:45 am]

federal register

FRIDAY, AUGUST 15, 1975



PART III:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

■

MEDICAL ASSISTANCE PROGRAMS

Limits on Payments for Drugs

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 250—ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

Limits on Payments for Drugs

Notice of proposed rule making was published in the FEDERAL REGISTER on November 27, 1974 (39 FR 41480), amending the provisions governing the upper limit for payment for prescribed drugs in the Medicaid program. The notice:

(1) Specified that, for a list of selected multiple source drugs, cost would be limited to the lower of maximum allowable cost (MAC) established by a Pharmaceutical Board appointed by the Secretary or actual acquisition cost plus 25 percent of the differential between actual acquisition cost and the established maximum allowable cost;

(2) Provided that the upper limit would be based on cost plus a dispensing fee, with cost specified as actual acquisition cost (AAC); and

(3) Clarified the use of a dispensing fee for drugs furnished recipients of medical assistance in long-term care facilities by pharmacies employing a unit dose system.

The proposed requirements conformed to the November 15, 1974 proposed regulations governing all departmental programs (39 FR 40302).

The purpose of these regulations is to prescribe an upper limit on payments in the Medicaid (title XIX) program for selected multiple-source prescribed drugs (except where otherwise specified in writing by a physician) and to require that payments for other drugs prescribed under title XIX be determined on the basis of acquisition cost as estimated by the State plus a dispensing fee, or the provider's usual and customary charge to the general public, whichever is lower. The basis of these regulations is the Secretary's strong belief that such upper limits will result in substantial savings in the title XIX program while continuing to assure that high quality drugs are available to title XIX recipients.

Comments were received from 150 respondents. The following is a listing of the major areas of expressions of opinion and the Department's responses:

DISPENSING FEE

Comment: The regulations should require dispensing fee indexing for inflation (or regular updating). (5 hospitals, 16 pharmacy associations, 11 individual pharmacists and 2 State Medicaid agencies); they should set the fee at the 90th percentile (2 pharmacy associations); payment levels of other third-party payors should not be used as a criterion (5 pharmacy associations); the dispensing fee should not be lower than that paid by other State, Federal, and third-party reimbursement programs unless the State can provide data to support a lower fee (1 pharmacy association).

Response: The Secretary has no authority to establish a floor for State reimbursement of drugs. The regulations can only specify the upper limit which a State may pay.

Comment: The regulations will require an increase in dispensing fees if the average wholesale price is discarded for AAC or MAC. (9 pharmacy associations and 2 State Medicaid agencies).

Response: The regulations recommend the use of pharmacy operational data in establishing a dispensing fee. The regulations also require the States to conduct periodic surveys of pharmacy operational data. It is believed that such surveys will contribute to the efficient administration of State plans and it is further expected that States will use these surveys to assure equitable fees. It is the Department's intention to work closely with States in furnishing guidance and encouragement toward the objective of having the cost plus a dispensing fee represent equitable reimbursement.

Comment: The fee should be same for legend and non-legend drugs (1 hospital and 2 pharmacy associations).

Response: The Secretary has no authority to prohibit States from varying fees according to legend and non-legend drugs. This is a State decision.

Comment: The term "Professional service fee" should be used instead of "dispensing fee" and a wider role given professional pharmacists. (2 hospitals, 3 pharmacy associations, and 2 individual pharmacists).

Response: The term "dispensing fee" includes "professional services" and other items, thus it is a broader concept than would be indicated by using the term "professional services." The Department advocates a wide role for the pharmacist as a professional. However, the extent to which this is done depends upon State law.

Comment: Use of a variable dispensing fee concept was opposed by some (6 pharmacy associations, 4 State Medicaid agencies, 4 individual pharmacists) and advocated by others (7 State Medicaid agencies and 6 individual pharmacists).

Response: The method for determining the dispensing fee, fixed or variable, is optional with the State Medicaid agency. SRS regulations encourage use of a variable dispensing fee by providing guidance on elements to be considered in establishing such fees.

Comment: Respondents request more guidance or technical assistance in setting of a dispensing fee. (5 pharmacy associations, 3 State Medicaid agencies, and 11 individual pharmacists).

Response: Regulations contain advice and guidance on elements of cost to be considered in the establishment of dispensing fees. In addition, more detailed guides will be issued after the final policy is published.

Comment: The setting of a variable dispensing fee will increase State administrative or audit costs, and mechanized claims processing costs. (13 State Medicaid agencies and 3 individual pharmacies).

Response: The regulations do not mandate a variable fee. This is optional with States. Those States which now employ a variable fee have reported a very modest administrative cost attributable to the variable fee.

Comment: The dispensing fee should include an additional fee for claims processing and special services (2 State Medicaid agencies and 3 individual pharmacies).

Response: This is unnecessary since billing costs as well as other overhead costs are included in the computation of the dipensing fee.

Comment: The method of determining a dispensing fee should be based on percentage mark-up rather than on a fixed fee basis. (1 State Medicaid agency).

Response: This is not acceptable since a percentage mark-up would be an incentive to use higher cost drug items and thus it would run counter to the objectives of the regulations. A GAO study in 1966 strongly recommended against this method.

Comment: The regulations should allow a dispensing fee for dispensing physicians (1 individual pharmacist).

Response: This is an area of State discretion. Medicaid guidelines recommend that payment for drugs dispensed by physicians be limited to not more than the cost of the drug. Physicians are professionals who gain their livelihood from the practice of medicine. Accordingly, it may be held that they should not also profit from a pharmacy practice, particularly when the drugs they sell are also prescribed by them.

Comment: Large chains will set dispensing fee patterns. (2 individual pharmacists).

Response: States are responsible for setting dispensing fees. The dispensing fee should be ascertained by analysis of pharmacy operational data which include such components as overhead, professional services, and profit. Thus, States may recognize differences in size of operation by setting variable fees.

UNIT DOSE SYSTEM

Comment: The unit dose system is expensive. (1 hospital, 4 State Medicaid agencies and 6 individual pharmacists).

Response: Dollar savings result from paying only for drugs which are actually consumed. Savings also result from reduced personnel costs in long-term care facilities but these may be offset to some extent by the relative increase in the dispensing cost paid to the pharmacy. In any case the Department is not mandating the use of a unit dose system, but is merely specifying the reimbursement limit where such a method is used.

Comment: Clarification is needed to define the quantity involved in a unit dose system (1 hospital, 2 drug manufacturers, 1 pharmacy association) and State agencies should be given technical assistance in reimbursement for a unit dose system (2 State Medicaid agencies).

Response: Detailed guides will be issued on the unit dose system after the final policy is published and technical

assistance will be provided to the States as necessary.

Comment: The unit dose system should be started as a pilot program. (1 State Medicaid agency and 1 individual pharmacist)

Response: If a State wishes to institute the system as a pilot program, it may do so.

Comment: If reimbursement under a unit dose system is only for medication consumed, unconsumed medication may result in loss for the pharmacist. (2 pharmacy associations).

Response: The term "unit dose" means just that. Unconsumed medication will be returned to the pharmacist.

Comment: The unit dose system does not eliminate medication errors. (1 individual pharmacist).

Response: States which have instituted a unit dose system have found that there are fewer medication errors, a closer monitoring of drug intake, and fewer drug interactions.

PHYSICIAN CERTIFICATION OF NEED FOR SPECIFIC DRUG

Comment: The regulations ignore the fact that physicians do not have a contractual relationship to State programs and should not be required to justify their prescribing (1 medical association).

Response: Physicians *do* have a contractual arrangement with State programs (Section 1902(a)(27) of the Social Security Act requires a provider agreement between a State agency and each provider who participates in the program). However, this is irrelevant. Although physicians should not be forced to "justify" prescribing, it is necessary to have certification of the need for a specific brand name drug in order to achieve the purpose of the policy and to enable the States to monitor its implementation.

Comment: The regulations fail to outline form of certification, to whom certification would be made, and by whom certification would be reviewed (1 pharmacy association), and whether "blanket approval or disapproval of certification will be allowed" (1 medical association), and fail to provide for monitoring of requirement. (1 medical association).

Response: The method of certification has been left largely to the States, since Medicaid programs vary in specific administrative procedures from State to State. A "blanket" approach to certification is unacceptable since this would circumvent the objectives of the policy. States have the responsibility of monitoring the implementation of the policy, and may use whatever methods are most effective.

Comment: Suggested changes in waiver requirement include that prescriber simply check on the prescription blank if a specific brand is needed (1 medical college); waiver be in prescriber's handwriting, personally signed and transmitted in duplicate to pharmacy (1 medical association); the physician certify the reason for dispensing a specific brand (1 medical association); regulations provide greater specificity of certification statement (1 pharmacy association).

Response: A procedure for checking a box on a form will not constitute an acceptable certification since there must be evidence that a physician has made a determination in each case. The Department agrees that the waiver should be in prescriber's own handwriting, and personally signed and transmitted to the pharmacist. States must be required to allow physicians to exercise medical judgment in prescribing drugs. The form and procedure for the certification shall be prescribed by the State.

Comment: The requirement removes the physician's right to select a drug (1 hospital); the certification requirements are too restrictive (1 drug manufacturer); the regulations should not require generic drugs unless prescribed by the physician (1 medical association); the regulations would require each prescriber to test all available brands in order to certify a particular brand as the only one effective for a specific patient (1 medical association); or the physician is forced to certify that all other drugs are unsuitable (1 drug manufacturer).

Response: There is only a requirement for certification by the prescribing physician of the necessity for a specific brand in the physician's medical judgment. The language in the final regulations has been modified to respond to these objections as follows: "* * * except that such limitations shall not apply in any case where a physician certifies in writing that in his medical judgment a specific brand is medically necessary for a particular patient. An example of an acceptable certification would be the notation 'brand necessary.'"

Comment: The requirement jeopardizes the quality of care (1 drug manufacturer) and it interferes with the physician—patient relationship (1 medical association and 1 drug manufacturer).

Response: There is no prohibition against a physician exercising his medical judgment in prescribing specific drugs. There is only a requirement for certification of the necessity.

MAXIMUM ALLOWABLE COST

Comment: The Department should implement MAC on a pilot or test basis (1 hospital, 2 pharmacy associations, 1 individual pharmacist); give physicians price information for voluntary use instead of establishing a MAC (1 pharmacy association); allow States to establish their own MAC/AAC systems (9 State Medicaid agencies); use MAC regulations as a guideline (4 State Medicaid agencies); base MAC system on a voluntary basis using Federal information on bioavailability (1 State Medicaid agency).

Response: This would negate the cost containment purpose of implementing this policy in the Department's programs, including Medicaid. In addition to the MAC requirement, comparative price information will be disseminated to physicians.

Comment: MAC concept prevents prudent buying (3 hospitals and 3 individual pharmacies).

Response: MAC encourages prudent buying and hopefully this will influence prices in the private sector.

Comment: MAC is a form of government price control for one industry (2 hospitals, 1 pharmacy association, 1 State Medicaid agency).

Response: This is not government price control of the drug industry; it represents an attempt to achieve substantial savings to the taxpayer in the cost of government-purchased drugs without lowering the quality of health care.

Comment: MAC will lower drug quality (2 hospitals, 6 pharmacy associations, 4 individual pharmacies and 2 citizens).

Response: No drug will be proposed for a maximum allowable cost limitation for which FDA advisor delay on the basis of quality considerations. The MAC will be set by a Pharmaceutical Reimbursement Board made up of government drug experts and non-government advisory panel. FDA will first review drugs for any pending regulatory problems and problems of biological equivalence. MAC will not force pharmacists to dispense the least costly drug on their shelves. There will be a number of established suppliers for any listed drug under this program.

Comment: MAC restricts freedom of choice by the patient (1 medical service provider organization).

Response: In the Medicaid program, the patient has the freedom of choice of providers. For patients both in Federally-reimbursable programs and in the private sector, it is the physician who prescribes their medication. Multiple source drugs under MAC will all be prescribed drugs. There is no interference with the patient's right to select his pharmacy.

Comment: The regulations are unnecessary and vague (3 drug manufacturers and 3 pharmacy associations).

Response: The regulations are necessary to achieve the Department's goals regarding expenditures for drugs. The final regulations have been clarified in several respects. There will be more specific information published in guideline material.

Comment: There is a need for different MAC prices for different kinds of pharmacies, for example, hospital pharmacies, chain pharmacies, or individually owned pharmacies (1 pharmacy association).

Response: MAC is the upper limit on a nationwide basis. However, cost is limited to the lower of estimated acquisition cost or maximum allowable cost. If the provider's cost differs for the different kinds of pharmacies mentioned, the payment would vary accordingly.

Comment: A system is needed for adequate payment when AAC exeeds MAC. (1 pharmacy association).

Response: The Pharmaceutical Reimbursement Board will collect price data,

publish and periodically revise Maximum Allowable Cost limitations on the reimbursement of multiple-source drug costs in Departmentally-supported health programs.

Comment: Third party data should not be used in establishing MAC/AAC. (1 individual pharmacy).

Response: The final regulations have been modified to eliminate this criterion.

Comment: MAC drugs may not be available at the MAC price. (2 individual pharmacists).

Response: The Department will limit cost reimbursement for multiple source drugs to the lowest cost at which chemically equivalent drugs are "generally available;" that is, marketed so as to be widely and consistently available to providers in the United States.

Comment: Objects to removal of physician choice of drug. (1 citizen).

Response: There is not prohibition against a physician exercising his medical judgment in prescribing specific drugs. There is only a requirement for certification of the medical necessity.

Comment: The MAC program adds to inflation of drug costs. (1 citizen).

Response: The MAC program is designed to do the reverse. It contains costs in the purchase of drugs in Departmental programs and will tend to reduce prices.

Comment: The Federal government will be unable to obtain true price data in order to set MAC prices. (1 pharmacy association and 1 individual pharmacy).

Response: Sources for price data will be available from both the public and private sector. In addition to the establishment of a Departmental Pharmaceutical Reimbursement Board, there will be a Pharmaceutical Reimbursement Advisory Committee which will provide advice and technical assistance to the Board. Opportunities will be provided for individuals and organizations to submit relevant drug price information, revisions of, and deletions from the MAC list, offer comments, and participate in hearing on proposed MAC limits.

ACTUAL ACQUISITION COST

Comment: MAC/AAC will increase State audit and administrative cost (4 State Medicaid agencies and 4 individual pharmacies) and will increase cost to State for changes to mechanized claims processing systems (18 State Medicaid agencies). (6 individual pharmacists, 3 drug manufacturers and 1 hospital).

Response: The requirement on cost has been changed from actual acquisition cost to estimated acquisition cost, that is "the State's closest estimate of the price generally and currently paid by providers."

To aid the States in making their price estimates, the Department will make available information on a current basis on acquisition costs of the most frequently purchased package size of drugs. These data will cover the majority of the most frequently prescribed drugs.

Since prices paid by pharmacies vary significantly with size of the operation, the States' estimate of acquisition cost will more closely approximate actual transaction prices if sales volume of the participating providers can be taken into account. Therefore, the data furnished by the Department will be broken down by size of provider according to sales volume of prescription drugs. To estimate acquisition cost by size of provider, the State will need to obtain pharmacy sales volumes of prescription drugs.

In reviewing State operations, the Department will encourage and expect the States to make their estimates of acquisition costs with as much precision as possible consistent with the cost data furnished by the Department.

The effective date of these regulations will be April 26, 1976 in order to be certain that price data from the Department will be available well in advance and that the States will have adequate lead time to implement the provisions. In addition, between the date of publication and the effective date, the Department plans to provide technical assistance and training to the States.

Comment: Respondents object to AAC; prefer AWP (2 pharmacy associations, 3 State Medicaid agencies, 13 individual pharmacists, 1 citizen and 1 drug manufacturer). Pharmacy income will be lowered because reimbursement is not based on AWP. (7 individual pharmacies).

Response: As stated in the preamble to the proposed regulations, AWP data are frequently inflated. The purpose of the proposed regulations was to achieve savings. The final regulations have been modified to take into account some of the administrative problems of States in determining AAC.

Comment: AAC+25% is too low an incentive for prudent buying (1 medical service provider organization, 10 individual pharmacists, 2 hospitals); AAC +50% or 75% is recommended (1 pharmacy association, 1 State Medicaid agency, 2 individual pharmacists and 2 hospitals). AAC+25% incentive discourages large inventories (1 pharmacy association).

Response: The comments indicated that there was widespread misunderstanding of this provision on the part of both providers and States. Since the possible advantages of this provision seem to be outweighed by the disadvantages attributed to its complexity, the 25% incentive is being eliminated. In addition, the modification from actual acquisition cost to estimated acquisition cost and the imposition of another parameter—the provider's usual and customary charge to the general public—to the upper limit would add to the complexity of a percentage incentive.

Comment: AAC + 25% will result in the purchase of lower quality drugs because providers will attempt to buy at the lowest cost in order to maximize the differential at the sacrifice of quality (2 pharmacy associations, 1 State Medicaid agency, 5 pharmacists, 1 hospital).

Response: The Department has confidence in the professional judgment of pharmacists and believes they will select quality products. Additionally, the final regulations eliminate the 25% incentive.

Comment: AAC will cause pharmacy losses (5 pharmacy associations and 4 individual pharmacists) and may reduce pharmacy participation (4 State Medicaid agencies and 2 individual pharmacists).

Response: This does not seem to have happened in those States which use variations of AAC. Pharmacies appear to be satisfied and participation in the program is in force. In addition, in the final regulations actual acquisition cost has been changed to estimated acquisition cost.

Comment: Increase U.R. activities in place of MAC/AAC system. (1 pharmacy association, 3 State Medicaid agencies, 3 drug manufacturers and 1 pharmacy association).

Response: Medicaid has a requirement for utilization control for all its services, including drugs, which is in force and will be continued. The concept of utilization review is concerned with appropriate usage of services. One is not a substitute for the other. The final policy will achieve an added savings to the taxpayers.

Comment: ACC is difficult to determine because of a variety of methods of purchase (3 pharmacy associations, 1 State Medicaid agency and 2 individual pharmacies).

Response: The final regulations have been modified to take into account some of the administrative problems of States in determining AAC.

Comment: The enforcement of MAC/AAC concept is unworkable (1 pharmacy association, 9 State Medicaid agencies, 1 individual pharmacist and 1 citizen).

Response: The administrative difficulties have been recognized and the regulations have been modified.

Comment: AAC favors large chains (4 individual pharmacists and 1 State Medicaid agency).

Response: Average wholesale prices are frequently inflated and large purchasers can take advantage of buying in bulk, deriving greater profit—thus the use of estimated acquisition cost would correct this inequity.

Comment: The definition of AAC is unclear (1 State Medicaid agency).

Response: The final regulations are being modified and clarified.

Comment: State anti-substitution laws are a problem (2 pharmacy associations and 1 individual pharmacist, 1 State Medicaid agency).

Response: There is no conflict with State anti-substitution laws. These regulations in no way change the implementation of these laws. Unless the State law permits substitution, this regulation does not make it possible for a pharmacist to substitute a drug for the one prescribed by the physician.

Comment: The requirement should be limited to the lower of cost plus dispensing fee or the charge to the general public (3 pharmacy associations, 8 individual pharmacies, 5 State Medicaid agencies). Recommends lesser of MAC or cost of drug from lowest price source consistently available (SSA approach). (2 State Medicaid agencies).

Response: The final regulations have been modified to reflect the comments

regarding this concept. Reimbursement must be limited to the lower of cost plus a dispensing fee or the provider's usual and customary charge to the general public.

Comment: AAC regulations should be implemented at Federal rather than State level (1 pharmacy association).

Response: Medicaid is a State-administered program and it is the State's responsibility to implement the regulation.

Comment: Respondents want States to determine the method of payment based on MAC/AAC guidelines. (2 State Medicaid agencies).

Response: Since there are 53 States and jurisdictions in the Medicaid program, gathering data for a MAC program would be costly and time-consuming. It would be more efficient to gather such data at the Federal level.

Accordingly, the regulations as modified are hereby adopted and are set forth below.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302); Sec. 224(c), Pub. L. 92-603, 86 Stat. 1395 (42 U.S.C. 1396(b)(1)(1); Sec. 237(b), Pub. L. 90-248, 81 Stat. 911, as amended (42 U.S.C. 1396a(a)(30), as amended); Sec. 121(a), Pub. L. 89-97, 79 Stat. 344, as amended); (42 U.S.C. 1396a(a)(4), as amended)).

Section 250.30(b)(2) of Part 250, Chapter II, Title 45, Code of Federal Regulations, is revised as set forth below:

§ 250.30 Reasonable charges.

* * * * *

(b) *Upper limits.* * * *

(2) *Drugs.* The upper limit for payment for prescribed drugs—whether legend items (for which a prescription is required under Federal law) or non-legend items—shall be based on the lower of the cost of the drug (as determined in accordance with paragraph (b)(2)(ii) or (iii) of ths section) plus a dispensing fee established by the State, or the provider's usual and customary charge to the general public.

(i) In establishing the dispensing fee, States should take into account the results of surveys of costs of pharmacy operation. States shall periodically conduct such surveys of pharmacy operational data including such components as overhead, professional services and profits.

(*a*) The dispensing fee may vary according to the size and location of the pharmacy and according to whether the dispensing is done by a physician or by an outpatient drug department of an institution and according to whether the drug is a legend or a non-legend item.

(*b*) The dispensing fee may also vary for prescribed drugs furnished to title XIX recipients in an institutional setting by a pharmacy employing a unit dose system. In such instances the dispensing fee may be either: (*1*) An amount added to the cost of each unit dose furnished by the pharmacy or (2) a daily or monthly capitation rate per resident for whom prescribed drugs are being furnished. In either case, the dispensing fee is added to the ingredient cost of the prescribed drug which is actually consumed.

(ii) For each multiple source drug designated by the Pharmaceutical Reimbursement Board and published in the FEDERAL REGISTER, cost will be limited to the lowest of (*a*) the maximum allowable cost established by the Board for such drug, and published in the FEDERAL REGISTER, or (*b*) the estimated acquisition cost (as defined in paragraph (b)(2)(iii)), or (*c*) the provider's usual and customary charge to the general public; except that such limitation shall not apply in any case where a physician certifies in his own handwriting that in his medical judgment a specific brand is medically necessary for a particular patient. The form and procedure for the certification shall be prescribed by the State. An example of an acceptable certification would be the notation "brand necessary." A procedure for checking a box on a form will not constitute an acceptable certification. At the discretion of the State, the certification may be retained by the provider rather than submitted with the claim form with the understanding that it will be available for inspection by the State and by the Department of Health, Education, and Welfare.

(iii) For all other prescribed drugs, cost shall not exceed an upper limit established by the State. This shall be the State's closest estimate of the price generally and currently paid by providers. Such estimates shall be based on the package size of drugs most frequently purchased by providers. To aid States in making cost estimates, the Department will make available information on a current basis on acquisition costs of the most frequently purchased package size of drugs. These data will cover the majority of the most frequently prescribed drugs.

(iv) The upper limits governing reimbursement by State agencies to providers of prescribed drugs specified in this section shall also apply in cases where prescribed drugs are furnished as part of skilled nursing facility or intermediate care facility services or under prepaid capitation arrangements. Contracts between the State agency and the underwriter, carrier, foundation, health maintenance organization or other insurers containing the terms of such prepaid capitation arrangements shall include a provision imposing the same upper limits for reimbursement or prescribed drugs as are imposed by paragraph (b)(2) of this section on the State agency.

Effective Date: These regulations shall be effective on April 26, 1976.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

(It is hereby certified that we have evaluated the inflationary impact of the MAC Regulations in accordance with the requirements of Executive Order 11821 and OMB Circular A-107. We find that the regulations do not have inflationary impact. Therefore, an inflation impact statement is not required)

Dated: August 5, 1975.

JOHN A. SVAHN,
Acting Administrator, Social and Rehabilitation Service.

Approved: August 8, 1975.

CASPAR W. WEINBERGER,
Secretary.

[FR Doc.75-21460 Filed 8-14-75;8:45 am]

federal register

FRIDAY, AUGUST 15, 1975



PART IV:

ENVIRONMENTAL PROTECTION AGENCY

Water Programs and Domestic Wastewater Disinfection

■

SECONDARY TREATMENT AND TREATMENT INFORMATION

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 133]

[FRL 396-5]

WATER PROGRAMS

Secondary Treatment Information

The Environmental Protection Agency is considering the amendment of the Secondary Treatment Information regulation contained in 40 CFR-Part 133 and promulgated pursuant to Sections 304 and 301 of the Federal Water Pollution Control Act Amendments of 1972 (the Act). Section 304(d)(1) requires that the Environmental Protection Agency publish information on the degree of effluent reduction attainable through the application of secondary treatment within sixty days after enactment of the Act and from time to time thereafter. Section 301 (b)(1)(B) of the Act requires that effluent limitations, based on secondary treatment, be achieved for all publicly owned treatment works in existence on July 1, 1977, or approved for a construction grant prior to June 30, 1974 (for which construction must be completed within four years of approval). Secondary Treatment Information was promulgated on August 17, 1973.

Historically, treatment processes have been grouped together as "primary" or "secondary" based on the pollutants removed and the means by which pollutant removal is accomplished. The concept of "secondary treatment" grew out of the need to develop wastewater treatment processes which provided for the reduction of pollutants not effectively removed by the liquid-solids separation techniques associated with "primary" treatment. Secondary treatment processes were developed to biologically remove degradable organic materials from wastewater. The term "secondary treatment" eventually became synonymous with the biological treatment of wastewater for the removal of carbonaceous organic material. Only recently have physical/chemical treatment processes been developed which parallel the organic removals achieved by the application of biological secondary treatment.

Biological secondary treatment processes, as well as comparable physical/chemical treatment processes, accomplish a certain degree of reduction in the number of pathogenic organisms found in domestic wastewater (as normally indicated by the level of fecal coliform bacteria) through natural die-off and solids removal. These removals, however, are incidental and generally result in fecal coliform bacteria concentrations which are at least an order of magnitude greater than those required for secondary treatment by 40 CFR Part 133.

The reduction of pathogens beyond that achieved by process operation for the removal of degradable organic matter is often necessary for the protection of public health. Section 133.102 (c) of 40 CFR Part 133 established effluent limitations for fecal coliform bacteria based on the levels attainable by means of disinfection with disinfectants such as chlorine. The minimum levels of disinfection required by § 133.102(c) in terms of fecal coliform bacteria are as follows:

(1) The geometric mean of the values for effluent samples collected in a period of 30 consecutive days shall not exceed 200 per 100 milliliters;

(2) The geometric mean of the values for effluent samples collected in a period of seven consecutive days shall not exceed 400 per 100 milliliters.

In the case of most facilities treating domestic wastes, attainment of the levels of fecal coliform bacteria required by 40 CFR Part 133 necessitates the use of a separate, non-biological unit process designed specifically for the disinfection of wastewater. The only wastewater disinfection processes currently available for widespread use of publicly owned treatment works are those employing molecular chlorine or its derivatives. The net result is that the requirement of a minimum level of disinfection for all publicly owned treatment works in 40 CFR Part 133 inadvertently encourages the use of chlorine at the present time. This problem is compounded by the fact that requiring a minimum level of disinfection for all sanitary wastewater discharges is of questionable benefit in those instances where the possibility of human contact with the receiving body is remote. While it is acknowledged that considerable benefits are gained by the disinfection of wastewater, it also must be recognized that certain potential environmental problems can result from the uncontrolled use of chlorine.

In January 1974 an Environmental Protection Agency Task Force was formed to review EPA policy on wastewater disinfection and the use of chlorine. Since that time a considerable amount of data has been gathered and analyzed. Evidence exists that residual chlorine and certain chlorine-based compounds, formed as a result of the chlorination of domestic wastewater can be toxic to aquatic life in relatively low concentrations. It has been recently documented that chlorination may form carcinogenic compounds in secondary effluents. Disinfectants are by definition materials which are hazardous to living things. Because of the potential dangers associated with the use of molecular chlorine, many municipalities have switched to sodium hypochlorite for disinfection because it is less hazardous to handle than molecular chlorine though considerably more expensive. The storage and/or application of other disinfectants also requires special safety precautions similar to those for chlorine. The Task Force has concluded that the potential harm to both the human and aquatic life which can result from the uncontrolled and excessive use of chlorine for wastewater disinfection warrants the amendment of 40 CFR Part 133. A preliminary copy of the Task Force report is available for inspection at the EPA Freedom of Information Center, Room 202, West Tower, Waterside Mall in Washington, D.C. and at all EPA Regional Offices. A limited number of copies of the preliminary report are available. Persons wishing to obtain a copy may write the Director, Municipal Construction Division, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. The Task Force Report will be finalized upon completion of the proposed action and will be available from the U.S. Government Printing Office at that time.

The costs and energy requirements associated with wastewater treatment are also factors which are significantly influenced by the imposition of disinfection requirements. Presently the cost of disinfection (chlorination) is approximately 5–7 percent of the total treatment costs for secondary treatment. The imposition of requirements which would necessitate the use of alternate means of disinfection (e.g., ozonation or dechlorination) could increase the total treatment cost (secondary treatment) by as much as 15–30 percent.

Disinfection, even at the present required level, is energy intensive because of the amount of energy required for the manufacture of most disinfectants. The energy used to produce the amount of the chlorine necessary to provide the level of disinfection presently required by 40 CFR Part 133 is from 7–15 percent of the total on-site energy demand of a typical secondary treatment plant (activated sludge). Furthermore, the energy requirements for the manufacture of alternate disinfectants are as much as 5–7 times as great as those for chlorine.

It is not intended to imply that energy and cost are factors which are to be considered in establishing specific disinfection requirements. Public health and protection of the aquatic and human environments are still the overriding considerations affecting and disinfection requirements. The unnecessary and excessive use of disinfectants, however, is wasteful, both in terms of available financial resources and energy.

It is proposed that the effluent limitations for fecal coliform bacteria in 40 CFR Part 133 be deleted from the definition of secondary treatment. Disinfection requirements for publicly owned treatment works and other domestic wastewater treatment plants (for which effluent limitations have been based on secondary treatment information) would be established in accordance with water quality standards promulgated pursuant to Sections 301, 302 and 303 of the Act. Sections 301(b)(1)(B) and 301(b)(1)(C) of the Act require for all publicly owned treatment works "effluent limitations based on secondary treatment," or "any more stringent limitation including those necessary to meet water quality standards, treatment standards, or schedules of compliance, established pursuant to any State law or regulations * * *." Effluent limitations for publicly owned treatment works, including disinfection requirements, pursuant to Section 301 of the Act are and will continue to be enforceable conditions of permits issued under the authority of the National Pollutant Discharge Elimina-

tion System. It is expected that most facilities with disinfection capabilities will continue to disinfect, with exceptions to the continuous disinfection requirement being made on a case-by-case basis in accordance with water quality standards and any applicable State regulations. It is also expected that disinfection equipment will be installed in most new facilities and in those existing facilities with specific disinfection requirements which do not presently have disinfection capabilities. A supplementary statement of EPA policy on the disinfection of wastewater has been prepared and is being published in the FEDERAL REGISTER concurrently with this notice.

In this regard it also recognized that many States have previously developed regulations concerning wastewater disinfection practices which are based on the specific needs of the particular State. These programs have proven to be effective with respect to protecting public health from disease and are the basis for the Agency's confidence that the proposed amendment will have the desired effect without jeopardizing public health. The States are encouraged to retain existing programs when such programs have proven effective for that State's needs provided that disinfection criteria are based on water quality standards. In those instances in which state water quality standards had relied on the fecal coliform bacteria limitations in 40 CFR Part 133 to provide a minimum level of disinfection for all discharges from publicly owned treatment works, such standards should be re-evaluated and amended if determined to be inadequate with respect to protection of public health from disease.

Paragraph (d) of § 133.102 requires that "the effluent values for pH shall remain within the limits of 6.0 to 9.0." This limitation was not intended to require that the effluent pH be adjusted to conform with the 6–9 range when the natural pH of the wastewater and/or natural biological treatment phenomena cause the effluent pH to be outside that range. The amendment of § 133.103 ("Special Considerations") is proposed to limit the applicability of § 133.102(d) to those cases where inorganic chemicals are added during the wastewater treatment process prior to disinfection or where contributions from industrial sources cause the effluent pH to be greater than 9.0 or less than 6.0.

Interested persons are invited to comment on the proposed amendments to Part 133 by written submission to the Office of Water Program Operations (WH–447), United States Environmental Protection Agency, 401 M Street, SW., Washington. D.C. 20460. Prior to promulgation of the proposed amendments in final form, all comments received on or before October 14, 1975 will be carefully considered. All comments received may be inspected at the above location during normal working hours by interested members of the public. If, during the period for written submissions, it is deemed necessary that public hearings be held, notice of such hearings will be published in the FEDERAL REGISTER.

In consideration of the foregoing, it is proposed to amend Part 133 of Chapter I of Title 40 of the Code of Federal Regulations as set forth below.

(Sec. 304(d)(1) and 301(b)(1)(B) of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1342, 1345 & 1361))

Dated: August 6, 1975.

JOHN QUARLES,
Acting Administrator.

1. Section 133.102 is revised to read as follows:

§ 133.102 Secondary Treatment.

The following paragraphs describe the minimum level of effluent quality attainable by secondary treatment in terms of the parameters biochemical oxygen demand, suspended solids and pH. All requirements for each parameter shall be achieved except as provided for in § 133.103.

(a) *Biochemical oxygen demand (five-day).* (1) The arithmetic mean of the values for effluent samples collected in a period of 30 consecutive days shall not exceed 30 milligrams per liter.

(2) The arithmetic mean of the values for effluent samples collected in a period of seven consecutive days shall not exceed 45 milligrams per liter.

(3) The arithmetic mean of the values for effluent samples collected in a period of 30 consecutive days shall not exceed 15 percent of the arithmetic mean of the values for influent samples collected at approximately the same times during the same period (85 percent removal).

(b) *Suspended Solids.* (1) The arithmetic mean of the values for effluent samples collected in a period of 30 consecutive days shall not exceed 30 milligrams per liter.

(2) The arithmetic mean of the values for effluent samples collected in a period of seven consecutive days shall not exceed 45 milligrams per liter.

(3) The arithmetic mean of the values for effluent samples collected in a period of 30 consecutive days shall not exceed 15 percent of the arithmetic mean of the values for influent samples collected at approximately the same times during the same period (85 percent removal).

(c) *pH.* The effluent values for pH shall remain within the limits of 6.0 to 9.0.

2. Section 133.103 is amended by adding paragraph (c) as follows:

§ 133.103 Special considerations.

* * * * *

(c) The requirements of paragraph (c) of § 133.102 are intended to control the pH of effluents discharged from treatment works which add inorganic chemicals to the waste stream as part of a treatment process or where the effluent pH falls outside of the 6–9 range because of contributions from industrial sources. The effluent pH limitations are not intended to require pH adjustments to effluents from strictly physical/biological treatment processes followed by disinfection. Mandatory adjustment of effluent pH to conform to the 6–9 range shall be limited to those cases where inorganic chemicals are added to the wastewater prior to disinfection and where contributions from industrial sources cause the effluent pH to be less than 6.0 or greater than 9.0.

[FR Doc.75–21369 Filed 8–14–75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 396-6]

DOMESTIC WASTEWATER DISINFECTION

Secondary Treatment

The Environmental Protection Agency has proposed the amendment of the Secondary Treatment Information regulation contained in 40 CFR Part 133 and promulgated pursuant to Section 304(d)(1) of the Federal Water Pollution Control Act Amendments of 1972 (the Act). Section 301(b)(1)(B) of the Act requires the effluent limitations, based on secondary treatment, be achieved for all publicly owned treatment works in existence on July 1, 1977, or approved for a construction grant prior to June 30, 1974 (for which construction must be completed within four years of approval). The proposed amendment, published concurrently with this notification, deletes the fecal coliform bacteria limitations from the definition of secondary treatment.

At the time that 40 CFR Part 133 was first promulgated, limitations on fecal coliform bacteria were included in the definition of secondary treatment on the basis that disinfection is necessary for the protection of public health. In recognition of more recent information, it is now felt that it is environmentally more sound to establish disinfection requirements for domestic wastewater discharges in accordance with water quality standards promulgated pursuant to Sections 302 and 303 of the Act and associated public health needs. In this manner, the necessary protection of public health can be assured, while achieving adequate safeguards against the adverse effects which could result from the excessive use of disinfectants.

In January 1974, an Environmental Protection Agency Task Force was formed to review EPA policy on wastewater disinfection and the use of chlorine. The Task Force recognized that chlorine and chlorine-based compounds are presently receiving essentially exclusive use for the disinfection of wastewater. While chlorine is an effective disinfectant with respect to meeting bacteriological standards and is adequately protecting public health, there are potential dangers associated with the use of chlorine. Disinfection of wastewater with chlorine can result in the formation of halogenated organic compounds which have been identified as potential carcinogens. Considerable data also exist to indicate that chlorination of wastewater can result in a residual chlorine level that is toxic to aquatic life. The Task Force concluded that in view of the fact that present policy inadvertently encourages the use of chlorine, a regulation which in certain instances requires disinfection unnecessarily further compounds the potential problems associated with the chlorination of wastewater.

Prior to the enactment of Pub. L. 92-500, domestic wastewater disinfection practice was, for the most part, controlled locally by the States. In proposing the deletion of the disinfection requirements from 40 CFR Part 133 and recommending reliance on water quality standards, the EPA made an assessment of the State standards relating to wastewater disinfection. It was determined that virtually all of the States and Territories have water quality related regulations pertaining to the disinfection of wastewater and that public health was adequately being maintained. In many instances, other than continuous disinfection was being practiced where the possibility of human contact with the receiving waters was remote.

Disinfection requirements have been and must continue to be directed at protecting the public health. Water quality standards which establish the need for disinfection must, as a minimum, shall include the following:

(1) Protection of public water supplies.

(2) Protection of fisheries and shellfish waters.

(3) Protection of irrigation and agricultural waters.

(4) Protection of waters where human contact is likely.

(5) Protection of interstate waters to which the above criteria apply.

The Agency proposed for public comment on October 18, 1973, Quality Criteria for Water which were intended to be used as the basis for State water quality standards. Criteria were proposed for fecal coliform bacteria and chlorine. These criteria are presently being revised in accordance with the comments received and will be available for use by the States in the development of water quality standards and the related disinfection requirements for publicly owned treatment works.

The benefits achieved by disinfection should be weighed against the environmental risks and costs. It is intended that the use of chlorine disinfection would be considered only when there are public health hazards to be controlled. The exclusive use of chlorine for disinfection should not be continued where protection of aquatic life is of primary consideration. Alternate means of disinfection and disinfectant control (dechlorination) must be considered where public health hazards and potential adverse impact on the aquatic and human environments co-exist. Disinfection should not be required in those instances where benefits are not present.

A preliminary Task Force Report has been prepared to provide a compilation of the existing technical and scientific data related to the issues raised by wastewater disinfection. The report is divided into four main parts—Summary, Conclusions and Recommendations; Public Health Effects and Considerations; Toxic Effects on the Aquatic Environment; and Disinfection Process Alternatives. Also included in the report is a summary of the Agency's ongoing research and development program in the area of wastewater disinfection and alternate means of disinfection. A copy of the Task Force report is available for inspection at the EPA Freedom of Information Center, Room 202, West Tower, Waterside Mall in Washington, D.C. and at all EPA Regional Offices. A limited number of copies of the report are available. Persons wishing to obtain a copy may write the Director, Municipal Construction Division, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. The Task Force report will be finalized upon completion of proposed action and will be available from the U.S. Government Printing Office at that time.

Interested members of the public are invited to comment on the proposed wastewater disinfection policy by written submissions to the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Office of Water Program Operations (WH-447). Prior to adoption of the proposed policy in final form, all comments received on or before October 14, 1975 will be carefully considered.

All comments received may be inspected at the above location during normal working hours by interested members of the public. If, during the period for written submissions, it is deemed necessary that public hearings be held, notice of such hearings will be published in the FEDERAL REGISTER.

Dated: August 6, 1975.

JOHN QUARLES,
Acting Administrator.

[FR Doc.75-21370 Filed 8-14-75;8:45 am]

federal register

FRIDAY, AUGUST 15, 1975



PART V:

DEPARTMENT OF LABOR

Office of Employee Benefits Security

■

COVERAGE

Reporting and Disclosure Requirements

Title 29—Labor

CHAPTER XXV—OFFICE OF EMPLOYEE BENEFITS SECURITY, DEPARTMENT OF LABOR

SUBCHAPTER B—DEFINITIONS AND COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

PART 2510—DEFINITIONS OF TERMS USED IN SUBCHAPTERS C, D, E, F, AND G OF THIS CHAPTER

SUBCHAPTER C—REPORTING AND DISCLOSURE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

PART 2520—RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

Coverage; Reporting and Disclosure Requirements

● The purpose of these amendments to Chapter XXV of the Department of Labor regulations is to provide guidance to determine coverage under the Employee Retirement Income Security Act of 1974 (hereinafter "the Act"), to establish effective dates for and certain limited exemptions to the reporting and disclosure requirements of the Act, and to establish certain alternative methods of compliance with the Act. ●

On December 4, 1974, notice was published in the FEDERAL REGISTER (39 FR 42234) of proposed regulations concerning reporting and disclosure under the Act. On May 5, 1975, a regulation was published (40 FR 19469; see also 40 FR 20628, May 12, 1975), deferring until August 31, 1975, the requirement that plan administrators file with the Secretary of Labor, and furnish to plan participants and beneficiaries, copies of a summary plan description, and that plan administrators file a plan description with the Secretary.

On May 6, 1975, a notice was published (40 FR 19715) that the Department of Labor had begun mailing to plan administrators copies of the official plan description form, EBS–1, and that certain final regulations concerning covered plans, plan descriptions and summary plan descriptions would appear in the FEDERAL REGISTER.

On May 12, 1975, a final rule (40 FR 20629) and proposed rule (40 FR 20653) redesignating both final and proposed subchapters, parts and sections were published in the FEDERAL REGISTER. Under this redesignation system, the section numbers of proposed and adopted regulations promulgated under Chapter XXV are based on the section numbers of the Act to which each regulation relates.

The December 4, 1974, proposed regulations have been redesignated in accordance with this proposed system.

On June 9, 1975, notice was published in the FEDERAL REGISTER (40 FR 24642) of proposed regulations concerning reporting and disclosure under the Act. These proposed regulations included certain definitions under the Act which give guidance concerning coverage of certain types of plans under Title I of the Act, as well as the contents of plan descriptions, general reporting and disclosure requirements, certain limited exemptions to the reporting and disclosure requirements, and a revision of the deferral of certain initial reporting and disclosure requirements.

Because certain sections of proposed Parts 2510 and 2520 cover regulatory subject matter, such as a deferral of the reporting and disclosure deadline and guidance concerning coverage, these proposals are published in final form at this time while promulgation of the remaining proposed regulations under Parts 2510 and 2520 will occur later.

Interested persons have been afforded an opportunity to participate in the making of these regulations by a notice of proposed rulemaking published on June 9, 1975 (40 FR 24642). Due consideration has been given to all comments received in response to the notice, insofar as they relate to matters within the scope of the notice and this final rulemaking.

§ 2510.3–1. This section contains the material which was presented in § 2510.3–3 of the June 9 proposal, with the exception of proposed § 2510.3–3(h) and (q). The shift of this material to § 2510.3–1 is intended to enhance the clarity of the regulations and does not reflect a change in substance. As in the case of §§ 2510.3–2 and 2510.3–3, a general paragraph has been added to present important commentary of the type which was set forth in the preamble to the June 9 proposal but which would appear in the Code of Federal Regulations only if incorporated in the body of the regulations themselves.

Section 2510.3–1 sets forth a number of employer practices which are not welfare plans within the meaning of section 3(1) of the Act. Since these practices are clearly not pension plans under section 3(2) of the Act, they are not employee benefit plans under section 3(3) of the Act and, therefore, are not covered by Title I at all, under section 4(a) of the Act. Some of the practices excluded from the welfare plan definition under § 2510.3–1 are listed simply in response to questions received by the Department of Labor and do not represent what might be considered borderline cases. Therefore, § 2510.3–1 should not be read as implicitly indicating the Department of Labor's views on the parameters of coverage of Title I of the Act.

A number of the practices listed in § 2510.3–1 are in a form substantially identical to their counterparts in proposed § 2510.3–3, or have been changed in minor details. Paragraphs (d) holiday gifts (proposed § 2510.3–3(c)), (h) strike funds (proposed § 2510.3–3(k)); and (i) industry advancement programs (proposed § 2510.3–3(n)) are unchanged in substance from the June 9 proposals. Although one comment urged that strike funds be treated as welfare plans, the absence of any reference to strike funds in section 3(1) of the Act and section 302(c) of the Labor-Management Relations Act, 1947 (hereinafter "the LMRA") precludes such treatment.

Paragraph (b) of section 2510.3–1 (payroll practices) brings together under one heading a number of different practices which were treated separately in proposed § 2510.3–3. Section 2510.3–1(b) distinguishes welfare plans from employer payroll practices which, although related to benefits described in sections 3(1)(A) of the Act and 302(c) of the LMRA, are more closely associated with normal wages or salary.

Paragraph (b)(1) of § 2510.3–1 deals with payment of compensation for work performed. Such compensation does not indicate the existence of an employee benefit plan, even if paid at a higher rate than normal on account of unusual circumstances. The regulation lists overtime pay (proposed § 2510.3–3(a)) and shift and holiday premiums (proposed § 2510.3–3(b)) as well as weekend premiums, as examples of such higher rates. (Although overtime pay and shift and weekend premiums do not present even borderline cases of Title I coverage, they have nevertheless been included as examples because of inquiries received by the Department of Labor.)

Paragraph (b)(2) and (b)(3) of § 2510.3–1 are designed to deal with payment of compensation out of general assets of the employer during periods of employee absences. Such payment could be construed as an employee benefit when an employee is absent for one of the reasons for which benefits described in sections 3(1) of the Act and 302(c) of the LMRA are provided. Taken together, paragraphs (b)(2) and (b)(3) illustrate the point that payment of normal compensation out of general assets while the employee performs no duties does not usually constitute a welfare plan. For example, the fact that an employee is not present to perform his duties in order to undergo a physical examination, the cost of which is paid by a medical benefits plan maintained by the employer of the employee, which constitutes an employee welfare benefit plan under section 3(1) of the Act, does not mean that wages paid for the time during the employee's absence for the physical examination constitute an employee welfare benefit plan.

In addition, these paragraphs embody the substance of proposed § 2510.3–3(g), jury duty and court testimony, (l), informal policy on absences, (m), paid sick and vacation leave, and (o), job-skill training. In addition, paragraph (b)(3) provides in effect that payment of compensation while an employee is absent for reasons other than physical inability to perform duties or other medical reasons (such a pregnancy, a physical examination or psychiatric treatment) does not constitute a welfare plan. In response to comments, payment of compensation at rates greater or less than normal compensation is permitted. However, in this regard, it is necessary to treat absences for medical reasons differently from other absences. The explicit language of section 3(1) of the Act and the history of the Act indicate a Congressional intent to cover disability plans and other medical plans under which benefits generally consist of a scheduled percentage of normal compensation. These plans, moreover, have traditionally been regarded as employee benefit plans, rather than a continua-

tion of wages or salary. If § 2510.3–1(b)(3) were extended to include payments of other than normal compensation while an employee is physically or mentally unable to perform duties or is absent for other medical reasons, these disability plans would be excluded from the welfare plan definition in section 3(1) of the Act, and, therefore, from Title I coverage altogether. Since this result would eliminate true disability plans from coverage under Title I and thereby violate not only traditional notions of what constitutes an employee benefit plan, but also the Congressional intent underlying section 3(1), § 2510.3–1(b) does not exclude from coverage practices which provide for payment of other than normal compensation while an employee is physically or mentally unable to perform his or her duties or is absent for other medical reasons.

Paragraph (c) of § 2510.3–1, on-premises facilities, groups together two similar practices which were listed separately in proposed § 2510.3–3(e), on-premises service facilities, and (i), first-aid stations.

Paragraph (e) of § 2510.3–1, sales to employees, corresponding to proposed § 2510.3–3(d), has been extended to include sales at fair market value, as well as sales below fair market value. This extension is based on an interpretation of section 302(c)(3) of the LMRA which deals with sales to employees at the prevailing market price, as referring not to employee benefits, but rather to transactions which, although within the literal restrictions of section 302 (a) and (b), do not involve conflicts of interest at which section 302 is aimed. Since these transactions are not employee benefits, they are not incorporated into the welfare plan definition under section 3(1)(B) of the Act.

Paragraph (f) of § 2510.3–1, hiring halls, (proposed § 2510.3–3(f)) has been extended to include employer-maintained hiring halls as well as those maintained by employee organizations.

Paragraph (g) of § 2510.3–1, remembrance funds, (proposed § 2510.3–3(j)) has been altered to make it clear that under a remembrance fund a small cash gift may be made to an individual as well as to an eleemosynary institution.

Paragraph (j) of § 2510.3–1, certain group and group-type insurance programs, embodies three substantive changes from its counterpart in the June 9 proposal (certain group insurance programs; § 2510.3–3(p)). First, paragraph (p)(5) of the proposal, requiring that the employer or employee organization make no representation to its employees or members that the insurance program is a benefit employment or membership, is omitted. Several comments objected to this requirement as too vague and difficult to apply. It has been replaced by a requirement in paragraph (j)(3) that the employer not endorse the program. This requirement of employer neutrality is the key to the rationale for not treating such a program as an employee benefit plan, namely the absence of employer involvement. Second, the requirement of paragraph (p)(4) of the proposal that the employer or employee organization receive no consideration in connection with the program has been eased to permit payment by the insurer of reasonable compensation excluding profit for administrative services actually rendered in connection with payroll deductions or dues checkoffs. This change was adopted in response to comments which indicate that such compensation is widespread and is not improper in view of the expenses incurred by employers and employee organizations in collecting premiums from employees and members. Third, the term "group" has been changed to "group or group-type" in response to comments which indicate that many programs of the sort intended to be described by proposed § 2510.3–3(p) are not technically group insurance programs because no master contract is issued to an employer. In the insurance industry these programs are sometimes characterized as "group-type" programs. The addition of the words "group-type" is designed to clarify the intent underlying both the previous proposal and § 2510.3–3(i).

Paragraph (k) of § 2510.3–1, unfunded scholarship programs, has been added to make it clear that only funded scholarship programs (including refunds of tuition, book purchases, room and board and other related expenses) are welfare plans. Section 3(1) of the Act refers only to "scholarship funds", and section 302(c) of the LMRA refers only to funded programs.

§ 2510.3–2. This section incorporates material which appeared in §§ 2510.3–2 (severance pay plans) and 2510.3–3 (h) (bonus programs) of the June 9 proposal, and in addition includes two new paragraphs, (d) individual retirement programs, and (e) gratuitous payments to retirees.

The treatment of severance plans in § 2510.3–2(b) has been thoroughly revised since the June 9 proposal, which provided that a severance pay plan under which payment is made to employees on or after the date on which they terminate employment, but where payment is completed before normal retirement age, is not a pension plan. Comments on the proposal pointed out that under this rule, if payments to any terminated employee under a severance pay plan happened to extend past the employee's normal retirement age, the plan would automatically be a pension plan subject to the requirements of Parts 2 and 3 of Title I of the Act.

To avoid this arbitrary result, § 2510.3–2(b) contains a formula designed to permit severance payments in amounts smaller than would ordinarily be considered sufficient to provide a reliable source of income for retirement years.

This criterion is based on the general distinction between a pension plan and a severance plan; that is, a pension plan either defers income to retirement or provides income during retirement, while a severance pay plan is designed to provide a temporary "cushion" against loss of income from employment. When termination occurs near retirement age, it is difficult to distinguish between a pension-type benefit and a severance-type program. Section 2510.3–2(b) provides a standard by which to determine from the terms of the plan whether it is a pension plan or a severance pay plan.

Under § 2510.3–2(b), a severance pay plan is not a pension plan if all payments to any employee who has terminated for reasons other than retirement are completed within are year of termination and do not exceed the employee's annual compensation level. The term "annual compensation level" is defined as an employee's annual cash compensation excluding fringe benefits for the 12-month period before separation. Each severance pay plan may provide its own definition of the annual compensation level with respect to employees covered under that plan, if such a definition is necessary. For example, a definition of "annual compensation level" is implicit in the terms of a plan such as that described in § 2510.3–2(b)(3)(i), while a plan such as the plan described in § 2510.3–2(b)(3)(iii) will require a definition of "annual compensation level."

Also included in § 2510.3–2 is paragraph (c), bonus programs, which incorporates the substance of proposed § 2510.3–3(h) without change. This provision has been inserted in § 2510.3–2 of the final regulation because bonus payments are not mentioned either in section 3(1) of the Act or in section 302(c) of the LMRA as a welfare plan.

Comments received by the Department of Labor pursuant to the June 9 proposed regulations indicated a substantial need for guidance in two areas of coverage not addressed in the June 9 proposal: individual retirement programs under section 2002(a) of the Act and voluntary, gratuitous payments traditionally made by employers to retirees not covered or inadequately covered by a pension plan. The comments were to the effect that the silence of the proposed regulations on these subjects would lead to a conclusion that the requirements of Title I of the Act were applicable and that, as a consequence of the expected burden of compliance, individuals and employers would terminate these programs. Such results would be clearly undesirable. It is therefore in the public interest that the necessary guidance in these areas be issued immediately. Since the first of the reporting requirements, the short form plan description, will be due on August 31, 1975, it is impracticable to issue proposed regulations on these matters at this time. Therefore, paragraphs 2510.3–2(d) and (e) are issued as final regulations. However, interested persons are invited to submit written data, views, or arguments concerning paragraphs 2510.3–2 (d) and (e) on or before September 15, 1975. Such data, views and arguments should be submitted to the Office of Employee Benefits Security, Labor Management Services Administration, U.S. Department of Labor, Washington, D.C. 20210. All comments should be clearly referenced to the num-

ber of the paragraph to which the comments are directed.

Comments on the June 9 proposal indicate that there is considerable uncertainty concerning Title I coverage of individual retirement programs described in section 408 and 409 of the Internal Revenue Code of 1954 (the Code). Section 2510.3–2(d) makes it clear that individual retirement accounts described in section 408(a) of the Code, individual retirement annuities described in section 408(b) of the Code, and retirement bonds described in section 409 of the Code are not pension plans under section 3(2) of the Act because they are not established or maintained by an employer or an employee organization. Since section 408(a) individual retirement accounts, section 408(b) individual retirement annuities and section 409 retirement bonds do not constitute welfare plans under section 3(1) of the Act, they are not employee benefit plans under section 3(3) of the Act and are therefore not covered under Title I.

A number of employers undertook prior to the passage of the Act to supplement the income of retired employees by making payments to them out of general assets although neither statutorily nor contractually bound to do so. The reasons for these payments almost invariably include a concern for the economic well-being of retired employees. It was pointed out in the comments that the burden of compliance with the requirements of Title I might discourage some of these employers from continuing to make these payments. Because such efforts should not be discouraged, 2510.3–2(e) has been added to these regulations to make it clear that these payments do not constitute "pension plans" within the meaning of section 3(2) of the Act. Since payments of this kind do not constitute welfare plans under section 3(1) of the Act, they are not employee benefit plans under section 3(3) of the Act and are therefore not covered under Title I.

§ 2510.3–3. This section excludes from the definition of the term "employee benefit plan" in section 3(3) of the Act most plans covering no employees and incorporates the contents of §§ 2510.3–3(q), 2510.3–6 and 2520.104b–1(c), (d) and (e) of the June 9 proposal.

The definition of the term "participant covered under the plan" was published in the June 9 proposal as § 2520.104b–1(c), (d) and (e). This term is defined solely for purposes of Title I, and the primary function of the definition in the June 9 proposal related to the mandatory distribution of certain documents, but the definition was also referenced in proposed § 2510.3–3(q). Since § 2520.104b–1 is not yet published in final form, it is necessary to include paragraphs (c), (d) and (e) of that section in the final § 2510.3–3.

In addition, proposed § 2510.3–6, defining the term "employees", has been incorporated in § 2510.3–3. In the proposal, the definition of "employee" applied to Title I of the Act and 29 CFR chapter XXV in their entirety. However, comments pointed out that the definition of the term "participant" in section 3(7) of the Act is keyed to the term "employee" and that section 404(a)(1) of the Act requires a plan fiduciary to discharge his duties with respect to a plan "solely in the interest of the participants and beneficiaries and * * * for the exclusive purpose of * * * providing benefits to participants and their beneficiaries * * *" According to the comments, a definition of "employee" excluding self-employed individuals might raise problems under section 404(a)(1) with respect to disbursements to self-employed individuals from "Keogh" or "H.R. 10" plans covering both self-employed individuals and "common law" employees. Therefore, the definition of "employee" formerly appearing in proposed § 2510.3–6 has been inserted into § 2510.3–3 and restricted in scope to that section.

Two changes in the substance of § 2510.3–3 have been made in the final version. First, the exclusion of partners from the definition of "employee" has been extended to spouses of partners, since the same consideration on which the exclusion of partners was based—that abuse is unlikely—is applicable with respect to partners' spouses.

Second, the exclusion of sole proprietors and their spouses from the definition of "employee" has been extended to sole proprietors of incorporated as well as unincorporated trades or businesses, since the risk of abuse in the case of a plan covering only an incorporated sole proprietor and his or her spouse is no greater than in the case of a plan covering only an unincorporated sole proprietor and his or her spouse.

Some comments urged that corporate shareholders, particularly in closely held corporations, be treated like partners for purposes of Title I coverage. Such treatment of corporate shareholders is not included at this time because the established judicial concept of "employee" includes employees who are shareholders in the corporations by which they are employed, but excludes partners. Furthermore remedies under state law available to minority shareholders are generally less extensive than those available to dissatisfied partners. Application of the protections of Title I, particularly the fiduciary requirements, seems therefore justified with respect to employees who are shareholders in their corporate employers. However, the Department of Labor is currently considering a proposal to relieve employee benefit plans covering only shareholders of closely held corporations from most of the reporting and disclosure requirements of Part 1 of Title I of the Act. Although such plans are required to file the short form plan description under § 2520.104–3, under the proposal they would be permitted to forego most subsequent reporting and disclosure, with the exception of the requirement under section 104(b)(2) of the Act that the plan administrator make the plan description available to plan participants and beneficiaries and the requirement under section 104(a)(1) of the Act that the administrator furnish to the Secretary, upon request, any documents relating to the employee benefit plan.

Section 2520.104–2. This section (§ 2520.30 of the December 4, 1974 proposed regulations) provides a postponement of the effective date of the annual reporting requirements for an employee benefit plan having a plan year other than a calendar year and an extension of the Welfare and Pension Plan Disclosure Act (hereinafter WPPDA) reporting and disclosure requirements for such plans. Such a postponement and extension is specifically authorized, if provided in regulations issued by the Secretary of Labor, in section 111(b)(2) of the Act. This regulation is issued to allow a more efficient transition from WPPDA requirements to the Act's annual reporting and disclosure requirements than would otherwise be possible. The requirements of the Act became applicable to calendar year plans on January 1, 1975. If non-calendar year plans were required to commence reporting and disclosure under the Act and were relieved of WPPA reporting on January 1, 1975, the plan year beginning in 1974 would have to be reported in two segments under two different systems. The portion of the plan year through December 31, 1974 would be the subject of a WPPDA report, and the portion starting January 1, 1975 would be covered by a partial annual report under the Act. This procedure would be cumbersome and inefficient. Section 2520.104–2 avoids split-year reporting by continuing WPPDA reporting and disclosure until the end of the non-calendar plan year that begins in 1974, and starting reporting and disclosure under the Act with the non-calendar plan year that begins in 1975.

§ 2520.104–3. On May 5, 1975 29 CFR § 2520.104–3 was promulgated (40 FR 19469; see also 40 FR 20628, May 12, 1975), deferring until August 31, 1975, the requirements set forth in sections 104(a)(1)(B), 104(a)(1)(C), and 104(b)(1) of the Act relating to reporting and disclosure. Analysis by the Department of Labor of the effect of the August 31, 1975 deadline and consideration of comments received after May 5, 1975 demonstrated that application of the August 31, 1975 deadline would be inappropriate for all employee benefit plans, and that a further deferral was necessary.

Comments indicated that plan administrators would not have enough time to gather records and data necessary to prepare and disclose the initially required documents by August 31, 1975. Moreover, amendments to employee benefit plans required for compliance with the fiduciary provisions of sections 402, 403 and 405 of the Act may be deferred for some plans to December 31, 1975 under regulations of the Department of Labor. Therefore, reports and disclosures made in 1975 might reflect provisions that would shortly be amended.

Accordingly, this section, the substance of which was first published in the June 9, 1975 proposal, revises 29 CFR § 2520.104–3 to further defer the reporting and disclosure deadline of Part 1 of Title I

of the Act for employee benefit plans subject to that Part 1 on or before January 31, 1976 in most respects until May 30, 1976.

Revised § 2520.104–3 has been changed from the June 9 proposal only in minor respects. First, certain additional provisions of Part 1 of Title I of the Act have been added to the list of deferred requirements. Since these provisions depend on the existence of a plan description and a summary plan description, their deferral is implicit in the deferral of the plan description and summary plan description deferrals. They have been added to revised § 2520.104–3 for the sake of clarity.

Second, paragraph (d) of the proposal has been omitted. Proposed paragraph (d) would impose a requirement for distribution of summaries of certain material modifications in the terms of plans earlier than the deadline under section 104(b)(1) of the Act of 210 days after the end of the plan year in which such material modifications are adopted. Since proposed paragraph (d) related only to amendments adopted after the initial reporting and disclosure deadline of May 30, 1976, it was unnecessary to include it in this document, which is designed primarily to provide guidance necessary for the August 31, 1975 short form plan description filing.

Pursuant to section 110 of the Act, the following findings are made with respect to the application of § 2520.104–3 to pension plans.

1. Use of the alternative method of compliance set forth in § 2520.104–3 is consistent with the purposes of Title I of the Act and provides adequate disclosure to the participants and beneficiaries in the plan, and adequate reporting to the Secretary. The deferral of the deadline will allow sufficient time for assembling and verifying necessary information and will ensure that documents required for distribution to plan participants and beneficiaries will be carefully prepared with a view towards clarity, accuracy and completeness. The deferral will also permit, in a significant number of cases, inclusion in reporting and disclosure documents of plan amendments adopted for the purpose of complying with the requirements of Title I of the Act.

2. Application of a reporting and disclosure deadline earlier than May 30, 1975 would impose unreasonable administrative burdens with respect to the operation of pension plans. If the deadline were not deferred until at least the beginning of 1976, persons involved in the administration of pension plans would be faced with the difficult task of gathering data and producing large quantities of materials in a short period, while at the same time continuing to perform day-to-day administrative services for the plans. As a result, the day-to-day administration of pension plans would be adversely affected.

3. Application of a reporting and disclosure deadline earlier than May 30, 1976 would be adverse to the interests of pension plan participants in the aggregate. Failure to defer the deadline until May 30, 1976 would result in hastily and often carelessly prepared disclosure documents which might be difficult to understand, factually inaccurate or misleading, and lack information about participants' rights and obligations under their pension plans. In addition, the extraordinary burdens imposed on pension plan administrative personnel by an earlier reporting and disclosure deadline might lead to a deterioration in the quality of service provided by such personnel to pension plan participants in the day-to-day administration of the plans.

§ 2520.104–20. This section (§ 2521.10 of the December 4, 1974 proposal) provides an exemption from filing requirements for certain welfare plans. Such an exemption is authorized, if it is found that such requirements are inappropriate as applied to welfare benefit plans, in section 104(a)(3).

Although most of the comments received indicated that the exemption set forth by the proposed rule would provide essential relief to certain small welfare plans from the expensive and burdensome task of filing various reports with the Secretary of Labor, they also argued that the exemption should be extended to include plans funded partly by employee or member contributions as well as contributions by the employer or employee organization. Regarding plans partly funded by employee contributions concern was expressed about the manner in which rebates on the cost of insurance are paid. Comments also stated that the exemption should be broadened to include plans with one hundred or more participants.

The exemption provided in this proposed rule is based on the assumption that certain reporting requirements of Title I of the Act are inappropriate as applied to many small unfunded or totally insured welfare plans. For this reason, only those plans with fewer than 100 participants, which could be overwhelmed by the expense and administrative burden of all the reporting and disclosure requirements, have been exempted.

The June 9 proposal has been modified as suggested in the comments to include plans funded partly by employee contributions, but only if such contributions are forwarded to the insurance company by the employer or employee organization within three months of receipt. The special concern about funds contributed from employee wages which led to omission of contributory plans from the June 9 proposal has been satisfied by the requirement for what will, in practice, amount to quarterly (or more frequent) forwarding of employee contributions to the insurance carrier. The regulation also provides that for a contributory insured plan to qualify for the exemption, insurance rebates are to be distributed within three months of receipt from the insurance company pursuant to a procedure described in the plan and to participants upon entry into the plan.

Section 2520.104–21. This section (§ 2521.10 of the December 4, 1974 proposed regulations) provides an exemption from filing requirements for welfare plans with fewer than 100 participants using certain group insurance arrangements.

The principal difference between the exemption provided by § 2520.104–20 and the exemption provided by § 2520.104–21 is that the former exemption applies to welfare plans in which the employer has a direct relationship with the insurance company or the participants, while the latter exemption applies to welfare plans in which a trust or some other entity such as a trade association is used as a conduit to pay insurance premiums.

Many comments encouraged extending the exemption to plans which include contributions from participants. The proposal has been modified to include such plans, but requires the employer or employee organization to forward the contributions of the employees within three months to avoid accumulation of employee funds by the employer or employee organization. Regarding plans partly funded by employee contributions, concern was also expressed about the manner in which rebates on the cost of insurance are paid. To deal with this situation the regulation provides that the distribution of insurance rebates is to be made within three months of receipt from the insurance company pursuant to a procedure described in the plan and to participants upon entry into the plan.

Other comments suggested that the standard used to determine the size of a plan eligible for this exemption should be the amount of money involved in the plan or the number of benefit claims each year. Such a standard would be keyed to fluctuating data with a potential for abuse.

A question was raised concerning the applicability of this exemption to plans in a group insurance arrangement in which the trust or association acts through an agent, such as an independent broker. Since this is primarily a question of interpretation, an example is added to the rule to clarify the application of the exemption to this type of situation.

The comments indicated a need for clarification of the application of the exemption generally. Consequently, a subsection has been added to the regulation to include several examples highlighting typical plan arrangements which have been the cause of considerable confusion.

Section 2520.104–22. This section sets forth a limited exemption from the reporting and disclosure provisions of Part 1 of Title I of the Act for plans which provide only apprenticeship training benefits.

Apprenticeship plans do not have participants in the same sense as typical welfare plans. The journeymen in a trade with an apprenticeship plan do not receive training or any other direct benefit from the apprenticeship program.

Their only interest is the general one of preserving existing trade skills and practices. Thus the journeymen are not participants in a conventional sense. Although the funding for apprenticeship plans frequently is provided by employers for the account of journeymen (that is, collective bargaining agreements require that certain amounts be contributed to the plan based on hours worked by or earnings of journeymen), the apprentices who receive training are a much smaller group which changes in composition continuously as new apprentices join and others either drop out or graduate to journeyman status.

Therefore, application of all of the provisions of Part 1 would provide little benefit to the plan participants and beneficiaries and would, at the same time, impose a burden on the operation of these plans. For example, furnishing summary plan descriptions to all journeymen on whose account employer contributions are made would be costly and unproductive. For these reasons, the Department of Labor has determined that full application of the reporting and disclosure provisions of Part 1 would be inappropriate with respect to apprenticeship plans.

One comment states that apprenticeship plans should be exempt from all the reporting and disclosure requirements. However, apprenticeship plans are not exempted from all of the provisions of Part 1 at this time. The legislative history suggests that, if there are no substantial reasons to the contrary, apprenticeship plans should be exempted from the reporting requirements of Part 1. Such a determination must be a knowledgeable one. Information, such as the size of the assets of the plan, the type of management, the existence of a trust, and the degree of reporting and disclosure available under other statutes, is essential to a proper determination that there will be no adverse circumstances resulting from a complete exemption of apprenticeship plans.

After analysis by the Department of Labor and because of the need for additional information, it was determined that apprenticeship plans would be exempted from many provisions of Part 1, of Title I of the Act, but will be required to make an initial filing of certain documents with the Secretary. The regulation specifies that an administrator of an apprenticeship plan is exempted from all the provisions of Part 1 except for the requirements to file a short form plan description (applicable only to plans subject to Part 1 on or before January 31, 1976), an initial plan description, and an initial annual report.

§ 2520.104–23. This section provides an alternative method of compliance for certain pension plans for a select group of management or highly compensated employees. The comments received on the June 9, 1975, proposed regulations expressed general approval with the terms and purpose of proposed § 2520.104–23.

The comments included proposals for defining the term "select group of management or highly compensated employees." The suggestions ranged widely and were not consistent. Although they were helpful in pointing out various approaches to the problem, the Department of Labor is not yet in a position to issue a detailed definition of this term. Further guidance will be provided before major reporting and disclosure obligations become due.

In view of the nature of the plans or programs involved and of the comments received, the following findings are made:

(1) The use of the alternative method of compliance set forth below is consistent with the purposes of Title I of the Act, and provides adequate reporting to the Secretary and adequate disclosure to the participants and beneficiaries of plans with respect to which it is available. The class of employees with respect to whom this alternative method of compliance applies—highly compensated or management employees—generally have ready access to information concerning their rights and obligations and do not need the protections afforded them by Part 1 of Title I of the Act. In addition, the possibility of breaches of fiduciary responsibilities is decreased because this alternative method of compliance applies only to unfunded or totally insured pension plans. Consequently, reporting requirements geared to the enforcement of the fiduciary responsibility provisions of Title I, such as certain portions of the annual report, become less important.

(2) Application of the reporting and disclosure requirements of Part 1 of Title I would increase the administrative costs of plans to which this alternative method applies. The imposition of the reporting and disclosure requirements of Part 1 of Title I of the Act on unfunded pension plans maintained by employers primarily for the purpose of providing deferred compensation for select groups of management or highly compensated employees would entail wasteful expenses associated with the preparation, printing and distribution of unnecessary materials.

(3) The application of Part 1 of Title I to unfunded pension plans maintained by employers primarily for the purpose of providing deferred compensation for select groups of management or highly compensated employees would be adverse to the interests of plan participants in the aggregate. Imposition of these requirements might cause employers to eliminate such plans altogether or to curtail benefits offered under such plans.

§ 2520.104–24. This section exempts certain welfare plans for a select group of management or highly compensated employees from most of the reporting and disclosure requirements of Title I of the Act. The comments received on the June 9, 1975, proposed regulations expressed general approval with the terms and purpose of proposed § 2520.104–24.

The comments included proposals for defining the term "select group of management or highly compensated employees." The suggestions ranged widely and were not consistent. Although they were helpful in pointing out various approaches to the problem, the Department of Labor is not yet in a position to issue a detailed definition of this term. Further guidance will be provided before major reporting and disclosure obligations become due.

This exemption is consistent with the purposes of Title I of the Act. The class of employees with respect to whom this exemption applies—highly compensated or management employees—generally have ready access to information concerning their rights and obligations and do not need the protections afforded them by Part 1 of Title I of the Act. In addition, the possibility of breaches of fiduciary responsibilities is decreased because this exemption applies only to unfunded or completely insured plans. Consequently, reporting requirements geared to the enforcement of the fiduciary responsibility provisions of Title I, such as certain portions of the annual report, become less important.

Application of the reporting and disclosure requirements of Part 1 of Title I would increase the administration costs of plans to which this exemption applies. The imposition of the reporting and disclosure requirements of Part 1 of Title I of the Act on unfunded welfare plans maintained by employers primarily for the purpose of providing welfare benefits for select groups of management or highly compensated employees would entail wasteful expenses associated with the preparation, printing and distribution of unnecessary materials. Imposition of these requirements might cause employers to eliminate such plans altogether or to curtail benefits offered under such plans. Accordingly, application of the reporting and disclosure requirements of Title I would be inappropriate in the case of the plans to which this exemption is addressed.

§ 2520.104–25. This section exempts day care centers from almost all of the reporting and disclosure provisions of Part 1 of Title I of the Act. Section 104(a)(3) of the Act permits the Secretary of Labor to exempt any welfare benefit plan from all or part of the reporting and disclosure requirements of Title I, if he finds that such requirements are inappropriate as applied to such plan.

Day care centers are specifically included in the definition of "welfare plan" in section 3(1) of the Act. However, the Department of Labor is unaware of any mention of abuses in this area in the legislative history, or of evidence which would warrant imposition of the reporting and disclosure requirements of Part 1 of Title I of the Act. In addition, there is evidence in the legislative history of the Act that Congress intended that day care centers be exempt from reporting under the Act unless such reporting is found to be necessary. For these reasons and because of the expense which the imposition of these requirements would care centers be exempt from reporting and disclosure requirements of Part 1 of Title I of the Act are inappropriate as applied to them.

Accordingly, Chapter XXV of Title 29 of the Code of Federal Regulations is amended as follows:

1. By adding a new Subchapter B which reads as set forth above.

2. Part 2510 is added to read as follows:

Sec.
2510.3-1 Employee welfare benefit plan.
2510.3-2 Employee pension benefit plan.
2510.3-3 Employee benefit plan.

AUTHORITY: Sec. 111(c), 505, Pub. L. 93-406, 88 Stat. 852, 894, (29 U.S.C. 1031, 1135); Secretary of Labor's Order No. 27-74, and Labor-Management Services Administration Order No. 2-6.

§ 2510.3-1 Employee welfare benefit plan.

(a) *General.* (1) The purpose of this section is to clarify the definition of the terms "employee welfare benefit plan" and "welfare plan" for purposes of Title I of the Act and this chapter by identifying certain practices which do not constitute employee welfare benefit plans for those purposes. In addition, the practices listed in this section do not constitute employee pension benefit plans within the meaning of section 3(2) of the Act, and, therefore, do not constitute employee benefit plans within the meaning of section 3(3). Since under section 4(a) of the Act, only employee benefit plans within the meaning of section 3(3) are subject to Title I of the Act, the practices listed in this section are not subject to Title I.

(2) The terms "employee welfare benefit plan" and "welfare plan" are defined in section 3(1) of the Act to include plans providing "(i) medical, surgical, or hospital care or benefits, or benefits in the event of sickness, accident, disability, death or unemployment, or vacation benefits, apprenticeship or other training programs, or day care centers, scholarship funds, or prepaid legal services, or (ii) any benefit described in section 302(c) of the Labor Management Relations Act, 1947 (other than pensions on retirement or death, and insurance to provide such pensions)." Under this definition, only plans which provide benefits described in section 3(1)(A) of the Act or in section 302(c) of the Labor-Management Relations Act, 1947 (hereinafter "the LMRA") (other than pensions on retirement or death) constitute welfare plans. For example, a system of payroll deductions by an employer for deposit in savings accounts owned by its employees is not an employee welfare benefit plan within the meaning of section 3(1) of the Act because it does not provide benefits described in section 3(1)(A) of the Act or section 302(c) of the LMRA. (In addition, if each employee has the right to withdraw the balance in his or her account at any time, such a payroll savings plan does not meet the requirements for a pension plan set forth in section 3(2) of the Act and, therefore, is not an employee benefit plan within the meaning of section 3(3) of the Act).

(3) Section 302(c) of the LMRA lists exceptions to the restrictions contained in subsections (a) and (b) of that section on payments and loans made by an employer to individuals and groups representing employees of the employer. Of these exceptions, only those contained in paragraphs (5), (6), (7) and (8) describe benefits provided through employee benefit plans. Moreover, only paragraph (6) describes benefits not described in section 3(1)(A) of the Act. The benefits described in section 302(c)(6) of the LMRA but not in section 3(1)(A) of the Act are "* * * holiday, severance or similar benefits". Thus, the effect of section 3(1)(B) of the Act is to include within the definition of "welfare plan" those plans which provide holiday and severance benefits, and benefits which are similar (for example, benefits which are in substance severance benefits, although not so characterized).

(4) Some of the practices listed in this section as excluded from the definition of "welfare plan" or mentioned as examples of general categories of excluded practices are inserted in response to questions received by the Department of Labor and, in the Department's judgment, do not represent borderline cases under the definition in section 3(1) of the Act. Therefore, this section should not be read as implicitly indicating the Department's views on the possible scope of section 3(1).

(b) *Payroll practices.* For purposes of Title I of the Act and this chapter, the terms "employee welfare benefit plan" and "welfare plan" shall not include—

(1) Payment by an employer of compensation on account of work performed by an employee, including compensation at a rate in excess of the normal rate of compensation on account of performance of duties under other than ordinary circumstances, such as—

(i) Overtime pay,

(ii) Shift premiums,

(iii) Holiday premiums,

(iv) Weekend premiums;

(2) Payment of an employee's normal compensation, out of the employer's general assets, on account of periods of time during which the employee is physically or mentally unable to perform his or her duties, or is otherwise absent for medical reasons (such as pregnancy, a physical examination or psychiatric treatment); and

(3) Payment of compensation, out of the employer's general assets, on account of periods of time during which the employee, although physically and mentally able to perform his or her duties and not absent for medical reasons (such as pregnancy, a physical examination or psychiatric treatment) performs no duties; for example—

(i) Payment of compensation while an employee is on vacation or absent on a holiday, including payment of premiums to induce employees to take vacations at a time favorable to the employer for business reasons,

(ii) Payment of compensation to an employee who is absent while on active military duty,

(iii) Payment of compensation while an employee is absent for the purpose of serving as a juror or testifying in official proceedings,

(iv) Payment of compensation on account of periods of time during which an employee performs little or no productive work while engaged in training (whether or not subsidized in whole or in part by Federal, State or local government funds), and

(v) Payment of compensation to an employee who is relieved of duties while on sabbatical leave or while pursuing further education.

(c) *On-premises facilities.* For purposes of Title I of the Act and this chapter, the terms "employee welfare benefit plan" and "welfare plan" shall not include—

(1) The maintenance on the premises of an employer or of an employee organization of recreation, dining or other facilities (other than day care centers) for use by employees or members; and

(2) The maintenance on the premises of an employer of facilities for the treatment of minor injuries or illness or rendering first aid in case of accidents occurring during working hours.

(d) *Holiday gifts.* For purposes of Title I of the Act and this chapter the terms "employee welfare benefit plan" and "welfare plan" shall not include the distribution of gifts such as turkeys or hams by an employer to employees at Christmas and other holiday seasons.

(e) *Sales to employees.* For purposes of Title I of the Act and this chapter, the terms "employee welfare benefit plan" and "welfare plan" shall not include the sale by an employer to employees of an employer, whether or not at prevailing market prices, of articles or commodities of the kind which the employer offers for sale in the regular course of business.

(f) *Hiring halls.* For purposes of Title I of the Act and this chapter, the terms "employee welfare benefit plan" and "welfare plan" shall not include the maintenance by one or more employers, employee organizations, or both, of a hiring hall facility.

(g) *Remembrance funds.* For purposes of Title I of the Act and this chapter, the terms "employee welfare benefit plan" and "welfare plan" shall not include a program under which contributions are made to provide remembrances such as flowers, an obituary notice in a newspaper or a small gift on occasions such as the sickness, hospitalization, death or termination of employment of employees, or members of an employee organization, or members of their families.

(h) *Strike funds.* For purposes of Title I of the Act and this chapter, the terms "employee welfare benefit plan" and "welfare plan" shall not include a fund maintained by an employee organization to provide payments to its members during strikes and for related purposes.

(i) *Industry advancement programs.* For purposes of Title I of the Act and this chapter, the terms "employee welfare benefit plan" and "welfare plan" shall not include a program maintained by an employer or group or association of employers, which has no employee

participants and does not provide benefits to employees or their dependents, regardless of whether the program serves as a conduit through which funds or other assets are channelled to employee benefit plans covered under Title I of the Act.

(j) *Certain group or group-type insurance programs.*

For purposes of Title I of the Act and this chapter, the terms "employe welfare benefit plan" and "welfare plan" shall not include a group or group-type insurance program offered by an insurer to employees or members of an employee organization, under which

(1) no contributions are made by an employer or employee organization;

(2) participation in the program is completely voluntary for employees or members;

(3) the sole functions of the employer or employee organization with respect to the program are, without endorsing the program, to permit the insurer to publicize the program to employees or members, to collect premiums through payroll deductions or dues checkoffs and to remit them to the insurer; and

(4) the employer or employee organization receives no consideration in the form of cash or otherwise in connection with the program, other than reasonable compensation, excluding any profit, for administrative services actually rendered in connection with payroll deductions or dues checkoffs.

(k) *Unfunded scholarship programs.* For purposes of Title I of the Act and this chapter, the terms "employe welfare benefit plan" and "welfare plan" shall not include a scholarship program, including a tuition and education expense refund program, under which payments are made solely from the general assets of an employer or employee organization.

§ 2510.3–2 Employee pension benefit plan.

(a) *General.*

This section clarifies the limits of the defined terms "employee pension benefit plan" and "pension plan" for purposes of Title I of the Act and this chapter by identifying certain specific plans, funds and programs which do not constitute employee pension benefit plans for those purposes. To the extent that these plans, funds and programs constitute employee welfare benefit plans within the meaning of section 3(1) of the Act and § 2510.3–1 of this part, they will be covered under Title I; however, they will not be subject to parts 2 and 3 of Title I of the Act.

(b) *Severance pay plan.* (1) For the purpose of Title I of the Act and this chapter, the terms "employee pension benefit plan" and "pension plan" shall not include a plan, fund or program under which payments are made on account of an employee's separation from the service of an employer other than on account of retirement if—

(i) All such payments made to any participant are completed within one year after the participant's separation from service, and

(ii) The total of all payments made within such year to any participant cannot exceed the participant's annual compensation level, as determined under paragraph (b)(2) of this section.

(2) For purposes of paragraph (b)(1) of this section the term "annual compensation level" means an amount equivalent to the annual cash compensation, excluding fringe benefits, of an employee for the 12-month period before separation, determined in any reasonable manner which takes into account the employee's final rate of compensation before separation. An annual compensation level may be determined in various ways, including projecting an employee's final weekly rate of compensation over a customary 52-week work year or by projecting an employee's final hourly rate of compensation over a customary 2080-hour work year. For a salaried employee, paid on a weekly or monthly basis, the amount representing the employee's final annual before-tax salary on the basis of which weekly or monthly payments are computed may be used as the annual compensation level.

(3) The following examples illustrate the application of this paragraph (b):

(i) A plan provides for payments to employees of an employer upon separation from service. Under the plan, an employee receives weekly payments of his or her normal pre-separation wages for a certain number of weeks after separation. The number of weeks for which an employee receives such payments is determined by a formula based on years of service, under which an employee who began work at the earliest possible age and was separated immediately before reaching the employer's mandatory retirement age would be entitled to such payments for 20 weeks. The employer retains discretion to omit such payments or to increase the number of weekly payments by as much as 100%. Since under the formula, even if the maximum of 20 additional weeks of payments are awarded, no employee may receive more than 40 weeks of payments, the total of the payments cannot exceed an employees' annual level of compensation, and all payments are completed within a year after separation. The plan is not a pension plan.

(ii) A plan provides for payments to employees of an employer upon separation from service. The amount of the payments is determined under a formula based on length of service and earnings. The plan provides that in no case may the total of the payments exceed an employee's annual earnings during the employee's final year of employment; and that in no case may payments exceed longer than a year after separation. The plan is not a pension plan.

(iii) A plan provides for a lump-sum payment upon an employee's involuntary separation from service. Under the plan an employee receives an amount equal to 10 percent of his or her pre-separation salary plus 2 percent thereof for each year of service. The employer's mandatory retirement age is 65. Under this plan it would be possible for an employee to begin employment with the employer at age 18, to be separated at age 64, and to receive a payment equal to 102 percent of his or her pre-separation salary. The plan is a pension plan. (Note: if the plan is unfunded and is maintained by the employer primarily for the purpose of providing deferred compensation to a select group of management or highly compensated employees, it will not be subject to Parts 2, 3 or 4 of Title I of the Act.)

(c) *Bonus program.* For purposes of Title I of the Act and this chapter, the terms "employee pension benefit plan" and "pension plan" shall not include payments made by an employer to some or all of its employees as bonuses for work performed, unless such payments are systematically deferred to the termination of covered employment or beyond, or so as to provide retirement income to employees.

(d) *Individual Retirement Accounts.* (1) For purposes of Title I of the Act and this chapter, the terms "employee pension benefit plan" and "pension plan" shall not include an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Internal Revenue Code of 1954 (hereinafter "the Code") and an individual retirement bond described in section 409 of the Code, provided that—

(i) no contributions are made by the employer or employee association;

(ii) participation is completely voluntary for employees or members;

(iii) the sole involvement of the employer or employee organization is without endorsement to permit the sponsor to publicize the program to employees or members, to collect contributions through payroll deductions or dues checkoffs and to remit them to the sponsor; and

(iv) the employer or employee organization receives no consideration in the form of cash or otherwise, other than reasonable compensation for services actually rendered in connection with payroll deductions or dues checkoffs.

(e) *Gratuitous payments to pre-Act retirees.*

For purposes of Title I of the Act and this chapter the terms "employee pension benefit plan" and "pension plan" shall not include voluntary, gratuitous payments by an employer to former employees who separated from the service of the employer if:

(1) payments are made out of the general assets of the employer,

(2) former employees separated from the service of the employer prior to September 2, 1974,

(3) payments made to such employees commenced prior to September 2, 1974, and

(4) each former employee receiving such payments is notified annually that the payments are gratuitous and do not constitute a pension plan.

§ 2510.3–3 Employee benefit plan.

(a) *General.* This section clarifies the definition in section 3(3) of the term

"employee benefit plan" for purposes of Title I of the Act and this chapter. It states a general principle which can be applied to a large class of plans to determine whether they constitute employee benefit plans within the meaning of section 3(3) of the Act. Under section 4(a) of the Act, only employee benefit plans within the meaning of section 3(3) are subject to Title I.

(b) *Plans without employees.* For purposes of Title I of the Act and this chapter, the term "employee benefit plan" shall not include any plan, fund or program, other than an apprenticeship or other training program, under which no employees are participants covered under the plan, as defined in paragraph (d) of this section. For example, a so-called "Keogh" or "H.R. 10" plan under which only partners or only a sole proprietor are participants covered under the plan will not be covered under Title I. However, a Keogh plan under which one or more common law employees, in addition to the self-employed individuals, are participants covered under the plan, will be covered under Title I. Similarly, partnership buyout agreements described in section 736 of the Internal Revenue Code of 1954 will not be subject to Title I.

(c) *Employees.* For purposes of this section:

(1) An individual and his or her spouse shall not be deemed to be employees with repect to a trade or businesss, whether incorporated or unincorporated, which is wholly owned by the individual or by the individual and his or her spouse, and

(2) A partner in a partnership and his or her spouse shall not be deemed to be employees with respect to the partnership.

(d) *Participant covered under the plan.* (1)(i) An individual becomes a participant covered under an employee welfare benefit plan on the earlier of—

(A) the date designated by the plan as the date on which the individual begins participation in the plan;

(B) the date on which the individual becomes eligible under the plan for a benefit subject only to occurrence of the contingency for which the benefit is provided; or

(C) the date on which the individual makes a contribution to the plan, whether voluntary or mandatory.

(ii) An individual becomes a participant covered under an employee pension plan—

(A) in the case of a plan which provides for employee contributions or defines participation to include employees who have not yet retired, on the earlier of—

(*1*) the date on which the individual makes a contribution, whether voluntary or mandatory, or

(2) the date designated by the plan as the date on which the individual has satisfied the plan's age and service requirements for participation, and

(B) in the case of a plan which does not provide for employee contributions and does not define participation to include employees who have not yet retired, the date on which the individual completes the first year of employment which may be taken into account in determining—

(*1*) whether the individual is entitled to benefits under the plan, or

(*2*) the amount of benefits to which the individual is entitled,

whichever results in earlier participation.

(2)(i) An individual is not a participant covered under an employee welfare plan on the earliest date on which the individual—

(A) is ineligible to receive any benefit under the plan even if the contingency for which such benefit is provided should occur, and

(B) is not designated by the plan as a participant.

(ii) An individual is not a participant covered under an employee pension plan or a beneficiary receiving benefits under an employee pension plan if—

(A) the entire benefit rights of the individual—

(*1*) are fully guaranteed by an insurance company, insurance service or insurance organization licensed to do business in a State, and are legally enforceable by the sole choice of the individual against the insurance company, insurance service or insurance organization; and

(2) a contract, policy or certificate describing the benefits to which the individual is entitled under the plan has been issued to the individual; or

(B) the individual has received from the plan a lump-sum distribution or a series of distributions of cash or other property which represents the balance of his or her credit under the plan.

(3)(i) In the case of an employee pension benefit plan, an individual who, under the terms of the plan, has incurred a one-year break in service after having become a participant covered under the plan, and who has acquired no vested right to a benefit before such break in service is not a participant covered under the plan until the individual has completed a year of service after returning to employment covered by the plan.

(ii) For purposes of paragraph (d)(3)(i) of this section, in the case of an employee pension benefit plan which is subject to section 203 of the Act the term "year of service" shall have the same meaning as in section 203(b)(2)(A) of the Act and any regulations issued under the Act and the term "one-year break in service" shall have the same meaning as in section 203(b)(3)(A) of the Act and any regulations issued under the Act.

3. By adding Subchapter C which reads as set forth above.

4. Part 2520 is revised to read as follows:

Subparts A, B and C [Reserved]

Subpart D—Provisions Applicable to Both Reporting and Disclosure Requirements

Sec.

2520.104–2 Postponing effective date of annual reporting requirements and extending WPPDA reporting requirements.

2520.104–3 Deferral of certain initial reporting and disclosure requirements.

2520.104–20 Limited exemption for certain small welfare plans.

2520.104–21 Limited exemption for certain group insurance arrangements.

2520.104–22 Limited exemption for apprenticeship plans.

2520.104–23 Alternative method of compliance for pension plans for certain selected employees.

2520.104–24 Exemption for welfare plans for certain selected employees.

2520.104–25 Exemption from reporting and disclosure for day care centers.

Subparts E and F [Reserved]

AUTHORITY: Secs. 101, 102, 104, 105, 109, 110, 111(b)(2), 111(c), 505, Pub. L. 93–406, 88 Stat. 840–1, 847–52, 894 (29 U.S.C. 1021–2, 1024–5, 1029–31, 1135); Secretary of Labor's Order No. 27–74, Labor-Management Services Administration Order No. 2–6.

Subpart D—Provisions Applicable to Both Reporting and Disclosure Requirements

§ 2520.104–2 Postponing effective date of annual reporting requirements and extending WPPDA reporting requirements.

(a) *Postponing reports under the Act.* The January 1, 1975, effective date for the annual financial reporting and related disclosure requirements of section 103 of the Act is postponed for any employee benefit plan having a plan year other than a calendar year. These requirements shall become effective as to such plans on the first day of the first plan year beginning after January 1, 1975. Specifically, the administrator of a non-calendar year plan (1) is not required to file an annual financial report with the Secretary under sections 103(a)(1)(A) and 104(a)(1)(A) of the Act until the required time (210 days or such other time as the Secretary of Labor sets by regulation) after the end of the first plan year which begins after January 1, 1975, and (2) is not required to furnish participants covered under the plan and beneficiaries receiving benefits under the plan with statements of the plan's assets, liabilities, receipts, disbursements, and a summary of the latest annual report, as required by sections 103(a)(1)(A) and 104(b)(3) of the Act, until the required time after the end of the first year which begins after January 1, 1975. The requirement of section 104(b)(2) of the Act to make copies of the latest annual report available for inspection, and the requirement of section 104(b)(4) of the Act to furnish, upon written request of a participant or beneficiary, a copy of the latest annual report, do not take effect until the required time after the end of the first plan year which begins after January 1, 1975.

Example. A plan with a plan year beginning on April 1, 1975, files an annual report with the Secretary within the required time after March 31, 1976. The plan also furnishes participants covered under the plan and beneficiaries receiving benefits under the plan with statements of the plan's assets and liabilities and receipts and disbursements, and a summary of the latest annual report, by the same date. The following disclosure requirements are also complied with by the

same date: A copy of the annual report is made available for inspection by any plan participant or beneficiary in the principal office of the administrator and in such other places as may be necessary to make available all pertinent information to all participants; and the plan administrator supplies a copy of the annual report to any participant or beneficiary who requests it in writing.

(b) *Extending WPPDA reporting.* The repeal of the annual reporting requirements of section 7 and the requirements for disclosure to participants and beneficiaries relating to annual reports of section 8(a)(2) of the Welfare and Pension Plans Disclosure Act (29 U.S.C. 306) are postponed from January 1, 1975 for any employee benefit plan having a plan year other than a calendar year. For noncalendar year plans subject to the WPPDA, the reporting and disclosure provisions of the WPPDA shall remain in force and effect through the last day of any plan year beginning before January 1, 1975, and ending after December 31, 1974.

(c) *Effect on other provisions.* This postponement does not delay the effective date of any other provisions of Part 1 of Title I of the Act.

§ 2520.104–3 Deferral of certain initial reporting and disclosure requirements.

(a) Under the authority of section 104(a)(3) of the Act, certain reporting and disclosure requirements of employee welfare benefit plans are deferred. This deferral is set forth in paragraph (c) of this section and applies to welfare plans subject to Part 1 of Title I of the Act on or before January 31, 1976. Welfare plans which become subject to Part 1 on or after February 1, 1976 shall meet the general reporting and disclosure provisions set forth in that part and regulations issued thereunder.

(b) Under the authority of section 110 of the Act, an alternative method of compliance is provided for employee pension benefit plans subject to Part 1 of Title I of the Act on or before January 31, 1976. This alternative, set forth in paragraph (c) of this section, permits an administrator of a pension plan to defer compliance with certain reporting and disclosure requirements. Pension plans which become subject to Part 1 of Title I of the Act on or after February 1, 1976 shall meet the general reporting and disclosure provisions set forth in that part and regulations issued thereunder.

(c) The administrator of a welfare plan described in paragraph (a) of this section or of a pension plan using the alternative specified in paragraph (b) of this section:

(1) Shall file a short form plan description, consisting of the first two pages of Department of Labor Form EBS–1 (not including schedules A, B and C) and the signature page (item 38 only), on or before the later of—

(i) August 31, 1975, or

(ii) The 120th day after the plan becomes subject to Part 1;

(2) May defer compliance with the following provisions of Part 1 of Title I of the Act until May 30, 1976—

(i) Subsection (a)(1)(C) and (b)(1) of section 104 of the Act, to the extent that they require plan administrators to file with the Secretary, and furnish to plan participants and beneficiaries, copies of a summary plan description,

(ii) Section 104(a)(1)(B) of the Act, which requires plan administrators to file a plan description with the Secretary,

(iii) Section 104(b)(2) of the Act to the extent that it requires plan administrators to make copies of the plan description available for examination by any plan participant and beneficiary of certain places, and

(iv) Section 104(b)(4) of the Act to the extent that it requires plan administrators to furnish a copy of the latest summary plan description and plan description to any participants or beneficiary upon written request; and

(3) Shall not be required to comply with the provisions of sections 104(a)(1)(D) and 104(b)(1) of the Act, to the extent that they require plan administrators to file with the Secretary of Labor, and to furnish to plan participants and beneficiaries summaries of, material modifications to the plan and changes in information required to be included in the plan description or summary plan description, as the case may be, which—

(i) Are adopted or occurred prior to May 30, 1976,

(ii) Are effective on May 30, 1976, and

(iii) Are incorporated in the initial plan description and summary plan description.

§ 2520.104–20 Limited exemption for certain small welfare plans.

(a) *Scope.* Under the authority of section 104(a)(3) of the Act, the administrator of any employee welfare benefit plan which covers fewer than 100 participants at all times during a plan year and which meets the requirements of paragraph (b) of this section is exempted from certain reporting and disclosure provisions of the Act. Specifically, the administrator of such plan is not required to file with the Secretary any of the following documents: Plan description, copy of the summary plan description, description of a material modification in the terms of a plan or change in the information required to be included in the plan description, annual report and terminal report. In addition, the administrator of a plan exempted under this section—

(1) Is not required to furnish participants covered under the plan and beneficiaries receiving benefits under the plan with statements of the plan's assets and liabilities and receipts and disbursements and a summary of the annual reports required by section 104(b)(3) of the Act;

(2) Is not required to furnish upon written request of any participant or beneficiary a copy of the plan description, annual report, and any terminal report, as required by section 104(b)(4) of the Act; and

(3) Is not required to make copies of the plan description and annual report available for examination by any participant or beneficiary in the principal office of the administrator and such other places as may be necessary, as required by section 104(b)(2) of the Act.

(b) *Application.* This exemption applies only to welfare benefit plans

(1) which have fewer than 100 participants at all times during a plan year;

(2)(i) for which benefits are paid as needed solely from the general assets of the employer or employee organization maintaining the plan, or

(ii) the benefits of which are provided exclusively through insurance contracts or policies issued by an insurance company or similar organization which is qualified to do business in any State, the premiums for which are paid directly by the employer or employee organization from its general assets or partly from its general assets and partly from contributions by its employees or members, *Provided,* That contributions by participants are forwarded by the employer or employee organization within three months of receipt, or

(iii) both; and

(3) for which, in the case of an insured plan—

(i) rebates, to which contributing participants are entitled, are returned to them within three months of receipt by the employer or employee organization, and

(ii) contributing participants are informed upon entry into the plan of the provisions of the plan concerning the allocation of rebates.

(c) *Limitations.* This exemption does not exempt the administrator of an employee benefit plan from any other requirement of Title I of the Act, including the provisions which require that plan administrators furnish copies of the summary plan description to participants and beneficiaries (section 104(b)(1)) and of certain documents to the Secretary of Labor upon request (section 104(a)(1)), and which authorize the Secretary of Labor to collect information and data from employee benefit plans for research and analysis (section 513).

(d) *Examples.* (1) A welfare plan has 75 participants. Plan benefits are fully paid directly to the insurance company by the employer pursuant to an insurance contract purchased with premium payments derived half from the general assets of the employer and half from employee contributions (which the employer forwards within three months of receipt). Rebates to the plan are paid to participating employees within three months of receipt as provided in the plan and as described to each participant upon entering the plan. The plan appoints the employer as its plan administrator. The employer, as plan administrator, provides summary plan descriptions to participants and beneficiaries. He also makes copies of certain plan documents available at the plan's principal office and other such places as necessary to give participants reasonable access to them.

(2) A welfare plan is established and maintained in the same way as the plan described in example (1) of § 2520.104–2,

except that a trade association which sponsors the plan is the legal owner of the insurance contract. Since the plan still sends the premium payments directly to the insurance company, the exemption applies as in example (1) of § 2520.104–2.

§ 2520.104–21 Limited exemption for certain group insurance arrangements.

(a) *Scope.* Under the authority of section 104(a)(3) of the Act, the administrator of any employee welfare benefit plan which covers fewer than 100 participants at all times during a plan year and which meets the requirements of paragraph (b) of this section is exempted from certain reporting and disclosure provisions of the Act. Specifically, the administrator of such plan is not required to file with the Secretary any of the following documents: Plan description, copy of the summary plan description, description of a material modification in the terms of a plan or change in the information required to be included in the plan description, and terminal report. In addition, the administrator of a plan exempted under this section—

(1) Is not required to furnish upon written request of any participant or beneficiary a copy of the plan description and any terminal report, as required by section 104(b)(4) of the Act;

(2) Is not required to make copies of the plan description available for examination by any participant or beneficiary in the principal office of the administrator and such other places as may be necessary, as required by section 104(b)(2) of the Act.

(b) *Application.* This exemption applies only to welfare plans, each of which has fewer than 100 participants, at all times during a plan year which are part of a group insurance arrangement if such arrangement:

(1) Provides benefits to the employees of two or more unaffiliated employers, but not in connection with a multiemployer plan as defined in section 3(37) of the Act and any regulations prescribed under the Act concerning section 3(37);

(2) Fully insures one or more welfare plans of each participating employer through insurance contracts purchased solely by the employers or purchased partly by the employers and partly by their participating employees, with all benefit payments made by the insurance company, provided, that—

(i) contributions by participating employees are forwarded by the employers within three months of receipt.

(ii) rebates, to which contributing participants are entitled, are returned to them within three months of receipts, and

(iii) contributing participants are informed upon entry into the plan of the provisions of the plan concerning the allocation of rebates; and

(3) Uses a trust (or other entity such as a trade association) as the legal owner of the insurance contracts and the conduit for payment of premiums to the insurance company.

(c) *Limitations.* This exemption does not exempt the administrator of an employee benefit plan from any other requirement of Title I of the Act, including the provisions which require that plan administrators furnish copies of the summary plan description to participants and beneficiaries (section 104(b)(1)), file an annual report with the Secretary of Labor (section 104(a)(1)(A)) and furnish certain documents to the Secretary of Labor upon request (section 104(a)(1)), and authorize the Secretary of Labor to collect information and data from employee benefit plans for research and analysis (section 513).

(d) *Examples.* (1) A welfare plan has 25 participants. It is part of a group insurance arrangement which provides benefits to employees of two or more unaffiliated employers, but not in connection with a "multiemployer plan" under the Act. Plan benefits are fully paid pursuant to insurance contracts purchased with premium payments derived half from employee contributions (which the employer forwards within three months of receipt) and half from the general assets of participating employers. Rebates to the plan are paid to participating employees within three months of receipt as provided in the plan and as described to each participant upon entering the plan. A trade association is the legal owner of the insurance contract and acts as a conduit for payments, receiving premium payments from participating employers and paying the insurance company. The plan appoints the trade association as its plan administrator. The association, as plan administrator, provides summary plan descriptions to participants and beneficiaries, enlisting the help of the participating employer in carrying out this distribution. The plan administrator also makes copies of certain plan documents available at the plan's principal office and other such places as necessary to give participants reasonable access to them. The plan administrator files with the Secretary an annual report covering activities of the plan, as required by the Act and such regulations as the Secretary may issue.

(2) A welfare plan has 75 participants. It is part of a group arrangement, and its benefits and rebates are paid, in the same manner as in example (1) of § 2520.104–2. A trade association acts as a conduit for payments, acting through its agent, an independent insurance brokerage firm, and is legal owner of the insurance contract. The plan appoints an officer of the participating employer as the plan administrator. The officer, as plan administrator, performs the same reporting and disclosure functions as the administrator in example (1) § 2520.104–2, enlisting the help of the association in providing summary plan descriptions and necessary information.

(3) A welfare plan has 125 participants. It is part of a group arrangement and its benefits and rebates are paid in the same manner as in the previous examples. A trade association acts as a conduit for payments and is legal owner of the insurance contract. The plan appoints the association as plan administrator. The association, as plan administrator, performs all the reporting and disclosure requirements of Title I of the Act for the plan. These include filing with the Secretary a plan description, summary plan description, description of any material modifications in the terms of the plan or change in the information required to be included in the plan description, annual report, and certain other documents if required by regulation or request of the Secretary. The requirements also include disclosure of certain documents to participants and beneficiaries, including among others the summary plan description and summary of the annual report. The plan administrator obtains necessary information not available in its records—such as the fact that there are 125 participants—from the plan.

(4) A welfare plan has 125 participants. It is part of a group arrangement and its benefits and rebates are paid in the same manner as in the previous examples. A trade association acts as a conduit for payments and is legal owner of the insurance contract. The plan appoints an officer of the participating employer as plan administrator. The plan administrator performs the same reporting and disclosure functions as the administrator in example (3), enlisting the help of the association in providing summary plan descriptions and necessary information.

§ 2520.104–22 Limited exemption for apprenticeship plans.

(a) *Scope.* Under the authority of section 104(a)(3) of the Act, an employee welfare benefit plan which provides apprenticeship training benefits is exempted from certain reporting and disclosure requirements of the Act. Specifically, the administrator of such plan is exempted from all the provisions of Part 1 except the requirements to—

(1) File, in the case of a plan which becomes subject to Part 1 on or before January 31, 1976, a short form plan description as required by § 2520.104–3; and

(2) File an initial plan description; and

(3) File an annual report for the plan year beginning in 1975.

(b) *Application.* This exemption applies only to employee welfare benefit plans which provides solely apprenticeship training benefits.

(c) *Limitations.* This exemption does not exempt the administrator of an apprenticeship plan from any other requirement of Title I of the Act, including the provision which authorizes the Secretary of Labor to collect information and data from employee benefit plans for research and analysis (section 513).

§ 2520.104–23 Alternative method of compliance for pension plans for certain selected employees.

(a) *Purpose and scope.* (1) This section contains an alternative method of compliance with the reporting and disclosure requirements of Part 1 of Title I of the Employee Retirement Income Security Act of 1974 for unfunded or insured pension plans maintained by an employer for a select group of management or highly compensated employees, pursuant to the authority of the Secretary of Labor under section 110 of the Act (88 Stat. 851).

(2) Under section 110 of the Act, the Secretary is authorized to prescribe an alternative method for satisfying any requirement of Part 1 of Title I of the Act with respect to any pension plans, or class of pension plans, subject to such requirement.

(b) *Filing obligation.* Under the authority of section 110 of the Act, an alternative form of compliance with the reporting and disclosure requirements of Part 1 of the Act is provided for certain pension plans for a select group of management or highly compensated employees. The administrator of a pension plan described in paragraph (d) shall be deemed to satisfy the reporting and disclosure provisions of Part 1 of Title I of the Act by—

(1) Filing a statement with the Secretary of Labor that includes the name and address of the employer, the employer identification number (EIN) assigned by the Internal Revenue Service, a declaration that the employer maintains a plan or plans primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees, and a statement of the number of such plans and the number of employees in each, and

(2) Providing plan documents, if any, to the Secretary upon request as required by section 104(a)(1) of the Act. Only one statement need be filed for each employer maintaining one or more of the plans described in paragraph (d) of this section. For plans in existence on May 4, 1975, the statement shall be filed on or before August 31, 1975. For a plan to which Part 1 of Title I of the Act becomes applicable after May 4, 1975, the statement shall be filed within 120 days after the plan becomes subject to Part 1.

(c) *Filing address.* Statements may be filed by mailing them addressed to Office of Employee Benefits Security, Labor-Management Services Administration, U.S. Department of Labor, Washington, D.C. 20216, or by delivering them during normal working hours to Room N–4633, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C.

(d) *Application.* The alternative form of compliance described in paragraph (b) of this section is available only to employee pension benefit plans—

(1) Which are maintained by an employer primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees, and

(2) For which benefits (i) are paid as needed solely from the general assets of the employer, (ii) are provided exclusively through insurance contracts or policies, the premiums for which are paid directly by the employer from its general assets, issued by an insurance company or similar organization which is qualified to do business in any State, or (iii) both.

§ 2520.104–24 Exemption for welfare plans for certain selected employees.

(a) *Purpose and scope.* (1) This section, under the authority of section 104(a)(3) of the Employee Retirement Income Security Act of 1974, exempts unfunded or insured welfare plans maintained by an employer for the purpose of providing benefits for a select group of management or highly compensated employees from the reporting and disclosure provisions of Part 1 of Title I of the Act, except for the requirement to provide plan documents to the Secretary of Labor upon request under section 104(a)(1) of the Act.

(2) Under section 104(a)(3) of the Act, the Secretary is authorized to exempt by regulation any welfare benefit plan from all or part of the reporting and disclosure requirements of Title I of the Act.

(b) *Exemption.* Under the authority of section 104(a)(3) of the Act, each employee welfare benefit plan described in paragraph (c) of this section is exempted from the reporting and disclosure provisions of Part 1 of Title I of the Act, except for providing plan documents to the Secretary of Labor upon request as required by section 104(a)(1).

(c) *Application.* This exemption is available only to employee welfare benefit plans:

(1) Which are maintained by an employer primarily for the purpose of providing benefits for a select group of management or highly compensated employees, and

(2) For which benefits (i) are paid as needed solely from the general assets of the employer, (ii) are provided exclusively through insurance contracts or policies, the premiums for which are paid directly by the employer from its general assets, issued by an insurance company or similar organization which is qualified to do business in any State, or (iii) both.

§ 2520.104–25 Exemption from reporting and disclosure for day care centers.

Under the authority of section 104(a)(3) of the Act, day care centers are exempted from the reporting and disclosure provisions of Part 1 of Title I of the Act, except for providing plan documents to the Secretary upon request as required under section 104(a)(1) of the Act.

Effective date: August 15, 1975.

Signed at Washington, D.C. this 12th day of August, 1975.

JAMES D. HUTCHINSON,
Administrator of Pension and Welfare Benefit Plans.

[FR Doc.75-21470 Filed 8-14-75;8:45 am]

federal register

FRIDAY, AUGUST 15, 1975

PART VI:

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, 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 localities specified therein.

The determinations in these decisions 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 FR 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 Code of Federal Regulations, Procedure for Pre-determination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions 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 on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations 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 determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date 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 such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and 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 FR 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, (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General 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.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5.

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 rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Delaware:	
DE75-3066	Aug. 8, 1975
Georgia:	
AR-4064	Dec. 6, 1974
GA75-1019	Feb. 7, 1975
Illinois:	
IL75-2100	Aug. 1, 1975
Iowa:	
IA75-4120; IA75-4121; IA75-4122; IA75-4123; IA75-4124; IA75-4125.	Do.
Kentucky:	
AQ-4101	Apr. 19, 1974
Louisiana:	
LA-75-4141	Aug. 1, 1975
Massachusetts:	
MA75-2006	Feb. 21, 1975
MA75-2053	Mar. 14, 1975
MA75-2069; MA75-2070	May 9, 1975
MA75-2071	May 2, 1975
Minnesota:	
AR-3166	Nov. 8, 1974
MN75-2042	Feb. 21, 1975
MN75-2058	Apr. 18, 1975
MN75-2068	May 2, 1975
MN75-2069	Apr. 11, 1975
Montana:	
MT75-5093	July 25, 1975
Oklahoma:	
OK75-4116	June 27, 1975
OK75-4138	Aug. 1, 1975
Pennsylvania:	
PA75-3070	July 18, 1975

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Florida:	
FL75-1010(FL75-1075)	Jan. 24, 1975
Iowa:	
IA75-4042(IA75-4123)	Jan. 31, 1975
Michigan:	
AR-3102, AR-3106, AR-3133, AR-3114(MI75-2101)	Aug. 16, 1974
AR-3164(MI75-2101)	Oct. 18, 1974
Oklahoma:	
AR75-4139(OK75-4148)	Aug. 1, 1975
Oregon:	
OR75-5089(OR75-5105)	July 25, 1975
Wyoming:	
WY75-5073(WY75-5106)	June 20, 1975

Signed at Washington, D.C., this 8th day of August 1975.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
DECISION #DE75-3066 - Mod. #1 (40 FR - August 8,1975) Statewide, Delaware					
Change:					
Truck Drivers - Building Construction:					
Group 1	$7.06	.5675	- 55	f	
Group 2	6.96	.5675	- 55	f	
Group 3	6.81	.5675	- 55	f	
Truck Drivers - Heavy & Highway Construction:					
Group 1	6.21	.5675	- 55	f	
Group 2	6.11	.5675	- 55	f	
Group 3	5.96	.5675	- 55	f	
DECISION # AR-4064 - Mod. #4 (39 FR-42817 - December 6, 1974) Chatham County, Georgia					
Change:					
Asbestos workers	8.34	.35	.40		
Electricians	8.00	.35	.30 +1%		.2%
Cable splicers	8.20	.35	.30 +1%		.2%
DECISION # GA75-1019 - Mod. #4 (40 FR-5020 - February 7, 1975) Clayton, Cobb, DeKalb and Fulton Counties, Georgia					
Change:					
Electricians	9.55	8%	7% + 1%		4+4+ of 1%
Cable splicers	10.45	8%	7% + 1%		of 1%

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
DECISION #IL75-2100 - Mod. #1 (40 FR 32562 - August 1, 1975) Bond, Calhoun, Clinton, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, St. Clair & Washington Counties, Illinois					
CHANGE:					
Electricians:					
Athensville, Scottville, Girard & Areas north thereof in Macoupin Co; N.W. Part of Montgomery Co. including Nois D' Arc, Harvel & Pittman Twps.	$9.67	.40	12+.30		.2%

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
DECISION #IA75-4120 - Mod. #1 (40 FR 32567 - August 1, 1975) Black Hawk County (City of Waterloo & abutting municipalities), Iowa					
Change:					
Building Construction:					
Cement masons	$7.53	.38	.75		
Electricians:					
Electricians	9.43	.30	1%		1%
Cable splicers	10.03	.30	1%		1%
Elevator constructors	8.74	.445	.29	3%+a	.02
Elevator constructors' helpers	70%JR	.445	.29	3%+a	.02
Laborers:					
Common laborers; Carpenters' helpers; Moving; Wrecking & demolition	6.60	.38	.10		
Mason tenders; Hod carriers; Machine and air tool ops.	6.70	.38	.10		
Powderman	6.85	.38	.10		
DECISION #IA75-4121 - Mod. #1 (40 FR 32570 - August 1, 1975) Cerro Gordo County (City of Mason City), Iowa					
Change:					
Building Construction:					
Cement masons	8.55				
Electricians	9.40	.30	1%		1%
Omit:					
Building Construction:					
Electricians:					
Cable splicers	9.15	.30	1%		1%

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
DECISION #IA75-4122 - Mod. #1 (40 FR 32573 - August 1, 1975) Clinton County (City of Clinton & abutting municipalities), Iowa					
Change:					
Building Construction:					
Carpenters:					
Millwrights	$9.30	6%	7%		4%
Glaziers	7.6548	.40	1.00		
Ironworkers	10.50	.50	.375		.07
Painters:					
Brush	8.22	.45	.40		.09
Spray; Structural steel	8.67	.45	.40		.09
DECISION #IA75-4123 - Mod. #1 (40 FR 32576 - August 1, 1975) Des Moines County (City of Burlington & abutting municipalities & Burlington Ordnance Plant), Iowa					
Change:					
Building Construction:					
Electricians	10.05	.33	1%		1%
Glaziers	7.6548	.40	1.00		

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apr. Tr.
DECISION #IA75-4124 - Mod. #1 (40 FR 32579 - August 1, 1975) Dubuque County (City of Dubuque & abutting municipalities), Iowa					
Change:					
Building Construction:					
Electricians	$9.37	.30	1%+.25		1%
Elevator constructors	8.74	.445	.29	3%+a	.02
Elevator constructors' helpers	70%JR	.445	.29	3%+a	.02
Glaziers	7.6548	.40	1.00		
Ironworkers (SE portion)	10.50	.50	.375		.07
DECISION #IA75-4125 - Mod. #1 (40 FR 32582 - August 1, 1975) Johnson County (City of Iowa City & abutting municipalities), Iowa					
Change:					
Building Construction:					
Bricklayers; Stonemasons	9.685		.55		
Carpenters:					
Millwrights	9.30	6%	7%		4%
Electricians	10.00	.40	1%		1%
Elevator constructors	8.74	.445	.29	3%+a	.02
Elevator constructors' helpers	70%JR	.445	.29	3%+a	.02
Glaziers	7.6548	.40	1.00		

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
DECISION #AO-4101 - Mod. #1 (39 FR-14113 - April 19, 1974) Franklin County, Kentucky					
Change:					
Carpenters	8.34	.35	.35		.03
Cement Mason	9.15				
Glaziers	7.80				
Laborers:					
Group I	5.85	.25	.25		
Group II	6.25	.25	.25		
Group III	6.25	.25	.25		
Group IV	6.45	.25	.25		
Group V	6.55	.25	.25		
Group VI	7.10	.25	.25		
Millwrights	8.84	.35	.35		.03
Piledrivermen	8.59	.35	.35		.03
Plumbers and steamfitters	9.60	.25	.60		.02
Roofers	7.00	.50	.20		
DECISION #IA75-4141 - Mod. #1 (40 FR 32585 - August 1, 1975) Statewide Louisiana					
Change:					
Bricklayers & stonemasons:					
Zone 3	$8.65	.43	.20		.02
Cement masons (Building Construction):					
Zone 6	5.50				
Glaziers:					
Zone 4	7.09				
Laborers (Building Construction):					
Zone 4:					
Group 1	5.355	.15	.10		.05
Group 2	5.455	.15	.10		.05
Group 3	5.505	.15	.10		.05
Zone 5:					
Group 1	4.955	.15	.10		.05
Group 2	5.055	.15	.10		.05
Group 3	5.105	.15	.10		.05
Lathers:					
Zone 1	7.35				.01
Tile setters:					
Zone 2	7.00	.43	.20		.02

DECISION NO. MA75-2006- Mod #3
(40 FR 7777- February 21,1975)
Franklin County, Massachusetts

Change:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apr. Tr.
Asbestos workers	$9.60	.54	.75		.01
Glaziers	9.45	.47	.45		.005
Painters:					
Brush & roller	8.82	.50	.35		.03
Spray	11.76	.5667	.4667		.04
Swing stage under 40' & steel	9.007	.50	.35		.03
Swing stage over 40' and steel	9.32	.50	.35		.03
Plumbers & steamfitters:					
Remainder of County	9.55	.60	.60		.02
Roofers:					
Composition, damp waterproof	8.945	.64	.66		.02
Slate, tile, precast concrete	9.60	.64	.66		
Sheet metal workers	9.11	.75	.97		.02
Sprinkler fitters	10.53	.50	.80		.08

DECISION NO. MA75-2053- Mod #3
(40 FR 12051- March 14, 1975)
Hampden County, Massachusetts

Change:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apr. Tr.
Painters:					
Brush	8.82	.50	.35		.03
Spray	11.76	.6667	.4667		.04
Swing stage under 40' & steel	9.007	.50	.35		.03
Swing stage over 40' & steel	9.32	.50	.35		.03
Roofers:					
Composition, damp, & waterproofing	8.945	.64	.66		
Slate, tile, precast concrete	9.60	.64	.66		
Sprinkler fitters	10.53	.50	.80		.08

DECISION NO. MA75-2069- Mod #2
(40 FR 20577- May 9, 1975)
Barnstable County, Massachusetts

Change:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apr. Tr.
Carpenters; Soft floor layers	$8.95	.50	.65		.02
Plumbers and steamfitters	9.15	.76	1.16		.15

DECISION NO. MA75-2070- Mod #2
(40 FR 20581- May 9, 1975)
Berkshire County Massachusetts

Change:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apr. Tr.
Carpenters & soft floor layers:					
Remainder of County	8.64	.35	.65		.04
Painters:					
Brush and roller	8.82	.50	.35		.03
Spray	11.76	.66	.4667		.04
Swing stage under 40' & steel	9.007	.50	.35		.03
Swing stage over 40' & steel	9.32	.50	.35		.03
Roofers:					
Composition, damp, waterproof	8.945	.64	.66		
Slate, tile, precast concrete	9.60	.64	.66		
Sheet metal workers	9.11	.75	.97		.02
Sprinkler fitters	10.53	.50	.80		.08

DECISION NO. MA75-2071- Mod #2
(40 FR 19335- May 7, 1975)
Bristol County, Massachusetts

Change:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apr. Tr.
Electricians:					
Remainder of County (Building)	10.20	.55	1%		.1%
Plumbers; steamfitters: Acushnet, Dartmouth, Fairhaven, Fall River, Freetown, New Bedford, N. Dartmouth, Somerset, S.Dartmouth, Swansea, and Westport	9.15	.76	1.16		.15

DECISION #AR-3166 - Mod. #4 MODIFICATIONS P. 9
(39 FR 39705 - November 8, 1974)
Anoka, Carver, Hennepin, Scott,
Dakota, Ramsey & Washington
Counties, Minnesota

CHANGE:
Power Equipment Operators:

POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Apr. Tr.
CLASS 1	$12.85	.35	.25		
CLASS 2	10.45	.35	.25		
CLASS 3	10.10	.35	.25		
CLASS 4	10.00	.35	.25		
CLASS 5	9.90	.35	.25		
CLASS 6	9.65	.35	.25		
CLASS 7	9.53	.35	.25		
CLASS 8	9.45	.35	.25		
CLASS 9	9.15	.35	.25		
CLASS 10	8.90	.35	.25		
CLASS 11	8.45	.35	.25		

POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION

CLASS 1-Helicopter Operators (Hoisting Material)
CLASS 2-Truck & Crawler Cranes with 200' of Boom & over including Jib
CLASS 3-Truck & Crawler Cranes with 150' of Boom up to & not including 200' of Boom including jib.
CLASS 4-Traveling Tower Crane
CLASS 5-Master Mechanic
CLASS 6-Derrick (Guy & Stiff Leg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator,(inside Building Perimeter); Truck & Crawler Cranes up to 150' of Boom including jib.
CLASS 7-Air Compressor Operator; Pump Operator & or Conveyor; 2 or more Mechanics; Hoist Engineer (2 drums); Mechanic or Welder; Pumpcrete or Complaco Type Machine Operator; Fork Lift Operator
CLASS 8-Boom Truck Operator; Concrete Mixer Operator; Drill Rigs (Heavy Duty Rotary or Churn Drill when used for caisson drillin or when drilling for elevator cylinder on Building Construction; Front End Loader Opr; Hoist Engineer (1 drum); Power Plant Engineer (100 KWH & over); Straddle carrier Operator; Tractor Operator (Over D-2); Well Point Pump Operator
CLASS 9-Concrete Batch Plant Operator; Gunnite Operator; Tractor Operator (D-2 or similar size & Front End Loader Operator-up to ½ cu. yd.)
CLASS 10-Air Compressor Operator; Pump & or Conveyor Operator; Fireman-Temporary Heat; Brakemen; Pick Up Sweeper (combustion engine operated); Truck Crane Oiler
CLASS 11-Mechanic Space Heater (Temporary Heat) Oiler or Greaser

MODIFICATIONS P. 10

DECISION #AR-3166 - Mod. #4 Cont'd

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Apr. Tr.
GROUP I	$12.95	.35	.25		
GROUP II	9.66	.35	.25		
GROUP III	9.40	.35	.25		
GROUP IV	9.27	.35	.25		
GROUP V	9.18	.35	.25		
GROUP VI	8.50	.35	.25		
GROUP VII	8.20	.35	.25		

POWER EQUIPMENT OPERATORS - SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING

GROUP I Helicopter Pilot
GROUP II Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rated capacity
GROUP III Cableway Op., Concrete Mixer, Stationary Plant over 3½E, Derrick, Dragline and/or other similar equipment with shovel type controls up to 3 cu. yds. Mfg. rated capacity, Dredge Operator or Engineer, Dredge Operator (power) & Engineer, Front End Loader Op., 5 cu. yds. & over, Grader or Motor Patrol, finishing earthwork & bituminous, Locomotive Crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mile Op., incl. power supply, Mucking Mach., incl. mucking operations Conmy or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP IV Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yd. & over, Self-Prop. Traveling Soil Stabilizer
GROUP V Air Track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in Charge of Plant requiring First Class License, Fork lift or Straddle Carrie Op., Fork Lift or Lumber Stacker, Front End Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter Lumberman, Locomotive, all types, Mechanic or Welder, Multiple Machines, such as Air Compressors, Welding Machines, Generators, Pumps or Crane Oilers, Paving Breaker or Tamping Machine Op., (power driven) Mighty Mite or similar type, Pick-up Sweeper, 1 cu. yd. & over Hopper capacity, Pipeline Wrapping, Cleaning or Bending Machine Op., Power Plant Engineer, Power Actuated Horizontal Boring Mach. over 6" op., Pugmill Op., Roller Op., 8 tons & over, Rubber Tired Farm Tractor, Backhoe Att., Sheep Foot Op., Tie Tamper & Ballas Mach. Op., Tractor Op. over 80, TD6 or similar HP with power take-off, Tractor Op., over 50 HP without power take-off, Trenching Machine Op., (sewer, water,gas) Turnapull Op., (or similar type) well Point Installation, Dismantling or Repair Mechanic

DECISION #AR-3166 - Mod. #4 (Cont'd)

POWER EQUIPMENT OPERATORS (CONT'D)
SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING

GROUP VI Air Compressor Op. 375 CFM or over, Bituminous Spreader and Bituminous Finishing Machine Op., Concrete Dist. and Spreader Op., Finishing Mach. Longitudinal Float Op., Joint Mach. Op., Spray Op., Concrete Mixer Op. 1h5 and under, concrete saw op. (multi. Blade), Curb Mach. Op., Fine Grade Op., Form Trench Digger, Front End Loader Op. (up to & incl. 1 cu. yd.), Grader op. (Motor Patrol), Gunite op. Gunall, Load Operator on truck or mach. loader Op., Prestressed Lagging and Boring Mach. Op., Power Jacking & Jacks op., Pump op., Roller., Self-prop Dirt Chip Spreader, Scarifier, Scarifying mach. op., Stump Chipper., Tractor Op. (D7, D6 or similar HP with power take-off)

GROUP VII Backhoe, Cableway, Conveyor op., Back Hoe, Elevator, Front End Loader Op., Gravel Screening Plant Op., Crusher, Locomotive, Mixer, Helper, Mech. Spray Heater, Oiler, Self-Prop. Vib. Roller Op., Sheep Foot roller, Tractor Op. 50 HP or less w/o Power take-off, Truck Crane Oiler

DECISION #MN75-3002 - Mod. #1
(40 FR 7837 - February 21, 1975)
St. Louis County, Minnesota

CHANGE:
Power Equipment Operators

POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefit Payments			
		H & W	Pension	Vacation	Apr. Tr
CLASS 1	$12.65	.35	.25		
CLASS 2	10.45	.35	.25		
CLASS 3	10.10	.35	.25		
CLASS 4	10.00	.35	.25		
CLASS 5	9.90	.35	.25		
CLASS 6	9.65	.35	.25		
CLASS 7	9.53	.35	.25		
CLASS 8	9.45	.35	.25		
CLASS 9	9.30	.35	.25		
CLASS 10	8.90	.35	.25		
CLASS 11	8.45	.35	.25		

POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION

CLASS 1-Helicopter Operators (Hoisting Material)
CLASS 2-Truck & Crawler Cranes with 200' of Boom & over including Jib
CLASS 3-Truck & Crawler Cranes with 150' of Boom up to & not including 200' of Boom including jib.
CLASS 4-Traveling Tower Crane
CLASS 5-Master Mechanic
CLASS 6-Derrick (Guy & Stiff Leg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator, (Inside Building Perimeter) Truck & Crawler Cranes up to 150' of Boom including jib,
CLASS 7-Air Compressor Operator; Pump Operator & or Conveyor; 2 o. more Mechanics; Hoist Engineer (2 drums); Mechanic or Welder; Powercrete or Complaco Type Machine Operator; Fork Lift Operator
CLASS 8-Boom Truck Operator; Concrete Mixer Operator; Drill Rigs (Heavy Duty Rotary or Churn Drill when used for caisson drilling or shaft drilling for elevator cylinder on Building Construction; Front End Loader (or Hoist Engineer (1 drum); Power Plant Engineer (100 KW & over); Straddle carrier Operator; Tractor Operator (Over D-2); Well Point Pump Operator
CLASS 9-Concrete Batch Plant Operator; Gunnite Operator; Tractor Operator (D-2 or similar size & Front End Loader Operator-up to ½ cu. yd.)
CLASS 10-Air Compressor Operator; Pump & or Conveyor Operator; Firemen-Temporary Heat; Brakemen; Pick Up Sweeper (combustion engine operated); Truck Crane Oiler
CLASS 11-Mechanic Space Heater (Temporary Heat) Oiler or Greaser

DECISION #NM75-2042 - Mod. #3 (Cont'd)

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefit Payments			
		H & W	Pension	Vacation	App. T.
GROUP I	$12.95	.35	.25		
GROUP II	9.66	.35	.25		
GROUP III	9.40	.35	.25		
GROUP IV	9.27	.35	.25		
GROUP V	9.18	.35	.25		
GROUP VI	8.50	.35	.25		
GROUP VII	8.20	.35	.25		

POWER EQUIPMENT OPERATORS - SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING

GROUP I Helicopter Pilot

GROUP II Crane with over 135' Boom, including jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rated capacity

GROUP III Cableway Op., Concrete Mixer, Stationary Plant over 3½', Derrick, Dragline and/or other similar equipment with shovel type controls up to 3 cu. yds. Mfg. rated capacity, Dredge Operator or Engineer, Dredge Operator (power) & Engineer, Front End Loader Op., 5 cu. yds. & over, Grader or Motor Patrol, finishing earthwork & bituminous, Locomotive Crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mile Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over

GROUP IV Dual Tractor Op., Elevating Grader Op., Pumperete Op., Scraper Op., Struck Capacity 32 cu. yd. & over, Self-Prop. Traveling Soil Stabilizer

GROUP V Air Track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in Charge of Plant requiring First Class License, Fork lift or Straddle Carri Op., Fork lift or Lumber Stacker, Front End Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter Launcherman, Locomotive, all types, Mechanic or Welder, Multiple Machines, such as Air Compressors, Welding Machines, Generators, Pumps or Crane Oilers, Paving Breaker or Tamping Machine Op., (power driven) Mighty Mite or similar type, Pick-up Sweeper, 1 cu. yd. & over Hopper capacity, Pipeline Wrapping, Cleaning or Bending Machine Op., Power Plant Engineer, Power Actuated Horizontal Boring Mach. over 6" op. Pugmill Op., Roller Op., 8 tons & over, Rubber Tired Farm Tractor, Backhoe Att., Sheep Foot Op., Tie Tamper & ballas Mach. Op., Tractor Op. over 80, TD6 or similar HP with power take-off, Tractor Op., over 50 HP without power take-off, Trenching Machine Op., (sewer, water, gas) Turnapull Op., (or similar type) well Point Installation, Dismantling or Repair Mechanic

DECISION #NM75-2042 - Mod. #3 (Cont'd)

POWER EQUIPMENT OPERATORS (CONT'D)
SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING

GROUP VI Air Compressor Op. 375 CFM or over, Bituminous Spreader and Bituminous Finishing Machine Op., Concrete Dist. and Spreader Op., Finishing Mach. Longitudinal Float Op., Joint Mach. Op., Spray Op., Concrete Mixer Op. 1½S and under, concrete saw op. (multi. Blade), Curb Mach. Op., Fine Grade Op., Pole Trench Digger, Front End Loader Op. (up to & incl. 1 cu. yd.), Grader op. (Motor Patrol), Gunite op. Cupell, Load Greaser on truck or road, Loader Op., Power Actuated Auger and Boring Mach. Op., Power Assisted Jacks op., Pump op., Roller, Self-propelled Chip Spreader, Shouldering Mach. op., Stone Chipper., Tractor Op. (D5, D6 or similar HP with power take-off

GROUP VII Brakeman, Britchman, Conveyor op., Deck Hand, Fireman, Fuel Gas Heater Op., Gravel Screening Plant Op., Greaser, Lineman, Mach. Helpers, Mech. Spray Painter, Oiler, Self-Prop. Vib. Probax Op., Tamp Foot roller, Tractor Op. 50 HP or less w/o Power take-off, Truck Crane Oiler

DECISION #MN75-2058 - Mod. #1
(40 FR 17454 - April 18, 1975)
Olmsted County, Minnesota

CHANGE:
Power Equipment Operators

POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apr. Tr.
CLASS 1	$12.85	.35	.25		
CLASS 2	10.45	.35	.25		
CLASS 3	10.10	.35	.25		
CLASS 4	10.00	.35	.25		
CLASS 5	9.90	.35	.25		
CLASS 6	9.65	.35	.25		
CLASS 7	9.53	.35	.25		
CLASS 8	9.45	.35	.25		
CLASS 9	9.18	.35	.25		
CLASS 10	8.90	.35	.25		
CLASS 11	8.45	.35	.25		

POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION

CLASS 1-Helicopter Operators (Hoisting Material)
CLASS 2-Truck & Crawler Cranes with 200' of Boom & over including Jib
CLASS 3-Truck & Crawler Cranes with 150' of Boom up to & not including 200 of Boom including jib.
CLASS 4-Traveling Tower Crane
CLASS 5-Master Mechanic
CLASS 6-Derrick (Guy & Stiff Leg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator, (inside Building Periods Truck & Crawler Cranes up to 150' of Boom including jib.
CLASS 7-Air Compressor Operator; Pump Operator & or Conveyor; 2 or more Mechanics; Hoist Engineer (2 drums); Mechanic or Welder; Pumpcrete Complaco Type Machine Operator; Fork Lift Operator
CLASS 8-Boom Truck Operator; Concrete Mixer Operator; Drill Rigs (Heavy Du Rotary or Churn Drill when used for caisson drilling or when drilli for elevator cylinder on Building Construction; Front End Loader O Hoist Engineer (1 drum); Power Plant Engineer (100 KW & over); Straddle carrier Operator; Tractor Operator (Over D-2); Well Point Pump Operator
CLASS 9-Concrete Batch Plant Operator; Gunnite Operator; Tractor Operator (D-2 or similar size & Front End Loader Operator-up to ½ cu. yd.)
CLASS 10-Air Compressor Operator; Pump & or Conveyor Operator; Fireman-Tem orary Heat; Brakeman; Pick Up Sweeper (combustion engine operated Truck Crane Oiler
CLASS 11-Mechanic Space Heater (Temporary Heat) Oiler or Greaser

DECISION #MN75-2058 - Mod. #1 (Cont'd)

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INDUSTRIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apr. Tr.
GROUP I	$12.65	.35	.25		
GROUP II	9.36	.35	.25		
GROUP III	9.10	.35	.25		
GROUP IV	8.98	.35	.25		
GROUP V	8.68	.35	.25		
GROUP VI	8.20	.35	.25		
GROUP VII	7.90	.35	.25		

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INDUSTRIAL PAVING

GROUP I Helicopter Pilot
GROUP II Crane with over 135' boom, excluding jib, dragline and/or other similar equipment w/shovel type controls 3 cu. yards. & over Mfg. rated capacity
GROUP III Cableway Op., Concrete Mixer, Stationary Plant over 3MF, Derrick, Dragline and/ or other similar equipment with shovel type controls up to 3 cu. yds. Mfg. rated capacity, Dredge Operator or Engineer, Dredge Operator (power) & yds. & over, Grader or Motor Patrol Finishing earthwork & bituminous, Locomotive Crane Operator, Master Mechanic, Mixer (Paving) Concrete Paving op., Road Mile Op., Incl. power supply, Mucking Mach., incl. mucking operations Conmy or similar type, Refrigeration Plant Engineer, Tandem, Scrapter, Tractor, Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP IV Dual Tractor Op., Elevating Grader Op., Pumperete Op., Scraper Op., Struck Capacity 32 cu. yd. & over, Self-Prop. Traveling Soil Stabilizer
GROUP V Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary of Churn or Cable Drill, Engineer in Charge of Plant requiring First Class License, Fork Lift or Lumber Stacker, Front End Loader Op., over 1 cu yds., Hoists Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or Welder, Multiple Machines, such as Air Compressors, Welding Machine, 2 Generators, Pumps or Crane Oilers, Paving Breaker or Tamping Machine Op., (power driven) Mighty Mite or similar type, Pick-up Sweeper 1 cu. yd. & over Hopper capacity, Pipeline Wrapping, cleaning or Bonding Machine Op., Power Plant Engineer, Power Actuated Horizontal Boring Mach., over 6" Op., Pugmill Op., Roller Op., 8 tons & over, Rubber Tired Farm Tractor, Backhoe Att., Sheep Foot Op., Tie Tamper & Ballast Mach. Op., Tractor Op., over D2, TD6 or similar HP with power tak-off, Tractor Op., over 50 HP without power Take-off, trenching Machine Op., (over water, gas) Turnapull Op., (or similar type) Well Point Installation, Dismantling or Repair Mechanic

DECISION #MN75-2068 - Mod. #1 (Cont'd)

POWER EQUIPMENT OPERATORS (CONT'D)
SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING

GROUP VI Air compressor Op. 373 CFM or over, Bituminous Spreader and Bituminous Finishing Machine Op., Concrete Dist. Spreader Op., Finishing Machine, Longitudinal Float Op., Joint Mach. Op., Spray Op., Concrete Mixer Op. 183 and under, Concrete saw Op. (Belt. Blade), Curb Mach. Op., Fine Grade Op., Form Trench Digger, Front End Loader op. (up to & include 1 cu. yd.), Grader Op. (Motor Patrol), Gunite Op. Gunall, Load Creeper on truck or rack, Loader Op., Power Actuated Augers and Boring Mach. Op., Power Actuated Jacks Op., Pump Op., Roller Op., Self-propelled Chip Spreader, Shouldering Mach. Op., Dump Chipper Op., Tractor Op (40, 75G or similar HP with power take-off

GROUP VII Backhoe, Batchelor, Conveyor Op., Dockboard, Fireman, Front End Loader Op., Gravel Screening Plant Op., Groover, Inspector, Mach. Belter, Mach. Spreader Backer, Oiler, Self-Prop. Vib Roller Op., Sheep foot roller, Tractor Op. 50 HP or less w/o Power take-off, Truck Crane Oiler

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apprentice
DECISION #MN75-2068 - Mod. #1 (40 FR 19349 - May 2, 1975) Aitkin, Anoka, Benton, Blue Earth, Carlton, Carver, Chisago, Cook, Crow Wing, Dakota, Dodge, Fairbault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Itasca, Jackson, Kanabec, Kandiyohi, Lake, LeSueur, Martin, Meeker, Mcleod, Mille Lacs, Morrison, Mower, Nicollet, Noble, Olmstead, Pine, Ramsey, Rice, Rock, Scott, Sherburne, Sibley, Stearns, Steele, St. Louis, Wabasha, Waseca, Washington, Winona & Wright Counties, Minnesota					
CHANGE: Power Equipment Operators:					

DECISION #MN75-2068 - Mod. #1 - (Cont'd)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apr. Tr.
Counties of Anoka, Carver, Cook, Dakota, Hennepin, Lake, Ramsey, St. Louis, Scott, & Washington, Sherburne County south of the northern boundry of T-33-N and east of the western boundry of R-27-W, Wright County east of and including Highway #25, Chisago County south of the northern boundry of T-34-N and that part consisting substantially of the Cities of Thompson, Colquet, Scanlon & Carlton					
GROUP 1	$12.95	.35	.25		
GROUP 2	9.66	.35	.25		
GROUP 3	9.40	.35	.25		
GROUP 4	9.27	.35	.25		
GROUP 5	9.18	.35	.25		
GROUP 6	8.50	.35	.25		
GROUP 7	8.20	.35	.25		

GROUP 1 Helicopter Pilot

GROUP 2 Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rated capacity

GROUP 3 Cableway Op., Concrete Mixer, Stationary Plant over 34S, Derrick, Dragline and/or other similar equipment with shovel type controls up to 3 cu. yds. Mfg. rated capcity, Dredge Operator or Engineer, Dredge Operator (power) & Engineer, Front End Loader Op., 5 cu. yds. & over, Grader or Motor Patrol, Finishing earthwork & bituminous, Locomotive Crane Operator, Master Mechanic, Mixer (Paving) Concrete Paving Op., Road Mole Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over

GROUP 4 Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper., Struck Capacity 32 cu. yd. & over, Self-Propelled. Traveling Soil Stabilizer

DECISION #MN75-2068 - Mod. #1 (Cont'd)

POWER EQUIPMENT OPERATORS (CONT'D)

Counties of Anoka, Carver, Cook, Dakota, Hennepin, Lake, Ramsey, St. Louis, Scott, & Washington, Sherburne County south of the northern boundry of T-33-N and east of the western boundry of R-27-W, Wright County east of and including Highway #25, Chisago County South of the northern boundry of T-34-N and that part consisting substantially of the Cities of Thompson, Colquet, Scanlon & Carlton

GROUP 5 Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Pumping Op., Drill Rigs, Rhary Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, Fork Lift or Straddle Carrier Op., Fork Lift or Locker Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Intermountain, Locomotive, all types, Mechanic or Welder, Multiple Machines, such as Air Compressors, Welding Machines, Generators, Pumps or Crane Oilers, Paving Breaker or Tamping Machines Op., (power driven - Mighty Mite or similar type, Pick-up Sweeper, 1 cu. yd. & over Hopper capacity, Pipeline Wrapping, Cleaning or Bending Machine Actuated Horizontal Boring Mach., over 6" Op., Pugmill Op., Roller, 8 tons & over, Rubber Tired Farm Tractor, Backhoe Att., Sheep Foot Op., Tie Tamper & Ballast Mach. Op., Tractor Op., over D2, TD6 or similar HP with power take-off, Tractor Op., over 50 HP without power take-off, Trenching Machine Op., (sewer, water, gas) Turnapull Op., (or similar type) Well Point Installation, Dismatling or Repair Mechanic

GROUP 6 Air Compressor Op. 375 CFM or over, Bituminous Spreader and Bituminous Finishing Machine Op., Concrete Dist. and Spreader Op., Finishing machine Longitudinal Float Op., Joint Mach. Op., Spray Op., Concrete Mixer Op. 14S and under, Concrete Op. (Mult. Blade), Curb Mach. Op., Fine Grade Op., Form Trench Digger, Front End Loader Op. (up to & incl. 1 cu. yd.), Grader Op. (Motar Patrol), Gunite Op. Gunall, Lead Greaser on truck or rack, Loader Op., Power Actuated Augers and Boring Mach. Op. Power Actuated Jacks Op., Pump Op., Roller Op., Self-propelled Chip Spreader, Shouldering Mach. Op., Stump Chipper Op., Tractor Op. (D2, TD6 or similar HP with power-take-off

GROUP 7 Brakeman, Switchman, Conveyor Op., Deckhand, Fireman, Tank Car Heater Op., Gravel Screening Plant Op., Greaser Leverman, Mech. Helper, Mech. Space Heater, Oiler, Self-Prop. Vib. Packer Op., Sheep foot roller, Tractor Op. 50 HP or less w/o Power take-off, Truck Crane Oiler

DECISION #MW75-2068 - Mod. #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefit Payments			
		H & W	Pensions	Vacation	Apr. Tr.
POWER EQUIPMENT OPERATORS: Counties of Aitkin, Blue Earth, Carlton, Dodge, Fairbault, Fillmore, Freeborn, Goodhue, Houston, Isanti, Kanabec, Mcneour, Mille Lacs, Mower, Olmsted, Pine, Rice, Steele, Wabasha, Wacona, Winona & Washington; The remainder of Chicago, Sherburne, & Wright Counties; Koochiching County East of a North-South Line From the Canadian Border to Folland-The Western Right-of-Way of U. S. Hwy. 71 from Folland to Big Falls & Minn. Hwy. #6; Itasca County East of the Western-Right-of-way of Minn. Hwy. #6; Crow Wing County East of the Western Right-of-way of U.S. Hwy. #371; Morrison County East of the Western Right-of-way of U. S. Hwy. #371 & U. S. Hwy #10 from Little Falls to the Morrison Benton County lines; Benton Co. East of The Western Right-of-Way of U. S. Hwy #10; and in McLeod, Martin, Meeker, Nicollet, Sibley & Steams Counties, East of the Western Right-of-Wat of Minn. Hwy #15. In every case the entire corporate limits of cities, towns & villages located on the boundaried described as highways shall be included in this area					
GROUP I	$12.65	.35	.25		
GROUP II	9.36	.35	.25		
GROUP III	9.10	.35	.25		
GROUP IV	8.98	.35	.25		
GROUP V	8.88	.35	.25		
GROUP VI	8.20	.35	.25		
GROUP VII	7.90	.35	.25		

DECISION #MW75-2068 - Mod. #1 (Cont'd)

POWER EQUIPMENT OPERATORS: (CONT'D)

Counties of Aitkin, Blue Earth, Carlton, Dodge, Fairbault, Fillmore, Freeborn, Goodhue, Houston, Isanti, Kanabec, Mcneour, Mille Lacs, Mower, Olmsted, Pine, Rice, Steele, Wabasha, Wacona, Winona & Washington; The remainder of Chicago, Sherburne, & Wright Counties; Koochiching County East of a North-South Line from the Canadian Border to Folland - The Western Right-of-Way of U.S. Hwy. 71 from Folland to Big Falls & Minn. Hwy. #6; Itasca County East of the Western Right-of-Way of Minn. Hwy. #6; Crow Wing County East of the Western Right-of-Way of U. S. Hwy #371; Morrison County East of the Western Right-of-Way of U. S. Hwy. #371 & U.S. Hwy. #10 from Little Falls to the Morrison-Benton County lines; Benton County East of the Western Right-of-Way of U. S. Hwy. #10; and in McLeod, Martin, Meeker, Nicollet, Sibley & Steams Counties Counties, East of the Western Right-of-Way of Minn. Hwy #15. In Every case the entire corporate limits of cities, towns & villages located on the boundaries described as Highways shall be included in this area.

GROUP I Helicopter Pilot

GROUP II Crane with over 135' boom, excluding jib, dragline and/or other similar equipment w/shovel type controls 3 cu. yards. & over Mfg. rates capacity

GROUP III Cableway Op., Concrete Mixer, Stationary Plant over 3½B, Derrick, Dragline and/or other similar equipment with shovel type controls up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, Dredge Operator (power) & yds. & over, Grader or Motor Patrol Finishing earthwork & bituminous, Locomotive Crane Operator, Master Mechanic, Mixing (Paving) Concrete Paving Op., Road Mile Op., Incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem, Scraper, Tractor, Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over

GROUP IV Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yd. & over, Self-Prop. Traveling Soil Stabilizer

GROUP V Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary of Churn or Cable Drill, Engineer in Charge of Plant requiring First Class License, Fork Lift of Lumber Stacker, Front End Loader Op., over 1 cu yds. Hoists Engineer, Hydraulic Tree Planter, Lawncherman, Locomotive, all types, Mechanic or Welder, Multiple Machines, such was Air Compressors, Welding Machines, Generators, Pumps or Crane Oilers, Paving Breaker or Tamping Machine Op., (power driven) Mighty Mite or similar type, Pick-up Sweeper 1 cu. yd. & over Hopper capacity, Pipeline Wrapping, cleaning or Boming Machine Op., Power Plant Engineer, Power Actuated Horizontal Boring Mach., over 6" Op., Pugmill Op., Roller Op., 8 tons & over, Rubber Tird Farm Tractor, Backhoe Att., Sheep Foot Op., Tie Tamper & Ballast Mach. Op., Tractor Op., over D2, TD6 or similar HP with power take-off, Tractor Op., over 50 HP without power Take-off, trenching Machine Op., (cower

DECISION #WH75-2068 - Mod. #1 (Cont'd)

POWER EQUIPMENT OPERATORS (CONT'D)

GROUP V (CONT'D)

water, gas), Turnapull Co., (or similar type) Well Point Installtion, Dismantling or Repair Mechanic

GROUP VI Air compressor Op. 377 CFM or over, Bituminous Spreader and Bituminous Finishing Machine Op., Concrete Dist. Spreader Op., Finishing Machine, Longitudinal Float Op., Joint Mach. Op., Spray Op., Concrete Mixer Op. 1BS and under, Concrete saw op. (Belt. Blade), Curb Mach. Op., Fine Grade Op., Form Trench Digger, Front End Loader Op. (up to & include 1 cu. yd.), Grader Op. (Motor Patrol), Gunite Op. Gunell, Load Spreader on track or rack, Loader Op., Power Actuated Augred and Boring Mach. Op., Power Actuated Jacks Op., Pump Op., Roller Op., Self-propelled Chip Spreader, Shoulder-ing Mach. Op., Stump Chipper Op., Tractor Op. (32, 72HP or similar HP with power take-off

GROUP VII Brakeman, Switchman, Conveyor Op., Deckhand, Fireman, Yard Car Heater Op., Gravel Screening Plant Op., Greaser, Leverman, Mech. Helper, Mech. Shower Heater, Oiler, Self-prop. Fib Picker Op., Sheep Foot roller, Tractor Op. 50 HP or less w/o Power take-off, Truck Crane Oiler

DECISION #WH75-2068 - Mod. #1 (Cont'd)

POWER EQUIPMENT OPERATORS: Counties of Jackson, Nobles & Rock & the Remainder of Benton, Crow Wing, Itasca, Koochiching, McLeod, Martin, Mecker, Morrison, Nicollet, Sibley & Stearns	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I	$13.50	.35	.25		
GROUP II	8.32	.35	.25		
GROUP III	8.07	.35	.25		
GROUP IV	7.93	.35	.25		
GROUP V	7.85	.35	.25		
GROUP VI	7.32	.35	.25		
GROUP VII	6.92	.35	.25		

POWER EQUIPMENT OPERATORS: Counties of Jackson, Nobles & Rock & the Remainder of Benton, Crow Wing, Itasca, Koochiching, McLeod, Martin, Mecker, Morrison, Nicollet, Sibley & Stearns

GROUP I Helicopter Pilot

GROUP II Crane with over 135 ' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rated capacity

GROUP III Cableway Op., Concrete Mixer, Stationary Plant over 3AB, Derrick, Dragline and/or other similar equipment with shovel type controls up to 3 cu. yds. Mfg. rated capacity , Dredge Operator or Engineer, Dredge Operator (power) & Engineer, Front End Loader Op., 5 cu. yds. & over, Grader or Motor Patrol, finishing earthwork & bituminous, Locomotive Crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mile Op., incl. power supply, Mucking Mach., inc. mucking operations conway or similar type, refrigeration plant engineer, Tandem Scraper, Tractor Op. (Boom type). Truck Crane Op., Tugboat Op. 100 HP & over

GROUP IV Dual Tractor Op., Elevating Grader Op., Pumprete Op., Scraper Op., Struck Capacity 32 cu yd. & over, Self Prop. Traveling Soil Stabilizer

GROUP V Air Track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in Charge of Plant requiring First Class License, Fork lift or Straddle Carrier Op., Fork Lift or Lumber Stacker, Front End Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter Launcherman, Locomotive, all types, Mechanic or Welder, Multiple Machines, such as Air Compressors, Welding Machines, Generators, Pumps or Crane Oilers, Paving Breaker or Tamping Machine Op., (power driven) Mighty Mite or similar type, Pick-up Sweeper, 1 cu. yd. & over Hopper capacity, Pipeline Wrapping, Cleaning or Bending Machine Op., Power Plant Engineer, Power Actuated Horizontal Boring Mach. over 6" op.,

DECISION #MN75-2068 - Mod. #1 (Cont'd)

POWER EQUIPMENT OPERATORS: (CONT'D)

Counties of Jackson, Noble & Rock & the Remainder of Benton, Crow Wing, Isanti, Koochiching, Pelcod, Martin, Hooker, Morrison, Nicollet, Sibley & Stearns

CROUP V (CONTD)
Pugmill Op., Roller Op., 8 tons & over, Rubber Tired Farm Tractor, Backhoe Att., Sheep Foot Op., Fin Tamper & Ballas Mach. Op., Tractor Op. over 80, TD6 or similar HP with power take-off, Tractor Op., over 50 HP without power take-off, Trenching Machine Op., (sewer, water, gas) Turnapull Op., (or similar type) Well Point Installation, Dismantling or Repair Mechanic
CROUP VI Air Compressor Op. 315 CFM or over, Bituminous Spreader and Bituminous Finishing Machine Op., Concrete Dist. and Spreader Op., Finishing Mach. Longitudinal Float Op., Joint Mach. Op., Spray Op., Concrete Mixer Op. 14S and under, concrete pav op. (multi. Blade), Curb Mach. Op., Fine Grade Op., Form Trench Digger. Front End Loader Op. (up to & incl. 1 cu. yd.), Grader op. (Motor Patrol), Gunnite op. Gunall, Lead Greaser on Truck or rak, Loader Op., Power Actuated Augers and Boring Mach. Op., Power Actuated Jacks op., Pumps op., Roller., Self-propelled Chip Spreader, Shouldering Mach. op., Stump Chipper., Tractor Op. (1C, TD6 or similar HP with power take-off
CROUP VII Brakeman, Switchman, Conveyor op., Deckhand, Fireman, Tank Car Heater Op., Gravel Screening Plant Op., Greaser, Leverman, Mech. Helpers, Mech. Space Heater, Oiler, Self-Prop. Vib. Packer Op., Sheep foot roller, tractor Op. 50 HP or less w/o Power take-off, Truck Crane Oiler

DECISION #MN75-2059 - Mod. #2
(40 FR 16472 - April 11, 1975)
Stearns County, Minnesota

CHANGE:
Power Equipment Operators:

POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefit Payments			
		H & W	Pension	Vacation	Appr.
CLASS 1	$12.85	.35	.25		
CLASS 2	10.45	.35	.25		
CLASS 3	10.10	.35	.25		
CLASS 4	10.00	.35	.25		
CLASS 5	9.90	.35	.25		
CLASS 6	9.65	.35	.25		
CLASS 7	9.53	.35	.25		
CLASS 8	9.45	.35	.25		
CLASS 9	9.35	.35	.25		
CLASS 10	8.90	.35	.25		
CLASS 11	8.45	.35	.25		

POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION

CLASS 1-Helicopter Operators (Hoisting Material)
CLASS 2-Truck & Crawler Cranes with 200' of Boom & over including Jib
CLASS 3-Truck & Crawler Cranes with 150' of Boom up to & not including 200' of Boom including jib.
CLASS 4-Traveling Tower Crane
CLASS 5-Master Mechanic
CLASS 6-Derrick (Guy & Stiff Leg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator, (inside Building Perimeter Truck & Crawler Cranes up to 150' of Boom including jib.
CLASS 7-Air Compressor Operator; Pump Operator & or Conveyor; 2 or more Mechanics; Hoist Engineer (2 drums); Mechanic or Welder; Pumpcrete Complaco Type Machine Operator; Fork Lift Operator
CLASS 8-Boom Truck Operator; Concrete Mixer Operator; Drill Rigs (Heavy Rot Rotary or Churn Drill when used for caisson drillin or when drillir for elevator cylinder on Building Construction; Front End Loader Op Hoist Engineer (1 drum); Power Plant Engineer (100 KW & over); Straddle carrier Operator; Tractor Operator (Over D-2); Well Point Pump Operator
CLASS 9-Concrete Batch Plant Operator; Gunnite Operator; Tractor Operator (D-2 or similar size & Front End Loader Operator-up to ½ cu. yd.)
CLASS 10-Air Compressor Operator; Pump & or Conveyor Operator; Fireman-Temporary Heat; Brakeman; Pick Up Sweeper (combustion engine operated) Truck Crane Oiler
CLASS 11-Mechanic Space Heater (Temporary Heat) Oiler or Greaser

DECISION #8N75-2059 - Mod. #2 (Cont'd)

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING E. OF THE WESTERN RIGHT-OF-WAY OF U. S. HWY.15	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apprentice
GROUP I	$12.65	.35	.25		
GROUP II	9.36	.35	.25		
GROUP III	9.10	.35	.25		
GROUP IV	8.98	.35	.25		
GROUP V	8.88	.35	.25		
GROUP VI	8.20	.35	.25		
GROUP VII	7.90	.35	.25		

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING E. OF THE WESTERN RIGHT-OF-WAY OF U. S. HWY. 15

GROUP I Helicopter Pilot

GROUP II Crane with over 135' boom, excluding jib, dragline and/or other similar equipment w/shovel type controls 3 cu. yards. & over Mfg. rates capacity

GROUP III Cableway Op., Concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/ or other similar equipment with shovel type controls up to 3 cu. yds. Mfg. rates capacity, Bridge Operator or Engineer, Bridge Operator (power) & yds. & over, Grader or Motor Patrol Finishing earthwork & bituminous, Locomotive Crane Operator, Master Mechanic, Mixer (Paving) Concrete Paving op., Road Mile Op., Incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refregeration Plant Engineer, Tandem, Scrapter, Tractor, Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over

GROUP IV Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yd. & over, Self-Prop. Traveling Soil Stabilizer

GROUP V Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening P[illegible] Op., Dope Machine Op., Drill Rigs, Heavy Rotary of Churn or Cable [illegible] Engineer in Charge of Plant requiring First Class License, Fork Lift or [illegible]or Stacker, Front End Loader Op., over 1½ cu yds., Hoists Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or Welder, Multiple Machines, such as Air Compressors, Welding Machine,s Generators, Pumps or Crane Oilers, Paving Breaker or Tamping Machine Op., (power driven) Mighty Mite or similar type, Pick-up Sweeper 1 cu. yd. & over Hopper capacity, Pipeline Wrapping, cleaning or Bending Machine Op., Power Plant Engineer, Power Actuated Horizontal Boring Mach., over 6" Op., Pugmill Op., Roller Op., 8 tons & over, Rubber Tired Farm Tractor, Backhoe Att., Sheep Foot Op., Tie Tamper & Ballast Mach. Op., Tractor Op., over D2, TD6 or similar HP with power tak-off, Tractor Op., over 50 HP without power Take-off, trenching Machine Op., (sewer water, gas) Turnapull Co., (or similar type) Well Point Installation, Dismantling or Repair Mechanic

DECISION #8N75-2059 - Mod. #2 (Cont'd)

POWER EQUIPMENT OPERATORS (CONT'D)
SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING E. OF THE WESTERN RIGHT-OF-WAY OF U. S. HWY. 15

GROUP VI Air compressor Op. 373 CFM or over, Bituminous Spreader and Bituminous Finishing Machine Op., Concrete Dist. Spreador Op., Finishing Machine, Longitudinal Float Op., Joint Mach. Op., Spray Op., Concrete Mixer Op. 1E and under, Concrete saw Op. (Belt. Blade), Curb Mach. Op., Fine Grade Op., Form Trench Digger, Front End Loader op. (up to & include 1 cu. yd.), Grader Op. (Motor Patrol), Gunite Op. Gunall, Load Greaser on truck or rock, Loader Op., Power Actuated Augers and Boring Mach. Op., Power Actuated Jacks Op., Pump Op., Roller Op., Self-propelled Chip Spreader, Shovel/Crane Mach. Op., Sheep Shipper Op., Tractor Op (D2, TD6 or similar HP with power take-off

GROUP VII Brakeman, Switchman, Conveyor Op., Backhoe, Fireman, Tank Car Heater Op., Gravel Screening Plant Op., Greaser, Lowerman, Mech. Helper, Mech. Spacer Heater, Oiler, Self-Prop. Vib Packer Op., Sheep foot roller, Tractor Op. 50 HP or less w/o Power take-off, Truck Crane Oiler

DECISION #WN75-2059 - Mod. #2 (Cont'd)

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING E. OF THE WESTERN RIGHT-OF-WAY OF U. S. HWY. 15	Basic Hourly Rates	Fringe Benefit Payments			
		H & W	Pension	Vacation	Apr. Tr.
GROUP I	$12.50	.35	.25		
GROUP II	8.32	.35	.25	*	
GROUP III	8.07	.35	.25		
GROUP IV	7.93	.35	.25		
GROUP V	7.85	.35	.25		
GROUP VI	7.32	.35	.25		
GROUP VII	6.92	.35	.25		

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING E. OF THE WESTERN RIGHT-OF-WAY OF U. S. HWY. 15

GROUP I Helicopter Pilot

GROUP II Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rated capacity

GROUP III Cableway Op., Concrete Mixer, Stationary Plant over 31S, Derrick, Dragline and/or other similar equipment with shovel type controls up to 3 cu. yds. Mfg. rated capacity, Dredge Operator or Engineer, Dredge Operator (power) & Engineer, Front End Loader Op., 5 cu. yds. & over, Grader or Motor Patrol, finishing earthwork & bituminous, Locomotive Crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mile Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over

GROUP IV Dual Tractor Op., Elevating Grader Op., Pumperete Op., Scraper Op., Struck Capacity 32 cu. yd. & over, Self-Prop. Traveling Soil Stabilizer

GROUP V Air Track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in Charge of Plant requiring First Class License, Fork lift or Straddle Carrier Op., Fork Lift or Lumber Stacker, Front End Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter Launcherman, Locomotive, all types, Mechanic or Welder, Multiple Machines, such as Air Compressors, Welding Machines, Generators, Pumps or Crane Oilers, Paving Breaker or Tamping Machine Op., (power driven) Mighty Mite or similar type, Pick-up Sweeper, 1 cu. yd. & over Hopper capacity, Pipeline Wrapping, Cleaning or Bending Machine Op., Power Plant Engineer, Power Actuated Horizontal Boring Mach. over 6" op., Pugmill Op., Roller Op., 8 tons & over, Rubber Tired Farm Tractor, Backhoe Att., Sheep Foot Op., Tie Tamper & Ballas Mach. Op., Tractor Op. over 32, TD6 or similar HP with power take-off, Tractor Op., over 50 HP without power take-off, Trenching Machine Op., (sewer, water, gas) Turnapull Op., (or similar type) well Point Installation, Dismantling or Repair Mechanic

DECISION #WN75-2059 - Mod. #2 (Cont'd)

POWER EQUIPMENT OPERATORS (CONT'D)
SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING E. OF THE WESTERN RIGHT-OF-WAY OF U. S. HWY. 15

GROUP VI Air compressor Op. 377 CFM or over, Bituminous Spreader and Bituminous Finishing Machine Op., Concrete Dist. Spreader Op., Finishing Machine, Longitudinal Float Op., Joint Mach. Op., Spray Op., Concrete Mixer Op. 16S and under, Concrete saw Op. (Walk. Blade), Curb Mach. Op., Fine Grade Op., Form Trench Digger, Front End loader op. (up to & include 1 cu. yd.), Grader Op. (Motor Patrol), Gunite Op. Gunall, Load Greaser on trunk or road, Loader Op., Power Actuated Impact and Boring Mach. Op., Power Actuated Jacks Op., Pump Op., Roller Op., Self-propelled Chip Spreader, Shouldering Mach. Op., Stone Whipler Op., Tractor Op (D5, TD6 or similar HP with power take-off

GROUP VII Blacksmith, Bricklayer, Conveyor Op., Deckhand, Fireman, Fork Lift Loader Op., Laying Screening Plant Op., Oreman, Refrigeration Mech. Helper, Mech. Spicer Greaser, Oiler, Self-Prop. Tie Tamper Op., Sheep foot roller, Tractor Op. 50 HP or less w/o Power take-off, Truck Crane Oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
DECISION NO. MT75-5093 - Mod. #1 (40 FR 31522 - July 25, 1975) Statewide, Montana					
Change:					
Plumbers:					
Blaine, Cascade, Chouteau, Fergus, Glacier, Hill, Judith Basin, Liberty, McCone, Meagher, Phillips, Pondera, Roosevelt, Teton, Toole and Valley Counties	$ 9.10	.40	.70		1%

DECISION NO. OK75-4116 - Mod. #1
(40 FR 27434 - June 27, 1975)
Comanche County, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CHANGE:					
BRICKLAYERS & STONEMASONS	$7.95	.45	.30		.10
ELECTRICIANS	8.45	.20	1%		1/4%
LINE CONSTRUCTION:					
Linemen	9.65		1%		1/2%
Cable splicers	9.16		1%		1/2%
Hole digger operator	7.85		1%		1/2%
Heavy equipment operators (or pole cat equivalent)	7.85		1%		1/2%
Line truck driver (winch op.)	7.10		1%		1/2%
Jackhammerman	6.48		1%		1/2%
Powderman	7.85		1%		1/2%
Groundman	5.77		1%		1/2%
Truck driver (flat bed, ton and half and under)	6.16		1%		1/2%
ADD:					
PLUMBERS & STEAMFITTERS ZONE DEFINITIONS					
PLUMBERS & STEAMFITTERS:					
Free Zone	8.50		.60	$1.00	.05
Zone I	8.75		.60	1.00	.05
Zone II	9.00		.60	1.00	.05
ADD:					
PLUMBERS AND PIPEFITTERS	9.27	.60	.75		.10

DECISION NO. OK75-4138 - Mod. #1 (40 FR 32668 - August 1, 1975) Pittsburg County, Oklahoma	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apr. Tr.
CHANGE:					
LINE CONSTRUCTION:					
Lineman	$8.65		1%		1/2%
Cable splicers	9.16		1%		1/2%
Pole digger operator	7.85		1%		1/2%
Heavy equipment op. (or pole cat equivalent)	7.85		1%		1/2%
Line truck driver (winch op.)	7.10		1%		1/2%
Jackhammerman	6.48		1%		1/2%
Powderman	7.35		1%		1/2%
Groundman	5.77		1%		1/2%
Truck Driver (flat bed, ton and half and under)	6.16		1%		1/2%
DECISION NO. PA-75-3070 - Mod. #1 (40 FR 30433 - July 18, 1975 Allegheny County, Pennsylvania					
Change:					
Plumbers	$9.405	.60	.80		.12

SUPERSEDEAS DECISION

STATE: Florida COUNTY: Hillsborough
DECISION NUMBER: FL75-1075 DATE: Date of Publication
Supersedes Decision No.: FL75-1010 dated January 24, 1975 in 40 FR 3984
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Asbestos workers	9.26	.35	.35		.06
Boilermakers	8.20	.60	.90		.02
Bricklayers:					
Bricklayers	7.55	.30	.50		.05
Stone masons	7.55	.30	.50		.05
Marble masons	7.30	.30	.50		.05
Terrazzo workers	7.30	.30	.50		.05
Tile setters	7.30	.30	.50		.05
Cement masons	6.80	.30	.50		.05
Cement block layers	7.55	.30	.50		.05
Carpenters	8.315	.325	.25		.04
Millwrights	8.37	.45	.45		.06
Piledrivermen	8.565	.325	.25		.04
Electricians:					
Electrician Contracts over $50,000					
Wiremen	9.43	4%	2%		.12
Cable splicers	9.78	4%	2%		.12
Electrical Contracts $50,000 or under:					
Wiremen	8.25	4%	2%		.12
Cable splicers	8.60	4%	2%		.12
Elevator Constructors	8.495	.395	.26	2%+a&b	.02
Elevator Constructors' helpers	70%JR	.395	.26	2%+a&b	.02
Elevator Constructors' mechanics helpers (prob.)	50%JR				
Glaziers	7.15	.25	.30		.01
Ironworkers:					
Structural	9.00	.55	.40	.24	.05
Ornamental	9.00	.55	.40	.24	.05
Reinforcing	9.00	.55	.40	.24	.05
Sheeters	9.00	.55	.40	.24	.05
Laborers:					
Power tool operator	6.30	.30	.20		
Mortar mixers	6.30	.30	.20		
Pipelayers (concrete & clay)	6.30	.30	.20		
Masons, plasterers' tenders	6.30	.30	.20		
Common laborers	6.15	.30	.20		
Lathers	8.355	.30	.20		.01
Line Construction:					
Linemen & hvy. equipment operator	8.80	.35	3%		3%
Cable splicers	9.19	.35	3%		3%
Winch truck driver operator	6.86	.35	3%		3%
Groundmen	5.13	.35	3%		3%
Painters:					
Brush & roller	7.30	.30	.30		.06
Swing stage & window jacks, spray & sandblasting	7.80	.30	.30		.06
Dry wall tapers	8.15	.30	.30		.06
Paperhangers	7.80	.30	.30		.06
Plasterers	8.36	.30	.50		.05
Plumbers	9.11	.45	.45		.05
Roofers	7.65	.25	.20		.02
Roofers' helpers	4.40	.25	.20		.02
Roofers, Kettlemen	5.35	.25	.20		.02
Sheet metal workers	9.06	.43	.40		.04
Soft floor layers	8.315	.325	.25		.04
Sprinkler fitters	8.71	.60	.60		.10
Steamfitters	9.11	.45	.45		.05
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

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 employee who has worked in business less than 5 years.

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day
E-Thanksgiving Day; F-Christmas Day.

FLA-2-PEO-1-

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP A	10.14	.375	.35		.05
GROUP B	9.39	.375	.35		.05
GROUP C	9.155	.375	.35		.05
GROUP D	8.935	.375	.35		.05
GROUP E	7.385	.375	.35		.05
GROUP F	7.125	.375	.35		.05
GROUP G	6.895	.375	.35		.05

GROUP A: Cat cranes, truck cranes pile driver crane, derrick, dragline, material hoist with Chicago boom, material hoist with two drums, hydraulic lift form, diesel electric and steam generators, motor grader, pumperete or similar machine, cherry picker gradall, hypto and wheelabrator and mechanic, tractor back hoe, drill, rig & tack boom tractor

GROUP B: Tugger hoist

GROUP C: Trenching machine over 24" winch truck, material hoist (elevator type)

GROUP D: Crawler bulldozer, crawler tractor and tumagull, heavy hufftype front end loader, heavy DW-10 to DW-21 type rubber tired tractor, road roller, fireman, forklift, concrete batch plant operator

GROUP E: Air compressor 125 cu. ft. or over

GROUP F: Wellpoint system and pumps, material hoist, front end loader other than heavy huff type, rubber tired tractor with attachments other than backhoe

GROUP G: Concrete mixer, rubber tired tractor without attachments, trenching machines under 24" high lift, sand blasting machines, welding machine, air compressor, miscellaneous pumps

150' boom, including jib scale of top operator classification plus .25 per hour.
Tower crane operators .25 per hour above top operator classification not including long boom pay.

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Pottawattamie (City of Council Bluffs & the area within 3 miles from the City limits)

DECISION NO.: IA75-4128 DATE: Date of Publication

Supersedes Decision No. IA75-4042, dated January 31, 1975, in 40 FR 4843.

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), and Heavy and Highway Construction.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$ 10.00	.40	$ .51		.03
BOILERMAKERS	8.90	.70	1.00		.02
BRICKLAYERS; Stonemasons	8.375	.35	.30	.60	
CARPENTERS:					
Carpenters	7.85	.40	.20	.40	.03
Piledrivermen	7.975	.40	.20	.40	.03
Millwrights	8.10	.40	.20	.40	.03
CEMENT MASONS	8.34	.35	.30		
DRYWALL TAPERS & FINISHERS	7.94	.35		.50	.01
ELECTRICIANS	10.08	.48	1% + .50		1/4%
ELEVATOR CONSTRUCTORS	9.275	.445	.29	3% + a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.445	.29	3% + a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	8.45	.40	.35		.01
IRONWORKERS:					
Ornamental; Reinforcing; Structural	7.95	.35	.30	.50	
LABORERS:					
Common laborers	6.17	.35	.30		
Mason tenders; Mortar mixers	6.315	.35	.30		
Pipelayers	6.45	.35	.30		
Plasterers' tenders	6.485	.35	.30		
LINE CONSTRUCTION:					
Cable Splicers; Lineman; Welder; Technicians; All rigs setting assembled "H" fixtures & steel transmission structures	8.28	.35	1%		1/2%
Groundman; Truck Driver (without winch); Experienced (Not less than 6 months)	5.38	.35	1%		1/2%
Groundman; Truck Driver (with winch)	5.55	.35	1%		1/2%
Blaster; Special Equipment Operator (Hole Digging Machines, all tractors, transmission lines equipment other than assembled "H" fixtures)	6.62	.35	1%		1/2%
Groundman - 1st 6 months	4.55	.35	1%		1/2%

DECISION NO. IA75-4128

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PAINTERS:					
Brush; Paperhangers; Highwork; Spray; Stage; Structural steel	$ 6.30		.20		
	6.80		.20		
PLASTERERS	7.55	.25	.25		
PLUMBERS: Steamfitters	9.76	.35	.55		.10
ROOFERS:					
Slate; Tile	6.88	.15	.20	.20	.01
Composition	6.58	.15	.20	.20	.01
SHEET METAL WORKERS	9.41	.35			.02
SPRINKLER FITTERS	10.40	.50	.80		.08
TERRAZZO WORKERS; TILE SETTERS; MARBLE SETTERS	7.70	b	.25		
TERRAZZO, TILE AND MARBLE SETTERS HELPERS	6.50				
TRUCK DRIVERS:					
Single axle	6.145	.25	.25		
Tandem axle	6.22	.25	.25		
Trailer; Lowboys	6.345	.25	.25		
Lumber carriers	6.52	.25	.25		

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for over 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit.

b. Employer agrees to provide one-half (1/2) cost of a Health & Welfare Plan (one-half cost to be paid by employee) which will provide benefits at least equal to the Omaha Construction Industry Health & Welfare Plan shall pay $0.20 per hour in cash.

PAID HOLIDAYS

New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day.

DECISION NO. IA75-4128

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Group 1	$ 8.15	.40	.40		.03
Group 2	8.04	.40	.40		.03
Group 3	7.325	.40	.40		.03
Group 4	7.05	.40	.40		.03

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

Group 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; Tower crane; Truck cranes and cherry pickers over 15 ton rated capacity; Derricks; Piledrivers and extractors; Caisson rigs; Side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; Welders; Mechanics; Locomotive; Dredge (levermen).

Group 2 - 1 and 2 drum hoists; Air and electric tuggers (on power plants or setting steel or grating); Economobiles; Plant mixers; Farm type tractors (with loaders, backhoes, attachments, etc.); Scrapers (tournapull, etc.); Endloaders; Dredge (engineer); Side boom and winch truck other than Group No. 1; Motor patrol; Bulldozers; Push cat; Truck cranes and cherry pickers (15 tons and under); Concrete mixers (1 yard and over); Ditching machine (8" and over); Fork lifts (on steel erection and machinery moving or hoisting above one complete story); Concrete pump; Dewatering pumps; Temporary hoist cage operated; second man on locomotive

Group 3 - Tractors (under 35 HP) with or without attachments; Endloaders (under 35 HP) with or without attachments; Air compressors (over 125 CFM); Pumps 3" or over; Welding machines 600 amps or combination thereof; Conveyors; Firemen (Boiler); Generator (75 K.W. and over); Fork lifts (other than above Group No. 2); Gunnite machine; Self-propelled rollers; Stump chippers; Self propelled tampers; Air and electric tuggers (other than above); Ditching machine under 8"

Group 4 - Oilers; Mechanical Heaters; Truck Crane Drivers; Permanent elevators

HEAVY AND HIGHWAY CONSTRUCTION (City of Council Bluffs and the area within 3 miles from the City Limits)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CARPENTERS:					
Carpenters	$ 7.01	.25	.25	.20	.02
Piledrivermen	7.135	.25	.25	.20	.02
CEMENT FINISHERS	7.03	.25	.25		
LABORERS:					
Common Laborer	5.25	.25	.25	.10	.03
Towboat & Dredge Deckhands	5.35	.25	.25	.10	.03
Form Setters' Helpers	5.45	.25	.25	.10	.03
Rakers & Screedmen on Asphalt Work; Mortar Mixers; Chain Saw Operator	5.43	.25	.25	.10	.03
Pipelayers; Concrete Saw Operator	5.50	.25	.25	.10	.03
Form Setters & Precast Manhole Setters, Inlet Builders and Manhole Setters	5.88	.25	.25	.10	.03

HEAVY & HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Group 1	$ 7.30	.40	.40		.03
Group 2	6.90	.40	.40		.03
Group 3	6.50	.40	.40		.03
TRUCK DRIVERS	6.34	.35			

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

Group 1 - Power Shovel, Crane, Backhoe and Dragline; Central Mix Plant Operator; Dredge Engineer; Dredge Leverer; Paver of Spreader Operator; Hoisting Engineer (Steel Erection); Motor Patrol; Piledriver Machine; Concrete Mixer; Tow or Push Boat Operator; Master Mechanic; C.M.I. Paver; C.M.I. Subgrader (or equivalent); Asphalt Plant; Front Endloader; Scraper; Bulldozer; Push cat; Tractor Pulling Scraper; Sideboom Tractor; Churn or Rotary Drill; Trenching Machine (Cleveland 80 or similar capacity); Asphalt Laydown; Asphalt Screed; Asphalt Heater-Planer Unit; Asphalt Roller; Self-Propelled Elevating Grader or similar machine; Spreader (Concrete); Horizontal Boring Machine; Mechanics-Welders; Group Equipment Greaser; Concrete Pump; Self-Propelled Curb Machine

DECISION NO. IA75-4128

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS (Cont'd)

Group 2 - Concrete Curb Breaker; Concrete Widening Machine; Paving Breaker; Barber-Greene, Haiss Loader or similar machine; Tractor Pulling Ripper, Disc, Sheepsfoot or Flat Roller; Self-Propelled Sheepsfoot Roller; Self-Propelled Roller (other than asphalt); Distributor; Screening and Washing Plant; Self-Propelled Vibrating Compactor; Trenching Machine (other than above); Steel Placing Machine; Conveyor; Finishing Machine (on concrete); Flexplane; Bull Float; Form Grader

Group 3 - Boiler; Mechanical Broom; Oiler or Mechanics Helper or Group Greaser helper; Farm-type Tractor (pulling disc, harrow or roller); Welding Machine; Pump Operator (other than dredge); Boom and Winch Truck; Compressor; Tank Car Heater (combination boiler and booster); Pumps on Well Points and Deep Wells for Dewatering; Truck Crane Combination Driver-Oiler; Concrete Curbing Machine; Safety Boat Operator; Batch Plant (Dry)

SUPERSEDEAS DECISION

STATE: Michigan

COUNTIES: Allegan, Berrien, Calhoun, Ingham, Jackson and Kalamazoo

DECISION NO. MI75-2101

DATE: Date of Publication

Supersedes Decision Numbers: AR-3102, AR-3106, AR-3113 and AR-3114 dated August 16, 1974 in 39 FR 29784, 29797, 29820 and 29823 respectively and Decision No. AR-3164 dated October 18, 1974 in 39 FR 37338

DESCRIPTION OF WORK: Building (excluding single family homes and garden type apartments up to and including four stories) and Heavy (excluding Bridge, Airport and Sewer) Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS:					
Berrien County	$ 9.625	.30	.15		
Remaining Counties	9.31	.66	.95		.02
BOILERMAKERS	9.69	.60	1.00	1.00	.01
BRICKLAYERS:					
Allegan County (Casco, Clyde, Ganges and Lee Townships) and Berrien County	9.50	.50	.50		
Allegan County (Allegan, Cheshire Gun Plain, Martin, Otsego, Trowbridge, Valley and Watson townships) and Kalamazoo Co.	9.74	.50	.35		.09
Allegan County (four N.E. townships)	8.60	.35	.25		.04
Allegan County (remainder)	8.20	.35	.25		
Calhoun County	9.90	.45	.35		
Ingham County (except Onondaga, Leslie, Bunker Hill and Stockbridge townships)	10.00		.60		.01
Jackson County and remainder of Ingham County	10.52	.45	.50		
CARPENTERS:					
Berrien County (Chickaming, New Buffalo and Three Oaks townships)	9.76	.50	.57		.05
Ingham and Jackson Counties	9.76	.50	.40		.01
Remaining counties and the remainder of Berrien County	9.10	.50	.40		.01
CEMENT MASONS:					
Allegan County (North of a line east and west through Fennville and west of the north-south line coinciding with the Kent and Ottawa County Line)	7.40	.35	.25		
Allegan County (Allegan, Cheshire Trowbridge and Valley townships)	8.94	.50	.35		.09
Allegan County (Casco, Clyde, Gange, and Lee townships) and Berrien County	8.70	.50	.50		
Remaining Counties and the remainder of Allegan County	9.13	.40	.25		.02

DECISION NO. MI75-2101

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ELECTRICIANS:					
Allegan County (Laketon, Fillmore, Overisel, Salem, Dorr and Leighton townships)	9.22	.40	1%+.25		.01
Allegan (remainder) and Kalamazoo Counties	9.30	.40	7.5%		.01
Berrien County	9.60	3.8%	5%		.2%
Calhoun	9.97	.40	7%		.01
Ingham (Onondaga, Leslie, Stockbridge and Bunker Hill townships) and Jackson Counties	9.64	.40	1%	10%	
Remainder of Ingham County	11.05	.40	1%+.25		.5%
ELEVATOR CONSTRUCTORS:					
Allegan, Kalamazoo, and Calhoun Counties					
Elevator Constructor	9.39	.445	.29	3%+(a)	.02
Elevator Constructor Helper	6.57	.445	.29	3%+(a)	.02
Elevator Constructor Helper (probationary)	4.695				
Berrien County					
Elevator Constructor	9.02	.445	.29	3%+(a)	.02
Elevator constructor Helper	6.10	.445	.29	3%+(a)	.02
Elevator Constructor Helper (probationary)	4.51				
Ingham and Jackson Counties					
Elevator Constructor	10.64	.445	.29	3%+(a)	.02
Elevator Constructor Helper	7.45	.445	.29	3%+(a)	.02
Elevator Constructor Helper (probationary)	5.32				
IRONWORKERS:					
Berrien County	9.60	.65	.80		.01
Ingham and Jackson Counties					
Structural and Ornamental	9.75	8%	14%	17%	.07
Fence Erectors	8.75	8%	14%	17%	.07
Reinforcing	9.0625	.85	15%	15%	.03
Remaining Counties	9.85	.50	.75		.03
LATHERS:					
All Counties except Berrien	7.85	.54	.10	.50	.01

DECISION NO. MI75-2101

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
MARBLE, TILE, TERRAZZO WORKERS:					
Allegan Co. (North of a line east and west through Fennville and West of the north-south line coinciding with the Kent and Ottawa County line)	$ 8.20	.35	.25		
Allegan Co. (4 N.E. townships)	7.35	.25	.25		
Allegan Co. (Gun Plain, Martin, Otsego and Watson) and Kalamazoo Co.	7.70	.35			.05
Ingham County (except Onondaga, Leslie, Bunker Hill and Stockbridge townships)	9.63		.60		
Jackson County and the remainder of Ingham	9.80	.45	.50		
PAINTERS:					
Allegan Co. (Northern portion)					
Brush	7.00	.25	.20		.005
Swing stage; Spray; Pressure Roller; Paper hanging, Wall coverings; Pump fed Taping and Finishing machines	7.25	.25	.20		.005
Steamcleaning or Sandblasting	7.50	.25	.20		.005
Steeple Jack or High Work - 50 falling feet	8.50	.25	.20		.005
Allegan Co. (S.E. ½) and Kalamazoo Co.					
Brush; Drywall Taping; Pan Roller	8.65		.20		
Paper and Vinyl Hanger	8.85		.20		
Swing Stage; Structural Steel	9.30		.20		
Steeple Jack	9.50		.20		
Spray	9.55		.20		
Berrien County					
Brush	8.11				
Spray or Sandblasting; Drywall Taping	8.86				
Swing Stage	8.61				
Structural Steel	9.11				
Calhoun County					
Brush; Roller	7.55				
Steeple Jack	8.95				
Swing Stage; Spray; Steamcleaning Sandblasting	8.305				

DECISION NO. MI75-2101

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PAINTERS (CONT'D)					
Ingham County					
Brush; Tapers	9.22	.42	.40		.005
Structural Steel	9.62	.42	.40		.005
Spray	9.97	.42	.40		.005
Jackson County					
Brush and Roller	9.72	.43	.20		.03
Spray and Sandblast	10.47	.43	.20		.03
Drywall Taper	10.12	.43	.20		.03
PLASTERERS:					
Allegan County (Casco, Clyde, Ganges and Lee Townships) and Berrien County	8.90	.50	.50		
Remaining Counites and the remainder of Allegan County	8.83	.40	.25		.03
PLUMBERS:					
Allegan County (Northern tier townships)	10.19	.45	.50		
Allegan County (remainder) and Kalamazoo Co.	10.55	.53	.77		
Berrien County (except City of Niles and vicinity)	10.60	.45	.50		
City of Niles and vicinity in Berrien County	9.60	.38	.40		.10
Calhoun County	10.59	.65	.52		
Ingham County	10.20	.60	.70		
Jackson County	9.45	.77	.60		.02
ROOFERS:					
Allegan County					
Composition	6.45	.25	.20	.25	
Slate and Tile	6.70	.25	.20	.25	
Berrien County					
Composition	8.50		.30		.03
Slate, Tile and Asbestos	8.65		.30		.03
Calhoun and Kalamazoo Counties					
Composition	7.85				
Slate and Tile	8.10				
Ingham County	8.10	.25			
SHEET METAL WORKERS:					
Berrien County	9.45	.48	.50		
Remaining Counties	9.46	.68	.73	.51	.02

DECISION NO. MIT5-2101

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr
SOFT FLOOR LAYERS					
Allegan, Berrien (except Chickaming, New Buffalo and Three Oaks townships), Calhoun and Kalamazoo Counties	$ 7.20	.50	.40		.01
Ingham and Jackson Counties	9.76	.50	.40		.05
SPRINKLER FITTERS	9.65	.50	.70		.08
TRUCK DRIVERS:					
Allegan, Berrien and Kalamazoo Counties	5.63	15.00b	14.00b	c	
Calhoun County					
Less than 8 cu. yds.	7.30	15.00b	14.00b	.15	
8 cu. yds. and over; Semi; Tandem	7.40	15.00b	14.00b	.15	
Euclids	7.55	15.00b	14.00b	.15	
Ingham County					
Truck Driver	6.70	18.00b	12.00b	d	
Truck Drivers on dumps trucks 8 cu. yds. Capacity and over; pole trailers	6.80	18.00b	12.00b	d	
Low boy drivers; Double bottom drivers	6.90	18.00b	12.00b	d	
Structural steel drivers	7.20	18.00b	12.00b	d	
Jackson County	5.35	18.00b	14.00b	e	
Welders received rate precribed for craft performing operation to which welding is incidental.					

DECISION NO. MIT5-2101

PAID HOLIDAYS (Where Applicable)

A-New Years Days; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 2% of regular] hourly rate to vacation pay credit for employee who has worked in business less than 5 years; 4% contribution for more than 5 years

b. Per week, per employee

c. Three paid holidays - C,D, and E; One week paid vacation for employees employed one year or more; Two weeks paid vacation for three years or more; Three weeks paid vacation for 10 years or more

d. One year's service, one week vacation; 3 years service, two weeks vacation

e. Paid holidays A through F plus ½ day before Christmas and ½ day before New Years; Paid vacations; employees who have worked for the company for one year and have worked nine months of the time shall receive vacation pay as follows: 1 week - 1 year; 2 weeks - 3 years; 3 weeks 12 years; 4 weeks - 16 years or more.

DECISION NO. MI75-2101

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
LABORERS:					
Allegan, Berrien, Calhoun and Kalamazoo Counties					
Group 1	$ 7.00	.40	.30		.04
Group 2	7.15	.40	.30		.04
Group 3	7.25	.40	.30		.04
Group 4	7.12	.40	.30		.04
Group 5	7.22	.40	.30		.04
Group 6	7.50	.40	.30		.04
Group 7	7.32	.40	.30		.04
Ingham County					
Group 1	7.45	.40	.30		.04
Group 2	7.53	.40	.30		.04
Group 3	7.59	.40	.30		.04
Group 4	7.74	.40	.30		.04
Group 5	7.69	.40	.30		.04
Group 6	7.81	.40	.30		.04
Group 7	8.065	.40	.30		.04
Jackson County					
Group 1	7.38	.40	.30		.04
Group 2	7.88	.40	.30		.04

LABORERS - GROUP DESCRIPTIONS

Allegan, Berrien, Calhoun and Kalamazoo Counties

Group 1: All construction laborers on Building and Heavy Construction not specified in Group 2 through 7 below

Group 2: Plasterer Tenders, Material Mixers, Operators of Portable Mixers; Air, Electric or Gasoline Tools; Motor Driven Buggies; Swing Scaffolds

Group 3: Jackhammer Operators

Group 4: Signal men

Group 5: Windlass Operator

Group 6: Top men on chimneys or towers over 30' in height

Group 7: Crock Layers (or pipe layers), caisson work

Ingham County

Group 1: Building Laborers

Group 2: Mortar Mixers, hand or machine

Group 3: Plasterer Tenders; Portable concrete mixer operator (1¼ and under); Air, Electric or Gasoline Tools; Tar Kettle tenders; Gasoline vibrators; Concrete gas buggies; Concrete saw; Signal men and top men

Group 4: Tunnelmen; Concrete shovelers; Car pushers, etc.

Group 5: Windlass Operator (on caisson work)

Group 6: Crock layers (or pipe layers); Caisson workers; Tunnel muckers

Group 7: Tunnel Miners

Jackson County

Group 1: General Laborer

Group 2: Jackhammer and Acetylene Torch

DECISION NO. MI75-2101

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
Building and Heavy:					
Class A	$11.05	.55	.75		.05
Class B	10.80	.55	.75		.05
Class C	10.55	.55	.75		.05
Class D	10.20	.55	.75		.05
Class E	10.00	.55	.75		.05
Class F	8.95	.55	.75		.05
Class G	8.25	.55	.75		
Steel Erection:					
Ingham and Jackson Counties					
Class A	11.57	.55	.75	10%	.05
Class B	11.33	.55	.75	10%	.05
Class C	10.85	.55	.75	10%	.05
Class D	10.70	.55	.75	10%	.05
Class E	9.61	.55	.75	10%	.05
Class F	8.65	.55	.75	10%	
Remaining Counties					
Class A	11.40	.55	.75		.05
Class B	11.15	.55	.75		.05
Class C	10.90	.55	.75		.05
Class D	10.55	.55	.75		.05
Class E	9.30	.55	.75		.05
Class F	8.25	.55	.75		
Underground Construction:					
Calhoun, Ingham and Jackson Cos.					
Class I	8.90	.55	.75	10%	.05
Class II	8.78	.55	.75	10%	.05
Class III	8.12	.55	.75	10%	.05
Class IV	7.60	.55	.75	10%	.05
Remaining Counties					
Class I	7.53	.55	.75	10%	.05
Class II	7.26	.55	.75	10%	.05
Class III	6.81	.55	.75	10%	.05
Class IV	6.56	.55	.75	10%	.05

DECISION NO MI75-2101

POWER EQUIPMENT OPERATORS - (CONT'D) GROUP DESCRIPTIONS

Building and Heavy:

Class A: Crane Operator, with main boom and jib 220' or longer

Class B: Crane Operator, with main boom and jib 140' or longer to 220'; Tower Cranes; Gantry Cranes; Whirley Derrick

Class C: Regular Equipment Operator; Stiff leg derrick; Scraper; Dozer; Grader; Front-end loader; Hoist; Job Mechanic; Head Grease Man

Class D: Air Tugger (single drum); Material Hoist; Fork Truck; Boom Truck (non-swinging); Boiler Operator; Sweeping Machine; Winch Truck; Bob Cat and similar type equipment

Class E: Pump 6" or over; Well point; Freeze Systems

Class F: Air Compressor; Generators; Conveyors; Pumps under 6"; Grease man

Class G: Fireman; Heater Operator; Oiler

Steel Erection:

Ingham and Jackson Counties

Class A: Engineer when operating combination of boom and jib 220' or longer

Class B: Engineer when operating combination of boom and jib 140' or longer to 220'; Tower crane and Derrick operator (where operator's work station is 50' above first sub-level)

Class C: Crane operator and job mechanic

Class D: Hoisting operator

Class E: Compressor operator

Class F: Oiler or Fireman

Remaining Counties

Class A: Crane operator with boom and jib 220' or longer

Class B: Crane operator with boom and jib 140' or longer up to 220'; Tower Crane; Gantry Crane; Whirley derrick

Class C: Regular equipment operator; Crane, Dozer, Loader, Hoist, Saddle Wagon, Job Mechanic

Class D: Air Tugger (single drum); Material hoists; Pump 6" or over

Class E: Air compressor; Generators; Conveyors

Class F: Oiler and Fireman

DECISION NO MI75-2101

POWER EQUIPMENT OPERATORS:

Underground Construction

CLASS I Backfiller Tamper; Backhoe; Batch Plant Operator (concrete); Clamshell; Concrete Mixer (two drum or larger); Conveyor loader (Euclid Type); Crane (crawler, truck or pile driving); Dozer (9 ft. blade and over); Dragline; Elevating grader; Frontloader (over 1½ c.y. capacity); Gradall (and similar type machine); Grader; Mechanic; Power Shovel Roller (asphalt); Scraper (self-propelled or tractor drawn); Side Boom Tractor (type D-4 or equivalent and larger); Slip Form Paver; Slope Paver; Trencher (over 8 ft. digging capacity); Well Drilling Rig

CLASS II Boom Truck (mount swing type boom); Crusher; Dozer (less 9 ft. blade); Frontloader (1½ cubic yard capacity and smaller); Hoist; Pump (one or more -- 6 in. discharge or larger -- gas or diesel powered or powered by generator of 300 amperes or more - inclusive of generator); Side Boom Tractor (smaller than type D-4 or equivalent); Sweeper (Wayne type and similar equipment); Tractor (pneu-tired, other than backhoe or front-end loader); Trencher (8' digging capacity and smaller)

CLASS III Air Compressors (600 cfm or larger); Air Compressor (2 or more - less than 600 cfm); Boom Truck (non-swinging, non-powered type boom); Concrete Breaker (self-propelled or truck mounted-includes compressor); Concrete Paver (one drum - ½ yard or larger); Elevator (other than passenger); Maintenance Man; Pumps (2 or more 4" up to 6" discharge gas or diesel powered - excluding submersible pumps); Pumpcrete Machine (and similar equipment); Wagon Drill (Multiple); Welding Machine or Generator (2 or more, 300 amps. or larger - gas or diesel powered)

CLASS IV Boiler; Concrete Saw (40 hp or over); Curing Machine (self-propelled); Farm Tractor (with attachment); Finishing Machine (concrete); Fireman; Hydraulic Pipe Pushing Machine; Mulching Equipment; Oiler; Pumps (2 or more up to 4" discharge if used 3 hours or more per day - gas or diesel powered excluding submersible pumps); Roller (other than asphalt); Stump Remover; Trencher (service) Vibrating Compactor Equipment, Self-propelled (6' wide or over)

DECISION NO MIT5-2101

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LINE CONSTRUCTION					
Williamston, Locke, Leroy, Wheatfield and White Oak townships in Ingham County					
Lineman	$10.90	.85	3.4%		4%
Cable Splicer	11.37	.85	3.4%		4%
Combination Equipment Oper. Groundman	8.80	.85	3.4%		4%
Combination Driver-Groundman	8.31	.85	3.4%		4%
Groundman	7.67	.85	3.4%		4%
Remaining Counties and the remainder of Ingham County					
Lineman; Heavy Equipment Oper.	8.75	.35	1%	a	4%
Combination Digger Oper.- Tractor Oper.:					
First Six Months	6.36	.35	1%	a	4%
After Six Months	6.86	.35	1%	a	4%
Light Equipment Oper.- Groundman:					
Distribution Line Truck Driver Oper.					
First Six Months	5.54	.35	1%	a	4%
After Six Months	6.03	.35	1%	a	4%
Combination Winch Truck Driver-operator					
First Six Months	5.05	.35	1%	a	4%
After Six Months	5.76	.35	1%	a	4%
Combination Truck Driver-Groundman	4.88	.35	1%	a	4%

FOOTNOTE:

a. 7 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving and Christmas Day

SUPERSEDEAS DECISION

STATE: Oklahoma COUNTY: McIntosh
DECISION NUMBER: OK75-4148 DATE: Date of Publication
Supersedes Decision No. AR75-4139 dated August 1,1975, in 40 FR 3260
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$8.90	.35	.50		.015
BOILERMAKERS	8.00	.30	.76		.02
BRICKLAYERS-Stonemasons	7.00	.30	.40		.05
CARPENTERS:					
Carpenters	7.95		.25		.01
Millwrights-Filedrivermen	8.45		.25		.01
Cement masons	7.35				
ELECTRICIANS:					
ZONE I - A 20 mile radius from Post Office of City of Muskogee					
ZONE II - Area outside Zone I					
Zone I					
Electricians	7.93	.30	1%		1/2%
Cable splicers	8.33	.30	1%		1/2%
Zone II					
Electricians	8.23	.30	1%		1/2%
Cable splicers	8.63	.30	1%		1/2%
ELEVATOR CONSTRUCTORS	8.25	.445	.29	3½%a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.445	.29	3½%a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (probationary 6 months)	50%JR				
GLAZIERS	7.00	.40	.40		.01
IRONWORKERS	8.90	.30	.35		.08
LABORERS:					
GROUP I	4.80	.25	.20		
GROUP II	5.10	.25	.20		
GROUP III	5.30	.25	.20		

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - All digging and dirt work, firing of salamanders and smudge pots; loading and unloading of materials and equipment; loading and unloading of materials to and from hoist or cages for stock piling only; wheeling and placing of concrete; handling of lumber, steel, cement and distribution of materials; all cleaning, including cleaning of windows; wrecking and razing of building and all structures, cleaning and clearing of debris; loading and unloading of materials, hoist or cages, except when the man is directly tending lathers, masons or plasterers; water boys, when used, carpenter tenders; and common laborers.

LABORERS CLASSIFICATION DEFINITION (CONT'D)

GROUP II - All machine tool operators that come under the jurisdiction of the laborers; all sewer and drain tile layers and handling at the ditch, excluding distribution; operators of water pumps up to four inches and slip form jacks; men erecting scaffolds and directly tending lathers, masons, cement masons and plasterers, mortar mixers, hod carriers and dry mixers; high work over 30 feet from the ground or floors; cement finisher helper; work on swinging scaffold; all kettle and pot men, tank cleaning, all pipe doping; treating and wrapping, including all men working with dope; mortar and plaster mixing machine, pump-crete machines, and gunite mixing machines, including placing of concrete; handling creosoted or treated materials, liquid acids, or like materials when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which replaces wheel barrows or buggies previously used by laborers; all scale men on batch plants; all laborers screening sand, running sand drier, and feeding operating sand blaster, except nozzle; signal men and cutting torch operators in connection with laborers' work; concrete grader

GROUP III - Wagon drill operator and powderman or blaster

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LATHERS	$7.65				.01
LINE CONSTRUCTION					
Lineman	8.65		1%		1/2%
Cable splicers	9.16		1%		1/2%
Hole digger operator	7.85		1%		1/2%
Heavy Equipment Operator (or Pole Cat Equivalent)	7.85		1%		1/2%
Line truck driver (winch operator)	7.10		1%		1/2%
Jack hammerman	6.48		1%		1/2%
Powderman	7.85		1%		1/2%
Groundman	5.77		1%		1/2%
Truck driver (flat bed, ton and half and under)	6.16		1%		1/2%
PAINTERS:					
Commercial brush and roller	5.85		.25	.20	
Spray; glove or dipping; sand-blasters; spray or sand pot tender (maximum two pots, guns or nozzles); power rollers; power equipment operators; bituminastic and like materials; applicators and kettle tenders	7.10		.25	.20	
Spray or sand pot tender (maximum one pot, one nozzle or gun)	6.20		.25	.20	
Hazardous work	9.30		.25	.20	
Cooling steel, stage, bosun chair, spiders, jack, roof work, skates, rolling scaffolds and like equipment - fifty cents above basic rate.					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
Group I	$8.25	.35	.40		.12
Group II	8.00	.35	.40		.12
Group III	7.75	.35	.40		.12
Group IV	7.50	.35	.40		.12
Group V	7.00	.35	.40		.12
Group VI	7.10	.35	.40		.12
Group VII	6.50	.35	.40		.12
Group VIII	6.80	.35	.40		.12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITION

Group I
All crane type equipment with 100' of boom or over (including jib), all tower cranes and all crane type of 3 cu. yd. or more

Group II
Heavy duty mechanic; welder; crane hook and overhead monorail; whirley; panel board batch plant operator; derrick; piledriver; engineer; dragline; shovel, clamshell; backhoe; sideboom; gradall; hydro crane; cherry picker; hoists while operating 2 or more drums

Group III
Motor patrol (blade); dozer (engine h.p. 65 or over); Fordson tractor or like equipment with hoe or loader equipment or ditcher; scraper type equipment; Tournapull, DW 10, 15, 16, 20, 21 and similar rubber-tired equipment; Euclid, TS-24 and similar; loader operator or hi-lift (engine h.p. 65 or over); power driven hole digger; trenching machine; concrete pump-boom type

Group IV
Locomotive engineer; boring machine, tug boat; mixer, 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist when operating one drum; welding machine, 3 to 6; air compressor, 3 to 6, 500 cu. ft. and under; air compressor, over 500 cu. ft. (1); pumps; battery, 3 to 6; fork-lift; bobcat and similar equipment; generator plant engineer, Diesel electric; winch trucks with A-frame; rollers all types; outside elevator or building of personnel hoist; concrete buster or tamper; heater under jurisdiction of op.; engineers, fireman; boiler operator; crushing plants; oiler distributor; pulvimixer; farmer tractor with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt, bulk handling, screened operator; concrete pump; form grader; screening plant; well point pump operator; signal man on large whirleys when and if required, operator for rotary drilling machine when operated from console or machines

Group V
Permanant elevator - building type (automatic), concrete mixer, with hopper less than 18 cu. ft.; air compressor 500 cu. ft. and under (1 or 2); welding machine (1 or 2); fuelman; conveyor operator-single continuous belt bulk handling

Group VI
Greaser, tilt top trailer operator

Group VII
Asphalt lay machine back end man helpers

Group VIII
Truck crane oiler driver or truck crane oiler

Engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications.

Engineers or all classifications when working in caverns or tunnels shall receive 25¢ per hour above listed rates.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PLUMBERS-STEAMFITTERS	$9.75	.40	.80		.10
ROOFERS	7.25	.25	.25		.04
SHEET METAL WORKERS	8.09	.45	.45		.08
SPRINKLER FITTERS	10.10	.50	.80		.08
TERRAZZO WORKERS	8.49		.20		
TERRAZZO WORKERS' HELPERS	6.93				
TERRAZZO WORKERS' HELPERS FLOOR MACHINE OPERATOR	7.03				
TERRAZZO WORKERS' HELPERS BASE MACHINE OPERATOR	7.23		.20		
TILE LAYERS	8.49				
TRUCK DRIVERS:					
Group I	6.15				
Group II	6.25				
Group III	6.35				
Group IV	6.30				
Group V	6.45				

TRUCK DRIVERS CLASSIFICATION DEFINITION

GROUP I - Pick-up, 1½ tons or 2½ yards and up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake bodies and buses

GROUP II - 3 tons or 4 yards and up to but not including 4 tons or 6 yards

GROUP III - 5 tons or 6 yards and over including heavy equipment such as pole trucks, winch trucks, euclids, Mississippi wagons, semi-dumps, tournapulls, or other heavy material moving equipment; tractor trailer drivers and similar equipment, such as tractors, ten wheelers

GROUP IV - Ready-mix concrete trucks up to but not including 3 yards

GROUP V - Ready-mix concrete trucks 3 yards and over

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays

PAID HOLIDAYS:
A - New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E - Thanksgiving Day; F-Christmas Day

SUPERSEDEAS DECISION

STATE: Oregon
DECISION NUMBER: OR75-5105
COUNTIES: Statewide
DATE: Date of Publication
Supersedes Decision No. OR75-5089 dated July 25, 1975, in 40 FR 31560
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction and dredging.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. T.
ASBESTOS WORKERS	$ 9.96	.50	.80		.10
BOILERMAKERS	8.90	.65	1.00	.50	.02
BRICKLAYERS; Stonemasons:					
Clackamas, Clatsop, Columbia, Gilliam, Hood River, Multnomah, Morrow, Sherman, Tillamook, Wasco (north of the City of Maupin), Washington, N½ of Yamhill Counties	10.13	.55	.75		.08
Marion, Polk, S½ of Yamhill Cos.	8.25	.40	.40		
Baker, Union, Umatilla, Wallowa, N½ of Malheur Counties	9.20	.40	.50		
Benton, Crook, Coos, Curry, Deschutes, Douglas, Grant, Harney, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Wheeler, Wasco (including the City of Maupin and South thereof), and S½ of Malheur Counties	9.02	.50	.55		.08
CARPENTERS:					
Acoustical Applicator; Automatic Nailing Machine; Carpenters; Form Strippers; Manhole Builders	7.79	.55	.65	.35	.03
Piledrivermen; Bridge, Dock and Wharf Builders	7.89	.55	.65	.35	.03
Floor Layers and Finishers; Stationary Power Saw Operators	7.94	.55	.65	.35	.03
Boom Men	7.99	.55	.65	.35	.03
Millwrights and Machine Erectors	8.04	.55	.65	.35	.03
Drywall Applicators	7.79	.55	.65	.35	.03
CEMENT MASONS:					
Cement Masons	7.14	.35	.35	.20	.03
Mastic Workers; Composition Worker; Gunnite Man; Power Machinery Operator	7.29	.35	.35	.20	.03

DECISION NO. OR75-5105

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. T.
ELECTRICIANS:					
Malheur County					
Electricians	$ 8.48	.40	1%+.25		1%
Cable Splicers	9.328	.40	1%+.25		1%
Baker, Gilliam, Grant, Morrow, Umatilla, Union, Wallowa, Wheeler Counties					
Electricians	9.85	.35	1%+.40		.02
Lead Cable Splicers	10.835	.35	1%+.40		.02
Coos, Curry, Lincoln, Those portions of Douglas and Lane Counties lying west of a line North and South from the NE corner of Coos County to the SE corner of Lincoln County					
Electricians	9.30	.45	1%		.04
Cable Splicers	10.23	.45	1%		.04
Benton, Crook, Deschutes, Jefferson, Lane (except coast portion), Linn, Marion, Polk, S½ of Yamhill Counties					
Electricians	9.85	.45	1%		.04
Lead Cable Splicers	10.64	.45	1%		.04
Clackamas, Clatsop, Columbia, Hood River, Multnomah, Sherman, Tillamook, Wasco, Washington, N½ of Yamhill Counties					
Electricians	9.60	.45	1%+.40		.02
Lead Cable Splicers	10.35	.45	1%+.40		.02
Harney, Jackson, Josephine, Klamath, Lake, that portion of Douglas lying east of a line running north and south from the NE corner of Coos to the SE corner of Lincoln Counties					
Electricians	9.50	.45	1%		.04
Cable Splicers	10.15	.45	1%		.04
ELEVATOR CONSTRUCTORS	7.97	.495	.32	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.495	.32	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				

DECISION NO. OR75-5105

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
GLAZIERS:					
Wallowa County	$ 7.28	.31	.25	.28+b	
Remaining Counties	7.20	.26	.30	6.5%	.01
IRONWORKERS:					
Structural; Reinforcing; Ornamental; Riggers; Fence Erectors; Signal Men	8.90	.58	.90	.25	.05
LATHERS:					
Clackamas, Clatsop, Columbia, Gilliam, Harney, Hood River, Morrow, Multnomah, Sherman, Tillamook, Wasco, Washington, Yamhill Counties	8.75	.30			
MARBLE SETTERS:					
Clackamas, Clatsop, Columbia, Gilliam, Hood River, Multnomah, Morrow, Sherman, Tillamook, Wasco (North of the City of Maupin), Washington, N½ of Yamhill Counties	10.13	.55	.75		.08
Baker, Union, Umatilla, Wallowa, N½ of Malheur Counties	9.20	.40	.50		
Benton, Coos, Crook, Curry, Deschutes, Douglas, Grant, Harney, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Linecoln, Linn, S½ of Malheur, Wasco (including the City of Maupin and South thereof), Wheeler Counties	8.05	.45	.60		
MASON TENDERS:					
(Including tenders to plasterers, bricklayers, tile setters, marble setters, and terrazzo work; Topping for cement finishers and mortar mixer)	8.27	.65	.80		.10
PAINTERS:					
Malheur County					
Brush; Paperhangers; Drywall Tapers	7.26	.25	.10		.02
Steel, Sign	7.36	.25	.10		.02
Application of toxic materials; Sandblasting; Spray	7.73	.25	.10		.02

DECISION NO. OR75-5105

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
PAINTERS: (Cont'd)					
Umatilla (Township of Pendleton Only)					
Brush; Glazier; Sign Painter Spray; Sandblasting; Swing Stage; Taping and Paperhanging	$ 5.50				
	5.75				
Remaining Counties:					
Brush	7.77	.35	.45	.30	.03
Spray, High Towers, ground to 100'	8.02	.35	.45	.30	.03
High Work over 100'; High Towers	8.27	.35	.45	.30	.03
High Towers, ground to over 300'	8.77	.35	.45	.30	.03
Drywall Finisher	7.81	.40	.40	.50	.06
PLASTERERS:					
Benton, Coos, Crook, Curry, Deschutes, Douglas, Grant, Harney, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Malheur (south half), Wasco (including the City of Maupin and south thereof) and Wheeler Counties	8.50	.50	.60		.01
Remaining Counties	8.50	.50	.60		.01
PLUMBERS: Steamfitters:					
Baker; Harney (except NW portion); Malheur Counties	8.79	.37	.40		.10
Grant (except SW cromer); Morrow, Umatilla, Wallowa, Union Counties	10.11	.33	.85	.62	.10
N½ of Benton, Lincoln and Linn Counties; S½ of Tillamook and Yamhill Counties; Marion and Polk Counties	9.23	.56	1.18	1.00	.10
Clackamas, Clatsop, Columbia, Gilliam, Hood River, Jefferson, Multnomah, Sherman, Wasco, Wheeler, Washington, N½ of Yamhill Counti, N½ of Tillamook County	9.97	.70	1.55		.08
Coos, Curry, West Coast portion of Douglas, Lane (City of Florence)	9.14	.66	.77		.0175

DECISION NO. OR75-5105

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PLUMBERS; Steamfitters (Cont'd)					
Lane (except City of Florence); Douglas (except coast portion), Crook, Deschutes, NW portion of Harney, Northern portions of Klamath and Lake Counties, S½ of Lincoln, Linn, Benton and Jefferson Counties, Sw corner of Grant County	$ 8.65	.41	.75		.05
Remainder of Klamath and Lake Cos.	8.96	.50	.75	1.00	.075
Jackson and Josephine Counties	7.05	.44	.84	.85	.02
ROOFERS:					
Clackamas, Clatsop, Columbia, Gilliam, Hood River, Multnomah, Sherman, Tillamook, Wasco, Washington, and Wheeler Counties					
Roofers	9.05	.45	.75		
Handling of irritating material (coal, tar or epoxy) in unconfined area	9.55	.45	.75		
Handling of irritating material (coal, tar or epoxy) in a confined area	9.80	.45	.75		
Wallowa County	7.45				
Coos, Crook, Curry, Deschutes, Douglas, Harney, Jackson, Josephine, Klamath, Lake, and Lane Counties					
Roofers	7.85	.30	.10		
Spray and/or application of irritating materials in a confined area	8.60	.30	.10		
Marion, Yamhill, Polk, Lincoln, Benton and Linn Counties	7.40	.22	.15	.25	
Malheur County	7.40	.33	.20	.30	
SHEET METAL WORKERS:					
Benton, Clackamas, Clatsop, Columbia, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Wasco, Washington, Wheeler and Yamhill Counties	8.71	.55	.51	1.00	.04

DECISION NO. OR75-5105

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
SHEET METAL WORKERS: (Cont'd)					
Malheur County	$ 8.36	.32	.30		.04
Baker, Umatilla, Union, Wallowa Counties	9.95	.50	.78		
Coos, Curry, Douglas, Klamath, Lake and Lane Counties	8.67	.37	.34		.005
Jackson and Josephine Counties	8.08	.42	.40	.30	.005
SOFT FLOOR LAYERS:					
All Counties except Malheur	7.735	.45	.45		.05
SPRINKLER FITTERS	9.40	.50	.70		.06
TERRAZZO WORKERS:					
Baker, Umatilla, Union, Wallowa and N½ of Malheur Counties	8.53	.40	.50		
TILE SETTERS:					
Clatsop, Clackamas, Columbia, Gilliam, Hood River, Morrow, Multnomah, Sherman, Wasco (north of the City of Maupin), Washington Tillamook and N½ of Yamhill Co.	8.04	.35	.35	.25	
Baker, Umatilla, Union, Wallowa Counties and N½ of Malheur Cos.	8.53	.40	.50		
Benton, Coos, Crook, Curry, Deschutes, Douglas, Grant, Harney, Jackson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Wheeler, Wasco (including the City of Maupin and south thereof) and S½ of Malheur Cos.	8.05	.45	.60		
WELDERS; RIGGERS: 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 credits 4% basic hourly rate of employee with over 5 years' service; 2% basic hourly rate for 6 months to 5 years' service to Vacation Plan. Six Paid Holidays: A through F.

b. Two weeks' Vacation with pay after 1 year of employment. Also seven (7) Paid Holidays: A through F plus Washington's Birthday.

DECISION NO. OR75-5105

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LINE CONSTRUCTION:					
Cable Splicers; Leadman Pole Sprayer	$11.12	.35	1%	.10	1/2%
Lineman; Pole Sprayer; Heavy Line Equipment Man; Certified Lineman Welder	10.04	.35	1%	.10	1/2%
Tree Trimmer	9.06	.35	1%	.10	1/2%
Line Equipment Man	8.65	.35	1%	.10	1/2%
Head Groundman (Chipper); Head Groundman; Powderman; Jackhammer Man	7.96	.35	1%	.10	1/2%
Groundman; Tree Trimmer Helper	7.12	.35	1%	.10	1/2%
DREDGING:					
Levetman:					
Dipper	9.06	.55	.85	.35	.05
Hydraulic	8.40	.55	.85	.35	.05
Assistant Engineer (including watch engineer, welder, mechanic, and machinist); Mate	8.04	.55	.85	.35	.05
Tenderman (boatman, attending dredge plant); Fireman	7.80	.55	.85	.35	.05
Assistant Mate (deckhand); Oiler	7.54	.55	.85	.35	.05

DECISION NO. OR75-5105

LABORERS

	ZONE A	ZONE B	ZONE C	ZONE D	ZONE E	ZONE F
Group 1	$7.37	$7.77	$8.12	$8.37	$8.62	$8.87
Group 2	7.72	8.12	8.47	8.72	8.97	9.22
Group 3	8.02	8.42	8.77	9.02	9.27	9.52
Group 4	8.27	8.67	9.02	9.27	9.52	9.77

FRINGE BENEFITS:

Health and Welfare	$.65	Vacation	$.50
Pension	.80	Apprenticeship Training	.10

Portland Only

Zone A - All jobs or projects located with 25 miles of the City Hall of Portland

Zone C - More than 25 miles but less than 35 miles from City Hall

Zone D - More than 35 miles but less than 45 miles from City Hall

Zone E - More than 45 miles but less than 75 miles from City Hall

Zone F - More than 75 miles from City Hall

Eugene and Salem Only

Zone A - All jobs or projects located within 20 miles of the respective City Hall

Zone B - More than 20 miles but less than 25 miles from the respective City Hall

Zone C - More than 25 miles but less than 35 miles from the respective City Hall

Zone D - More than 35 miles but less than 45 miles from the respective City Hall

Zone E - More than 45 miles but less than 75 miles from the respective City Hall

Zone F - More than 75 miles from the respective City Hall

DECISION NO. OR75-5105

LABORERS (Cont'd)

ZONE WAGE SCALE (Cont'd)

CITIES:

Astoria	Hood River	Newport
Baker	Klamath Falls	Ontario
Bend	La Grande	Port Orford
Brookings	Lakeview	Reedsport
Burns	Madras	The Dalles
Grants Pass	Medford	Tillamook
McMinnville		

Zone A - All jobs or projects located within 10 miles of the respective City Hall

Zone B - More than 10 miles but less than 25 miles from the respective City Hall

Zone C - More than 25 miles but less than 35 miles from the respective City Hall

Zone D - More than 35 miles but less than 45 miles from the respective City Hall

Zone E - More than 45 miles but less than 75 miles from the respective City Hall

Zone F - More than 75 miles from the respective City Hall

Albany and Corvallis Only

Zone A - All jobs or projects located within 5 miles of the respective City Hall

Zone B - More than 5 miles but less than 25 miles from the respective City Hall

Zone C - More than 25 miles but less than 35 miles from the respective City Hall

Zone D - More than 35 miles but less than 45 miles from the respective City Hall

Zone E - More than 45 miles but less than 75 miles from the respective City Hall

Zone F - More than 75 miles from the respective City Hall

DECISION NO. OR75-5105

LABORERS

Group 1: Asphalt plant laborers; Asphalt spreaders; Batch weighman; Broomers; Brush burner and cutters; Car and truck loaders; Carpenter tender; Change-house man or dry shack man; Choker setter; Clean up laborers; Concrete laborers; Crusher feeders; Culvert, hand labor; Curing, concrete; Demolition, wrecking, and moving laborers; Drill helpers; Dumpers, road oiling crew; Dumpmen (for grading crew); Elevator feeders; Fence builder (including Guard rail, Median rail, Reference post, Guide post, Right-of-way marker); Pine graders; Form strippers (not swinging stages); General laborers; Landscaping or planting laborers; Laborman on aggregate spreader (Flaherty and similar types); Loading spotters; Material yard man (including electrical); Pittsburg chipper operator or similar types; Powderman helper; Railroad track laborers; Ribbon setters (including steel forms); Rip Rap man (hand placed); Rock pump tender; Sewer labor; Skipmen; Signalman; Slopers; Sprayman; Stake chaser; Stake setter; Grade checker; Stockpiler; Timber faller and bucker (hand labor); Toolroom man (at job site) Tunnel bull gang (above ground); Weigh-man - Crusher (aggregate when used)

Group 2: Applicator (including pot tender for same), applying protective material by hand or nozzle on utility lines or storage tanks on project; Burners; Choker splicer; Clary power spreader and similar types; Clean-up nozzleman; Greencutter (Concrete rock, etc.); Concrete power buggyman; Demolition and wrecking-charred materials; Gunite nozzleman tender; Gunite or sand blasting pot tender; Handlers or mixers of all materials of an irritating nature (including cement and lime); Manhole builder; Powertool operator, includes but not limited to: Chipping Guns; Jackhammer, Paving Breakers, Post Hole Digger, Air, Gas, or Electric; Tampers; Vibrating Screed; Vibrators (less than 4" in diameter); Post Hole digger, air,gas or electric; Ribbon setter, head; Rip rap man (head), Hand placed; Sand blasting (wet); Sewer timbermen; Timber buckers and fallers, Brush cutters (power saw); Tunnel-muckers, Brakemen, Concrete crew, Bull gang (underground)

Group 3: Asphalt rakers; Bit grinder; Concrete saw operator; Drill doctor; Drill operator, Air tracks, Cat drills, Wagon drills, Rubber-mounted drills, and other similar types; Gunite nozzleman; High scalers, strippers and drillers (cover work in swinging stages, chairs or belts, under extreme conditions unusual to normal drilling, blasting, barring-down, or sloping and stripping); Powdermen; Power saw operators (Bucking and falling merchantable logs); Pumpcrete nozzlemen; Sand blasting (dry); Sewer pipe layers; Track liners, Anchor machines, Ballast regulators, Multiple tampers, Power jacks; Tugger operator; Tunnel -- Chuck tenders, Nipper and Timbermen; Vibrators (4" and larger); Water blaster; Laser beam (pipe laying)

Group 4: Tunnel miners; Tunnel powderman; Laser beam (tunnel)

DECISION NUMBER OR75-5105

POWER EQUIPMENT OPERATORS

WAGE RATES:

WAGE RATES:

Group No.	Zone A	Zone B	Zone C	Zone D	Zone E	Zone F
1	$8.39	$8.70	$9.05	$9.30	$9.55	$9.80
2	8.44	8.84	9.19	9.44	9.69	9.94
3	8.54	8.94	9.29	9.54	9.79	10.04
4	8.70	9.10	9.45	9.70	9.95	10.20
5	8.72	9.12	9.47	9.72	9.97	10.22
6	8.80	9.20	9.55	9.80	10.05	10.30
7	8.86	9.26	9.61	9.86	10.11	10.36
8	8.96	9.36	9.71	9.96	10.21	10.46
9	9.02	9.42	9.77	10.02	10.27	10.52
10	9.08	9.48	9.82	10.08	10.33	10.58
11	9.10	9.50	9.85	10.10	10.35	10.60
12	9.16	9.56	9.91	10.16	10.41	10.66
13	9.24	9.64	9.99	10.24	10.49	10.74
14	9.40	9.80	10.15	10.40	10.65	10.90
15	9.56	9.96	10.31	10.56	10.81	11.06
16	9.74	10.14	10.49	10.74	10.99	11.24
17	9.88	10.28	10.63	10.88	11.13	11.38
18	10.06	10.46	10.81	11.06	11.31	11.56
19	10.20	10.60	10.95	11.20	11.45	11.70

FRINGE BENEFITS:

Health and Welfare	$ .75
Pension	1.00
Vacation	.50
Apprenticeship Tr.	.05

DECISION NO. OR75-5105

POWER EQUIPMENT OPERATORS (Cont'd)

ZONE WAGE SCALE

Portland Only

Zone A - All jobs or projects located within 25 miles of the City Hall of Portland

Zone C - More than 25 miles but less than 35 miles from City Hall

Zone D - More than 35 miles but less than 45 miles from City Hall

Zone E - More than 45 miles but less than 75 miles from City Hall

Zone F - More than 75 miles from City Hall

Eugene and Salem Only

Zone A - All jobs or projects located within 20 miles of the respective City Hall

Zone B - More than 20 miles but less than 25 miles from the respective City Hall

Zone C - More than 25 miles but less than 35 miles from the respective City Hall

Zone D - More than 35 miles but less than 45 miles from the respective City Hall

Zone E - More than 45 miles but less than 75 miles from the respective City Hall

Zone F - More than 75 miles from the respective City Hall

DECISION NO. OR75-5105

POWER EQUIPMENT OPERATORS (Cont'd)

ZONE WAGE SCALE (Cont'd)

CITIES:

Astoria	Hood River	Newport
Baker	Klamath Falls	Ontario
Bend	La Grande	Port Orford
Brookings	Lakeview	Reedsport
Burns	Madras	The Dalles
Grants Pass	Medford	Tillamook
McMinnville		

Zone A - All jobs or projects located within 10 miles of the respective City Hall

Zone B - More than 10 miles but less than 25 miles from the respective City Hall

Zone C - More than 25 miles but less than 35 miles from the respective City Hall

Zone D - More than 35 miles but less than 45 miles from the respective City Hall

Zone E - More than 45 miles but less than 75 miles from the respective City Hall

Zone F - More than 75 miles from the respective City Hall

Albany and Corvallis Only

Zone A - All jobs or projects located within 5 miles of the respective City Hall

Zone B - More than 5 miles but less than 25 miles from the respective City Hall

Zone C - More than 25 miles but less than 35 miles from the respective City Hall

Zone D - More than 35 miles but less than 45 miles from the respective City Hall

Zone E - More than 45 miles but less than 75 miles from the respective City Hall

Zone F - More than 75 miles from the respective City Hall

DECISION NO. OR75-5105

POWER EQUIPMENT OPERATORS

Group 1: Oiler, including plant, crane, crusher, guardrail equipment, and trenching machine; Assistant Conveyor Operator; Crusher feederman; Deckhand; Self-propelled scaffolding operator; Guardrail punch oiler; Pump operator, under 4"; Brakeman; Switchman; Parts man (tool room)

Group 2: Blade Operator, pulled type; Truck Crane Oiler-Driver, 25 ton capacity or over; Crane Firemen, (all equipment except floating); A-Frame truck operator, single drum; Tugger or coffin type hoist operator; Drill helper; Auger oiler; Boatmen; Fork Lift or Lumber Stacker operator (on job site); Oiler, combination guardrail machines; Temporary heating plant operator; Grade Oiler, required to check grade; Grade checker; Tar pot fireman; Tar pot fireman (power agitated); H.D. Repairman Helper; Welder's helper; Helicopter radioman (ground); Roller operator, grading of base rock (not asphalt);

Group 3: Asphalt plant fireman; Pugmill operator (any type); Truck mounted asphalt spreader, with screed; Compressor operator (any power), under 1,250 cu. ft. total capacity; Conveyor operator; Mixer box operator (C.T.B., dry batch, etc.); Cement hog; Concrete saw; Concrete curing machine (riding type); Wire mat or brooming machine; Koss carrier operator (on job site); Bucket elevator loader, Barber-Greene and similar types; Hydraulic pipe press; Pump operator (any power), 4" and over; Hydrostatic pump; Motorman; Ballast jack tamper; Bell Boy phones, etc.; Tamping machine, mechanical self-propelled; Hydrographic seeder machine, straw, pulp or seed; Broom operator, self propelled (on job site); Air Filtration equipment; Welding machine operator

Group 4: Screed operator; Compactor, including vibratory; Compressor (any power) over 1,250 cu. ft. total capacity; Combination mixer and compressor, gunnite work; Concrete mixer operator, single drum, under five bag capacity; Helicopter hoist operator; Floating Equipment fireman; Lull Hi-Lift operator or similar type; Fork Lift, over 5 ton; Service oiler (greaser); Hydra hammer or similar types; Pavement breaker; Pump operator, more than 5 (any size); Locomotive, under 40 tons; Roller Operator, Oiling, C.T.B.

Group 5: Extrusion machine; Wagner Factor or similar type (without blade); Concrete batch plant quality control operator; Power Jumbo, setting slip forms, etc., in tunnels; Slip form pumps, power driven hydraulic lifting device for concrete forms; Hoist, single drum; Elevator operator; Pulva-mixer or similar types; Chip spreading machine operator; Lime spreading (on job site); Sweeper (Wayne type) self propelled (on job site); Tractor, rubber-tired 50 H.P. Flywheel and under; Trenching machine, maximum digging capacity 3 ft. depth;

DECISION NO. OR75-5105

POWER EQUIPMENT OPERATORS (Cont'd)

Group 6: Asphalt Burner and Reconditioner; Pavement Grinder and/or Grooving Machine (riding type); Cast-in-place Pipe Laying Machine; Maginnis Internal Full Slab Vibrator; Concrete Finishing Machine, Clary, Johnson, Bidwell, Burgess Bridge Deck or similar type; Curb Machine, Mechanical Berm, Curb and/or Curb and Gutter; Concrete Joint Machine; Concrete Planer; Concrete Paving Machine; Concrete Spreader; Loaders, rubber-tired type, 2-1/2 cu. yds. and under; Rock Spreaders, self-propelled

Group 7: Roller (any asphalt mix); Beltcrete; Pumpcrete Operator (any type); Cement Pump, Fuller-Kenyon and similar; Concrete Pump; Grouting Machine; Concrete Mixer, single drum, five bag capacity and over; Tower Mobile Operator; A-Frame Truck, double drum; Boom Truck; Churn Drill and Earth Boring Machine; Hydraulic Backhoe, wheel type 3/8 cu. yds. and under with or without front end attachments 2-1/2 cu. yds and under (Ford, John Doere, Case type); Elevating Grader, Tractor towed requiring operator or grader; Pot Hammer; Ballast Regulator; Ballast Tamper, Multiple-purpose; Track Liner; Tie Spacer; Shuttle Car; Locomotive, 40 tons and over

Group 8: Diesel-Electric Engineer, Plant, Crusher, Generator, Floating; Batch Plant and/or wet mix, one and two drum; Generator Operator; Belt Loaders, Kolman and Ko Cal types; Asphalt Paver Operator

Group 9: Bulldozer; Drill Cat Operator; Side-boom Cat; Compactor, with blade; Concrete Cooling Machine; Chicago Boom and similar types; Lift Slab Machine; Boom type Lifting Device, 5 ton capacity or less; Cherry Picker or similar type Crane-hoist, 5 ton capacity or less; Grizzley Crusher; Crusher Plant; Drill Doctor; Boring Machine; Guardrail Punch and Auger (all types); Surface Heater and Planer; Hydraulic Backhoe, track type 3/8 cu. yd.; Loader, front end and overhead, 2-1/2 cu. yds. and under 4 cu. yds.; Hammer Operator; Pipe Cleaning, Doping, Bending and Wrapping Machines; Bolt-threading Machine; Drill Doctor (bit grinder); H. D. Mechanic and Welder; Machine Tool Operator; Stationary Drag Scraper; Tractor, rubber-tired over 50 H.P. flywheel; Tractor with boom attachment; Trench Machine, Maximum digging capacity over 3 ft. depth; Asphalt Plant Operator

Group 10: Bulldozer, twin engine (TC12 and similar); Cable plow (any type); Compactor, multi-engine; Jack Operator, Elevating Barges; Barge Operator, self-unloading; Combination H. D. Mechanic-Welder, when dispatched and/or when required to do both; Rubber-tired dozers and Pushers (Michigan, Cat, Hough type); Driller-Percussion, Diamond, Core, Cable, Rotary and similar type

DECISION NO. OR75-5105

POWER EQUIPMENT OPERATORS (Cont'd)

Group 11: Mixer Mobile; Concrete Breaker; Crane Operator, 25 tons and under; Combination Guardrail Machines, i.e., Punch, Auger, etc.; Shovel, Dragline, Clamshell, Hoe, etc., under 1 cu. yd.; Grade-alls, under 1 cu. yd.; Mucking Machine (tunnel)

Group 12: Blade Operator; Batch Plant and/or wet mix, 3 units or more; Reinforced Tank Banding Machine (K-17 or similar); Hoist, two or more drums; Elevating Loader, Athey and similar; Piledriver (not crane type); Rubber-tired Scraper, single and twin engine, Single Scraper, with push-pull attachments, self-loading, Paddle Wheel, Auger type; Blade mounted Spreaders, Ulrich and similar types; Shield Operator

Group 13: Blade Operator, finish; Blade, externally controlled by electronic, mechanical hydraulic means; Blade, multi-engines; Concrete Paving Road Mixer; Derrick, under 100 tons; Hoist, Stiff Leg, Guy Derrick or similar, 50 tons and over; Cableway Operator 25 ton and over; Crane, over 25 ton and including 40 tons; Piledriver Operator; Floating Clamshell, etc. under 3 cu. yds.; Floating Crane (derrick barge), less than 30 ton; Elevating Grader, operated by tractor operator, Sierra, Euclid, or similar; Back Filling Machine; Shovel, etc., 1 cu. yd. and less than 3 cu. yds.; Grade-all, 1 cu. yd. and over; Bridge Crane Operator, Locomotive Crane, Gantry and Overhead

Group 14: Tower Crane Operator; Rubber-tired Scraper, with Tandem Scrapers, self-loading, Paddle Wheel, Auger type, Finish and/or 2 or more units

Group 15: Rock Hound Operator; Loader, 4 cu. yds., but less than 6 cu. yds.

Group 16: Auto-grader or "Trimmer"; Tandem Bulldozer, Quad-nine and similar; Automatic Concrete Slip Form Paver; Concrete Canal Line; Cableway, 25 ton and over; Crane, over 40 ton and including 100 ton; Whirley, 80 ton and under; Floating Clamshell, etc., 3 cu. yds. and over; Floating Crane (derrick barge) 30 ton but less than 80 ton; Loader, 6 cu. yds., but less than 12 cu. yds.; Rubber-tired Scraper, with Tandem Scrapers, Multi-engine; Shovel etc., 3 cu. yds. but less than 5 cu. yds.; Wheel Excavator, under 750 cu. yds. per hour

Group 17: Crane over 100 ton and including 200 ton; Whirley over 80 ton and including 150 ton; Floating Crane (derrick barge) 80 ton but less than 150 ton; Loader, 12 cu. yds. and over; Shovel, etc., 5 cu. yds. and over; Canal Trimmer

Group 18: Crane, over 200 ton; Whirley, 150 ton and over; Floating Crane 150 ton but less than 250 ton; Wheel Excavator, over 750 cu. yds. per hour; Band Wagons, in conjunction with Wheel Excavator

Group 19: Helicopter, when used in erecting work; Floating Crane 250 ton and over; Remote Controlled Earth Moving Equipment; Underwater Equipment, remote or otherwise

TRUCK DRIVERS

Group 1: Battery rebuilders; Bus or manhaul driver; Concrete buggies (power operated); Dump trucks, side, end and bottom dumps, incl. semi trucks and trains or combinations thereof: 6 cu. yds. and under; Lift jitneys, fork lifts (all sizes used in loading, unloading and transporting material on job site); Loader and/or leverman on concrete dry batch plant (manually operated); Pilot car; Solo flat bed and misc. body trucks, 0-10 tons; Truck helper; Truck mechanic helper; Warehouseman (warehouse parts, tool men and parts chaser, checkers and receivers); Water wagons (rated capacity), up to 1600 gallons

Group 2: "A" Frame or hydra-lift truck w/load bearing surfaces; Lubrication man, fuel truck driver, tireman, wash rack, steam cleaner or combinations; Team drivers

Group 3: Dump trucks, side, end and bottom dumps, including semi-trucks and trains or combinations thereof: over 6 cu. yds. and including 10 cu. yds.; Slurry truck driver or leverman; Transit mix and wet or dry mix trucks: 5 cu. yds. and under; Tireman (full-time basis); Water wagons (rated capacity), 1600 to 3000 gallons

Group 4: Flaherty spreader driver or leverman; Low bed equipment, flat bed semi-trailer, truck and trailer or doubles transporting equipment or wet or dry materials; Lumber carrier driver-Straddle carrier (used in loading, unloading and transporting of materials on job site); Oil distributor driver or leverman; Water wagons (rated capacity), 3000 to 5000 gallons

Group 5: Dumpsters or similar equipment, all sizes; Transit mix and wet or dry trucks, over 5 cu. yds. and including 7 cu. yds.

Group 6: Dump trucks, side, end and bottom dumps, including semi trucks and trains or combinations thereof, over 10 cu. yds. and including 20 cu. yds.; Transit mix and wet or dry mix trucks, over 7 cu. yds. and including 9 cu. yds.; Truck mechanic-welder-body repairman; Water wagons (rated capacity) 5000 to 7000 gallons

Group 7: Dump trucks, side, end and bottom dumps, including semi trucks and trains or combinations thereof: over 20 cu. yds. and including 30 cu. yds.; Transit mix and wet or dry mix trucks, over 9 cu. yds. and including 11 cu. yds.; Water wagons (rated capacity), over 7000 gallons to 10,000 gallons

Group 8: Dump trucks, side, end and bottom dumps, including semi trucks and trains or combinations thereof: over 30 cu. yds. and including 40 cu. yds.; Transit mix and wet or dry mix trucks, over 11 cu. yds. and including 13 cu. yds.; Water wagons (rated capacity), over 10,000 gallons to 15,000 gallons

TRUCK DRIVERS (Cont'd)

Group 9: Dump trucks, side, end and bottom dumps, including semi trucks and trains or combination thereof: over 40 cu. yds. and including 50 cu. yds.; Transit mix and wet or dry mix trucks, over 13 cu. yds. and including 15 cu. yds.

Group 10: Dump trucks, side, end and bottom dumps, including semi trucks and trains or combinations thereof: over 50 cu. yds. and including 60 cu. yds.

Group 11: Dump trucks, side, end and bottom dumps, including semi trucks and trains or combinations thereof: over 60 cu. yds. and including 70 cu. yds.

Group 12: Dump trucks, side, end and bottom dumps, including semi trucks and trains or combinations thereof: over 70 cu. yds. and including 80 cu. yds.

Group 13: Dump trucks, side, end and bottom dumps, including semi trucks and trains or combinations thereof: over 80 cu. yds. and including 90 cu. yds.

Group 14: Dump trucks, side, end and bottom dumps, including semi trucks and trains or combinations thereof: over 90 cu. yds. and including 100 cu. yds.

Drivers and Helpers (handling sacked cement add $.15 per hour)

Winch truck - takes classification of truck on which winch is mounted.

SUPERSEDEAS DECISION

STATE: Wyoming

COUNTIES: Converse, Goshen, Laramie, Natrona, Niobrara and Platte

DECISION NUMBER: WY75-5106

DATE: Date of Publication

Supersedes Decision No. WY75-5073 dated June 20, 1975, in 40 FR 26247

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories) and heavy construction.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$9.01	.38	.72		
BOILERMAKERS	8.90	.70	1.00		.02
BRICKLAYERS; Stonemasons:					
Goshen, Laramie and Platte Cos.	8.60				
Converse, Natrona & Niobrara Cos.	8.50				
CARPENTERS:					
Carpenters	8.25	.35	.30	.20	.10
Piledrivermen	8.50	.35	.30	.20	.10
CEMENT MASONS:					
Cement Masons	7.35				
Working with composition material; Scaffold, swing stage or temporary platform over 8' high; Operator of power machines	7.60				
Working on scaffold, swing stage or temporary platform over 20' high	7.85				
ELECTRICIANS:					
Goshen, Laramie, Niobrara and Platte Counties					
Electricians	9.40	.42	1%		4/10%
Cable Splicers	9.65	.42	1%		4/10%
Converse and Natrona Counties					
Electricians	8.39	.42	1%		4/10%
ELEVATOR CONSTRUCTORS	9.01	.445	.29	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.445	.29	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
IRONWORKERS:					
Structural; Ornamental; Reinforcing	8.40	.50	.75		.15
MARBLE, TILE & TERRAZZO WORKERS:					
Converse, Natrona & Niobrara Cos.	8.50				
MILLWRIGHTS	9.13	.53	.60	6%	.05
PAINTERS:					
Converse, Natrona & Niobrara Cos.					
Painters, Brush & Roll; Hardwood Finishers; Sandblast Pot Tenders	7.95	.50			.05
Painters; Spray; Swing stage & Chair; Sandblast (exterior); Hazardous Work	8.70	.50			.05
Paperhanging; Drywall Finishers-Hand	8.20	.50			.05
Sandblast (interior); Steeplejack	9.39	.50			.05
Goshen, Laramie and Platte Cos.					
Painters, Brush	5.00				

DECISION NO. WY75-5106

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PLUMBERS; Steamfitters:					
Goshen, Laramie and Platte Cos.					
Zone 1 (10 miles radius from Cheyenne P. O.)	$7.59	1.00	.50	.35	.18
Zone 2 (10 miles radius beyond Zone 1)	8.34	1.00	.50	.35	.18
Zone 3 (15 miles radius beyond Zone 2)	9.11	1.00	.50	.35	.18
Zone 4 (Jurisdiction beyond Zone 3)	10.18	1.00	.50	.35	.16
Zone 5 (Footnote "b")					
General Contracts $700,000.00 or less	7.59	1.00	.50	.35	.18
General Contracts over $700,000.00	8.09	1.00	.50	.35	.18
PLUMBERS; Steamfitters:					
Converse, Natrona & Niobrara Cos.					
Zone 1 (10 miles radius from P. O. in Casper)	8.06	.40	.50	.80	.09
Zone 2 (10 miles radius beyond Zone 1)	8.46	.40	.50	.80	.09
Zone 3 (20 miles radius beyond Zone 2)	8.86	.40	.50	.80	.09
Zone 4 (40 miles beyond Zone 3)	9.66	.40	.50	.80	.09
Zone 5 (Jurisdiction beyond Zone 4)	10.16	.40	.50	.80	.09
ROOFERS	7.71				
SHEET METAL WORKERS:					
Converse, Natrona & Niobrara Cos.	8.51	.37	.70		.05
Goshen, Laramie and Platte Cos.	9.41	.37	.10		.02
SPRINKLER FITTERS	9.55	.50	.80		.08
WELDER; RIGGER: Receive rate prescribed for craft performing operation to which welding or rigging is incidental.					

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for over 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. Use only in the Cities of Laramie, Torrington, Wheatland, Evanston, Green River and Rock Springs within a 5-mile radius from the Post Office of each of the above Cities.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

DECISION NO. WY75-5106

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LABORERS (BUILDING CONSTRUCTION)					
Group 1:	$ 5.95	.33	.10		
Group 2:	6.17	.33	.10		
Group 3:	6.23	.33	.10		
Group 4:	6.45	.33	.10		
Group 5:	6.45	.33	.10		
Group 6:	6.70	.33	.10		
Group 7:	6.54	.33	.10		
Group 8:	6.43	.33	.10		
Group 9:	6.27	.33			
LABORERS (HEAVY CONSTRUCTION)					
Group 1:	4.09				
Group 2:	4.19				
Group 3:	4.34				
Group 4:	4.59				
Group 5:	4.57				
Group 5A:	4.41				
Group 5B:	4.84				
Group 5C:	4.68				
HEAVY CONSTRUCTION					
Carpenters	6.08				
Cement Masons	6.04				
Ironworkers, structural	5.25				
Ironworkers, reinforcing	4.18				
Painters, brush and spray	5.18				

LABORERS (Building Construction)

Group 1: Axeman and hand faller; Concrete worker(wet or dry)(curing and drying); Car and truck loader; Dumpman; Erector and installer (includes the installation and erection of all fences, right-of-way, pattern fence, snow fence, etc., guard rails, section rails, reference posts, guide posts, signs and right-of-way markers); Form stripper; Form setter helper (paving); General Laborer; Gunite helper; Landscaper helper; Material handler (lumber, rods, cement, concrete); Nozzleman (air and water); Pipe setter helpers, non-metallic; Pipe setters helpers, corrugated; All work pertaining to pre-watering, pre-irrigation, and pre-wetting; Rodman; Riprap man; Sandblaster pot tender; Signalman, grade, concrete, etc.; Sinnerman or hopper man; Stake jumper for equipment; Tar and asphalt pot tender, Wrecking and demolition crews; Unloading and packing of steel rods and mesh (reinforcing); Painter tender and pilot car operator

Group 2: Asphalt raker and tamper; Rip wall installer; Bituminous curb builder; Carpenter tender; Cement mason tender; Chuck tender; Form setter (paving); Hand operator vibrator roller; Landscaper; Mechanical form cleaner; Mortar man on stone riprap; Operator of pneumatic, electric, gas tamper and similar mechanical tools; Powderman helper; Pipe setter, corrugated; culvert pipe, multi-plate, sectional plate and similar type; Pipe wrapper; Power-type concrete buggy (push); Power saw operator (clearing); Vibrator (concrete); Creosote material handler (corrosive enamel or its equal); Burner (cutting torch)

Group 3: Concrete saw; Gunite nozzleman; High scaler (using air tools from bos'n chair, swing stage life belt, or block and tackle, shall receive $.20 per hour more than the classified rate); Jackhammer and pavement breaker; Sandblaster nozzleman; Sewer pipe installer, non-metallic; Caulker; Collarman; Jointer; Mortarman; Rigger; Jacker; Power-type concrete buggy (ride); Shoring and lagging of open ditch

Group 4: Powderman and blaster; Wagon drill, air track, diamond and other drills for blasting powder or grouting

Group 5: Hod carriers; Mason tender; Plasterers tenders; Terrazzo tenders; Tile setter tenders, and Scaffold builders

Group 6: Tunnel and underground work: Miners (drills) Machine man; Timberman; Steelman; Drill doctor; Form setter and movers; Spaders; Tuggers; Shilling and/or caisson workers; Jackhammer men; Finishers; Re-bar man; Powderman

Group 7: Nipper; Chuck tender; Top man or toplander

Group 8: Brakeman and vibrator man

Group 9: Mucker and bull gang laborer

LABORERS (Heavy Construction)

Group 1: Axeman and hand faller; Bin wall installer helpers; Concrete worker (wet or dry); Concrete workers (curing and drying); Dumpman; Erector and installer(including the installation and erection of fences, snow fence, guard rails, median rails, median posts, signs and right-of-way marker); Form stripper; Form setter helper (paving); General labor; Gunite helper; Heater tender; Landscaper helper; Material handler (timber, rods, cement, concrete); Nozzleman, air and water; Pipe setters helpers (non-metallic); Pipe setters helpers (corrugated); Pre-watering, pre-wetting and pre-irrigation (all work); Rip rap man; Sandblaster pot tender; Signal men, grade concrete, etc.; Scissor man or hopper man; Stake jumper for equipment; Tar and asphalt pot tender; Wrecking and demolition crews

Group 2: Asphalt raker and tamper; Bin wall installer; Bituminous curb builder; Cement mason or finisher, helper and tender; Chuck tender; Form setter (paving); Hand operated vibratory roller; Landscaper; Mortar man on stone rip rap; Operator of pneumatic, electric, gas tamper and similar mechanical tools; Pipe setter (corrugated, culvert pipe sectional, multiplate and similar type); Pipe setter, pipelayer (non-metallic); Pipewrapper; Powderman helper; Power type concrete buggy (push or ride); Power saw operator (clearing); Vibrator, concrete

Group 3: Concrete saw; Gunite nozzleman; High scaler (using air tools from bos'n chair, swing stage life belt, or block and tackle shall receive $.20 per hour more than the classified rate); Jackhammer and pavement breaker; Sandblaster nozzleman; Sewer pipe installer (non-metallic), clay, concrete, etc. (Caulker, collarman, jointer, mortarman, rigger, jacker

Group 4: Powderman and blaster; Wagon drill, air-trac, diamond, and other drills for blasting powder or grouting

Group 5: Tunnel and Underground Work: Brakeman; Swamper; Vibrator man

Group 5A: Bull gang; Dumpman; Mucker; Trackman

Group 5B: Miners (drillers) machine men; Timbermen; Steelmen; Drill doctor; Form setter and mover; Spader; Tuggers spilling and/or caisson workers; Powdermen; Jackhammermen; Finishers

Group 5C: Chucktender; Topman; Toplander

HEAVY CONSTRUCTION

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Group 1	$5.51	.19	.30		.01
Group 2	5.56	.19	.30		.01
Group 3	5.61	.19	.30		.01
Group 4	5.65	.19	.30		.01
Group 5	5.68	.19	.30		.01
Group 6	5.73	.19	.30		.01
Group 7	5.77	.19	.30		.01
Group 8	5.79	.19	.30		.01
Group 9	5.90	.19	.30		.01
Group 10	5.96	.19	.30		.01
Group 11	5.98	.19	.30		.01
Group 12	6.16	.19	.30		.01
Group 13	6.20	.19	.30		.01
Group 14	6.27	.19	.30		.01
Group 15	6.33	.19	.30		.01
Group 16	6.50	.19	.30		.01
Group 17	6.84	.19	.30		.01

POWER EQUIPMENT OPERATORS (HEAVY CONSTRUCTION)

Group 1: Auger Machine Operator (post holes, etc.); Batch Bin Weighman, Scissorman or Hopperman; Beginner Operator; Brakeman and Helpers; Crusher Oiler; Oiler, Utility; Screed Operator; Tractor Operators (farm, crawler or wheel type, 60 HSP (drawbar) or less with or without use of power attachments, except for use of back hoe or bucket)

Group 2: Broom Operators, self propelled; Cableway Signalman (Bellboy); Concrete Saw (self-propelled); Fireman; Power Loader, belt and bucket type

Group 3: Air Compressor over 315 cu. ft. capacity; Chip Spreader Operator; Form Grader Operator, Joint Machine Operator; Longitudinal Float Operator; Mixer Operator Concrete (under one yard); Helper (Welder or Heavy Duty); Roller Operators, self-propelled (pneumatic, rubber tired, sheep foot, vibratory or combination type); Tire Repairman

Group 4: Pump Operator (all others)

Group 5: Conveyor Belt Operator; Fork Lift and Lumber Staker; Screening Plant Operator

Group 6: A-Frame Truck; Tractor Operators (Farm, Crawler or wheel type, over 60 HSP (drawbar) without use of power attachments

Group 7: Oiler, Lead Utility

Group 8: Gunnite and Grout Machine Operator; Mulching Machine Operator; Oil Distributor

Group 9: Front End Loader (up to and including 1-1/2 cu. yds.); Pavement Breakers, Hydro-tamper and similar type machines; Pumps, Well Points

Group 10: Hoist Operator (one drum)

Group 11: Haulage Motorman and Industrial type Motormen; Motor Patrol Operator (all others); Pump Operator (in tunnels, shafts, raises); Hydro type Cranes (up to 15 tons)

Group 12: Air Compressor, two or more machines or tunnels, shafts, raises or plant operator; Asphalt Plant Operator; Bituminous Laydown Machine Operator; CMI Machine and similar; Concrete Batch Plant; Concrete Finish Machine Operator; Concrete Multi Blade Span Saw (Hunt process or similar); Concrete Spreader and Paver Operator; Crusher Operator, Drilling Machine, Integrated (Core, Rotary, Caisson, Diamond); Elevating Grader; Front End Loader (over 1-1/2 cu. yds.); Jumbo Form Operator; Mixer Operator, base course pug mill type; Mixer Bituminous Operator (travel plant); Mixer Operator Concrete (over one yard); Motor Patrol Operator (finish); Mucking Machine Operator (all types); Pneumatic Guns; Pumpcrete Operator; Roller Operator, (tandem steel wheel, three axle or three wheel); Scraper Equipment (all types); Shovels, Draglines, Cranes, Piledrivers, all truck mounted cranes, (manufacturers' rating) up to 3-1/2 yards, all attachments;

POWER EQUIPMENT OPERATORS (HEAVY CONSTRUCTION)

Hydro type Cranes, (15 ton and over); Shuttle Car Operator; Subgrade Machine Operator (power); Tractor Operator, all with use of power attachments and including Pushcat, Dozer, Tournadozer, etc. (The use of power attachment shall not include disking, pulling or rollers, and similar unskilled actions), Trenching Machine Operator, Wash Plant Operator

Group 13: Welder, Machine Doctor

Group 14: Hoist Operator (two or more drums of shafts or raises); Repairman, Mechanics, Machine Doctors, Welders and Helpers; Heavy duty mechanic machine doctor

Group 15: Cableway Operators, Minor Dual Drum, Cranes, (Whirley, Gantry, Stiffleg, overhead traveling)

Group 16: Shovels, Draglines, Cranes, Piledrivers, All Truck Mounted Cranes, (manufacturer's rating) 3-1/2 yards to 7 cu. yds., all attachments; Wheel Excavator Operator

Group 17: Shovels, Draglines, Cranes, Piledrivers, all Truck Mounted Cranes, (manufacturer's rating) 7 cu. yds. and over, all attachments

HEAVY CONSTRUCTION

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
GROUP 1 DUMP (Water level capacity box) over 40 cu. yds. to and incl. 45 cu. yds.	$ 5.39				
GROUP 2 FIELD MECHANICS	5.34				
GROUP 3 DUMP (Water level capacity box) 35 cu. yds. to and incl. 40 cu. yds.	5.34				
GROUP 4 DUMP (Water level capacity box) 30 cu. yds. to and incl. 35 cu. yds.	5.29				
GROUP 5 DUMP (Water level capacity box) 25 cu. yds. to and incl. 30 cu. yds.	5.24				
GROUP 6 DUMP (Water level capacity box), 20 cu. yds. to and incl. 25 cu. yds.; Heavy duty (Euclids, electric or similar type)	5.14				
GROUP 7 LOWBOY and Tandem axle float drivers; Multiple axle type; Semi; Dump (Water level capacity box) 13 cu. yds. to and incl. 20 cu. yds.	5.14				
GROUP 8 HELPERS - FIELD (Welders, Mechanics etc.)	4.90				
GROUP 9 OVER 3600 gal. (semi-truck); Transit mix or wet mix over 10 cu. yds.	4.84				

HEAVY CONSTRUCTION

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
GROUP 10 OVER 3600 gals. (straight truck); Transit mix or wet mix, over 5 cu. yds. to 10 cu. yds.; Tandem axle	$ 4.74				
GROUP 11 OVER 2500 gals. to and incl. 3600 gals., Dump (Water level capacity box) over 10 cu. yds. to and incl. 13 cu. yds.; Flat rack, over 5 tons; Winch trailer (cable and hoist); Utility winch; "A" Frame; Transit mix or wet mix, less than 5 cu. yds.; Single axle	4.64				
GROUP 12 DUMP (Water level capacity box) over 7 cu. yds. to and incl. 10 cu. yds.; 2500 gals. or less (semi-truck); Flat rack, 2 tons to 5 tons; Power broom; Material checkers	4.54				
GROUP 13 DUMP (Water level capacity box) 7 cu. yds. or less; Gravel spreader; Flat rack, less than 2 tons; Gang; Single axle type truck, Warehousemen; Partsmen and helpers; 2500 gals. or less (straight truck); Fuel service, Greasemen, Tiremen, Servicemen and helpers	4.39				
GROUP 14 PILOT CAR DRIVERS; Pick-up	4.34				

[FR Doc.75-21135 Filed 8-14-75;8:45 am]

Public Papers of the Presidents of the United States

Annual volumes containing the public messages and statements, news conferences, and other selected papers released by the White House. Volumes for the following years are now available:

HERBERT HOOVER

1929 ..... $13.30

HARRY S. TRUMAN

1945	$11.75	1949	$11.80
1946	$10.80	1950	$13.85
1947	$11.15	1951	$12.65
1948	$15.95	1952–53	$18.45

DWIGHT D. EISENHOWER

1953	$14.60	1957	$14.50
1954	$17.20	1958	$14.70
1955	$14.50	1959	$14.95
1956	$17.30	1960–61	$16.85

JOHN F. KENNEDY

1961	$14.35	1962	$15.55
		1963	$15.35

LYNDON B. JOHNSON

1963–64 (Book I)	$15.00	1966 (Book I)	$13.30
1963–64 (Book II)	$15.25	1966 (Book II)	$14.35
1965 (Book I)	$12.25	1967 (Book I)	$12.85
1965 (Book II)	$12.35	1967 (Book II)	$11.60
		1968–69 (Book I)	$14.05
		1968–69 (Book II)	$12.80

RICHARD NIXON

1969	$17.15	1971	$18.85
1970	$18.30	1972	$18.55

Published by Office of the Federal Register, National Archives and Records Service, General Services Administration

Order from Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402