AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Vol.42—No.134
7-13-77

PAGES
35951-36230

federal register

WEDNESDAY, JULY 13, 1977

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Reservations for August are being accepted for the free Wednesday workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L St. N.W., Washington, D.C. in Room 9409, from 9 to 11:30 a.m.

Each session includes a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

FOR RESERVATIONS call: Martin V. Franks, 202–523–5282.

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

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

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

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

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

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.

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PROCLAMATION 4512

United States Space Observance

By the President of the United States of America

A Proclamation

Our human race has always felt an urge to explore and understand the world around us. This drive lay behind the theories of Ptolemy and Copernicus, the discoveries of Aristotle and Newton, the journeys of Columbus and Magellan.

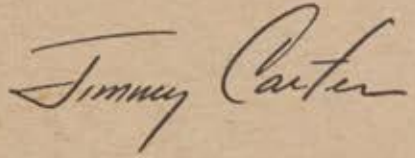
In our time, this spirit has led to the exploration of space. From single missions, designed to send satellites into orbit and land men on the Moon, the United States space program has grown into a much broader range of endeavors. Its purpose is not simply to study space, but to understand its relevance to life on earth. Satellites now orbiting the earth have helped us to forecast weather patterns accurately, discover mineral deposits, detect sources of pollution and establish a global communications network. International projects such as Apollo-Soyuz have helped bring the people of the world closer together through coordinated research and the cooperative use of land and sea resources.

To encourage the American people to reflect upon the purposes, goals and achievements of America's space program, the Senate (July 11, 1975) and the House of Representatives (September 30, 1976) have requested the President to issue a proclamation designating the period of July 16 through July 24 as "United States Space Observance" and calling for its appropriate observance (S. Con. Res. 47).

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim the period of July 16 through July 24, 1977, as United States Space Observance.

I urge the communications media, educators, the aerospace industry, scientific and public-service organizations and the American people to join with the Administrator of the National Aeronautics and Space Administration during this period in commemorating the achievements of the United States space program which demonstrate that advanced technology devoted to peaceful purposes can lead the way to a better life for people of all nations.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of July, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and second.



[FR Doc.77-20257 Filed 7-11-77;4:07 pm]

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 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13719; File No. S7-581]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Requirements for Dissemination of Proxy Information to Beneficial Owners by Issuers and Intermediary Broker-Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission today adopted rules intended to facilitate the transmission of proxy materials from publicly-held companies to beneficial shareowners through intermediaries who hold stock in street or nominee name. These rule changes were recommended by the Commission's recent Street Name Study.

EFFECTIVE DATE: The rule changes are effective August 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert J. Millstone, Senior Special Counsel, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. 202-755-8777.

SUPPLEMENTARY INFORMATION: In August 1975, the Securities and Exchange Commission proposed Rule 14b-1 and amendments to Rule 14a-3(d) under the Securities Exchange Act of 1934 in order to facilitate the transmission of proxy materials from issuing companies through intermediary recordholders to the beneficial owners. An issuer currently is required to inquire of certain intermediary-recordholders prior to any meeting with respect to which the issuer intends to solicit proxies whether the recordholders represent other persons who are the beneficial owners of the securities, and, if so, to forward to such intermediaries sufficient sets of materials for distribution to each beneficial owner. The proposed amendments to Rule 14a-3(a) would impose on issuers the obligation to make inquiry at least 10 days before the record date for the meeting and to forward materials in a timely manner. Proposed Rule 14b-1 would impose on broker-dealer recordholders the obligation to forward proxy materials in a timely manner to the beneficial owners or, in the alternative, to provide issuers with the names and other data about the beneficial owners. If a broker chooses the alternative, a proposed proviso to Rule 14a-3(d) would require issuers to communicate with the beneficial owners directly. The Commission has adopted the proposed rule and amendments in part. In a separate release (Securities Exchange Act Release No. 13720, July 5, 1977, published in this issue), the Commission has also proposed a new amendment to Rule 14a-3(d) which modifies the extent of the issuers' obligation to make inquiry.

BACKGROUND

In 1974, the Commission adopted Rule 14a-3(d) under the Securities Exchange Act of 1934 (the "Act") requiring that, if an issuer knows that securities of any class entitled to vote at a meeting with respect to which the issuer intends to solicit proxies are held of record by certain intermediaries, the issuer must inquire of such intermediaries whether other persons are the beneficial owners of the securities and, if so, must supply the intermediaries with sufficient quantities of proxy materials to be forwarded to such beneficial owners.[1] Some of the comment letters that were received when the rule was proposed in 1974 requested that the Commission take suitable action to require recordholder-intermediaries to forward promptly to the beneficial owners the materials received from issuers. In late 1974, the Commission heard comments during its beneficial ownership hearings[2] which also indicated that some improvements could be effected in the distribution process. Based on the record of those hearings, the comments on Rule 14a-3(d) and its own experience, the Commission, in August 1975, proposed Rule 14b-1 and amendments to Rule 14a-3(d).[3]

Proposed Rule 14b-1 would require a registered broker-dealer (1) to respond promptly, by means of a search card or otherwise, to inquiries made by issuers in accordance with Rule 14a-3(d) with respect to how many of the broker's customers are beneficial owners of the issuer's securities which are held of record by the broker or its nominee and (2) upon receipt of a sufficient number of proxy statements and annual reports to security holders and assurances that its reasonable expenses will be paid by the issuer, to forward the materials in a timely manner to its customers. As an alternative to complying with the foregoing obligations, the proposed rule would permit a registered broker-dealer to furnish to the issuer a list of its customers who are beneficial owners of the issuer's securities held of record by the broker or its nominee, provided that the broker also furnishes authorization to vote such securities in accordance with instructions of the customer.

As noted, Rule 14a-3(d) currently requires that an issuer make inquiry of intermediaries. The proposed amendments would require the issuer to make its inquiry at least 10 days prior to its record date and to supply requested materials in a timely manner. If, however, a broker, pursuant to Rule 14b-1(b), provides the issuer with an appropriate list of the names, addresses and holdings of its customers and authorization to vote the securities in accordance with the instructions of the customers, a proposed proviso to Rule 14a-3(d) would require the issuer to comply with the proxy rules with respect to such customers; that is, the issuer would have to forward proxy materials and annual reports directly to the broker's customers.

One hundred eighteen comment letters were received on the proposals. Issuers, including two investment companies, accounted for 89 letters. In addition, the Street Name Study[4] examined the proposals as well as several other suggested methods for improving issuer-shareowner communications. The Study recommended that the Commission adopt Paragraph (a) of proposed Rule 14b-1, which would require brokers to respond to issuers' inquiries, and the amendments to Rule 14a-3(d), which would require issuers to make their inquiries at

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[1] Securities Exchange Act Release No. 11079 (October 31, 1974), 39 FR 40766. The intermediaries are brokers, dealers, banks and voting trustees. Those entities frequently hold securities registered in their name or the name of their nominee for the accounts of other persons who are the beneficial owners of the securities.

[2] Public Fact-finding Investigation In the Matter of Beneficial Ownership, Takeovers and Acquisitions by Foreign and Domestic Persons, File No. 4-175.

[3] Securities Exchange Act Release No. 11617 (August 25, 1975), 40 FR 42219. In addition to the amendments to the body of Rule 14a-3(d), the Commission proposed technical amendments to Notes 1 and 3 to the rule.

[4] In December 1976, the Commission forwarded to Congress the Final Report of the Securities and Exchange Commission on the Practice of Recording the Ownership of Securities in the Records of the Issuer in Other Than the Name of the Beneficial Owner of Such securities, 94th Cong., 2d Sess. (Committee Print 1976), commonly called the Street Name Study. That Study was conducted pursuant to Section 12(m) of the Act, which authorized and directed the Commission to make a study and investigation of the practice of recording the ownership of securities in other than the name of the beneficial owner—"street" or "nominee" name registration—to determine the effect of the practice on the Act and whether steps can be taken to facilitate communications between issuers and the beneficial owners of their securities while retaining the benefits of the practice.

least 10 days before the record dates and to forward materials in a timely manner; the Study also recommended that the Commission withdraw proposed Paragraph (b) of Rule 14b–1 and the related proviso to Rule 14a–3(d), which would have permitted brokers at their option to forward to issuers the names of beneficial owners and would have required issuers to communicate directly with such beneficial owners.[5] The principal reason for the Study's recommendations was the finding that the rules as proposed, as well as certain suggested modifications of those rules, would create substantial operational and recordkeeping problems for many issuers and were not feasible "absent the development of a compatible industry-wide computer system for the transmission of [beneficial owners'] names and the development of a standard format [for the lists of names]."[6]

Based on the findings of the Study and its own review of the comment letters discussed below, the Commission has determined to follow the recommendations of the Study. The Commission has also proposed a further amendment to Rule 14a–3(d) (Securities Exchange Act Release No. 13720, July 5, 1977).

I. Amendment to Rule 14a–3(d): Obligation of Issuers To Make Inquiry of Intermediaries at Least 10 Days Before the Record Date Regarding the Number of Beneficial Owners.

The commentors who directed remarks to this provision generally agreed that this amendment is appropriate and would improve the communications cycle by providing intermediaries with additional time in which to transmit proxy materials to their customers. One commentor pointed out, however, that the rules of the national securities exchanges permit issuers to give less than 10 days' advance notice of record dates in extraordinary circumstances. The letter also pointed out that Rule 10b–17 under the Act recognizes that 10 days' notice may not be practicable in all cases. Accordingly, Rule 14a–3(d) has been modified to permit an issuer to make its inquiry less than 10 days before the record date to the extent that the rules of the national securities exchange on which the security is listed so permit for good cause shown. The amendment is intended to permit the exchanges to adopt specific rules, if desired, governing deferred or late inquiries, rather than placing artificial reliance on existing exchange rules relating to "short" record date notices, which were adopted for a different purpose.

The Commission has determined to keep the 10-day period for all other situations in view of the Street Name Study's finding that the search card procedure is critical in assuring that subsequent steps in the proxy transmittal process are carried out efficiently and in a timely manner.

[5] Final Report 44.
[6] Final Report 41.

Several other commentors suggested that there is a need to develop standard forms and procedures for the proxy transmittal process. This observation was also made by the Study and, in accordance with the Study's recommendation, the Commission will urge the industry to establish a committee to seek ways to develop and implement uniform forms and procedures throughout the securities industry on a voluntary basis.[7]

Finally, several commentors suggested the need to clarify an issuer's continuing obligation to make inquiry of those persons who become recordholders during the period between the issuer's initial inquiry and the record date. They pointed out that, as proposed, the rule would appear to require the issuer to make an inquiry of all persons who are intermediaries at a time 10 or more days before the record date, but would not require any inquiry of intermediaries who first become recordholders after the initial inquiry but before the record date. In view of the Commission's belief that timely notification of all intermediaries is essential to the proper functioning of the proxy transmittal process, the Commission has today released for public comment a proposal to amend Rule 14a–3(d) in order to make clear that the issuer is obligated to make inquiry of all intermediaries who become recordholders on or before the issuer's record date for the meeting (Securities Exchange Act Release No. 13720, July 5, 1977).

II. Paragraph (a) of Rule 14b–1: Obligation of Brokers (1) To Respond Promptly to an Issuer's Inquiry, and (2) Upon Receipt of Materials and Assurance of Repayment of Expenses to Forward Materials in a Timely Manner

The commentors generally supported the impostion of these obligations on brokers. Several commentors suggested, however, that the use of the words "in a timely manner" might imply a responsibility on the broker to forward materials to the beneficial owner prior to the meeting date even when the issuer failed to forward the materials to the broker sufficiently in advance of the meeting date. The Commission has substituted the word "promptly," which is intended to reflect the obligation of brokers to forward the materials as soon as they are received and has made a conforming change in Note 3 to Rule 14a–3(d). The Commission reminds broker-dealers that late receipt of the materials does not relieve the broker-dealer of its obligation to make every effort to forward those materials to its customers in time for them to exercise their right to vote. In addition, the Commission reminds brokers-dealers that where clearing arrangements are employed, both parties to the arrangement, subject to self-regulatory oversight, should take appropriate steps, by contract or otherwise, to assure compliance with the provisions of Rule 14b–1 with respect to the customers of the introducing broker.

[7] Final Report 45. As noted in the Study, if the self-regulatory approach proves unsuccessful, the Commission will consider alternate methods including, if necessary, exercising its rulemaking power.

Many other commentors made suggestions for minor clarifications of Paragraph (a) of Rule 14b–1. The Commission believes that all procedural rules and interpretations implementing the broad mandate of Rule 14b–1, including the setting of "reasonable expenses," should continue to be administered and enforced by the various self-regulatory regulations.

The Commission takes note of the comments which expressed concern that the present rules do not deal with the obligation of intermediaries to forward materials other than proxy materials issued by management. The Commission refers interested persons to Securities Exchange Act Release No. 13482 (April 28, 1977) and suggests that the proposed hearings on shareholder democracy may be an appropriate forum for in-depth consideration of problems relating to shareholders' proposals and other non-management communications.[8]

Several issuers were concerned that the proposals failed to deal with the practice by certain persons of billing issuers for materials forwarded to persons other than beneficial owners. The Commission refers interested persons to Securities Exchange Act Release No. 13455 (April 21, 1977) and reiterates its strong disapproval of the practice described therein.[9]

Finally, the Commission recognizes that the imposition of obligations on brokerage firms alone will not assure that all beneficial owners receive issuers' proxy communications in a timely manner, since other recordholders such as banks and trust companies would not be subject to such obligations. Accordingly, the Commission will transmit a copy of Rule 14b–1 and the related provisions to the Comptroller of the Currency, the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation with the suggestion that they consider the adoption of comparable regulations for persons subject to their jurisdiction.

III. Proposed Paragraph (b) of Rule 14b–1 and the Related Provisio to Rule 14a–3(d): Option of the Broker in Lieu of Complying With Paragraph (a) of Rule 14b–1, to Submit a List of its Customers Who Are the Beneficial Owners of the Issuer's Securities Held in Street Name and Issuer's Resulting Obligation to Transit Materials Directly to Such Owners

Support for the disclosure alternative came primarily from a number of small and medium-sized issuers who indicated that receiving and assimilating lists from brokers would not create undue difficulty and who further stated that the opportunity to communicate directly with

[8] 42 FR 23901 (1977).
[9] 12 SEC Docket 41 (1977).

their beneficial shareowners was strongly desired. One large issuer also indicated that it could accommodate brokers' customers lists without significant disruption. Virtually all other large issuers commenting, however, opposed proposed Rule 14b–1(b), as did all of the transfer agents and agent associations commenting.

The principal problems anticipated by issuers and transfer agents were:

(a) Difficulty in preparing for the Annual distribution of proxies because of the uncertainty as to how many brokers would choose to furnish customers lists in lieu of forwarding proxy materials;

(b) (i) Manual processing to assimilate broker lists due to the incompatibility of list formats with computerized company records; or

(ii) Development and implementation of new computer programs to assimilate raw data from brokers' lists (an item of time and expense that would be recurrent due to the constant turnover of beneficial owners);

(c) A greatly increased volume of proxies to be mailed;

(d) Manual processing and tabulation of proxies returned by street name shareowners in order to balance the votes received against appropriate recordholder accounts;

(e) Increased seasonal personnel and budgetary requirements; and

(f) Disruption in the timely transmittal of proxies with resultant delay in receipt of materials by beneficial owners.

In addition to those concerns of issuers and transfer agents, several other commentors indicated that disclosure of beneficial owners' names by brokers might violate the privacy of those beneficial owners.

Because of the great concern of many small and medium-sized issuers with disclosure of the names of their beneficial owners and because of their expressed desire to communicate directly with their beneficial owners, the Street Name Study explored in depth whether the problems associated with the proposed Rule 14b–1, as well as several alternative approaches involving disclosure, could be overcome.

The Study found, and the comment letters confirm, that it would be extremely burdensome for large issuers and transfer agents to accept from intermediaries the names of potentially thousands of beneficial owners, absent the development of a standard format for the submission of names and compatible computer software. Typical of the comments of large issuers was the following:

> Should the Commission promulgate a rule which would require the issuer to assume the burden of direct communication with beneficial owners, we would be constrained to administer at least 10,500 additional mailings on an individual basis without the benefit of a computer listing. The cost of such a burden in terms of additional staff, time limitations and the orderly administration of our stock transfer office would far eclipse the amount for which we would otherwise expend [sic] to reimburse brokers for their having communicated directly with their customers.[19]

[19] Another issuer estimated that it would receive an additional 20,000 names from brokers for each annual meeting and recited the problems that would be created:

> This raw data [names received from brokers] could not be added to the master list of records as it would create confusion with the current list * * *. Thus a new computer program would have to be created, tested, and put to use.
>
> * * * * *
>
> For each beneficial owner, a minimum of five items of information must be encoded. For 20,000 names, 100,000 items must be encoded. Thereafter the encoded material must be keypunched, transferred to the new computer tape and then balanced to correct errors.

In addition, most broker-dealers advised the Commission that they would not utilize the optional procedure; only one commenting broker-dealer indicated that it would forward customers' names. In view of the administrative, financial and operational problems for issuers and transfer agents which would result from adoption of Rule 14b–1(b) and the related proviso to Rule 14a–3(d), and the lack of support from the brokerage community, the Commission has determined to withdraw these proposals. Nevertheless, the Commission remains receptive to suggestions from concerned issuers about ways to overcome the problems associated with direct communications.

IV. Technical Changes to Notes 1 and 3 to Rule 14a–3(d).

Finally, the Commission has adopted, essentially as proposed, the two technical amendments to the notes to Rule 14a–3(d). The first reflects changes effected by Securities Acts Amendments of 1975, and the second reflects the adoption in part of proposed Rule 14b–1.

The amendment to Note 1 as originally proposed made reference to four specified entities. Since publication of the proposal, the Commission, pursuant to Section 17A of the Act, has registered 12 clearing agencies. Accordingly, the reference in Note 1 has been changed to a general reference to any clearing agency registered pursuant to Section 17A of the Act. The 12 clearing agencies and their nominees, where applicable, are: Boston Stock Exchange Clearing Corporation, Bradford Securities Processing Services, Inc., The Depository Trust Company (Cede & Co.), Midwest Clearing Corporation, Midwest Securities Trust Company (Kray & Co.), National Securities Clearing Corporation, New England Securities Depository Trust Company (Nest & Co.), Options Clearing Corporation, Pacific Clearing Corporation, Pacific Securities Depository Trust Company (Pacific & Co.), Stock Clearing Corporation of Philadelphia (Philadep & Co.), and TAD Depository Corporation (TAD & Co.).

V. Text of the Rules

Accordingly, 17 CFR Part 240 is amended as follows:

1. By revising paragraph (d) of § 240.-14a–3 to read as follows:

§ 240.14a–3 Information to be furnished to security holders.

* * * * *

(d) If the issuer knows that securities of any class entitled to vote at a meeting with respect to which the issuer intends to solicit proxies, consents or authorization are held of record by a broker, dealer, bank or voting trustee, or their nominees, the issuer shall inquire of such record holder at least 10 days prior to the record date for the meeting of security holders (or at such later time as the rules of a national securities exchange on which the class of securities in question is listed may permit for good cause shown) whether other persons are the beneficial owners of such securities and, if so, the number of copies of the proxy and other soliciting material and, in the case of an annual meeting at which directors are to be elected, the number of copies of the annual report to security holders, necessary to supply such material to beneficial owners. The issuer shall supply such record holder in a timely manner with additional copies in such quantities, assembled in such form and at such a place, as the record holder may reasonably request in order to address and send one copy of each to each beneficial owner of securities so held and shall, upon the request of such record holder, pay its reasonable expenses for completing the mailing of such material to security holders to whom the material is sent.

Note 1.—If the issuer's list of security holders indicates that some of its securities are registered in the name of a clearing agency registered pursuant to Section 17A of the Act, an issuer shall make appropriate inquiry of the agency and thereafter of the participants in such agency who may hold on behalf of a beneficial owner, and shall comply with the above paragraph with respect to any such participant.

* * * * *

Note 3.—The attention of issuers is called to the fact that broker-dealers have an obligation pursuant to § 240.14b–1 and applicable self-regulatory requirements to obtain and forward annual reports and proxy soliciting materials promptly to beneficial owners for whom such broker-dealers hold securities.

2. By adding § 240.14b–1 to read as follows:

§ 240.14b–1 Obligation of registered brokers in connection with the prompt forwarding of certain communications to beneficial owners.

A broker registered under Section 15 of the Act shall:

(a) respond to an inquiry made in accordance with § 240.14a–3(d) by or on behalf of an issuer whose management is soliciting proxies, consents or authorization by promptly indicating, by means of a search card or otherwise, the approximate number of its customers who are beneficial owners of the issuer's securities that are held of record by the broker or its nominees; and

(b) upon receipt of the proxy, other proxy soliciting material, and/or annual reports to security holders and of assurances that its reasonable expenses shall be paid by the issuer, forward such materials promptly to such customers.

VI. Statutory Basis and Competitive Considerations

Pursuant to Section 23(a) of the Act (15 U.S.C. 78w(a)), the Commission has considered the effect that adoption of the amendments to Rule 14a-3(d) and new Rule 14b-1 would have on competition and has concluded that, to the extent the requirements impose a burden on competition, such burden is necessary and appropriate in furtherance of the purpose of the securities laws. The Commission hereby adopts the amendments to Rule 14a-3(d) and Rule 14b-1, pursuant to Sections 14(a), 14(b), and 23(a) of the Act (15 U.S.C. 78n(a), 78n(b), and 78w(a)).

VII. Effective Date

The rules are effective as of August 15, 1977.

By the Commission.

George A. Fitzsimmons,
Secretary.

July 5, 1977.

[FR Doc.77-19096 Filed 7-12-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7498]

PART 301—PROCEDURE AND ADMINISTRATION

Unpaid Taxes Shown on Amended Returns

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the treatment of unpaid taxes shown on amended returns. These regulations provide necessary guidance to the general public and affect all taxpayers who do not pay the amount of tax shown on an amended return.

DATE: The regulations apply to all amended returns of tax to which the Internal Revenue Code of 1954 applies.

FOR FURTHER INFORMATION CONTACT:

Robert A. Katcher of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3828).

SUPPLEMENTARY INFORMATION:

Background

On November 18, 1976, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 301) under sections 6211 and 6653 of the Internal Revenue Code of 1954, 41 FR 49178. There was no request for a public hearing. Thus, a public hearing was not held. After consideration of all comments regarding the proposed amendments, those amendments are adopted by this Treasury decision.

Unpaid Taxes Shown on an Amended Return

Where a taxpayer shows on an amended return additional taxes and the taxpayer does not pay that amount, the unpaid taxes will not be treated as a deficiency. Thus, the Internal Revenue Service may assess the amount of unpaid taxes shown on an amended return without having to send the taxpayer a notice of deficiency.

Drafting Information

The principal author of this regulation was Robert A. Katcher of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of amendments to the regulations. Accordingly, 26 CFR Part 301 is amended by adopting, without change, the regulations proposed in the notice of proposed rule making published in the Federal Register on November 8, 1976 (41 FR 49178).

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

William E. Williams,
Acting Commissioner of Internal Revenue.

Approved: July 1, 1977.

Laurence N. Woodworth,
Assistant Secretary of the Treasury.

Paragraph 1. Paragraph (a) of § 301.6211-1 is amended by deleting the last sentence thereof and by inserting immediately before the end thereof the following:

§ 301.6211-1 Deficiency defined.

(a) * * * Any amount shown as additional tax on an "amended return", so-called (other than amounts of additional tax which such return clearly indicates the taxpayer is protesting rather than admitting) filed after the due date of the return, shall be treated as an amount shown by the taxpayer "upon his return" for purposes of computing the amount of a deficiency.

* * * * *

Par. 2. Paragraph (c)(1) of § 301.6653-1 is amended to read as follows:

§ 301.6653-1 Failure to pay tax.

* * * * *

(c) *Definition of underpayment.*—(1) *Income, estate, and gift taxes.* In the case of income, estate, and gift taxes, an underpayment for purposes of section 6653 and this section is:

(i) The total amount of all deficiencies as defined in section 6211, if a return was filed on or before the last date (determined with regard to any extension of time) prescribed for filing such return, or

(ii) The amount of the tax imposed by subtitle A or B, as the case may be, if a return was not filed on or before the last date (determined with regard to any extension of time) prescribed for filing such return.

However, for purposes of paragraph (c)(1)(i) of this section, any amount of additional tax shown on an amended return, so-called, filed after the due date of the return is a deficiency.

* * * * *

[FR Doc.77-20023 Filed 7-12-77;8:45 am]

Title 31—Money and Finance: Treasury

SUBTITLE A—OFFICE OF THE SECRETARY OF THE TREASURY

PART 2—CLASSIFICATION, DOWNGRADING, DECLASSIFICATION AND SAFEGUARDING OF NATIONAL SECURITY INFORMATION AND MATERIAL

Revised Delegation of Authority

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: Treasury Department Order No. 160, Revised, is published in its entirety. This revised order primarily provides certain changes in the list of officials who have been delegated authority to originally classify national security information or material. A review has been conducted of all previous original classification authorities with the purpose of reducing the previous authorities to the minimum number absolutely required for efficient administration. This amendment reflects the results of this review.

EFFECTIVE DATE: July 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Dennis E. Southern, Assistant Director (Physical Security), Office of Administrative Programs, Department of the Treasury, Washington, D.C. 20220 (202-376-0763).

Appendix A, Part 2, is revised to read as follows:

APPENDIX A—Department of the Treasury, Treasury Department Order No. 160, Revised, Delegation of Authority Concerning Implementation of Executive Order No. 11652, as Amended, and the National Security Directive of May 17, 1972, as Amended

By virtue of the authority delegated to me as Secretary of the Treasury by Executive Order No. 11652, March 8, 1972, 37 FR 5209, as amended by Executive Order No. 11714, April 24, 1973, 38 FR 10245 and Executive Order No. 11862, June 11, 1975, 40 FR 25197, and the National Security Council Directive of May 17, 1972, at 37 FR 10053, May 19, 1972, as amended by the Directive of July 30, 1976, at 41 FR 32693, August 5, 1976, and by the Directive of October 7, 1976 at 41 FR 45533, October 15, 1976 (hereinafter referred to as the Executive Order and Directive), it is hereby ordered as follows:

Sec. 1. *Compliance responsibility.* The Assistant Secretary (Administration) is delegated the authority to insure effective compliance with the implementation of the Executive Order and Directive and the Department of the Treasury regulations pub-

lished thereunder in Part 2 of Title 31 of the Code of Federal Regulations, 38 FR 19321. The Assistant Secretary (Administration) is specifically delegated the authority to assign personnel to assist the Archivist of the United States in the exercise of his responsibility to review systematically for declassification all Department of the Treasury material classified before June 1, 1972, and more than thirty years old, and to perform other functions specified in Part II D of the Directive.

SEC. 2. *Authority to Classify.*—(a) *Top Secret.* The authority to originally classify national security information or material as Top Secret, Secret or Confidential within the Department of the Treasury is hereby delegated to the Deputy Secretary, the Under Secretary (Monetary Affairs), the Under Secretary, the Chief Deputy to the Under Secretary (Enforcement and Operations), the General Counsel, the Assistant Secretary (International Affairs), the Fiscal Assistant Secretary, the Assistant Secretary (Administration), the Assistant Secretary (Legislative Affairs), the two Executive Assistants to the Secretary, the Executive Assistant to the Deputy Secretary, the Executive Secretary, and the Special Assistant to the Secretary (National Security).

(b) *Secret.* The authority to originally classify national security information or material as Secret or Confidential within the Department of the Treasury is hereby delegated to the Commissioner, Internal Revenue Service; the Assistant Secretary (Tax Policy); the Director, Bureau of Alcohol, Tobacco and Firearms; the Commissioner, U.S. Customs Service; the Director, Bureau of Engraving and Printing; and the Director, U.S. Secret Service.

(c) *Confidential.* The authority to originally classify national security information or material as Confidential within the Department of the Treasury is hereby delegated to the Assistant Secretary (Domestic Finance); the Assistant Secretary (Economic Policy); the Assistant Secretary (Public Affairs); the Comptroller of the Currency; the Commissioner, Bureau of Government Financial Operations; the Commissioner, Bureau of the Public Debt; the Director, Bureau of the Mint; and the Director, Federal Law Enforcement Training Center. Officials possessing original Top Secret or Secret classification authority are hereby delegated the authority to designate in writing by title of position other officials who may exercise original Confidential classification authority within the Department of the Treasury.

SEC. 3. *Authority to downgrade and declassify.* The authority to downgrade and declassify national security information or material within the Department of the Treasury shall be exercised by the following officials:

(a) The official authorizing the original classification, a successor in that capacity, or a supervisory official of either.

(b) An official authorized in (a) above may authorize, in writing, an official with an appropriate security clearance to downgrade or declassify national security information or material.

SEC. 4. *Departmental Committee on National Security Information.* There is hereby established a Departmental Committee on National Security Information which shall be composed of the Assistant Secretary (Administration), as chairman, and the General Counsel and the Special Assistant to the Secretary (National Security), as members. The functions of the Departmental Committee shall include the following:

(a) Review of and action upon applications and appeals regarding requests for declassification, as provided in the Treasury regulations, 31 CFR Part 2, implementing the Executive Order and Directive.

(b) Action upon complaints in the administration of the Executive Order and Directive and the Treasury regulations thereunder.

(c) Establish the policy of the Department with respect to the enforcement of the Executive Order and Directive and the Treasury regulations thereunder.

SEC. 5. *Data Index System.* The Assistant Secretary (Administration) is delegated the authority to establish a Data Index System in accordance with Part VII of the Directive. The Office of Administrative Programs, Assistant Director (Physical Security), shall maintain the Departmental Data Index System control file for all national security information or material originally classified within the Department of the Treasury.

SEC. 6. *Training, orientation and inspection.* The Office of Administrative Programs, Assistant Director (Physical Security) is hereby delegated, subject to the direction of the Assistant Secretary (Administration), the functions of establishing, coordinating and maintaining active training, orientation and inspection programs for employees concerned with classified information or material to assure that the provisions of the Executive Order and Directive are effectively administered throughout the Department of the Treasury.

SEC. 7. *Supersession.* This Treasury Department Order supersedes Treasury Department Order No. 160, Revised, dated July 9, 1973, at 38 FR at 19331, July 19, 1973.

This order is effective July 7, 1977.

Dated: July 7, 1977.

W. MICHAEL BLUMENTHAL,
Secretary of the Treasury.

[FR Doc.77-20073 Filed 7-12-77;8:45 am]

Title 32—National Defense

CHAPTER VI—DEPARTMENT OF THE NAVY

PART 727—LEGAL ASSISTANCE

Miscellaneous Amendments

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: These regulations are being amended for the following reasons: to reflect the applicability of the Privacy Act of 1974 to legal assistance files; to reflect a previous name change of Navy Law Centers to Naval Legal Service Offices; and to authorize a legal assistance letterhead for use by Legal Assistance Officers. These amendments are needed to update Part 727 and to incorporate the changes previously made to the underlying regulation, Chapter XIX of the Manual of the Judge Advocate General.

EFFECTIVE DATE: July 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Jesse J. Graham II, Regulations Branch Attorney (Code 133.2), Office of the Judge Advocate General, Department of the Navy, Washington, D.C. 20370. Telephone number 202-694-5267.

SUPPLEMENTARY INFORMATION: Pursuant to the authority conferred in 5 U.S.C. 301, 10 U.S.C. 5031 and 5148, and 32 CFR 700.206 and 700.1202, the Judge Advocate General of the Navy amends 32 CFR Part 727. Part 727 is a codification of Chapter XIX of the Manual of the Judge Advocate General. These amendments reflect largely nonsubstantive changes to the underlying regulations adopted by the Secretary of the Navy. They relate to internal naval management and rules of organization and practice. It has been determined that invitation for public comment on these amendments prior to adoption would be impracticable and is not required under the rule-making provisions in Parts 296 and 701 of 32 CFR. Part 727 of 32 CFR is therefore amended as follows:

1. Section 727.8 is revised as follows:

§ 727.8 Confidential and privileged character of service provided.

All information and files pertaining to the persons served will be treated as confidential and privileged in the legal sense as outlined in Canon 4 of the Code of Professional Responsibility, as opposed to confidential in the military sense of security information. These privileged matters may not be disclosed to anyone by personnel rendering the service, except upon the specific permission of the person concerned, and disclosure thereof may not be lawfully ordered by superior military authority. This restriction does not prohibit providing the nonprivileged statistical data required by § 727.13 of this part. Protection of the confidences of a legal assistance client is essential to the proper functioning of the legal assistance program in order to assure all military personnel, regardless of grade, rank, or position, that they may disclose frankly and completely all material facts of their problem to those rendering the service without fear that their confidence will be abused or used against them in any way. While case files are not subject to the control of the Department of the Navy and therefore do not constitute a "system of records" within the meaning of the Privacy Act of 1974 (5 U.S.C. 552a), no information which identifies an individual legal assistance client by name or any other particular, such as social security number, shall be extracted from the case files and incorporated into any file or index system aside from or in addition to the information contained on the legal assistance form (NAVJAG 5801/9) or locally used equivalent. Strict adherence to the foregoing will ensure compliance with the Privacy Act. Administrative and clerical personnel assigned to legal assistance offices shall maintain the confidential nature of matters handled.

2. Section 727.11 is revised as follows:

§ 727.11 Supervision.

The Judge Advocate General will exercise supervision over all legal assistance activities in the Department of the Navy. Subject to the supervision of the Judge Advocate General, officers in charge of Naval Legal Service Offices and all Marine Corps commanders exercising general court-martial authority, acting through their judge advocates, shall ex-

ercise supervision over all legal assistance activities within their respective areas of responsibility and shall ensure that legal assistance services are made available to all eligible personnel within their areas. The Judge Advocate General will collaborate with the American Bar Association, the Federal Bar Association, and other civilian bar organizations as he may deem necessary or advisable in the accomplishment of the objectives and purposes of the legal assistance program.

3. Section 727.12 is revised as follows:

§ 727.12 Communications.

(a) Legal assistance officers are authorized to communicate directly with the Judge Advocate General, with each other, and with other appropriate organizations and persons concerning legal assistance matters.

(b) The use of a legal assistance office letterhead within the Department of the Navy is authorized as an exception to the standard letterhead requirements contained in Department of Defense Instruction 5330.2 of July 12, 1968. A sample of the letterhead to be used is:

Legal Assistance Office, Building 200, Washington Navy Yard, Washington, D.C. 20374, Tel: 202-433-4331.

Naval Legal Service Offices and other commands having authorized legal assistance officers are authorized to print and use letterheads without seal or official command designation in those matters in which the correspondence pertains solely to legal assistance matters. Legal assistance officers are directed to ensure that their correspondence does not imply United States Navy or command sponsorship or approval of the substance of the correspondence. Such correspondence is considered a private matter arising from the attorney-client relationship as indicated in § 727.8.

(5 U.S.C. 301, 10 U.S.C. 5031 and 5148, and 32 CFR 700.206 and 700.1202.)

Dated: July 8, 1977.

K. D. LAWRENCE,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc.77-20006 Filed 7-12-77;8:45 am]

Title 36—Parks, Forests, and Public Property

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PROHIBITIONS

Consolidation of Rules

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: In the last several months, the Department of Agriculture has been consolidating all of its rules on acts prohibited in the National Forest System into one CFR part. This amendment is intended to complete this consolidation. It removes prohibitions from other CFR parts, reorganizes the text and clarifies what actions are prohibited.

EFFECTIVE DATE: Wednesday, July 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Kenneth L. Evans, Law Enforcement Specialist, Fiscal and Accounting Management, P.O. Box 2417, Washington, D.C. 20013 (202-447-7850).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On January 14, 1977, a final rule was published at 42 FR 2956, establishing 36 CFR Part 261, Prohibitions. The purpose of this document was to combine all regulations on prohibited acts in the National Forest System into one CFR part, to establish a uniform system for adopting and posting rules, and to clarify relevant delegations of authority. The amendment now being promulgated completes the consolidation begun in January.

COMMENTS

On May 25, 1977, a proposed rule was published in the FEDERAL REGISTER (42 FR 26662). The publi: was given until June 24 to comment. Written comments were received from one individual and two organizations. The comments suggested the need for clarification of prohibitions on use of aircraft in case of emergencies in National Forest Wilderness Areas and on the use of motorized vehicles in National Forest Primitive Areas. Section 261.1 is amended to consider the concerns expressed in these comments. Two additional comments were received from organizations suggesting that § 261.13(h) was overly restrictive. Changes were made to accommodate these concerns.

In connection with this rulemaking, the Forest Service found it necessary to revise the definition of unauthorized livestock in § 261.2(r) to make it clear that unauthorized livestock does not include livestock using the National Forest System for noncommercial recreation and other occasional use. Other nonsubstantive changes have been made, mainly to improve the organizaiton of the material. A number of reference changes have also been made. Public comment on these changes was deemed unnecessary.

PROVISIONS PROPOSED, BUT NOT ADOPTED

The proposed rule included text changes for 36 CFR 231 and 293.16. These changes have not been included in the final rule being published below.

The wild free-roaching horse and burro regulations—previously in 36 CFR 231.11—were amended by another regulation published in the FEDERAL REGISTER on June 17 (42 FR 30836). This document redesignated these regulations as part 222, amended them to authorize use of helicopters, and modified § 222.36, Arrests, slightly.

The proposal to amend 36 CFR 293.16, Special provisions governing the Boundary Waters Canoe Area, Superior National Forest is not being acted on now because the entire section needs to be reviewed in light of a revised management plan for the area. A separate proposed rule will be issued on the Boundary Waters Canoe Area.

NOTE.—The Department of Agriculture has determined that the publication of this rule is not a major Federal action significantly affecting the quality of the human environment and that a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)) is not required.

It has further been determined that an economic impact statement is not required.

In light of the foregoing, 36 CFR Chapter II is amended as follows:

PART 223—SALE AND DISPOSAL OF TIMBER

§ 223.1 [Amended]

1. Section 223.1 is amended by amending paragraph (e)(3) to correct the reference to "§ 261.70" to "§ 261.50".

PART 261—PROHIBITIONS

Authority: 30 Stat. 35, as amended, (16 U.S.C. 551); sec. 1, 33 Stat. 628 (16 U.S.C. 472); 50 Stat. 526, as amended, (7 U.S.C. 1011(f)); 82 Stat. 916 (16 U.S.C. 1281(d)); 82 Stat. 922 (16 U.S.C. 1246(i)), unless otherwise noted.

Subpart A—General Prohibitions

2. Section 261.1 is revised to read:

§ 261.1 Scope.

(a) The prohibitions in this Part apply, except as otherwise provided, when:

(1) An act or omission occurs in the National Forest System or on a Forest development road or trail.

(2) An act or omission affects, threatens, or endangers property of the United States administered by the Forest Service.

(3) An act or omission affects, threatens, or endangers a person using, or engaged in the protection, improvement or administration of the National Forest System or a Forest development road or trail.

(b) Nothing in this Part shall preclude actions in Wilderness or Primitive Areas as authorized in Part 293 or in the Forest Service Manual.

3. Section 261.1a is added as follows:

§ 261.1a Permits.

The Chief, each Regional Forester, each Forest Supervisor, and each District Ranger or equivalent officer may issue permits to persons authorizing the occupancy or use of a road, trail, area, river, lake, or other part of the National Forest System in accordance with authority which is delegated elsewhere in this Chapter or in the Forest Service Manual. The issuing officer may authorize in the permit an act or omission which would otherwise be a violation of a Subpart A or Subpart C regulation or a Subpart B order. The issuing officer may include in any permit such conditions as he considers necessary for the protection and administration of the National Forest System, or for the promotion of public health, safety, or welfare.

4. Section 261.2 is amended by revising paragraph (r) and adding a new paragraph (s):

§ 261.2 Definitions.

* * * * *

(r) "Unauthorized livestock" means any cattle, sheep, goat, hog, or equine not defined as a wild free-roaming horse or burro by § 222.20(b)(10), which is not authorized by permit to be upon the land on which the livestock is located and which is not related to use authorized by a grazing permit; provided, that noncommercial pack and saddle stock used by recreationists, travelers, other Forest visitors for occasional trips, as well as livestock to be trailed over an established driveway when there is no overnight stop on Forest Service administered land do not fall under this definition.

(s) "Wild free-roaming horses and burros" mean all unbranded and unclaimed horses and burros and their progeny that have used lands of the National Forest System on or after December 15, 1971, or do hereafter use these lands as all or part of their habitat, but does not include any horse or burro introduced onto National Forest System lands on or after December 15, 1971, by accident, negligence, or willful disregard of private ownership. Unbranded, claimed horses and burros, where the claim is found to be erroneous, are also considered as wild and free-roaming if they meet the criteria above.

5. Section 261.6 is amended by amending paragraphs (f) and (g) to read as follows:

§ 261.6 Timber and other forest products.

The following are prohibited:

* * * * *

(f) Selling or exchanging any timber or other forest product obtained under free use pursuant to paragraph (e), (f), or (g) of § 223.1.

(g) Violating any timber export or substitution restriction in § 223.10.

6. By revising § 261.7 to read:

§ 261.7 Livestock.

The following are prohibited: (a) Placing or allowing unauthorized livestock to enter or be in the National Forest System or other lands under Forest Service control.

(b) Not removing unauthorized livestock from the National Forest System or other lands under Forest Service control when requested by a forest officer.

(c) Failing to reclose any gate or other entry.

(d) Molesting, injuring, removing, or releasing any livestock impounded under § 262.2 while in the custody of the Forest Service or its authorized agents.

7. By amending § 261.10, adding paragraph (k) as follows:

§ 261.10 Occupancy and use.

* * * * *

(k) Violating any term or condition of a permit.

8. By amending § 261.13 to add the following new paragraphs (h) and (i):

§ 261.13 Use of vehicles off roads.

* * * * *

(h) In a manner which damages or unreasonably disturbs the land, wildlife, or vegetative resources.

(i) In violation of State law established for vehicles used off roads.

9. By amending § 261.16 as follows:

§ 261.16 National Forest Wilderness.

The following are prohibited in a National Forest Wilderness:

(a) * * *

(b) * * *

(c) Landing of aircraft, or dropping or picking up of any material, supplies, or person by means of aircraft, including a helicopter.

10. By revising §261.19 to read as follows:

§ 261.19 National Forest Primitive Areas.

The following are prohibited in any area classified as a National Forest Primitive Area on September 3, 1964:

(a) Landing of aircraft or using a motor boat, unless such use had become well established before September 3, 1964.

(b) Possessing or using a motor or motorized equipment, except small battery powered, hand-held devices, such as cameras, shavers, flashlights, and Geiger-counters.

11. By adding a new § 261.21, consisting in part of provisions previously in § 261.7(e):

§ 261.21 Wild free-roaming horses and burros.

The following are prohibited:

(a) Willfully removing of, or attempting to remove, a wild free-roaming horse or burro from the National Forest System.

(b) Converting a wild free-roaming horse or burro to private use, without a permit.

(c) Maliciously causing the death or harassment of any wild free-roaming horse or burro.

(d) Processing or allowing to be processed the remains of a wild free-roaming horse or burro into commercial product.

(e) Selling, directly or indirectly, a wild horse or burro allowed on private or leased land pursuant to Section 4 of the Wild Free-Roaming Horses and Burros Act.

(85 Stat. 649, as amended, 16 U.S.C. 1331-1340.)

12. Section 261.50 is amended by amending paragraph (e)(1), by deleting paragraph (f) and by redesignating paragraph (g) as paragraph (f).

§ 261.50 Orders.

* * * * *

(e) * * *

(1) Persons with a permit specifically authorizing the otherwise prohibited act or omission.

* * * * *

(f) Any person wishing to use a Forest development road or trail or a portion of the National Forest System, should contact the Forest Supervisor, Director, Administrator, or District Ranger to ascertain the special restriction which may be applicable thereto.

13. By revising § 261.52, paragraph (d), (h), and (j) to read as follows:

§ 261.52 Fire.

* * * * *

(d) Smoking, except within an enclosed vehicle or building, a developed recreation site, or while stopped in an area at least three feet in diameter that is barren or cleared of all flammable material.

* * * * *

(h) Operating an internal combustion engine.

* * * * *

(j) Operating or using any internal or external combustion engine on any timber, brush, or grass covered land, including trails traversing such land, without a spark arrester, maintained in effective working order, meeting either (i) Department of Agriculture, Forest Service Standard 5100-1a; or (ii) appropriate Society of Automotive Engineers (SAE) recommended practice J335 and J350.

* * * * *

14. By adding paragraphs (w), (x), and (y) to § 261.58 as follows:

§ 261.58 Occupancy and use.

When provided by an order, the following are prohibited:

* * * * *

(w) Possessing or transporting any motor or mechanical device capable of propelling a watercraft through water by any means.

(x) Using any wheel, roller, or other mechanical device for the overland transportation of any watercraft.

(y) Landing of aircraft, or dropping or picking up any material, supplies, or person by means of an aircraft, including a helicopter.

PART 291—OCCUPANCY AND USE OF DEVELOPED SITES AND AREAS OF CONCENTRATED PUBLIC USE

§ 291.9 [Amended]

15. By deleting the last sentence each of paragraphs (a), (b), and (c) of § 291.9.

PART 293—WILDERNESS—PRIMITIVE AREAS

16. By adding alpha numeration to the existing paragraph of § 293.3 and adding a new paragraph (b) to § 293.3 to read as follows:

§ 293.3 Control of uses.

(a) * * *

(b) For all prohibitions in National Forest Wildernesses, see Part 261 of this chapter.

§ 293.9 [Reserved]

17. By revoking and reserving § 293.9, Poisons and Herbicides. This section is covered in Part 261.

§ 293.15 [Amended]

18. By revoking and reserving paragraph (b) of § 293.15, Gathering information about resources other than minerals.

19. By adding paragraph (c) to § 293.17 as follows:

§ 293.17 National Forest primitive areas.

* * * * *

(c) All prohibitions for those areas of National Forest classified as "Primitive" on the effective date of the Wilderness Act, September 3, 1964, are in Part 261.

Dated: July 8, 1977.

JAMES NIELSON,
Deputy Assistant Secretary for Conservation, Research, and Education.

[FR Doc.77-20147 Filed 7-12-77;8:45 am]

Title 40—Protection of the Environment

CHAPTER V—COUNCIL ON ENVIRONMENTAL QUALITY

PART 1516—PRIVACY ACT IMPLEMENTATION

Procedures for Gaining Access to Information Under the Privacy Act of 1974

AGENCY: The Council on Environmental Quality.

ACTION: Correction to Final Regulations.

SUMMARY: These materials will correct certain errors and add an omitted section to the Council's final regulations for implementing the requirements of the Privacy Act of 1974 which were published on pp. 32537-32538 of the FEDERAL REGISTER of June 27, 1977.

EFFECTIVE DATE: July 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Ballard Jamieson, Jr., Privacy Act Liaison, The Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006. (202-382-6867.)

Signed this 7th day of July 1977, by

NICHOLAS C. YOST,
Acting General Counsel.

Accordingly, Part 1516 of Title 40 of the CFR is revised and amended as follows:

§ 1516.3 [Amended]

1. The heading for § 1516.3 appearing in the text which now reads "Procedures" for requests for access to individual records in a record system" is amended to read "Procedures for requests pertaining to individual records in a record system."

§ 1516.5 [Redesignated as § 1516.6]

2. Section 1516.5, "access to requested information to the individual" is amended to become § 1516.6 "Request for correction or amendment to the record." The text for this section remains the same.

3. A new § 1516.5 is added to Part 1516 as follows:

§ 1516.5 Disclosure of requested information to the individual.

Upon verification of identity, the Council shall disclose to the individual the information contained in the record which pertains to that individual.

(a) The individual may be accompanied for this purpose by a person of his choosing.

(b) Upon request of the individual to whom the record pertains, all information in the accounting of disclosures will be made available.

(5 U.S.C. 552a; Pub. L. 93-579.)

[FR Doc.77-20017 Filed 7-12-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20509]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS: GENERAL RULES AND REGULATIONS

PART 89—PUBLIC SAFETY RADIO SERVICES

Providing for use of frequencies 530, 1606, and 1612 kHz by stations in Local Government Radio Services for transmission of certain kinds of information to traveling public; Correction

AGENCY: Federal Communications Commission.

ACTION: Revision of effective date.

SUMMARY: The FCC on June 10, 1977, adopted a Report and Order in Docket 20509 which amends Parts 2 and 89 of its rules establishing a new class of radio station called "Travelers Information Station."

Since these amended rules require applicants to submit information heretofore not requested, pursuant to established procedures, approval by the Government Accounting Office is required.

Accordingly, to allow for GAO clearance, the effective date of these rules is amended to August 31, 1977.

EFFECTIVE DATE: August 31, 1977.

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

FOR FURTHER INFORMATION CONTRACT:

James McNally, Industrial and Public Safety Rules Division, Safety and Special Bureau, FCC, Washington, D.C. 20554 (202-632-6497); Melvin Murray, Spectrum Allocations Division, Office of Chief Engineer, FCC, Washington, D.C. 20554 (202-632-6350).

SUPPLEMENTARY INFORMATION:

Released: July 5, 1977.

In the matter of Amendment of Parts 2 and 89 of the rules to provide for the use of frequencies 530, 1606, and 1612 kHz by stations in the Local Government Radio Services for the transmission of certain kinds of information to the traveling public, Docket No. 20509.

1. In the Report and Order in Docket 20509, FCC 77-414, released June 20, 1977, 42 FR 31594, the effective date specified in paragraph 47 is amended to read August 31, 1977. This amendment is made to permit GAO clearance of new reporting requirements.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-20018 Filed 7-12-77;8:45 am]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

PART 25—RELOCATION ASSISTANCE AND LAND ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

Appendix A—Schedule of Moving Expense Allowances; Individuals and Families

AGENCY: Department of Transportation.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to update the moving expense schedules for displaced persons.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

John Murnane, Relocation Assistance Division, Office of Right-of-Way (202-426-0118); or Reid Alsop, Attorney, Office of the Chief Counsel (202-426-0800), Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours Monday to Friday from 7:45 a.m. to 4:15 p.m. ET.

SUPPLEMENTARY INFORMATION: Section 202(b) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, 84 Stat. 1894, provides that a displaced individual or family may elect to be paid for moving expenses on the basis of a moving expense schedule. To insure statewide uniformity among all agencies operating under the Act, General Services Administration Regulations, 41 CFR Part 101-6, provide in § 101-6.105-1 that the schedule shall be maintained by the respective State highway departments, and approved and disseminated by the Federal Highway Administration.

49 CFR 25.153 of the regulations of the Office of the Secretary, implementing the Uniform Act, directs the Federal Highway Administration to establish and maintain the moving expense schedule in Appendix A to Part 25 of Title 49 and to update it semiannually. The purpose of this amendment is to revise the current schedule, which was published on January 3, 1977, (42 FR 12), to reflect changes in the moving expense schedules of the following States:

TABLE I—*Personalty—Colorado and Minnesota*

TABLE II—*Mobile Homes—Colorado*

Issued on: July 1, 1977.

KARL S. BOWERS,
Acting Federal Highway Administrator.

Appendix A Title 49--Transportation

Table I--Personalty 3

State	Occupant provides furniture: Number of rooms of furniture										Occupant does not provide furniture	
	1	2	3	4	5	6	7	8	9	10	First room	Each additional room
Alabama	60	95	130	165	200	235	270	300	.....		20	15
Alaska	75	150	200	250	275	300	.....				15	15
Arizona	50	100	150	200	250	300	.....				25	15
Arkansas	70	110	150	190	230	270	300	.....			40	20
California	75	100	150	200	250	300	.....				25	15
Colorado	120	180	240	300	.....						30	20
Connecticut	50	90	140	170	230	260	300	.....			15	15
Delaware	60	100	140	180	220	260	300	.....			25	15
District of Columbia	100	135	170	210	250	290	300	.....			35	15
Florida	60	90	120	150	180	210	240	270	300	....	20	10
Georgia	55	95	130	170	200	260	300	.....			30	10
Guam	48	85	120	168	205	240	300	.....			10	10
Hawaii	65	100	135	175	215	255	295	300	.....		45	30
Idaho	60	100	140	180	220	260	300	.....			20	10
Illinois	50	100	150	200	250	300	.....				25	15
Indiana	50	90	125	160	195	230	265	300	.....		25	15
Iowa	55	105	150	190	225	255	280	300	.....		25	10
Kansas	60	120	180	240	300	.....					30	10
Kentucky	50	90	130	170	210	250	290	300	.....		20	15
Louisiana	50	85	120	155	190	225	260	300	.....		40	15
Maine	50	90	125	150	175	200	225	250	275	300	15	10
Maryland	80	110	145	185	230	275	300	.....			20	10
Massachusetts	60	130	150	190	225	250	275	300	.....		25	15
Michigan	65	130	180	240	300	.....					50	10
Minnesota	75	125	175	225	250	275	300	.....			30	15
Mississippi	75	100	160	210	260	300	.....				40	20
Missouri	50	100	150	200	250	300	.....				25	10
Montana	55	85	115	145	175	200	225	250	275	300	25	15
Nebraska	50	100	150	200	250	300	.....				30	10
Nevada	50	100	150	200	250	300	.....				25	15
New Hampshire	50	100	125	150	175	200	225	250	275	300	25	15
New Jersey	80	140	195	245	300	.....					25	15
New Mexico[1]	105	155	205	255	300	.....					(See end of table)	
New York	75	110	150	190	225	250	275	300	.....		25	15
North Carolina	60	95	130	165	200	235	270	300	.....		25	20
North Dakota	60	100	125	150	175	200	225	250	275	300	25	10
Ohio	50	100	150	200	250	300	.....				30	10
Oklahoma	50	85	120	155	190	225	260	300	.....		40	15
Oregon	60	100	140	180	220	260	300	.....			15	15
Pennsylvania	60	105	150	195	240	285	300	.....			20	20
Puerto Rico	75	105	135	165	195	225	250	275	300	....	25	25
Rhode Island	50	90	125	150	175	200	225	250	275	300	25	10
South Carolina	95	125	165	205	235	250	270	300	.....		15	10
South Dakota	75	130	175	210	240	290	300	.....			40	10
Tennessee	75	100	150	200	250	300	.....				25	15
Texas	50	85	120	150	185	220	260	300	.....		25	15
Utah	75	100	130	155	180	210	240	270	300	....	25	15
Vermont	50	90	125	150	175	200	225	250	275	300	25	10
Virginia	60	80	120	160	200	240	280	300	.....		30	10
Virgin Islands	105	150	195	240	275	300	.....				35	35
Washington[2]	70	120	150	180	210	240	270	300	.....		20	10
West Virginia[3]	60	100	140	180	220	260	300	.....			25	10
Wisconsin	50	90	130	170	210	240	270	300	.....		25	15
Wyoming	50	85	120	150	185	225	265	300	.....		30	15

[1] Furnished units including sleeping rooms. Occupant does not own furniture.

First Room	2 Rooms	3 Rooms	4 Rooms	5 Rooms	6 Rooms	7 Rooms	8 Rooms	9 Rooms	10 Rooms
$45	$86	$107	$128	$149	$170	$191	$212	$233	$254

to a maximum of $300

[2] For mobile homes (whether or not occupant provides furniture):

First room	Each additional room
$50	$25

[3] Where occupant does not provide furniture, allowance for 2 rooms is $40.

Table II--Mobile Homes

State	Miles (Kilometres) More than	Miles (Kilometres) But not more than	Area--Square Feet (Square Metres) More than	Area--Square Feet (Square Metres) But not more than	Width--Feet (Metres) More than	Width--Feet (Metres) But not more than	Allowance Dollars
Alabama			0 (0)	200 (18.6)			100
			200 (18.6)	400 (37.2)			150
			400 (37.2)	600 (55.8)			200
			600 (55.8)	800 (74.4)			280
			800 (74.4)				300
Alaska	All trailers						300
Arizona			0 (0)	300 (27.9)			150
			300 (27.9)	400 (37.2)			200
			400 (37.2)	500 (46.5)			250
			500 (46.5)				300
Arkansas					0 (0)	12 (3.7)	200
					12 (3.7)	14 (4.3)	250
					14 (4.3)		300
California[1]					0 (0)	8 (2.4)	(see 1-end of table)
					8 (2.4)		
Colorado[2]							(see 2-end of table)
Connecticut[3]					0 (0)	8.5 (2.6)	100
					8.5 (2.6)	10.5 (3.2)	150
					10.5 (3.2)	12.5 (3.8)	200
					12.5 (3.8)		250
Delaware			0 (0)	400 (37.2)			100
			400 (37.2)	600 (55.8)			150
			600 (55.8)	800 (74.4)			200
			800 (74.4)	1,000 (93)			250
			1,000 (93)				300
Florida			0 (0)	200 (18.6)			100
			200 (18.6)	400 (37.2)			150
			400 (37.2)	600 (55.8)			200
			600 (55.8)	850 (79.1)			250
			850 (79.1)				300
Georgia			0 (0)	400 (37.2)			95
			400 (37.2)	500 (46.5)			125
			500 (46.5)	600 (55.8)			185
			600 (55.8)	850 (79.1)			245
			850 (79.1)				300
Guam			0 (0)	300 (27.9)			130
			300 (27.9)	400 (37.2)			180
			400 (37.2)	500 (46.5)			210
			500 (46.5)	600 (55.8)			240
			600 (55.8)	700 (65.1)			270
			700 (65.1)				300
Hawaii			0 (0)	300 (27.9)			130
			300 (27.9)	400 (37.2)			180
			400 (37.2)	500 (46.5)			210
			500 (46.5)	600 (55.8)			240
			600 (55.8)	700 (65.1)			270
			700 (65.1)				300
Idaho			0 (0)	200 (18.6)			100
			200 (18.6)	400 (37.2)			150
			400 (37.2)	600 (55.8)			200
			600 (55.8)	800 (74.4)			250
			800 (74.4)				300
Illinois	0 (0)	24 (38.6)			0 (0)	8.5 (2.6)	100
					8.5 (2.6)	10.5 (3.2)	150
					10.5 (3.2)	12.5 (3.8)	200
					12.5 (3.8)		250
	24 (38.6)	50 (80.5)			0 (0)	8.5 (2.6)	150
					8.5 (2.6)	10.5 (3.2)	200
					10.5 (3.2)	12.5 (3.8)	250
					12.5 (3.8)		300

See footnotes at end of table.

State	Miles (Kilometres) More than	Miles (Kilometres) But not more than	Area--Square Feet (Square Metres) More than	Area--Square Feet (Square Metres) But not more than	Width--Feet (Metres) More than	Width--Feet (Metres) But not more than	Allowance Dollars
Indiana					0 (0)	8.5 (2.6)	150
					8.5 (2.6)	10.5 (3.2)	185
					10.5 (3.2)	12.5 (3.8)	250
					12.5 (3.8)		300
Iowa	0 (0)	25 (40.2)			0 (0)	8 (2.4)	130
					8 (2.4)	10 (3)	150
					10 (3)	12 (3.7	180
					12 (3.7)		230
	25 (40.2)	50 (80.5)			0 (0)	8 (2.4)	140
					8 (2.4)	10 (3)	170
					10 (3)	12 (3.7)	200
					12 (3.7)		300
Kansas			0 (0)	200 (18.6)			80
			200 (18.6)	400 (37.2)			160
			400 (37.2)	600 (55.8)			240
			600 (55.8)				300
Kentucky[4]					0 (0)	8 (2.4)	240
					8 (2.4)	10 (3)	285
					10 (3)	12 (3.7)	300
Louisiana					0 (0)	10 (3)	150
					10 (3)	12 (3.7)	175
					12 (3.7)	14 (4.3)	225
					14 (4.3)		275
Maine					0 (0)	8 (2.4)	150
					8 (2.4)	10 (3)	200
					10 (3)	12 (3.7)	250
					12 (3.7)		300
Maryland			0 (0)	200 (18.6)			110
			200 (18.6)	400 (37.2)			140
			400 (37.2)	600 (55.8)			165
			600 (55.8)	800 (74.4)			195
			800 (74.4)	1,000 (93)			220
			1,000 (93)	1,200 (111.6)			250
			1,200 (111.6)				300
Massachusetts			0 (0)	200 (18.6)			80
			200 (18.6)	400 (37.2)			140
			400 (37.2)	600 (55.8)			200
			600 (55.8)				300
Michigan					0 (0)	8 (2.4)	145
					8 (2.4)	10 (3)	230
					10 (3)	12 (3.7)	280
					12 (3.7)		300
Minnesota[4]	0 (0)	10 (16)			0 (0)	10 (3)	125
					10 (3)	12 (3.7)	135
					12 (3.7)	14 (4.3)	150
					14 (4.3)		175
	10 (16)	25 (40.2)			0 (0)	10 (3)	130
					10 (3)	12 (3.7)	140
					12 (3.7)	14 (4.3)	155
					14 (4.3)		185
	25 (40.2)	50 (80.5)			0 (0)	10 (3)	140
					10 (3)	12 (3.7)	150
					12 (3.7)	14 (4.3)	175
					14 (4.3)		200

See footnotes at end of table.

Table II--Mobile Homes 6

State	Miles (Kilometres) More than	But not more than	Area--Square Feet (Square Metres) More than	But not more than	Width--Feet (Metres) More than	But not more than	Allowance Dollars
Mississippi			0 (0)	300 (27.9)			150
			300 (27.9)	400 (37.2)			200
			400 (37.2)	500 (46.5)			250
			500 (46.5)				300
Missouri			0 (0)	200 (18.6)			100
			200 (18.6)	400 (37.2)			150
			400 (37.2)	600 (55.8)			200
			600 (55.8)	800 (74.4)			250
			800 (74.4)				300
Montana[4]					0 (0)	10 (3)	135
					10 (3)	12 (3.7)	150
					12 (3.7)	14 (4.3)	175
					14 (4.3)		225
Nebraska			0 (0)	400 (37.2)			100
			400 (37.2)	600 (55.8)			150
			600 (55.8)	800 (74.4)			200
			800 (74.4)	1,000 (93)			250
			1,000 (93)				300
Nevada[4]			0 (0)	300 (27.9)			130
			300 (27.9)	400 (37.2)			180
			400 (37.2)	500 (46.5)			210
			500 (46.5)	600 (55.8)			240
			600 (55.8)	700 (65.1)			270
			700 (65.1)				300
New Hampshire[5]					0 (0)	8 (2.4)	135
					8 (2.4)	10 (3)	160
					10 (3)	12 (3.7)	210
					12 (3.7)		260
New Jersey			0 (0)	200 (18.6)			100
			200 (18.6)	400 (37.2)			150
			400 (37.2)	600 (55.8			200
			600 (55.8)	800 (74.4)			250
			800 (74.4)				300
New Mexico[4,6]	0 (0)	20 (32.2)			0 (0)	8.5 (2.6)	141
					8.5 (2.6)	10.5 (3.2)	181
					10.5 (3.2)	12.5 (3.8)	191
					12.5 (3.8)		231
	20 (32.2)	50 (80.5)			0 (0)	8.5 (2.6)	161
					8.5 (2.6)	10.5 (3.2)	191
					10.5 (3.2)	12.5 (3.7)	206
					12.5 (3.7)		246
New York			0 (0)	300 (27.9)			100
			300 (27.9)	500 (46.5)			150
			500 (46.5)	700 (65.1)			200
			700 (65.1)	800 (74.4)			250
			800 (74.4)				300
North Carolina[4,7]					0 (0)	10 (3)	105
					10 (3)	12 (3.7)	140
					12 (3.7)		200
North Dakota			0 (0)	200 (18.6)			100
			200 (18.6)	400 (37.2)			150
			400 (37.2)	600 (55.8)			200
			600 (55.8)	800 (74.4)			250
			800 (74.4)				300

See footnotes at end of table.

Table II--Mobile Homes [7]

State	Miles (Kilometres) More than	Miles (Kilometres) But not more than	Area--Square Feet (Square Metres) More than	Area--Square Feet (Square Metres) But not more than	Width--Feet (Metres) More than	Width--Feet (Metres) But not more than	Allowance Dollars
Ohio[4]	0 (0)	10 (16)	0 (0)	320 (29.8)			130
			320 (29.8)	500 (46.5)			150
			500 (46.5)	840 (78.1)			170
			840 (78.1)	1,120 (104.2)			205
			1,120 (104.2)				250
	10 (16)	25 (40.2)	0 (0)	320 (29.8)			135
			320 (29.8)	500 (46.5)			155
			500 (46.5)	840 (78.1)			190
			840 (78.1)	1,120 (104.2)			220
			1,120 (104.2)				275
	25 (40.2)	50 (80.5)	0 (0)	320 (29.8)			145
			320 (29.8)	500 (46.5)			165
			500 (46.5)	840 (78.1)			200
			840 (78.1)	1,120 (104.2)			250
			1,120 (104.2)				300
Oklahoma					0 (0)	10 (3)	150
					10 (3)	12 (3.7)	175
					12 (3.7)	14 (4.3)	225
					14 (4.3)		275
Oregon			0 (0)	200 (18.6)			100
			200 (18.6)	600 (55.8)			200
			600 (55.8)				300
Pennsylvania			0 (0)	300 (27.9)			130
			300 (27.9)	500 (46.5)			225
			500 (46.5)	800 (74.4)			275
			800 (74.4)				300
Rhode Island					0 (0)	8 (2.4)	225
					8 (2.4)	10 (3)	250
					10 (3)	12 (3.7)	275
					12 (3.7)		300
South Carolina[4]					0 (0)	10 (3)	140
					10 (3)	12 (3.7)	150
South Dakota					0 (0)	10 (3)	230
					10 (3)	12 (3.7)	270
					12 (3.7)		300
Tennessee[4]					0 (0)	10 (3)	100
					10 (3)		150
Texas					0 (0)	8.5 (2.6)	165
					8.5 (2.6)	10.5 (3.2)	210
					10.5 (3.2)	12.5 (3.8)	255
					12.5 (3.8)	14.5 (4.4)	300
Utah[4]	0 (0)	10 (16)			0 (0)	8 (2.4)	140
					8 (2.4)	10 (3)	145
					10 (3)	12 (3.7)	165
					12 (3.7)		200
	10 (0)	25 (40.2)			0 (0)	8 (2.4)	145
					8 (2.4)	10 (3)	155
					10 (3)	12 (3.7)	175
					12 (3.7)		225

See footnotes at end of table.

Table II--Mobile Homes

[8]

State	Miles (Kilometres) More than	Miles (Kilometres) But not more than	Area--Square Feet (Square Metres) More than	Area--Square Feet (Square Metres) But not more than	Width--Feet (Metres) More than	Width--Feet (Metres) But not more than	Allowance Dollars
Utah--Continued	25 (40.2)	50 (80.5)	.....		0 (0)	8 (2.4)	150
			.....		8 (2.4)	10 (3)	160
			.....		10 (3)	12 (3.7)	190
			.....		12 (3.7)	.....	250
Vermont[5]			.....		0 (0)	8 (2.4)	155
			.....		8 (2.4)	10 (3)	185
			.....		10 (3)	12 (3.7)	215
			.....		12 (3.7)	.....	250
Virginia			0 (0)	200 (18.6)	.....		150
			200 (18.6)	400 (37.2)	.....		200
			400 (37.2)	600 (55.8)	.....		250
			600 (55.8)	800 (74.4)	.....		300
Washington[8]			0 (0)	200 (18.6)	.....		100
			200 (18.6)	400 (37.2)	.....		150
			400 (37.2)	600 (55.8)	.....		200
			600 (55.8)	800 (74.4)	.....		250
			800 (74.4)	.....	.....		300
West Virginia			0 (0)	300 (27.9)	.....		100
			300 (27.9)	450 (41.9)	.....		150
			450 (41.9)	550 (51.2)	.....		225
			550 (51.2)	.....	.....		300
Wisconsin			.....		0 (0)	8 (2.4)	150
			.....		8 (2.4)	10 (3)	200
			.....		10 (3)	12 (3.7)	250
			.....		12 (3.7)	.....	300
Wyoming[4]			.....		0 (0)	8.5 (2.6)	135
			.....		8.5 (2.6)	10.5 (3.2)	165
			.....		10.5 (3.2)	12.5 (3.8)	185
			.....		12.5 (3.8)	.....	220

[1]Width to 8' (2.4 m) Length 40' (12.2 m).....$200
Length 40' (12.2 m).....$300
Width over 8' (2.4 m) Length 40' (12.2 m).....$300
Length 40'+ (12.2 m).....$300

[2]Under 8' (2.4 m) x 40' (12.2 m) - Unskirted $150
Over 8' (2.4 m) x 40' (12.2 m) - $300

[3]Plus $50 for expandable trailer.

[4]$300 for double trailer.

[5]$50 for extras.

[6]Escort fee included.

[7]Personalty Only

Width	Under 10 feet (3 m)	10 feet (3 m)	12 feet (3.7 m) and over	Doubles
	$40	$50	$70	$100

[8]Personalty Only
First room.....$50
Each additional room.....$25

[FR Doc.77-19551 Filed 7-12-77;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER C—ACCOUNTS, RECORDS AND REPORTS

[No. 34695 (Sub-No. 1)]

PART 1241—ANNUAL, SPECIAL, OR PERIODIC REPORTS—CARRIERS SUBJECT TO PART I OF THE INTERSTATE COMMERCE ACT

PART 1249—REPORTS OF MOTOR CARRIERS

Filing of Special Reports by Class I Railroads and Class I Motor Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Final order revoking two rules.

SUMMARY: The Interstate Commerce Commission has revoked the rules requiring Class I railroads and Class I motor carriers to file with the Commission a duplicate copy of any statement to the Securities and Exchange Commission (SEC), concerning beneficial ownership (Form 3) or change in beneficial ownership (Form 4). The Commission determined that the objectives of this duplicate filing can be accomplished by other means less burdensome to carriers. This order will ease reporting requirements by reducing paper work performed by Class I railroads and Class I motor carriers.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Ronald Young, Chief, Section of Accounting, Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, Phone No. 202-275-7448.

SUPPLEMENTARY INFORMATION: Class I railroads and Class I motor carriers are currently required to file with the Commission a duplicate copy of any statement to the Securities and Exchange Commission (SEC) concerning beneficial ownership (Form 3) or change in beneficial ownership (Form 4) of equity securities of any other carrier subject to economic regulation under the Interstate Commerce Act.

Form 3 reports are filed with SEC within 10 days after acquiring ownership; Form 4, by the 10th day of the month following acquisition or sale. The purpose of having duplicate forms filed with this Commission was to give us more timely information to (1) minimize unauthorized inter-carrier control by particular companies, and (2) keep abreast of consolidation trends in the carrier industry.

Our review of this filing requirement has indicated that this information did not prove to be as useful as anticipated. We have determined that the objectives of the duplicate filing can be served by other means, such as, our regularly scheduled field audits, information available in annual reports filed with us by these carriers, and a review of the SEC report entitled "Official Summary of Security Transactions and Holdings," published every four weeks which contains information reported on Forms 3 and 4. This will enable us to monitor such transactions without burdening carriers with the additional reporting requirement.

Because deletion of these rules represents an easing of our reporting requirements, rulemaking under Section 553 of the Administrative Procedures Act (5 U.S.C. 553) is not necessary.

Issued at Washington, D.C., June 9, 1977.

H. G. Homme, Jr.
Acting Secreary.

Parts 1241 and 1249 of Subchapter C of Chapter X of Title 49 of the Code of Federal Regulations are amended as follows:

§ 1241.10 [Revoked]

Section 1241.10 *Class I Railroads* is revoked.

§ 1249.70 [Revoked]

Section 1249.7 *Class I Motor Carriers* is revoked.

[FR Doc.77-20159 Filed 7-12-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE ANIMALS

APPENDIX—TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS; EXPEDITED PROCEDURES FOR CONSIDERATION OF PROPOSED QUOTAS AND AMENDED REGULATIONS

AGENCY: National Marine Fisheries Service, Commerce Department.

ACTION: Expedited Procedures for Consideration of Proposed Amended Regulations.

SUMMARY: This notice establishes expedited procedures to amend quotas and regulations dealing with the taking of marine mammals incidental to yellowfin tuna purse seine fishing. These procedural regulations are similar to those established last year to determine quotas and regulations. The changes in procedures are necessary to allow the regulatory process required by the Marine Mammal Protection Act to be completed by January 1, 1978.

EFFECTIVE DATE: July 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Eric Erdheim, Staff Attorney, National Oceanic and Atmospheric Administration, Washington, D.C. 20235. (202-634-7486).

SUPPLEMENTARY INFORMATION: On March 1, 1977, the National Marine Fisheries Service published its final decision and regulations governing the issuance of a general permit for 1977 to allow the taking of marine mammals incidental to yellowfin tuna purse seine fishing in the eastern tropical Pacific Ocean. The decision and regulations were adopted on the record after opportunity for a formal agency hearing before an administrative law judge as required by section 103(d) of the MMPA.

The National Marine Fisheries Service will soon publish proposed amendments to these quotas and regulations as authorized under section 103(e) of the MMPA. For the proposed modifications NMFS has elected to utilize a rulemaking on the record after opportunity for a formal hearing conducted in accordance with 5 U.S.C. 556-557.

The National Marine Fisheries Service (NMFS) has adopted permanent regulations governing practice and procedure in formal hearings held under section 103(d) of the MMPA which concern among other matters, the taking of marine mammals incidental to commercial fishing operations 50 CFR 216.70-216.90. But NMFS would be unable to complete the administrative process and issue a general permit and certificates for 1978 if found to be authorized under the MMPA, prior to January 1, 1978 if it followed the permanent practice and procedure regulations. Therefore, NMFS is issuing these expedited procedures to govern the upcoming hearing.

These expedited procedures are similar to the expedited procedures used for last year's hearing. However, unlike the regulatory procedures adopted for last year's hearing, testimony of expert witnesses will be required to be prepared and distributed prior to the hearing. Other changes from last year's regulations are the allowance of fifteen (15) days for the filing of briefs, two five (5) day periods for the filing of comments on the Recommended Decision and the holding of oral argument following the submission of all briefs. Finally, because of the ex parte communication provisions of the Government in the Sunshine Act, of 1976, the provisions in last year's regulations allowing a special consultation period for the Marine Mammal Commission have been deleted. The Commission will be expected to participate in the same manner prescribed for other parties once a proposal is made.

In the 1976, expedited hearing procedures were utilized during the administrative process used to develop quotas and regulations for the incidental take of marine mammals in commercial yellowfin tuna purse seine fishing operations. This experience indicates that up to six months may be needed from the date of publication of proposed regulations and quotas until the issuance, if found to be authorized, of a general permit and certificates of inclusion to allow for such an incidental take. Without the immediate adoption of expedited hearing procedures similar to those used last year, National Marine Fisheries Service (NMFS) cannot be assured that it will be able to issue a general permit and certificates of inclusion for 1978 before January 1, 1978. Failure to issue a general permit and certificates by January 1, 1978, if warranted, will prejudice the potential holders of such documents. Under the Marine Mammal Protection Act

(Pub. L. 92-522, 1972) (MMPA), marine mammals cannot be taken without a permit. Without such a permit, yellowfin tuna, purse seine fishing operations will be impaired. Moreover, such failure will prevent NMFS from carrying out its responsibilities under the MMPA. For these reasons, it is hereby for good cause found that the advance notice, public procedures, and delayed effectiveness provision of 5 U.S.C. 553 are impracticable and contrary to the public interest. These regulations are, therefore, effective immediately.

APPENDIX [AMENDED]

Accordingly, 50 CFR Part 216, Appendix, is revised as follows:

1. Basis and purpose. (a) Sections 101(a)(2) and 103(e) of the Marine Mammal Protection Act, 16 U.S.C. 1317(a)(2) and 1373(e), and these regulations authorize the Director, National Marine Fisheries Service, to amend regulations governing the taking of marine mammals incidental to commercial fishing operations. In amending regulations, the Act refers the Director to Section 103(e) (16 U.S.C. 1373(e)).

(b) The purpose of these regulations is to establish rules of practice and procedure for proceedings commenced under Section 103(e) on or about August 1, 1977 concerning the amendment of regulations and quotas on the taking of marine mammals incidental to commercial fishing operations.

2. Definitions. Definitions shall be the same as in 50 CFR 216.3 except as follows:

(a) "Party" means for purposes of these regulations:

(1) The Director or his representative;

(2) The Marine Mammal Commission or its representative;

(3) A person who has, pursuant to paragraph 5, notified the Director by the final date specified in the notice of hearing of his or her intent to participate in the hearing.

(b) (1) "Witness" means, for the purposes of these regulations, any expert or other person who delivers testimonial evidence, or who identifies real or documentary evidence under paragraphs 11 (d) and (e). A person may be both a party and a witness.

(2) "Expert" means one possessing knowledge not acquired by ordinary persons, with reference to a particular subject.

(c) "Director" means, for the purposes of these regulations, the Director of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

3. Scope of regulations. These procedural regulations govern the practice and procedure in hearings described in paragraph 1 (b). These hearings will be governed by the provisions of 5 U.S.C. 556 and 557 of the Administrative Procedure Act. They shall be construed to secure the just, speedy, and inexpensive determination of all issues raised with respect to amending the regulations governing the taking of marine mammals incidental to commercial fishing operations pursuant to Section 103(e) of the Act, with full protection for the rights of all persons affected thereby.

4. Notice of hearing. (a) A notice of hearing on any proposed regulations on the taking of marine mammals incidental to commercial fishing operations shall be published in the FEDERAL REGISTER.

(b) The notice shall state:

(1) The Director's intention to amend regulations on the taking of marine mammals incidental to commercial fishing operations under Section 103(e) of the Act;

(2) The nature of the hearing;

(3) The place and date of the hearing. The date shall not be less than thirty (30) days after publication of notice of the hearing;

(4) The legal authority under which the hearing will be held;

(5) The proposed regulations;

(6) A summary of the statements and studies described in section 103(d) (1)-(4) of the Act. The notice shall indicate that these statements and studies have been published in full and made available to the public, and shall set forth the ways in which individual persons may have copies of these statements and studies placed at their disposal;

(7) Issues of fact which may be involved in the hearing, together with the express statement that the hearing will not necessarily be limited to these issues and that evidence relevant to other issues may be submitted at the hearing, subject to rulings of the presiding officer on the materiality of such issues;

(8) The date of publication of any draft Environmental Impact Statement, and the place(s) where the draft and comments thereon may be viewed and copied;

(9) Any written advice received from the Marine Mammal Commission;

(10) The place(s) where records and documents submitted prior to the hearing will be kept for public inspection;

(11) A list of employees of the United States who will or may reasonably be expected to be involved in the decisional process on the regulations, including the Director and Deputy Director, to whom and by whom ex parte communications relevant to the merits of the proceeding by or to parties to the proceeding are prohibited under the provisions of section 4 of the Government in the Sunshine Act of 1976, Pub. L. 94-409;

(12) The final date for filing with the Director a notice of intent to participate in the hearing pursuant to paragraph 5;

(13) The docket number assigned to the case which shall be used in all subsequent proceedings;

(14) The name of the presiding officer;

(15) The final date for submission of direct expert testimony.

5. Notification by interested persons. Any person desiring to participate as a party shall notify the Director by certified mail on or before the date specified in the notice. Persons who fail to notify the Director shall be deemed to have waived their right to participate as parties in any part of the proceeding.

6. Presiding officer.—(a) Upon publication of the notice of hearing pursuant to paragraph 4, the Director shall appoint a presiding officer pursuant to 5 U.S.C. section 3105. No individual who has any conflict of interest, financial or otherwise, shall serve as presiding officer in such proceeding.

(b) The presiding officer, in any proceeding under this subpart, shall have power to:

(1) Adjourn the hearing, but not to change the time and place of the hearing specified in the notice of hearing without the consent of all parties;

(2) Rule upon motions, requests, and admissibility of real, documentary, and testimonial evidence;

(3) Administer oaths and affirmations, question witnesses, and direct witnesses to testify;

(4) Modify or waive any rule with consent of all parties;

(5) Receive written arguments, comments, and briefs and hear oral argument;

(6) Render a recommended decision and certify the record of the proceeding to the Director;

(7) Do all acts and take all measures, including regulation of media coverage, for the maintenance of order at and the efficient conduct of the proceeding.

(c) In case of the absence of the original presiding officer or his inability to act, the power and duties to be performed by the original presiding officer under this part in connection with a proceeding may, without abatement of the proceeding, be assigned to any other presiding officer as ordered by the Director.

(d) The presiding officer may upon his own motion withdraw as presiding officer in a proceeding if he deems himself to be disqualified.

(e) A presiding officer may be requested to withdraw at any time by a party prior to the recommended decision. Upon the filing in good faith of a timely and sufficient affidavit alleging the presiding officer's personal bias, malice, conflict of interest of other basis which might result in prejudice to a party, the hearing shall recess. The Director shall immediately determine the matter as a part of the record and decision in the proceeding, after making such investigation or holding such hearings, or both, as he may deem appropriate.

7. Submission of evidence before the start of the hearing. (a) All direct testimony of experts, including accompanying exhibits, must be submitted to the presiding officer and all parties in writing no later than the date specified in the notice of the hearing (section 4). Such testimony need not be in affidavit form. Direct testimony by other witnesses and real and documentary evidence is encouraged, but is not required to be submitted before the start of the hearing.

(b) The direct testimony submitted shall contain:

(1) A concise statement of the witness' interest in the proceeding and his position regarding the issues presented. If the direct testimony is presented by a witness who is not a party, the witness shall state his relationship to the party;

(2) Facts that are relevant and material.

(c) Seven copies of all direct expert testimony must be submitted to the National Marine Fisheries at the address listed in Section 8.

(d) No objections or motions concerning the relevance of evidence submitted prior to the hearing or the materiality of the issue to which it relates shall be entertained by the presiding officer before such evidence is introduced into the record at the hearing.

8. Mailing address.—Unless otherwise specified in the notice of hearing, all evidence shall be addressed to the Presiding officer, c/o Director, National Marine Fisheries Service, Washington, D.C. 20235. Each item of real and documentary evidence and all written direct testimony shall be clearly marked with the docket number of the proceedings.

9. Inspection and copying of evidence and other documents forming part of the record of the hearing.—Any evidence submitted by the parties at any point in a proceeding under these regulations may be inspected and, to the extent feasible, copied at such times and places as the presiding officer may designate. Other documents forming part of the record of the proceeding shall be made available for inspection and copying on the same basis. Any such documents not in the custody of the presiding officer may be inspected and copied in Room 408, National Marine Fisheries Service, Page Building No. 2, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

10. Ex parte communications.—The provisions of section 4 of the Government in the Sunshine Act of 1976, Pub. L. 94-409, shall be adhered to in any proceeding conducted under these regulations.

11. Conduct of the hearing.—(a) The hearing shall be held at the time and place fixed in the notice of hearing, unless the pre-

siding officer, with the consent of all parties, changes the time or place. If a change occurs, the presiding officer shall publish the change in the FEDERAL REGISTER and shall expeditiously notify all parties by telephone or by mail: But if the change in time or place of hearing is made less than five days before the date previously fixed for the hearing, the presiding officer shall also announce or cause to be announced, the change at the time and place previously fixed for the hearing.

(b) At the commencement of the hearing, the presiding officer shall introduce into the record:

(1) The notice of hearing and the proposed regulations as published in the FEDERAL REGISTER;

(2) All subsequent notices pertaining to the proceeding published in the FEDERAL REGISTER;

(3) The draft Environmental Impact Statement, the comments thereon, and agency responses to the comments. If additional comments and agency responses are made at any later point in the proceeding, they shall be introduced into the record after notice to all parties by the presiding officer until he certifies the record to the Director, and thereafter by the Director;

(4) A list of all parties;

(c) Each party shall have the opportunity to introduce evidence into the record at the hearing in the order determined by the presiding officer, but the Director shall introduce his evidence before any other party.

(d) (1) Testimonial evidence of experts shall be presented through their written statements after such experts are placed under oath. Such direct testimony shall not be read into evidence but shall become a part of the record subject to exclusion of irrelevant and immaterial parts thereof. The presiding officer in his discretion, may allow a limited period for oral statements on direct evidence to explains parts of an expert's written statement or to discuss matters not mentioned in such statement.

(2) Testimonial evidence of lay witnesses may be presented either by written or oral statements. The presiding officer may, in his discretion, limit the length of such testimony.

(3) The presiding officer may directly examine a witness under oath, and may propound to the witness questions submitted by parties other than the party that called the witness which he determines to be suitable for direct examination.

(e) Real and documentary evidence shall be admitted into the record only if the party introducing it or another person called by the party as a witness identifies such evidence, the issue to which it relates, the introducing party's position regarding that issue, and the manner in which the evidence supports that position. This identification shall be made under oath, and shall be required whether or not such real or documentary evidence was submitted to the presiding officer prior to the hearing under paragraph 7.

(f) Any witness by whom a party introduces testimonial evidence or identifies real or documentary evidence shall:

(1) State his or her name, address, and occupation;

(2) State qualifications for delivering or identifying such evidence. If an expert, the witness shall briefly state the scientific or technical training by which he or she qualifies as an expert;

(3) Submit to appropriate cross-examination in accordance with subparagraph (g).

(g) Each party shall have the opportunity, in the order determined by the presiding officer, to cross-examine any witness by whom another party has introduced testimonial evidence; and to cross-examine any other party, as well as any identifying witness, about real and documentary evidence which such other party has introduced. Such cross-examination may be conducted by a party either in person or by an authorized counsel or representative. Cross-examiners shall be assumed to be familiar with all testimony previously delivered by the witness at the hearing. The Presiding Officer may:

(1) Require the cross-examiner to outline the intended scope of the cross-examination;

(2) Limit the number of times any party or parties may cross-examine a party or other witness on the same matter;

(3) Exclude cross-examination questions that are irrelevant, concern immaterial issues, or are unduly repetitious.

(h) Scientific, technical, or commercial publications may only be used for impeaching witnesses under cross-examination unless previously introduced as evidence in accordance with these regulations.

(i) The first time counsel conducts the direct or cross-examination of a party or other witness, such counsel shall state for the record his or her authority to act as counsel and the party granting that authority. A party shall be assumed to have waived the right to introduce evidence if such party fails to produce a witness to present or identify such evidence under oath. Any party or party's counsel who fails to appear at the hearing to cross-examine a witness shall be assumed to have waived the right to cross-examine that witness.

(j) The hearing shall be publicly conducted and reported verbatim by an official reporter.

(k) If a party objects to the admission or rejection of any evidence or to any other ruling of the presiding officer during the hearing, he shall state briefly the grounds of such objection, whereupon an automatic exception will follow if the objection is overruled by the presiding officer. The ruling of the presiding officer on any objection shall be part of the record and shall be subject to review at the same time and in the same manner as the Director's final decision. Only objections made before the presiding officer may subsequently be relied upon in the proceedings.

(l) All motions and requests shall be addressed to, and ruled on by, the presiding officer if made before his certification of the record, and by the Director if made thereafter.

12. Admissible evidence; official notice.—(a) Any evidence introduced by a party in accordance with these regulations shall be admitted into the record unless the presiding officer determines that such evidence is irrelevant to any material issue in the proceeding, or that it is unduly repetitious.

(b) Official notice may be taken of such matters as are judicially noticed by the courts of the United States.

13. Oral and written arguments.—(a) For a period of fifteen (15) days after the close of presentation of evidence, any party may file with the presiding officer any written comments on the proposed regulations, including proposed finding and conclusions and written arguments or briefs which are based on the record and which cite, if practicable, the relevant page or pages of the transcript. If a party filing a brief desires the presiding officer to reconsider any objection made by the presiding officer, that party shall state its arguments thereon as part of the brief. Immediately thereafter, each party shall be allowed five (5) days to file with the presiding officer reply briefs.

(b) The presiding officer shall provide for oral argument immediately following the period allowed for briefs. Such argument may be limited by the presiding officer to the extent necesary for the expeditious disposition of the proceeding. The presiding officer shall close the hearing immediately after the last oral argument.

(c) Oral or written arguments shall be limited to issues arising from evidence in the record.

14. Recommended decision; certification of the record.—(a) Within twenty-four (24) days after the close of the hearing, the presiding officer shall make a recommended decision based on the record and transmit the decision to the Director. The recommended decision shall include:

(1) A description of the history of the proceedings;

(2) Findings on the issues of fact with reasons therefore; and

(3) Rulings on issues of law with the reasons therefore.

Copies of the recommended decision shall be sent to all parties after the close of the hearing.

(b) The presiding officer shall also transmit to the Director the entire record of the proceeding, accompanied by the presiding officer's certificate stating that, to the best of his knowledge and belief, the record is a complete and accurate compilation of all the evidence and other documents in the proceeding, except in such particulars as are specified.

(c) The recommended decision may be reviewed and copied in Room 408, National Marine Fisheries Service Page Building No. 2, 3300 Whitehaven Street NW., Washington, D.C. 20235.

(d) Following submission of the recommended decision and the hearing record, each party shall be allowed five (5) days to file exceptions to the recommended decision with the Director. Thereafter, each party will have five days to file reply exceptions with the Director.

15. Director's decision. (a) Following the period allowed for exceptions, the Director shall make a final decision on the proposed regulations. The Director's decision may affirm, modify, or set aside in whole or in part the recommended findings, conclusions, and decision of the presiding officer. The Director may also remand the hearing record to the presiding officer for a fuller development of the record.

(b) The Director's decision shall include:

(1) A description of the history of the proceeding;

(2) Findings on the issues of fact with the reasons therefore; and

(3) Rulings on issues of law, with the reasons therefore.

(c) The Director's decision, together with the final adopted regulations, shall be published in the FEDERAL REGISTER.

16. Effective date. These regulations become effective on July 12, 1977 and shall terminate on the date of publication in the FEDERAL REGISTER of the NMFS Director's final decision.

(Sec. 101(a)(2) and 103(e) of the Marine Mammal Protection Act, 16 U.S.C. 1317(a)(2) and 1373(e).)

Dated: July 7, 1977.

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

[FR Doc.77-20030 Filed 7-12-77;8:45 am]

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

PART 611—FOREIGN FISHING

Foreign Fishing Regulations

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Final regulations.

SUMMARY: The foreign fishing regulations under the Fishery Conservation and Management Act of 1976, are amended concerning the taking and retention by foreign fishing vessels of allocated species which may be caught incidental to a directed fishery.

EFFECTIVE DATE: July 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard Schaefer, Fishery Management Operations Division, National Marine Fisheries Service, Washington, D.C. 20235 (202-634-7454).

SUPPLEMENTARY INFORMATION: The National Marine Fisheries Service has been advised that the incidental catch provision in paragraph (g) of §§ 611.50 through 611.53 is inconsistent with paragraph (f) of § 611.20 that cautions foreign nations not to exceed their allocation, and is also inconsistent with Section V of the respective Preliminary Management Plans relating to Hake, Squid, Atlantic Mackeral and Atlantic Herring. An incidental catch provision was permitted recognizing that other allocated species are taken in trawl nets while fishing in a directed fishery. However, an incidental catch of an allocated species in a directed fishery must be counted as part of the total allocation for that incidentially-caught allocated species.

For example, if a nation has an allocation of 1,000 tons of a given species, it may take all of this quantity in a directed fishery, or it may reserve part of this quantity as an incidental catch in another directed fishery. Which method a nation uses depends on its fishing strategy. However, in no case may a nation exceed its total allocation for a species whether taken incidentally or in a directed fishery. Thus, if the nation caught 900 tons of a species in its directed fishery, it could take the remaining 100 tons as an incidental catch in another directed fishery. But, when a total quantity of 1,000 tons of that species is taken, all taking of that species by that nation must cease. Then the species shall be considered as a prohibited species. The incidental catch of an allocated species is not in addition to the allocation, but part of the total allocation for that species.

When the allocation of a species has been taken, counting both the directed fishery and incidental catch, the taking and retention of such species shall cease. This change in the regulation does not reduce or alter the species allocations provided to a foreign nation, but rather clarifies the intent of the regulations to a foreign nation to carefully manage its fishing vessels in taking the allocation.

The Secretary finds the formal notice of proposed rulemaking is impractical, unnecessary and contrary to the public interest because this amendment serves to clarify an inconsistency between Subpart B and Subpart C of the regulations and between Subpart B and Section V of the respective Preliminary Management Plans for Hake, Squid, Atlantic Mackerel and Atlantic Herring. Failure to clarify the inconsistency could result in quotas for the species under regulation being exceeded which would be contrary to the public interest in maintaining sound conservation of these species of fish. Immediate guidance is therefore required to be given to persons subject to these regulations.

Paragraph (g) in §§ 611.50, 611.51, 611.52, and 611.53 is revised to read as follows:

* * * * *

§§ 611.50, 611.51, 611.52 and 611.53 [Amended]

(g) *Incidental catch.* The taking of any species for which the foreign nation has an allocation is permitted as an incidental catch in any directed fishery. The total quantity taken of an allocated species, however, both as incidental catch and in a directed fishery, shall not exceed the allocation of that species provided to that foreign nation by § 611.20. When the quantity allocated has been reached, counting both the incidental catch and directed fishery catch that species becomes a prohibited species.

Issued on July 11, 1977, at Washington, D.C.

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

[FR Doc.77-20229 Filed 7-12-77;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 732-77]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

PART 45—STANDARDS OF CONDUCT

Abolishing Office of Watergate Special Prosecution Force

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order formally abolishes the Office of Watergate Special Prosecution Force inasmuch as that Office has completed its work.

EFFECTIVE DATE: Close of business June 20, 1977.

FOR FURTHER INFORMATION CONTACT:

John M. Harmon, Acting Assistant Attorney General, Office of Legal Counsel, U.S. Department of Justice, Washington, D.C. 20530 (202-739-2041.)

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, Chapter I of Title 28, Code of Federal Regulations, is amended as follows:

Subpart A—Organizational Structure of the Department of Justice

§ 0.1 [Amended]

1. Section 0.1 of Subpart A of Part 0 is amended by deleting "Office of Watergate Special Prosecution Force."

Subpart G-1—Office of Watergate Special Prosecution Force

§§ 0.37 and 0.38 [Revoked]

2. Subpart G-1 of Part 0 is revoked.

§ 45.735-22 [Amended]

3. Section 45.735-22(c)(2) is amended by deleting subdivision(viii).

Dated: July 1, 1977.

GRIFFIN B. BELL,
Attorney General.

[FR Doc.77-20068 Filed 7-12-77;8:45 am]

[Order No. 733-77]

PART 55—IMPLEMENTATION OF THE PROVISIONS OF THE VOTING RIGHTS ACT REGARDING LANGUAGE MINORITY GROUPS

Interpretative Guidelines; Corrections and Amendments

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice's Interpretative Guidelines on Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups, were published on July 20, 1976, 41 F 29998. Since that time one error has been discovered in the text and several changes have been made in the Appendix.

EFFECTIVE DATE: July 13, 1977.

FOR FURTHER INFOMATION CONTACT:

David H. Hunter, Civil Rights Division, Department of Justice, Washington, D.C. 20530 (202-739-3829).

By virtue of the authority vested in me by 5 U.S.C. 301, 28 U.S.C. 509, 510, and Pub. L. 94-73, Part 55 of Chapter I of Title 28, Code of Federal Regulations, is amended as follows:

1. The second sentence of paragraph (a) of § 55.18 is revised to read as follows:

§ 55.18 Provision of minority language materials and assistance.

(a) * * * For example, a separate mailing of materials in the minority language to persons who are likely to need them or to residents of neighborhoods in which such a need is likely to exist, supplemented by a notice of the availability of minority language materials in the general mailing (in English and in the applicable minority language) and by other publicity regarding the availability of such materials, may be sufficient. * * *

2. The Appendix to Part 55 lists all jurisdictions covered under the minority language provisions of the Voting Rights Act, sections 4(f)(4) and 203(c). Since that Appendix was prepared, new determinations have been made by the Attor-

ney General and the Director of the Census, or by the Director of the Census, corrections in determinations have been made by the Director of the Census, and certain jurisdictions have been removed from the coverage of section 4(f)(4) by the procedures established in section 4(a) of the Act. See 41 FR 8817 (March 1, 1976), 41 FR 32622 (Aug. 4, 1976), 41 FR 34329 (Aug. 13, 1976), and *Curry, McKinley, and Otero Counties, New Mexico* v. *United States*, D.D.C. July 30, 1976. The updated Appendix is included as an Appendix to this notice. The changes that have been made are as follows:

Alaska: Add Election District 13, sec. 203(c), Alaskan Natives.

Florida: Add Collier County, sec. 4(f)(4), Spanish heritage. Add Hendry County, sec. 4(f)(4), Spanish heritage.

Maine: Delete Perrytown (Washington County), sec. 203(c), American Indian. Add Passamaquoddy Pleasant Point Indian Reservation (Washington County), sec. 203(c), American Indian.

Michigan: Add Clyde Township (Allegan County), sec. 4(f)(4), Spanish heritage. Add Buena Vista Township (Saginaw County), sec. 4(f)(4), Spanish heritage.

Minnesota: Delete Mahnomen County, sec. 203(c), American Indian.

New Mexico: Delete Curry County, sec. 4(f)(4), Spanish heritage. Delete McKinley County, sec. 4(f)(4), American Indian, Spanish heritage. Delete Otero County, sec. 4(f)(4), Spanish heritage.

Washington: Delete Ferry County, sec. 203(c), American Indian.

Dated: July 1, 1977.

GRIFFIN B. BELL,
Attorney General.

APPENDIX.—*Jurisdictions covered under secs. 4(f)(4) and 203(c) of the Voting Rights Act of 1965, as amended by the Voting Rights Act amendments of 1975.*

[Applicable language minority group(s)]

Jurisdiction	Coverage under sec. 4(f)(4)	Coverage under sec. 203(c)
Alaska	Alaskan Natives [1],	
Election District 1		Alaskan Natives.
Election District 2		Do.
Election District 3		Do.
Election District 4		Do.
Election District 5		Do.
Election District 13		Do.
Election District 14		Do.
Election District 15		Do.
Election District 16		Do.
Election District 17		Do.
Election District 18		Do.
Election District 19		Do.
Election District 21		Do.
Election District 22		Do.
Arizona	Spanish heritage [1],	
Apache County	American Indian.	Spanish heritage, American Indian.
Cochise County		Spanish heritage.
Coconino County	American Indian.	American Indian, Spanish heritage.
Gila County		Do.
Graham County		Do.
Greenlee County		Spanish heritage.
Maricopa County		Do.
Mohave County		Do.
Navajo County	American Indian.	American Indian, Spanish heritage.
Pima County		Spanish heritage.
Pinal County	American Indian.	American Indian, Spanish heritage.
Santa Cruz County		Spanish heritage.
Yavapai County		Do.
Yuma County		Do.
California:		
Alameda County		Do.
Amador County		Do.
Colusa County		Do.
Contra Costa County		Do.
Fresno County		Do.
Imperial County		Do.
Inyo County		American Indian.
Kern County		Spanish heritage.
Kings County	Spanish heritage.	Do.
Lassen County		Do.
Los Angeles County		Do.
Madera County		Do.
Merced County	Spanish heritage.	Do.
Monterey County		Do.
Napa County		Do.
Orange County		Do.
Placer County		Do.
Riverside County		Do.
Sacramento County		Do.
San Benito County		Do.
San Bernardino County		Do.
San Diego County		Do.
San Francisco County		Spanish heritage. Chinese American.
San Joaquin County		Spanish heritage.
San Luis Obispo County		Do.
San Mateo County		Do.
Santa Barbara County		Do.
Santa Clara County		Do.
Santa Cruz County		Do.
Sierra County		Do.
Solano County		Do.
Sonoma County		Do.
Stanislaus County		Do.
Sutter County		Do.
Tulare County		Do.
Tuolumne County		Do.
Ventura County		Do.
Yolo County		Do.
Yuba County	Spanish heritage.	Do.
Colorado:		
Adams County		Do.
Alamosa County		Do.
Archuleta County		Do.
Bent County		Do.
Boulder County		Do.
Chaffee County		Do.
Clear Creek County		Do.
Conejos County		Do.
Costilla County		Do.
Crowley County		Do.
Delta County		Do.
Denver County		Do.
Eagle County		Do.
El Paso County	Spanish heritage.	Do.
Fremont County		Do.
Huerfano County		Do.
Jackson County		Do.
Lake County		Do.
La Plata County		Do.
Las Animas County		Do.
Mesa County		Do.
Moffat County		Do.
Montezuma County		Spanish heritage. American Indian.
Montrose County		Spanish heritage.
Morgan County		Do.
Otero County		Do.
Prowers County		Do.
Pueblo County		Do.
Rio Grande County		Do.
Saguache County		Do.
San Juan County		Do.
San Miguel County		Do.
Sedgwick County		Do.
Weld County		Do.
Connecticut: Bridgeport Town (Fairfield County).		Do.
Florida:		
Collier County	Spanish heritage.	Do.
Dade County		Do.
Glades County		American Indian.
Hardee County	Spanish heritage.	Spanish heritage.
Hendry County	do	Do.
Hillsborough County	do	Do.
Monroe County	do	Do.
Hawaii:		
Hawaii County		Filipino American, Japanese American.
Honolulu County		Chinese American, Filipino American.
Kauai County		Filipino American, Japanese American.
Maui County		Do.
Idaho:		
Bingham County		American Indian.
Cassia County		Spanish heritage.
Kansas:		
Finney County		Do.
Grant County		Do.
Wichita County		Do.
Louisiana: St. Bernard Parish.		Do.
Maine: Passamaquoddy Pleasant Point Indian Reservation (Washington County).		American Indian.
Michigan:		
Clyde Township (Allegan County).		Spanish heritage.
Orangeville Township (Barry County).		Do.
Sugar Island Township (Chippewa County).		American Indian.
Imlay Township (Lapeer County).		Spanish heritage.
Adrian City (Lenawee County).		Do.
Madison Township (Lenawee County).		Do.
Grant Township (Newaygo County).		Do.
Buena Vista Township (Saginaw County).	Spanish heritage.	Do.
Saginaw City (Saginaw County).		Do.
Minnesota:		
Beltrami County		American Indian.
Cass County		Do.
Mississippi: Neshoba County.		Do.
Montana:		
Blaine County		Do.
Glacier County		Do.
Hill County		Do.
Lake County		Do.
Roosevelt County		Do.
Rosebud County		Do.
Valley County		Do.

[1] Statewide coverage.

[Applicable language minority group(s)]

Jurisdiction	Coverage under sec. 4(f)(4)	Coverage under sec. 203(c)
Nebraska:		
Scotts Bluff County		Spanish heritage.
Thurston County		American Indian.
Nevada:		
Elko County		Spanish heritage, American Indian.
Mineral County		American Indian.
Nye County		Spanish heritage.
White Pine County		Do.
New Mexico:		
Bernalillo County		Do.
Catron County		Do.
Chaves County		Do.
Colfax County		Do.
Curry County		Do.
De Baca County		Do.
Dona Ana County		Do.
Eddy County		Do.
Grant County		Do.
Guadalupe County		Do.
Harding County		Do.
Hidalgo County		Do.
Lea County		Do.
Lincoln County		Do.
Los Alamos County		Do.
Luna County		Do.
McKinley County		American Indian, Spanish heritage.
Mora County		Spanish heritage.
Otero County		Do.
Quay County		Do.
Rio Arriba County		American Indian, Spanish heritage.
Roosevelt County		Spanish heritage.
Sandoval County		American Indian, Spanish heritage.
San Juan County		Do.
San Miguel County		Spanish heritage.
Sante Fe County		Do.
Sierra County		Do.
Socorro County		Do.
Taos County		American Indian, Spanish heritage.
Torrance County		Spanish heritage.
Union County		Do.
Valencia County		American Indian, Spanish heritage.
New York:		
Bronx County	Spanish heritage.	Spanish heritage.
Kings County	do.	Do.
New York County		Do.
North Carolina:		
Hoke County		American Indian.
Jackson County	American Indian.	Do.
Robeson County		Do.
Swain County		Do.
North Dakota:		
Benson County		Do.
Dunn County		Do.
McKenzie County		Do.
Mountrail County		Do.
Rolette County		Do.
Oklahoma:		
Adair County		Do.
Blaine County		Do.
Caddo County		Do.
Cherokee County		Do.
Choctaw County	American Indian.	Do.
Coal County		Do.
Craig County		Do.
Delaware County		Do.
Harmon County		Spanish heritage.
Hughes County		American Indian.
Johnston County		Do.
Latimer County		Do.
McCurtain County	American Indian.	Do.
McIntosh County		Do.
Mayes County		Do.
Okfuskee County		Do.
Okmulgee County		Do.
Osage County		Do.
Ottawa County		Do.
Pawnee County		Do.
Pushmataha County		Do.
Rogers County		Do.
Seminole County		Do.
Sequoyah County		Do.
Tillman County		Spanish heritage.

[Applicable language minority group(s)]

Jurisdiction	Coverage under sec. 4(f)(4)	Coverage under sec. 203(c)
Oregon:		
Jefferson County		American Indian.
Malheur County		Spanish heritage.
South Dakota:		
Bennett County		American Indian.
Charles Mix County		Do.
Corson County		Do.
Lyman County		Do.
Mellette County		Do.
Shannon County	American Indian.	Do.
Washabaugh County		Do.
Todd County	American Indian.	
Texas	Spanish heritage.[1]	
Andrews County		Spanish heritage.
Aransas County		Do.
Atascosa County		Do.
Bailey County		Do.
Bandera County		Do.
Bastrop County		Do.
Bee County		Do.
Bell County		Do.
Bexar County		Do.
Blanco County		Do.
Borden County		Do.
Brazoria County		Do.
Brazos County		Do.
Brewster County		Do.
Briscoe County		Do.
Brooks County		Do.
Burleson County		Do.
Burnet County		Do.
Caldwell County		Do.
Calhoun County		Do.
Cameron County		Do.
Castro County		Do.
Cochran County		Do.
Coke County		Do.
Colorado County		Do.
Comal County		Do.
Concho County		Do.
Coryell County		Do.
Cotile County		Do.
Crane County		Do.
Crockett County		Do.
Crosby County		Do.
Culberson County		Do.
Dallam County		Do.
Dawson County		Do.
Deaf Smith County		Do.
De Witt County		Do.
Dickens County		Do.
Dimmit County		Do.
Duval County		Do.
Ector County		Do.
Edwards County		Do.
Ellis County		Do.
El Paso County		Do.
Falls County		Do.
Fisher County		Do.
Floyd County		Do.
Foard County		Do.
Fort Bend County		Do.
Frio County		Do.
Gaines County		Do.
Galveston County		Do.
Garza County		Do.
Gillespie County		Do.
Glasscock County		Do.
Goliad County		Do.
Gonzales County		Do.
Grimes County		Do.
Guadalupe County		Do.
Hale County		Do.
Hall County		Do.
Hansford County		Do.
Harris County		Do.
Haskell County		Do.
Hays County		Do.
Hidalgo County		Do.
Hockley County		Do.
Howard County		Do.
Hudspeth County		Do.
Jackson County		Do.
Jeff Davis County		Do.
Jim Hogg County		Do.
Jim Wells County		Do.
Jones County		Do.
Karnes County		Do.
Kendall County		Do.
Kenedy County		Do.
Kerr County		Do.
Kimble County		Do.
Kinney County		Do.
Kleberg County		Do.
Knox County		Do.

[Applicable language minority group(s)]

Jurisdiction	Coverage under sec. 4(f)(4)	Coverage under sec. 203(c)
Lamb County		Do.
Lampasas County		Do.
La Salle County		Do.
Live Oak County		Do.
Lubbock County		Do.
Lynn County		Do.
McCulloch County		Do.
McLennan County		Do.
McMullen County		Do.
Madison County		Do.
Martin County		Do.
Mason County		Do.
Matagorda County		Do.
Maverick County		Do.
Medina County		Do.
Menard County		Do.
Midland County		Do.
Milam County		Do.
Mitchell County		Do.
Moore County		Do.
Nolan County		Do.
Nueces County		Do.
Parmer County		Do.
Pecos County		Do.
Potter County		Do.
Presidio County		Do.
Reagan County		Do.
Real County		Do.
Reeves County		Do.
Refugio County		Do.
Robertson County		Do.
Runnels County		Do.
San Patricio County		Do.
San Saba County		Do.
Schleicher County		Do.
Scurry County		Do.
Sherman County		Do.
Starr County		Do.
Sterling County		Do.
Sutton County		Do.
Swisher County		Do.
Taylor County		Do.
Terrell County		Do.
Terry County		Do.
Throckmorton County		Do.
Tom Green County		Do.
Travis County		Do.
Upton County		Do.
Uvalde County		Do.
Val Verde County		Do.
Victoria County		Do.
Ward County		Do.
Webb County		Do.
Wharton County		Do.
Willacy County		Do.
Williamson County		Do.
Wilson County		Do.
Winkler County		Do.
Yoakum County		Do.
Zapata County		Do.
Zavala County		Do.
Utah:		
Carbon County		Spanish heritage.
San Juan County		American Indian.
Tooele County		Spanish heritage.
Uintah County		American Indian.
Virginia: Charles City County		Do.
Washington:		
Adams County		Spanish heritage.
Columbia County		Do.
Grant County		Spanish heritage.
Okanogan County		American Indian.
Yakima County		Spanish heritage.
Wisconsin:		
Nashville Town (Forest County).		American Indian.
Bovina Town (Outagamie County).		Spanish heritage.
Oneida Town (Outagamie County).		American Indian.
Hayward City (Sawyer County).		Do.
Wyoming:		
Carbon County		Spanish heritage.
Fremont County		American Indian.
Laramie County		Spanish heritage.
Sweetwater County		Do.
Washakie County		Do.

[FR Doc.77-20077 Filed 7-12-77;8:45 am]

Title 7—Agriculture

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

[Pear Regulation 7]

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Minimum Grade, Size and Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade, size and container requirements for fresh shipments of California Bartlett, Max-Red Bartlett and Red Bartlett variety pears during the period July 14 through August 31, 1977. These requirements are needed to provide for orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: July 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3545.)

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California, 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 of the Pear Commodity Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the regulation of shipments of pears, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) This action reflects the Department's appraisal of the need for regulation, and of the crop and current and prospective market conditions. Fresh shipments of California Bartlett pears from the 1977 crop have been estimated at 4,210 carlots by the Pear Commodity Committee, as compared with 4,159 carlots last year and 3,819 carlots in 1975. Shipments of pears from the production area are expected to begin on or about July 12, 1977. The grade and size requirements provided herein are designed to prevent the handling, on and after July 14, 1977, of any pears which do not comply with such requirements, so as to provide consumers with good quality fruit, consistent with the overall quality of the crop while improving returns to producers pursuant to the declared policy of the act. The container requirements, included herein, are necessary to assure that containers are properly marketed as to variety and the fruit contained therein is protected during transit.

(3) It is hereby further found that it is impracticable, unnecessary, 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) in that, as hereinafter set forth, the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must beocme 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 July 14, 1977. A reasonable determination as to the supply of, and the demand for, such pears must await the development of the crop thereof, and adequate information thereon was not available to the Pear Commodity Committee until June 30, 1977, on which date an open meeting was held, after giving due notice thereof, to consider the need for, and the extent of, regulation of shipments of such pears. Interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information and regulation during the period specified herein were promptly submitted to the Department after such meeting was held; shipments of the current crop of such pears are expected to begin on or about the effective date hereof; this regulation should be applicable to all such shipments in order to effectuate the declared policy of the act; the provisions of this regulation are identical with the aforesaid recommendation of the committee; information concerning such provisions and effective time has been disseminated among handlers of such pears; and compliance with the provisions of this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

Therefore, a new § 917.445 is added which reads as follows:

§ 917.445 **Pear Regulation 7.**

(a) During the period July 14, 1977, through August 31, 1977, no handler shall ship:

(1) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears which do not grade at least U.S. Combination with not less than 85 percent, by count, of the pears grading at least U.S. No. 1;

(2) Any box or container of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears unless such pears are of a size not smaller than the size known commercially as size 150: *Provided*, That a handler may ship, during any day from any shipping point, a quantity of such pears which are smaller than the size known commercially as size 150 if (i) such smaller pears are not smaller than the size known commercially as size 165, and (ii) the quantity of such smaller pears shipped from such shipping point does not, at the end of any day during the aforesaid period, exceed 5.263 percent of such handler's total shipments of such pears, shipped from the same shipping point, which are not smaller than the size known commercially as size 150;

(3) Any box or container of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears unless such box or container is stamped or otherwise marked, in plain sight and in plain letters, on one outside end with the name of the variety; and

(4) Any box or container of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears in volume fill cartons (not packed in rows and not wrap packed) unless (i) such cartons are well filled with pears fairly uniform in size; (ii) such pears are packed fairly tight; (iii) there is an approved top pad in each carton that will cover the fruit with no more than ¼ inch between the pad and any side or end of the carton; and (iv) the top of the carton shall be securely fastened to the bottom: *Provided*, That 10 percent of the cartons in any lot may fail to meet the requirements of this paragraph.

(b) *Definitions.* (1) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

(2) "Size known commercially as size 150" means a size of pear that will pack a standard pear box, packed in accordance with the specifications of a standard pack, with 150 pears and that a 12-pound random sample, representative of the size of the pears in the box or container, contains not more than 39 pears.

(3) "Size known commercially as size 165" means a size of pear that will pack a standard pear box, packed in accordance with the specifications of a standard pack, with 165 pears and that a 12-pound random sample, representative of the size of the pears in the box or container, contains not more than 43 pears.

(4) "Standard pear box" means the container so designated in Section 1380.9 of the Regulations of the California Department of Food and Agriculture.

(5) "U.S. No. 1", "U.S. Combination" and "standard pack" shall have the same meaning as when used in the U.S. Standards for Pears (Summer and Fall) 7 CFR 51.1260-51.1280.

(6) "Approved top pad" shall mean a pad of wood-type excelsior construction, fairly uniform in thickness, weighing at least 160 pounds per 1,000 square feet (e.g., an 11 inch by 17 inch pad will weigh at least 21 pounds per 100 pads) or an equivalent made of material other than wood excelsior approved by the committee.

(c) Pear Regulation 6 is hereby terminated as of the effective date hereof.

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

Dated: July 11, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-20259 Filed 7-12-77;8:45 am]

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

PART 1205—COTTON RESEARCH AND PROMOTION

Supplemental Assessment on Upland Cotton Producers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Cotton Board Rules and Regulations to provide (1) the method by which a supplemental assessment of four tenths of one percent of the value of cotton will be levied on upland cotton and (2) procedures necessary to implement the supplemental assessment. The assessment is used to finance cotton research and promotion programs. The present assessment does not provide enough funds for this purpose.

EFFECTIVE DATE: July 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Alvin Deck, Marketing Programs Branch, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–2072).

SUPPLEMENTARY INFORMATION: The amendment to the Cotton Research and Promotion Order (7 CFR Part 1205) published in the FEDERAL REGISTER on January 26, 1977 (42 FR 4812), provides that the Secretary of Agriculture shall prescribe by regulation whether the supplemental assessment rate of four-tenths of one percent of the value of cotton shall be levied on (1) the current value of cotton, or (2) an average value determined from current and/or historical cotton prices and converted to a fixed amount for each bale of cotton.

On June 8, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 29313), which presented proposals on (1) the method of levying the supplemental assessment and (2) the changes in Cotton Board Rules and Regulations necessary to implement the supplemental assessment. An explanation of these proposals is contained in the notice.

Interested persons were given until June 23, 1977, to submit comments on the proposals. Written submissions were received by the Hearing Clerk from 74 parties. Comments received from all sources have been reviewed and considered.

METHOD OF LEVYING SUPPLEMENTAL ASSESSMENT

The proposed regulation provided that the supplemental assessment of four-tenths of one percent be levied on (1) the current value of cotton multiplied by the number of pounds of lint cotton, or (2) the current value of cotton converted to a fixed amount per bale using an assessment chart to calculate the assessment per bale.

A number of collecting handlers and organizations representing collecting handlers submitted comments opposing this optional method for levying the supplemental assessment. In lieu of this optional method, they recommended that a fixed amount be levied on each bale of cotton based on a historical average of prices received by farmers.

After consideration of these comments and recommendations, it is concluded that a fixed rate per bale based on a historical average of prices is not appropriate because (1) the assessment would not be based on current price levels but on a calculated historical price which might not relate closely to current price levels, and (2) the assessment would not be based on the quality of cotton and producers of lower quality cotton who normally receive less for their cotton would be paying at the same fixed rate as producers with higher quality cotton.

Furthermore, it is determined that the proposal in the June 8, 1977 notice provides an assessment chart that will provide a simple and orderly procedure for most collecting handlers while the provision for assessing four-tenths of one percent of the gross sales price will be helpful to collecting handlers with computerized accounting systems.

Therefore, the proposed amendment to § 1205.510 is adopted without change.

CHANGES NECESSARY IN RULES AND REGULATIONS TO IMPLEMENT THE SUPPLEMENTAL ASSESSMENT

1. Opposition was received to only one of the numerous proposed changes necessary to implement the supplemental assessment. Sixty-nine of the 74 comments received opposed the requirement of the gross price per pound entry on the collecting handler report. The Cotton Board is opposed to this requirement because the Board feels it is not needed for the collection and verification of remittance of the supplemental assessment. Collecting handlers are also opposed to this requirement because of the additional paperwork and expense that will be placed on them as a result of the additional reporting.

Therefore, in consideration of the Cotton Board's confidence and assurance that the supplemental assessment can be collected and adequately verified without benefit of the gross price per pound entry on the collecting handler report, and the additional time and expense involved in preparing the collecting handler report to include the gross price per pound, the requirement for showing the gross sales price per pound on the collecting handler report is not adopted.

The Executive Committee of the Cotton Board has reviewed the proposed amendment of the Rules and Regulations and recommends approval with the above change. This official position was ratified by a majority of the Cotton Board members in a mail ballot.

2. Other editorial and administrative changes are made for clarification and correctness.

After consideration of the Cotton Board's recommendation and all relevant matters presented, including that in the notice and comments received, the amendments to 7 CFR Part 1205, Cotton Board Rules and Regulations are approved as set forth below.

The amended regulations will not create any undue hardships or impose any requirements or obligations on collecting handlers or others that cannot be complied with by the effective date specified herein. The supplemental assessment is urgently needed to expand existing research and promotion projects and initiate new projects. Since ginning of the 1977 crop has already started in the earliest producing regions, it is imperative to have this assessment effective as soon as possible. Therefore, good cause is found for making this amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Dated: July 8, 1977, to become effective July 15, 1977.

WILLIAM T. MANLEY,
Acting Administrator.

Subpart—Cotton Board Rules and Regulations

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DEFINITIONS

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1205.533 Availability of reports and records.

CONFIDENTIAL INFORMATION

1205.540 Confidential books, records, and reports.

AUTHORITY: Sec. 7, 80 Stat. 281, 7 U.S.C. 2106; Cotton Research and Promotion Order, 7 CFR 1205.327.

DEFINITIONS

§ 1205.500 Terms defined.

As used throughout this subpart, unless the context otherwise requires, the following terms shall mean:

(a) "ASCS" means the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture.

(b) "Cotton Board" means the administrative body established pursuant to the Cotton Research and Promotion Order.

(c) "CCC" means the Commodity Credit Corporation.

(d) "Current value of Cotton" means the gross price per pound of lint cotton received by the producer as shown on the producers' settlement document before weight penalties, buyer's commission or brokerage fees, marketing fees, the $1 per bale cotton research and promotion assessment, picking charges, ginning charges, warehouse receiving charges, warehouse storage charges, transportation charges or any other deductions are made.

(e) "Form A" means Cotton Producer's Note, Form CCC Cotton A.

(f) "Gin code number" means the identification number assigned to each cotton gin by the Cotton Division Agricultural Marketing Service, U.S. Department of Agriculture.

(g) "Handle" means to harvest, gin, warehouse, compress, purchase, market, transport, or otherwise acquire ownership or control of cotton.

(h) "Handler" means any person who handles cotton, including CCC.

(i) "Marketing" means any sale of cotton, or the pledging of cotton to CCC as collateral for a price support loan.

(j) "Marketing year" means a consecutive 12-month period ending on July 31.

(k) "Person" means any individual, partnership, corporation, association, or any other entity, whether governmental or private.

(l) "Producer" means any person who owns or shares in a cotton crop (or in the proceeds thereof) as landowner, landlord, tenant, or sharecropper.

(m) "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the U.S. Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

GENERAL

§ 1205.505 Communication.

All reports, requests, and applications for refunds and communications in connection with the cotton research and promotion order shall be addressed as follows: Cotton Board, Post Office Box 2121, Memphis, Tenn. 38159.

ASSESSMENTS

§ 1205.510 Levy of assessments.

(a) An assessment of $1 per bale for cotton research and promotion is hereby levied on each bale of upland cotton that is produced from cotton harvested and ginned on and after June 10, 1967 except cotton consumed by any governmental agency from its own production. Such assessment shall be payable and collected only once on each bale.

(b) A supplemental assessment for cotton research and promotion in addition to the $1 per bale assessment provided in paragraph (a) of this section, is hereby levied on each bale of upland cotton harvested and ginned on and after July 15, 1977 except cotton consumed by any governmental agency from its own production. The supplemental assessment shall be levied at the rate of four-tenths of one percent of (1) the current value of cotton multiplied by the number of pounds of lint cotton or (2) the current value of cotton converted to a fixed amount per bale as reflected in the following assessment chart:

ASSESSMENT CHART [1]

Current value cents per pound:	*Supplemental assessment dollars per bale*
.00 to 9.99	.10
10.00 to 19.99	.30
20.00 to 29.99	.50
30.00 to 39.99	.70
40.00 to 49.99	.90
50.00 to 59.99	1.10
60.00 to 69.99	1.30
70.00 to 79.99	1.50
80.00 to 89.99	1.70
90.00 to 99.99	1.90
100.00 to 109.99	2.10
110.00 to 119.99	2.30

[1] Assessment is calculated on 4/10 of 1 percent of the midpoint of each 10¢ increment, based on a 500 lb bale, and converted to a fixed amount per bale.

(c) Each marketing year the collecting handler must select one of the two options of collecting the supplemental assessment as provided in paragraph (b) of this section. The handler shall notify the Cotton Board as to the method selected at the time he files his first handler report each marketing year.

§ 1205.511 Payment and collection.

(a) The $1 per bale assessment shall be paid by the producer of the cotton to the collecting handler designated in § 1205.512.

(b) The supplemental assessment shall be paid by the producer of the cotton to the collecting handler designated in § 1205.513.

(c) If more than one producer shares in the proceeds received from a bale, each such producer is obligated to pay that portion of the assessments which are equivalent to his proportionate share of the proceeds.

(d) Failure of the handler to collect the assessments on each bale shall not relieve the handler of his obligation to remit the assessments to the Cotton Board as required in §§ 1205.512, 1205.513 and 1205.514.

§ 1205.512 Collecting handlers and time of collection of $1 per bale assessment.

Collecting handlers and the time of collecting the $1 per bale assessment shall be as follows:

(a) Except as provided in paragraph (b) of this section, any person who purchases a bale of cotton from the producer of the cotton shall be the collecting handler for such cotton. The handler shall collect the assessment at the time the handler first makes any payment or any credit to the producer's account for the cotton. The handler shall give the producer a receipt indicating payment of the assessment.

(b) Any cooperative marketing association or other person that accepts a bale of cotton from the producer of the cotton under an oral or written contract or agreement providing for the marketing of the cotton shall be the collecting handler for such cotton. Such association or person shall collect the assessment regardless of whether the cotton is marketed or tendered to CCC for price support loan. The handler shall collect the assessment at the time the handler first makes any cash advance, any payment, or any credit to the producer's account for the cotton. The handler shall give the producer a receipt indicating payment of the assessment.

(c) For bales of cotton tendered to CCC for Form A loan, except bales tendered pursuant to paragraph (b) of this section:

(1) The ASCS County Office shall be the collecting handler except as provided in subparagraph (2) of this paragraph. The ASCS County Office shall collect the assessment when it makes disbursement based on the Form A loan documents. The producer's copy of the Cotton Producer's Note (Form CCC Cotton A) shall show payment of the assessment and shall constitute the producer's receipt for payment of the assessment.

(2) Any person (other than an ASCS County Office) who advances to the producer the loan value of the cotton as shown on a Cotton Producer's Note (Form CCC Cotton A) shall be the collecting handler for such cotton. The handler shall collect the $1 per bale assessment at the time the handler makes any advance to the producer on the loan value of the cotton. The handler shall give the producer a receipt indicating payment of the assessment.

(d) Any person who purchases cotton in the cotton field where produced or who purchases seed cotton or unbaled lint cotton from the producer of the cotton shall be the collecting handler. The handler shall collect the assessment at the time such cotton is ginned and shall give the producer a receipt indicating payment of the assessment. When a bale is ginned that contains any such cotton purchased from more than one producer, the handler shall collect each producer's proportionate share of the assessment and shall give each producer a receipt indicating the producer's pro-

portionate share of the assessment payment.

(e) Any person who purchases cotton from a producer whereby the producer agrees to deliver a certain quantity of cotton but retains the right to establish the price at some future date shall be the collecting handler for such cotton. The handler shall collect the $1 per bale assessment at the time final settlement is made on the cotton. The handler shall give the producer a receipt indicating payment of the $1 per bale assessment.

(f) Any person who consumes domestically or exports cotton of his own production shall be the collecting handler for such cotton. Such handler shall pay the assessment to the Cotton Board at the time the cotton is consumed or exported.

(g) Any person who obtains ownership of a bale of cotton from the producer of the cotton by transfer of any kind or by any means, under conditions other than those described in paragraph (a), (b), (c), (d) or (e) of this section shall be the collecting handler for such cotton. Such handler shall collect the assessment at the time he takes ownership of the cotton. The handler shall give the producer a receipt indicating payment of the assessment.

(h) In the event of a producer's death, bankruptcy, receivership, or incapacity to act, the representative of the producer, or his estate, or the person acting on behalf of creditors, shall be considered the producer of the cotton for the purposes of this section and § 1205.520.

§ 1205.513 Collecting handlers and time of collection of the supplemental assessment.

Collecting handlers and the time of collecting the supplemental assessment shall be as follows:

(a) Except as provided in paragraph (b) of this section, any person who purchases a bale of cotton from the producer of the cotton shall be the collecting handler for such cotton. The handler shall collect the supplemental assessment at the time the handler first makes any payment or any credit to the producer's account for the cotton. The handler shall give the producer a receipt indicating payment of the supplemental assessment.

(b) Any cooperative marketing association or other person that accepts a bale of cotton from the producer of the cotton under an oral or written contract or agreement providing for the marketing of the cotton shall be the collecting handler for such cotton. Such association or person shall collect the supplemental assessment regardless of whether the cotton is marketed or tendered to CCC for price support loan. The handler shall collect the supplemental assessment at the time the handler first makes any cash advance, any payment, or any credit to the producer's account for the cotton. Supplemental assessments due on any subsequent cash advances, payments, or credits to the producer's account shall be collected by the handler at the time final settlement is made on the cotton. The handler shall give the producer a receipt each time a supplemental assessment is collected.

(c) For bales of cotton tendered to CCC for Form A loan, except bales tendered pursuant to paragraph (b) of this section:

(1) The ASCS County Office shall be the collecting handler except as provided in subparagraph (2) of this paragraph. The ASCS County Office shall collect the supplemental assessment when it makes disbursement based on the Form A loan value of cotton. The producer's copy of the Cotton Producer's Note (Form CCC Cotton A) shall show payment of the supplemental assessment and shall constitute the producer's receipt for payment of the supplemental assessment.

(2) Any person (other than an ASCS County Office) who advances to the producer the loan value of the cotton as shown on a Cotton Producer's Note (Form CCC Cotton A) shall be the collecting handler for such cotton. The handler shall collect the supplemental assessment at the time the handler makes any advance to the producer on the loan value of the cotton. The handler shall give the producer a receipt indicating payment of the supplemental assessment.

(d) Any person who (1) purchases a producer's equity in cotton tendered to CCC for Form A loan or (2) purchases cotton that a producer has redeemed from the Form A loan, shall be the collecting handler for that portion of the total supplemental assessment not collected under paragraph (c) of this section. The handler shall give the producer a receipt indicating payment of that portion of the supplemental assessment.

(e) Any person who purchases cotton in the cotton field where produced or who purchases seed cotton or unbaled lint cotton from the producer of the cotton shall be the collecting handler. The handler shall collect the supplemental assessment at the time such cotton is ginned and shall give the producer a receipt indicating payment of the supplemental assessment. When a bale is ginned and baled that contains any such cotton purchased from more than one producer, the handler shall collect each producer's proportionate share of the supplemental assessment and shall give each producer a receipt indicating the producer's proportionate share of the supplemental assessment payment.

(f) Any person who purchases cotton from a producer whereby the producer agrees to deliver a certain quantity of cotton but retains the right to establish the price at some future date shall be the collecting handler for such cotton. The handler shall collect the supplemental assessment at the time final settlement is made on the cotton. The handler shall give the producer a receipt indicating payment of the supplemental assessment.

(g) Any person who consumes domestically cotton of his own production shall be the collecting handler for such cotton. The handler shall pay the supplemental assessment at the time of consumption on the basis of a market value determined in consultation with the Cotton Board.

(h) Any person who exports cotton of his own production shall be the collecting handler for such cotton. Such handler shall pay the supplemental assessment on the basis of the current value of cotton as reflected on the export settlement document.

(i) Any person who obtains ownership of a bale of cotton from the producer of the cotton by transfer of any kind or by any means, under conditions other than those described in paragraph (a), (b), (c), (d), (e), or (f) of this section shall be the collecting handler for such cotton. Such handler shall collect the supplemental assessment at the time he takes ownership of the cotton. The handler shall give the producer a receipt indicating payment of the supplemental assessment.

(j) In the event of a producer's death, bankruptcy, receivership, or incapacity to act, the representative of the producer, or his estate, or the person acting on behalf of creditors, shall be considered the producer of the cotton for the purposes of this section and § 1205.520.

§ 1205.514 Remittance to Cotton Board.

Each collecting handler shall transmit assessments and reports on assessments to the Cotton Board as follows:

(a) *Reporting periods.* Each calendar month shall be a reporting period and the period shall end at the close of business on the last day of the month.

(b) *Reports.* Each collecting handler shall make reports on forms made available or approved by the Cotton Board. Each collecting handler shall prepare a separate report form each reporting period for each gin from which such handler handles cotton on which he is required to collect the assessments during the reporting period. Each report shall be mailed in duplicate to the Cotton Board within 10 days after the close of the reporting period and shall contain the following information:

(1) Date of report.

(2) Reporting period covered by report.

(3) Gin code number.

(4) Name and address of handler.

(5) Listing of all producers from whom the handler was required to collect the assessments, their addresses, and total number of bales, and total assessments collected and remitted for each producer.

(6) Date of last report remitting assessments to the Cotton Board.

(c) *Remittances.* The collecting handler shall remit all assessments to the Cotton Board with the report required in paragraph (b) of this section. All remittances sent to the Cotton Board by collecting handlers shall be by check, draft, or money order payable to the order of the "Cotton Board." All remittances shall be received subject to collection and payment at par.

§ 1205.515 Receipts for payment of assessments.

Each collecting handler who is required by §§ 1205.512 and 1205.513 to give the producer a receipt showing payment of cotton research and promotion assessments shall provide the producer with an invoice or settlement sheet for the cotton. Such document shall serve as a receipt and shall contain the following information:

(a) Name and address of collecting handler.

(b) Gin code number of gin at which cotton was ginned.

(c) Name and address of producer who paid assessment.

(d) Number of bales on which assessment was paid.

(e) Gross price per pound received by the producer.

(f) Total assessments paid by the producer.

(g) Date on which assessments were paid by the producer.

REFUNDS

§ 1205.520 Procedure for obtaining refund.

Each cotton producer against whose cotton any assessments are made and collected pursuant to this subpart may obtain a refund of such assessment only by following the procedures prescribed in this section.

(a) *Application form.* A producer shall obtain a refund application form from the Cotton Board. Such form may be obtained by written request to the Cotton Board and the request shall bear the producer's signature or his properly witnessed mark.

(b) *Submission of refund application to Cotton Board.* Any producer requesting a refund shall mail an application on the prescribed form to the Cotton Board within 90 days from the date the assessments were paid on the cotton by such producer. The refund application shall show (1) producer's name and address; (2) collecting handler's name and address; (3) gin code number; (4) number of bales on which refund is requested; (5) total amount to be refunded; (6) date or inclusive dates on which assessments were paid; and (7) the producer's signature or properly witnessed mark. Where more than one producer shared in the assessment payment on cotton, joint or separate refund application forms may be filed. In any such case the refund application shall show the names, addresses and proportionate shares of all such producers. The refund application form shall bear the signature or properly witnessed mark of each producer seeking a refund.

(c) *Proof of payment of assessments.* The receipt given to the producer by the collecting handler, or a copy thereof, or such other evidence satisfactory to the Cotton Board, shall accompany the producer's refund application. Within 60 days from the date the properly executed application for refund is received by the Cotton Board, the Cotton Board shall make remittance to the producer. For joint applications, the remittance shall be made payable jointly to all eligible producers signing the refund application form. Receipts submitted with refund applications shall be returned to the producer with his refund by the Cotton Board.

WAREHOUSE RECEIPTS

§ 1205.525 Entry of gin code number.

For each bale of cotton ginned on or after June 10, 1967, the warehouse that first receives the bale for storage after ginning shall enter the gin code number of the gin at which the bale was ginned on the warehouse receipt issued for the bale.

REPORTS AND RECORDS

§ 1205.530 Gin reports and reporting schedule.

(a) *Gin reports.* Each year each cotton gin in the United States shall submit reports to the Cotton Board on forms or certificates made available or approved by the Cotton Board as follows:

(1) *End-of-season report.* Except as provided in subparagraph (2) of this paragraph, each gin shall report to the Cotton Board an alphabetical listing of producer names, their addresses, and the number of bales ginned for each such producer during its ginning season.

(2) *Certificate in lieu of end-of-season report.* If a gin is the collecting handler on every bale ginned at such gin and collecting handler reports and remittances of assessments have been made in accordance with § 1205.514, a certification to that effect may be made to the Cotton Board in lieu of an end-of-season report.

(b) *Reporting schedule.* The schedule for submitting gin reports is as follows:

(1) Each gin that completes ginning operations prior to January 16 shall make a report to the Cotton Board within 10 days after completion of ginning.

(2) Each gin that operates on or after January 16 will make a report to the Cotton Board not later than January 25 covering bales ginned through January 15.

(3) Each gin that operates after January 15 shall make a supplemental report to the Cotton Board within 10 days after the close of ginning operations covering bales ginned after January 15.

§ 1205.531 Records.

Each handler required to make reports pursuant to this subpart shall maintain such books and records as are necessary to verify the reports.

§ 1205.532 Retention period for reports and records.

Each handler required to make reports pursuant to this subpart shall retain for at least 2 years beyond the marketing year of their applicability: (a) One copy of each report made to the Cotton Board; and (b) such books and records as are necessary to verify such reports.

§ 1205.533 Availability of reports and records.

Each handler required to make reports pursuant to this subpart shall make available for inspection by the Cotton Board, including its designated employees, and the Secretary any reports, books, or records required under this subpart.

CONFIDENTIAL INFORMATION

§ 1205.540 Confidential books, records, and reports.

All information obtained from the books, records, and reports of handlers and all information with respect to refunds of assessments made to individual producers shall be kept confidential in the manner and to the extent provided for in § 1205.336.[1]

[FR Doc.77-20158 Filed 7-11-77;9:46 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 AGRICULTURE
Agricultural Marketing Service

[7 CFR Part 948]

IRISH POTATOES GROWN IN COLORADO—AREA NO. 2

Proposed Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on proposed expenses of $20,500 and a rate of assessment of $0.00328 per hundredweight of potatoes for the functioning of the Colorado Area No. 2 Potato Committee. This regulation would enable the committee to collect assessments from first handlers on all assessable potatoes handled and use the resulting funds for its expenses.

DATE: Comments due July 28, 1977.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written materials shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, Telephone 202–447–3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 97 and Order No. 948, both as amended, regulate the handling of potatoes grown in designated counties of Colorado. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Area No. 2 Committee, established under the order, is responsible for its local administration in Area No. 2, consisting of certain counties in Southern Colorado.

The proposals are as follows:

§ 948.278 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending June 30, 1978, by the Area No. 2 Committee for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate will amount to $20,500.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be $0.00328 per hundredweight or equivalent quantity of assessable potatoes handled by him as the first handler during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 948.78.

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

Dated: July 8, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-20148 Filed 7-12-77;4:45 am]

[7 CFR Part 958]

ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

Proposed Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on proposed expenses of $269,531 and a rate of assessment of five and one-quarter cents per hundredweight of assessable onions for the functioning of the Idaho-Eastern Oregon Onion Committee. The regulation would enable the committee to collect assessments from first handlers on all assessable onions and to use the resulting funds for its expenses.

DATES: Comments due July 28, 1977.

ADDRESS: Comments should be sent to: Hearing Clerk, Room 1077 South Biulding, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: 202–447–3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 130 and Order No. 958, both as amended, regulate the handling of onions grown in certain designated counties in Idaho and Malheur County, Oregon. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Idaho-Eastern Oregon Onion Committee, established under the order, is responsible for its local administration.

The proposals are as follows:

§ 958.221 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending June 30, 1978, by the Idaho-Eastern Oregon Onion Committee for its maintenance and functioning, and for such purpose as the Secretary determines to be appropriate will amount to $269,531.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be $0.0525 per hundredweight or equivalent quantity of assessable onions handled by him as the first handler during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 958.44.

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

Dated: July 7, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-20026 Filed 7-12-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 212]

SELLERS OF NATURAL GAS LIQUIDS AND NATURAL GAS LIQUID PRODUCTS

Mandatory Petroleum Price Regulations To Provide for Recovery of Increased Processing and Marketing Costs; Receipt of Comments and Testimony Upon Other Outstanding Issues

AGENCY: Federal Energy Administration.

ACTION: Notice of extension of date for receipt of written comments; cancellation of Denver and Dallas regional hearings:

SUMMARY: The Federal Energy Administration ("FEA") hereby extends the date for receipt of written comments in the above-styled rulemaking proceeding pertaining to Subpart K of the Mandatory Petroleum Price Regulations. The due date for receipt of written comments, originally 4:30 p.m., e.d.t., Friday, July 15, 1977, is changed to 4:30 p.m., e.d.t., Monday, August 1, 1977.

The regional hearings originally scheduled in connection with this rulemaking proceeding for Dallas, Texas, and Denver, Colorado, are hereby cancelled.

All other dates, hearing locations and addresses for receipt of written comments and questions, remain unchanged. The National (Washington, D.C.) Hearing remain scheduled for Wednesday and Thursday, July 20 and 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Cliff G. Russell (Office of General Counsel), Federal Energy Adminstration, 12th & Pennsylvania Avenue NW., Room 5138, Washington, D.C. 20461, (202-566-9567).

SUPPLEMENTARY INFORMATION:

I. Extension of Date for Receipt of Written Comments

On June 3, 1977, the FEA issued a Notice of Proposed Rulemaking and Public Hearing, proposing certain amendments to Subpart K of the Mandatory Petroleum Price Regulations (10 CFR 212.161 et seq.) and identifying and seeking comments upon other issues pertaining to Subpart K (42 FR 29490, June 9, 1977).

The Notice is lengthy, and the proposed amendments and other issues upon which comments are requested are varied and complex. In view of this length and complexity, it was the FEA's purpose to provide ample time for commenters to review the Notice and formulate comments, in order to maximize the quality and utility to FEA of such comments. Although the six-week period between the date of issuance of the Notice (June 3, 1977) and the original due date for receipt of written comments (July 15, 1977) is substantial, the FEA is aware that affected members of the industry and public may not have received copies of the proposal until a week or more after its issuance, due to the time lag inherent in the necessity to print, publish and distribute the Notice.

The FEA has received several requests to extend the date for receipt of written comments. In view of the above considerations, it has determined to extend the date for receipt of written comments to Monday, August 1, 1977.

II. Cancellation of Regional Hearings

As of Tuesday, July 5, 1977, there were no outstanding requests to present oral statements at the Denver, Colorado, Regional Hearing originally scheduled for July 14, 1977, and only one such request to present an oral statement at the Dallas, Texas, Regional Hearing originally scheduled for July 11, 1977. The FEA has been advised that those who have previously expressed an interest in appearing at such regional hearings will make arrangements to present their views either at the National Hearing in Washington, D.C., or in the form of written comments. In view of the foregoing, the FEA has determined that the regional hearings originally scheduled for Dallas and Denver should be cancelled.

There are no changes in dates, or in hearing locations or addresses for the submission of written comments and questions, other than those noticed herein. The National (Washington, D.C.) Hearing remains scheduled for Wednesday and Thursday, July 20 and 21, 1977.

Eric J. Fygi,
Acting General Counsel,
Federal Energy Administration.

July 6, 1977.

[FR Doc.77-20031 Filed 7-12-77;8:45 am]

[10 CFR Part 216]

MATERIALS ALLOCATION AND PRIORITY PERFORMANCE UNDER CONTRACTS OR ORDERS TO MAXIMIZE DOMESTIC ENERGY SUPPLIES

AGENCY: Federal Energy Administration (FEA).

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The proposed regulations provide a procedure for implementing FEA functions with regard to the allocation of, or the priority performance under contracts or orders relating to, supplies of materials and equipment in order to maximize domestic energy supplies. Written comments will be received and a public hearing will be held with respect to the proposed regulations.

DATES: Comments by August 23, 1977, 4:30 p.m. Requests to speak by August 16, 1977, 4:30 p.m. Submission of questions by August 23, 1977, 4:30 p.m.

ADDRESSES: Any written communications in connection with these regulations should be addressed to: Executive Communications, Federal Energy Administration, Room 3309, Federal Building, Box NG, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, and marked "Priority and Allocation Regulations."

ADDRESS AND TIME FOR HEARING: August 26, 1977 at 9:30 a.m. in Room 3000A, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Robert M. Grubenmann, Financial Planning and Material Allocation, Energy Resource Development, Federal Energy Administration, Room 3516, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461 (202-566-7575).

Charles F. Dewey, Office of the General Counsel, Federal Energy Administration, Room 5116, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461 (202-566-9380).

SUPPLEMENTARY INFORMATION:

I. Background.
II. Purpose and Description of the Regulations.
III. Processing an Application for use of DPA section 101(c) Authority.
IV. Comments Requested.
V. Comment Procedures.
A. Written Comments.
B. Public Hearing.
1. Request procedure.
2. Conduct of the hearing.
IV. Miscellaneous.

I. Background

The regulations are the result of section 104 of the Energy Policy and Conservation Act (EPCA). This section added a new subsection (c) to section 101 of the Defense Production Act of 1950, as amended, (DPA), 50 U.S.C. App. 2071(c). DPA section 101(c)(1) authorizes the President to require the allocation of, or the priority performance under contracts or orders relating to, supplies of materials and equipment in order to maximize domestic energy supplies. This authority may be used only if the President finds, as stated in DPA section 101(c)(3), that:

(A) Such supplies are scarce, critical, and essential to maintain or further (i) exploration, production, refining, transportation, or (ii) the conservation of energy supplies, or (iii) for the construction and maintenance of energy facilities; and

(B) Maintenance or furtherance of exploration, production, refining, transportation or conservation of energy supplies or the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising the authority specified in paragraph (1) of this subsection.

Section 7 of Executive Order 11912 of April 13, 1976, designates and empowers the Administrator of General Services to perform the functions vested in the President by DPA section 101(c), with a requirement for a redelegation of such functions by the Administrator of General Services to the Secretary of Commerce. The Secretary of Commerce is responsible for the administration of priorities and allocation of materials and equipment authority by the issuance of appropriate rules and orders pursuant to DPA section 101(c)(1) if the specified statutory findings of DPA section 101(c)(3) have been made. With respect to these statutory findings, the Secretary of Commerce has, as required by the Executive Order, redelegated to the Administrator of the FEA the function of determining which supplies of materials and equipment are critical and essential to maintain or further exploration, production, refining, transportation or conservation of energy supplies or for the construction and maintenance of energy facilities. The Secretary of Commerce retains the function of determining whether the supplies of materials and equipment are scarce and whether the purposes specified in DPA section 101(c)(3) cannot reasonably be accomplished without exercising the authority contained in DPA section 101(c)(1). The Administrator of General Services provides for the overall coordination and direction of DPA section 101(c) functions.

II. PURPOSE AND DESCRIPTION OF THE REGULATIONS

The purpose of the regulations is to describe how FEA will discharge the functions delegated to it pursuant to DPA section 101(c). They describe the procedures FEA will follow in considering requests that the findings delegated to it be made. Where affirmative findings are made FEA will report them to the Department of Commerce for further action. Where negative findings are made, FEA will notify the applicant, with suitable explanation. If the Department of Commerce, following receipt of the affirmative FEA findings, finds that the described supplies of materials and equipment are scarce and that the purposes described in DPA section 101(c)(3) cannot reasonably be accomplished without exercising the authority contained in DPA section 101(c)(1), implementing rules or orders effecting the appropriate priority or allocation action will be issued. FEA will perform such duties related to its role as a "claimant agency" as the Department of Commerce shall direct in consultation with FEA.

III. PROCESSING AN APPLICATION FOR USE OF DPA SECTION 101(C) AUTHORITY

The regulations provide that persons who consider work they are performing an appropriate situation for use of the authority contained in DPA section 101 (c) may submit an application to FEA. Part 216.3(a) describes the minimum contents of such an application. FEA will examine this application and make two determinations.

First, FEA will decide whether or not the program or project on which the applicant is working (and in connection with which the request for assistance is submitted) maximizes domestic energy supplies and is therefore an appropriate situation for considering the use of DPA section 101(c) authority. If a positive determination is made, the program or project will be designated an "eligible energy program or project." In making this determination FEA will consider the impact of such program or project on the national energy situation. This consideration will include the quantity of energy involved, the benefits of timely completion of the program or project, the socioeconomic impact of the program or project, the need for the end product for which the materials and equipment are allegedly required, established national energy policies and such other factors as FEA deems appropriate. Once FEA has determined that a particular program or project is an "eligible energy program or project" this determination will be deemed made with regard to subsequent aplications involving the same program or project unless and until FEA announces otherwise.

Second, FEA will decide whether or not the supplies of materials and equipment for which assistance is requested are critical and essential to the "eligible energy program or project." In making this finding the FEA will consider the availability and utility of substitute materials or equipment, the impact of the availability of the specified materials or equipment on the timely fulfillment or completion of the program or project and such other factors as FEA deems appropriate. If FEA finds that the supplies of materials and equipment are critical and essential, it will designate the applicant an "energy contractor," and so inform the Department of Commerce.

If the Department of Commerce then finds (1) that the specific supplies of materials and equipment for which priorities/allocation authority has been requested are scarce and (2) that the approved energy program or project cannot reasonably be accomplished without exercising the authority specified in DPA section 101(c)(1), FEA will, on behalf of the Department of Commerce, authorize the applicant to place "rated orders" or "authorized controlled material orders" as defined in and pursuant to the provisions of Defense Materials System Regulation 1 and Defense Priorities System Regulation 1, as promulgated by the Department of Commerce.

If FEA determines that it is unable to conclude that the materials and equipment described in the application are critical and essential to an eligible energy program or project, the applicant will be so informed and may petition for reconsideration.

IV. COMMENTS REQUESTED

Persons interested in the procedures to be followed by FEA in discharging the DPA section 101(c) functions delegated to it are invited to submit data, views, or arguments with respect to the proposed regulations.

V. COMMENT PROCEDURES

A. *Written Comments.* Written comments should be submitted to the address specified in the Address section of this preamble and identified on the outside of the envelope with the designation "Priority and Allocation Regulations." Fifteen copies should be submitted. All comments received by August 23, 1977, before 4:30 p.m., and all relevant information, will be considered by the FEA before final action is taken on the proposed regulations.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat such information or data according to its determination.

B. *Public Hearings.* 1. Request Procedure: The time and place for the hearing are indicated in the "Address and Time for Hearing" section of this preamble. If necessary to present all testimony, the hearing will be continued at 9:30 a.m. of the next business day following the first day of the hearing.

Any person who has an interest in the proposed regulations issued today, or who is a representative of a group or class of persons with such an interest, may make a written request for an opportunity to make an oral presentation. Such a request should be delivered to the FEA at the address stated in the Addresses section of this Preamble, and must be received before 4:30 p.m., on August 16, 1977. Such a request may be hand delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except for holidays. The person making the request should be prepared to describe the interest concerned; to state, if appropriate, why he or she is a proper representative of a group or class of persons that has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through August 25, 1977.

Each person selected to be heard will be so notified by the FEA before 4:30 p.m., August 18, 1977 and must submit 100 copies of his or her statement to Executive Communications, FEA, Room 3309, Federal Building, Washington, D.C. 20461, before 4:30 p.m., August 25, 1977.

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

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

Any interested persons may submit questions, to be asked of any person making a statement at the hearings, to Executive Communications, FEA, before 4:30 p.m., August 23, 1977. Any person who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The FEA, or the presiding officer if the question is submitted at the hearing, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

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

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the FEA and made available

for inspection at the Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

In the event that it becomes necessary for the FEA to cancel a hearing, FEA will make every effort to publish advance notice in the FEDERAL REGISTER of such cancellation. Moreover, FEA will notify all persons scheduled to testify at the hearings. However, it is not possible for FEA to give actual notice of cancellations or changes to persons not identified to FEA as participants. Accordingly, persons desiring to attend a hearing are advised to contact FEA on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

VI. MISCELLANEOUS

In providing for implementation of DPA section 101(c) authority, the involved Federal agencies have worked to avoid duplication of existing procedures implementing DPA section 101(a) authority. Part 216 does not create a separate priorities and allocation system. It is designed to supplement the current DPA materials and equipment allocation and priorities system operated by the Department of Commerce by providing the energy related information and evaluation necessary for the implementation of DPA section 101(c). Regulations concerning performance by the Department of Commerce of functions pursuant to the Defense Production Act of 1950, as amended, may be found in Volume 32A of the Code of Federal Regulations. They are identified as Defense Materials System (DMS) Reg. 1 and Defense Priorities System (DPS) Reg. 1.

NOTE.—The proposed regulations have been reviewed in accordance with Executive Order 11821, issued November 24, 1974, and have been determined not to be of a nature that requires an evaluation of their inflationary impact pursuant to Executive Order 11821. The proposal has also been reviewed in accordance with 10 CFR Part 208 and the National Environmental Policy Act of 1969 and has been determined not to be of a nature that requires the preparation of an environmental impact statement pursuant to the requirements of the National Environmental Policy Act of 1969. Also, as required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments.

In consideration of the foregoing, it is proposed to amend Chapter II of Title 10, Code of Federal Regulations, by establishing Part 216 as set forth below.

Issued in Washington, D.C., July 7, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

PART 216—MATERIALS ALLOCATION AND PRIORITY PERFORMANCE UNDER CONTRACTS OR ORDERS TO MAXIMIZE DOMESTIC ENERGY SUPPLIES

Sec.

216.1 Introduction.
216.2 Definitions.
216.3 Requests for assistance.
216.4 Evaluation by FEA of applications.
216.5 Notification of findings.
216.6 Petition for reconsideration.
216.7 Claimant agency functions.
216.8 Conflict in priority orders.
216.9 Communications.
216.10 Violations.

AUTHORITY: Sec. 104, Energy Policy and Conservation Act (EPCA), sec. 101, Defense Production Act of 1950, as amended (DPA), (50 U.S.C. App. 2071(c)); Sec. 7, E.O. 11912, April 13, 1976; Defense Mobilization Order No. 13, September 22, 1976, 41 FR 43720; Dept. of Commerce, Bureau of Domestic Commerce, Delegation No. 4, 41 FR 52331.

§ 216.1 Introduction.

(a) This part describes and establishes the procedures to be used by the Federal Energy Administration ("FEA") in considering and making certain findings required by section 101(c) of the Defense Production Act of 1950, as amended, 50 U.S.C. App. 2061 et seq. ("DPA"). Section 101(c) authorizes the allocation of, or priority performance under contracts or orders (other than contracts of employment) relating to, supplies of materials and equipment in order to maximize domestic energy supplies if the findings described in section 101(c)(3) are made. Among these findings are that such supplies of materials and equipment are critical and essential to maintain or further exploration, production, refining, transportation or the conservation of energy supplies or for the construction and maintenance of energy facilities. The function of determining if such supplies are critical and essential has been delegated to the Administrator of the FEA pursuant to Executive Order 11912 of April 13, 1976, Defense Mobilization Order ("DMO") No. 13 dated September 22, 1976, 41 FR 43720, and Department of Commerce, Bureau of Domestic Commerce, Delegation No. 4, effective date December 1, 1976, 41 FR 52331.

(b) The purpose of these regulations is to establish the procedures and some of the criteria to be used by the FEA in deciding whether programs or projects maximize domestic energy supplies and whether or not supplies of material and equipment are critical and essential, as contemplated by DPA section 101(c)(3). The critical and essential finding will be made only for supplies of materials and equipment related to those programs or projects determined by FEA to maximize domestic energy supplies. Use of section 101(c) authority is discretionary, and these regulations do not require or imply that the findings, on which the exercise of such authority is conditioned, will be made in any particular case.

(c) If the FEA determines that a program or project maximizes domestic energy supplies and finds that supplies of materials and equipment are critical and essential to maintain or further the exploration, production, refining, transportation or conservation of energy supplies or for the construction and maintenance of energy facilities, such determination and finding will be communicated to the Department of Commerce. If not, the person requesting such determination and finding will be so informed. If the determination and finding described above are made, the Department of Commerce, pursuant to DPA section 101(c), Executive Order 11912 and DMO No. 13, will find whether or not (1) the supplies of materials and equipment in question are scarce and (2) maintenance or furtherance of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot be reasonably accomplished without exercising the authority specified in section 101(c). If these additional two findings are made, the Department of Commerce will notify the FEA, and the FEA will inform the applicant that it has been granted the right to use priority ratings established by the Department of Commerce.

§ 216.2 Definitions.

As used in these regulations: (a) "Administrator" means the Administrator of the Federal Energy Administration.

(b) "Applicant" means a person requesting priorities or allocation assistance in connection with an energy program or project.

(c) "Application" means the written request of an applicant for assistance.

(d) "Assistance" means use of the discretionary authority vested in the President by DPA section 101(c) to implement priorities and allocation support.

(e) "BDC" means the Bureau of Domestic Commerce within the Domestic and International Business Administration of the United States Department of Commerce.

(f) "Eligible energy program or project" means a designated activity which maximizes domestic energy supplies by furthering the domestic exploration, production, refining, transportation or conservation of energy supplies or construction and maintenance of energy facilities within the meaning of DPA section 101(c), as determined by the FEA.

(g) "Energy contractor" means a person using materials or equipment determined by the FEA to be critical and essential to the furtherance or completion of an eligible energy program or project.

(h) "FEA" means the Federal Energy Administration, acting through the Administrator or the delegate of the Administrator.

(i) "FPA" means the Federal Preparedness Agency of the General Services Administration.

(j) "Materials and equipment" means any raw, inprocess, or manufactured commodity, equipment, component, accessory, part, assembly or product of any

kind, but excludes those listed in Schedule II to Defense Priorities System Reg. 1.

(k) "Person" means an individual, corporation, partnership, association, or any other organized group of persons (or legal successor or representative thereof), and includes the United States or any other government and any political subdivisions (or any agency) thereof.

§ 216.3 Requests for assistance.

(a) Persons who believe that they may qualify as energy contractors, by virtue of performing work associated with a program or project which may qualify as an eligible energy program or project, and wishing to receive assistance as authorized by DPA section 101(c), may submit an application to the FEA requesting the FEA to find whether or not specific supplies of materials or equipment identified in the application are critical and essential for a purpose identified in section 101(c). Such application shall contain the following information:

(1) The name and address of the applicant and that of a duly authorized representative thereof.

(2) A description of the energy program or project for which assistance is requested and an assessment of its impact on the maximization of domestic energy supplies.

(3) The amount of energy to be produced by the program or project which is directly affected by the supplies of the materials or equipment in question.

(4) A statement explaining why the materials or equipment for which asstance is requested are critical and essential to the construction or operation of the energy project or program.

(5) A detailed description of the specific supplies of materials and equipment in connection with which assistance is requested, including: components, performance data (capacity, life duration, etc.), standards, acceptable tolerances in dimensions and specifications, current inventory, present and expected rates of use, anticipated deliveries and substitution possibilities (feasibility of using other materials or equipment).

(6) A detailed description of the sources of supply, including: name of the regular supplying company or companies, other companies capable of supplying the materials and equipment, location of supplying plants or plants capable of supplying the needed materials and equipment, comparative price quotation of possible suppliers for identical or substitutable materials and equipment and possible foreign sources of supply.

(7) A detailed description of the delivery situation, including: normal delivery times, promised delivery time without priorities assistance, and delivery time required for expeditious fulfillment or completion of the program or project.

(8) Evidence of the applicant's unsuccessful efforts to obtain on a timely basis the materials and equipment in question through normal business channels from current or other known suppliers.

(9) A detailed estimate of the delay in fulfilling or completing the energy program or project which will be caused by inability to obtain the specified materials and equipment in the usual course of business.

(10) Any known conflicts with rating or allocation orders already issued pursuant to the DPA for supplies of the described materials and equipment.

(b) The FEA, in consultation with the BDC, may prescribe standard forms of application for use by all persons seeking assistance.

(c) In addition to the information described above, the FEA may from time to time request whatever additional information it reasonably believes is relevant to the discharge of its functions pursuant to DPA section 101(c).

§ 216.4 Evaluation by FEA of applications.

(a) Based on the information provided by the applicant and other available information, FEA will assess the application and determine (1) Whether or not the energy program or project in connection with which the application is made maximizes domestic energy supplies and should be designated an eligible energy program or project, and (2) Whether the described supplies of materials and equipment are critical and essential to the eligible energy program or project.

(b) In determining whether the program or project referred to in the application should be designated an eligible energy program or project, the FEA will consider all factors which it considers relevant including, but not limited to, the following: (1) Quantity of energy involved,

(2) Benefits of timely energy program furtherance of project completion,

(3) Socioeconomic impact,

(4) The need for the end product for which the materials and equipment are allegedly required, and

(5) Established national energy policies.

(c) In determining whether the supplies of materials or equipment described in the application are critical and essential to an eligible energy program or project, the FEA will consider all factors which it considers relevant including, but not limited to, the following:

(1) Availability and utility of substitute materials or equipment, and

(2) Impact of the availability of the specific supplies of materials and equipment on the furtherance or timely completion of the approved energy program or project.

(d) Increased costs which may be associated with obtaining materials or equipment without assistance shall not be considered a valid reason for finding the materials and equipment to be critical and essential.

(e) After the FEA has determined a program or project to be an eligible energy program or project, this determination shall be deemed made with regard to subsequent applications involving the same program or project unless and until FEA announces otherwise.

§ 216.5 Notification of findings.

(a) The FEA will notify the BDC if it determines that supplies of materials and equipment, for which an applicant requested assistance, are critical and essential to an eligible energy program or project, together with whatever information or comments FEA believes appropriate. If FEA determines at any time that findings previously made are no longer valid, it will communicate this conclusion immediately to the BDC and to the applicant.

(b) If BDC notifies FEA that BDC has found supplies of materials and equipment, for which the applicant requested assistance, are scarce and that the related approved energy program or project cannot reasonably be accomplished without exercising the authority specified in DPA section 101(c)(1), the FEA will notify the applicant that the applicant is authorized to place rated orders and/or authorized controlled material orders for specific supplies of materials and equipment pursuant to the provisions of Defense Materials System Regulation 1 and Defense Procurement System Regulation 1, as promulgated by the Department of Commerce.

§ 216.6 Petition for reconsideration.

If the FEA, after evaluating an application in accordance with § 216.4 hereof, concludes that it is unable to notify the BDC that the supplies of materials and equipment described in the application are critical and essential to an eligible energy program or project, it will so notify the applicant within a reasonable period of time, and the applicant may petition the FEA for reconsideration of this conclusion. Such a petition is deemed accepted when received by the FEA at the address stated in § 216.9 hereof. The FEA will consider the petition for reconsideration and either grant or deny the relief requested therein. Written notice of the decision and the reasons therefor will be provided to the applicant. There has not been an exhaustion of administrative remedies until a petition for reconsideration has been submitted and the review procedure completed by grant or denial of the relief requested. The denial of relief requested in a petition for reconsideration is a final administrative decision. There is no other administrative appeal or review under this Part 216.

§ 216.7 Claimant agency functions.

FEA shall perform such functions related to implementation of DPA section 101(c) authority as the BDC may from time to time specify in consultation with FEA. In performing such functions FEA will be acting as the delegate of the BDC, and such functions shall be based on authority derived from the BDC. Rules, regulations and delegations promulgated by the BDC in consultation with FEA will govern FEA's performance of such functions. The FEA may in turn redelegate such functions to other government agencies with the approval of BDC and coordination with FPA.

§ 216.8 **Conflict in priority orders.**

If it appears that the use of assistance pursuant to DPA section 101(c) creates or threatens to create a conflict with priorities and allocation support provided in connection with the national defense pursuant to DPA section 101(a), FEA will work with the BDC and other claimant agencies affected by such conflict in an attempt to reschedule deliveries or otherwise accommodate such competing demands. If acceptable solutions can not be agreed upon by the claimant agencies the FPA will resolve such conflicts.

§ 216.9 **Communications.**

All written communications concerning this part shall be addressed to:

Federal Energy Administration, Financial Planning and Materials Allocation, Energy Resource Development, Room 3516, Federal Building, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461.

§ 216.10 **Violations.**

(a) Any person who willfully violates any provision of these regulations, or who willfully furnishes false information or conceals any material fact in the course of operation under these regulations, is guilty of a crime and upon conviction may be punished by fine or imprisonment or both.

(b) Violation of any provision of these regulations may subject any person committing or participating in such violation to administrative action to suspend such person's privilege of receiving priority deliveries of materials or equipment under DPA section 101(c). In addition to such administrative action, an injunction and order may be obtained prohibiting any such violation and enforcing compliance with the provisions thereof.

[FR Doc.77-20002 Filed 7-12-77;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 505]

[No. 77-423]

FSLIC-INSURED SAVINGS AND LOAN INSTITUTIONS

Price List for Public Copies of Listed Data

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: This proposal would establish a price list for copies of financial data of FSLIC-insured savings and loan institutions. Such data, available to the public under the Freedom of Information Act, are priced according to the Board's estimated costs of reproduction, including equipment and manpower expenses. The Board requests that public comments be limited to the reasonableness of the proposed prices; justification for raising or lowering any price should be included in any comment letter suggesting such action.

DATE: Comments must be received on or before July 29, 1977.

ADDRESS: Office of the Secretary, Federal Home Loan Bank Board, 320 First Street NW., Washington, D.C. 20552.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel, Telephone number: Area code 202-376-3556.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board considers it desirable to propose amendments to § 505.4(e) (12 CFR 505.4(e)) of its general rules and regulations for the purpose of establishing a uniform price list for preparing public copies of the following financial data submitted to the Board by FSLIC-insured savings and loan institutions: Balance Sheets, Income and Expense Statements, and Total Deposit Balances.

Accordingly, the Board hereby proposes to amend § 505.4(e) by re-numbering present subparagraph (3) as subparagraph (4), and adding new subparagraph (3) to read as follows:

§ 505.4 **Access to records.**

* * * * *

(e) *Fees for providing copies of records.* * * *

(3) The following charges, descriptions and procedures apply to requests for printed copy and magnetic tapes of insured institutions' financial data, as listed.

(i) *Description and Charges.—(a) Balance sheets and income and expense statements* (June 30 and December 31, or other semiannual fiscal period). These data cover the preceding six-month period and are available approximately three months after the period covered. Data are available for individual institutions in printed copy (3 pp. per institution), or for all insured institutions on magnetic tape. Printed copy may be requested for an individual institution, or for each individual institution in a county or state.

PRINTED COPY

CURRENT

1-5 institutions	$6.00
Per institution for each additional institution up to 25	2.00
Per institution thereafter	.25

PREVIOUS

1-5 Institutions	9.00
Per institution for each additional institution up to 25	2.00
Per institution thereafter	.25

MAGNETIC TAPES

Format No. 1 (Board's internal format containing 4,046 characters per record, one record per block, 800 BPI, even parity, 7 track, no label or tape mark; data recorded in Sixbit imbedded Comp.)	50.00
Format No. 2 (Universal EBCDIC containing 4,046 characters per record, 3 records per block, 800 BPI, odd parity, 9 track, no label or tape mark; data recorded in EBCDIC)	150.00

(b) *Total deposit balances per office* (September 30 or March 31). These data, reported to the Board each March 31 and September 30, are available approximately three months after the period covered. Data for a specified period are available for individual offices in printed copy or for all insured institutions on magnetic tape. Information may be requested for all offices of an individual institution or all offices of all insured institutions in a specified county or state.

PRINTED COPY

MOST RECENT REPORT

1-5 pages	$3.00
Per page (6-25 pp.)	1.00
Per page (over 25 pp.)	.10

PREVIOUS REPORTS

1-5 institutions	4.00
Per institution up to 25 institutions	2.00
Per institution thereafter	.25

MAGNETIC TAPES

Format No. 1 (Board's internal format, containing 217 characters per record, one record per block, 800 BPI, even parity, 7 track, no label or tape mark at beginning of file; data recorded in ASCII.)	50.00
Format No. 2 (Universal EBCDIC, containing 217 characters per record, three records per block, 800 BPI, odd parity, 9 track, no label or tape mark; data recorded in EBCDIC	150.00

(ii) *Procedure.* Address all requests to: Federal Home Loan Bank Board, Industry Data Division, Information Disclosure Section, 320 First Street NW., Washington, D.C. 20552. Include requester's name, address, and telephone number. If requesting data on an individual institution, provide accurate and complete institution name and home office address and dates of data requested. For geograpical requests, specify county and/or state in which the institutions or offices are located. Requesters will be billed for copies. No advance payment will be accepted.

* * * * *

(Pub. L. 93-502 (5 U.S.C. 552); secs. 11, 17, 47 Stat. 733, 736, as amended; secs. 5, 402, 48 Stat. 132, 1256, as amended (12 U.S.C. 1431, 1437, 1464, 1725). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp. 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc.77-20164 Filed 7-12-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1145]

EXTREMELY FLAMMABLE CONTACT ADHESIVES

Regulation of Certain Extremely Flammable Contact Adhesives Under the Consumer Product Safety Act

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to regulate certain extremely flammable contact adhesives under the Consumer Product Safety Act (CPSA) instead of the Federal Hazardous Substances Act (FHSA), to address the risk of burns from explosive vapor ignition and flashback fire. According to the CPSA, the Commission may not regulate under the CPSA a risk of injury that could be eliminated or reduced to a sufficient extent under the FHSA, unless the Commission finds by rule that it is in the public interest to do so. The Commission has preliminarily found that it is in the public interest to regulate these products under the CPSA.

DATE: Comments concerning this proposal must be received by August 12, 1977.

ADDRESS: Comments should be sent to: Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Third floor, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Irvin Weiss, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207 (301-492-6453).

SUPPLEMENTARY INFORMATION: The purpose of this notice is to propose a rule under section 30(d) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2079(d), to regulate certain extremely flammable contact adhesives under the CPSA. Although the risk of injury of burns from explosive vapor ignition and flashback fire associated with these products could be eliminated or reduced to a sufficient extent by action under the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261-1274, the Commission has preliminarily determined that it is in the public interest to regulate these products under the CPSA.

The Commission believes that it is in the public interest to regulate extremely flammable contact adhesives under hte CPSA rather than the FHSA, since the rulemaking proceedings appropriate to regulate this product under the FHSA are likely to be lengthy and resource consuming.

The Commission also believes it is in the public interest to regulate this product under the CPSA since it may be more difficult for interested persons to participate in rulemaking proceedings under the FHSA than the CPSA because the proceedings under the FHSA are likely to be more complex and formal.

In order to ban hazardous household substances under section 2(q)(1)(B) of the FHSA, the Commission must follow the provisions of secton 701(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 371(e). Section 701 (e) of the FFDCA provides for a two stage rulemaking. After proposing a regulation, analyzing comments, and issuing a final regulation, adversely affected persons may submit objections to the rule and request a public hearing on the objections. If the objections are legally valid, those parts of the regulation objected to are stayed and a hearing is held to receive evidence that is relevant and material to the issues raised by the objections.

After completion of the hearing, the Commission may issue a final regulation. However, this regulation must be based only on substantial evidence of record obtained at the hearing, and must set forth detailed findings of fact on which the order is based. The Commission's past experience with formal rulemaking under section 701(e) has been that these proceedings are lengthy, resource consuming, and often inefficient in eliciting information on which the Commission may make a decision.

In contrast, section 9(a)(2) of the CPSA requires bans to be issued in accordance with the informal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 553). Although the CPSA requires the Commission to provide an opportunity for oral presentation of comments before issuing a ban, the oral presentation required by section 9(a)(2) is informal and nonadversarial. A ban under section 8 of the CPSA, while providing an adequate opportunity for public participation, is less likely to involve extensive delay, since the Commission is not required to utilize formal rulemaking. In addition, since the proceedings under section 8 of the CPSA are less complex and formal than those under the FHSA, the Commission is more likely to obtain participation from interested persons, including consumers, if the rulemaking is conducted under the FHSA.

The Commission has also preliminarily determined that it is in the public interest to regulate extremely flammable contact adhesives under the CPSA rather than the FHSA, since the CPSA, unlike the FHSA, provides that persons who knowingly violate the Act are subject to civil penalties. The civil penalty provision may provide additional incentive for compliance under the CPSA.

However, if the Commission does decide to regulate extremely flammable contact adhesives under section 8 of the CPSA, the Commission recognizes that automatic repurchase of banned hazardous products would not be available, as it is in the case of a ban under the FHSA. Under section 15 of the FHSA, 15 U.S.C. 1274, and the accompanying regulations at 16 CFR 1500.202 and .203, hazardous substances that have been banned must be repurchased by the manufacturers, distributors, or retailers of the hazardous substance, regardless of whether the substance was banned at the time of its sale. In contrast, a ban under section 8 of the CPSA that bans products distributed in commerce on the effective date of the ban would not provide for repurchase of the banned hazardous products distributed in commerce.

Elsewhere in this FEDERAL REGISTER the Commission has proposed a ban of certain extremely flammable contact adhesives under section 8 of the CPSA.

PROPOSAL

The Commission therefore proposes below to regulate certain extremely flammable contact adhesives under the CPSA instead of the FHSA.

Accordingly, pursuant to provisions of the Consumer Product Safety Act (sec. 30(d), 86 Stat. 1231, as amended 90 Stat. 510; 15 U.S.C. 2079(d), the Commission proposes that Title 16, Chapter II, Subchapter B, Part 1145 be amended by adding the following new section 1145.3:

§ 1145.3 Extremely flammable contact adhesives; risk of burns from explosive vapor ignition and flashback fire.

The Commission finds that it is in the public interest to regulate the risk of burns from explosive vapor ignition and flashback fire associated with certain extremely flammable contact adhesives under the Consumer Product Safety Act rather than under the Federal Hazardous Substances Act because of the desirability of avoiding possibly lengthy, resource consuming, and inefficient rulemaking proceedings under the Federal Hazardous Substances Act and because of the availability of civil penalties under the CPSA.

The Commission also believes that the complexity and formality of the rulemaking proceedings under the FHSA, in contrast to rulemaking proceedings under the CPSA, may make it difficult for interested persons to participate.

Interested persons are invited to submit, on or before August 12, 1977, written comments regarding this proposal. Written comments and any accompanying data or material should be submitted, preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the Office of the Secretary, Third Floor, 1111 18th Street NW., Washington, D.C., during working hours Monday through Friday.

Dated: July 8, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-20071 Filed 7-12-77;8:45 am]

[16 CFR Part 1302]

EXTREMELY FLAMMABLE CONTACT ADHESIVES

Proposed Rule Under the Consumer Product Safety Act to Declare Certain Extremely Flammable Contact Adhesives as Banned Hazardous Products; Notice of Oral Presentation

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to classify as banned hazardous products

"extremely flammable" contact adhesives and similar consumer products in containers of more than one-half pint. The Commission believes this action will reduce the risk of burn injuries associated with these products. In proposing this ban, the Commission grants, in part, a petition (HP 76–9) requesting a ban of all household contact cements and adhesives containing highly flammable and toxic vapor-generating organic solvents. The Commission specifically seeks public comment on whether the ban should also include "flammable" contact adhesives, with a flash point between 20 and 80 degrees Fahrenheit.

DATES: Comments concerning this proposal must be received by September 12, 1977. Interested persons may present their views to the Commission orally on August 29, 1977.

The proposed effective date is 30 days after publication in the FEDERAL REGISTER of any final regulation. As of the effective date of any final regulation the subject contact adhesives would be banned hazardous products, including those that are distributed in commerce on the effective date of the regulation.

ADDRESS: Comments should be sent to: Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Third floor, Washington, D.C. 20207. The opportunity for oral presentation of comments will be held on August 29, 1977 at 10 a.m. at the Consumer Product Safety Commission, 3rd Floor Hearing Room, 1111 18th Street NW., Washington, D.C. 20207. Persons wishing to attend or participate in this presentation should contract Richard Danca of the Office of the Secretary, 202–634–7700, by August 22, 1977, to make appropriate arrangements.

FOR FURTHER INFORMATION CONTACT:

Irvin Weiss, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207 (301–492–6453).

SUPPLEMENTARY INFORMATION: The purpose of this notice is to propose a rule classifying as banned hazardous products under section 8 of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2057 extremely flammable contact adhesives in containers of more than one-half pint (including similar liquid or semiliquid products in containers of more than one-half pint) having a flash point at or below 20 degrees Fahrenheit. The rule covers only such products that are produced or distributed for sale to a consumer, or produced or distributed for the personal use, consumption, or enjoyment of a consumer.

For the purposes of this document the Commission has defined "extremely flammable" as that term is defined in section 2(1) of the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261(1). That Act defines as extremely flammable a substance that has a flash point at or below 20 degrees Fahrenheit, as determined by the Tagliabue Open Cup Tester.

The Commission defines "flammable" in this document as it does under the FHSA. Section 2(1) of the FHSA also states that the term "flammable" shall apply to any substance which has a flash point of above 20 degrees to and including 80 degrees Fahrenheit, as determined by the Tagliabue Open Cup Tester. The Commission's regulations, at 16 CFR 1500.43, prescribe a test procedure for the determination of the flash points of volatile flammable materials by the Tagliabue Open-cup apparatus.

Based on information gathered by the Commission staff and information contained in a petition (HP 76–9) filed by Barbara Peters on March 12, 1976, the Commission has preliminarily determined that extremely flammable contact adhesives and similar products in containers of more than one-half pint are being and will be distributed in commerce and present an unreasonable risk of injury of burns from explosive vapor ignition and flashback fire. The Commission has also preliminarily determined that no feasible standard under the CPSA would adequately protect the public from the unreasonable risk of injury associated with the product. Therefore, the Commission proposes a ban, under section 8 of the CPSA, of extremely flammable contact adhesives in containers of more than one-half pint having a flash point at or below 20 degrees Fahrenheit, as determined by the Tagliabue open-cup tester, that are consumer products.

A. RISK OF INJURY PRESENTED BY EXTREMELY FLAMMABLE CONTACT ADHESIVES

(1) *Degree of the risk of injury presented by extremely flammable contact adhesives.* In October 1976, the Commission's staff prepared a hazard analysis concerning contact adhesive fires. According to the hazard analysis, three factors that measure burn severity are percent of body burned, days hospitalized, and whether clothing ignition occurs. Injury data sources summarized in the hazard analysis reveal that contact adhesive fires often result in a high percent of body burned, result in many days hospitalized, and usually involve clothing ignition burns. For example, 35 of the Commission's in-depth investigation reports between November 1967 and July 1976 indicate that over two-thirds (32) of the 48 injured victims were hospitalized from their burns, that over half (19) of the 32 hospitalized victims sustained burns to 30 percent or more of their body area, and that five of the victims died from their burns. Clothing ignited on over half (28) of the victims who sustained burn injuries. All except one of the victims whose clothing ignited were hospitalized (21) or died from their burns (5). The in-depth investigations summarized in the hazard analysis reveal that of the 14 victims who were treated and released, all sustained burns to their hands and arms.

The American Burn Association (ABA) participated in a special survey with the Commission to obtain an estimate of the incidence and severity of burns associated with the use of contact adhesive cements. In January 1976, the President of the ABA sent a letter to the 1,300 ABA members asking the members to record any thermal injuries or deaths that have occurred between January 1975 and March 1976 associated with contact adhesives. In November 1976, the Chairman of the ABA Committee on Burn Prevention submitted a statement to the Commission estimating that between 45 and 125 contact adhesive related injuries are treated annually in hospital emergency rooms. Although ABA members reported an annual rate of 20 severe burn injuries for the January 1975 to March 1976 period, the actual rate of severe burn injuries may be higher, since only approximately 400 hospitals, less than 10 percent of the country's short term hospitals, are represented in ABA membership. The results of the ABA survey, as reported by the ABA Chairman, showed that the injuries treated by members resulted in an average hospitalization of 42 days, almost double the length of stay for all burn victims in special facilities for burns. According to the ABA Chairman, when a burn victim experiences such a lengthy stay, it is an indication of very severe injury and predicts a lengthy period of recuperation and potentially permanent physical and psychological consequences.

The hazard analysis prepared by the Commission's staff also contains a summary of the results of the ABA survey. According to the Commission's staff, the ABA survey revealed 33 incidents with sufficient details for analysis. Nine of the victims died from their burns and 21 were hospitalized. The average body area burned was 40 percent. In addition, the victims' clothing ignited on all except three of the 33 victims.

The hazard analysis also contains a summary of contact adhesive related fires in the National Fire Protection Association's (NFPA) Fire Incident Data Organization (FIDO), a computerized file of fire experience that includes data collected from 1971 to 1975. The NFPA files contained reports of 38 fires from 1971 to 1975, seven of which occurred in residences. These seven fires resulted in injuries to fifteen persons and deaths to three persons.

In addition to the above injury information, the hazard analysis also indicates that the Commission has received three death certificates specifying the involvement of an adhesive.

According to the hazard analysis, after cases from the various data sources were verified as being mutually exclusive, at least 130 persons have been injured in contact adhesive fires since 1970. Fifteen of these persons subsequently died from the injuries they sustained in these accidents.

Technical analysis of extremely flammable contact adhesives by the Commission's staff indicates that the degree of the hazard associated with these products is such that as little as one pint of extremely flammable contact adhesive

may produce a substantial explosion hazard.

(2) *Nature of the risk of injury presented by extremely flammable contact adhesives.* Technical analysis of these substances by the Commission's staff indicates that extremely flammable contact adhesives have a low flash point (20° F or below), a rapid evaporation rate (as a result of a high percentage of solvents, 70–90 percent by weight, a low percentage of solids, 10–30 percent by weight), and a low wet-viscosity (300–6,000 centipoise when measured by an RVF Brookfield viscometer).

Flash point, viscosity, low solid to high solvent ratio, evaporation rate, size of application area, and rate of application are factors which determine the potential for creating an ignitable vapor situation. The rapid rate of evaporation of extremely volatile, low flash point solvents from extremely flammable contact adhesives is capable of creating a highly explosive atmosphere. The flammable nature of these contact adhesives is such that the vaporized solvents from these products can be ignited by a sparking electric motor or an overlooked pilot light in an area remote from the site of use. Analysis of actual injury reports by the Commission's staff reveals that extremely flammable contact adhesives have, in fact, been ignited by many ignition sources, including oven and stove pilot lights, water heater and furnace pilot lights, electric space heaters (without any visible flame), sparks from a refrigerator motor and a wall receptacle, and friction. Analysis of available injury reports has shown that these ignition sources are frequently located in areas of the house remote from the room in which the contact adhesive is being used.

The possibility of ignition from a source in another room or another part of the house may well be overlooked by the public, in spite of warnings on the label of the product. Ignition of the vapors may result in a sudden, flash back fire from the source of vapor ignition to the container of adhesive, with little or no warning to the consumer and with the potential for serious or fatal injury to the user or bystanders. The injury information available to the Commission shows that the vast majority of accidents occur while the product is being used for its intended purpose. The potential for serious injury, therefore, appears to be present during normal use of the product.

(3) *Adequacy of cautionary labeling under the FHSA.* At the present time, extremely flammable contact adhesives distributed in containers of more than one-half pint intended or suitable for household use, must as a minimum bear the following cautionary labeling for the hazard caused by the extreme flammability of the mixture:

DANGER
EXTREMELY FLAMMABLE

VAPORS MAY CAUSE FLASH FIRE
VAPORS MAY IGNITE EXPLOSIVELY

Prevent buildup of vapors—open all windows and doors—use only with cross-ventilation.

Keep away from heat, sparks, and open flames.

Do not smoke, extinguish all flames and pilot lights, and turn off stoves, heaters, electric motors, and other sources of ignition during use and until all vapors are gone.

Close container after use.

Keep out of reach of children.

This cautionary labeling is presently required as a result of a labeling regulation, issued under the FHSA and found at 16 CFR 1500.133. However, an analysis prepared by the Commission staff of the available injury data indicates that in spite of the cautionary labeling, accidents have continued to occur, inflicting serious injuries in much the same manner as those accidents that occurred prior to the issuance of the 1970 labeling regulation. The in-depth investigation reports indicate that flammability warning labels were present on the contact adhesive in 31 of the total 35 cases (it is unknown whether flammability labeling was present in the other four cases). However, when the in-depth cases were analyzed by the Commission staff to determine if the user either read, comprehended, or observed the cautionary label, only eight of the 36 adult users stated that they had actually read the contact adhesive label.

Although in the injury reports available to the Commission, many persons stated that they thought they had taken the necessary precautions, the in-depth investigations indicate that most of the victims were unaware of the dangers of extremely flammable contact adhesives, in spite of the cautionary labeling. Although many users reported that they had previously used contact adhesives (the in-depth injury investigation reports showed that many of the injured were in the building construction trade) and stated that they were aware the contact adhesives were flammable, the users apparently underestimated the hazards associated with the product, in spite of existing cautionary labeling.

Based on currently available injury information, it may reasonably be concluded that the present labeling requirements recommend protective measures that are unlikely to be followed in practice. For example, on the day of the accident, the user may take some precautions, yet may overlook an unsuspected ignition source with disastrous consequences. Or, as another example, the currently required labeling directs the user to open all windows and doors to prevent buildup of vapors. However, in winter time, or in cold areas of the country, consumers may be less likely to follow this recommendation, or may follow the recommendation but use a space heater, presenting an ignition source.

The cautionary labeling presently required could be revised to include more explicit and graphic warnings. However, as a result of the degree and nature of the risk of injury presented by the product, this labeling would also provide inadequate protection to the public. The degree and nature of the risk of injury is such that a bystander or visitor could present an ignition source resulting in an accident. (In one in-depth investigation, a co-worker standing nearby struck a match to light a cigarette, causing the contact adhesive vapors to ignite.) Since the bystander or visitor would not normally have an opportunity to read the warning label on the product, additional labeling would not benefit these potential victims.

Having considered available information concerning the degree of the risk of injury associated with the product, including the frequency and severity of injuries, and the nature of the risk of injury associated with the product, the Commission has preliminarily determined that certain extremely flammable contact adhesives present an unreasonable risk of injury from sudden vapor explosion and flash back fire.

B. Feasibility of a Standard Under the CPSA

The Commission finds preliminarily that there is no known technology that, when applied to contact adhesives, as defined in this proposal, would adequately protect the public. Although a standard under the CPSA may require a product to bear warnings or instructions, the Commission, at section A(3) of this notice, has discussed why present cautionary labeling is inadequate and has discussed why modification of the present cautionary labeling or additional cautionary labeling would not adequately protect the public.

For these reasons, the Commission preliminarily determines that there is no feasible consumer product safety standard under the CPSA that would adequately protect the consumer from the unreasonable risk of injury associated with contact adhesives within the scope of this proposed ban.

C. Scope of the Proposed Ban

The proposed ban would apply only to extremely flammable contact adhesives and similar liquid or semiliquid products that:

1. Show a flash point at or below 20 degrees Fahrenheit as determined by the Tagliabue Open-Cup test method prescribed at 16 CFR 1500.43;

2. Are intended to be applied to surfaces to be bonded toegther and allowed to dry partially until there is little residual tack, and adhere to themselves instantaneously when the coated surfaces are joined under low or moderate pressure;

3. Are composed of a high percentage (70–90 percent by weight) of solvents and a low percentage of solids (10–30 percent by weight);

4. Are products that are free-flowing, having a wet viscosity within the range of 300–6,000 centipoise when measured by an RVF Brookfield viscometer;

5. Are packaged in containers of more than one-half pint; and

6. Are consumer products.

The proposed ban would not include contact adhesives that are labeled as, marketed, and sold solely for industry use.

D. Size of Container of Contact Adhesive Covered by the Proposed Ban

The proposed ban would apply to extremely flammable contact adhesives and other similar liquid or semiliquid products that are packaged in containers of more than one-half pint. The Commission is proposing a ban of items in this size since data and technical calculations available to the Commission reveal that the volume of extremely flammable solvents from package sizes larger than one-half pint are sufficient to reach explosive atmospheric concentrations. These calculations also indicate that, during use of the product, the lower explosive limit of solvents released from containers of one-half pint or less of contact adhesive would not be reached.

It is possible that if a consumer purchased several small containers of contact adhesive (one-half pint and under) and opened them simultaneously, a flashback explosion and fire could result. However, the Commission believes that it is more likely that a consumer would not open the containers simultaneously, and thus the vapors would not reach explosive levels.

In addition, if a small container of contact adhesive (one-half pint and under) were opened and placed very near a pilot light, vapor ignition and flashback fire would probably occur. However, the Commission believes that the chance of a person being caught between the ignition source and the container during any flashback fire would be slight under these circumstances, since the container and ignition source would be in relatively close proximity.

In the injury data available to the Commission where the size of the container of contact adhesive was stated, the one gallon size container of adhesive was most frequently reported. Although the Commission has received an accident report involving approximately one-half pint of contact adhesive, this is the smallest quantity of contact adhesive reported to be involved in an accident.

Since containers involved in contact adhesive related burn injuries, where reported, were one quart or larger with only one exception, a ban of extremely flammable contact adhesives in containers larger than one-half pint should adequately protect the public. If the proposed ban is adopted, contact adhesives that are packaged in containers of one-half pint or less and that are household hazardous substances as a result of their flammability or combustibility would still be required to comply with the present cautionary labeling requirements under section 2(p) of the FHSA, and the Commission regulations under that section.

E. Possible Extension of Ban to Include Flammable Contact Adhesives

The ban proposed in this notice extends only to extremely flammable contact adhesives and similar products packaged in containers of more than one half pint and having a flash point at or below 20 degrees Fahrenheit. Several manufacturers of contact adhesives have recommended that the Commission also ban "flammable" contact adhesives (contact adhesives having a flash point above 20 degrees Fahrenheit to and including 80 degrees Fahrenheit, as defined in section 2 of the FHSA, 15 U.S.C. 1261.) These manufacturers have stated that the hazard associated with at least certain flammable contact adhesives would be similar to the hazard associated with extremely flammable contact adhesives.

According to one company, formulated products with flash points in the lower range of the flammability classification would still be fast-drying and would rapidly evolve flammable vapors when being applied. In a letter to the Commission, this company also stated that since virtually all use of these products occurs indoors at temperatures from 60–80 degrees Fahrenheit, flammable or explosive conditions would be created in the presence of an ignition source.

In a meeting with two of the Commissioners, and in a written submission, another company also indicated that certain flammable contact adhesives would present a flammability hazard similar to the hazard associated with extremely flammable contact adhesives. According to this company, the risk potential at the end of the drying period in a relatively closed room would be the same for extremely flammable and flammable contact adhesives, since at the end of the drying period the same amount of solvent would evaporate into the room regardless of the flash point of the adhesive. Therefore, the presence of an ignition source in either case at the end of the drying period could result in ignition. According to this company, only the length of time required for the vapor concentration to initially reach the hazardous range (the lower explosive limit) would differ for extremely flammable and flammable contact adhesives. This company stated that where the vapor concentration exceeds the lower explosive limit for the solvents involved, the hazard would be exactly the same. The company concluded that there is virtually no difference in risk between the two products.

The written submissions of these manufacturers and a copy of a summary of a meeting with representatives of one of these manufacturers are available in the Commission's Office of the Secretary, with the other materials relating to this proposal. (See letter dated January 26, 1977 from Roberts Consolidated Industries, Inc.; April 1, 1977 written submission by Columbia Cement Company, Inc.; log of April 1, 1977 meeting with Columbia Cement Company, Inc.; and log of May 10, 1977 meeting with Borden, Inc.)

The Commission is especially interested in receiving comments from interested persons concerning the need to extend the ban proposed here to include all flammable contact adhesives or certain flammable contact adhesives having a specified flash point between 20 degrees Fahrenheit and 80 degrees Fahrenheit. Anyone addressing this issue should provide as much information as possible about hazards associated with flammable contact adhesives they believe should be banned. In addition, commentors who believe that only flammable contact adhesives with certain flash points should be banned, should provide all available information on the reasons for this belief.

If, after considering any comments received on this matter, the Commission finds that flammable contact adhesives that are being (or will be) distributed in commerce present an unreasonable risk of injury and that no feasible consumer product safety standard would adequately protect the public from the unreasonable risk of injury associated with these products, the Commission may ban these products. Such a ban could be effective immediately and could preclude further distribution in commerce or sale of contact adhesives in the flammable range. In addition, the Commission could, if it determined that the hazard warranted it, institute proceedings under sections 12 or 15 of the Consumer Product Safety Act to recall flammable contact adhesives.

F. Anticipated Effective Date

The Commission proposes the effective date of the regulation banning certain contact adhesives be on the 30th day following issuance of any regulation. As of this date all contact adhesives, as defined in the proposal, would be banned hazardous products under section 8 of the CPSA, including contact adhesives covered by the regulation that are distributed in commerce on the effective date. (Section 3(a)(11) of the CPSA (15 U.S.C. 2052(a)(11)) provides that the term "distribute in commerce" means to sell in commerce, to introduce or deliver for introduction in commerce, or to hold for sale or distribution after introduction into commerce.) Therefore, as of the effective date, the manufacture for sale, offer for sale, distribution in commerce, or importation into the United States of products covered by this regulation would be prohibited acts under section 19(a)(2) of the CPSA. If this proposal is adopted, extremely flammable contact adhesives covered by this regulation that are distributed in commerce on or after the effective date of the regulation would be banned, even if these products were manufactured before the effective date of the regulation. In addition, unlike the automatic repurchase provisions under secton 15 of the FHSA (15 U.S.C. 1274) and the accompanying regulations at 16 CFR 1500.202 and .203, Section 8 of the CPSA does not provide for repurchase of banned hazardous products.

G. Economic Considerations

Section 9(c)(1) of the CPSA (15 U.S.C. 2058(c)(1)) requires the Commission, prior to issuing a rule declaring a product a banned hazardous product to consider and make certain findings for inclusion in the rule. The following findings are among those to be considered:

(1) The approximate number of consumer products, or types or classes thereof, subject to the ban;

(2) The need of the public for the consumer product subject to the ban and the probable effect of the ban on the utility, cost, or availability of the product to meet that need; and

(3) Any means of achieving the objective of the ban while minimizing adverse effects on competition or disruption or dislocation of manufacturing and other commercial practices consistent with the public health and safety.

In order to assist the Commission in making these findings, the Commission solicits, either by written comment or through oral presentation, data, views, and arguments concerning these findings.

Based on a preliminary survey of the contact adhesive industry and information provided by industry representatives, the Commission has obtained the following information concerning the industry and the impact of a ban of certain extremely flamable contact adhesives. The statistics and estimates included here are based on information available in the fall of 1976. Although the Commission is not legally required to make findings at the proposal stage and is not required to publish this information in the FEDERAL REGISTER, the Commission believes that the publication of its preliminary economic information and analysis should encourage and assist in the preparation of comments on these issues.

Although there is uncertainty as to the number of manufacturers, the volume of sales, and the patterns of distribution, the Commission staff has obtained estimates that over four million gallons of extremely flammable contact adhesives go into the consumer market annually. The Commission staff has also obtained preliminary estimates that contact adhesives remain in the distribution channel for about six months, and that about 70 percent of extremely flammable contact adhesives are packaged in containers of ½ pint or larger. According to preliminary estimates, approximately 20–50 companies actually manufacture extremely flammable contact adhesives, sixteen of these manufacturers are known to supply the consumer market. If the number of companies that repackage or relabel contact adhesives is included, then the number of companies that sell extremely flammable contact adhesives intended for the consumer market range from 100–200. Four companies are believed to have approximately 30 percent of the total market. The largest companies represent an estimated fifty percent of the extremely flammable adhesives market.

The Commission staff received estimates in the fall of 1976 that approximately eighty percent of all contact adhesives are extremely flammable. Approximately ten percent of non-flammable contact adhesives have chlorinated solvents. Contact adhesives with water based solvents represent roughly ten percent of the market.

The following four types of contact adhesives have been mentioned as possible alternatives to the flammable type:

(a) reformulated petroleum solvent-based;
(b) chlorinated solvent-based;
(c) neoprene latex-based (water);
(d) other latex based systems (water).

Conversion to alternative formulations will vary in length of time, depending on the technical expertise, economic and marketing considerations and financial capabilities of individual manufacturers. Investment requirements for conversion to other types of adhesives will also vary substantially among producers.

Accordinging to information from a chemical company that is the principal producer of 1.1.1. trichloroethene, capacity for this chemical compound appears to be sufficient to supply the needed quantity if the flammable type of contact adhesives were banned in the U.S. consumer market. However, for neoprene latex based contact adhesives, additional time may be required for producers to supply neoprene in latex form rather than in dry form.

At this time the Commission staff has not estimated whether and at what cost these formulations would provide adequate alternatives sufficient to accommodate the need of the entire consumer market. The alternative products are higher priced—currently between 50 percent and 75 percent above the price for the flammable type—and may give inferior performance as well. The chlorinated-based contact adhesives are the most expensive, but may be the closest in performance to the flammable type. The water-based adhesives may present performance problems, e.g., additional drying time, peeling, less bonding strength, poor metal bonding, although their cost to the consumers might be comparable to that for the flammable type. Per unit, the water-based contact adhesives sell for about 60 percent more than the flammable type, but cover up to twice the area. Some industry sources maintain, however, that this difference in coverage is largely theoretical and that in practice there is much waste when using the water-based type.

Banning highly flammable contact adhesives in the near future may force substitution at a time when not all producers have developed formulas for the alternatives or put them into production. Thus, a ban may cause differential impacts among producers, and probably also among distributors and retailers. Some sources suggest that it is the smaller companies which are probably the furthest from developing substitutes.

Information received by the Commission staff indicate that not all companies have developed nonflammable contact adhesives to substitute for the flammable solvent based contact adhesives. Therefore, costs of reformulating for individual companies will vary depending on how close a company is to finding and marketing a substitute. Obviously, some companies will have no costs in reformulating because they already have a water based product on the market. For other companies which need extensive research to develop a formula, the cost may be considerable and time would be needed.

One source estimated that the cost of converting could extend to $100,000 with estimates for the smallest research related costs, not changes in equipment or changes in the manufacturing process.

Several of the smallest companies primarily package contact cement in small containers and rely entirely on the consumer market. Although many of these companies only repackage or relabel, it is possible that some of them actually manufacture contact adhesives. To the extent, however, that repackagers and relabelers are involved with the marketing of adhesives in container sizes of one-half pint or smaller they will not be significantly affected since the proposed ban will not cover these container sizes. Large manufacturers of adhesives have diversified production lines and depend primarily on the industrial market for contact adhesives, thus, the economic impact on them from the proposed ban is not expected to be serious.

Several manufacturers have indicated that they have already discontinued the distribution of extremely flammable contact adhesives to the consumer market. On the other hand, some companies have informed the Commission staff of their need to have a complete line of adhesives. For this reason, these companies market extremely flammable adhesives even though they may represent only a small percentage of sales. However, the need for a complete line may not be as great for sales to non-industrial markets. Thus, a ban of extremely flammable contact adhesives produced or distributed for sale to, or use by, consumers should not affect the ability of a company to supply a complete line to industrial accounts.

H. POTENTIAL ENVIRONMENTAL IMPACT

Based on its environmental assessment, the Commission believes that the proposed ban will not significantly affect the environment and that no environmental impact statement is necessary.

Borden, Inc. recently raised a question concerning the carcinogenicity of chlorinated compounds that might be used in the manufacture of substitute contact adhesive products. Such compounds are now in limited use and the effect of the ban might be to increase their use in the manufacture of contact adhesives. Information presently available to the Commission indicates that reformulated contact adhesives will use 1.1.1-trichloroethane, 1.1.1-trichloroethane mixtures or water as solvents. The National Cancer Institute recently reported the results of a test of 1.1.1-trichloroethane for cancer-causing activity with rats and mice. NCI concluded that these studies did not show 1.1.1-trichloroethane to be carcinogenic. However, the Commission is seeking information and comment on this aspect as well as any other environmental effects of the proposed ban. Such comment could include information as to whether other chlorinated compounds are or will

be used in manufacturing reformulated contact adhesives

The environmental assessment is available for review in the Office of the Secretary of the Commission.

I. Commission Action Concerning Petition (HP 76-9)

On March 12, 1976 the Commission received a petition (HP 76-9) from Barbara Peters requesting the Commission to take regulatory action under the Consumer Product Safety Act (CPSA) concerning all contact cements or adhesives containing highly flammable and toxic vapor-generating organic solvents such as toluol and acetone. The petition requested that these substances be banned under sections 8 and 9 of the CPSA, and that action be taken under section 12 of the CPSA to have a federal district court declare these substances to be "imminently hazaradous consumer products."

The Commission originally treated this petition as a request for the Commission to initiate regulatory action under the FHSA, since section 30(d) of the CPSA, as amended, provides that the Commission must act under the FHSA if a risk of injury could be eliminated or reduced to a sufficient extent under that Act, unless the Commission by rule finds that it is in the public interest to take regulatory action under the CPSA. However, elsewhere in the Federal Register today, the Commission has proposed a rule to regulate extremely flammable contact adhesives under the CPSA based on a determination that it is in the public interest to take regulatory action under the CPSA. This petition has been considered as a request for the Commission to initiate a proceeding to ban, under section 8 of the CPSA, all contact cements or adhesives containing highly flammable and toxic vapor generating organic solvents such as toluol and acetone. Although the petition requested the Commission to initiate the imminent hazard remedy under section 12 of the CPSA, this remedy cannot be the subject of a petition to initiate rulemaking. In deciding to publish this notice, the Commission has granted, in part, the petition.

However, after having examined available injury data and technical analyses of contact adhesives, the Commission has determined that presently available information is insufficient to support the conclusion that all contact adhesives containing organic solvents such as toluol and acetone present unreasonable risks of injury and should be banned as a result of their flammability or toxicity.

For contact adhesives that present a flammability hazard and are packaged in containers one-half pint and smaller in size bearing the cautionary labeling required by the FHSA, the Commission is unable to find that these products present an unreasonable risk of injury at this time. As described more fully in Section D of this preamble and based on technical calculations and analysis of the product by the Commission's staff, the Commission believes that during the use of contact adhesives in sizes one-half pint and smaller, the lower explosive limit of solvents released from these products would not be reached. The Commission believes the product would not present a hazard of explosive vapor ignition and flashback fire when packaged in a container of this size. If the proposed ban were to become effective, contact adhesives packaged in containers one-half pint or less that are hazardous substances as a result of their flammability or combustibility would still be required to comply with the cautionary labeling requirements specified in section 2(p) of the FHSA and the accompanying regulations.

The Commission has also determined that insufficient information is presently available to propose a ban of all contact adhesives containing organic solvents such as toluol and acetone as a result of their toxicity. At the present time contact adhesives and other household substances that contain 10 percent or more by weight of toluene (also known as toluol) or petroleum distillates must comply with the cautionary labeling requirement specified in 16 CFR 1500.14(b)(3). Presently available information does not indicate that this labeling would not adequately protect the public from the hazards of chemical pneumonitis, pneumonia, and pulmonary edema from the aspiration of toluol or petroleum distillates that may be containd in contact adhesives. Presently available information also does not indicate that this labeling would not adequately protect the public from the hazard of systemic injury caused by inhalation of the vapor of toluol that may be contained in contact adhesives. Based on presently available information, the Commission believes that the cautionary labeling currently required adequately addresses the toxicity of contact adhesives containing toluol and petroleum distillates, and that there is insufficient information to indicate that these substances present an unreasonable risk of injury as a result of their toxicity.

Technical information available to the Commission indicates that acetone has a very low level of toxicity. Since the degree of exposure to acetone contained in flammable contact adhesives would be well below the threshold limit value at which hazardous effects might occur and since exposure is normally infrequent and of brief duration, the Commission does not believe that there is sufficient information to indicate that contact adhesives containing acetone present an unreasonable risk of injury from toxicity.

J. Conclusion and Proposal

On the basis of the information referred to above, the Commission has preliminarily determined that extremely flammable contact adhesives in containers of more than one-half pint (and similar liquid or semiliquid products in containers of more than one-half pint having a flash point at or below 20 degrees Fahrenheit) are being and will be distributed in commerce and present an unreasonable risk of injury to consumers as a result of the potential for sudden vapor explosion and flashback fire. The Commission has also preliminarily determined that no feasible standard under the CPSA would adequately protect the public from the unreasonable risk of injury associated with the product. The Commission therefore proposes to declare that extremely flammable contact adhesives and similar liquid or semiliquid products, as defined in this proposal, are banned hazardous products.

Accordingly, pursuant to provisions of the CPSA (secs. 8 and 9), 86 Stat. 1215-17, as amended, 90 Stat. 506; 15 U.S.C. 2057, 2058), and under authority vested in the Commission by the CPSA (sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a), the Commission proposes to amend 16 CFR Part 1500 by deleting sec. 1500.133 and proposes that Title 16, Chapter II, Code of Federal Regulations, be amended by adding to Subchapter B the following new Part 1302:

PART 1302—BANNED HAZARDOUS CONTACT ADHESIVES

Sec.
1302.1 Scope and application.
1302.2 Purpose.
1302.3 Definitions.
1302.4 Banning criteria.
1302.5 Effective date.

Authority: Secs. 8, 9, 86 Stat. 1215-1217, as amended, 90 Stat. 506; 15 U.S.C. 2057, 2058.

§ 1302.1 Scope and application.

(a) In this Part 1302 the Consumer Product Safety Commission (Commission) declares extremely flammable contact adhesives and similar liquid or semiliquid consumer products to be banned hazardous products under sections 8 and 9 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2057 and 2058). This ban applies to those extremely flammable contact adhesives and similar liquid or semiliquid consumer products, as defined in § 1302.3(b), which are in commerce or are being distributed in commerce on or after the effective date of this regulation, and which are consumer products (as defined in section 3(a) of the Act (15 U.S.C. 2052) customarily produced or distributed for sale to, or for the personal use, consumption or enjoyment of consumers in or around a permanent or temporary household or residence, a school, in recreation, or otherwise.

(b) Contact adhesives that are labeled as, marketed, and sold solely for industrial use are not within the scope of this ban. However, merely labeling a contact adhesive for industrial or professional use only would not exclude such products from this ban. In addition, packaging a contact adhesive in a large size container would not in itself exclude the product from this ban. If the manufacturer, distributor, or retailer customarily produces or distributes the product for sale to or use by consumers, or if the manufacturer, distributor, or retailer fosters or facili-

tates the product's sale to, or use by, consumers the product would be considered a consumer product within the scope of this ban. For example, contact adhesives available in retail stores, such as lumber yards or hardware stores, generally would be included within the scope of this ban. The Commission has found that the contact adhesives covered by this ban are being, or will be distributed in commerce; and present an unreasonable risk of injury; and that no feasible consumer product safety standard under the CPSA would adequately protect the public from the unreasonable risk of injury associated with these products.

§ 1302.2 Purpose.

The purpose of this rule is to ban extremely flammable contact adhesives which have been found to present an unreasonable risk of injury of burns resulting from explosive vapor ignition and flashback fire.

§ 1302.3 Definitions.

(a) The definitions in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052) apply to this Part 1302.

(b) The term extremely flammable contact adhesive and similar liquid or semiliquid consumer products means consumer products that have each of the following product characteristics:

(i) Show a flash point at or below 20 degrees Fahrenheit as determined by the Tagliabue Open-Cup test method prescribed by 16 CFR 1500.43; and

(ii) Are intended to be applied to two surfaces to be bonded together and allowed to dry partially until there is little residual tack, and adhere to themselves instantaneously when the coated surfaces are joined under low or moderate pressure; and

(iii) Are composed of a high percentage (70–90 percent by weight) of solvents and a low percentage of solids (10–30 percent by weight); and

(iv) Are substances that are free-flowing, having a wet viscosity within the range of 300–6,000 centipoise when measured by an RVF Brookfield viscometer; and

(v) Are packaged in containers of more than one-half pint.

§ 1302.4 Banning criteria.

Any extremely flammable contact adhesive and similar liquid or semiliquid consumer product as defined in section 1302.3(b) that is produced or distributed, for sale to, or for the personal use, consumption, or enjoyment of consumers in or around a permanent or temporary household or residence, a school, in recreation, or otherwise and which is in commerce or being distributed in commerce on or after the effective date of this ban is a banned hazardous product.

§ 1302.5 Effective date.

The effective date of this ban shall be 30 days after publication of this Part 1302 in the FEDERAL REGISTER.

Written comments. Interested persons are invited to submit, on or before September 12, 1977, written comments regarding this proposal. Late received comments will be considered, if practicable. Comments and any accompanying material should be submitted, preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the Office of the Secretary, Third Floor, 1111 18th Street NW., Washington, D.C., during working hours Monday through Friday.

Oral presentations. Interested persons will be afforded an opportunity to make an oral presentation of data, views, or arguments in addition to the opportunity to make written comment on any aspect of the proposed ban. The proceeding for the oral presentation will be held August 29, 1977, at 10:00 a.m. at the Commission's hearing room at 1111 18th Street NW., Washington, D.C. The procedural regulations for oral presentation, 16 CFR Part 1109, promulgated October 14, 1975 (40 FR 49122), shall govern this proceeding.

All persons wishing to make an oral presentation should notify Richard Danca of the Office of the Secretary, (202) 634–7770 no later than close of business August 22, 1977 for scheduling purposes. A summary or outline of each oral presentation and an estimate of the length of time it will require should be filed with the Office of the Secretary at least two business days prior to the oral presentation.

Section 9(c) of the CPSA (15 U.S.C. 2058(c)) requires the Commission, prior to promulgating a consumer product safety rule, to consider and make certain findings for inclusion in that rule. In order to aid the Commission in making these findings, the Commission is particularly interested in soliciting, either by written comment or through oral presentation, additional data, views and arguments as to the following:

1. The degree and nature of the risk or injury the rule is designed to eliminate or reduce;

2. The approximate number of consumer products, or types or classes thereof, subject to the rule;

3. The need of the public for the consumer product subject to such rule and the probable effect of such rule upon the utility, cost, or availability of such products to meet that need;

4. Any means of achieving the objective of the rule while minimizing adverse effects on competition or disruption or dislocation of manufacturing and other commercial practices consistent with the public health and safety;

5. The necessity of the rule to eliminate or reduce the unreasonable risk of injury associated with the consumer products subject to the rule;

6. Whether the rule is in the public interest;

7. The feasibility of a consumer product safety standard under the CPSA to adequately protect the public from the unreasonable risk of injury associated with those extremely flammable contact adhesives which are the subject of this proposed ban;

8. The potential environmental effects of the rule; and

9. Any adverse effects that this proposed ban will have on elderly and handicapped persons.

Comments should include, to the extent possible, supporting data or documentation. Requests for confidentiality of documentation will be handled in accordance with the Freedom of Information Act (5 U.S.C. 552), the Commission's regulations under that Act (16 CFR 1015, 42 FR 10490 (February 22, 1977)), and the provisions of section 6(a)(2) of the Consumer Product Safety Act (15 U.S.C. 2055(a)(2)). The particular portions of the material submitted for which confidentiality is claimed should be identified.

In making its final decision on the rule proposed herein, the record shall consist of all information available to the Commission, whether obtained during the course of this proceeding or outside of this proceeding.

Dated: July 8, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-20072 Filed 7-12-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-13720; File No. S7-581]

DISSEMINATION OF PROXY INFORMATION TO BENEFICIAL OWNERS BY ISSUERS THROUGH INTERMEDIARY RECORDHOLDERS

Requirements

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission today proposed a rule amendment intended to facilitate the transmission of proxy material from publicly-held companies to beneficial shareowners through intermediaries who hold securities in street or nominee name. The proposal is intended to remove an ambiguity from the rule.

DATES: Comments on or before August 15, 1977.

ADDRESSES: Written comments submitted in triplicate should be addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and should refer to File No. S7-581.

FOR FURTHER INFORMATION CONTACT:

Robert J. Millstone, Senior Special Counsel, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-755-8777).

SUPPLEMENTARY INFORMATION: In Securities Exchange Act Release No. 13719, July 5, 1977, in this issue, the Commission adopted amendments to Rule 14a-3(d) and new Rule 14b-1 under the Act. As amended, Rule 14a-3(d) pro-

vides that an issuer must inquire of certain intermediary recordholders at least 10 days before the record date for any meeting with respect to which the issuer intends to solicit proxies whether the recordholders represent other persons who are the beneficial owners of the securities, and if so, to forward in a timely manner to such intermediaries sufficient sets of material for distribution to each beneficial owner.[1]

The proposed amendments to Rule 14a-3(d) would clarify the obligation of issuers to make inquiry of intermediary recordholders who first become recordholders after the issuer's initial inquiry but on or before the record date.

PROPOSED AMENDMENT TO RULE 14a-3(d)

In Securities Exchange Act Release No. 13719, July 5, 1977 in this issue, the under the Securities Exchange Act of 1934 (the "Act") to modify an issuer's obligation under Rule 14a-3(d) to make inquiry of certain intermediary recordholders to determine whether such intermediaries represent other persons who are the beneficial owners of the securities. Specifically, the amendments require an issuer to make its inquiry at least 10 days before the record date for a meeting with regard to which the issuer intends to solicit proxies and to forward requested material in a timely manner. Several commentors suggested a need to clarify the issuer's continuing obligation to make inquiry of those persons who become recordholders during the period between the issuer's initial inquiry and the record date. They pointed out that, as amended, the rule would appear to require the issuer to make an inquiry of all persons who are intermediary recordholders at a time 10 or more days before the record date but would not require any inquiry of intermediaries who first become recordholders after the initial inquiry but by the record date.

In view of the Commission's belief that timely notification of all intermediaries is essential to the proper functioning of the proxy transmittal process, the Commission proposes to amend Rule 14a-3(d) in order to make clear that the issuer is obligated to make inquiry of all intermediaries who become recordholders on or before the issuer's record date for the meeting.

TEXT OF PROPOSED AMENDMENT

ATTENTION

The text of the following proposed amendment uses ►◄ arrows to indicate additions.

Accordingly, 17 CFR Part 240 is proposed to be amended by revising the first sentence of paragraph (d) of § 240.14a-3 to read as follows:

§ 240.14a-3 Information to be furnished to security holders.

* * * * *

(d) If the issuer knows that securities of any class entitled to vote at a meeting with respect to which the issuer intends to solicit proxies, consents or authorization are held of record by a broker, dealer, bank or voting trustee, or their nominees, the issuer shall inquire of such record holder at least 10 days prior to the record date for the meeting of security holders (or at such later time as the rules of a national securities exchange on which the class of securities in question is listed may permit for good cause shown), ►and shall inquire of any such person who becomes a record holder after such initial inquiry but on or before the record date for the meeting of security holders,◄ whether other persons are the beneficial owners of such securities and, if so, the number of copies of the proxy and other soliciting material and, in the case of an annual meeting at which directors are to be elected, the number of copies of the annual report to security holders, necessary to supply such material to beneficial owners. * * *

* * * * *

STATUTORY BASIS

The Commission proposes to amend Rule 14a-3(d) pursuant to Sections 14(a) and 23(a) of the Act (15 U.S.C. 78n(a), 78w(a)).

REQUEST FOR COMMENT

Interested persons are invited to submit comments concerning the proposed amendment to Rule 14a-3(d) on or before August 15, 1977. Persons desiring to make a written submission should file three copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Reference should be made to File No. S7-581. Copies of written comments will be available for public inspection in the Commission's Public Reference Room, 1100 L Street, Washington, D.C. 20006.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JULY 5, 1977.

[FR Doc.77-19997 Filed 7-12-77;8:45 am]

[1] Rule 14b-1 imposes on broker-dealer recordholders the obligation to respond to the issuer's inquiry and to forward the proxy materials promptly to the beneficial owners.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[21 CFR Part 1301]

COMPLIMENTARY SAMPLING OF CONTROLLED SUBSTANCES

Statement of Policy and Withdrawal of Proposed Regulations

AGENCY: Drug Enforcement Administration.

ACTION: Withdrawal of proposed rule.

SUMMARY: This notice announces the present policy of the Drug Enforcement Administration to encourage drug manufacturers of controlled substances who promote such products through the distribution of samples to doctors by detailmen to substitute other, safer promotional methods designed to reduce diversion. As a result of the adoption of this policy, the Drug Enforcement Administration hereby withdraws its proposed rule (41 FR 32756, August 5, 1976) which would have absolutely prohibited drug manufacturers and distributors from providing complimentary samples of controlled substances in schedules II through V to their customers.

FOR FURTHER INFORMATION CONTACT:

Richard Ira Lebovitz, Attorney, Office of Chief Counsel, Drug Enforcement Administration, 1405 I Street NW., Washington, D.C. 20537 (202-382-3411).

SUPPLEMENTARY INFORMATION: On May 19, 1976, the American College of Neuropsychopharmacology (ACNP) petitioned the Administrator of the Drug Enforcement Administration to initiate proceedings for the amendment of 21 CR 1301.74(d). That section essentially permits non-practitioner registrants to distribute complimentary samples of controlled substances in schedules II through V, with certain restrictions. The ACNP petition is a proposal to amend 21 CFR 1301.74(d) so that such registrants are absolutely prohibited from distributing controlled substances in schedules II through V as complimentary samples to their current or potential customers.

On July 29, 1976, the Administrator of DEA issued a notice of proposed rulemaking in respect of the ACNP petition (41 FR 32756, August 5, 1976). In his attempt to determine whether the regulation proposed by the ACNP is necessary and appropriate, the Administrator in the Notice stated that DEA was reassessing its position on sampling and its efforts would be aided by receiving from all interested persons information concerning what the position of various State authorities is on samplying, how much of legitimate drugs are used for samplying, how samples are used by doctors, and, most importantly, how much sampling results in diversion. Six specific questions designed to guide responses to the proposal to provide such information were listed in the August 5, 1976, Notice.

Seventy comments were received by DEA in response to the Notice, and they included submissions by drug manufacturers, present and former drug detailmen, State boards of pharmacy and other State licensing authorities, pharmaceutical associations, medical associations, and individual pharmacists. In addition, the comments of the National Institute on Drug Abuse were requested and received.

DISCUSSION OF COMMENTS RECEIVED

With three exceptions, all drug manufacturers commented that they were

against a ban on sampling such as that proposed by the ACNP petition, listing among their reasons that sampling provides one method for testing the merit and usefulness of their products, and that samplying, as a long established procedure recognized and in fact currently permitted and regulated by DEA, should not be banned unless substantial evidence of diversion compels that result.

In contrast, the majority of pharmacists, their professional associations and State boards of pharmacy commented in support of the ACNP petition to ban sampling, stating that the true clinical value of a drug cannot adequately be determined from the practice of doctors dispensing samples of drugs to ther patients in lieu of writing a prescription. In support of this, they argued that industry knowledge of the clinical efficacy of a drug does and should continue to come from well-controlled studies in conformance with established testing protocol and reporting requirements regulated and monitored by the FDA. Further, they alleged, without providing a significant statistical or factual basis, that there is a potential for diversion inherent in drug sampling and that diversion and abuse occurs widespread. Finally, from these commenters there emerged the recommendation that if sampling were to continue, that it be in the form of complimentary prescriptions or some similar method designed to permit a patient to obtain the medication his doctor wants without cost and to eliminate the sample package as the method for providing that service.

Many other thoughtful comments and observations were set forth in the responses submitted. However, those comments and observations, while generally enlightening, were determined by DEA to be neither essential nor material in assisting the agency in its tasks of resolving whether substantial evidence of diversion of controlled substances samples exists so as to require the Administrator to issue the regulation proposed by the ACNP petition.

In resolving this issue, the Administrator takes special note that the ACNP petition itself states that "[p]etitioner maintains neither that diversion of samples of controlled substances is occurring in fact, nor that physicians receiving such samples are utilizing them for other than legitimate medical purposes." Rather, the petition urges a ban on controlled substances samples because it alleges there exists in them a potential for diversion from established distribution channels.

Responsive to this basis for the petition is the viewpoint of the National Institute for Drug Abuse which was requested and received by DEA. After reviewing all the comments on sampling which DEA had received, Dr. Robert E. Willette, Chief, Research Technology Branch, Division of Research, provided the observations of NIDA which state:

After reviewing the several responses for and against the subject Notice, I am led to agree with the position that the petition should be denied. It would appear that in order to support the porhibition that a substantial potential for diversion or evidence of diversion must exist. ACNP does not present such evidence.

Much of the criticism addressed in favor of the petition was more directed at abuses in general of the sampling process, an area out of DEA's jurisdiction, rather than any specific problem with controlled drugs. In fact, both sides acknowledged that the present written request system and accountability of sample distribution for Schedule II drugs appears to offer adequate safeguards against diversion. If diversion of Schedule III–V drugs is evidenced, similar controls could be imposed.

In addition, the Office of Compliance and Regulatory Affairs of the Drug Enforcement Administration has conducted a field survey in DEA's own attempt to refine the pattern of diversion of drug samples. The results of that survey show that there have been isolated instances of diversion of controlled substances samples, mostly involving detailmen, and that it is not widespread nor is it a major area of diversion.

As a result of the DEA study, and of its review of the NIDA comment and all comments submitted in response to the proposal, and of other information available concerning the drug industry practice of sampling, the Administrator of the Drug Enforcement Administration hereby finds that:

(1) There have been specific instances of diversion of samples of controlled substances;

(2) Such instances are not widespread—they are limited and have been largely attributed to drug detailmen;

(3) There presently is not significant evidence of diversion of controlled substances samples;

(4) Instances of diversion of such samples can be further reduced if drug manufacturers eliminate their present practice of having detailmen supply samples to doctors and instead themselves distribute the samples to the doctors directly, or provide doctors with complimentary prescriptions for such drugs rather than samples of them.

DEA's Policy

Therefore, the Administrator of the Drug Enforcement Administration concludes that significant diversion has not been demonstrated which would compel promulgation of the rule proposed by the ACNP petition to prohibit nonpractitioner registrants from distributing controlled substances in schedules II–V as complimentary samples.

Accordingly, the Administrator, under the authority vested in him, declines to adopt, and hereby withdraws, the proposed § 1301.74(d) of Title 21, Code of Federal Regulations, originally published in the Federal Register (41 FR 32756) on August 5, 1976.

In furtherance of DEA's mission to prevent diversion of all controlled substances, the Administrator announces that it is the policy of DEA to encourage drug manufacturers not to distribute controlled substance samples through detailmen and to substitute other, safer methods of promoting their products. These methods could include sending samples to physicians directly and not through detailmen, and to institute complimentary prescriptions.

If DEA determines in the future that the pattern of diversion of controlled substances samples, by detailmen or otherwise, requires further regulation than that presently required, it will at that time take appropriate action.

Dated: July 7, 1977.

Peter B. Bensinger,
Administrator, Drug Enforcement Administration.

[FR Doc.77-20163 Filed 7-12-77;8:45 am]

NATIONAL MEDIATION BOARD

[29 CFR Part 1208]

FREEDOM OF INFORMATION

Fee Schedules and Procedures for Search and Duplication of Records

AGENCY: National Mediation Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The proposed text provides reference to the Chairman, National Mediation Board, for purposes of perfecting appeal of a denied Freedom of Information Act request. An editorial change is further proposed to reflect the Board's current mailing address. The proposed text provides amended fee schedules and procedures for the search and duplication of National Mediation Board and National Railroad Adjustment Board records which are available to the public. In essence, the Board has determined that the direct cost of staff searches has increased to $1.80 per quarter-hour for clerical searches and $4.10 per quarter-hour for non-clerical searches. These costs are reflected in the subject proposals, as well as a duplication charge of fifteen cents per copy. No fee shall be charged for producing records pursuant to this part where the total direct cost to the agency is less than $5.00, or under other specified circumstances.

DATES: It is proposed to make these amendments effective August 29, 1977. Consideration will be given to all written comments received on or before August 19, 1977.

ADDRESS: Written comments should be addressed to Mr. Rowland K. Quinn, Jr., Executive Secretary, National Mediation Board, Washington, DC 20572.

FOR FURTHER INFORMATION CONTACT:

Rowland K. Quinn, Jr., Executive Secretary, National Mediation Board. Telephone: 202–523–5920.

SUPPLEMENTARY INFORMATION: These proposed regulations are issued

pursuant to the authority of 5 U.S.C. 552 (a)(4)(A) and 44 Stat. 577, as amended (45 U.S.C. 151 et seq.)

By direction of the National Mediation Board.

Dated: July 8, 1977.

ROWLAND K. QUINN, Jr.,
Executive Secretary.

It is proposed that 29 CFR 1208.2 and 29 CFR 1208.6 be amended to reach as follows:

§ 1208.2 Production or disclosure of material or information.

(a) *Requests for identifiable records and copies.* (1) All requests for National Mediation Board records shall be filed in writing by mailing the request or delivering it to the Executive Secretary, National Mediation Board, Washington, D.C. 20572, except that requests for records of the National Railroad Adjustment Board shall be in writing and addressed to the Administrative Officer, National Railroad Adjustment Board, 220 South State Street, Chicago, Illinois 60604.

(2) The request shall reasonably described the records being sought in a manner which permits identification and location of the records.

(i) If the description is insufficient to locate the records, the National Mediation Board will so notify the person making the request and indicate the additional information needed to identify the records requested.

(ii) Every reasonable effort shall be made by the Board to assist in the identification and location of the records sought.

(3) Upon receipt of a request for records the Executive Secretary shall maintain records in reference thereto which shall include the date and time received, the name and address of the requester, the nature of the records requested, the action taken, the date the determination letter is sent to the requester, appeals and action thereon, the date any records are subsequently furnished, the number of staff hours and grade levels of persons who spent time responding to the request and the payment requested and received.

(4) All time limitations established pursuant to this section with respect to processing initial requests and appeals shall commence at the time a written request for records is received at the Board's offices in Washington, D.C., except for requests directed to the National Railroad Adjustment Board pursuant to § 1208.2(a)(1) in which case the time limit shall commence when the request is received at the NRAB's office in Chicago.

(i) An oral request for records shall not begin any time requirement.

(b) *Processing the Initial Request.* (1) Time limitations. Within 10 working days (excepting Saturdays, Sundays, and working holidays) after a request for records is received, the Executive Secretary shall determine and inform the requester by letter whether or the extent to which the request will be complied with, unless an extension is taken under paragraph (b)(3) of this section.

(2) Such reply letter shall include:

(i) A reference to the specific exemption or exemptions under the Freedom of Information Act authorizing the withholding of the record, a brief explanation of how the exemption applies to the record withheld.

(ii) The name or names and positions of the person or persons, other than the Executive Secretary, responsible for the denial.

(iii) A statement that the denial may be appealed within thirty days by writing to the Chairman, National Mediation Board, Washington, D.C. 20572, and that judicial review will thereafter be available in the district in which the requester resides, or has his principal place of business, or the district in which the agency records are situated, or the District of Columbia.

(3) Extension of time. In unusual circumstances as specified in this paragraph, the Executive Secretary may extend the time for initial determination on requests up to a total of ten days (excluding Saurdays, Sundays, and legal public holidays). Extensions shall be granted in increments of five days or less and shall be made by written notice to the requester which sets forth the reason for the extension and the date on which a determination is expected to be dispatched. As used in this paragaraph "unusual circumstances" means, but only to the extent necessary to the proper processing of the request:

(i) 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;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another agency or another division having substantial interest in the determination of the request, or the need for consultation among components of the agency having substantial subject matter interest therein.

(4) Treatment of delay as a denial. If no determination has been dispatched at the end of the ten-day period, or the last extension thereof, the requester may deem his request denied, and exercise a right of appeal, in accordance with § 1208.2c. When no determination can be dispatched within the applicable time limit, the responsible official shall nevertheless continue to process the request; on expiration of the time limit he shall inform the requester of the reason for the delay, of the date on which a determination may be expected to be dispatched, and of his right to treat the delay as a denial and to appeal to the Chairman of the Board in accordance with § 1208.2(c) and he may ask the requester to forego appeal until a determination is made.

(c) *Appeals to the Chairman of the Board.* (1) When a request for records has been denied in whole or in part by the Executive Secretary or other person authorized to deny requests, the requester may, within thirty days of its receipt, appeal the denial to the Chairman of the Board. Appeals to the Chairman shall be in writing, addressed to the Chairman, National Mediation Board, Washington, D.C. 20572.

(2) The Chairman of the Board will act upon the appeal within twenty working days (excluding Saturdays, Sundays and legal public holidays) of its receipt unless an extension is made under paragraph (c)(3) of this section.

(3) In unusual circumstances as specified in this paragraph, the time for action on an appeal may be extended up to ten days (excluding Saturdays, Sundays and legal public holidays) minus any extension granted at the initial request level pursuant to § 1208.2 (b)(3). Such extension shall be made by written notice to the requester which sets forth the reason for the extension and the date on which a determination is expected to be dispatched. As used in this paragraph "unusual circumstances" means, but only to the extent necessary to the proper processing of the appeal:

(i) The need to search for and collect the requested records from flield facilities or other establishments that are separate from the office processing the request;

(ii) The need to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another agency or another division having substantial interest in the determination of the request or the need for consultation among components of the agency having substantial subject matter interest therein.

(4) Treatment of delay as a denial. If no determination on the appeal has been dispatched at the end of the twenty-day period or the last extension thereof, the requester is deemed to have exhausted his administrative remedies, giving rise to a right of review in a district court of the United States as specified in 5 U.S.C. 552(a)(4). When no determination can be dispatched within the applicable time limit, the appeal will nevertheless continue to be processed; on expiration of the time limit the requester shall be informed of the reason for the delay, of the date on which a determination may be expected to be dispatched, and of his right to seek judicial review in the United States district court in the district in which he resides or has his principal place of business, the district in which the Board records are situated or the District of Columbia. The requester may be asked to forego judicial review until determination of the appeal.

(d) *Indexes of Certain Records.* (1) The National Mediation Board at its office in Washington, D.C. will maintain, make available for public inspection and

copying, and publish quarterly (unless the Board determines by order published in the FEDERAL REGISTER that such publication would be unnecessary or impracticable) a current index of the materials available at the Board offices which are required to be indexed by 5 U.S.C. 552(a)(2).

(i) A copy of such index shall be available at cost from the National Mediation Board, Washington, D.C. 20572.

(2) The National Railroad Adjustment Board at its offices in Chicago, Illinois will maintain, make available for public inspection and copying, and publish quarterly (unless the Board determines by order published in the FEDERAL REGISTER that such publication would be unnecessary or impracticable) a current index of the materials available at the Board offices which are required to be indexed by 5 U.S.C. 552(a)(2).

§ 1208.6 Fees—duplication costs and search.

(a)(1) Unless waived in accordance with the provisions of § 1208.62, the following fees shall be imposed for the reproduction of any record disclosed pursuant to this Part.

(i) *Copying of records.* Fifteen cents per copy of each page.

(ii) *Copying of microfilm.* Fifty cents per microfilm frame.

(iii) *Clerical searches.* $1.80 for each one quarter hour spent by clerical personnel searching for and producing a requested record, including time spent copying any record.

(iv) *Non-clerical searches.* $4.10 for each one quarter hour spent by professional or managerial personnel searching for and producing a requested record, including time spent copying any record.

(v) *Certification or authentication of records.* $1.00 per certification or authentication.

(vi) *Forwarding material to destination.* Postage, insurance and special fees will be charged on an actual cost basis.

(2)(i) No charge shall be assessed for time spent in resolving legal or policy questions relating to the documents or in examining records for the purpose of deleting nondisclosable portions thereof.

(ii) No charge shall be assessed for time spent in monitoring an individual who examines documents at the Board's offices.

(3) Payment shall be made by check or money order payable to "United States Treasury."

(b)(1) No fee shall be charged for disclosure of records pursuant to this part where:

(i) The cost of providing the records is less than $5.00.

(ii) The records are requested by a congressional committee or subcommittee, a Federal court, a Federal department or agency, or the General Accounting Office.

(2)(i) The Executive Secretary may waive payment of fees, in whole or in part, when he determines that the person making the request is indigent.

(ii) A person seeking such a determination shall petition the Executive Secretary in writing stating the reasons therefore.

(iii) Determinations made pursuant to this provision will be made within the discretion of the agency.

(3)(i) The Executive Secretary may reduce or waive payment of fees in whole or in part when he determines that such reduction or waiver is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(ii) Determinations pursuant to this provision shall be made within the discretion of the agency.

(4) No fee shall be charged if a record requested is not found or for any record that is determined to be totally exempt from disclosure.

[FR Doc.77-20157 Filed 7-12-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[41 CFR Part 15-1]

[FRL 709-3]

CONFLICTS OF INTEREST

Prevention

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This proposed rule prohibits, for a period of one year after EPA employment, the award of noncompetitive contracts to business concerns employing certain former employees of the Agency, unless a waiver is granted by the Deputy Administrator. It also provides that competitively awarded contracts shall be in full compliance with statutes and regulations regarding the activities of former Government employees, and that these awards are not suspect of improper influence or favoritism.

DATE: Comments must be received by August 12, 1977.

ADDRESSES: Comments should be submitted to: Director, Contracts Management Division (PM-214), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Frank Boyer, Contracts Policy and Review Branch, Contracts Management Division (PM-214), Environmental Protection Agency, Washington, D.C. 20460 (202-755-0900).

SUPPLEMENTARY INFORMATION: This proposed regulation was previously published in the FEDERAL REGISTER on July 17, 1974 (39 FR 26169) as a proposed rule and comments were solicited. However, the regulation was made effective July 17, 1974. No comments were received as a result of the original publication. Because the regulation has been significantly revised since that time, it is considered appropriate to republish it and again afford interested parties an opportunity to comment prior to its adoption as a final regulation. Pending the adoption of a final regulation, the regulation published on July 17, 1974, shall remain in effect. In addition it is proposed to revise and redesignate the material presently appearing in 41 CFR 15-1.5301 as 41 CFR 15-1.5401 in order to group related subjects in the same subpart.

Dated: July 5, 1977.

DOUGLAS M. COSTLE,
Administrator.

PART 15-1—GENERAL

§ 51-1.5301 [Deleted]

1. Section 15-15301 is deleted in its entirety.

2. As proposed, the new Subpart 15-1.54 would read as follows:

Subpart 15-1.54—Conflicts of Interest

Sec.

15-1.5400	Scope of subpart.
15-1.5401	Organizational.
15-1.5402	Former EPA employees.
15-1.5402-1	Definitions.
15-1.5402-2	Limitations on award of noncompetitive negotiated contracts.
15-1.5402-3	Treatment of competitive contracts.
15-1.5402-4	Waivers.
15-1.5402-5	Solicitation provision.
15-1.5402-6	Subcontracts.
15-1.5402-7	Unsolicited proposals.

AUTHORITY: Sec. 205(c) 63 Stat. 390; 40 U.S.C. 486(c)

Subpart 15-1.54—Conflicts of Interest

§ 15-1.5400 Scope of subpart.

This subpart prescribes procedures for identifying and dealing with actual or apparent conflicts of interest involving (a) Contractor performance, and (b) The award of contracts to organizations employing former Environmental Protection Agency employees. This subpart is not applicable to agreements with other agencies of the Federal Government, or to contracts with State or local governments as defined in § 1-1.5402-1.

§ 15-1.5401 Organizational.

(a) It is EPA policy to avoid situations in the procurement process where, by virtue of work or services performed for EPA, or as the result of data acquired from EPA or from industry, a particular company:

(1) Is given an unfair competitive advantage over other companies in respect to future EPA business;

(2) Is placed in a position to affect Government actions under circumstances in which there is danger that the company's judgment may be biased; or

(3) Otherwise finds that a conflict exists between the performance of work or services for the Government in an impartial manner and the company's own self-interest.

(b) Conflicts of this type occur most frequently in circumstances where con-

tractors provide services involving either (1) the preparation of specifications or statements of work which are to be incorporated into a solicitation for bids or proposals or subsequent procurement actions, or (2) access to the proprietary data of other companies. In these circumstances, the following clause shall be included in both the solicitation and the resulting contract:

LIMITATION ON FUTURE CONTRACTING

(a) It is agreed by the parties to this contract that the Contractor will be restricted in its future contracting with EPA in the manner described below. Except as specifically provided in this clause, the Contractor shall be free to compete for EPA contracts on an equal basis with other companies.

(b) If the Contractor, under the terms of this contract, or through the performance of tasks pursuant to this contract, is required to develop specifications or statements of work and such specifications or statements of work are incorporated into a solicitation, the Contractor shall be ineligible to perform the work described in that solicitation as a prime or first tier subcontractor under an ensuing EPA contract. Such restriction shall remain in effect for three years following the date of the initial solicitation. It is further agreed that EPA will not unilaterally require the Contractor to prepare specifications or statements of work under this contract.

(c) To the extent that the work under this contract requires access to proprietary or confidential business or financial data of other companies, and as long as such data remain proprietary or confidential, the Contractor shall protect such data from unauthorized use and disclosure and agrees not to use them to compete with such companies.

(d) The restrictions of paragraph (b) above may be waived if it is determined that such restrictions would be detrimental to the EPA program.

The waiver provision in paragraph (d) of the clause may be exercised by the contracting officer only after receiving written approval from the Director, Contracts Management Division, EPA. Unless the circumstances of paragraph (b) or (c) of the clause are present, the fact that a contractor will perform research and development work under a support service contract is not reason for inclusion of the clause: *Provided*, That if the circumstances of paragraph (b) or (c) of the clause are introduced by a task order which is to be issued under a contract whose general scope would not have otherwise required the clause, the clause shall be incorporated in the basic contract prior to issuance of the task order.

(c) In those cases where the contracting officer determines that a potential organizational conflict of interest exists which is not covered by the clause set out in paragraph (b) of this section, he shall prepare a written analysis of the facts of the case clearly indicating the area of concern and the nature of the potential conflict. The written analysis shall be forwarded to the Director, Contracts Management Division, who after obtaining the advice of counsel, shall prepare an appropriate clause for use in the solicitation and/or the contract, or take other appropriate action.

§ 15–1.5402 Former EPA employees.

The purpose of this section is to insure that no negotiated contract is awarded to any organization that employes a former regular or special employee in circumstances which constitute an actual or apparent conflict of interest and to further insure that contract awards are not based on improper influence or favoritism.

§ 15–1.5402–1 Definitions.

For the purposes of this section, the following definitions are applicable:

(a) *Local government.* The term "local government" means a local unit of government including specifically a county, municipality, city, town, township, school district, local public authority, special district, intrastate district, council of governments, and other regional or interstate governmental entity, or any agency or instrumentality of a local government exclusive of institutions of higher education and hospitals.

(b) *State.* "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of State institutions of higher education or hospitals.

(c) *Regular employee.* A "regular employee" is one who served in a capacity exceeding 130 days during any period of 365 consecutive days, including regular officers of the Public Health Service Commissioned Corps and Reserve Officers of the Corps while on active duty.

(d) *Special government employee.* A "special government employee" is an employee appointed to serve for not more than 130 days during any period of 365 consecutive days, either on a full time or intermittent basis, and who was so employed for more than 60 days during that 365 days.

§ 15–1.5402–2 Limitations on award of noncompetitive negotiated contracts.

(a) No contract shall be awarded without competition if the prospective contractor employs in the capacity of officer, director, other senior management employee, or proposes to employ as project officer or a major consultant on the contract, a former EPA regular employee or a former EPA special employee, or if a former EPA employee, his spouse, or minor child holds a controlling interest in the prospective contractor, provided that either of the following conditions exists:

(1) The former EPA employee is involved in developing or negotiating the proposal for the prospective contractor, or

(2) The former EPA employee will be involved, directly or indirectly, in the management, administration, or performance of any contract resulting from the proposal.

(b) The prohibition of paragraph (a) of this section shall cease one year after termination of the former employee's EPA employment.

§ 15–1.5402–3 Treatment of competitive contracts.

(a) The prohibition set forth in § 15–1.5402–2 shall not apply with respect to situations where there is adequate competition. However, the award of such contracts shall be consistent with the requirements of 18 U.S.C. 207; former EPA employees shall not exert improper influence over the award; and the award shall not be based on favoritism arising out of the employee's former employment with EPA.

(b) In those cases where the disclosure required pursuant to § 15–1.5402–5 is in the affirmative, no contract shall be awarded without the prior written approval of the Deputy Assistant Administrator for Administration, who shall determine whether award would be consistent with the standards set forth in paragraph (a) of this section.

(c) The provisions of paragraph (b) of this section shall cease to be applicable one year after the termination of the former employee's EPA employment.

§ 15–1.5402–4 Waivers.

The provisions of this section may be waived only upon written determination by the Deputy Administrator that the award would not be likely to involve a violation of 18 U.S.C. 207 or EPA regulations respecting conflicts of interest (40 CFR Part 3), and that the best interests of the Government would be served by award of the contract in view of the outstanding scientific, technological, or other qualifications of the former EPA employee who would participate in the performance of the contract.

§ 15–1.5402–5 Solicitation provision.

The following provision shall be included in all EPA solicitations (requests for proposals and invitations for bids) where the resulting contract is expected to exceed $10,000. Where the offeror or bidder fails to execute the certification, the omission shall be considered a minor informality and the offeror or bidder shall be permitted to satisfy the requirement prior to award.

CONFLICT OF INTEREST CERTIFICATION

The offeror or bidder hereby certifies that:

(a) He/she ☐ is, ☐ is not, a former EPA regular or special employee whose employment terminated within one year prior to the submission of this bid or proposal.

(b) The offeror ☐ does, ☐ does not, employ a former EPA regular or special employee, whose EPA employment terminated within one year prior to submission of this bid or proposal, and who will be involved directly or indirectly in the management, administration, or performance of any contract resulting from this bid or proposal.

(c) The offeror ☐ will, ☐ will not, employ as a consultant on any contract resulting from this bid or proposal a former regular or special EPA employee whose EPA employment terminated within one year prior to submission of this bid or proposal.

(d) A former EPA employee whose EPA employment terminated within one year prior to submission of this bid or proposal or such employee's spouse or minor child ☐ does, ☐ does not, hold a controlling interest in the offeror firm.

§ 15–1.5402–6 Subcontracts.

The provisions of this section do not apply to subcontracts unless the effect of such subcontracts would be to circumvent the restrictions imposed herein.

§ 15–1.5402–7 Unsolicited proposals.

Each individual or organization submitting an unsolicited proposal shall be required to execute the certification required by § 15–1.5402–5 as a condition precedent to the evaluation of the unsolicited proposal.

[FR Doc.77-20024 Filed 7-12-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1207]

[No. 36556]

CLASS I AND CLASS II MOTOR CARRIERS OF PROPERTY

Revision to Annual Reports and Uniform System of Accounts; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking and order; Correction. The Notice of Proposed Rulemaking and Order, approved by the Commission June 14, 1977, and published in the FEDERAL REGISTER June 28, 1977, page 32814, should have included the following notation: By the Commission (Commissioners Brown, Hardin, and Christian not participating).

FOR FURTHER INFORMATION CONTACT:

James H. Bayne, Chief, Section of Reports, Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423. Phone No. 202–275–7331.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-20145 Filed 7-12-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE

Bobcat and Lynx; Review of Status

AGENCY: United States Fish and Wildlife Service, Interior.

ACTION: Review of the status of the bobcat and lynx.

SUMMARY: On January 20, 1977, the Defenders of Wildlife (1244 Nineteenth Street, NW., Washington, D.C. 20036), petitioned the Department of the Interior to add the bobcat (*Lynx rufus*) to the U.S. List of Endangered and Threatened Wildlife, pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531–1543). As required by section 4(c)(2) of the Act, notice is hereby given of the Department's determination that substantial evidence has been presented by the petition, and that such evidence warrants a review of the status of the bobcat to learn whether the species, or certain populations thereof, should be proposed for listing as Endangered or Threatened.

The Department also has received substantial information suggesting that a closely related species, the lynx (*Lynx canadensis*), also may have undergone a considerable decline in numbers and distribution, especially in that part of its original range within the 48 conterminous States of the United States. The Department, therefore, will conduct a review of the status of the lynx simultaneous with that of the bobcat.

DATES: Information regarding the status of the bobcat and lynx should be submitted within 120 days to the Director, U.S. Fish and Wildlife Service.

ADDRESSES: Information should be submitted to the Director (FWS/OES), Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

FOR ADDITIONAL INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director, Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202–343–4646.

SUPPLEMENTARY INFORMATION: The Department is seeking the views of the Governors of all States of the United States, except Hawaii, and of the Governments of Canada and Mexico. All other interested parties are hereby invited to submit any factual information which is pertinent to this review. This information, together with that provided with the petition of the Defenders of Wildlife, and that obtained from other sources, will be reviewed to determine whether the bobcat and lynx, or any populations thereof, should be listed as Endangered or Threatened.

This notice of review was prepared by Ronald M. Nowak, Office of Endangered Species.

Dated: July 5, 1977.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc.77-19989 Filed 7-12-77;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 611]

FISHERY CONSERVATION AND MANAGEMENT

Procedures for Modifying Foreign Fishing Permits

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Proposed Rule.

SUMMARY: New procedures are proposed which would provide for the modification of existing foreign permits issued under the Fishery Conservation and Management Act of 1976. Since the Act does not spell out procedures for modification of a permit which has already been issued it is necessary to prescribe procedures to be followed in effecting modification. In addition, it is proposed that several corrective amendments be made to the current regulations applicable to foreign permits.

DATE: Comments must be received on or before August 15, 1977.

ADDRESS: Comments should be sent to Director, National Marine Fisheries Service (Attn: F35), Department of Commerce, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Perry Allen, Permit Coordinator, Enforcement Division, F35, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235. Telephone 202–634–7265.

SUPPLEMENTARY INFORMATION: Section 204 of the Act provides procedures for issuing permits to foreign fishing vessels. The permits (1) enable foreign vessels to engage in fishing activities within the U.S. fishery conservation zone; and (2) set conditions and restrictions on such fishing activities. However, the Act does not spell out procedures for permit modifications during the life of a permit which has already been issued. It is thus necessary to prescribe, under section 305(g) of the Act, procedures to be followed in effecting modifications.

Under these proposed procedural regulations an existing foreign fishing permit could be modified in three different situations: (1) To conform with an amendment to the Foreign Fishing Regulations which implement a fishery management plan (FMP), or preliminary fishery management plan (PMP), or amendment to an FMP or PMP; (2) for purposes of "conservation and management" as defined in the Act; and (3) in response to a request for modification by the foreign nation submitting the original permit application.

In the first type of situation, a special provision for written comments or a hearing is considered unnecessary because there will be ample opportunity for comment, oral and written, during the public participation phase leading up to an amendment of an FMP or PMP and the Foreign Fishing Regulations. So that permits will be uniform for each particular fishery, and for ease in administration and enforcement, each permit issued is subject to the restrictions contained in the Foreign Fishing Regulations. For the restrictive provisions of the Foreign Fishing Regulations to be amended, there will at a minimum be an opportunity for public comment between the time the proposed amendments are published in the FEDERAL REGISTER and the date the final amendments are promulgated. In addition, the permit holder and other members of the public will have had an opportunity to comment during the evaluation of the environmen-

tal impact statement and preparation of the plan or amendment to the plan.

In the second type of situation, however, the permit modification may be made on an individual basis, without a change to the FMP, PMP, or implementing regulations. For example, certain fisheries are regulated only by PMP's, which cannot legally provide authority for directly regulating U.S. fishermen. In such a case, the availability of foreign vessels to process U.S. caught fish may induce U.S. fishermen to intensify their fishing efforts, resulting in a total catch exceeding the optimum yield established for a particular fishery by the applicable PMP. In this example, to prevent damage to the resource, it may therefore be necessary to attach conditions to the existing permits of foreign processing vessels which would limit the quantity of U.S. caught fish they may process.

Such conditions related to "fishery conservation and management" are authorized under section 204(b)(7)(D) of the Act. In fairness to the owner or operator of any vessel affected by such a proposed modification, procedures are proposed which would provide the permit holder with an opportunity for written comment and a hearing, prior to any final decision to modify a permit in this manner. Because of the indirect effects which proposed individual foreign permit modifications may have on the American fishing industry, the proposed procedures would also permit written public comment and public participation in hearings held by the Director at the request of the permit holder.

In the third type of situation, the proposed procedure would enable the Director to make immediate minor modifications to an existing permit of any foreign vessel, such as a change in the vessel's ownership, radio call sign, or homeport. Such changes would be in response to a request by the appropriate foreign nation. However, a requested change which in the Director's opinion could significantly affect fishery resources would be treated as an application for an entirely new permit and the procedures of Section 204 of the Act would apply.

As indicated above, a few corrections are also being proposed to the current Foreign Fishing Regulations, which were originally published at 42 FR 8813-45, on Friday, February 11, 1977. The most significant of these proposed amendments is the one which would request that an application for a permit be submitted to the Secretary of State at least 150 days prior to the date on which the foreign vessel is to begin fishing, rather than 120 days in advance as presently required. The agency has found, through actual experience, that the additional 30 days is desirable to allow adequate time to review and process permit applications.

Finally, we propose to condense §§ 611.3 (f), (g) and (h) of the existing regulations because they essentially duplicate 50 CFR 621.52 and 621.53, Interim Regulations on Civil Procedures, 42 FR 12026-32.

Accordingly, it is proposed to amend 50 CFR 611.3 as follows:

§ 611.3 [Amended]

1. By substituting, in § 611.3(c), the word "Director" for "Secretary."

2. By amending § 611.3(d) to read:

(d) To allow time for processing, the foreign country should submit a permit application to the Secretary of State at least 150 days prior to the date on which the foreign vessel intends to commence fishing under the desired permit.

3. By amending § 611.3(f) to read:

(f) If a foreign fishing vessel with a permit issued under this section has been used in the commission of any act prohibited by § 611.7, the Director may take such action as is appropriate and authorized by Subpart D, Part 621 of these regulations.

4. By deleting §§ 611.3 (g) and (h) of the existing regulations and substituting a new § 611.3(g) as follows:

(g) Permits issued under this section may be modified by the Director under the following conditions:

(1) The Director may modify any permit by amendment of the Foreign Fishing Regulations (Part 611 of 50 CFR) since such regulations are a part of each permit. Such a modification will be effective no sooner than ten days after publication of the final amended regulation in the FEDERAL REGISTER. Notice of the modification will be sent by the Director to (i) the Secretary of State for transmittal to each foreign nation concerned and (ii) the agent of the operator of each foreign fishing vessel involved.

(2) The Director may modify any permit for purposes of "conservation and management," as defined in section 3(2) of the Act, with respect to the fishery resources covered by the permit. Except as provided in paragraph (g)(2)(v) of this section, such modification will not take effect until the following requirements have been met:

(i) The Director shall give the agent of the operator of the foreign fishing vessel involved written notice regarding any such proposed modification, by registered mail, return receipt requested. Such notice shall specify the nature of the proposed modification along with a summary of the reasons underlying the proposal. The notice also shall advise the operator of the vessel involved: (A) That he may, within 30 days after receipt of the notice, submit written comments on the proposed modification; and (B) that he is entitled to an informal hearing on the proposed modification if his written request for such a hearing is received by the Director within 15 days after receipt of the notice.

(ii) Upon sending notice of the proposed modification to the agent of the operator of the vessel involved the Director shall publish a notice of the proposed modification in the FEDERAL REGISTER, providing for a 30 day public comment period. The Director shall also notify each appropriate Regional Fishery Management Council, the Secretary of State, and the Secretary of Transportation, asking for their written comments within 30 days of receipt of such notice.

(iii) The Director shall determine the time and place for any hearing requested, pursuant to subdivision (i) of this paragraph, by the operator of the vessel involved. Not less than 15 days prior to the date of the hearing, written notice thereof shall be: (A) Published in the FEDERAL REGISTER; and (B) given to the agent of the operator of the vessel involved, by registered mail, return receipt requested. The Director may, in his discretion, allow participation at the hearing by interested members of the public. The permit holder and others participating may submit all relevant material, data, views, comment, arguments, and exhibits at the hearing. A summary record shall be kept of any such hearing.

(iv) The Director shall make a final decision regarding the proposed modification as soon as practicable after the close of the 30-day comment period and the hearing, if any. Notice of the modification will be published in the FEDERAL REGISTER and will be sent by the Director to the Secretary of State for transmittal to the foreign nation which submitted the original permit application, the agent of the operator of the foreign fishing vessel involved, each appropriate Regional Fishery Management Council, the Secretary of State, the Secretary of Transportation, the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committees on Commerce and Foreign Relations of the Senate.

(v) Pending the Director's final decision on a proposed permit modification, the Director may, on an interim basis, make the proposed modification effective immediately or otherwise earlier than 30 days after the date of the notice of proposed modification if he finds, and summarizes such finding and the reasons therefor in the notice, that substantial harm to a fishery resource of the United States may result from a later effective date. The Director shall expedite the hearing process whenever a modification has been implemented on an interim basis.

(3) The foreign nation which submitted the original permit application may request a modification of any permit applicable to a vessel of that foreign nation, stating in writing the reasons for each requested change. The Director may make technical modifications or corrections requested by the foreign nation such as change in ownership of a vessel, homeport, or radio call sign, which will be effective immediately.

(4) When a foreign nation requests a permit change which in the opinion of the Director could significantly affect the status of any fishery resources, such a request will be treated as an application for a new permit and procedures for issuance of the permit will be in accordance with section 204 of the Act.

(5) Upon deciding to modify a permit under subparagraphs (2) or (3) of this paragraph, the Director shall promptly transmit a revised permit to the Secretary of State for transmittal to the foreign nation involved.

Dated: July 8, 1977.

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

[FR Doc.77-20078 Filed 7-12-77;8:45 am]

notices

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

ADMINISTRATOR EMERGENCY NATURAL GAS ACT OF 1977

[Docket No. E77-78]

PANHANDLE EASTERN PIPE LINE CO.

Supplemental Emergency Order

By order issued March 25, 1977, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), Panhandle Eastern Pipe Line Company (Panhandle) was authorized to purchase 2,000 Mcfd of emergency natural gas from Champlin Exploration Inc. (Champlin), at the Sherill Well, Woods County, Oklahoma. Panhandle was authorized to purchase these volumes as agent for its customer, Kokomo Gas and Fuel Company (Kokomo), through July 31, 1977. On July 5, 1977, Panhandle requested that its March 6, 1977 authorization be modified so that it may purchase and deliver 120,000 Mcf of the remaining available gas under the original arrangement from Champlin through July 31, 1977, at $2.25 per MMBtu, as agent for its customer Missouri Power and Light Company. Kokomo has advised Panhandle that it no longer desires to obtain all of the natural gas provided by the original authorization and has agreed to execute the instruments necessary to implement this arrangement.

Pursuant to section 6(a) and 6(c)(1) of the Act, I authorize Champlin, Panhandle, Kokomo and Missouri Power and Light to implement this arrangement which modifies the previous authorization granted on March 25, 1977. Since the parties have agreed upon the transportation charges, which are the same as the original arrangement, I find no basis on which to fix other charges. Approval of this arrangemnt is conditioned upon the submission of a sworn statement by Missouri Power and Light that the subject purchase complies with Order No. 6.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Panhandle, Champlin, Kokomo and Missouri Power and Light. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

JULY 8, 1977.

[FR Doc.77-20093 Filed 7-12-77;8:45 am]

[Docket No. E77-122]

UNITED GAS PIPE LINE CO.

Emergency Order

On June 15, 1977, United Gas Pipe Line Company (United) filed pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)) a petition requesting (1) a finding that Mountain Fuel Supply Company (Mountain Fuel) is a "local distribution company" for purposes of section 6(a)(2) of the Act; (2) authorization for United to purchase up to 3 Bcf of natural gas from Mountain Fuel during the period ending July 31, 1977; and (3) approval of transportation of said gas by Colorado Interstate Gas Company (Colorado Interstate), Panhandle Eastern Pipeline Company (Panhandle) and Trunkline Gas Company (Trunkline). For the reasons set forth below, I deny this request.

After careful consideration of the petition, it is my determination that Mountain Fuel does not qualify as a "local distribution company" under section 6(a)(2) of the Act. Therefore, Mountain Fuel is not eligible to sell natural gas to United under section 6(a)(2) of the Act. With the denial of the purchase, there is no reason to consider United's request for transportation.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977) and shall be served upon United, Mountain Fuel, Colorado Interstate, Panhandle and Trunkline. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

JULY 6, 1977.

[FR Doc.77-20092 Filed 7-12-77;8:45 am]

ADVISORY COMMITTEE ON FEDERAL PAY

PROPOSED ADJUSTMENT IN FEDERAL PAY FOR FISCAL 1978

Public Discussions

The Advisory Committee on Federal Pay announces public discussions of the proposed adjustment in Federal pay for Fiscal 1978, to be held on Wednesday and Thursday, July 27 and 28, in Room 10103, New Executive Office Building, 726 Jackson Place. The starting time will be announced in a subsequent issue of the FEDERAL REGISTER.

At these meetings the Committee will discuss with the President's Agent its proposals for the October increase, as well as obtain the views of any organizations representing Federal employees or any interested government officials regarding the Pay Agent's proposals. Organizations representing Federal employees or interested government officials wishing to discuss the report with the Committee orally or in writing should notify the Committee by Monday, July 25, either by writing or calling the Committee (Area Code 202-653-6193). Written comments on the report should reach the Committee at its offices—Suite 205, 1730 K Street, N.W., Washington, D.C. 20006—by Tuesday, July 26. Both written submissions and requests for an opportunity to discuss the issues should include a telephone number where the organization or official can be reached.

The Advisory Committee on Federal Pay, established as an independent establishment by section 5306 of Title 5, United States Code (Pub. L. 91-656, the Federal Pay Comparability Act) is charged with assisting the President in carrying out the policies of Section 5301 of Title 5, United States Code. The Committee's fundamental obligation is to afford the President an independent judgment respecting Federal pay. Section 5306 of Title 5 requires the Committee to make findings and recommendations to the President with respect to the annual adjustment in Federal pay, after considering the written views of employee organizations, the President's Agent, other officials of the government of the United States and such experts as the Committee may consult.

JEROME M. ROSOW,
Chairman, Advisory Committee on Federal Pay.

[FR Doc.77-19982 Filed 7-12-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation Number A489]

NORTH CAROLINA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Robeson County, North Carolina, as a result of excessive rainfall May 19 through May 24, 1977, and hail, rain, and a windstorm June 6, 1977.

Therefore, the Secretary has designated this area as eligible for emergency

loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor James B. Hunt, Jr. that such designation be made.

Applications for emergency loans must be received by this Department no later than August 29, 1977, for physical losses and March 30, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 6th day of July 1977.

DENTON E. SPRAGUE,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77-20136 Filed 7-12-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Order No. 77-7-10; Docket No. 30332; Agreement C.A.B. 26715]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order

Issued under delegated authority July 6, 1977.

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 carriers embodied in the resolutions of Traffic Conference 2 of the International Air Transport Association (IATA). The agreement, adopted at the Composite Cargo Traffic Conference held in Vancouver in May 1977, has been assigned the above C.A.B. agreement number.

The agreement consists of special provisions for the institution of a freight-all-kinds rate structure between Ireland and the United Kingdom in lieu of the conventional general cargo rate and specific commodity rate structures for a one year period beginning September 1, 1977. The agreement has indirect application in air transportation insofar as the rates so established are combinable with general cargo rates to/from United States points, and it will be approved.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that Résolution 275/004j, incorporated in Agreement C.A.B. 26715 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.

Accordingly, *It is ordered* that: Agreement C.A.B. 26715 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 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.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-20123 Filed 7-12-77;8:45 am]

[Order No. 77-7-15; Docket No. 31093]

BEN-LEE MOTOR SERVICE CO.; MITCHELL AIR DISPATCH

Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 7th day of July, 1977.

By tariff revisions [1] issued June 10 and marked to become effective July 10, 1977, Ben-Lee Motor Service Co., d/b/a Mitchell Air Dispatch (Ben-Lee), an air freight forwarder, proposes to increase charges for excess declared value from 15 cents to 25 cents per $100 value declared in excess of 50 cents per pound or $50 per shipment, whichever is greater. The forwarder has submitted no justification in support of the proposal.

Most major forwarders currently have in effect an excess-value charge of 15 cents per $100 on their domestic traffic. The Board has suspended, pending investigation, a number of previous proposals to increase excess-valuation charges above this level where no showing has been made that existing excess-value revenues do not cover the amount of claim expense stemming from the declarations of excess value.[2] Furthermore, the Board, after hearing in Imperial Air Freight Service, Inc., Increased Excess Value Charges, Docket 23538, found a proposed increase in the excess-valuation charge from 15 to 25 cents per $100 unlawful, on the same grounds, and ordered it canceled (Order 72-4-141, April 26, 1972). As noted above, Ben-Lee has not submitted any data on the relationship between its excess-value revenues and losses attributable to declarations of excess valuation or any other statement supporting its proposal.

Upon consideration of all relevant factors, the Board finds that the proposed charge may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposal should be suspended pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered That: 1. An investigation be instituted to determine whether the provisions in Rule No. 80(b) on 1st Revised Page 5 of C.A.B. No. 1 issued by Ben-Lee Motor Service Co. d/b/a Mitchell Air Dispatch, and rules, regulations, or practices affecting such provisions, are or will be, unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful provisions and rules, regulations, or practices affecting such provisions;

2. Pending hearing and decision by the Board, Rule No. 80(b) on 1st Revised Page 5 of C.A.B. No. 1 issued by Ben-Lee Motor Service Co. d/b/a Mitchell Air Dispatch, is suspended and its use deferred to and including October 7, 1977, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension, except by order or special permission of the Board;

3. This proceeding be designated Docket 31093 and be assigned for hearing before an administrative law judge of the Board at a time and place to be designated; and

4. Copies of this order shall be filed with the tariffs and served upon Ben-Lee Motor Service Co., d/b/a Mitchell Air Dispatch, which is hereby made a party to Docket 31093.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

All Members concurred.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-20124 Filed 7-12-77;8:45 am]

[Order No. 77-7-17; Docket No. 31096]

HUGHES AIR CORP.; HUGHES AIRWEST

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 7th day of July, 1977.

By tariff revisions [1] marked to become effective July 8, 1977, Hughes Air Corp., d/b/a Hughes Airwest (Airwest) proposes to establish round-trip excursion fares in the Yuma-Los Angeles and Yuma-Phoenix markets. The fares offer a 30-percent reduction from present regular standard fares, and the only restriction is a three-day maximum-stay requirement. The fares are marked to expire on November 21, 1978.

Airwest alleges that it intends to use the proposed excusion fares to determine if, through price experimentation, passenger traffic can be stimulated in these two markets, and that the fares will offer a cost-competitive alternative for the relatively high number of persons now traveling via surface modes. Based upon an estimated generation of 35 percent,

[1] Revisions to Mitchell Air Dispatch Tariff C.A.B. No. 1.

[2] E.g., Orders 73-3-89, 72-5-92, and prior orders cited therein.

[1] Revisions to Airline Tariff Publishing Company, Agent, Tariff C.A.B. No. 259.

added cost per generated passenger of $7.20, and a total volume of 13,140 excursion-fare passengers, Airwest estimates a net positive profit-impact of $128,095 for the 18-month experimental period proposed.

The State of Arizona, Arizona Corporation Commission, and Arizona Department of Transportation (the Arizona Parties) have filed a complaint requesting suspension of the proposal. The thrust of the complaint is that Airwest's motive is to drive Cochise Airlines out of these markets. Airwest has answered denying the allegation of predation, and offering reasons for its decision to experiment in the two Yuma markets. The Arizona Parties have responded to Airwest's answer, again with the position that the proposal does not reflect an ordinary business judgment intended to stimulate traffic but rather is aimed at Cochise.[2]

Upon consideration of the proposal, the various submissions, and all relevant matters, the Board concludes that the proposed fare in the Yuma-Phoenix market may be unjust, unreasonable, unjustly discriminatory, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the complaint does not set forth sufficient facts to warrant investigation of the proposed Yuma-Los Angeles fare, and consequently the request for suspension of that fare will be denied and the complaint dismissed.

The Board strongly favors experimentation with discount fares. We believe the prosperity of this industry, and of the certificated carriers in particular, is going to depend heavily on an accentuated effort to probe the responsiveness of the market to low fares and, in so doing, to probe the opportunities of achieving economies of large traffic values.

While we are not completely satisfied with Airwest's economic justification of its discount proposal, so far as the Yuma-Los Angeles fare is concerned no one will be harmed but Airwest itself if its projections prove to be wrong. If it wants to experiment with a low fare in that market, we would certainly not stand in its way.

But the Yuma-Phoenix situation differs from Yuma-Los Angeles in one critical respect. From the record before us, it appears that Yuma-Phoenix is one of only two profitable routes on the system of Cochise Airlines, an exempt commuter carrier. Airwest's proposed fares for this market, it appears, would therefore strike at the very heart of the Cochise operations. Moreover, in March of 1976, Cochise filed an application with the C.A.B., which has been set for hearing, to become a regional certificated carrier. A portion of the application seeks to supplant Airwest at seven Arizona points, one of which is Yuma.

These are the pertinent facts: Cochise offers two daily nonstop roundtrip flights between these two points, at a rate of $76 (with tax); Airwest offers four nonstop round-trips at a rate of $84 (with tax); The latter rate reflects Airwest's general policy, which is to set its standard-class fares at 130 percent of the normal coach-fare formula, as permitted by Phase 9 of the DPFI.

In October of 1976, Airwest first discussed with Yuma officials the proposal that is now before us. It entails a 30-percent discount—from $84 to $59 for the round-trip—for passengers willing to accept a three-day maximum stay restriction. Observe that this involves a reduction not merely to the DPFI standard, as Airwest alleges, but to nine percent below it.

We are not interested in reaching conclusions about Airwest's conscious motives. The objective fact, however, is that Airwest's proposed discounted fare plan zeroes in on one of the two markets on which Cochise's survival depends. The proposed rate reduction by Airwest is clearly discriminatory and selective, in the classic geographic sense; it proposes this particular discount in only two markets in its entire system, one of which is the backbone of Cochise's system. Under Airwest's plan the fare will be reduced in the Yuma-Phoenix market not just from $84 to Cochise's $76, but $17 below that, to $59.

We understand and genuinely sympathize with the Yuma Chamber of Commerce's support for this proposal; and, under ordinary circumstances, for reasons already set forth, we would not wish to block it. But we do not see how the Board can permit that kind of experimentation when it is so obviously predatory in its effect—regardless of what the motives may be.

We wish to make it clear that we do not treat the objections of the other Arizona parties to this fare proposal as determinative of the public or consumer interest in this proceeding.

In terms of the economic assessments that the Board typically makes of discount fares such as these, the fact that they are so specifically aimed at the heart of the Cochise system casts very serious doubt on the validity of Airwests incremental cost/incremental revenue calculations; that is to say, it suggests that Airwest's economic projections are heavily influenced by the prospect that much of the additional traffic it expects to generate will represent mere diversion from this smaller competitor.

We believe in competition. We do not believe in protecting smaller competitors who do not deserve economically to survive against price competition. But we do believe also that the preservation of genuine price competition requires that we be alert to prevent the kind of discriminatory sharpshooting that it seems to us the present proposal exemplifies. If larger carriers are free to engage in such highly selective price competition, imminently threatening the very existence of smaller entrants and potential entrants—observe that Cochise was offering a lower-fare alternative to Airwest in this market—competition itself cannot survive. These smaller competitors deserve an opportunity to compete on the basis of their relative efficiency in serving particular markets, and not to be subjected to the threat of extinction by the carriers serving a much wider market territory, holding their fares elsewhere at 130 percent of the normal DPFI coach-fare level, but choosing to reduce their fares in the particular markets in which they meet this competition to 91 percent of that level.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered That: 1. An investigation is instituted to determine whether the SE10 class fare between Phoenix and Yuma on 33rd Revised Page 422 of Airline Tariff Publishing Company, Agent, C.A.B. No. 259 and rules, regulations, or practices affecting such fare, is or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fare, and rules, regulations, and practices affecting such provisions;

2. Pending hearing and decision by the Board, the fare in paragraph 1 above is suspended and its use deferred to and including October 5, 1977, unless otherwise ordered by the Board, and that no changes be made during the period of suspension except by order or special permission of the Board;

3. The motions of the State of Arizona, Arizona Corporation Commission, Arizona Department of Transportation, and Hughes Air Corp. d/b/a Hughes Airwest for leave to file otherwise unauthorized documents in Docket 30929 are granted;

4. Except to the extent granted herein the complaint in Docket 30929 is dismissed;

5. The proceeding ordered in paragraph 1 be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated; and

6. Copies of this order will be filed with the aforesaid tariff and served upon the State of Arizona, Arizona Corporation Commission, Arizona Department of Transportation, Hughes Air Corp. d/b/a Hughes Airwest, and the Yuma County Chamber of Commerce which are made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

All Members concurred.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-20125 Filed 7-12-77;8:45 am]

[2] The complaint and answer were late filed, and the Procedural Regulations do not provide for responses to answers. However, all three documents were accompanied by appropriate motions for leave to file otherwise unauthorized documents which the Board will grant. In addition, the Yuma County Chamber of Commerce responded in support of Airwest's proposal. Although not accompanied by a motion to file an unauthorized document, the Board has considered that response in reaching its decision.

[Docket No. 31030; Order No. 77-6-109]

VARIOUS CARRIERS

Proposed Domestic Passenger Fare Increase; Order of Investigation and Suspension; Correction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of June 1977.

In FR Doc. 77-18512 published in the issue of June 29, 1977 (41 FR 33047) refer to Appendix B on page 33049 and make the following changes:

PAGE 2

On first line delete 27th Revised Pages 113 and 114.

Change the ninth line to read: 30th, 31st, 32nd, and 33rd Revised Pages 129 and 130.

Change the thirty-second and thirty-third lines to read: 32nd, 33rd, 34th, and 35th Revised Pages 185 and 186; 32nd 33rd, and 34th Revised Pages 187 and 188.

PAGE 3

Add: 35th Revised Page 380.

Change the seventh line to read: 17th Revised Pages 391 and 392.

PAGE 4

Change the twelfth and thirteenth lines to read: 13th and 14th Revised Pages 561 and 562; 14th and 15th Revised Pages 563 and 564.

Change the seventh line from bottom of the page to read: 30th and 31st Revised Pages 629.

Add: 30th, 31st, and 32nd Revised Page 630.

By the Civil Aeronautics Board.

Dated: July 7, 1977.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-20126 Filed 7-12-77;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

SPECIAL CENSUSES

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. The content of a special census is ordinarily limited to questions on household relationship, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the Decennial Census.

Summary results of special censuses are published semiannually in the Current Population Reports, Series P-28, prepared by the Bureau of the Census. For each area which has a special census population of 50,000 or more, a separate publication showing data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by tracts.

The data shown in the following table are the results of special-censuses conducted since June 30, 1976, for which tabulations were completed between June 1, 1977, and June 30, 1977.

Dated: July 6, 1977.

MANUEL D. PLOTKIN,
Director, Bureau of the Census.

State/place or special area	County	Date of census	Population
Arkansas:			
Barling City	Sebastian	Mar. 8, 1977	3,145
Diaz City	Jackson	Apr. 27, 1977	1,028
Dyer Town	Crawford	Apr. 18, 1977	600
Valley Springs Town	Boone	Apr. 21, 1977	216
Illinois:			
Flossmoor Village, annexations only	Cook	Apr. 2, 1977	33
Red Bud City	Randolph	Apr. 11, 1977	2,743
Iowa: Glenwood City	Mills	Apr. 4, 1977	5,002
Kentucky: Oak Grove City	Christian	do.	2,578
Michigan: Comstock Township	Kalamazoo	Mar. 28, 1977	10,615
New York:			
Gates Town	Monroe	Apr. 11, 1977	29,876
Pompey Town	Onondaga	Mar. 17, 1977	4,370
Vestal Town	Broome	Apr. 7, 1977	27,425
North Dakota: Beulah City	Mercer	Mar. 23, 1977	1,611
Pennsylvania:			
Cranberry Township	Butler	Apr. 11, 1977	9,585
Windsor Township	York	Apr. 19, 1977	8,138
Texas: Sutton County		Jan. 6, 1977	4,736
Wisconsin: Waukesha Town	Waukesha	Mar. 1, 1977	6,283

[FR Doc.77-19881 Filed 7-12-77;8:45 am]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $3.50 ($7 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL-number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

Patent application 734,158: Barrier System for Dual-Pulse Rocket Motor. Filed November 5, 1976.

Patent application 740,517: Deformable Plug for an Aircraft Engine Exhaust Nozzle. Filed November 10, 1976.

Patent application 743,361: Balanced AC Correlation System. Filed November 19, 1976.

Patent application 743,386: Low Offset Field Effect Transistor Correlator Circuit. Filed November 19, 1976.

Patent application 744,497: Liquid Metal Heat Exchanger. Filed November 24, 1976.

Patent application 748,581: Pressure Actuated Collapsible Curtain Liners. Filed December 8, 1976.

Patent application 748,583: Acceleration of Ions in the Virtual Cathode of an Intense Relativistic Electron Beam. Filed December 8, 1976.

Patent Application 751,239: Method for Sealing Integral Fuel Tanks. Filed December 16, 1976.

Patent 3,998,050: Reverse Flow Aft Inlet Ramjet System. Filed March 11, 1975, patented December 21, 1976; not available NTIS.

Patent 3,998,386: Oscillating Liquid Nozzle. Filed February 23, 1976, patented December 21, 1976; not available NTIS.

Patent 3,999,281: Method for Fabricating a Gridded Schottky Barrier Field Effect Transistor. Filed January 16, 1976, patented December 28, 1976; not available NTIS.

Patent 4,000,024: Burning Rate Modifiers for Solid Propellants. Filed October 17, 1975, patented December 28, 1976; not available NTIS.

Patent 4,000,366: Adaptive Gray Scale Control Circuit for Television Video Signals. Filed March 25, 1975, patented December 28, 1976; not available NTIS.

U.S. DEPARTMENT OF TRANSPORTATION, 400 7th Street SW., Washington, DC 20590.

Patent application 765,929: Derailment Warning Indicator. Filed February 7, 1977.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent application 629,245: Coating Method for Graphite. Filed November 6, 1975.

Patent 3,953,556: Method of Preparing Uranium Nitride or Uranium Carbonitride Bodies. Filed May 17, 1974, patented April 27, 1976; not available NTIS.

Patent 3,955,753: Gas Centrifuge with Driving Motor. Filed April 13, 1961, patented May 11, 1976; not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, MD 20014.

Patent application 703,344: Test for Occult Blood. Filed July 7, 1976.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets NW., Washington, D.C. 20240.

Patent application 729,751: DC to DC Converter/Regulator. Filed October 5, 1976.

Patent application 733,500: Adsorbent for Polynuclear Aromatic Compounds. Filed October 18, 1976.

Patent application 741,075: Destratification Device. Filed November 11, 1976.

Patent 3,985,555: Decomposition of Chalcopyrite. Filed January 23, 1975, patented October 12, 1976; not available NTIS.

Patent 3,985,556: Reduction of Laterite Ores. Filed March 22, 1976, patented October 12, 1976; not available NTIS.

Patent 3,985,855: Recovering Copper Values from Oxidized Ores. Filed May 9, 1975, patented October 12, 1976; not available NTIS.

Patent 3,986,401: Composite Sampling Method and System. Filed October 14, 1975, patented October 19, 1976; not available NTIS.

Patent 3,987,667: Self-Contained Instrument for Measuring Subterranean Tunnel Wall Deflection. Filed June 9, 1975, patented October 26, 1976; not available NTIS.

Patent 3,988,240: Alternating Field Magnetic Separator. Filed April 5, 1973, patented October 26, 1976; not available NTIS.

Patent 3,993,455: Removal of Mineral Matter Including Pyrite from Coal. Filed June 25, 1973, patented November 23, 1976; not available NTIS.

Patent 3,996,332: Synthesis of Rutile from Titaniferous Slags. Filed December 2, 1975, patented December 7, 1976; not available NTIS.

Patent 3,997,332: Steelmaking by the Electroslag Process Using Prereduced Iron or Pellets. Filed January 8, 1976, patented December 14, 1976; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, VA 17.

Patent application 736,299: Means for Cooling Exhaust Nozzle Sidewalls. Filed October 28, 1976.

Patent application 738,989: Optical Systems Utilizing Three-Wave Heterodyne Detectors. Filed November 4, 1976.

Patent 3,906,496: Signal Processor System. Filed January 10, 1974, patented September 16, 1975; not available NTIS.

Patent 3,929,508: Reserve Battery. Filed March 15, 1974, patented December 30, 1975; not available NTIS.

Patent 3,944,117: Rollonet Assembly. Filed April 18, 1975, patented March 16, 1976; not available NTIS.

Patent 3,965,417: Coherent Component Magnitude Detector. Filed June 26, 1975, patented June 22, 1976; not available NTIS.

Patent 3,981,449: Exhaust Cooling System. Filed January 29, 1968, patented September 21, 1976; not available NTIS.

Patent 3,983,892: Explosive Valve. Filed December 1974, patented October 5, 1976; not available NTI.

Patent 3,986,910: Composite Propellants Containing Pressure Increasing Additives. Filed April 12, 1974, patented October 19, 1976; not available NTIS.

Patent 3,990,034: Towable VLF Sonar Projector. Filed April 23, 1975, patented November 2, 1976; not available NTIS.

Patent 3,992,123: Pipe End Machining Apparatus. Filed October 1, 1975, patented November 16, 1976; not available NTIS.

Patent 3,996,422: Multiple Channel Decommutator Accumulator. Filed October 22, 1975, patented December 7, 1976; not available NTIS.

Patent 4,000,025: Incorporating Ballistic Modifiers in Slurry Cast Double Base Containing Compositions. Filed May 28, 1974, patented December 28, 1976; not available NTIS.

Patent 4,005,424: Simulator for Doppler Radar Returns from Precipitation. Filed October 24, 1975, patented January 24, 1977; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 753,964: Intumescent-Ablator Coatings Using Endothermic Fillers. Filed December 23, 1976.

Patent application 755,323: System for the Measurement of Ultra-Low Stray Light Levels. Filed December 29, 1976.

Patent 3,995,324: Actuator Device for Artificial Leg. Patented December 7, 1976; not available NTIS.

Patent 3,995,522: Precision Alinement Apparatus for Cutting a Workpiece. Patented December 7, 1976; not available NTIS.

Patent 3,995,621: Liquid Cooled Brassiere and Method of Diagnosing Malignant Tumors Therewith. Patented December 7, 1976; not available NTIS.

Patent 3,995,960: Method and Apparatus for Background Signal Reduction in Opto-Acoustic Absorption Measurement. Patented December 7, 1976; not available NTIS.

Patent 3,996,067: Silicon Nitride Coated, Plastic Covered Solar Cell. Patented December 7, 1976; not available NTIS.

Patent 3,996,070: Thermocouple Installation. Patented December 7, 1976; not available NTIS.

Patent 3,996,455: Two-Dimensional Radiant Energy Array Computers and Computing Devices. Patented December 7, 1976; not available NTIS.

Patent 3,996,462: Solid-State Current Transformer. Patented December 7, 1976; not available NTIS.

Patent 3,996,464: Mass Spectrometer with Magnetic Pole Pieces Providing the Magnetic Fields for Both the Magnetic Sector and an Ion-Type Vacuum Pump. Patented December 7, 1976; not available NTIS.

Patent 3,996,468: Electron Microscope Aperture System. Patented December 7, 1976; not available NTIS.

Patent 3,996,471: Method and System for in Vivo Measurement of Bone Tissue Using a Two Level Energy Source. Patented December 7, 1976; not available NTIS.

Patent 3,996,506: Inrush Current Limiter. Patented December 7, 1976; not available NTIS.

Patent 3,996,532: Phase Modulating with Odd and Even Finite Power Series of a Modulating Signal. Patented December 7, 1976; not available NTIS.

Patent 3,997,848: Linear Phase Demodulator Including a Phase Locked Loop with Auxiliary Feedback Loop. Patented December 14, 1976; not available NTIS.

[FR Doc.77-19277 Filed 7-12-77;8:45 am]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $3.50 ($7 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL-number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

Patent application 678,506: Stabilized Cavity-Dumped Nd:YAG Laser. Filed April 19, 1976.

Patent application 70,316: Protection Jacket of Chronically Instrumented Dogs. Filed July 19, 1976.

Patent application 737,115: Majority Decoding Apparatus for Geometric Codes. Filed October 29, 1976.

Patent application 737,119: Radial Optical Encoder Apparatus for Staff Angle Measurement. Filed October 29, 1976.

Patent application 738,496: Remotely Actuated Two Stage Structural Latch. Filed October 29, 1976.

Patent application 738,915: Wall and Nozzle Assembly for Colloidal Core Reactor. Filed November 4, 1976.

Patent application 738,916: Epitaxial Layer Diode in Aluminum Nitrice on Sapphire. Filed November 4, 1976.

Patent application 738,917: Automatic Reseau Measurement System. Filed November 4, 1976.

Patent application 740,516: Resistance Bridge Transducer Conditioning Circuit. Filed November 10, 1976.

Patent application 740,530: Spring Type Dogging Device. Filed November 10, 1976.

Patent application 740,584: Low Offset AC Correlator. Filed November 10, 1976.

Patent application 744,471: Low Inductance Heater Configuration for Solid State Devices and Microcircuit Substrates. Filed November 24, 1976.

Patent application 744,498: Electronically Scanned Microstrip Antenna Array. Filed November 24, 1976.

Patent application 744,499: High-power, Short-Pulse Array. Filed November 24, 1976.

Patent application 748,578: Alumium Arsenide Eutectic Gallium Arsenide Solar Cell. Filed December 8, 1976.

Patent application 748,579: Adaptive Skid Detector Threshold Apparatus. Filed December 8, 1976.

Patent application 748,584: Ion Implanted Eutectic Gallium Arenide Solar Cell. Filed December 8, 1976.

Patent application 753,959: A Subhuman Primate Restraint System. Filed December 23, 1976.

Patent application 753,960: Fuze for Explosive Magnetohydrodynamic Generator. Filed December 23, 1976.

Patent application 754,068: Mode Shift and Redundant Control. Filed December 23, 1976.

Patent application 756,942: Gas Bearing Suspended Rotating Laser Window Unit. Filed January 5, 1977.

Patent application 761,507: Method and Apparatus for Improving the Slowly Moving Target Detection Capability of an AMTI Synthetic Aperture Radar. Filed January 21, 1977.

Patent application 765,027: Ball Bearing Electrically-Conductive Pulleys. Filed February 2, 1977.

Patent application 765,028: Controlled Depth of Burial Penetrator. Filed February 2, 1977:

Patent application 767,254: Multilevel Sidelobe Canceller. Filed February 10, 1977.

Patent application 768,812: Two-Bit A/D Conversion Apparatus. Filed February 15, 1977.

Patent application 769,374: Pilot Chute Crown Line Attachment System. Filed February 16, 1977.

Patent 3,999,433: Mechanically Tuned Buffer Rod for Ultrasonic Temperature Sensor. Filed October 23, 1974, patented December 28, 1976; not available NTIS.

Patent 3,999,482: High Explosive Launcher System. Filed July 9, 1975, patented December 28, 1976; not available NTIS.

U.S. Department of Agriculture, Research Agreement and Patent Management Branch, General Services Division, Federal Building, Agricultural Research Service, Hyattsville, Md. 20782.

Patent 3,993,794: Method for Texturizing Proteins. Filed January 15, 1976, patented November 23, 1976; not available NTIS.

Patent 3,998,620: Method for Controlled Release of Fluoroketones. Filed April 19, 1970, patented December 21, 1976; not available NTIS.

Patent 4,002,774: Method for Removing Seeds from Papayas. Filed August 20, 1975, patented January 11, 1977; not available NTIS.

Patent 4,007,006: Modification of Wool. Filed September 4, 1975, patented February 8, 1977; not available NTIS.

U.S. Department of Transportation, Patent Counsel, 400 7th Street SW., Washington, D.C. 20590.

Patent application 765,876: Locomotive Track Curvature Indicator. Filed February 7, 1977.

Patent 3,969,725: Distance Measuring Equipment. Filed June 12, 1974, patented July 13, 1976; not available NTIS.

Patent 3,969,730: Cross Slot Omnidirectional Antenna. Filed February 12, 1975, patented July 13, 1976; not available NTIS.

Patent 4,006,078: Preparation of Soluble Edible Protein from Leafy Green Crops. Filed April 11, 1975, patented February 1, 1977; not available NTIS.

Patent 4,006,932: Inflatable Drag Reducer for Land Vehicles. Filed July 21, 1975, patented February 8, 1977; not available NTIS.

Patent 4,010,357: Analog Visibility Computer. Filed December 8, 1975, patented March 1, 1977; not available NTIS.

U.S. Energy Research and Development Administration, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent application 642,439: Method and Apparatus for Monitoring Two-Phase Flow. Patented December 19, 1975.

Patent 3,951,739: Positioning and Locking Device for Fuel Pin to Grid Attachment. Filed July 15, 1974, patented April 20, 1976; not available NTIS.

Patent 3,956,063: Emergency Core Cooling System for a Fast Reactor. Filed May 24, 1973, patented May 11, 1976; not available NTIS.

Patent 3,957,575: Mechanical Design of a Light Water Breeder Reactor. Filed April 16, 1974, patented May 18, 1976; not available NTIS.

Patent 3,960,655: Nuclear Reactor for Breeding U exp 233. Filed July 9, 1974, patented June 1, 1976; not available NTIS.

Patent 3,960,904: Preparation of High Temperature Gas-Cooled Reactor Fuel Element. Filed November 26, 1974, patented June 1, 1976; not available NTIS.

Patent 3,964,964: Identification of Failed Fuel Element. Filed October 15, 1974, patented June 22, 1976; not available NTIS.

Patent 3,964,966: Molten Core Retention Assembly. Filed August 25, 1975, patented June 22, 1976; not available NTIS.

Patent 3,964,969: Internal Core Tightener. Filed June 20, 1974, patented June 22, 1976; not available NTIS.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 614,996: Universal Modular Controller. Filed September 19, 1975.

Patent application 635,472: Chemical Encapsulation and Distribution. Filed November 26, 1975.

Patent application 680,003: An Improved Electron Beam Tube. Filed April 23, 1976.

Patent application 686,768: Device for stimulation of geothermal wells. Filed May 17, 1976.

Patent application 704,906: Digital Amp-Hour Monitor. Filed July 13, 1976.

Patent application 714,436: Diver's Pulse Stretch Sonar. Filed August 13, 1976.

Patent application 720,915: Signal Processing Devices Using Residue Class Arithmetic. Filed September 7, 1976.

Patent application 724,448: Reticle-Lens System and Method. Filed September 20, 1976.

Patent application 725,606: Pyrotechnic Smoke Composition. Filed September 22, 1976.

Patent application 737,877: Recursive Filter Mean-Level Detector. Filed November 1, 1976.

Patent application 742,400: Variables Load Energy Absorber. Filed November 16, 1976.

Patent application 744,051: Canted Rotary Seal. Filed November 22, 1976.

Patent application 763,209: Pressure-Balanced Underwater Structural Release System. Filed January 27, 1977.

Patent 3,904,871: Target Locating Circuit Using a Lateral Photoelectric Diode. Filed July 5, 1974, patented September 9, 1975; not available NTIS.

Patent 3,913,060: Thermooptic Sonar System. Filed March 4, 1974, patented October 14, 1975; not available NTIS.

Patent 3,915,219: Metal Forming Apparatus for Producing Metal Ribbon Fibers. Filed May 1, 1974, patented October 28, 1975; not available NTIS.

Patent 3,922,034: Armored Headrest. Filed April 9, 1975, patented November 25, 1975; not available NTIS.

Patent 3,934,234: Photodichroic Readout Device Using Circularly Polarized Light. Filed July 5, 1974, patented January 20, 1976; not available NTIS.

Patent 3,970,889: Low Power Driver. Filed March 3, 1975, patented July 20, 1976; not available NTIS.

Patent 3,979,089: Vertical Sensing and Control System. Filed September 22, 1975, patented September 7, 1976; not available NTIS.

Patent 3,981,239: Fluidic Link Master/Slave Fuze System. Filed September 4, 1975, patented September 21, 1976; not available NTIS.

Patent 3,987,280: Digital-to-Bandpass Converter. Filed May 21, 1975, patented October 19, 1976; not available NTIS.

Patent 3,987,292: Discrete Fourier Transform via Cross Correlation Charge Transfer Device. Filed June 2, 1975, patented October 19, 1976, not available NTIS.

Patent 3,990,035: Housing Configuration for High Resolution Sonar. Filed September 5, 1975, patented November 2, 1976; not available NTIS.

Patent 3,990,401: Marine Mammal Vacuum Recovery System. Filed March 31, 1975, patented November 9, 1976; not available NTIS.

Patent 3,991,486: Aircraft Landing Signal Officer Trainer. Filed November 7, 1975, patented November 16, 1976; not available NTIS.

Patent 3,992,573: Stereoscopic Viewer Power Supply. Filed November 19, 1975, patented November 16, 1976; not available NTIS.

Patent 3,999,174: Discontinuous Chromium Film for Memory Element. Filed September 19, 1975, patented December 21, 1976; not available NTIS.

Patent 4,000,471: TWT Grid Circuit Utilizing Feedback. Filed October 14, 1975, patented December 28, 1976; not available NTIS.

Patent 4,000,525: Ceramic Prosthetic Implant Suitable for a Knee Joint Plateau. Filed August 21, 1975, patented January 4, 1977; not available NTIS.

Patent 4,001,861: Double-Layer, Polysilicon, Two-Phase, Charge Coupled Device. Filed October 12, 1973, patented January 4, 1977; not available NTIS.

National Aeronautics and Space Administration, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 742,035: Aircraft Design Concept. Filed November 15, 1976.

[FR Doc.77-19278 Filed 7-12-77;8:45 am]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

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Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $3.50 ($7 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL-number.

Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

Patent application 734,842: Laser Capable of Producing a Frequency Standard. Filed November 5, 1976.

Patent application 736,287: Reactive Plasticizer for Thermoplastic Polysulfone Resins. Filed October 28, 1976.

Patent application 737,116: 1,3-Bis(Fluorodinitroethoxy) - 2,2 - Bis(Difluoramino) Propane and a Method for Its Preparation. Filed October 29, 1976.

Patent application 748,582: Fluorine Containing Polyethers. Filed December 8, 1976.

Patent application 751,238: A Balanced Input Zero Differential Detector. Filed December 16, 1976.

Patent application 751,240: Electromagnetic Ultrasound Transducer. Filed December 16, 1976.

Patent 3,968,748: Target Discriminating Bomblet. Filed January 15, 1973, patented July 13, 1976; not available NTIS.

Patent 3,998,088: Testing Apparatus for Incremental Shaft Encoder. Filed November 12, 1975, patented December 21, 1976; not available NTIS.

Patent 3,998,393: Supersonic Diffuser. Filed January 20, 1976, patented December 21, 1976; not available NTIS.

Patent 3,999,865: Method and Apparatus for Determining the Mechanism Responsible for Laser-Induced Damage. Filed December 9, 1974, patented December 28, 1976; not available NTIS.

Patent 4,000,477: Recirculation or Stirred Reactor Flow Laser. Filed February 13, 1974, patented December 28, 1976; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Management Branch, General Services Division, Federal Building, Agricultural Research Service, Hyattsville, Md. 20782.

Patent application 587,922: Method of Reducing Bitterness in Citrus Juices. Filed June 18, 1975.

Patent application 744,582: Process for Preparing Space-Dyed Yarn. Filed November 23, 1976.

Patent application 750,324: Preparation of Snack Fruits and Berries. Filed December 13, 1976.

Patent application 754,920: Preparation of Legume Chips. Filed December 23, 1976.

Patent application 758,897: Immobilization of Enzymes on Keratin. Filed January 13, 1977.

Patent application 758,987: Method of Reducing Bitterness and Off After-Taste. Filed January 13, 1977.

Patent application 762,899: Process for Preparing Quick-Cooking Rice Products. Filed January 26, 1977.

Patent 4,001,032: Method of Making Nnongelling Aqueous Cationic Dialdehyde Starch Compositions. Filed August 13, 1975, patented January 4, 1977; not available NTIS.

Patent 4,003,135: Specimen Holder and Technique Employed to Effect a Continuous Maximum Concentration Gradient in Critical Point Drying. Filed June 13, 1975, patented January 18, 1977; not available NTIS.

Patent 4,005,040: Foamed and Solid Rubber-Starch Graft Copolymer Compositions and Method of Preparation. Filed November 10, 1975, patented January 25, 1977; not available NTIS.

Patent 4,005,556: Lightweight Truss-Framed House. Filed September 19, 1975, patented February 1, 1977; not available NTIS.

Patent 4,009,324: Photodegradable Polyolefin Composition Containing an N-Halo Lactom. Filed April 2, 1976, patented February 22, 1977; not available NTIS.

Patent 4,011,726: Delta Culvert. Filed November 5, 1975, patented March 15, 1977; not available NTIS.

U.S. DEPARTMENT OF TRANSPORTATION, Patent Counsel, 400 7th Street SW., Washington, D.C. 20590.

Patent 4,000,564: Programmable Anthropomorphic Articulation. Filed January 7, 1976, patented January 4, 1977; not available NTIS.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent application 629,950: Method for Sizing Hollow Microspheres. Filed October 29, 1975.

Patent application 627,639: Multiple Shell Fusion Targets. Filed October 31, 1975.

Patent 3,953,617: Method of Producing Encapsulated Thermonuclear Fuel Particles. Filed January 28, 1974, patented April 27, 1976; not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20014.

Patent 3,990,434: Reversible Intravasal Occlusive Device. Filed February 18, 1975, patented November 9, 1976; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va 22217.

Patent application 677,585: A Method of Focusing a Radar Antenna. Filed April 16, 1976.

Patent application 683,590: Multimodal High Pressure Waveguide Window. Filed May 5, 1976.

Patent application 700655: A Target or Torpedo Launch System. Filed June 28, 1976.

Patent application 724,128: A System for Testing Proximity Fuzes. Filed September 17, 1976.

Patent application 727,559: RF GTWT Saturating Circuit. Filed September 28, 1976.

Patent application 729,523: Narrow Angle, Narrow Bandwidth Optical Receiver System. Filed October 4, 1976.

Patent application 743, 372: Dual-Frequency, Remote, Ocean Wave Spectrometer. Filed November 19, 1976.

Patent application 743,374: Stepped Dual-Frequency, Ocean-Wave, Spectrometer. Filed November 19, 1976.

Patent application 744,476: Unstable Resonator Laser System. Filed November 24, 1976.

Patent 3,891,960: Doppler Sonar System. Filed February 24, 1970, patented June 24, 1975; not available NTIS.

Patent 3,901,075: Acoustic Velocimeter for Ocean Bottom Coring Apparatus. Filed January 10, 1974, patented August 26, 1975; not available NTIS.

Patent 3,933,042: Water Level Gauge. Filed April 5, 1974, patented January 20, 1976; not available NTIS.

Patent 3,962,485: Method for Forming Uniform Stress-Free Thin Films. Filed October 20, 1975, patented June 8, 1976; not available NTIS.

Patent 3,976,369: Alpha Meter Attachment for Underwater Optical Systems. Filed February 27, 1975, patented August 24, 1976; not available NTIS.

Patent 3,978,334: Precision Laser Beam Deflection Detector. Filed September 1975, patented August 31, 1796; not available NTIS.

Patent 3,978,813: Propeller-Driven Hydrophone Array Tensioning Device. Filed January 9, 1976, patented September 7, 1976; not available NTIS.

Patent 3,981,258: Waterski Sailboat. Filed July 15, 1975, patented September 21, 1976; not available NTIS.

Patent 3,982,222: Deep Hydrophone String. Filed October 22, 1965, patented September 21, 1976; not available NTIS.

Patent 3,985,080: Two Selector Gate for Active-Passive Radio Proximity Fuzes. Filed October 30, 1967, patented October 12, 1976; not available NTIS.

Patent 3,986,115: Transient Direction Detector. Filed January 20, 1975, patented October 12, 1976; not available NTIS.

Patent 3,986,159: Air Dropped Sonobuoy. Filed September 2, 1975, patented October 12, 1976; not available NTIS.

Patent 3,987,708: Depth Insensitive Accumulator for Undersea Hydraulic Systems. Filed March 10, 1975, patented October 26, 1976; not available NTIS.

Patent 3,990,123: Inflatable Sonar Array. Filed September 22, 1975, patented November 9, 1976; not available NTIS.

Patent 3,990,386: Faired Multi-Strength Member Towcable and Associated Sequential Load Distribution System. Filed May 23, 1975, patented November 9, 1976; not available NTIS.

Patent 3,992,628: Countermeasure System for Laser Radiation. Filed July 17, 1972, patented November 16, 1976; not available NTIS.

Patent 3,996,794: Differential Depth Indicator. Filed October 17, 1966, patented December 14, 1976; not available NTIS.

Patent 4,000,022: Fast-Burning Compositions of Fluorinated Polymers and Metal Powders. Filed October 17, 1974, patented December 28, 1976; not available NTIS.

Patent 4,001,291: 2,2,2-Fluorodinitroethanol and Method of Preparation. Filed March 11, 1976, patented January 4, 1977; not available NTIS.

Patent 4,003,083: Digital Data Recording and Decoding. Filed April 15, 1975, patented January 11, 1977; not available NTIS.

Patent 4,003,291: Missile Launching Mine. Filed May 20, 1964, patented January 18, 1977; not available NTIS.

Patent 4,003,641: Low Distortion High Energy Laser Mirror. Filed July 25, 1975, patented January 18, 1977; not available NTIS.

Patent 4,003,876; Super Cooled M-Phenylene Diamine as a Curing Agent for Epoxy Resins. Filed July 25, 1975, patented January 18, 1977; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, ASSISTANT GENERAL COUNSEL FOR PATENT MATTERS, NASA CODE GP-2, WASHINGTON, D.C. 20546.

Patent application 715,485: Fiber Optic Multiplex Optical Transmission System. Filed August 18, 1976.

Patent Application 746,269: Encapsulated Solar Cell Modules. Filed November 30, 1976.

Patent application 746,580: Magnetic Heat Pumping. Filed November 30, 1976.
Patent application 747,675: Actuator Mechanism. Filed December 6, 1976.
Patent application 750,792: Positive Isolation Disconnect. Filed December 15, 1976.
Patent application 753,977: Illumination Control Apparatus for Compensating Solar Light. Filed December 23, 1976.
Patent application 754,066: A CW Ultrasonic Bolt Tensioning Monitor. Filed December 23, 1976.
Patent application 758,721: A Miniature Implantable Ultrasonic Echosonometer. Filed January 12, 1977.

[FR Doc.77-19279 Filed 7-12-77;8:45 am]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50 each. Requests for copies of patents must included the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $3.50 ($7 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL-number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF]JACP, Washington, D.C. 20314.

Patent application 753,966: Shearing Interferometer. Filed December 23, 1976.
Patent application 756,941: Finned Surface Cooled Nozzle. Filed January 5, 1977.
Patent application 758,878: Ejector Ramjet with Turbojet Fuel Rich Gas Generator. Filed January 12, 1977.
Patent application 761,508: Duel Manifold High Performance Throttleable Injector. Filed January 21, 1977.
Patent application 762,364: High Energy Laser Pointing and Tracking System. Filed January 25, 1977.
Patent 4,000,697: Mechanical Retention System for Use with Caseless Ammunition. Filed August 10, 1972, patented January 4, 1977; not available NTIS.
Patent 4,000,776: Heat Pipe System. Filed December 3, 1974, patented January 4, 1977; not available NTIS.
Patent 4,000,855: Bellcrank Assembly, Nozzle Actuator. Filed April 14, 1975, patented January 4, 1977. Not available NTIS.
Patent 4,001,135: Fluorine Generating Solid Formulation for Use in Chemical Lasers. Filed July 1, 1975, patented January 4, 1977; not available NTIS.
Patent 4,001,136: Fluorine Generating Formulation for Use in Chemical Lasers. Filed July 1, 1975, patented January 4, 1977; not available NTIS.
Patent 4,001,821: High Power Microwave Radar Pulse Shaping System. Filed June 16, 1975, patented January 4, 1977; not available NTIS.
Patent 4,003,658: Triangular Interferometric Light-Source Tracker. Filed July 26, 1974, patented January 18, 1977; not available NTIS.
Patent 4,004,465: Optical Window Protective Shutter Mechanism. Filed January 20, 1976, patented January 25, 1977; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Management Branch, General Services Division, Federal Building, Agricultural Research Service, Hyattsville, Md. 20782.

Patent application 695,617: Removal of Heavy Ions from Aqueous Solutions with Insoluble Crosslinked-Starch-Xanthates. Filed January 14, 1976.
Patent application 750,340: Regeneration of Spent Activated Carbon. Filed December 13, 1976.
Patent application 768,916: Preparation of 1-alpha- and 1-beta-D-Glucose Esters by Stereoselective Acylation of Metalated 2,3,4,6-Tetra-O-Benzyl-D-Glucopyranose. Filed February 15, 1977.
Patent application 768,917: Process for Improving Baking Properties of Unbleached Cake Flour. Filed February 15, 1977.
Patent application 775,227: Preparation of Protein Isolates from Safflower Seeds. Filed March 7, 1977.
Patent 4,009,325: Photodegradable Polyolefin Composition Containing an N-Halo Urethane. Filed April 2, 1976, patented February 22, 1977; not available NTIS.
Patent 4,011,752: Adaptive Speed and Direction Analyzer. Filed February 6, 1976, patented March 15, 1977; not available NTIS.
Patent 4,012,529: Control of Marine Borer Attack on Wood. Filed March 15, 1976, patented March 15, 1977; not available NTIS.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent application 632,619: Method for Preparing Spherical Theromplastic Particles of Uniform Size. Filed November 17, 1975.
Patent 3,952,246: Plasma Digital Density Determining Device. Filed May 29, 1975, patented April 20, 1976; not available NTIS.
Patent 3,958,079: Real Time, TV-Based, Point-Image Quantizer and Sorter. Filed April 25, 1975, patented May 18, 1976; not available NTIS.
Patent 3,959,710: Method for Exciting Inductive-Resistive Loads with High and Controllable Direct Current. Filed December 31, 1974, patented May 25, 1976; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 530,882: All-Sky Camera Apparatus for Time-Resolved Lightning Photography. Filed December 9, 1974.
Patent application 706,657: A temperature Compensated, High Resolution Pressure Transducer Based on Capacitance Change Principles. Filed July 19, 1976.
Patent application 715,776: Method and Apparatus for Measuring High Energy Laser Beam Power. Filed August 19, 1976.
Patent application 727,916: Specification Navy Case Number 59,807. Filed September 29, 1976.
Patent application 731,285: Optical Notch Filter. Filed October 12, 1976.
Patent application 742,815: Laser Total Reflectometer. Filed November 18, 1976.
Patent application 758,105: Turbine Blade Cooling System. Filed January 10, 1977.
Patent application 758,108: Efficient Apparatus for Projecting Acoustic Waves. Filed January 10, 1977.
Patent application 759,935: Hygrometer. Filed January 17, 1977.
Patent application 759,953: Two-Position Nozzle. Filed January 14, 1977.
Patent application 764,124: Deployable Rotor. Filed January 27, 1977.
Patent application 764,485: Deployable Rotor. Filed January 27, 1977.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 709,849: Magnetic Electrical Connectors for Biomedical Percutaneous Implants. Filed July 30, 1976.
Patent application 710,032: Rotational Joint for the Prosthetic Leg. Filed July 30, 1976.
Patent application 712,981: Multistation Refrigeration System. Filed September 8, 1976.
Patent application 723,264: Composite Sandwich Lattice Structure. Filed September 14, 1976.
Patent application 734,901: Polyimide Adhesives. Filed October 22, 1976.
Patent application 744,575: Method for Producing Thin Surface Barrier Diode. Filed November 24, 1976.
Patent application 750,796: Dual Frequency Circularly Polarized Microwave Integrated Antenna. Filed December 15, 1976.
Patent application 753,965: Spacesuit Mobility Joints. Filed December 23, 1976.
Patent application 753,971: Apparatus and Method for Jet Noise Suppression. Filed December 23, 1976.
Patent application 759,965: EKG and Ultrasonoscope Display. Filed January 17, 1977.
Patent application 760,809: Sprayable Low Density Ablator. Filed January 19, 1977.

[FR Doc.77-19280 Filed 7-12-77;8:45 am]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $3.50 ($7 outside North American Continent) Requests for copies of patent applications must include the PAT-APPL-number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an inter-

feretnce before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE ARMY, Office of Judge Advocate General, Patent Division, Room 2C-455, Pentagon, Washington, D.C. 20310.

Patent 3,293,158: Anodic Spark Reaction Processes and Articles. Filed September 17, 1963, patented December 20, 1966; not available NTIS.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314

Patent application 718,270: Double Plug Shuttle Valve. Filed August 27, 1976.
Patent application 750,945: Ethynyl-Substituted Aromatic Anhydrides. Filed December 15, 1976.
Patent application 753,967: Dispersive Electromagnetic Surface Acoustic Wave Transducer. Filed December 23, 1976.
Patent application 755,296: A Reusable Silver/Silver Chloride ECG Recording Electrode. Filed December 29, 1976.
Patent application 755,297: Silver Base Brazing Alloy. Filed December 29, 1976.
Patent application 756,028: Shock Attenuating Washer. Filed December 29, 1976.
Patent application 756,041: Aluminum Base Brazing Alloy. Filed December 29, 1976.
Patent application 756,940: Staked Bearing Cutter. Filed January 5, 1977.
Patent application 762,078: Acetylene-Substituted Aromatic Benzils and Acetylene-Terminated Quinoxaline Compositions. Filed January 24, 1977.
Patent application 765,026: Differential Tri-Phase Shift Keyed Modulation. Filed February 2, 1977.
Patent application 765,719: Deployable Ground Plane Antenna. Filed February 4, 1977.
Patent application 767,199: Hearing Air Amplifier Apparatus. Filed February 9, 1977.
Patent 4,001,034: High Temperature Coatings Based on Poly (Zinc Phosphinates). Filed October 31, 1975, patented January 4, 1977; not available NTIS.
Patent 4,001,268: Substituted Phenyl-Benzimidazo Compounds. Filed July 18, 1975, patented January 4, 1977; not available NTIS.
Patent 4,001,475: Ablative Surface Insulator. Filed May 9, 1974, patented January 4, 1977; not available NTIS.
Patent 4,001,681: Vector Voltmeter. Filed January 28, 1976, patented January 4, 1977; not available NTIS.
Patent 4,001,767: Low Diffraction Loss-Low Spurious Response LiTa03 Substrate for Surface Acoustic Wave Devices. Filed November 18, 1975, patented January 4, 1977; not available NTIS.
Patent 4,001,829: High Average Power Millimeter Duplexer. Filed August 18, 1975, patented January 4, 1977; not available NTIS.
Patent 4,002,679: Preparation of Polybenzimidazoles. Filed March 27, 1975, patented January 11, 1977; not available NTIS.
Patent 4,004,342: Fabrication of Ion Implanted P-N Junction Devices. Filed February 23, 1976, patented January 25, 1977; not available NTIS.
Patent 4,004,667: Overload Clutch with Zero Parasitic Torque. Filed September 24, 1974, patented January 25, 1977; not available NTIS.
Patent 4,005,142: Fluorocarbon Ether Bis(O-Aminophenol) Compounds. Filed September 4, 1975, patented January 25, 1977; not available NTIS.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent 3,952,246: Plasma Digital Density Determining Device. Filed May 29, 1975, patented April 20, 1976; not available NTIS.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets, NW., Washington, D.C. 20240.

Patent application 732,676: Automatic Face Transfer Linear Cutting Rotary Head Continuous Mining Machine. Filed October 15, 1976.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, VA 22217.

Patent application 638,885: Test Connector. Filed December 8, 1975.
Patent application 653,491: Platform Loading System. Filed January 29, 1976.
Patent application 674,254: Meltable Bifunctional Quinoxaline Monomer and Preparation of a Polymer Therefrom. Filed April 6, 1976.
Patent application 688,210: A Capacitive-Type Displacement and Pressure Sensitive Transducer. Filed May 20, 1976.
Patent application 712,417: Polymeric-Coated HMX Crystals for Use with Propellant Materials. Filed August 6, 1976.
Patent application 716,481: Reinforced Filament-Wound Cut-Port Pressure Vessel and Method of Making Same. Filed August 20, 1976.
Patent application 723,001: A Sliding-Tone Command Receiver System. Filed September 13, 1976.
Patent application 723,696: Coating Composition and Method for Improving Propellant Tear Strength. Filed September 16, 1976.
Patent application 741,261: An Automatic Thresholding and Reference Circuit. Filed November 12, 1976.
Patent application 741,904: Short Pulse Solid State-Magnetic Modulator for Magnetron Transmitter. Filed November 15, 1976.
Patent application 745,931: Multi Element Tubular Reference Electrode (M.E.T.R.E.). Filed November 29, 1976.
Patent application 752,571: Method for Fabricating Ferroelectric Ultrasonic Transducers. Filed December 20, 1976.
Patent application 752,641: Apparatus for Performing a Discrete Cosine Transform of an Input Signal. Filed December 20, 1976.
Patent application 753,140: Motion Compensating Liquid Holding Tank. Filed December 20, 1976.
Patent application 757,819: Inductive Communication System. Filed January 10, 1977.
Patent application 762,707: Ion-Implanted Barriers for Reducing Alkali Ion Drift in Thin film Insulators. Filed January 26, 1977.
Patent application 764,135: Technique for Evaporation Suppression. Filed January 31, 1977.
Patent application 764,482: Method of Making Tuned Resonance Passive Electronic Filters. Filed January 31, 1977.
Patent application 767,424: Growth of Epitaxial Layers from a Liquid Phase. Filed February 10, 1977.
Patent application 770,330: Digital Bypassable Register Interface. Filed February 22, 1977.
Patent application 770,863: Optical Switch. Filed February 22, 1977.

[FR Doc.77-19281 Filed 7-12-77;8:45 am]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

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Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $3.50 ($7 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL-number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE ARMY, Office of Judge Advocate General, Patent Division, Room 2C-455, Pentagon, Washington, D.C. 20310.

Patent 3,573,755: Electrical Tablet for Graphic Input System. Filed February 16, 1968, patented April 6, 1971; not available NTIS.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

Patent application 754,067: Coal Catalyst. Filed December 23, 1976.
Patent application 758,879: Fusible Heat Sink for a Cryogenic Refrigerator. Filed January 12, 1977.
Patent application 765,711: Constant Impedance, Constant Phase PIN Diode Attenuator. Filed February 4, 1977.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 588,456: Vacuum Cleaner for Radioactively Contaminated Particles. Filed May 20, 1976.
Patent application 667,914: Pressure Control and Fluid Venting System for a Pressurized Container. Filed March 18, 1976.
Patent application 680,551: Data Processing System. Filed April 27, 1976.
Patent Application 687,977: A Multi-Access Memory Module for Data Processing Systems. Filed May 20, 1976.

Patent application 740,908: Double-Action Turbogenerator. Filed November 11, 1976.

Patent Application 743,428: A Thin Foil Pulse Transformer Coil for Reducing Distributed and Leakage Inductance. Filed November 18, 1976.

Patent application 745,736: Mini-Boat. Filed November 29, 1976.

Patent application 747,833: Portable Recompression Chamber with Air Scrubber. Filed December 6, 1976.

Patent application 753,026: Controllable Gas Generator. Filed December 22, 1976.

Patent application 768,657: Variable Power Attenuator for Light Beams. Filed February 14, 1977.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 668,771: Magnetometer. Filed March 19, 1976.

Patent application 740,153: Electroexplosive Device. Filed November 8, 1976.

Patent application 742,034: Overload Protection System for Power Inverter. Filed November 15, 1976.

Patent application 744,477: Swept Group Delay Measurement. Filed November 24, 1976.

Patent application 744,577: Surface Roughness Measuring System. Filed November 24, 1976.

Patent application 760,810: Process for Preparing Higher Oxides of the Alkali and Alkaline Earth Metals. Filed January 19, 1977.

Patent application 764,253: Method of Electrically Pre-Stressing Insulation to Provide Directional Increase in DC Potential Breakdown. Filed January 31, 1977.

Patent application 764,329: Aspirin/Metiamide Composition. Filed January 31, 1977.

Patent application 768,795: Traveling Wave Tube Circuit. Filed February 15, 1977.

Patent 3,999,886: Hingeless Helicopter Rotor with Improved Stability. Patented December 28, 1976; not available NTIS.

Patent 4,000,682: Solid Propellant Rocket Motor and Method of Making Same. Patented January 4, 1977; not available NTIS.

Patent 4,001,552: Method and Apparatus for Measuring Web Material Wound on a Reel. Patented January 4, 1977; not available NTIS.

Patent 4,001,602: Electronic Analog Divider. Patented January 4, 1977; not available NTIS.

Patent 4,003,004: Frequency Modulated Oscillator. Patented January 11, 1977; not available NTIS.

Patent 4,003,084: Method of and Means for Testing a Tape Record/Playback System. Patented January 11, 1977; not available NTIS.

Patent 4,005,574: Reverse Pitch Fan with Divided Splitter. Patented February 1, 1977; not available NTIS.

[FR Doc.77-19282 Filed 7-12-77;8:45 am]

Domestic and International Business Administration

EXPORT ADMINISTRATION REGULATIONS

Amendments to Export Administration Regulations Regarding Foreign Boycotts

On June 22, 1977, the President signed into law the Export Administration Amendments of 1977 (Pub. L. 95-52). Title II (entitled "Foreign Boycotts") of this new law strengthens the anti-boycott provisions of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2401, et seq.), and will require major revisions to the Restrictive Trade Practices or Boycotts part of the Export Administration Regulations, issued by the Department of Commerce (Part 369, Title 15, Code of Federal Regulations).

In general, Title II prohibits United States persons from complying with most foreign boycott requirements, including the furnishing of most boycott-related information. Substantial increased penalties are authorized for violations of the law. Title II also requires reports to this Department on foreign boycott requests, and requires the issuance of rules and regulations to implement these and other provisions of the law. Since the Secretary of Commerce has been delegated by Executive Order the responsibility for issuing these regulations, this Notice establishes the procedures the Department will follow in developing and promulgating the proposed and final new boycott regulations.

The promulgation of these boycott regulations is exempt from Administrative Procedure Act rulemaking procedures. However, because of the importance and complexity of the issues, the Department is inviting public participation in their development. All persons who desire to comment are encouraged to do so at the earliest possible time so as to permit the fullest consideration of their views. Comments may take the form of proposed regulatory language, narrative discussion, hypothetical case situations, or any other appropriate format. The Department expects to publish the proposed regulations in the FEDERAL REGISTER shortly before the expiration of the statutory 90-day period following the date of enactment of Public Law 95-52 (i.e., shortly before September 21, 1977), and expects to allow 60 days thereafter for submission of comments on the proposed regulations. The Department expects to publish final regulations in the FEDERAL REGISTER, after taking into consideration the comments received, shortly before the expiration of the statutory 120-day period following the date of publication of the proposed regulations in the FEDERAL REGISTER.

Written public comments which are accompanied by a request that part or all of the material be treated confidentially, because of its business proprietary nature or for any other reason, will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of the regulations. Likewise, comments received after the close of the comment period will not be accepted or considered.

All public comments to be considered in the development of these boycott regulations will be a matter of public record and will be available for public inspection and copying. This procedure shall not, however, apply to communications from agencies of the United States or foreign governments. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, the Department official receiving such comments will prepare a memorandum summarizing the substance of the comments and identifying the individual making the comments as well as the person on whose behalf they purport to be made. All such memoranda will also be a matter of public record and will be available for public review and copying.

Written comments concerning the proposed regulations should be addressed to:

U.S. Department of Commerce, P.O. Box 320, Benjamin Franklin Station, Washington, D.C. 20044.

Oral communications should be directed to:

Stanley J. Marcuss, Deputy Assistant Secretary For Trade Regulation, 202-377-5491 or Kent N. Knowles, Acting Assistant General Counsel for Domestic and International Business 202-377-5301.

The public record concerning these boycott regulations will be maintained in the Domestic and International Business Administration, Freedom of Information Records Inspection Facility, Room 3012 Main Building, U.S. Department of Commerce, 14th & Constitution Avenue, N.W., Washington, D.C. 20230. Records in this facility may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information regarding the inspection and copying of records at the facility may be obtained from Mrs. Patricia L. Mann, the Domestic and International Business Administration Freedom of Information Officer, at the Export Administration Act of 1969, as amended by Public Law 95-52, is attached to this notice.

Dated: July 8, 1977.

C. L. HASLAM,
General Counsel.

PROVISIONS OF THE EXPORT ADMINISTRATION ACT OF 1969, AS AMENDED[1] RELATING TO FOREIGN BOYCOTTS AN ACT TO PROVIDE FOR CONTINUATION OF AUTHORITY FOR REGULATION OF EXPORT

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Export Administration Act of 1969."

* * * * *

DECLARATION OF POLICY

Sec. 3. The Congress makes the following declarations:

* * * * *

(5) It is the policy of the United States (A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States *or against any United States person, (B) to encourage and, in specified cases, to require United States persons engaged in the export of articles, materials, sup-*

[1] Portions of the Act appearing in italic letters indicate the amendments made by Public Law 95-52, "Export Administration Amendments of 1977." One foreign boycott-related provision of Public Law 95-52 does not amend the Act. It appears in italics separately at the end of this appendix.

plies, or information to refuse to take actions, including furnishing information or entering into or implementing agreements, which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a country friendly to the United States or against any United States person, (C) to foster international cooperation and the development of international rules and institutions to assure reasonable access to world supplies.

* * * * *

AUTHORITY

Sec. 4. (a) (1) * * *

* * * * *

(b) (1) To effectuate the policies set forth in section 3 of this Act, the President may prohibit or curtail the exportation from the United States, its territories and possessions, of any articles, materials, or supplies, including technical data or any other information, except under such rules and regulations as he shall prescribe. To the extent necessary to achieve effective enforcement of this Act, these rules and regulations may apply to the financing, transporting, and other servicing of exports and the participation therein by any person. * * *

* * * * *

FOREIGN BOYCOTTS

Sec. 4A. (a) (1) For the purpsoe of implementing the policies set forth in section 3(5) (A) and (B), the President shall issue rules and regulations prohibiting any United States person, with respect to his activities in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take any of the following actions with intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country which is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation:

(A) Refusing, or requiring any other person to refuse, to do business with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, pursuant to an agreement with, a requirement of, or a request from or on behalf of the boycotting country. The mere absence of a business relationship with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, does not indicate the existence of the intent required to establish a violation of rules and regulations issued to carry out this subparagraph.

(B) Refusing, or requiring any other person to refuse, to employ or otherwise discriminating against any United States person on the basis of race, religion, sex, or national origin of that person or of any owner, officer, director, or employee of such person.

(C) Furnishing information with respect to the race, religion, sex, or national origin of any United States person or of any owner, officer, director, or employee of such person.

(D) Furnishing information about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized Under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person which is known or believed to be restricted from having any business relationship with or in the boycotting country. Nothing in this paragraph shall prohibit the furnishing of normal business information in a commercial context as defined by the Secretary of Commerce.

(E) Furnishing information about whether any person is a member of, has made contributions to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports the boycotted country.

(F) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement compliance with which is prohibited by rules and regulations issued pursuant to this paragraph, and no United States person shall, as a result of the application of this paragraph, be obligated to pay or otherwise honor or implement such letter of credit.

(2) Rules and regulations issued pursuant to paragraph (1) shall provide exceptions for:

(A) complying or agreeing to comply with requirements (i) prohibiting the import of goods or services from the boycotted country or goods produced or services provided by any business concern organized under the laws of the boycotted country or by nationals or residents of the boycotted country, or (ii) prohibiting the shipment of goods to the boycotting country on a carrier of the boycotted country, or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(B) complying or agreeing to comply with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment or the name of the provider of other services, except that no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms after the expiration of 1 year following the date of enactment of the Export Administration Amendments of 1977 other than with respect to carriers or route of shipment as may be permitted by such rules and regulations in order to comply with precautionary requirements protecting against war risks and confiscation;

(C) complying or agreeing to comply in the normal course of business with the unilateral and specific selection by a boycotting country, or national or resident thereof, of carriers, insurers, suppliers of services to be performed within the boycotting country or specific goods which, in the normal cource of business, are identifiable by source when imported into the boycotting country;

(D) complying or agreeing to comply with export requirements of the boycotting country realting to shipments or transshipments of exports to the boycotted country, to any business concern of or organized under the laws of the boycotted country, or to any national or resident of the boycotted country;

(E) compliance by an individual or agreement by an individual to comply with the immigration or passport requirements of any country with respect to such individual or any member of such individual's family or with requests for information regarding requirements of employment of such individual within the boycotting country; and

(F) compliance by a United States person resident in a foreign country or agreement by such person to comply with the laws of that country with respect to his activities exclusively therein, and such rules and regulations may contain exceptions for such resident complying with the laws or regulations of that foreign country governing imports into such country of trademarked, tradenamed, or similarly specifically identifiable products or components of products for his own use, including the performance of contractual services within that country, as may be defined by such rules and regulations.

(3) Rules and regulations issued pursuant to paragraphs (2) (C) and (2) (F) shall not provide exceptions from paragraphs (1) (B) and (1) (C).

(4) Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

(5) Rules and regulations pursuant to this subsection shall be issued not later than 90 days after the date of enactment of this section and shall be issued in final form and become effective not later than 120 days after they are first issued, except that (A) rules and regulations prohibiting negative certification may take effect not later than 1 year after the date of enactment of this section, and (B) a grace period shall be provided for the application of the rules and regulations issued pursuant to this subsection to actions taken pursuant to a written contract or other agreement entered into on or before May 16, 1977. Such grace period shall end on December 31, 1978, except that the Secretary of Commerce may extend the grace period for not to exceed 1 additional year in any case in which the Secretary finds that good faith efforts are being made to renegotiate the contract or agreement in order to eliminate the provisions which are inconsistent with the rules and regulations issued pursuant to paragraph (1).

(6) This Act shall apply to any transaction or activity undertaken, by or through a United States or other person, with intent to evade the provisions of this Act as implemented by the rules and regulations issued pursuant to this subsection, and such rules and regulations shall expressly provide that the exceptions set forth in paragraph (2) shall not permit activities or agreements (expressed or implied by a course of conduct, including a pattern of responses) otherwise prohibited, which are not within the intent of such exceptions.

(b) (1) In addition to the rules and regulations issued pursuant to subsection (a) of this section, rules and regulations issued under section 4(b) of this Act shall implement the policies set forth in section 3(5).

(2) Such rules and regulations shall require that any United States person receiving a request for the furnishing of information, the entering into or implementing of agreements, or the taking of any other action referred to in section 3(5) shall report that fact to the Secretary of Commerce, together with such other information concerning such request as the Secretary may require for such action as he may deem appropriate for carrying out the policies of that section. Such person shall also report to the Secretary of Commerce whether he intends to comply and whether he has complied with such request. Any report filed pursuant to this paragraph after the date of enactment of this section shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any articles, materials, and supplies, including technical data and other information, to which such report relates may be kept confidential if the Secretary determines that disclosure thereof would place the United States person involved at a competitive disadvantage. The Secretary of Commerce shall periodically transmit summaries of the information contained in such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the policies set forth in section (3) (5) of this Act.

* * * * *

VIOLATIONS

SEC. 6. (a) Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than *$25,000* or imprisoned not more than one year, or both. For a second or subseqent offense, the offender shall be fined not more than three times the value of the exports involved or *$50,000*, whichever is greater, or imprisoned not more than five years, or both.

* * * * *

(c)(1) The head of any department or agency exercising any functions under this Act, or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed *$10,000* for each violation of this Act or any regulation, order, or license issued under this Act, either in addition to or in lieu of any other liability or penalty which may be imposed.

(2)(A) The authority of this Act to suspend or revoke the authority of any United States person to export articles, materials, supplies, or technical data or other information, from the United States, its territories or possessions, may be used with respect to any violation of the rules and regulations issued pursuant to section 4A(a) of this Act.

(B) Any administrative sanction (including any civil penalty or any suspension or revocation of authority to export) imposed under this Act for a violation of the rules and regulations issued pursuant to section 4A(a) of this Act may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.

(C) Any charging letter or other document initiating administrative proceedings for the imposition of sanctions for violations of the rules and regulations issued pursuant to section 4A(a) of this Act shall be made available for public inspection and copying.

(d) The payment of any penalty imposed pursuant to subsection (c) may be made a condition, for a period not exceeding one year after the imposition of such penalty, to the granting, restoration, or continuing validity of any export license, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed. *In addition, the payment of any penalty imposed under subsection (c) may be deferred or suspended in whole or in part for a period of time no longer than any probation period (which may exceed one year) that may be imposed upon such person. Such a deferral or suspension shall not operate as a bar to the collection of the penalty in the event that the conditions of the suspension, deferral, or probation are not fulfilled.*

(e) Any amount paid in satisfaction of any penalty imposed pursuant to subsection (c) shall be covered into the Treasury as a miscellaneous receipt. The head of the department or agency concerned may, in his discretion, refund any such penalty, within two years after payment, on the ground of a material error of fact or law in the imposition. Notwithstanding section 1346(a) of title 28 of the U.S. Code, no action for the refund of any such penalty may be maintained in any court.

(f) In the event of the failure of any person to pay a penalty imposed pursuant to subsection (c), a civil action for the recovery thereof may, in the discretion of the head of the department or agency concerned, be brought in the name of the United States. In any such action, the court shall determine de novo all issues necessary to the establishment of liability. Except as provided in this subsection and in subsection (d), no such liability shall be asserted, claimed, or recovered upon by the United States in any way unless it has previously been reduced to judgment.

(g) Nothing in subsection (c), (d), or (f) limits

(1) the availability of other administrative or judicial remedies with respect to violations of this Act, or any regulation, order, or license issued under this Act;

(2) the authority to compromise and settle administrative proceedings brought with respect to violations of this Act, or any regulation, order, or license issued under this Act; or

(3) the authority to compromise, remit or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

ENFORCEMENT

SEC. 7. (a) To the extent necessary or appropriate to the enforcement of this Act or to the imposition of any penalty, forfeiture, or liability arising under the Export Control Act of 1949, the head of any department or agency exercising any function thereunder (and officers or employees of such department or agency specifically designated by the head thereof) may make such investigations and obtain such information from, require such reports or the keeping of such records by, make such inspection of the books, records, and other writings, premises, or property of, and take the sworn testimony of, any person. In addition, such officers or employees may administer oaths or affirmations, and may by subpena require any person to appear and testify or to appear and produce books, records, and other writings, or both, and in the case of contumacy by, or refusal to obey a subpena issued to, any such person, the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) No person shall be excused from complying with any requirements under this section because of his privilege against self-incrimination, but the immunity provisions of the Compulsory Testimony Act of February 11, 1893 (27 Stat. 443; 49 U.S.C. 46) shall apply with respect to any individual who specifically claims such privilege.

(c) *Except as otherwise provided by the third sentence of section 4A(b)(2) and by section 6(c)(2)(C) of this Act,* no department, agency, or official exercising any functions under this Act shall publish or disclose information obtained hereunder which is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information, unless the head of such department or agency determines that the withholding thereof is contrary to the national interest. *Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and any information obtained under this Act, including any report or license application required under section 4(b), shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.*

* * * * *

EXEMPTION FROM CERTAIN PROVISIONS RELATING TO ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 8. *Except as provided in section 6(c)(2),* the functions exercised under this Act are excluded from the operation of sections 551, 553–559, and 701–706, of title 5 U.S. Code.

* * * * *

DEFINITIONS

SEC. 11. As used in this Act: (1) the term "person" includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof; and

(2) the term "United States person" means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern) and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

* * * * *

TERMINATION DATE

SEC. *15.* The authority granted by this Act terminates on *September 30, 1979,* or upon any prior date which the Congress by concurrent resolution or the President by proclamation may designate.

The following boycott-related provision of Public Law 95–52 is not an amendment to the Export Administration Act of 1969, as amended:

PREEMPTION

Sec. 205. The amendments made by this title[1] and the rules and regulations issued pursuant thereto shall preempt any law, rule, or regulation of any of the several States or the District of Columbia, and of the territories or possessions of the United States, or of any governmental subdivision thereof, were law, rule, or regulation pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.

[FR Doc.77-21022 Filed 7-8-77;4:10 pm]

DEPARTMENT OF DEFENSE

Defense Logistics Agency

PRIVACY ACT OF 1974

Systems of Records

Correction

In FR Doc. 77–19235 appearing at page 34906 in the issue for Thursday, July 7, 1977, in the table on page 34906 the thirteenth entry under "New identification," now reading "160.50DLA–T," should read "S160.50DLA–T."

ENVIRONMENTAL PROTECTION AGENCY

[FRL 759–7]

CALIFORNIA STATE STANDARDS

Section 209(a) of the Clean Air Act, as amended, 42 U.S.C. 1857f–6a(a), provides: "No State or any political subdivision thereof shall adopt or attempt to

[1] Title II of Public Law 95–52.

enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part * * * (or) * * * shall require certification, inspection, or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment."

Section 209(b) of the Act directs the Administrator of the Environmental Protection Agency (EPA), after notice and opportunity for public hearing, to waive application of the prohibitions of section 209 to any State which had adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, unless he finds that such State does not require standards more stringent than applicable Federal standards to meet compelling and extraordinary conditions or that such State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Clean Air Act.

By letter dated June 9, 1977, and May 27, 1977, and by a telegram dated June 30, 1977, the California Air Resources Board (CARB) notified the EPA that the Board had taken a number of actions to revise California's motor vehicle emissions control program. The CARB requested that waivers be granted for those items in the revisions which in the judgment of EPA require a waiver of Federal preemption, and that a public hearing be held to consider these items.

The EPA has determined that the following items are within the scope of waiver requests currently under consideration, and/or within the scope of waivers currently in effect, and therefore do not require further opportunity for a public hearing:

(i) Vehicle selection amendments to the California assembly line test procedures applicable to 1978 model year medium duty vehicles, adopted January 25, 1977,[1] and

(ii) Amendments to the new motor vehicle inspection procedures for 1977 and subsequent model year motor vehicles (except motorcycles) set forth in section 2101(d) of Title 13 of the California Administrative Code, adopted on June 30, 1977.[2]

The following items require a waiver before they can be effectuated by California:

(i) Amendments to sections 2100 et seq. of Title 13 of the California Administrative Code, pertaining to compliance testing and inspection of 1978 and subsequent model year motorcycles adopted on June 30, 1977,

(ii) Restrictions on allowable maintenance applicable to 1980 and subsequent model year gasoline-powered passenger cars and 1981 and subsequent model year gasoline-powered light duty trucks and medium duty vehicles adopted May 26, 1977,

(iii) Amendments to the California exhaust emission standards and test procedures for 1980 and subsequent model year passenger cars, light duty trucks and medium duty vehicles, pertaining to high altitude test requirements adopted on June 8, 1977, and

(iv) Amendments to the California exhaust emission standards and test procedures for 1980 and subsequent model year passenger cars, light duty trucks and medium duty vehicles, pertaining to the 1982 and subsequent model year standards and test procedures adopted on June 22, 1977.

Therefore, I hereby give notice that:

(i) California has submitted a request for a waiver from the prohibitions of section 209(a) for a series of actions that have been taken by the CARB, and

(ii) A public hearing on these matters will be convened at the U.S. Environmental Protection Agency Regional Office (Region IX), Conference Room A, Second Floor, 100 California Street, San Francisco, California on August 3–4, 1977, commencing at 10 a.m. Benjamin R. Jackson, Director, Mobile Source Enforcement Division, EPA, is designated as the Presiding Officer for this hearing.

The agenda for the public hearing will be as follows:

Wednesday (August 3, 1977)—Compliance testing and inspection of 1978 and subsequent model year motorcycles under section 2100 et seq. of Title 13 of the California Administrative Code; restrictions on allowable maintenance for 1980 and subsequent model year gasoline-powered passenger cars and 1981 and subsequent model year gasoline-powered light duty trucks and medium duty vehicles; high altitude test requirements for 1980 and subsequent model year passenger cars, light duty trucks and medium duty vehicles.

Thursday (August 4, 1977)—California exhaust emission standards and test procedures for 1982 and subsequent model year passenger cars, light duty trucks and medium duty vehicles.

Any person desiring to make a statement at the hearing or to submit material for the hearing record should file a notice of such intention along with ten copies of his or her proposed statement (and other relevant material) by August 1, 1977, with the Director, Mobile Source Enforcement Division (EN-340), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. In addition, if feasible, twenty-five copies of such statement or material for the hearing record should be submitted to the Presiding Officer at the time of the public hearing.

The pertinent California standards and test procedures can be found in:

(i) Sections 2101(b), 2101(c) and 2101(d), Title 13, California Administrative Code and "California New Motorcycle Compliance Test Procedures," adopted on June 30, 1977.

(ii) Section 1960(c), Title 13, California Administrative Code, adopted on May 26, 1977.

(iii) Sections 1960(a) and 1960(b), Title 13, California Administrative Code and "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light Duty Trucks, and Medium Duty Vehicles," adopted on November 23, 1976 and last amended on June 22, 1977.

A copy of the above-described material is available for public inspection during normal working hours (8 a.m. to 4:30 p.m.) at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460. Copies of the California standards and test procedures are available upon request from the California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, California 95812.

Procedures. Since the public hearing is designed to give interested persons an opportunity to participate in this proceeding by the presentation of data, views, arguments, or other pertinent information concerning the Administrator's proposed action, there are no adversary parties as such. Statements by the participants will not be subject to cross-examination.

Presentation by the participants should be limited to the following considerations:

(i) Whether the California standards (including test procedures) mentioned above are more stringent than applicable Federal standards;

(ii) Whether compelling and extraordinary conditions continue to exist in California; and

(iii) Whether such standards and accompanying enforcement procedures are consistent with section 202(a) of the Act, in particular with respect to their technological feasibility in the lead time remaining.

In order to assure full opportunity for the presentation of data, views, and arguments by participants, the Presiding Officer will, upon request of the participants, allow a reasonable time after

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[1] A waiver request pertaining to California assembly line test procedures for 1978 medium duty vehicles was the subject of a public hearing held on May 16, 1977. This minor administrative change to the aforementioned procedures falls within the scope of that waiver request.

[2] A waiver request pertaining to inspection procedures for 1977 and subsequent model year motor vehicles except 1977 and 1978 model year gasoline-powered passenger cars and light duty trucks, was the subject of a public hearing held on May 16, 1977. The amendments adopted on June 30, 1977, applicable to these classes of motor vehicles, clarify the inspection procedures being considered under the aforementioned waiver request and, being of a minor administrative nature, fall within the scope of this request. Similarly, the amendments as they pertain to 1977 and 1978 model year gasoline-powered passenger cars and light duty trucks clarify inspection procedures which are the subject of a prior waiver. See 42 FR 19372 (April 13, 1977); Letter from Stanley W. Legro, Assistant Administrator for Enforcement, U.S. Environmental Protection Agency, to William H. Lewis, Jr., Executive Officer of the CARB (April 8, 1977). Thus, since the amendments are of a minor administrative nature, they fall within the scope of this prior waiver.

the close of the hearing for the submission of written data, views, arguments, or other pertinent information to be included as part of the hearing record.

A verbatim record of the proceeding will be made, and a copy of the transcript will be made available on request at the expense of the person so requesting.

The determination of the Administrator regarding the action to be taken with respect to the waiver of the prohibition of section 209(a) for the State of California is not required to be made solely on the record of the public hearing. Other scientific, engineering, and related pertinent information, not presented at the public hearing may also be considered. This information will be available for public inspection prior to the Administrator's determination on this matter.

Dated: July 6, 1977.

NORMAN D. SHUTLER,
Acting Assistant Administrator for Enforcement (EN-329).

[FR Doc.77-19848 Filed 7-12-77;8:45 am]

FEDERAL ELECTION COMMISSION

[Notice 1977-37, AOR 1977-31]

ADVISORY OPINION REQUEST

Pursuant to 2 U.S.C. 437f(c) and the procedures reflected in Part 112 of the Commission's regulations, published on August 25, 1976 (41 FR 35954), Advisory Opinion Request 1977-31 has been made public at the Commission. Copies of AOR 1977-31 were made available on July 7, 1977. These copies of the advisory opinion request were made available for public inspection and purchase at the Federal Election Commission, Public Records Division, at 1325 K Street NW., Washington, D.C. 20463.

Interested persons may submit written comments on any advisory opinion request within ten days after the date the request was made public at the Commission. These comments should be directed to the Office of the General Counsel, Advisory Opinion Section, at the Commission. Persons requiring additional time in which to respond to any advisory opinion requests will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered before the Commission issues an advisory opinion. Comments on pending requests should refer to the specific AOR number of the requests and statutory references should be to the United States Code citations rather than to the Public Law citations.

A description of the request recently made public as well as the identification of the requesting party follows hereafter:

AOR 1977-31: May a House candidate for 1978, who has designated a principal campaign committee but has not yet announced his candidacy, use his name in 60-second public service radio spots produced at the expense of his corporate employer, if he is identified in these spots as the public affairs director of the corporation but not explicitly as a candidate? Requested by Leo Berman, a 1978 candidate for Congress, Fort Worth, Texas.

Dated: July 7, 1977.

THOMAS E. HARRIS,
Chairman for the Federal Election Commission.

[FR Doc.77-19984 Filed 7-12-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

DISTRICT OF COLUMBIA

State Energy Conservation Plans; Negative Determination of Environmental Impact

Pursuant to 10 CFR 208.4, the Federal Energy Administration hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation, by the District of Columbia, of its State Energy Conservation Plan. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321 et seq.

Based upon assessment of environmental impacts that are expected to result from implementation of this plan, the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the Federal Energy Administration has determined that an environmental impact statement is not required for this plan.

Single copies of the environmental assessment of the State Plan for the District of Columbia are available upon request from the FEA National Energy Information Center, Room 1416, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the environmental assessment will also be available for public review in the Federal Energy Administration Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the State Plans are available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views or arguments with respect to the environmental assessment to Executive Communications, Box NS, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communciations with the designation, "Environmental Assessment—District of Columbia Energy Conservation Plan." Fifteen copies should be submitted. All comments should be received by FEA by 4:30 p.m., e.d.s.t., July 25, 1977, in order to receive full consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., July 7, 1977.

ERIC J. FYGI,
Acting General Counsel, Federal Energy Administration.

[FR Doc.77-20020 Filed 7-12-77;8:45 am]

KENNECOTT COPPER CORP.

Issuance of Prohibition Order to Certain Major Fuel-Burning Installation Under Energy Supply and Environmental Coordination Act

The Federal Energy Administration (FEA) hereby gives notice that on June 30, 1977, it issued a Prohibition Order, pursuant to the authorities granted to it by Section 2 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA) (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163, and in accordance with 10 CFR, Parts 303 and 305, to the following major fuel burning installation (MFBI):

OCU Docket No.	Owner	Installation	Unit No.	Location
2979	Kennecott Copper Corp.	Utah Copper Division	1, 2, 3, and 4	Salt Lake City, Utah

By Notice of Intention published in the FEDERAL REGISTER on May 13, 1977 (42 FR 24502), FEA gave notice of its intention to issue a Prohibition Order to the above-listed installation burning natural gas or petroleum products as its primary energy source.

Written comments were requested on the proposed order, and a public hearing was held in Salt Lake City, Utah, on May 24, 1977, to receive oral presentations of data, views and arguments. Comments received by FEA during the period provided for written comment, as well as oral testimony received during the public hearing and any supplemental comments, were considered and evaluated before issuing any Prohibition Order. The order will prohibit the above-listed installation from burning natural gas or petroleum products as its primary energy source.

A Prohibition Order will not become effective, however, until (1) either (a) the Administrator of the Environmental Protection Agency (EPA) notifies the

FEA in accordance with Section 119(d)(1)(B) of the Clear Air Act, that the installation is able to burn coal and comply with all applicable air pollution control requirements without a compliance date extension under Section 119(c) of such Act or (b) if such notification is not given by EPA, the date that the Administrator of EPA certifies, pursuant to Section 119(d)(1)(B) of the Clean Air Act, is the earliest date that the installation will be able to comply with all applicable air pollution control requirements of Section 119 of that Act and (2) FEA has considered the environmental impact of making such order effective pursuant to 10 CFR 208.3(a)(4) and 305.9 and has served the affected MFBI with a Notice of Effectiveness, as provided in §§ 303.10(b), 303.37(b), and 305.7 of the FEA regulations implementing Section 2 of ESECA. Section 305.9 requires that prior to the issuance of a Notice of Effectiveness, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness.

The above-listed installation has been served a Prohibition Order by registered mail. In addition, a copy of the Prohibition Order will be on display for any interested members of the public at the FEA Freedom of Information Reading Room located in Room 2107, 12th Street and Pennsylvania Avenue NW., Washington, D.C. A copy will also be on display in the appropriate FEA regional office.

Any questions regarding this notice should be directed to Mr. G. Randolph Comstock, Office of Coal Utilization, Federal Energy Administration, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461 (202-566-9732).

Issued in Washington, D.C., July 8, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-20130 Filed 7-12-77;8:45 am]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1613]

ABACO INTERNATIONAL SHIPPERS DIVISION OF INTERNATIONAL REPRESENTATIVES CORP.

Order of Revocation

On July 6, 1977, Abaco International Shippers Division of International Representatives Corporation, 2674 North Halsted Street, Chicago, IL 60614, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1613 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(b), dated June 30, 1975;

It is ordered, That Independent Ocean Freight Forwarder License No. 1613 issued to Abaco International Shippers Division of International Representatives Corporation be and is hereby revoked effective July 6, 1977, without prejudice to reapply for a license in the future.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Abaco International Shippers Division of International Representatives Corporation.

LEROY F. FULLER,
Director, Bureau of Certification and Licensing.

[FR Doc.77-20132 Filed 7-12-77;8:45 am]

[Docket No. 77-33, Agreement No. 10044-3]

COMPANIA PERUANA DE VAPORES AND LYKES BROS. STEAMSHIP CO., INC.

Modification of Pooling, Sailing and Equal Access Agreement—United States Gulf Ports to Ports in Peru; Extension of Interim Approval; Order of Investigation and Hearing

Agreement No. 10044-3, between Compania Peruana de Vapores and Lykes Bros. Steamship Co., Inc., has been filed with the Federal Maritime Commission for approval pursuant to section 15 of the Shipping Act, 1916. Notice of filing was published in the FEDERAL REGISTER on February 25, 1977.

The agreement modifies the basic agreement between the parties. The basic agreement provides for the maintenance of a cargo revenue pooling, sailing and equal access to government-controlled cargo agreement in the trade from United States Gulf ports to ports in Peru.

Agreement No. 10044-3 amends the basic pooling agreement by (1) reducing the number of minimum sailings required by each party from 13 to 12 per pool period, and (2) extending the term of the agreement through September 30, 1978.

As a pooling, sailing and equal access agreement, Agreement No. 10044-3 represents the ultimate in anticompetitive arrangements. There is no competition as to price or quality of service and the volume of supply is fixed by setting the number of sailings. The illegality of such activities under the Sherman Act is well established.

Any agreement which is in violation of the Sherman Act, is contrary to the public interest under section 15 of the Shipping Act, 1916, unless evidence is adduced that the agreement is required by a serious transportation need, necessary to secure important public benefits or in furtherance of a valid regulatory purpose of the Shipping Act. *Federal Maritime Commission* v. *Aktiebolaget Svenska Amerika Linien*, 390 U.S. 238 (1968); Canadian-American Working Arrangement, "Order Denying Petition for Reconsideration" ------ F.M.C. ------, Docket No. 75-56 (Feb. 26, 1976). No such justification has been presented by the parties to support the approval of Agreement No. 10044-3. Therefore, the Commission is setting this Agreement down for investigation and hearing consistent with provisions of section 15 of the Act.

In addition to other areas of inquiry, the proceeding should include an examination of whether the equal access provision of Agreement No. 10044-3 is in furtherance of discriminatory anticompetitive laws of the Government of Peru and therefore contrary to the public interest. Another matter of inquiry is whether the equal access provision has had or will have the effect of driving competitors from the trade or precluding the entrance of new competitors into the trade.

Because the interim approval accorded Agreement No. 10044-3 will expire on June 29, 1977, and to give the parties sufficient time to reorder their affairs, we are extending our interim approval for an additional 90 days.

Therefore it is ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916, a proceeding is hereby instituted to determine whether Agreement No. 10044-3 is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports or between exporters from the United States and their foreign competitors, detrimental to the commerce of the United States, contrary to the public interest, or is in violation of the Shipping Act, 1916, and therefore, whether it should be approved, disapproved or modified;

It is further ordered, That Compania de Vapores and Lykes Bros. Steamship Co., Inc. are hereby made Respondents in this proceeding.

It is further ordered, That in accordance with the rules of practice and procedure of this Commission (46 CFR 502.42), Hearing Counsel shall be a party to this proceeding.

It is further ordered, That this proceeding be referred for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined and announced by the Presiding Administrative Law Judge, no later than January 8, 1978.

It is further ordered, That the hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

It is further ordered, That the parties address themselves to issues specifically enumerated below in addition to any other relevant issues:

1. What are the exact provisions of cargo preference laws of Peru (including any implementing decrees etc.).

2. What effect have the cargo preference laws of Peru had on past and present third flag carriers in the trade?

3. What effect have the cargo preference laws of Peru had on past and present United States flag carriers in the trade?

4. Has the approval of Agreement No. 10041 exacerbated any competitive disadvantages faced by third flag carriers in the trade as a result of the cargo preference laws of Peru?

5. Whether the equal access provision of Agreement No. 10044–3 is contrary to the public interest in that it is in furtherance of discriminatory and anticompetitive laws of the Government of Peru which exceed justifiable limits in restricting transportation in the commerce of the United States?

It is further ordered, That the first ordering paragraph of the Commission's Order of March 28, granting interim approval to Agreement No. 10044–3, be amended by deleting "June 29, 1977" and substituting therefore "September 27, 1977."

It is further ordered, That (1) a copy of this order be forthwith served upon the Respondents and upon the Commission's Bureau of Hearing Counsel, and published in the FEDERAL REGISTER, and (2) the Respondents, and Hearing Counsel be duly served with notice of the time and place of hearing.

All persons (including individuals, corporations, associations, firms, partnerships and public bodies) having an interest in this proceeding and desiring to intervene herein should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 72 of the Commission's rules of practice and procedure (46 CFR 502.72) with a copy to all parties to the proceeding.

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77–20133 Filed 7–12–77;8:45 am]

[Docket No. 77–34; Agreement No. 10041–4]

COMPANIA PERUANA DE VAPORES AND PRUDENTIAL LINES, INC.

Modification of a Pooling, Sailing and Equal Access Agreement—United States Atlantic Ports to Ports in Peru; Extension of Interim Approval; Order of Investigation and Hearing

Agreement No. 10041–4, between Compania Peruana de Vapores and Prudential Lines, Inc., has been filed with the Federal Maritime Commission for approval pursuant to section 15 of the Shipping Act, 1916. Notice of filing was published in the FEDERAL REGISTER on March 9, 1977.

The agreement modifies the basic agreement between the parties. The basic agreement provides for the maintenance of a cargo revenue pooling, sailing and equal access to government-controlled cargo agreement in the trades from the United States Atlantic Coast ports of New York, Philadelphia and Baltimore to the Peruvian ports of Callao and Ilo.

Agreement No. 10041–4 amends the basic pooling agreement by extending the term of the agreement through September 30, 1978.

As a pooling, sailing and equal access agreement, Agreement No. 10041–4 represents the ultimate in anticompetitive arrangements. There is no competition as to price or quality of service and the volume of supply is fixed by setting the number of sailings. The illegality of such activities under the Sherman Act is well established.

Any agreement which is in violation of the Sherman Act, is contrary to the public interest under section 15 of the Shipping Act, 1916, unless it can be shown to be required by a serious transportation need, necessary to secure important public benefits or in furtherance of a valid regulatory purpose of the Shipping Act. *Federal Maritime Commission* v. *Aktiebolaget Svenska Amerika Linien*, 390 U.S. 238 (1968); Canadian-American Working Arrangement, "Order Denying Petition for Reconsideration" _____ F.M.C. _____, Docket No. 75–56 (Feb. 26, 1976). No such justification has been presented by the parties to support the approval of Agreement No. 10041–4. Therefore, the Commission is setting this Agreement down for investigation and hearing consistent with provisions of section 15 of the Act.

In addition to other areas of inquiry, the proceeding should include an examination of whether the equal access provision of Agreement No. 10041–4 is in furtherance of discriminatory anticompetitive laws of the Government of Peru and therefore contrary to the public interest. Another matter of inquiry is whether the equal access provision has had or will have the effect of driving competitors from the trade or precluding the entrance of new competitors into the trade.

Because the interim approval accorded Agreement No. 10041–4 will expire on June 29, 1977, and to give the parties sufficient time to reorder their affairs, we are extending our interim approval for an additional 90 days.

Therefore it is ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916, a proceeding is hereby instituted to determine whether Agreement No. 10041–4 is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports or between exporters from the United States and their foreign competitors, detrimental to the commerce of the United States, contrary to the public interest, or is in violation of the Shipping Act, 1916, and therefore, whether it should be approved, disapproved or modified.

It is further ordered, That Compania de Vapores and Prudential Lines, Inc. are hereby made Respondents in this proceeding.

It is further ordered, That in accordance with the rules of practice and procedure of this Commission (46 CFR 502.42), Hearing Counsel shall be a party to this proceeding.

It is further ordered, That this proceeding be referred for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined and announced by the Presiding Administrative Law Judge, but no later than January 8, 1978.

It is further ordered, That the hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

It is further ordered, That the parties address themselves to issues specifically enumerated below in addition to any other relevant issues.

1. What are the exact provisions of cargo preference laws of Peru (including any implementing decrees etc.)?

2. What effect have the cargo preference laws of Peru had on past and present third flag carriers in the trade?

3. What effect have the cargo preference laws of Peru had on past and present United States flag carriers in the trade?

4. Has the approval of Agreement No. 10041 exacerbated any competitive disadvantages faced by third flag carriers in the trade as a result of the cargo preference laws of Peru?

5. Whether the equal access provision of Agreement No. 10041–4 is contrary to the public interest in that it is in furtherance of discriminatory and anticompetitive laws of the Government of Peru which exceed justifiable limits in restricting transportation in the commerce of the United States?

It is further ordered, That the ordering paragraph of the Commission's Order of March 28, granting interim approval to Agreement No. 10041–4(A), be amended by deleting "June 29, 1977" and substituting therefor "September 27, 1977."

It is further ordered, That (1) copy of this order be forthwith served upon the Respondents and upon the Commission's Bureau of Hearing Counsel, and published in the FEDERAL REGISTER, and (2) the Respondents, and Hearing Counsel be duly served with notice of the time and place of hearing.

All persons (including individuals, corporations, associations, firms, partnerships and public bodies) having an interest in this proceeding and desiring to intervene herein should notify the secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 72 of the Commission's rule of practice and procedure (46 CFR 502.72) with a copy to all parties to the proceeding.

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77–20134 Filed 7–12–77;8:45 am]

DELTA STEAMSHIP LINES, INC. AND RAMSEY, SCARLETT & CO., 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 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 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 August 2, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

J. Durel Landry, Jr., Vice President—Traffic, Delta Steamship Lines, Inc., 1700 International Trade Mart, New Orleans, Louisiana 70150.

Agreement No. 10303, between the above-named parties, is an agency agreement whereby Delta appoints Ramsey, Scarlett & Co. to act as its husbanding agent at the port of Baton Rouge, Louisiana on the terms and conditions and to the extent set forth in the agreement.

Dated: July 8, 1977.

By order of the Federal Maritime Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-20203 Filed 7-12-77;8:45 am]

KAVOUNIDES SHIPPING CO.

Order of Revocation

Certificate of financial responsibility for indemnification of passengers for nonperformance of transportation No. P-169 and certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages No. C-1,167.

Kavounides Shipping Co. S.A., Trading as K-Lines Hellenic Cruises, Olympic Tower, 645 Fifth Avenue, New York, N.Y. 10022.

Whereas, Kavounides Shipping Co. S.A. Trading as K-Lines Hellenic Cruises cancelled planned operations of the passenger vessel *Atlantis* to and from United States ports; and

Whereas, Certificate (Performance) No. P-169 has been returned to the Commission and Certificate (Casualty) No. C-1,167 has been retained by the Commission for revocation.

It is ordered, That Certificate (Performance) No. P-169 and Certificate (Casualty) No. C-1,167 issued to Kavounides Shipping Co. S.A. Trading as K-Lines Hellenic Cruises covering the *Atlantis*, be and are hereby revoked effective July 6, 1977.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served on certificant.

By the Commission July 6, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-20146 Filed 7-12-77;8:45 am]

[Docket No. 77-32]

PUBLICATION OF INACTIVE TARIFFS BY NON-VESSEL OPERATING COMMON CARRIERS IN THE U.S. DOMESTIC OFFSHORE COMMERCE

Order To Show Cause

The files of the Federal Maritime Commission contain domestic offshore general commodity rates filed by the following non-vessel operating common carriers (NVOCCs) including their last known addresses:

Ponce De Leon Shipping Co., Inc., 350 Brook Avenue, Bronx, New York 10454.
REA Express, Inc., 219 E. 42nd Street, New York, New York 10017.
Rico Shipping Co., 1917 Third Avenue, New York, New York 10029.
Unidos Moving Express Co., 4242 W. Armitage Avenue, Chicago, Illinois 60639.

These tariffs are listed in Appendix A.

These NVOCCs have failed to comply with the provisions of §§ 512.22(a) and 512.22(b) of the Commission's General Order 11, Amendment 2. (46 CFR 512.-22.) These provisions provide for the submission of annual financial and operating data of all NVOCCs with general commodity tariffs in the domestic offshore trades of the United States. Authority for these regulations is provided by Section 21 of the Shipping Act, 1916, as amended (46 U.S.C. 820), which reads as follows:

That the board may require any common carrier by water, or other person subject to this Act, or any officer, receiver, trustee, lessee, agent, or employee thereof, to file with it any periodical or special report, or any account, record, rate, or charge, or any memorandum of any facts and transactions appertaining to the business of such carrier or other person subject to this Act. Such report, account, record, rate, charge, or memorandum shall be under oath whenever the board so requires, and shall be furnished in the form and within the time prescribed by the board. Whoever fails to file any report, account, record, rate, charge, or memorandum as required by this section shall forfeit to the United States the sum of $100 for each day of such default.

Whoever willfully falsifies, destroys, mutilates, or alters any such report, account, record, rate, charge, or memorandum, or willfully files a false report, account, record, rate, charge, or memorandum shall be guilty of a misdemeanor, and subject upon conviction to a fine of not more than $1,000, or imprisonment for not more than one year, or to both such fine and imprisonment.

Several letters have been mailed and numerous telephone calls have been made to the NVOCCs under reference. The Commission's staff has not been able to obtain the required financial and operating data from the subject NVOCCs, either because they refused to respond to the Commission's requests, or probably, because of the termination of business activity. The annual financial and operating data have increased the information available to the Commission regarding the NVOCCs and enabled the Commission to more adequately discharge its regulatory duties concerning rates charged by NVOCCs. Also, the establishment of a periodic requirement has enabled the Commission to keep abreast of the status of NVOCC tariffs on file. It is the opinion of the Commission that the failure of the NVOCCs named herein to file financial and operating data is evidence of their inactivity.

Where an NVOCC is not actively engaged in service, the existence of its tariff on file with the Commission holding itself out to provide service to the shipping public amounts to a false representation, contrary to the letter and spirit of section 18, Shipping Act, 1916 (46 U.S.C. 817) and section 2, Intercoastal Shipping Act, 1933 (46 U.S.C. 844). "Inter-coastal Schedules of Hammond Shipping Co., Ltd.," 1 U.S.S.B. 606 (1936); "Sugar From Virgin Islands to the United States," 1 U.S.M.C. 695, 700 (1938). The shipping public is misled by a meaningless offer of service, and, therefore, the maintenance by NVOCCs of tariffs indicating services they do not perform cannot be justified, and they should be cancelled. "Ghezzi Trucking Co.," 13 FMC 253, 255 (1970); "Embargo on Cargo, North Atlantic and Gulf Ports," 2 U.S.M.C. 464, 465 (1940); "Sugar From Virgin Islands to United States, supra; Intercoastal Charters," 2 U.S.M.C. 154 (1939); "Intercoastal Schedules of Hammond Shipping Co., Ltd.," supra; See also, "Commonwealth of Pa. v. Federal Maritime Comm.," 392 F. Supp. 795, 802 (1975).

In view of the applicable law, the Commission is of the opinion that the tariffs presently on file on behalf of the above named NVOCCs should be cancelled, unless they can show cause why their tariffs should not be cancelled.

Now, therefore, it is ordered, That pursuant to sections 22 and 18 of the Shipping Act, 1916, the NVOCCs named in this Order be named respondents in this proceeding, and that they be ordered to show cause why their tariffs indicating rates for the common carriage of goods

in the domestic offshore commerce of the United States should not be cancelled as being inactive.

It is further ordered, That this proceeding shall be limited to the submission of affidavits of fact and memoranda of law, replies thereto, and oral argument, if requested and/or deemed necessary by the Commission. Should any party feel that an evidentiary hearing is required, that party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the Issues in this proceeding and why such proof cannot be submitted through affidavit. Request for hearing shall be filed on or before August 8, 1977. Affidavits of fact and memoranda of law shall be filed by respondents and served upon all parties of record no later than the close of business on August 8, 1977. Reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing Counsel and intervenors, if any, no later than the close of business on August 29, 1977. Oral argument will be scheduled at a later date if requested and/or deemed necessary by the Commission.

It is further ordered, That a notice of this Order be published in the FEDERAL REGISTER and that a copy thereof be served upon respondents.

It is further ordered, That persons other than those already parties to this proceeding who desire to become parties to this proceeding and to participate therein shall file a petition to intervene pursuant to Rule 72 of the Commission's rules of practice and procedure (46 CFR 502.72) no later than the close of business on July 25, 1977.

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in an original and 15 copies as well as being mailed directly to all parties of record.

By the Commission.

JOSEPH POLKING,
Acting Secretary.

Ponce De Leon Shipping Co., Inc., 350 Brook Avenue, Bronx, New York 10454:
FMC-F No. 2—Between points in New York City and places in Puerto Rico.
REA Express, Inc., 219 E. 42nd Street, New York, New York 10017:
FMC-F 2—Between Oakland, San Francisco, California; Express Offices in the State of Hawaii, Express Offices in the Continental United States or Canada (Routed via Oakland or San Francisco, California) and Express Offices in the State of Hawaii.
FMC 32—(Railway Express Agency Incorporated, series) Between Seattle, Washington; Prince Rupert, Vancouver, B.C.; Express Stations in Alaska; Express Stations in the United States or Canada (Routed via Seattle, Washington, or Vancouver, B.C.) and Express Stations in Alaska.
FMC 20—(Railway Express Agency Incorporated, series) Official Express Classification 36—Containing Ratings, Rules and Regulations applying on Express Traffic covered by Tariffs issued subject thereto.
Rico Shipping Co., 199/Third Avenue, New York, New York 10029:
FMC-F No. 1—Between New York, New York and San Juan, Puerto Rico.
Unidos Moving Express Co., 4242 W. Armitage Avenue, Chicago, Illinois 60639:
FMC-F No. 3—Between New York, New York and Points and Places in Puerto Rico.

[FR Doc.77-20135 Filed 7-12-77;8:45 am]

UNITED BRANDS CO. AND MARYLAND PORT ADMINISTRATION

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 August 2, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Gary E. Koecheler, Director of Transportation, Maryland Port Administration, The World Trade Center Baltimore, Baltimore, Maryland 21202.

Agreement No. T-2439-2, between United Brands Company (United) and Maryland Port Administration (MPA), modifies the original agreement which provides for the 10-year lease to United of the "Fruit Pier" located at the Locus Point Marine Terminal at Baltimore Harbor. The purpose of the modification is to increase the land area facilities by one acre and make related changes to the text of the agreement. As compensation, United will pay MPA $500.00 per month for the additional land, subject to adjustment. Notice of Agreement No. T-2439-2, originally published October 14, 1976, and later withdrawn, has been refiled for approval.

Dated: July 8, 1977.

By order of the Federal Maritime Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-20131 Filed 7-12-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER77-467]

ARIZONA PUBLIC SERVICE CO.

Filing Agreement

JULY 6, 1977.

Take notice that on June 23, 1977, Arizona Public Service Company (APS) tendered for filing a new agreement with Public Service Company of Agua Prieta, Inc., Mexico. APS indicates that said agreement cancels an old agreement and provides for an increase in power to be exported to Mexico from 5,000 Kw to 5,500 Kw.

According to APS this agreement provides for no increase in rates.

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 §§ 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 July 14, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-20101 Filed 7-12-77;8:45 am]

[Docket No. CP77-460]

CITIES SERVICE GAS CO.

Application

JULY 6, 1977.

Take notice that on June 22, 1977, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP77-460 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued operation of pipeline, measuring, regulating and appurtenant facilities and the sale of natural gas for resale in and about Orlando, Oklahoma, presently being served by Applicant where the distribution system has been acquired by a new owner, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the town of Orlando has succeeded to the ownership of the distribution facilities formerly owner and operated by the Orlando Gas Company in and about the town of Orlando, in Logan County, Oklahoma. The sale of gas by Applicant for resale in and about Orlando first commenced in 1938 and was certificated in Docket No. G-298 (4 FPC 471), it is said. It is indicated that sales are currently being made under Applicant's FPC Gas Rate Schedules F-1, C-1, and I-1.

Applicant states that a contract dated September 27, 1976, has been executed

with the Town of Orlando covering this sale at the same terms and conditions as the sale to the Orlando Gas Company.

It is stated that Orlando is a small community, population 202, located on Applicant's Oklahoma City 20-inch transmission line, and that the original cost of facilities installed by Applicant was $1,065. It is further stated that as of December 31, 1976, 85 customers were being served through these facilities and the annual sales volumes for the twelve months ended December 31, 1976, were 20,655 Mcf at 14.65 psia.

Applicant states that no new facilities are proposed to be constructed or installed and no new sales are proposed to be made through existing facilities and their continued operation would not materially affect Applicant's overall system, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervent is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-20097 Filed 7-12-77;8:45 am]

[Docket No. CP77-461]

CITIES SERVICE GAS CO.

Application

JULY 6, 1977.

Take notice that on June 22, 1977, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP77-461 an application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon certain facilities either in place or by reclaiming them and for a certificate of public convenience and necessity authorizing the construction and operation of certain replacement facilities on its transmission system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the facilities which it proposes to abandon in place or by reclaiming them are inadequate and obsolete in view of operational requirements and would be replaced, where necessary, by new facilities needed to meet efficiently and economically changing operating conditions on portions of its pipeline system.

Specifically, Applicant proposes to:

(1) Abandon in place approximately 0.61 mile of 2-inch transmission pipeline in the Lorraine Field Pipeline in Ellsworth County, Kansas.

Applicant states that this segment is deteriorated to the extent that it can no longer be economically operated or maintained, and that since service is no longer required on this segment, no replacement is required.

(2) Abandon and reclaim approximately 0.50 mile of 7-inch pipeline and appurtenant facilities in the Chase Fuel System and replace by constructing approximately 0.50 mile of 3-inch pipeline in Rice County, Kansas;

(3) Abandon and reclaim approximately 1.50 miles of 8-inch and 0.47 mile of 6-inch pipeline and appurtenant facilities in the Iola 8-inch pipeline and replace by constructing approximately 0.26 mile of 8-inch and 1.71 miles of 6-inch pipeline in Allen County, Kansas;

(4) Abandon in place approximately 0.50 mile of 6-inch pipeline and appurtenant facilities in the Rural Chanute Pipeline and replace by constructing approximately 0.50 mile of 2-inch pipeline in Allen County, Kansas;

(5) Abandon in place approximately 0.81 mile of 8-inch pipeline and appurtenant facilities in the Ottawa 8-inch pipeline and replace by constructing 0.53 mile of 2-inch pipeline in Franklin County, Kansas.

It is indicated that Items 2 through 4 can be abandoned and replaced with smaller pipelines without losing required capacity.

(6) Abandon and reclaim measuring, regulating and appurtenant facilities and approximately 0.02 mile of 2-inch pipeline in the Springfield 2-inch pipeline in Greene County, Missouri.

Due to a change in the service requirements at this location and rearrangement of some of its facilities by the City Utilities of Springfield, Missouri, these regulating and measuring facilities are no longer required, it is said.

(7) Abandon in place and reclaim approximately 1.01 miles of 8-inch pipeline and appurtenant facilities in the Valley Falls 8-inch pipeline and approximately 1.06 miles of 2-inch pipeline in the Grantville 2-inch pipeline and replace by constructing approximately 1.20 miles of 3-inch pipeline and appurtenant facilities in Jefferson County, Kansas.

Applicant indicates that the proposed abandonments and replacements would improve Applicant's ability to provide service to its customers. Applicant further indicates that the total estimated cost of all the proposed facilities to be constructed is $167,320, which would be paid from treasury cash, and that the total reclaim cost for the proposed abandonments is $12,000. The estimated salvage value is $12,210, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 22, 1977, filed with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-20104 Filed 7-12-77;8:45 am]

[Docket No. CP77-465]

COLUMBIA GAS TRANSMISSION CORP. AND NATIONAL FUEL GAS SUPPLY CORP.

Application

JULY 6, 1977.

Take notice that on June 24, 1977, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, and National Fuel Gas Supply Corporation (National Supply), 308 Seneca Street, Oil City, Pennsylvania 16301, (Ap-

plicants) filed in Docket No. CP77-465 a joint application pursuant to Section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a new point of interconnection for the exchange of natural gas in interstate commerce, and authorizing Columbia to lease and operate measuring facilities and limited term authority to transport the natural gas so exchanged for UGI Corporation (UGI), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants request authorization for a new point of interconnection for the exchange of natural gas pursuant to a letter agreement dated May 10, 1977, between UGI and Applicants. Columbia would deliver a portion of UGI's rate schedule CDS entitlement to National Supply during the 1977 injection period at a rate to be mutually agreed upon by the dispatchers of UGI, and Applicants. The total volume to be delivered to National Supply would not exceed 2,000,000 Mcf, it is said. Applicants states that in order to make such deliveries for injection and subsequent withdrawal, they request a new point of interconnection located near Emporium in Cameron County, Pennsylvania. Applicants indicate that they would be required to construct and operate mainline tap facilities on each of their respective transmission pipelines at an estimated total cost of $14,427, which cost would be financed by Applicants from internally generated funds. It is stated that the interconnecting measuring facilities would be owned by UGI.

Columbia requests authorization to transport to UGI on a best efforts basis up to 25,000 Mcf of natural gas per day delivered to it by National Supply at the new point of interconnection during the period from October 1, 1977, through April 30, 1978. Applicant states that it would make a charge of 22.21 cents per Mcf for the transportation of such withdrawal volumes and would retain for company-use and unaccounted-for gas a percentage of the total volume of gas delivered into its system by National Supply for UGI's account, which percentage is currently 3.1 percent. It is stated that Columbia's transportation charge reflects its average system-wide unit storage and transmission costs exclusive of company-use and unaccounted-for gas.

Columbia further requests authorization to lease and operate measuring facilities to be used in the exchange of gas. It is indicated that UGI would provide the required measurement facilities, and the UGI has requested that Columbia construct the facilities on its behalf and upon completion such facilities would be leased by UGI to Columbia. It is stated that Columbia would operate and maintain the facilities pursuant to the letter agreement dated June 10, 1977 beween Applicants. Applicants state that the interconnection proposed herein and measuring facilities to be provided by UGI would be utilized for the proposed service, and in addition may be used initially for the exchange of gas volumes for the long-term storage service proposed by National Gas Storage Corporation (National Storage) pending before the Commission in Docket No. CP76-492.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-20105 Filed 7-12-77;8:45 am]

[Docket No. ER77-377]

CONNECTICUT VALLEY ELECTRIC CO., INC.

Tariff Change

JULY 6, 1977.

Take notice that Connecticut Valley Electric Company, Inc. (Conn), on June 20, 1977, tendered for filing proposed changes in its FPC Transmission Service Agreement with the New Hampshire Electric Cooperative, Inc. Conn indicates that the proposed changes would increase revenues from jurisdictional sales and service by $2,214 based on the 12 month period ending May, 1977.

Conn indicates that the filing is made to comply with the provisions of Transmission Agreement (FPC No. 8) which requires that charges shall be modified annually to incorporate the applicable cost data contained in the Company's current FPC Form No. 1.

Conn requests waiver of the Commission's notice requirements to allow an effective date of June 1, 1977.

Copies of the filing were served upon the New Hampshire Electric Cooperative, Inc., and the New Hampshire Public Utilities Commission, according to Conn.

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 §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 13, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are avaflable for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-20042 Filed 7-12-77;8:45 am]

[Docket No. ER77-477]

EDISON SAULT ELECTRIC CO.

Proposed Electric Service Contract

JULY 6, 1977.

Take notice that Edison Sault Electric Company (Edison), on June 24, 1977, tendered for filing a contract for Electric Service between Edison and Cloverland Electric Cooperative, Inc. (Cloverland), dated February 1, 1977, in which Edison agrees to supply Cloverland firm wholesale power in addition to power delivered to Cloverland pursuant to certain contracts, dated January 2, 1952 and January 27, 1964, as supplemented. Edison indicates that the purpose of said contract is to meet Cloverland's system demands, but initially Edison does not intend to supply power in excess of 3,000 kilowatts, being the capacity herein specifically reserved by the Edison for Cloverland.

According to Edison copies of the filing were served upon Cloverland and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said Agreement, 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 §§ 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 July 14, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Agreement are on file with the Commis-

sion and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-20102 Filed 7-12-77;8:45 am]

[Docket No. CP77-454]

FLORIDA GAS TRANSMISSION CO.

Application

JULY 6, 1977.

Take notice that on June 20, 1977, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP77-454 an application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon direct sale service to Meyer Goldman as trustee of the 21 P-G Trusts created March 31, 1961 by A. N. Pritzker (Meyer Goldman) and the removal of the facilities necessary to said service, and pursuant § 157.7 (e) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.7 (e)) for permission and approval to abandon, during the twelve-month period commencing July 1, 1977, direct sales service to certain other unknown direct sale customers and to remove the facilities necessary to the rendition of said service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has not delivered natural gas to Meyer Goldman for use in its operations since August 1971, and that there may be other direct sales customers attached to its system who no longer require natural gas in their operations.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in abandoning service and removing direct sales measuring, regulating and related facilities. Applicant states that it would abandon service and facilities only when deliveries to any one direct sales customer would not have exceeded 100,000 Mcf of natural gas during the last year of service.

The application further states that Applicant would not abandon any service unless it would have received a written request or written permission from the customer to terminate service. In the event such request or permission could not be obtained, a statement certifying that the customer has no further need for service would be filed with the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonments are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-20099 Filed 7-12-77;8:45 am]

[Project No. 2413]

GEORGIA POWER CO.

Application for Approval of Revised Exhibits J and M

JULY 6, 1977.

Public notice is hereby given that an application for approval of revised Exhibits J and M was filed on June 1, 1972, under the Federal Power Act, 16 U.S.C. 791a-825r, by the Georgia Power Company (Correspondence to: Mr. I. S. Mitchell, Vice President and Secretary, Georgia Power Company, P.O. Box 4545, Atlanta, Georgia 30302) for the Wallace Dam Project, FPC No. 2413, located on the Oconee and Apalachee Rivers in Green, Hancock, Morgan, Oglethorpe, and Putnam Counties, Georgia.

Article 45 of the license for the Wallace Dam Project, issued August 6, 1969, required Georgia Power Company (Licensee) to submit, for Commission approval, revised Exhibits J and M in order to describe and show the location of those project transmission facilities necessary for connecting the project's 230-kV substation to the Licensee's interconnected transmission system.

According to the Licensee's application, the proposed transmission line would be located near the Town of Eatonton in Putnam and Hancock Counties, Georgia, and would be centered on a 125-foot wide right-of-way, except where it parallels an existing transmission line in which case only an additional 75 feet of right-of-way would be necessary.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 15, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-20038 Filed 7-12-77;8:45 am]

[Docket No. ER76-536]

GEORGIA POWER CO.

Order Accepting Proposed Settlement Agreement

JULY 6, 1977.

On March 18, 1977, the Presiding Administrative Law Judge in these proceedings certified to the Commission the proposed settlement agreement together with the record. The Commission finds that the settlement agreement is in the public interest and accepts and approves it as hereinafter ordered and conditioned.

On March 1, 1976, the Georgia Power Company (Georgia Power) tendered for filing in Docket No. ER76-536 proposed changes in its tariff for full requirements wholesale service which were designated to increase revenues from jurisdictional full requirements customers by $25,937,448 based upon the twelve-month period ending on December 31, 1976. The filing contained a proposed F.P.C. Rate Schedule WR-9 which would replace F.P.C. Rate Schedule WP-8.

Petitions For Intervention were filed by the Board of Water, Light, and Sinking Fund Commissioners of the City of Dalton, Georgia (Dalton), the Electric Cities of Georgia, a section of the Georgia Municipal Association, Inc. (Association), and the Cities of Acworth, Georgia, et. al.[1] (Cities).

In our order of March 29, 1976, in this docket we accepted the proposed rates for filing, deferred their use until May 1, 1976, and granted the petitions to intervene.

[1] The Cities of Acworth, Adel, Albany, Barnesville, Blakely, Braselton, Brinson, Buford, Cairo, Calhoun, Camilla, Carterville, College Park, Commerce, Covington, Doerun, Douglas, East Point, Elberton, Eilaville, Fairburn, Fitzgerald, Forsyth, La Fayette, La Grange, Lawrenceville, Mansfield, Marietta, Monroe, Monticello, Moultrie, Newman, Norcross, Palmetto, Quitman, Sandersville, Sylvania, Sylvester, Thomaston, Thomasville, Washington, West Point, and Whigham, Georgia.

Settlement discussions were held by the parties including the Staff and a settlement was reached. Subsequently, on March 15, 1977, Georgia Power submitted a proposed Settlement Agreement accompanied by a motion to approve the Agreement and to certify the record to us. The Presiding Administrative Law Judge then certified the proposed Agreement. Public notice of the Agreement and its certification was issued by the Commission Secretary on March 29, 1977. All comments were due on or before April 29, 1977. On April 28, 1977, Staff filed comments indicating that the rates proposed in the Agreement were acceptable. No other responses were received pursuant to this notice. On March 21, 1977, Counsel for Georgia Power filed a certification to the effect that all Intervenors and the Company had executed multiple originals of the Settlement in resolution of this proceeding.

Under the terms of the Settlement Agreement, Georgia Power will file a revised tariff containing rates which would have produced on an annualized basis an increase in revenues of $15,000,000 for the test period based upon the Period II data as originally filed on March 1, 1976. Georgia Power will refund to the Cities and to Dalton, with simple interest at 9% per annum, the difference between the amounts actually collected after the suspension period, and the amounts which would have been collected if the revised rates had been in effect.

The Settlement Agreement also provides that revised tariff sheets will be filed which shall contain Exhibit B attached to the Settlement Agreement. Exhibit B is an acceptable fuel cost adjustment provision which shall be applied prospectively from the effective date of this order.

Upon review of the entire record in this proceeding, the Commission finds that the proposed Settlement Agreement represents a reasonable resolution of all of the issues in this proceeding. Accordingly, the proposed Settlement Agreement shall be incorporated herein by reference and shall be approved and adopted. By the same token, Georgia Power's Motion to Approve the Settlement Agreement should be granted.

The Commission orders: (A) The Settlement Agreement filed by the Georgia Power Company on March 15, 1977, is incorporated herein by reference and is approved and adopted.

(B) The Motion to Approve the Settlement Agreement identified in (A) above is granted.

(C) In accordance with the terms of the Settlement Agreement, the Georgia Power Company shall refund within sixty days of the effective date of this order, all amounts collected in excess of the settlement rates in this docket proceeding with interest at 9% per annum.

(D) The Georgia Power Company shall file within thirty days of the effective date of this order revised tariff sheets to conform with the Settlement Agreement in this docket. The revised tariff sheet shall include the fuel costs adjustment as specified in Exhibit B of the Settlement Agreement.

(E) The Georgia Power Company shall file a compliance report within fifteen days after refunds have been made. Such report shall show monthly billing determinants and revenues under prior, present, and settlement revenues. The report shall also show the monthly settlement rate increase, the rate refund, and the monthly interest computation together with a summary of such information for the total refund period. A copy of such report shall also be furnished to each State Commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

(F) Georgia Power Company shall file a compliance report to show charges under the fuel adjustment clause from May 1, 1976. The report shall show monthly billing determinants and revenues under prior, present and settlement rates.

(G) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission, and is without prejudice to any claim or contentions which may be made by the Commission, its Staff or any party or person affected by this order in any proceeding now pending or hereafter instituted by or against the Georgia Power Company or any person or party.

(H) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-28040 Filed 7-12-77;8:45 am]

[Docket No. ER77-460]

GULF STATES UTILITIES CO.

Filing of Agreement

JULY 5, 1977.

Take notice that on June 20, 1977, Gulf States Utilities Company (Gulf States) tendered for filing an agreement for wholesale service between it and the Town of New Roads, Louisiana. The agreement provides for Gulf States to furnish firm power service and emergency service to New Roads at Gulf States' standard rates for such service.

Gulf States requests that the agreement be permitted to become effective as of June 1, 1977, and therefore requests waiver of the Commission's notice requirements.

Gulf States indicates that a copy of the filing was served upon the Louisiana 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 §§ 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 July 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-20036 Filed 7-12-77;8:45 am]

[Docket No. ES77-43]

IOWA PUBLIC SERVICE

Application

JULY 6, 1977.

Take notice that on June 24, 1977, Iowa Public Service Company (Applicant) filed an application seeking an order pursuant to Section 204 of the Federal Power Act authorizing the issuance of 25 principal amount of First Mortgage Bonds. Applicant proposes to sell the New Bonds at competitive bidding in accordance with the applicable requirements of § 34.1a of the Commission's regulations. The interest rate and the price to be paid for the New Bonds will be determined by the successful bidder.

Applicant is incorporated under the laws of the State of Iowa, with its principal business office in Sioux City, Iowa, and is engaged in the electric utility business in north western, north central, and east central Iowa and a few small communities in South Dakota.

Applicant proposes to use the net proceeds from the sale of the securities (1) to pay at maturity on September 1, 1977 $3,500,000 principal amount of First Mortgage Bonds, (2) to meet expenditures for the construction program and (3) to pay off short-term loans, if any, incurred prior to the sale of the New Bonds to secure funds for construction purposes.

Any person desiring to be heard or to make any protest with reference to said application should, on or before July 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-20043 Filed 7-12-77;8:45 am]

[Docket No. ER77-475]

KANSAS CITY POWER & LIGHT CO.

Filing of Change in Rate Schedule

JULY 6, 1977.

Take notice that on June 27, 1977, Kansas City Power & Light Company

("KCPL") tendered for filing a Municipal Participation Agreement dated September 15, 1975, between KCPL and the City of Marshall, Missouri. KCPL requests an effective date of July 27, 1977. According to KCPL the Agreement terminates the Municipal Interconnection Contract, dated October 3, 1962, KCPL Rate Schedule FPC No. 43, and provides for rates and charges for certain wholesale service by KCPL to the City of Marshall.

KCPL states that the proposed rates are KCPL's rates and charges for similar service under schedules previously filed by KCPL with the Federal Power 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 §§ 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 July 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-20103 Filed 7-12-77;8:45 am]

[Docket No. CP73-30]

LONE STAR GAS CO., A DIVISION OF ENSERCH CORP.

Application to Vacate Partially

JULY 6, 1977.

Take notice that on June 1, 1977,[1] Lone Star Gas Company, a Division of Enserch Corporation, 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP73-30 an application pursuant to Section 7(c) of the Natural Gas Act for permission and approval to vacate partially the previously granted abandonment authorization issued in said docket on November 2, 1973 (50 FPC citation 457) so as to authorize the retention of the certification of Line E5-B in the Aylesworth Southwest Field, Bryan County, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that the original application filed in the instant docket on July 31, 1972, proposed the abandonment of several pipelines and appurtenant facilities located in the Aylesworth Southeast Field by sale to Pioneer Gas Products Company (Pioneer), and that such facilities included:

(1) Approximately 3.56 miles of 6-inch Line E5A-B from approximate Station 0+00 to Station 187+77 (End).

(2) Approximately 0.17 mile of 3-inch and 4-inch Line GN-25-T between Stations 0+00 at Line E5A-B and 9+09 at the Jake L. Hamon et al., Mary Haynie No. 1 Well.

(3) Approximately 0.08 mile of 3-inch Line GN-74T between Stations 0+00 at Line E5A-B and 4+10 (End) at the connection of the Roy A. Godfrey, State of Oklahoma Unit No. 2 Well.

All such facilities have been abandoned by sale to Pioneer, it is said.

Applicant states that is was also proposed to abandon by removal and salvage a 10-inch pipeline approximately 3.74 miles in length designated Line E5A-B between Stations 322+84 at Line E5-A and 520+19, but that this line has not been abandoned due to the necessity of continuing to supply natural gas to approximately eight residential customers nearby. Applicant further states that such service has been previously documented in Applicant's Answer to Complaint filed on February 24, 1975 in the same docket and incorporated herein for all purposes. Applicant stated in said Answer's conclusion that Line E5A-B would not be abandoned until and unless the Commission should grant authorization to install a proposed plastic pipe which would be used for servicing the complaining customers therein, it is said.

Applicant now request that Line E5A-B remain available for use in interstate commerce as contemplated in Docket No. G-442 and continue within the jurisdiction of the Commission, it is said. Applicant proposes to use said facility for the purpose of receiving new sources of supplies in the vicinity of Line E5A-B, and transporting same into its interstate system, as well as continuing to supply the residential customers presently being served. Applicant states that such supplies would be purchased from Pioneer, and that a portion of the subject gas is currently being purchased on an emergency basis by Applicant from Pioneer at the outlet of Pioneer's Madill Gas Plant in Marshall, Oklahoma, pursuant to the Emergency Natural Gas Act of 1977. It is stated that the gas purchase contract dated February 24, 1977 between Applicant and Pioneer contemplates the continuation of such emergency purchase at the Madill Plant and the purchase of additional gas at approximate Station 520+19 on Line E5A-B. Applicant states that it would continue to supply natural gas to residential customers presently being served from Line E5A-B.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-20100 Filed 7-12-77;8:45 am]

[1] The application was initially tendered for filing on June 1, 1977; however, the fee required by Section 159.1 of the regulations under the Natural Gas Act (18 CFR 159.1) was not paid until June 27, 1977; thus, filing was not completed until the latter date.

[Docket No. ER77-468]

METROPOLITAN EDISON CO.

Proposed Change in Rates

JULY 6, 1977.

Take notice that on June 23, 1977, Metropolitan Edison Company ("Met-Ed") tendered for filing a notice of its intention to activate provisions for recovery of gross receipts taxes in its rate schedule for supplemental service to Allegheny Electric Cooperative, Inc. Met-Ed states that the tax is being imposed pursuant to a resettlement dated February 10, 1977 signed by the Secretary of Revenue of the State of Pennsylvania and approved by its Auditor General.

The proposed effective date is July 23, 1977.

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 §§ 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 July 14, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-20034 Filed 7-12-77;8:45 am]

[Docket Nos. RP73-102, and RP73-14 (PGA75-1)]

MICHIGAN WISCONSIN PIPE LINE CO.

Order Modifying Initial Decision on Issues of Advance Payments, Rate Treatment for Pipeline Production, and Rate Design

JULY 6, 1977.

I. BACKGROUND

This proceeding arose from three proposed rate increases filed by Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) on April 30, 1973, July 8, 1974, and September 13, 1974. From these filings there remain three issues which are now before us for decision, namely rate design, rate treatment for pipeline

production, and inclusion of advance payments in rate base.

All but two issues arising from the April 30, 1973, filing were resolved by our order of June 26, 1974, in Docket No. RP73-102, wherein we, inter alia, accepted a Settlement Agreement of the parties thereto. The issues remanded for hearing were: (1) whether the rates of Michigan Wisconsin should continue to reflect the unmodified *Seaboard*[1] formula of cost classification and rate design in light of our opinion in *United Gas Pipe Line Company* (Opinion No. 671) 50 FPC 1348 (1973); and (2) whether gas produced from Michigan Wisconsin's Gas Exploration and Development Expenditure Program, conducted in the Hugoton-Anadarko and Rocky Mountain Areas, should be accorded cost of service or area rate treatment for leases acquired after October 7, 1969.

The July 8, 1974, filing revised Michigan Wisconsin's tariff to reflect inclusion in rate base of advance payments to Atlantic Richfield Company (Arco), proposed to be effective as of February 1, 1974, and to Bridger Petroleum Corporation (Bridger), Continental Oil Company (Conoco), and Arco, proposed to be effective on May 1, 1974. In our order of August 12, 1974, in Docket No. RP73-102, we permitted the rate increases related to these advances to become effective on the dates proposed. Such increases, however, were ordered to be collected subject to refund, and a hearing was ordered because of our finding that said advances "may not be reasonable and appropriate for rate base treatment in that they may be in excess of the cost of exploration, development, and production incurred by the producers within a reasonable time from the date such amounts are included in rate base." (52 FPC at 343).

Michigan Wisconsin's September 13, 1974 filing, designated Docket Nos. RP73-102 and RP73-14 (PGA75-1), sought, among other things, to include additional advance payments to Ladd Petroleum Corporation (Ladd) and American Natural Gas Production Company (American Production) in rate base as of November 1, 1974. By order issued October 31, 1974, we permitted inclusion in rate base of those advances, subject to refund, and set for hearing the propriety of the proposed rate treatment.

By notice issued January 10, 1975, we consolidated for purposes of hearing and decision proceedings in Docket No. RP73-102 with those in Docket Nos. RP73-102 and RP73-14 (PGA75-1). Hearing in the consolidated proceedings was held before Administrative Law Judge Walter T. Southworth on January 28, 1975, at which time witnesses for Michigan Wisconsin, various intervenors, and the Commission Staff adopted prepared direct testimony and were cross-examined.

On March 31, 1975, the Initial Decision of Judge Southworth was issued. For the reasons stated therein, he found: (1) that Michigan Wisconsin's rates should continue to reflect the *Seaboard* method of cost classification and rate design; (2) that an adequate showing of "special circumstances" was made by Michigan Wisconsin to permit cost of service treatment for gas produced as a result of exploration and development activities in the Hugoton-Anadarko and Rocky Mountain Areas, and (3) that the entire amount of advances at issue herein to Arco, Bridger, Conoco, American Production, and Ladd were reasonable and appropriate for inclusion in Michigan Wisconsin's rate base as of the dates proposed by the pipeline company.

Only the Commission Staff takes exception to the findings and conclusions of the Presiding Judge,[2] and Staff excepts only to the finding that the entire amount of advances to Arco and Conoco was reasonable and appropriate for inclusion in rate base on the dates proposed by Michigan Wisconsin. In this regard, Staff urges that we limit rate base treatment to those portions of the Arco and Conoco advances expended by the producers within thirty days of the proposed rate base treatment. Michigan Wisconsin, in its Brief Opposing Exceptions filed May 20, 1975, contends that Staff's exception should be denied and urges us to affirm in all respects the findings and conclusions of the Initial Decision.

II. Advance Payments

As noted in part "I" hereof, our August 12, 1974, order set for hearing the reasonableness and appropriateness of Michigan Wisconsin's advance payments (1) to Arco, proposed to be included in rate base as of February 1, 1974, and (2) to Bridger, Conoco, and Arco, proposed for rate base inclusion as of May 1, 1974. Our October 31, 1974, order set for hearing additional advance payments to Ladd and American Production, which Michigan Wisconsin was permitted to include in rate base, subject to refund, as of November 1, 1974.

At hearing, only Staff objected to inclusion of certain advance payments in rate base. Staff's opposition was limited to the $12,067,875 advance to Arco and the $1,084,983 advance to Conoco. Staff argued that only those amounts spent by the producer within 30 days of the proposed rate base inclusion should receive rate base treatment. In this regard, Staff noted that as of March 1, 1974, Arco had spent only $347,000 of the $12,067,875 advanced, and that Arco had spent only $2,179,500 of the total amount as of June 1, 1974.[3] With respect to the Conoco advance, $1,036,000 had been spent by the producer as of June 1, 1974.[4]

The Presiding Judge found and concluded, as did all parties, that the entire amounts advanced to Bridger, Ladd and American Production were reasonable and appropriate for inclusion in rate base as of the dates proposed by Michigan Wisconsin. We affirm that finding.

After discussing the Commission's advance payment orders applicable to the Arco and Conoco advances,[5] the terms of the agreements, and the factual circumstances surrounding execution of the agreements, the Presiding Judge concluded that Michigan Wisconsin's advances to Arco and Conoco were "reasonable and appropriate" as required by the applicable orders. Specifically, the Judge found that the entire $12,067,875 advanced to Arco in January 1974 would be spent, based on then-available estimates, by the end of 1975 or early 1976. As to the Conoco advance, he found that 96 percent of the $1,084,983 included in rate base as of May 1, 1974, was expended by August 1, 1974. Characterizing Staff's 30-day proposal as a "hand-to-mouth approach" (Decision at 31), he rejected that proposal as a "* * * retroactive application of an inflexible rule which is not suggested in the orders under which Michigan Wisconsin made the advances at issue." (Decision at 26. "If the Commission had intended to fix a particular number of days, such as 30 days," said the Judge, "it could easily have said so" (Decision at 27). The Judge also relied upon the Commission's opinion in *Columbia Gas Transmission Corporation*[6] wherein, he asserts "* * * the timing of the advance in relation to the inclusion thereof in rate base was given little, if any, consideration; in fact, the connection between the amount of the advance and the amount of expenditures was subordinated to the 'particular circumstances that confronted Columbia in 1972,' including the showing that Columbia advanced the funds * * * 'in a good faith effort to increase its system supply'" (Decision at 28). The *Columbia* opinion, he said, disposes of any question concerning retroactive application of the "line of credit" theory which the Commission enunciated in *Northern Natural*.[7]

With respect to the circumstances surrounding execution of the Arco and Conoco contracts, the Presiding Judge

[1] The *Seaboard* formula takes its name from *Atlantic Seaboard Corporation, et al.* (Opinion No. 225) 11 FPC 43 (1952).

[2] Staff's Brief on Exceptions was filed on April 30, 1975.

[3] The $12,067,875 advance to Arco is proposed for inclusion in Michigan Wisconsin's rate base as of February 1, 1974, and again as of May 1, 1974. For this reason, the amount expended by Arco as of March 1, 1974, and June 1, 1974, is pertinent to Staff's proposed "30-day rule."

[4] See Exhibit No. 63.

[5] Advances made pursuant to the Arco agreement, dated December 27, 1973, are subject to the provisions of Order No. 465, 48 FPC 1550 (1972). Advances to Conoco were made according to a contract dated March 15, 1974, and are, therefore, subject to Order No. 499, 50 FPC 2111 (1973), reh. denied 51 FPC 818 (1974).

[6] (Opinion No. 722), ____ FPC ____ (Docket Nos. RP71-18, et al., issued March 7, 1975).

[7] The "line of credit" theory referred to by the Judge was actually set forth in *Natural Gas Pipeline Company of America*, 52 FPC 652, 655 (1974).

found that such contracts were arrived at "through arm's length negotiations" and represented what Michigan Wisconsin believed to be the "minimum terms necessary to secure a call on new gas * * *" He further found that the lump sum advances made by Michigan Wisconsin were necessary to induce the producers "to assume certain risks and to give up certain options" by entering into the contracts. (Decision at 30).

In its brief on exceptions, Staff strongly opposes the Presiding Judge's conclusions with respect to the Arco and Conoco advances. The 30-day proposal is not an inflexible arbitrary rule applied retroactively, says Staff. Rather, Staff asserts, such proposal is an application of the "reasonable and appropriate" test established in Order No. 465 and 499 to the particular facts of the instant proceeding. Referring to the Arco advance, Staff says that "* * * two years between the time of a multimillion dollar advance to the time that advance is completely spent by the producers is not what was intended by this Commission as being reasonable and appropriate for passing carrying charges on to natural gas customers."[3] In response to the Presiding Judge's characterization of its approach as "hand-to-mouth", Staff counters with the argument that its proposal still permits the producer to acquire interest-free loans to pay all his bills. The only difference, says Staff, is that its proposal permits advances as the producer receives his bills rather than far in advance of the producer's needs for funds.

Staff also contends that the *Columbia* case cited by the Presiding Judge is distinguishable from the instant case. According to Staff, the Commission did not review the timing of advances in *Columbia* because of the lack of record data concerning costs of development and production and when those costs were incurred. The record in the instant case, says Staff, contains the pertinent data, so a timing evaluation can and should be made. Staff argues further that, even if Michigan Wisconsin's advances do represent the minimum terms obtainable from the producers, the analysis must continue to determine whether such terms are reasonable and appropriate for pipeline ratemaking purposes. Advances made 2 years prior to the producer's need are clearly outside the Commission's standards, Staff concludes.

In its brief opposing exceptions, Michigan Wisconsin initially urges Commission affirmance of all aspects of the Initial Decision. On the issue of the propriety of rate base treatment of the Arco and Conoco advances, Michigan Wisconsin contends that the Presiding Judge properly found that such advances were not in excess of costs to be incurred by the producers within a reasonable time from inclusion of the advances in rate base. Under the standards established by Order Nos. 465 and 499, says Michigan Wisconsin, "* * * the question is simply one of determining what time period is reasonable under the circumstances of a particular advance payment agreement." (Michigan Wisconsin brief at 5). Neither of those orders suggested that advances had to be spent within any specific period of time to qualify for rate base treatment, the Company asserts.

With regard to Staff's exceptions to the Initial Decision, Michigan Wisconsin first argues that Staff is in error in asserting that such Decision gives little consideration to the timing of advances. On the contrary, counters Michigan Wisconsin, the timing issue is addressed throughout the Decision. The Presiding Judge, it asserts, found that the "reasonable and appropriate" standard encompasses a "meaningful time requirement" which was fully satisfied in this instance. Michigan Wisconsin characterizes as "mere sophistry" the Staff argument that Staff's 30-day rule is a flexible application of the "reasonable and appropriate" standard set forth in the applicable Commission orders. Says Michigan Wisconsin: "Regardless of the lip service that Staff pays to a flexible standard, the fact remains that it continues to urge a rigid adherence to its thirty-day standard * * *" (Michigan Wisconsin brief at 7). Michigan Wisconsin's final contention is that Staff has failed to establish "an adequate evidentiary basis" for its proposed 30-day rule since the only evidence in support of such a limitation is the Staff witness' statement that, based on his experience with a major producer, he understands that producers normally have 30 days to pay for contract work and materials. (Tr. 504).

We reverse the initial decision to the extent that it would permit inclusion in Michigan Wisconsin's rate base of the entire $12,067,875 advance payment made to Arco and the entire $1,084,983 advance payment made to Conoco. We shall discuss each advance separately as each relates to a different advance payment rulemaking order.

The advance payment to Arco is governed by Order No. 465, the timing standard for which the Commission has recently given definitive guidance.[4] The Commission therein held that the "reasonable and appropriate" standard, expressly stated in and predating Order No. 465, encompasses, upon an adequate evidentiary showing, a standard of reasonableness in the timing between when the pipeline makes the advance to the producer and when the producer expends the advance on gas exploration and development. In that case the Commission found unrebutted evidence that Tennessee's advance payments made but not expended within thirty days after the adjusted test year were unreasonable and inappropriate, thus requiring exclusion from rate base. A review of the instant record reveals a very similar situation which requires the same result as in Opinion No. 769–A, *supra* note 9.

As in Opinion No. 769–A, the Commission Staff herein presented evidence showing that the Arco advance, which was front-end in nature, was in large part unreasonable because under the Michigan Wisconsin-Arco agreement Arco did not anticipate completely expending this initial $12,067,875 until late 1975 or early 1976. (Tr. 503–504). Staff witness Benna testified in support of a thirty day timing lag, based upon the common business practice of producers being allowed thirty days from billing for contract work and materials in which to pay. (Tr. 504–505). Staff emphasized that it did not view such front-end advances to be per se unreasonable but instead looked at each front-end advance individually to see if the total costs to the consumer will be higher or lower than an installment type advance. (Tr. 508). Witness Benna concluded, however, that the Arco advance would cost Michigan Wisconsin's customers 30 percent more than would an installment type advance ($7.7 million versus $5.9 million). (Tr. 508–509). Staff then quantified the amount of the $12,067,875 Arco advance which should be included in rate base: Under the settlement advance payment tracker advance payments were to be included as of February 1, 1974, and May 1, 1974, and Staff recommended including in rate base only $347,400 as of the first date (this figure is what Arco would spend by March 1, 1974) and $2,179,500 as of the second date (this figure is what Arco would spend by June 1, 1974) (Exhibit No. 63).

It is clear from the evidence synopsized above that, as in Opinion No. 769–A, "Staff raised serious questions as to the reasonableness of (Michigan Wisconsin) advancing large sums to producers which did not plan to use them for a period of months or years." Supra note 9, slip op. at 5. A review of Michigan Wisconsin's rebuttal evidence thereto demonstrates that it did not dispel such serious questions. Its witness Withrow made the following points to support the front end advances: Michigan Wisconsin found no timing standard expressed in any of the advance payment rulemaking orders; front end advances were standard because of the producers' bargaining advantage over the pipelines; the Commission intended the advance payment program to be an incentive, which is exactly what a front-end advance is; and while he conceded that front end advances would theoretically cost more than installment advances, he asserted that without front end advances there would not be producers' contracts in the first place (Tr. 288–290). During cross-examination witness Withrow stressed that Michigan Wisconsin agreed to the front end nature of the Arco advance because of the producer's insistence (Tr. 297) and that the producer gave up a number of opportunities by committing reserves under an advance payment contract, which allegedly makes the front end aspect of the Arco advance just consideration (Tr. 307–310).

Michigan Wisconsin has added nothing to Tennessee's attempted rebuttal of Staff's thirty day rule, which the Commission in Opinion No. 769–A has already found to be inadequate. Accordingly, we

[3] Staff briefed on exceptions at 3.

[4] *Tennessee Gas Pipeline Company (A Division of Tenneco, Inc.)*, Opinion No. 769–A, Docket No. RP73–113, issued May 31, 1977.

feel justified in applying that standard to this case and exclude from rate base all of the Arco advance except for $347,400 as of February 1, 1974, and $2,179,500 as of May 1, 1974.

The advance payment to Conoco is governed by Order No. 499, in which the Commission expressly stated that advances would have to be spent on gas exploration, development and production "within a reasonable time from the date such amounts advanced are included in the pipeline's rate base." [10] The Commission has therefore adopted similar Staff presentations concerning front end advance payments made under Order No. 499.[11]

The previously discussed Staff testimony concerning front end advance payments likewise related to the $1,084,983 Conoco advance. In addition witness Benna noted that the entire advance would not be completely expended by Conoco until the first half of 1975 (Tr. 505). Staff recommended rate base inclusion as of May 1, 1974, of $1,036,000, which represents the amount expended by Conoco by June 1, 1974 (Exhibit No. 63).

Michigan Wisconsin presented no other evidence which could be seen as rebutting Staff's case for exclusion of advances not expended by the recipient producer within thirty days of the tracker date.[12]

In adopting Staff's recommendations for both the Arco and Conoco advance payments, we emphasize that the thirty day rule is not a per se criterion but instead is what this specific record demonstrated to be "reasonable and appropriate" (Order No. 465) and "within a reasonable time" (Order No. 499). Moreover, unlike the situation in Opinion No. 801, supra note 12, there has been no showing of a positive or net benefit to the consumer which would permit inclusion of unexpended front end advances, even though Staff witness Benna testified that he looked for such benefit in evaluating each advance payment agreement. (Tr. 508).

III. Gas Exploration and Development Costs

In mid-1970, Michigan Wisconsin began a gas exploration and development (E&D) program in an attempt to augment its pipeline gas supply. This program is presently being carried out in the Hugoton-Anadarko Basin and Rocky Mountain Areas. The Settlement Agreement upon which we acted in our June 26, 1974 order in this proceeding provided (Article IX) for the inclusion in cost-of-service of $1,523,782 to cover Michigan Wisconsin's E&D efforts in those Areas.[13]

The June 26 order remanded for hearing the issue of whether "special circumstances" exist which warrant cost of service treatment for gas produced in the subject Areas by Michigan Wisconsin on leases acquired after October 7, 1969.

At the hearing, Michigan Wisconsin attempted to adduce evidence of "special circumstances" to justify cost-of-service treatment. As set forth in the Initial Decision (at 16–17), such evidence included a showing of the following:

1. Michigan Wisconsin, unlike an independent producer, is restricted in its field of exploration and development because only prospects in areas from which gas could economically be delivered to its own pipeline facilities can be explored and developed. Thus, Michigan Wisconsin is not in a position to seek gas wherever it is most likely to find and produce it at the lowest well-head cost.

2. Because Michigan Wisconsin is engaged in competition for leases with producers who are able to sell in the intrastate market, it is often forced to pay higher lease bonus payments and royalties to compensate for higher intrastate gas prices.

3. The greater drilling depths in the deep basin area of the Hugoton-Anadarko Basin, wherein a portion of Michigan Wisconsin's efforts are centered, impose increased drilling costs and risks.

The record also disclosed that the $1,523,782 included in Michigan Wisconsin's cost-of-service does not fully cover the actual costs incurred as a result of E&D efforts. For example, for the 12 months ended October 31, 1974, Michigan Wisconsin showed a cost of service of $2,688,175.[14] Even if federal and state income taxes are eliminated from that amount, as Staff argues, Michigan Wisconsin's cost of service would be $1,992,925 for the same period.

Staff initially takes the position that Michigan Wisconsin has made a sufficient showing of "special circumstances" to warrant cost-of-service treatment for its post-10/7/69 production. However, Staff believes that, because Michigan Wisconsin's E&D program is still relatively new, it would be premature to grant blanket cost-of-service treatment at this time. Accordingly, Staff proposes that Michigan Wisconsin be permitted to include in its cost of service the settlement amount of $1,523,782 per year for the three-year period November 1, 1973, through October 31, 1976. Beginning November 1, 1976, Michigan Wisconsin must price its production at the applicable area or national rate, without prejudice to the pipeline's presentation in a future rate case of evidence supporting cost-of-service treatment for such production. Staff submits that its proposal is analogous to other proceedings wherein we permitted in cost of service a given amount to encourage gas exploration and development by the pipeline.[15] In this regard, Staff notes that inclusion of the $1.5 million amount in cost of service will cost Michigan Wisconsin's customers only .18¢ per Mcf while providing an E&D fund of between $11.4 and $17 million. Michigan Wisconsin states that Staff's proposal is acceptable to it.

The Presiding Judge found that Michigan Wisconsin had made a sufficient showing of "special circumstances" to "permit deviation from the applicable area or national rates for gas produced by Michigan Wisconsin as a result of its exploration and development activities * * *" and adopted Staff's proposal, as set forth above. (Initial Decision at 18).

Based upon the record before us, we still have some doubt that Michigan Wisconsin has made a showing of "special circumstances" sufficient to warrant cost-of-service treatment for its own gas production. However, as noted above, the settlement amount ($1,523,782) does not represent such treatment, since Michigan Wisconsin's actual costs appear to have exceeded that amount by a substantial margin. Moreover, the inclusion of such amount will terminate on October 31, 1976, after which time Michigan Wisconsin must price its gas at the applicable area or national rate or again come forward with more evidence (and up-to-date data) of "special circumstances". We also note that our recent opinions in Kansas-Nebraska,[16] issued after the hearing on this issue in the instant proceeding, provide clearer and more definite guidelines than theretofore existed for the type of evidence needed to support a finding of "special circumstances." For all these reasons, we find that Staff's proposal represents a reasonable and appropriate resolution of this issue in the present context. Accordingly, that proposal shall be adopted, as hereinafter ordered.

Should Michigan Wisconsin attempt to make a showing of "special circumstances" in future rate proceedings, we advise it and all parties to submit evidence of the type discussed in Kansas-Nebraska, supra. In this regard, we wish to emphasize, in light of the record compiled in the instant proceeding, that meeting the "special circumstances" burden requires more than (1) a showing of unit costs higher than the area or national rate [17], and (2) intimations that the pipeline will discontinue its E&D program without cost-of-service treatment.[18]

IV. Rate Design

As noted above, our June 26, 1974, order in Docket No. RP73-102 (51 FPC 2408) remanded for hearing the question of whether Michigan Wisconsin's rates should continue to reflect the unmodified Seaboard formula of cost classification and rate design in light of our

[10] 50 FPC 2111, 2115 (1973).

[11] *Transcontinental Gas Pipeline Corporation*, Opinion No. 801, Docket Nos. RP74-48 and RP75-3, issued May 31, 1977.

[12] In Opinion Nos. 769-A and 801 the Commission adopted the timing standard of thirty days after the end of the adjusted test period. Since the instant case arises out of a settlement agreement tracker for advance payments, the test period timing threshold is not applicable.

[13] Any gas produced as a result of these efforts will be taken into Michigan Wisconsin's system at no additional cost.

[14] The gas actually produced would have generated only $360,192 at then, applicable rates, according to the Presiding Judge. See Initial Decision at 16.

[15] For this proposition, Staff cites our August 26, 1974 order in *El Paso Natural Gas Company*, Docket Nos. RP69-6, et al., 52 FPC 406.

[16] *Kansas-Nebraska Natural Gas Company* (Opinion No. 731), ____ FPC ____ (Docket No. RP72-32, issued May 16, 1975, *mimeo* at 6-10); Opinion No. 731-A, ____ FPC ____ (issued September 3, 1975, mimeo at 4-6); aff'd., Nos. 75-1669 and 75-1752 (10th Cir. ____, 1976).

[17] *Id.*, Opinion No. 731, mimeo at 7.

[18] *Id.*, mimeo at 9-10.

opinion in United Gas Pipe Line Company (Opinion No. 671), 50 FPC 1348 (1973).[24] We recognized in the June 26 order that the conditions under which Michigan Wisconsin was then operating differed substantially from conditions on the United system. However, we also recognized that Michigan Wisconsin's customers make significant interruptible industrial sales, and we indicated our concern that the settlement rate design (Seaboard) would encourage the continued use of natural gas for interruptible industrial purposes to the future detriment of Michigan Wisconsin and its customers (51 FPC at 2412). Finally, we stated that while not wishing to prejudge or confine the cost classification and rate design issue, the resolution of such issue might turn on the question * * * whether, during a period of general natural gas shortage, promotional rate structures should be permitted to remain in effect simply because the particular system is not currently experiencing curtailment". (51 FPC at 2413). Accordingly, we indicated our desire that that question be developed at hearing together with such questions as the actual effect of a rate design change upon storage operations on the Michigan Wisconsin system.

At the hearing and in briefs to the Presiding Judge, all parties including the Commission Staff supported a continued use of the unmodified Seaboard method of cost classification and rate design on the Michigan Wisconsin System. Michigan Consolidated Gas Company (Michigan Consolidated), an intervenor likewise supported the Seaboard formula; however, it presented a third proposal, consisting of a two-part rate for sales volumes and a separate rate for storage service, which it prefers to the United formula in the event Seaboard is rejected.

The Presiding Judge rejected the Commission's previous suggestions that the United formula might be more appropriate for the Michigan Wisconsin system, and concluded that the Seaboard formula should be retained. Both Michigan Wisconsin and Michigan Consolidated,[25] he said, had "demonstrated" that the shift of additional fixed costs to commodity would "penalize" their storage operations, discourage further development thereof, "and thereby reduce the winter peak supply of firm gas otherwise available". (Decision at 9). Moreover, said the Presiding Judge, the shift to United would encourage Mich-Wisc to sell its summer "valley" gas for interruptible industrial purposes rather than incur the cost of storing the gas in order to make it available for firm peak season sales to residential and commercial customers. A further basis for the Presiding Judge's decision on this issue was his finding that the declining utilization of facilities that was found to exist on the United Gas Pipe Line system when the United formula was adopted was not present on the Michigan Wisconsin system.

The Presiding Judge also found no evidence that a shift from Seaboard to United would bring about any reduction in the industrial use of natural gas, a result which was, according to the Judge's reading of the United opinion, a "desired objective" of the Commission when it promulgated the United formula. The Judge then referred to the Commission's notice of proposed rulemaking in Docket No. RM75-19 (End Use Rate Schedules): "Thus it appears that the Commission has determined, in the light of experience and changing conditions, that the United modification of the Seaboard formula does not, under ordinary circumstances at least, accomplish the desired objective of reducing industrial consumption of natural gas". (Decision at 8-9).

With respect to Michigan Consolidated's "second choice" proposal of a separate storage rate in the event the Commission adopts the United formula, the Judge dismissed such proposal without discussing its merits in light of his finding that the Seaboard formula should be retained.

After a careful review of the record of this proceeding and the Presiding Judge's decision thereon, we are in disagreement with the Judge's conclusions on the rate design issue. To begin with, we must reject the Judge's conclusion that the shift of additional fixed costs to commodity will "penalize" the storage operaitons of Michigan Wisconsin and its customers. Availability of storage, of course, permits a customer to improve its load factor, thereby lowering its unit cost of gas. Thus, the Seaboard formula, by offering a discount to high-volume purchasers, encouraged the building of storage.[26] Although the record before us does not quantify this discount for past periods during which Michigan Wisconsin's rates were designed according to the Seaboard formula, we believe that such discount has, over the years, substantially if not completely offset the costs incurred in storage development. Moreover, as the Consolidated court found in affirming the United methodology, "* * * customers whose storage permits them to take at high load-factors still receive a significant price discount under the United formula." Id., at 1188. Under these circumstances, the argument that United penalizes storage operations is not persuasive.

We likewise are not persuaded that a shift to the United formula will discourage further development of storage. Even assuming arguendo that United will increase the cost of additional storage, a more significant question is whether Michigan Wisconsin can obtain additional gas supply to warrant the construction of additional storage. If such supply exists, then those customers desiring additional peak-period gas will be required to balance such desire against the cost to be incurred in additional storage development. Based on the record before us, we cannot say that a move from Seaboard to United will inhibit the development of additional storage facilities.

We also question the Presiding Judge's finding that adoption of the United formula would encourage Michigan Wisconsin "* * * to sell its summer valley gas for interruptible industrial purposes, rather than incur the transmission and capacity costs of storing the gas to make it available for firm peak season sales to residential and commercial customers". (Decision at 11.) By definition, "firm sales" are those volumes which Michigan Wisconsin has committed itself through contract to deliver to its customers on certain days. Given the present gas supply situation, the firm contract demands of Michigan Wisconsin's customers require that Michigan Wisconsin inject off-peak gas into storage in order to be able to meet such contract demands. For this reason, we must reject the suggestion that the United rate design will result in the sale of off-peak gas for industrial purposes and thereby decrease the supply available for peak residential and commercial use.

The Presiding Judge also found that the declining utilization of facilities that existed on the United Gas Pipe Line system when the United formula was adopted was not present on the Michigan Wisconsin system. Although Michigan Wisconsin was not curtailing its customers during the period of time covered by the record now before us, the Company's demand-supply situation has changed since that time. Michigan Wisconsin's responses to the Commission's Form No. 16, of which we take official notice, indicate that the Company projected curtailment of 60,114,000 Mcf of firm requirements for the year September, 1975, through August, 1976, including firm curtailment of 17 million Mcf for the November, 1975 through March, 1976 heating season.[27] Thus, one of the bases of the United formula, underutilization of the pipeline on an annual basis, is now present in the instant case. As we stated recently in another proceeding, the curtailed operation of a pipeline system, apart from other considerations, supports the United formula

[24] In *United*, the Commission abandoned the Seaboard 50/50 classification of fixed costs between the demand and commodity components of two-part rates in favor of assigning 75 percent of fixed costs to commodity and the remaining 25 percent of such costs to demand.

[25] Michigan Consolidated Gas Company is Michigan Wisconsin's largest customer. During the test period in the instant proceeding, Michigan Consolidated purchased 36 percent of Michigan Wisconsin's total sales volume.

[26] *Consolidated Gas Supply Corp., et al. v. F.P.C.*, 520 F. 2d 1176, 1187 (D.C. Cir. 1975).

[27] Source: "Requirements and Curtailments of Interstate Pipeline Companies Based on Form 16 Reports Required to be Filed on September 30, 1975", Staff Report of the Bureau of Natural Gas, November, 1975.

since that formula gives more recognition to annual use of the pipeline facilities.

As to the Presiding Judge's finding that a shift from Seaboard will not discourage industrial sales on Michigan Wisconsin's system, we recognize, as we did in United, that a shift to the United method will not be decisive in discouraging such sales by Michigan Wisconsin or its customers, particularly as the record shows that it would not increase commodity costs up to the costs of competitive fuels. Nevertheless, the shift in costs should help narrow the gap between the price of industrial gas sold on the Michigan Wisconsin system and the price of alternative fuels, and should, therefore, have the effect of diminishing the Seaboard rate design's undesirable promotion of the use of natural gas in a time of restricted gas supplies.

Based upon the foregoing discussion, and in light of the critical national shortage of natural gas, we must reject the Seaboard formula and its promotional aspect in particular in favor of the United formula. However, we shall not apply such formula back to the date the suspended rates became effective. By order of June 26, 1974, setting this matter for hearing, we ordered that "any rate design so determined [in this proceeding] will be applied to any rate change proposals filed by Mich-Wisc during the pendency of the instant rate design proceeding and such application shall be from the time such proposed rates are permitted to take effect". Two rate change proposals have been filed during this period, Docket Nos. RP75-76 and RP76-100. While Mich-Wisc was on notice that the United rate design could be applied to both of these proceedings, we feel at this juncture that it is appropriate to require Mich-Wisc to amend its tariff to reflect the United rate design only in the top case, RP76-100. To the extent that Michigan Wisconsin does not reflect a United rate design in that and any subsequent dockets, it is hereby placed on notice that it shall be subject to such undercollections as may occur if, after decision in that case, we find a cost classification and rate design appropriate that is different from that in Atlantic Seaboard Corporation, 11 FPC 43 (1952). However, such undercollections shall not exceed those that would be computed if 75 percent of fixed costs were classified to commodity under the principles and methodology of United Gas Pipe Line Company, 50 FPC 1348, 1360 (1973).

The Commission further finds: (1) Applicant, Michigan Wisconsin Pipe Line Company, is a "natural gas company" subject to the provisions of the Natural Gas Act, and the sales of natural gas subject to the order which follows as a part of this decision are sales of natural gas in interstate commerce for resale subject to the jurisdiction of the Commission.

(2) Those portions of Applicant's rates, which were not part of the settlement accepted by the Commission on June 26, 1974, and which have been in effect in these dockets subject to refund, have not been shown to be just and reasonable or otherwise lawful under the provisions of the Natural Gas Act in the respects noted above, and Applicant should be required to file revised tariff sheets encompassing just and reasonable rates as necessary to conform to this order.

(3) Applicant should be required to refund to its jurisdictional customers any amounts reflecting the difference between its proposed rates and the rates required to be filed by this order, specifically relating to advance payments.

(4) The initial decision issued in this reserved issues proceeding on March 31, 1975, should be affirmed in part and reversed in part as hereinafter detailed.

The Commission orders: (A) The increased rates referred to in Paragraph (2) above are disallowed to the extent that they do not conform to this order.

(B) Within 60 days of the issuance of this order Applicant shall file any necessary amendments to its cost of service, rate design and tariff sheets for the period from November 1, 1973, to November 1, 1975, relating to advance payments, subject to the approval of the Commission.

(C) Within thirty days of the Commission's approval of its substitute tariff sheets in accordance with Paragraph (B) above, Applicant shall refund to its customers for the period of November 1, 1973, to November 1, 1975, all amounts, relating to advance payments collected in excess of those which have been payable under the rates and charges approved in accordance with Paragraph (B) above, together with interest at the rate of seven percent per annum from the date of payment to Applicant to the date of refund for the period from November 1, 1973, to October 10, 1974, and with interest at the rate of nine percent per annum for the period from October 10, 1974, to November 1, 1975.

(D) Within 30 days after making the refunds required by paragraph (C) above, Applicant shall file with the Commission in writing and under oath a report as to the amount of any refunds made and its method of computing the same, together with releases from its jurisdictional customers.

(E) Exceptions not granted are denied.

By the Commission.[24]

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-20035 Filed 7-12-77;8:45 am]

[24] Commissioner Holloman, dissenting, filed a separate statement which is filed as part of the original document.

[Docket No. RI75-109]

MURPHY OIL CORP.

Order Modifying Initial Decision

JULY 6, 1977.

Murphy Oil Corporation (Murphy) is a lessee under oil and gas leases covering lands in the Basin Dakota Field, San Juan County, New Mexico. In 1959, Murphy entered into a farm-out agreement with Southwest Production Company (Southwest) under which Southwest would operate the leases and Murphy would retain certain rights. Under this agreement Murphy had an overriding royalty with an option to convert it into a working interest within 90 days after being notified of the recovery by the operator of all of his costs.

On May 9, 1960, Southwest entered into an agreement with El Paso Natural Gas Company for the sale to the latter of gas attributable to Southwest's interest in gas produced from the leased acreage. Murphy was not a party to this agreement because at that time it had no working interest. Southwest received a certificate of public convenience and necessity from the Commission authorizing this sale in Docket No. CI60-686.[1] Northwest Pipeline Corporation (Northwest), has succeeded El Paso as the purchaser of this gas.

In 1971, after payout occurred Murphy elected to convert its overriding royalty to a working interest. Murphy executed a "Limited Ratification" of the sales agreement between Southwest and Northwest. This ratification was limited to the term of one year commencing March 1, 1971. On September 1, 1971, Murphy applied for a certificate authorizing its sale to Northwest, as initial service, under its limited ratification. This certificate was issued in Docket No. CI72-135. Under this certificate Murphy succeeded to Southwest's interest.

On April 1, 1972, Murphy and Northwest entered into an agreement for the sale and purchase of the gas attributable to Murphy's working interest for a period of 20 years. The sale was to be at a price of 22.5 cents per Mcf with provision for escalations at the rate of .5 cent per Mcf per year. The contract provided for a higher price if one was prescribed by the Commission. Murphy filed for a rate increase to the contract level, this filing was accepted by the Commission and suspended for five months to January 17, 1973.

On January 10, 1975, Murphy filed a notice of proposed rate increase to 41.-071 cents per Mcf to be effective as of June 21, 1974. This rate was based on the 35-cent base rate authorized for the Rocky Mountain Area by Section 154.-109b(d) of the Commission's Regulations, added by Paragraph (E) of Opinion No. 699-H.[2] The Commission

[1] 25 FPC 1370 (1961).

[2] Opinion No. 699-H, Just and Reasonable National Rates for Sales of Natural Gas, 52 FPC 1604, 1658 (1974).

[25] Transcontinental Gas Pipe Line Corporation, Opinion No. 801, Docket Nos. RP74-48 and RP75-3, issued May 31, 1977; Texas Gas Transmission Corporation, Opinion No. 792, Docket No. RP75-19, issued April 11, 1977.

ordered a hearing to determine whether the rates set in Opinion No. 699–H or Opinion No. 658 are controlling.[3]

A prehearing conference was held on May 6, 1975. At the conference it was determined that there were no issues of fact. Three exhibits and one item by reference were received in evidence and a briefing schedule was set. Murphy and Northwest filed briefs supporting the proposed rate, the Commission staff was the only party in opposition to these rates.

On May 5, 1976, Presiding Administrative Law Judge Israel Convisser issued his initial decision in this proceeding. The decision concludes that Murphy is bound by the rates specified in the Southwest-Northwest agreement of May 9, 1960. The decision notes that the briefs filed in this case were based on the theory that the Commission's Opinion in Perry R. Bass was controlling.[4] Since the filing of the briefs before the Administrative Law Judge, Bass has been expressly overruled.[5] The Judge noted that the overruling of Bass might warrant calling for new briefs however, he decided that it would be more expeditious and useful to permit the parties to express their views directly to the Commission without further delay.

The initial decision holds that the Commission's decision in Phillips controls this proceeding. The Administrative Law Judge states that in his opinion Bass was wrongly decided. The Judge points out that the Bass decision overlooked the Commission's right and duty, when appropriate, to override contractual arrangements and failed to focus on the status and obligation of the farm-out operator. Viewing the transaction at its inception, the decision points out that there was a commitment and consequently a dedication to interstate commerce of all of the gas. Murphy's inchoate right to a portion of the gas did not affect the totality of the dedication. The decision points out that whatever the rights of the parties may be among themselves, there was no request for a qualified certificate and the original dedication must be held to have been unqualified and total. The decision rejects Murphy's contention that the Commission's issuance of a certificate in Docket No. CI72–135, permitting Murphy to sell its gas under the one-year ratification of the 1960 contract, constituted recognition of that request as one for initial service. Recognizing that this decision is inconsistent with the Commission's holding in that proceeding, the Judge points out that that proceeding took place long before Opinion No. 737–A and No. 750 were issued.

The only brief on exceptions to the initial decision was filed by Murphy. Murphy contends that the Commission is stopped from revoking its 1971 holding that Murphy was initiating new service. Murphy contends that the Commission's decision in Docket No. CI72–135 is res judicata as to the question of whether Murphy commenced initial service. Murphy contends that there are no changed circumstances that would permit the Commission to reopen the earlier proceeding and change its results. Murphy has relied on the F.P.C.'s rulings and has accordingly incurred a substantial refund liability should those rulings be changed.

Murphy contends that its sale to Northwest clearly qualifies for the rate permitted in accordance with Opinion No. 699–H. Murphy points out that the 1960 contract clearly does not cover gas attributable to Murphy's working interest. In 1960, Southwest had no right to sell Murphy's gas. To distinguish Phillips, Murphy contends that its interest was never dedicated to interstate commerce. Because Southwest did not have authority to dedicate Murphy's interest Murphy contends that it can not be covered by the 1960 dedication. Murphy points out that even if the rationale of the Phillips decision applies the Southwest-Northwest contract expired as to Murphy's interest, when Murphy converted its overriding royalty into a working interest. Murphy distinguishes the termination of the contract term from the abandonment of sales in interstate commerce. Accordingly, Murphy feels that this gas is entitled to the rates prescribed in Opinion No. 699–H.

The Commission staff filed a brief opposing exceptions. Staff points out that the facts in this proceeding are virtually indistinguishable from the facts in the Phillips case and therefore, Opinion No. 750 must be deemed controlling. Staff concedes that after conversion of its royalty into a working interest Murphy could sell the gas. However, in order for this gas to qualify as new gas under Opinion No. 699–H the Southwest-Northwest contract must have terminated by its own terms. Staff points out that Murphy is in error in assuming that acceptance of its rate filing in 1971 constitutes approval of those rates as being just and reasonable. Staff points out that Murphy's gas reserves were dedicated by a 1960 contract. Accordingly, the just and reasonable rate for the sale of this gas is the rate set by Opinion No. 658.

By notice issued October 22, 1976, the Commission indicated its intent to hold this proceeding in abeyance pending court review of Phillips. That review has now been completed and the Commission has been affirmed.[6]

The initial decision correctly concludes that this proceeding must be governed by our opinion in Phillips. When the certificate was issued to Southwest in 1960, Murphy's rights were inchoate. There is no indication in Southwest's original certificate application that it was dedicating anything but 100 percent of the reserves. Were we to agree with Murphy's contention we would be led to a situation where 100 percent of the gas would be dedicated for a period of time, then when the overriding royalty was converted into a working interest only part of the gas would be dedicated.

The certificate issued to Murphy in Docket No. CI72–135 does not bar our decision here. By accepting that certificate Murphy merely succeeded to Southwest's interest in the dedicated acreage. Murphy obtained no rights other than those Southwest already possessed under its existing certificate. Murphy's certificate did not reflect any change in the price of the gas, it merely changed the identity of the vendor.

Murphy is incorrect in its assumption that the issuance of a certificate in Docket No. CI72–135 constitutes res judicata regarding the questions presented here. In issuing the certificate of public convenience and necessity in 1971, the Commission specifically stated:

> (C) The grant of the certificate issued in paragraph (A) above shall not be construed as a waiver of the requirements of Section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's Regulations thereunder and is without prejudice to any findings or orders which have been or which may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against Applicant. Further, our action in this proceeding shall not foreclose or prejudice any future proceedings relating to the operation of any price or related provisions in the gas purchase contract herein involved. The grant of the certificate herein for service to the particular customer involved shall not imply approval of all of the terms of the contract, particularly as to the cessation of service upon termination of said contract, as provided by Section 7(b) of the Natural Gas Act. The grant of the certificate herein shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sale of natural gas subject to said certificate.

That statement in the order should have put Murphy on notice that by issuing a certificate of public convenience and necessity the Commission would not be estopped from instituting a rate investigation in the future.

The Administrative Law Judge concluded that Murphy is bound by the rates set out in the 1960 El Paso-Southwest contract. Although the 1960 contract did not contain a clause permitting a rate increase to the area or national rate, the current contract does contain such a clause. Accordingly, we find that the just and reasonable rate for this sale is the rate set out in Opinion No. 658 for the period June 22, 1974, to January 1, 1976. Effective January 1, 1976, the just and reasonable rate is the rate set by Opinion No. 749,[7] and Murphy

[3] Opinion No. 658, Area Rates for the Rocky Mountain Area, 49 FPC 924 (1973).

[4] *El Paso Natural Gas Company* v. *Perry R. Bass*, Opinion No. 683, 48 FPC 1269 (1972).

[5] El Paso Natural Gas Company, Opinion No. 737–A, Docket No. CP75–209, September 3, 1975; Phillips Petroleum Company, Opinion No. 750, Docket No. CI76–68, January 28, 1976.

[6] *Phillips Petroleum Company* v. *FPC*, No. 76–1216, Tenth Circuit, May 17, 1977.

[7] Just and Reasonable National Rates for Sales of Natural Gas From Wells Commenced Prior to January 1, 1973, Opinion No. 749, December 31, 1975.

is entitled under its contract to collect those rates for the periods indicated. Murphy shall refund, with interest, all amounts collected is this proceeding, in excess of such just and reasonable rates.

The Commission finds: (1) The initial decision of May 5, 1976, should be modified as noted above.

(2) Murphy Oil Corporation should be required to refund all monies received over and above the appropriate just and reasonable rates.

The Commission orders: (A) The initial decision of May 5, 1976, is modified as indicated herein.

(B) Murphy Oil Corporation on or before September 15, 1977, shall (1) file three copies of a final refund report covering all amounts in excess of the appropriate just and reasonable rate together with interest thereon at the rate of 7 percent per annum for the period prior to October 10, 1974, and at the rate of 9 percent per annum for the period after October 10, 1974, (2) disburse the refunds to Northwest, and (3) file a copy of a release from the purchaser with respect to such refunds, all subject to the approval of the Commission.

(C) On or before November 1, 1977, Northwest shall file with the Commission three copies of a plan regarding the disposition of the refunds received from Murphy Oil.

(D) Northwest shall hold the refunds until further notification by the Commission's Secretary as to their distribution.

(E) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-20033 Filed 7-12-77;8:45 am]

[Docket No. RP71-107 (PGA 76-1)]

NORTHERN NATURAL GAS CO.

Order Excluding Certain Emergency Purchases From Proposed Purchased Gas Adjustment Increase

JULY 6, 1977.

On October 24, 1975, Northern Natural Gas Company (Northern) tendered for filing a proposed purchased gas cost adjustment rate increase. By order of December 24, 1975, the Commission suspended the proposed rate increase for one day and set for hearing the question of the propriety of including certain sixty-day emergency purchases which were at a rate in excess of the rate levels prescribed in Opinion No. 699-H. On February 27, 1976, the Commission issued an order establishing a procedure by which the Commission could determine whether the prices paid by Northern for these sixty-day emergency purchases were prices a reasonably prudent pipeline purchaser would pay for the gas under the same or similar circumstances.

In response to the Commission's order Northern submitted certain information. On April 8, 1976, the Commission Staff transmitted a data request to Northern seeking additional information. Northern refused to provide the requested information. On May 7, 1976, the Staff filed a motion to compel production of the requested information. According to Staff, while this motion was pending Commission action, Northern submitted to the Staff certain of the information requested. On February 14, 1977, Staff filed a Motion Requesting Leave to Withdraw its Prior Motion and Requesting that Dates Be Established for the Submission of Comments Concerning the Reasonableness of the Emergency Purchases. By Secretary's notice of March 10, 1977, the Commission permitted Staff to withdraw its motion and set March 18 for the filing of the initial comments and April 18 as the date for filing reply comments.

In its comments Staff notes that Northern is seeking to include in its Purchased Gas Adjustment (PGA) increase $60,000 paid to onshore producers in excess of the applicable nationwide rate. Staff does not question the reasonableness of the prices paid by Northern, rather, Staff argues that any price in excess of the nationwide rate was not required to attract these supplies to the interstate market. Staff points out that Opinion No. 699-B, reinstating emergency sales noted that the purpose of this procedure was to obtain gas supplies which might otherwise not be available to the interstate market.

In its comments Staff alleges that prices in excess of the nationwide rate were not necessary to attract these particular supplies of gas to the interstate market. Staff alleges that all the gas at issue in this proceeding was previously dedicated to the interstate market. Staff notes that the sales from Amarada Hess Corporation to Northern, at a price of 60 cents per Mcf, were from wells which had been reclassified. Prior to the reclassification this gas had been sold as casinghead gas in interstate commerce to Warren Petroleum Company and Skelly Oil Company. Upon reclassification the Commission granted abandonment to Amerada Hess on the express condition that the gas continue to be sold in interstate commerce to Northern, *Amerada Hess Corporation*, Docket No. G-6318, et al., issued December 14, 1976. Northern's purchase from McCulloch Oil Corporation at 70 cents per Mcf, was from acreage on which Northern held a firm option for the purchase of the gas. Northerns purchase from Anadarko Production Company at 85 cents per Mcf was from a lease on which an agreement existed between Northern and Anadarko for Northern to purchase Anadarko's proportionate share of the gas produced. All of these statements were noted in Staff's initial comments filed on March 13, 1977. Neither in its comments nor reply comments did Northern attempt to rebut these allegations by Staff.

In support of its filing, Northern argues that, since the time of these purchases, the Commission has established just and reasonable rates for gas from wells commenced during the period of these purchases far in excess of the rates paid by Northern to these producers. Northern argues that this fact alone should be dispositive of the issues of the prudency of Northern's emergency purchases.

In reinstating the emergency sales procedure in Opinion No. 699-B the Commission stated that this procedure would be available to, "enable the interstate pipeline companies to negotiate for additional supplies of gas * * * which, for various reasons, might not otherwise be available to the interstate market for a long-term dedication at the national rate established in Opinion No. 699." The purpose of reintroducing the emergency sales procedure was to attract gas to the interstate market. In Opinion No. 699-B the Commission stated that it would allow rates for such sales, "as may be necessary to attract supplies of gas to the interstate market from the intrastate market."

It appears from the comments filed by the Commission Staff that a rate in excess of the nationwide rate was not necessary to attract this particular supply of natural gas to the interstate market. Northern has not attempted to rebut, in any manner, the statements contained within Staff's comments.

Northern argues that Staff's opposition is based on a nonexistent burden of proof. Northern argues that Opinion No. 699-B provided that the Commission will permit a pipeline to pass along, in its purchased gas costs, a rate for emergency purchases which a reasonably prudent pipeline purchaser would pay under the same or similar circumstances. One of the circumstances that is to be considered in determining whether the rate is prudent is whether or not the rate is necessary to attract the particular supply of gas to the interstate market. As noted above, one of the primary purposes of the emergency purchase provisions of the Commission's regulations is to attract gas to the interstate market that would not otherwise be available to it. Northern has failed to show that a reasonably prudent pipeline would have paid these costs, in excess of the nationwide rate, to attract this gas to the interstate market. Northen's argument that the rates set out in Opinion Nos. 770 and 770-A justify the rates it paid for these purchases must be rejected. The rates set forth in those opinions would not be applicable to the sales at issue in this proceeding and cannot govern them.

The Commission finds: Northern's proposed Purchase Gas Adjustment rate increase attributable to these sixty-day emergency purchases must be rejected.

The Commission orders: (A) The Purchased Gas Adjustment rate increase filing of October 24, 1975, is hereby modified to reflect the exclusion of the costs at issue in this proceeding.

(B) Within thirty days after the date of this order Northern shall file substitute tariff sheets reflecting changes in its Purchase Gas Adjustments consistent with this order.

(C) Within thirty days of the Commission's approval of applicant's substitute tariff sheets, applicant shall refund

to its customers all amounts, if any, collected in excess of those which would have been payable under the rates and charges approved in this proceeding. Applicant shall file a report of all refunds made pursuant to this order and shall file a copy of the refund report with the appropriate state commissions.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-20039 Filed 7-12-77;8:45 am]

[Docket No. ER77-464]

PUBLIC SERVICE CO. OF NEW MEXICO

Proposed Change in Rate Schedule

JULY 6, 1977.

Take notice that Public Service Company of New Mexico (PNM), on June 20, 1977, tendered for filing proposed changes in its FPC PNM Rate Schedules No. 31, 32 and 34, which provide time-of-day (TOD) rates to three wholesale customers, namely, Plains Electric Generation and Transmission Cooperative, Inc., Community Public Service Company, and U.S. Energy Research and Development Administration. PNM states that the proposed changes would increase revenues from the sales and services under the revised rates by $5,053,644 on the basis of PNM's sales during Period II.

PNM further states that estimates of its rate of return on its FPC Rate Schedules Nos. 31, 32, and 34 under Period II would be 3.665 percent. PNM indicates that this rate of return is not adequate to compensate the Company for increased costs, including increased operating and maintenance expenses, capital costs and return on equity to permit the Company to raise the necessary capital to continue the growth required to maintain adequate service to its customers. PNM proposes an effective date of August 1, 1977.

According to PNM copies of the filing were served upon the public utility's jurisdictional customers being served under these rate schedules and the New Mexico 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 §§ 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 July 13, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-20044 Filed 7-12-77;8:45 am]

[Project No. 2333]

RUMFORD FALLS POWER

Application for Change in Land Rights

JULY 6, 1977.

Public notice is hereby given that an application for change in land rights was filed on May 17, 1977, under the Federal Power Act, 16 U.S.C. §§ 791–825r, by Rumford Falls Power Company (Applicant) (Correspondence to: Richard E. Whiting, Esq., James H. Kendall, Esq., Whiting & Kendall, 44 Lowell Street, Rumford, Maine 04276) at Project No. 2333, known as the Rumford Falls Project. Project No. 2333 is located in the Town of Rumford, Oxford County, Maine, on the Androscoggin River, a navigable water way of the United States.

Applicant seeks Commission approval to grant an easement over two parcels of project lands to the Rumford-Mexico Sewage District for the installation and operation of municipal sewer pipelines. The sewer lines are a part of a proposed treatment facility which would provide primary and secondary sewage treatment for Rumford and Mexico, Maine, and the surrounding area.

Parcel No. 1, located upstream from the project's middle dam and adjacent to the intersection of Bridge Street and Prospect Avenue in Rumford, Maine, would consist of a 274-foot long and 20-foot wide area where an interceptor sewer would be installed.

Parcel No. 2 would consist of a 735-foot long and 20-foot wide area where a sewer line would be installed which would cross the Androscoggin River on the river bottom downstream from the Middle dam and adjacent to the intersection of Congress and Lowell Streets in Rumford.

The twinpipe siphon sewer line would consist of one 8-inch pipe and one 10-inch pipe buried side by side. Siphon sections above elevation 436 feet would be buried a minimum of four feet and sections below elevation 463 would be encased in concrete.

Applicant has requested the use of the shortened procedures set forth in Section 1.32(b) of the Commission's Rules of Practice and Procedure, 18 CFR § 1.32 (b) (1976).

Any person desiring to be heard or to make any protest with reference to said application should on or before August 15, 1977, file with the Federal Power Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, 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 (1976). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act, 16 U.S.C. 825g and 825h, and the Commission's Rules of Practice and Procedure, specifically Section 1.32(b), as amended by Order No. 518, a hearing on this application may be held before the Commission without further notice if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for Applicant to appear or be represented at the hearing before the Commission.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-20037 Filed 7-12-77;8:45 am]

[Docket No. RI77-102]

SUERTE OIL CO. (OPERATOR), ET AL.

Petition for Special Relief and Petition for Waiver of Section 157.40(c)

JULY 6, 1977.

Take notice that on June 8, 1977, Suerte Oil Company (Operator), et al. (Petitioner), P.O. Box 755, Hays, Kansas 67601, filed in Docket No. RI77-102 a petition for special relief pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76). Petitioner seeks to collect a rate of 60.58 cents per Mcf for the sale of natural gas to Kansas-Nebraska Natural Gas Company from the F. E. Good No. 1 Well located in Hamilton County, Kansas. Petitioner indicates that the proposed rate increase is necessary in order for Petitioner to install, operate, and maintain a pumping unit on the well to prevent gas waste and to increase the potential for recovering gas reserves, and to rework the well to repair a casing leak.

Petitioner also requests a waiver of Section 157.40(C) of the Commission's Regulations (18 CFR § 157.40(c)) in order to amend Petitioner's small producer certificate to cover sales of natural gas previously covered under Atlantic Richfield Company's FPC Gas Rate Schedule No. 551.

Any person desiring to be heard or to make any protest with reference to said petition should on or before July 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). 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 party wishing to become a party to a proceeding, or to participate as a party in any hearing there-

in, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-20098 Filed 7-12-77;8:45 am]

[Docket No. ER76-20]

SUPERIOR WATER LIGHT & POWER CO.

Order Approving Settlement

JULY 6, 1977.

On February 18, 1977, the Superior Water, Light & Power Company of Superior, Wisconsin (Superior), submitted for filing a proposed Settlement Agreement in the above designated docket. Presiding Administrative Law Judge George P. Lewnes certified the proposed settlement to the Commission on February 25, 1977.

Docket No. ER76-20 was initiated on July 23, 1975, when Superior tendered for filing a proposed increase in rates to its only jurisdictional customer, Dahlberg Light and Power Company (Dahlberg). The proposed rates provided for an increase of $81,818 (10.4 percent) based upon twelve months ending March 31, 1975. Notice of Superior's filing was issued on July 31, 1975, with petitions to intervene or protest due on or before August 12, 1975. In response to that notice the Public Service Commission of Wisconsin (Intervenor) filed an out of time petition to intervene on August 28, 1075. By order issued September 16, 1975, the Commission granted late intervention to the Public Service Commission of Wisconsin. Dahlberg did not petition to intervene.

By order issued August 21, 1975, the Commission accepted the proposed rate change for filing, suspended the rates for five months until January 22, 1976, consolidated this filing with its parent company's filing in Docket No. E-9502, directed Superior to file substitute sheets reflecting revised rates from its supplier MP&L as a result of the Commission's Order of July 18, 1975, in Docket No. E-9502, and set the matter for hearing. On September 22, 1975, Superior complied by filing revised rate W-4 substitute sheets to its case-in-chief.

Staff served its testimony and exhibits on February 23, 1976. A hearing of the consolidated proceedings was held on June 2, 1976.

An Initial Decision for Minnesota Power & Light, Docket No. E-9502 et al. was issued on February 25, 1977, and Briefs on Exceptions and Opposing Exceptions have since been filed. Docket No. ER76-20 was separated from Minnesota for purposes of the decision and briefing in order for the parties to continue discussion on possible settlement.

As a result of various conferences and discussions in the instant docket, an agreement was filed on February 18, 1977. The Settlement Agreement was certified by the ALJ on February 25, 1977. Notice of the settlement agreement was issued on March 7, 1977, with comments due on or before April 11, 1977. Staff filed its comments supporting the settlement on April 5, 1977.

The settlement provides for an increase in Superior's rates for service to a wholesale customer, Dahlberg Light and Power Company, of $19,845, plus an increase in the cost of power purchased by Superior from Minnesota Power & Light Company (MP&L) under the rates finally approved by this Commission in Docket No. E-9502. It also provides that Superior shall refund to Dahlberg all amounts collected, subject to refund in this docket in excess of the amounts determined as the approved rates in Docket No. E-9502.

The proposed settlement further provides that in the event the Commission, upon final order in the proceeding in Docket No. E-8494, reduces the ratchet on demand contained in MP&L's proposed Rate Schedule No. 90, Superior will reduce the ratchet on demand contained in its proposed Rate Schedule W-4 (revised), Resale Service—Municipalities and Private Utilities, by an equal percentage.

Based on our review of the record in these proceedings, including the settlement agreement itself, we conclude that the Settlement Agreement represents a reasonable resolution of the issues in the proceeding in the public interest, and that accordingly the settlement should be conditionally approved, effective January 22, 1976, pending Commission decision on exceptions in E-9502. Additionally, the settlement requests deferral of compliance filings until after decision in the Docket No. E-9502 proceeding. For the purposes of computing settlement revenues authorized in Docket No. ER76-20 a 0.01 percent decrease in the rate of return on common equity is determined to require a $56 decrease in test period revenues. We believe that adherence to those settlement requests is in the public interest.

The Commission finds: The proposed Settlement Agreement should be approved and made effective as hereinafter ordered and conditioned.

The Commission orders: (A) The Settlement Agreement certified to the Commission by the Presiding Administrative Law Judge in these proceedings is hereby accepted, incorporated herein by reference and approved subject to the following conditions.

(B) Within 30 days from the date of the Commission's final order in Docket No. E-9502, Superior shall file with the Commission revised tariff sheets in conformance with the Settlement Agreement.

(C) The Superior Water, Light and Power Company shall defer the filing of a compliance report until the final order is issued by this Commission in Docket No. E-9502. When that order is issued, the compliance report shall be filed 15 days thereafter. Such report shall show monthly billing determinants and revenues under prior, present and settlement revenues. The report shall also show the monthly settlement rate increase, the rate of refund, and the monthly interest computation together with a summary of such information for the total refund period. A copy of such report shall also be furnished to each State Commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

(D) This order is without prejudice to any finding or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff, or any party or person affected by this order, in any proceeding now pending or hereafter instituted by or against Superior or any person or party.

(E) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-20041 Filed 7-12-77;8:45 am]

[Docket No. ER77-473]

SUPERIOR WATER, LIGHT & POWER CO.

Proposed Changes in Rates and Charges

JULY 6, 1977.

Take notice that Superior Water, Light and Power Company (SWL&P), on June 27, 1977, tendered for filing proposed changes in its FPC Electric Rate Schedule No. 12. SWL&P indicates that the proposed changes would increase revenues from jurisdictional sales and service.

SWL&P indicates that the proposed rate changes and rate charges are designed to increase the revenue from Dahlberg Light & Power Company (Dahlberg), SWL&P's only jurisdictional customer, sufficiently to recover the proportionate share of the increase in the cost of purchased power from SWL&P's supplier and to raise the rate of return on the investment necessary to serve Dahlberg to an acceptable level.

According to SWL&P, copies of the filing were served upon Dahlberg and Public Service Commission of Wisconsin.

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 §§ 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 July 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-20095 Filed 7-12-77;8:45 am]

[Docket No. ER77-476]

VIRGINIA ELECTRIC & POWER CO.

Tendered Revised Contract Supplement

JULY 6, 1977.

Take notice that on June 24, 1977, Virginia Electric and Power Company (VEPCO) tendered for filing revised supplements to the contract between VEPCO and Roanoke Electric Membership Corporation. VEPCO states that the revised contract supplements correct certain items to reflect changes made in the past at delivery points as set forth below:

Delivery point	Present FPC No.	Present FPC No.	Item corrected
Anlander	92-2	92-22	3, 4, 5 (2), (3), 8, and 9.
Conway	92-4	92-23	3, 4, 5(2), (3), 8, and 9.
Eason's Crossroads	92-11	92-24	3, 4, 5(2), (3), and 8.
Gum Fork	92-6	92-25	3, 4, 5(2), 8, and 9.
Halifax	92-7	92-26	3, 4, 5(3), 8, and 9.
Jackson	92-9	92-27	3, 4, 5(2), (3), 8, and 9.
Merry Hill	92-8	92-28	3, 4, 5(2), (3), 8, and 9.
Roduco	92-12	92-29	3, 4, 5(2), (3), 7, and 8.
Windsor	92-5	92-30	3, 4, 8, and 9.
Woodville	92-3	92-31	3, 4, 5(2), (3), 8, and 9.

VEPCO states that the revised contract supplements are intended to supersede the listed FPC Rate Schedules and requests waiver of the Commission's notice requirements to allow the revised supplements to become effective on June 24, 1977.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 14, 1977, 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. This application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-20094 Filed 7-12-77;8:45 am]

[Docket No. ER77-474]

WISCONSIN PUBLIC SERVICE CORP.

Tariff Change

JULY 6, 1977.

Take notice that Wisconsin Public Service Corporation (Wisconsin) on June 27, 1977, tendered for filing a new Agreement with Consolidated Water Power Company (Con Wa), of Wisconsin Rapids, Wisconsin, to replace in its entirety the Interconnection and Emergency Energy Agreement with Con Wa dated February 22, 1973, and the amendments and the supplements thereto, which are presently on file as Wisconsin's FPC Electric Tariff No. 31, and which provide for interchange of Off-Peak and Emergency Energy, Authorized Dump Hydro Energy, and Stabilizing Energy.

According to Wisconsin change in revenue as a result of this new Agreement is unknown as the quantities of energy to be exchanged are indeterminate.

Wisconsin requests a waiver of the Commission's notice requirements so as to allow an effective date of July 1, 1977, for this filing.

Wisconsin indicates that the rates for the services covered by the current agreement are not being increased, and the new Agreement merely adds new services, rates, and rules.

According to Wisconsin copies of the filing were served upon Con Wa and the Public Service Commission of Wisconsin.

Any persons 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 July 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-20096 Filed 7-12-77;8:45 am]

[Docket Nos. RP73-107, RP74-90, RP75-91]

CONSOLIDATED GAS SUPPLY CORP.

Pipeline Rates; Order Approving Settlement Agreement Subject to Conditions and Prescribing Reasonable Rate of Return

JULY 5, 1977.

On August 10, 1976, Administrative Law Judge Stephen L. Grossman certified to the Commission a settlement agreement in resolution of all cost of service issues raised in these consolidated proceedings, with the exception of rate of return, which the parties are contesting in comments to the Commission. Judge Grossman also certified portions of the record pertinent to the cost of service issues. On December 10, 1976, Judge Grossman rendered his Initial Decision determining the issues cost allocation, cost classification, and rate design issues in these proceedings. The Commission will approve the settlement agreement and establish a fair rate of return in this order and will issue a separate opinion and order in consideration of the cost allocation, classification and rate design issues. Controversies concerning depreciation and pipeline production have been severed from these proceedings and will be considered at a later date.

PROCEDURAL BACKGROUND

On May 15, 1973, Consolidated Gas Supply Corporation (Consolidated) tendered for filing with the Commission proposed tariff sheets reflecting increased rates and charges in Docket No. RP73-107. By order issued on June 29, 1973, the Commission accepted the tariff sheets for filing, suspended the effective date of the proposed rates until December 1, 1973, and granted intervention to several interested parties.

On May 16, 1974, Consolidated filed proposed tariff sheets for additional rate increases in Docket No. RP74-90. The Commission on June 24, 1974, accepted the tariff sheets for filing, suspended their effectiveness until December 1, 1974, and on September 13, 1974, consolidated Docket No. RP74-90 with Docket No. RP73-107. In the interim the Commission issued Opinion No. 703,[1] determining just and reasonable rates in Consolidated's earlier filing, Docket No. RP71-77. Consolidated thereupon filed in these consolidated proceedings substitute tariff sheets complying with the Commission's decision in Opinion No. 703. The Commission accepted the substitute tariff sheets for filing to become effective on December 1, 1974.

Consolidated filed tariff sheets seeking an additional rate increase in Docket No. RP75-91 on April 16, 1975. On May 19, 1975, the Commission issued an order accepting the proposed tariff sheets and suspending their effectiveness until November 1, 1975. These proceedings were consolidated with the proceedings in Docket Nos. RP73-107 and RP74-90 by a Commission order issued on August 25, 1975.

UNCONTESTED SETTLEMENT AGREEMENT

During a joint settlement conference held on August 6, 1976, in Docket No. RP75-91, the presiding Administrative Law Judge admitted into evidence Exhibit No. 36, which is a settlement agreement concerning cost of service issues in Docket Nos. RP73-107, RP74-90 and RP75-91. The company also filed a motion for approval of the agreement. Upon certification of the stipulation and the record to the Commission, Consolidated, Public Service Company of the State of New York (PSNY), New York State Electric and Gas Corporation (NYE&G),

[1] Consolidated Gas Supply Corporation, Docket No. RP71-77, Opinion No. 703 issued on August 28, 1974.

Rochester Gas and Electric Corporation (RG&E) and Staff filed initial comments. Both Consolidated and Staff filed reply comments.

The settlement agreement is based upon Staff's adjusted cost of service. Cost of service data was filed in four statements appended to the settlement agreement: Statement A sets forth the Staff's cost of service for the twelve month locked-in period ending November 30, 1974; Statement B shows Staff's cost of service for the twelve month period ended October 31, 1974; Statement C consists of Staff's cost of service for the twelve months ended September 30, 1975. Statement D shows the controverted capitalization ratios, rates of return on common equity, and overall rates of return for the three locked-in periods covered by Docket No. RP73–107, Docket No. RP74–90, and Docket No. RP75–91.

Article I of the stipulation provides that Consolidated will make the appropriate rate reductions and issue refunds only upon the parties' settlement of or the Commission's decision with respect to the issue of cost allocation and rate design. Consolidated also reserved its right to offer additional testimony on the depreciation issue remaining in Docket No. RP75–91.

Under Section 1 of Article II Consolidated may increase or decrease its rates to track changes in rate base caused by net changes in the amount of outstanding advance payments. The changes are to be determined "by multiplying 17.73 percent times the difference between (a) the amount of outstanding advance payments and (b) the amount $14,658,415 included in the rate base used in determining the cost of service underlying Statement C, or this base amount adjusted to reflect piror changes under this Article." Consolidated agreed to calculate any changes in rates on a volumetric basis. The company is required under this settlement agreement to submit in its tracking filings an affidavit explaining the basis of the change and describing any new agreements proposed to be tracked.

Section 2 of Article II allows Consolidated to track changes in its cost of service for the cost of gas transported by others. The amount to be tracked shall be calculated as the amount by which annual transportation costs differ from the base amount of $14,524,656 (see Statement C). Changes in rates are to be calculated on a volumetric basis. The agreement also provides that Account No. 191, Unrecovered Purchased Gas Costs, shall be credited with refunds, including interest, applicable to rate schedules used in computing the base amount. The Commission will require those refunds to include interest at an annual rate of 9 percent.

In Article III, the parties reserve their rights to contest matters not provided for in the stipulation.

The Commission hereby accepts and approves the uncontested aspects of the settlement agreement, as they are in compliance with the Commission's rules and regulations.

Contested Portions of Settlement Agreement

1. Coal Gasification

Rochester Gas and Electric Corporation (RG&E) objects to the exclusion from the settlement cost of service of Consolidated's investment in coal reserves for future coal gasification plants. A full requirements customer of Consolidated, RG&E regards these expenses as reasonable and necessary to assure RG&E and other customers that their future demands will be met. RG&E proposes that the following amounts be included in Consolidated's cost of service for coal gasification expenses:

RP73–107	$595,700
RP74–90	$507,300
RP75–91	$875,500

RG&E further objects on the basis that, if these expenses are directly excluded from the cost of service, Consolidated's customers will be forced to bear these expenses indirectly, by providing Consolidated's investors with a higher return on common equity to compensate them for the risks created by dwindling gas supplies. In essence, RG&E's complaint is that "by paying for the coal gasification project indirectly rather than directly, the customers of Consolidated lose the protection of this Commission, * * * (which should) have jurisdiction over to whom the output of the project is sold and at what rates it is sold."[2]

RG&E correctly notes that the Natural Gas Act, does not give the Commission the jurisdiction over gasified coal. RG&E therefore suggests that Consolidated could "contractually give the Commission practical jurisdiction,"[3] and claims that Consolidated expressed a willingness to agree to appropriate terms and conditions regarding this matter.[4]

In reply to RG&E's comments, Staff argued that consumers should bear only those costs related to natural gas which they are receiving or have a reasonable expectation of receiving. Because Consolidated's ratepayers are not receiving any gas produced by coal gasification, and because they do not expect to receive any such gas in the near future, Staff reasons that the consumers should not bear costs of coal gasification until it is a reality.

In rebuttal to RG&E's reliance upon the settlement approved in "Texas Gas Transmission Company," supra, in support of its suggestion that Consolidated "contractually give the Commission practical jurisdiction" over this matter. Staff adequately distinguished the "Texas Gas" settlement from the present case:

> First, the Texas Gas provision on inclusion of coal reserves in rate base was dependent upon the outcome of litigation concerning the properiety of such inclusion. In the context of the instant case, this question comes before the Commission as a settlement proposal which does not offer the full hearing of litigation. Second, the instant proposal contains no language similar to that in the Texas Gas Agreement that Consolidated would agree to place any gas which may result in its jurisdictional flow of gas. (Staff Reply Comments at p. 3.)

The Commission pronounced its policy on the inclusion of expenses for coal reserves for gasification in "Michigan Wisconsin Pipe Line Company:"

> Our lack of jurisdiction over coal gasification facilities does not, standing alone, prevent this Commission from approving expenditures to such projects if the Commission believes such expenditures will yield substantial benefits to the consumer within a reasonable period of time.[5]

There is no evidence on the record demonstrating that the expenes for coal reserves will yield benefits for RG&E or other customers. There is no certainty that Consolidated will ever actually mine the coal or gasify it. The Commission finds that, in the interests of the consumers, expenses for the company's coal reserves should not be included in Consolidated's cost of service.

2. Savings on Reacquired Debt in Long Term Debt

None of the parties dispute the capital structure in Docket Nos. RP73–107 and RP74–90, as of December 31, 1974, as adjusted:

	Amount[1]	Ratio	Cost	Return components
		Percent	*Percent*	*Percent*
Long-term debt	575,384	44.22	6.35	2.81
Preferred stock	50,000	3.84	10.96	.42
Common equity	675,694	51.94		
Total	1,304,078	100.00		

[1] In thousands of dollars.

Consolidated's settlement proposal indicates the settlement cost of long term debt to be 6.35 percent, which includes savings from reacquired debt. Nonetheless, Consolidated attached to its initial comments on the settlement agreement excerpts from its initial brief in these proceedings, in which Consolidated argued that these savings should be excluded from long term debt. Staff voiced its understanding that the parties agreed to a 6.35 percent cost of long term debt. In rebuttal to Consolidated's position, Staff appended to its comments excerpts from its briefs filed in these proceedings on the subject.

In keeping with the Commission's policy on reacquired debt as set forth in

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[2] RG&E comments on Settlement Proposal, at 2–3.

[3] Ibid., citing Texas Gas Transmission Corporation, Docket No. RP76–17, Stipulation and Agreement filed on July 23, 1976.

[4] Tr. 1087.

[5] 51 FPC 2408, 210 (1974); See also Michigan Wisconsin Pipe Line Company, 52 FPC 342 (1974); Michigan Wisconsin Pipe Line Company, 52 FPC 928 (1974); Southern Natural Gas Company, Docket No. RP74–93, Order Denying Petition for Declaratory Order, issue on September 4, 1974, an Order Denying Applications for Rehearing and Reconsideration, issued on October 30, 1974.

Opinion No. 583,[6] the Commission finds that all discounts and savings associated with the reacquisition of debt should be amortized over the remaining life of the old debt, and the amortized amount then be included as a credit to the embedded cost of debt. This policy insures that the consumer who pays the carrying charges for long term debt will benefit from the savings realized from reacquisition. We find that a 6.35 percent cost of long term debt in Docket No. RP73–107 and Docket No. RP74–90 is equitable.

3. RATE OF RETURN

Consolidated, the Public Service Commission of the State of New York (PSNY), and the Commission Staff contest the level of return on common equity and overall rate of return in Docket No. RP73–107, Docket No. RP74–90, and Docket No. RP75–91. Consolidated proposes a 12.0 percent rate of return on common equity, with a 9.46 percent overall return, for the period covered by Docket No. RP73–107, and proposes a 12.25 percent return on common equity and 9.59 percent overall return in Docket No. RP74–90. PSNY supports Consolidated's proposal in Docket No. RP73–107, but recommends these same levels of return be maintained in Docket No. RP74–90. Staff advocates a return on common equity of 11.63 percent, with an overall return of 9.27 percent in both Docket No. RP73–107 and Docket No. RP74–90. In Docket No. RP75–91, Consolidated requests an overall return of 10.50 percent with a 13.58 percent return on common equity. PSNY recommends an overall return ranging from 9.81 percent to 9.83 percent with a return on common equity between 12.25 percent and 12.30 percent. Staff recommends an overall return ranging from 9.48 percent to 9.67 percent, with a return on common equity of 11.63 percent to 12.00 percent.

Consolidated is a wholly-owned subsidiary of the Consolidated Natural Gas Company (Consolidated Natural). All of its financing is obtained through the parent company. All parties agree that as a result of this relationship the proper capital structure to use for determining the overall rate of return is that of Consolidated Natural. It is further agreed that the cost of money to Consolidated Natural is representative of the cost of money to Consolidated. Accordingly, the costs of debt and preferred stock are that of the consolidated parent and analysis of return on common equity is based on financial and market indicators of Consolidated Natural.[7]

(a) *Docket No. RP73–107 and Docket No. RP74–90.* Consolidated considered five criteria in establishing its proposed rates of return for the locked-in periods covered by Docket No. RP73–107 and Docket No. RP74–90: Current market conditions, the yield and growth rate available to its investors, the company's earnings on book value as compared with other investment opportunities, its market to book ratio, and Consolidated's future needs for additional capital.[8]

Consolidated testified that the increasing shortage of gas supplies has made it necessary for gas supply corporations to invest in programs designed to develop additional sources of natural gas.[9] Consolidated Natural has invested considerable sums of capital in these programs, and testified that its capital expenditures for the five year period from 1973 to 1977 would amount to $920,000,000, or about $184,000,000 annually.[10]

The Commission Staff noted that between 1969 and 1973 the utility industry has made greater demands for capital under less than favorable conditions, and agrees that over the period from 1973 to 1978 the industry would far exceed those high demands.[11] The Staff confirmed Consolidated's testimony as to the decreasing reserve to production ratio caused by severe curtailments of natural gas for the pipeline industry as a whole.[12] Staff did however place Consolidated into proper perspective operationally.

Consolidated Gas Supply is the Consolidated Natural Gas Company's interstate transporter and seller of gas to Consolidated's distribution subsidiaries, located primarily in the states of Pennsylvania, Ohio, West Virginia, and New York. As of 1973, the system acquired natural gas through its own production in Louisiana and Appalachia (12 percent), from the Southwest through purchases from five interstate pipeline companies (75 percent), and from Appalachian area producers (13 percent).

Consolidated's gas supply posture would appear to be somewhat better than the interstate transmission industry, as a whole. According to 1974 data filed with the FPC, Consolidated's Reserve/Life Index stood at 17.2, and its Reserve/Production Ratio was about 19.1. Curtailments by Consolidated during the first quarter of calendar year 1975 amounted to 10,192,000 Mcf, or approximately 1.5 percent of industry-wide curtailments represented by some 22 pipeline companies. Based on Form 16 filing, Consolidated projects a deficiency of 43,756,000 Mcf, or 5.6 percent firm requirements which is well below total industry projected deficiency of 15.8 percent for the period, September 1974–August 1975. Moreover, Consolidated could well improve its supply posture through supplemental gas projects such as SNG and imported LNG, as well as additional reserves from Canada and the Texas-Louisiana coastal area.

On the other hand, the four interstate pipeline companies that supply Consolidated Gas Supply with the vast majority of its gas are faced with curtailments that eventually could place Consolidated in a relatively vulnerable position. For example; the four companies, Texas Eastern, Tennessee Gas, Transcontinental, and Texas Gas, had curtailments during the first quarter of 1975 of 148,657,000 Mcf, or over 22 percent of the total curtailments of the 22 major pipeline companies.[13]

Consolidated's Exhibits Nos. 18 and 22 provide an overview of the rapid growth of the economy and the rate of inflation experienced by this nation historically. Consolidated emphasized the prevailing high interest levels and the general increase on cost of debt capital for utilities at the time these filings were made.[14] The Commission Staff agreed that inflation has had a tremendous effect upon the cost of capital goods, which added pressure to the capital markets. Staff stated that the high interest rates during the period 1969 through most of 1974 were principally a function of increasing inflationary expectations by investors and that the "inflationary rate has been reduced substantially from the 12 percent yearly rate of 1974 to around 7 percent." Staff also cited projections of further declines. Referring to Opinion No. 703 which emphasized trends in interest rates, Staff stated that "the trend * * * during the period 1965–1971, or even through the time Opinion 703 was drafted in 1974, should [not] be considered as irreversible as the Opinion implies." Staff's disagreement was with the permanence and degree of long-term interest rate increases suggested by the Opinion. Staff, however, agreed that the trends in long term interest rate has been upward and that it should and was considered in Staff's recommended rate of return on equity. On cross-examination this point was clarified when Staff stated its belief that interest rates would decline during the first half of 1976.[15]

Consolidated testified that the company realized "substantially less return on its average common equity than any of [Moody's] Gas and Electric industry groups."[16] Consolidated attributes the depressed market value of it's stock to its low equity returns through 1972.[17] Staff employed the comparable earnings approach to demonstrate what returns would be on the best alternative investments as compared to those of Consolidated. Staff's Exhibit No. 43 also shows that Consolidated has been experiencing lower returns on common equity than other utility groups. Staff however finds this to be largely the result of its substantially higher common equity ratio. The Staff's exhibits show that high busi-

[6] Manufacturers Light and Heat Company, et al., 44 FPC 314 (1970). See also, Consolidated Gas Supply Company, Docket No. 71–77, Opinion No. 703 issued on August 28, 1974, at 12–13; Kansas-Nebraska Natural Gas Company, Docket No. RP72–32, Opinion No. 731 issued on May 15, 1975, at 24–25.

[7] Tr. 55, 196.

[8] Tr. 62 and 92.

[9] Tr. 82; See also, Tennessee Gas Pipeline Company, Docket No. RP73–113, Opinion No. 769 issued on July 9, 1976, at 11.

[10] Tr. 83–84, 98, 123–125, and 141–142.

[11] Tr. 194.

[12] Tr. 95. Consolidated's curtailments in 1973 amounted to only 1.5 percent of the total curtailment.

[13] Tr. 195–196.

[14] Tr. 67–69 and 93; Exhibit No. 18, Tables 11 and 12; Exhibit Nos 22, Table

[15] Tr. 192–193, 197–199, 203–205.

[16] Tr. 74 and 95; Exhibit No. 18, Tables 28 and 29; Exhibit No. 22, Table 28.

[17] Tr. 75; Table 31 of Exhibit No. 18 shows that in 1972 Consolidated's stock sold at 9.2 percent less than its book, as compared to an average market price of 18.7 percent above book value for Moody's 10 Integrated Natural Gas Companies. Staff noted that Consolidated's market to book ratio had improved by the time its testimony was written (Tr. 199).

ness risk industrials use a capital structure containing significantly more common equity and fewer senior debt obligations than regulated utilities. Staff testified that Consolidated's stronger equity ratio was a positive factor, since its after tax coverages have consistently exceeded those of other utility groups. This financial stability has resulted in Consolidated's Aa bond rating by Moody's, whereas most pipeline bonds are much lower. Staff stated that these three indicators reveal that Consolidated's financial risk is relatively lower than that of comparable groups.[29]

While Consolidated agrees that its high bond rating is a result of its high equity ratio, the company argues that its equity ratio has no direct relationship to the allowance of return on common equity:

> At best the equity ratio of Consolidated is a modest plus factor in a comparison of risk, but a plus factor which is more than offset by the Company's relatively poor return on equity as shown on Table 29; the tendency of its equity to sell at market prices below book value compared to the premium sales price of comparable companies as shown on Table 22; and the relatively high yield plus growth cost evidence reflected in a comparison of Table 27 with Tables 15, 17, 19, 21, and 23 (of Exhibit Nos. 18 and 22). * * * [T]here is on balance no reason why the equity allowance for Consolidated should not be directly comparable with various other gas utility groups * * * There is therefore no basis whatsoever for an arbitrary reduction in the equity allowance based upon a 52 percent equity ratio. To treat Consolidated's equity on this basis would merely perpetuate its poor earnings record, drive its equity-market value further below the book value and make it impossible for the Company to finance through the sale of equity securities at a reasonable cost and without dilution of the investment of the existing stockholders.[30]

Consolidated's earnings-price ratio has climbed from 8.4 in 1968 to 11.2 in 1972. With an allowance of 10 percent for issuance costs, the average earnings-price ratio for the 12 months ending April, 1973 was 12.04, having fluctuated between 10.98 and 13.30. Consolidated argues that "in no event can the cost of equity capital (and thus the required return on equity) to Consolidated be less than 12 percent and that it is, in fact, some higher" for Docket No. RP73-107.[31] Using the same reasoning, Consolidated concluded from Exhibit 22, showing a 13.7 percent earnings price ratio for the 12 month period ending March, 1974, that 12.5-13.0 percent return on equity was necessary in Docket No. RP74-90.[32] Consolidated's settlement proposal requests a return on common equity of 12.0 percent with an overall return of 9.46 percent in Docket No. RP73-107 and a return on common equity of 12.25 percent with an overall return of 9.59 percent in Docket No. RP74-90.

[29] Tr. 196-197.
[30] Tr. 78-79; Exhibit No. 18, Tables 37 and 38.
[31] Tr. 79-82.
[32] Tr. 97-99.

Staff's Exhibit No. 43 shows that in comparing the price-earnings multiples (P/E) (which is the reciprocal of the earnings-price ratio) of Consolidated and other companies, Consolidated was in a more favorable position than industrials and utilities. The trend for P/E for most industrials and utilities fluctuated, while that of Consolidated was considereably more stable. While the P/E levels for industrial was fairly stable for four consecutive years, they dropped sharply by about 4.5 in 1973. A slighter decline was experienced by utilities in 1973, with the exception that Consolidated showed a gain which placed it above the P/E of Class A and B pipelines and close to that of Moody's utilities.

In addition to considering comparable earnings of other investment opportunities, Consolidated calculated its proposed return on common equity on the basis of dividend yield plus anticipated growth.[33] Consolidated determined that the "sum of the dividend yield of 6.97 percent, and the rate of earnings growth of 6.21 percent of the period of 1962-1972 together with the 10 percent cost factor gives an indicated cost of equity capital for Consolidated Natural Gas Company of 14.6 percent".[34] While Consolidated does not find its dividend yield study to be conclusive, the company employed its study to provide that the return on equity for Consolidated Natural Gas Company should be in the 12 percent to 13 percent range for the period covered by Docket No. RP73-107.[35] For Docket No. RP74-90, Consolidated calculated that the "sum of the dividend yield of 8.33 percent and the rate of earnings growth of 5.10 percent for the period 1963-1973 together with the 10 percent cost factor gives an indicated cost of equity capital to Consolidated Natural Gas Company of 14.9 percent."[36] As Consolidated did not place much credence in these statistics, neither will the Commission.

Consolidated argues that its proposed returns on common equity are in line with recent Commission precedent. The company compared its proposed return on common equity of 12.0 percent in Docket No. RP73-107 to that of the 13.69 percent allowed to Tennessee Gas Pipeline Company in Docket No. RP73-113.[37] Consolidated also compared its request for a 12.25 percent return on common equity in Docket No. RP74-90 with the 13.50 percent allowance on common equity allotted to Natural Gas Pipeline Company of America in Docket No. RP74-96.[38] As pointed out by PSNY, however, the ratio of common equity in all three Consolidated dockets at issue here stands, in excess of 50 percent. A key factor in supporting the equity return levels in the "Natural" and "Tennessee" cases, however, was the lower equity ratios for those companies. Natural's equity ratio was 36.38 percent in Docket No. RP74-96, and Tennessee's equity ratio in Docket No. RP73-113 was 37.09 percent. If Consolidated's equity ratio were also around 37 percent, the return on equity would be actually 14.48 percent based on the 9.59 percent claimed in Docket No. RP74-90, and using 58 percent debt and 5 percent preferred and the costs as indicated in Consolidated's capital structure on page 7, supra.

[33] Tr. 69-74 and 94-95.
[34] Tr. 73.
[35] Tr. 74.
[36] Tr. 95.
[37] Opinion No. 769, issued on July 9, 1976.
[38] Opinion No. 762, issued on May 21, 1976.

The Commission does not find Consolidated's low returns on common equity to be cause for great concern in consideration of the company's high percentage of equity in its capital structures. The Aa rating of its bonds and its high after tax coverages indicate financial strength based upon the company's low proportion of debt. It stands to reason that the lower the degree of leverage, or amount of debt, the smaller the financial risk faced by investors, and the lower the return on common equity required by the company to compete for investor's funds. While we agree with Consolidated that "there is no basis for an arbitrary reduction in the equity allowance based upon a 52 percent equity ratio," the Commission finds that the equity ratio is a major factor to be considered in these proceedings. Upon review of the record for Docket No. RP73-107, the Commission finds that a return on common equity of 11.75 percent resulting in an overall rate of return of 9.33 percent is both just and reasonable, falling within the zone of reasonableness for the period covered by these two dockets. The Commission notes that while this rate is only slightly above that granted in the preceding docket and recommended for both Docket Nos. RP73-107 and RP74-90, by Staff, it is fully supported by the record evidence.

While the record shows that Consolidated fared as poorly as other utilities experiencing declining market-to-book and price-earnings ratios, the market in general showed some improvement during the locked-in period covered by Docket No. RP74-90:

> While we would not be justified solely using hindsight to evaluate the evidentiary presentations, we cannot ignore the market improvement that occurred after Natural filed its case. * * * We also note for illustrative purposes in this context that the Federal Reserve discount rate, which was 8 percent from April to December 1974, declined to 6¼ percent by March 1975. Similarly, the bank prime rate declined from as high as 12 percent in July 1974 to 7½ percent by the end of March 1975.[39]

Staff in fact testified that at the time of hearings in Docket No. RP74-90, long term interest rates has returned to approximately the level existing in 1970, after reading unprecedented highs, during the interim.[40] We therefore find that the rate of return allowed in Docket No. RP73-107 should be maintained in Docket No. RP74-90.

(b) *Docket No. RP75-91.* The most recent of the three consolidated proceed-

[39] Opinion No. 762, at 16-17.
[40] Tr. 198.

ings, Docket No. RP75–91, covers a locked-in period extending from November 1, 1975 to April 30, 1977. During a joint settlement conference held on August 6, 1976, the presiding Administrative Law Judge received into evidence testimony and exhibits prepared by Consolidated and the Staff on cost of service issues, including rate of return, in Docket No. RP75–91. None of the witnesses for the company or the staff were cross-examined on their testimony. The settlement agreement concerning all cost of service issues in the three consolidated dockets was also received in evidence on August 6, 1976.[30]

In proposing a rate of return on common equity and overall rate of return in Docket No. RP75–91, Consolidated used the same five criteria employed in Docket No. RP73–107 and Docket No. RP74–90. Consolidated's Exhibit No. 2 shows the inflationary trends in the nation's economy and higher costs of capital. Consolidated witness N. K. Davis testified that the parent company must now engage in costly and risky projects to ease the burdens created by the shortages of natural gas supplies. He anticipated that for the five year period from 1975 to 1979 Consolidated Natural's capital expenditures would total $970,000,000, or an average of $194,000,000 per annum. In comparing these projected figures with the expenditures for the five year period ending in 1974, which amounted to $611,700,000 or $122,300,000 annually, Mr. Davis concluded that Consolidated's future capital requirements will exceed previously experienced capital needs by about 59 percent.[31] Consolidated plans to finance part of its capital requirements through the issuance of common stock by Consolidated Natural. However, the company postponed plans to issue common stock in 1973 and 1974 due to unfavorable market conditions.[32] The company seeks a return on equity of 13.58 percent in Docket No. RP75–91 to attract additional capital.

Staff agrees with Consolidated that higher money rates created by inflation and increased operating costs unfortunately came at a time when greater amounts for capital were needed to develop additional natural gas supplies.[33] Staff does point out, however, that the current rate of inflation has been declining substantially: the 12 percent yearly rate for 1974 dropped to 7 percent for the last quarter of 1975, and the rate was projected to decline further to 5–6 percent for 1976 when Staff's testimony was filed.[34] As Staff noted in Docket Nos. RP73–107 and RP74–90, Consolidated's gas supply situation is better than that of the industry as a whole: the company projected a deficiency of 7.15 percent of its firm requirements, well below the 22 percent deficiency projected for the total industry for the period September 1975 through August 1976. Staff did however note with concern that Consolidated's four suppliers projected curtailments during the twelve months ending August 1976, which amounts to 26 percent of the total projected curtailments for major pipelines.[35]

The company again voiced its concern as to the substantially lower returns on its average common equity. Consolidated testified that its returns compared unfavorably to the returns of other gas transmission companies and integrated companies in Docket Nos. RP73–107 and RP74–90.[36] The company's Exhibit No. 2 in Docket No. RP75–91 shows that its return dropped from 10.21 percent in 1972 to 8.77 percent in 1973, and compares unfavorably to the 12.07 percent return experienced by Moody's 10 Integrated Gas Companies and the 14.15 percent return experienced by Moody's 10 Natural Gas Transmission Companies in 1973. Staff's exhibit shows Consolidated's partial recovery: its return reached 9.3 percent in 1974.[37] Staff again attributed these low returns to Consolidated's low financial risk as indicated by its higher common equity ratio, its rising after-tax interest coverage (from 2.5 in 1973 to 2.7 in 1974), and its AA bond rating by Moody's.[38] Consolidated again testified that its high equity ratio is responsible for its high bond ratings, but argued that this ratio should not be taken into consideration for purposes of determining a fair return on common equity.[39]

In Docket No. RP75–91, Consolidated introduced evidence showing that the following earnings-price ratios:

	Consolidated	Moody's 30 natural gas companies	Moody's 10 integrated gas companies
	Percent	*Percent*	*Percent*
12 mo ending June 30, 1971	9.40	8.46	9.89
12 mo ending Dec. 31, 1974	14.74	16.8	14.44

Consolidated concluded directly from these figures that a 13.58 percent (or 14.0 percent, as originally proposed) return on common equity is justifiable.[40]

Both Staff's and Consolidated's exhibits show declining market-to-book ratios for industrials and utilities alike, including Consolidated.[41] Staff agreed that the company's price-earnings and market-to-book ratios indicate that "the market generally has not looked upon the Consolidated Natural Gas Company as favorably as the utility groups."[42]

Staff pointed out that the trend indicated by Consolidated's declining price-earnings and market-to-book ratios is mitigated by similar declining trends for all compared groups. Staff emphasized that Consolidated did not experience the sharp declines in these ratios which other groups experienced. The drop in price-earnings multiples for the industrials was more significant than that experienced by Consolidated, and the decline in the company's market-to-book ratio was less pronounced than that of the major A&B pipelines. Staff further contends that Consolidated's high equity ratio offsets the effects of its declining market-to-book ratio:

> Consolidated Natural has traditionally had a higher equity component than other utilities, giving it less leverage than is possible with a lower equity ratio. The lower leverage means a lower possibility of high returns on equity and thus the investor is unwilling to pay a high market price for Consolidated Natural's stock even though the book value coverage of the stock is high.[43]

Staff also found Consolidated's after-tax interest coverage has been consistently higher than that of each of the compared utility groups from 1970 to 1974.[44] The company's low leverage and strong after-tax interest coverage account for its Aa bond rating by Moody's.

As in Docket No. RP73–107 and Docket No. RP–74–90, Consolidated supported its proposed rate of return upon the dividend yield plus anticipated growth formula. Consolidated calculated that the "sum of the dividend yield of 8.81 percent and the rate of earnings growth of 4.58 percent for the period 1964–1974 together with the 10 percent cost factor gives an indicated cost of equity capital to Consolidated Natural Gas Company of 14.9 percent."[45] in its initial comments to the settlement agreement Consolidated introduced statistical studies in support of the "conventional dividend yield plus dividend growth rate" method of determining a fair rate of return.[46] Consolidated concludes that it requires a minimum rate of return of 15.34 percent to maintain its historical 61.4 percent pay-out ratio, which is the ratio of dividends paid to the earnings realized.[47]

In a thorough analysis of this extra-record data, Staff discusses the deficiencies and inconsistencies found in Consolidated's study. The Commission finds it unnecessary to reiterate Staff's cogent criticism of this data in view of the fact that Consolidated's data are beyond the

[30] Exhibit No. 36 in Docket No. RP75–91.
[31] Exhibit No. 30, Prepared Testimony of N. K. Davis, at p. 23.
[32] Ibid., p. 24.
[33] Exhibit No. 31, Prepared Testimony of Jack M. Adelman, at p. 7.
[34] Ibid., at p. 13.
[35] Ibid., at p. 10–11.
[36] See footnotes 16 and 17, and corresponding text.
[37] Exhibit No. 32, p. 2.
[38] Exhibit No. 31, Prepared Testimony of Jack M. Adelman, at p. 10–11 and Exhibit No. 32, p. 6.
[39] Exhibit No. 30, Testimony of N. D. Davis, at p. 21. This statement is identical to that quoted above on p. 11–12.
[40] Exhibit 30, Testimony of N. K. Davis, at p. 15–16. In its reply commments on the settlement agreement, Consolidated contends that the return on equity cannot be less than the earnings-price ratio.
[41] Exhibit No. 2, Tables 31 and 32; Exhibit No. 32, p. 5.
[42] Exhibit No. 31, Testimony of Jack M. Adelman, at p. 14; Exhibit No. 32, at p. 4–5.
[43] Staff's initial comments on proposed settlement agreement, at p. 12.
[44] Exhibit No. 32, p. 6.
[45] Exhibit No. 30, Testimony of N. K. Davis, pp. 12–15; Exhibit No. 2, Table 27.
[46] Initial comments of Consolidated Gas Supply Company, Appendix B.
[47] Ibid. at 10.

record. The Commission has consistently disallowed the last-minute introduction of debatable testimony or exhibits,[47] and will do so here.

The Commission does not dispute the fact that inflationary trends in the nation's economy have boosted the cost of capital. The threat of curtailment has increased risks for the company as well as its investors. The natural gas industry as a whole has suffered on the stock market: Declining market-to-book and price-earnings ratios are being experienced on an industry-wide basis. While Consolidated exhibits the same characteristics as the utilities market in general, its ratios have not declined as significantly as other utility groups. Furthermore, the company has maintained its Aa bond ratings and high after-tax interest coverage.

The Commission has moved away from the use of the earnings-price ratio as a strict guideline in determining a fair rate of return. As pointed out by Consolidated in its reply comments, the earnings-price ratio has been used in calculating a fair rate of return.[48] The Commission's policy in this matter has evolved to include several methodologies in arriving at a decision, including the comparable earnings and the discounted cash flow methods.[49] These methods offer a broader spectrum of market conditions as they relate to regulated and unregulated industries and to the applicant in particular.

In consideration of Staff's comparable earnings approach as well as Consolidated's dividend yield plus growth method, and in light of the extensive record and comments presented in Docket No. RP75-91, the Commission finds Staff's recommendation of rate of return on common equity in the range of 11.63 percent (allowed Consolidated in Docket No. RP71-77) to 12 percent (allowed in Docket No. RP73-107 and RP74-90), as well as the 12.25 percent to 12.3 percent range recommended by PSNY, to be unreasonably low. Consolidated's proposed 13.58 percent return on equity, founded principally upon its price-earnings ratio and its dividend yield method, based primarily upon extra-record evidence, is on the high side of the zone of reasonableness. The Commission finds a rate of return on common equity in the range of 12 percent to 12.50 percent to be reasonable. The Commission accordingly establishes 12.30 percent as a fair return on equity, with a 9.83 percent overall rate of return in Docket No. RP75-91.[51]

[51] See the following table:

	Capitalization ratio	Annual cost	Weighted cost
	Percent	*Percent*	*Percent*
Long-term debt	44.43	6.84	3.04
Preferred stock	3.52	10.96	.39
Common equity	52.05	12.30	6.40
Total	100.00		9.83

[47] Pennsylvania Electric Company, Docket No. E-8446, Opinion No. 739-A, issued on October 5, 1976.

[48] Natural Gas Pipeline Company of America, 40 FPC 81 (1968).

[49] See, for example, Docket No. 762 and Opinion No. 769, *supra*.

4. REFUND LIABILITY

RG&E, PSNY, and NYE&G rightfully contend that by establishing the cost of service levels in these proceedings and thereby determining the company's refund liability in this order, the Commission will be unable to rectify any inequities it may find in Consolidated's cost allocation and rate design. As stated by NYE&G,

> [s]hould the Commission decide, when the issues are presented to it, to change the allocation of costs and the rate design structure of Consolidated, acceptance of this settlement proposal would effectively preclude it from going beyond the refund level provided therein. Consolidated would not be able to retroactively collect revenues from customers which the Commission might decide had paid too little. The only alternative would be for Consolidated to absorb the underpayments, but this would be precluded since Consolidated's refund liability would be circumscribed. * * * [T]he refund limitations set forth in the settlement proposal, at least in the last docket where Consolidated was fully apprised of the continuing opposition to its allocation and design theories, would be unfair to customers otherwise entitled to refunds.[52]

In support of NYE&G's argument, PSNY pointed out that Consolidated's exposure to refund liability would be greater than that set forth in the settlement agreement if the Commission later decides to decrease costs allocated to some zones by an amount greater than the "excess revenues" indicated in the settlement agreement, and increase costs allocated to others. In that event, the Commission would be unauthorized under the Natural Gas Act to order a retroactive increase in the rates for customers in zones to which the Commission has allocated greater costs.

RG&E suggests that, in its order approving the settlement agreement, the Commission should refuse to determine the question as to whether Consolidated will have refund liability in excess of that resulting from this cost of service settlement. RG&E recommends that the Commission should withhold its decision as to Consolidated's refund liability until the final resolution of the cost allocation and rate design issues.

The Commission hereby adopts RG&E's recommendations. Although the Commission has held that changes in zone cost allocation should be prospective only,[53] the Commission finds a ruling on this matter to be premature and irrelevant to the settlement of cost of service issues.

The Commission further finds. (1) The Applicant, Consolidated Gas Supply Corporation, is a "natural gas company" subject to the provisions of the Natural Gas Act, and the sales of natural gas subject to the order which follows as a part of this decision are sales of natural gas in interstate commerce for resale subject to the jurisdiction of the Commission.

(2) It is necessary and proper in the administration of the Natural Gas Act to accept the proposed Stipulation and Agreement tendered in these proceedings subject to the conditions hereinabove described.

(3) Applicant's rates, which have been in effect in this docket subject to refund, have not been shown to be just and reasonable or otherwise lawful under the provision of the Natural Gas Act in the respects noted above, and Applicant should therefore be required to file tariff sheets reflecting just and reasonable rates as necessary to conform to this order.

The Commission orders: (A) The Stipulation and Agreement certified to the Commission in this proceeding is hereby accepted subject to the conditions as hereinabove described.

(B) Within sixty (60) days of the issuance of this order, Consolidated shall file with the Commission any necessary revisions to its cost of service and tariff sheets in conformance with the terms of the settlement agreement approved herein and reflecting the conditions described in the body of this order.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-19685 Filed 7-12-77;8:45 am]

[Docket No. RI77-44]

NADEL AND GUSSMAN

Order Granting Petition for Special Relief

JULY 5, 1977.

On March 18, 1977, Nadel and Gussman filed in Docket No. RI77-44 a petition for special relief pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76) with respect to a sale of natural gas to Northern Natural Gas Company (Northern) from the Kearns No. 1 Well, Edwards County, Kansas.

Nadel and Gussman was issued a small producer certificate on June 10, 1974, in Docket No. CS74-344. Pursuant to a gas sales agreement dated March 14, 1966, Nadel and Gussman is currently collecting a base rate of 34.9 cents per Mcf for the sale to Northern. Nadel and Gussman states that increasing amounts of salt water in the well will necessitate the replacement of a sait water pumping unit, tubing string and sucker rods. In order to enable Nadel and Gussman to replace this equipment and to recover the remaining gas reserves, Nadel and Gussman and Northern entered into an amendment to their gas sales agreement on March 24, 1977, whereby Northern agreed to pay Nadel and Gussman a base rate of 79 cents per Mcf for gas produced from the well.[1]

[52] NYE&G Initial Comments, at 3-4.

[53] Texas Eastern Transmission Corporation, Docket No. 74-41, Order issued on January 26, 1976; Cities Service Gas Company, Docket No. RP74-4, Order Granting Relief Sought and Denied by Prior Commission Order, issued on February 2, 1976.

[1] Nadel and Gussman request authorization to collect a total rate of 83.82 cents per Mcf, comprised of a base rate of 79 cents per Mcf and contractually-authorized tax and Btu adjustments of 4.82 cents per Mcf.

Notice of Nadel and Gussman's petition for special relief was issued on April 6, 1977, and appeared in the FEDERAL REGISTER on April 12, 1977, at 42 FR 19227. No protests or petitions to intervene have been filed.

Based on its analysis of data submitted by Nadel and Gussman, Staff estimates that 107,633 Mcf remain to be produced over a period of approximately four and one-half years, and concludes that the requested special relief is warranted.[1] After a careful review of the costs to be incurred and the reserves to be recovered, we conclude that it is in the public interest to grant special relief to Nadel and Gussman.

The Commission orders: (A) The petition for special relief of Nadel and Gussman is hereby granted.

(B) Nadel and Gussman is authorized to collect a total rate of 83.82 cents per Mcf at 14.65 psia for gas sold to Northern from the Kearns No. 1 Well located in Edwards County, Kansas, effective on the date of issuance of this order or on the date that the pumping unit, tubing string, and sucker rods are installed, whichever is later. This authorization is contingent upon Nadel and Gussman's filing within 30 days of such effective date a statement, signed by Northern, that the installation of the pumping unit, tubing string, and sucker rods has been performed to Northern's satisfaction.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A.—*Unit cost of gas*

NADEL AND GUSSMAN

[Docket No. RI77-44]

KEARNS WELL NO. 1, S/2 SEC. 13-28s-16W, EDWARDS COUNTY, KANSAS

Line No.	Item (a)	Amount (b)
1	Net working interest volumes:	
2	Gas—1,000 ft³ at 14.65 lb/in ² [1]	68,094
3	Liquids—barrels	0
4	Cost of production:	
5	Return on rate base at 15 pct [2]	$7,347
6	DD&A [3]	20,173
7	Production expense [4]	31,542
8	Regulatory expense [5]	68
9	Total cost of production	59,130
10	Unit cost of gas (cent/1,000 ft³):	
11	Cost of production [6]	86.84
12	Production tax [7]	.06
13	Total unit cost	86.90

[1] 107,633 1,000 ft minus 15,400 1,000 ft compressor fuel times 0.738,281,207 net working interest.
[2] Line 11 of schedule 3 times 0.15 times 4.5833 year production life.
[3] From line 7 of schedule 2.
[4] Based on 1975 and 1976 average well production expense of 4,100/yr escalated 5 pct/yr plus $10,083 in expected compressor maintenance
[5] Line 2 times 0.1 cent/1,000 ft³ per opinion No 749.
[6] Line 9 divided by line 2.
[7] Kansas State production tax.
[8] See Appendix A attached below.

Investment and allocation of costs

Line No.	Item	Amount
1	Investment:	
2	Remaining net book value Jan. 1, 1977	$4,387
3	New pump	5,500
4	Tubing and sucker rods	12,040
5	Total investment	21,927
6	Less salvage value [1]	1,754
7	Depreciable investment	20,173
8	Depreciation per unit of production [2]	0.29625224

[1] 10 pct of the total of lines 3 and 4.
[2] Line 7 divided by 68,094 1,000 ft.[3]

Average investment and annual rate base

Line No.	Year (a)	Annual N.W.I. production 1,000 ft [1] (b)	Beginning of year investment (c)	Depreciation [2] (d)	End of year investment (e)	Average investment [3] (f)
1	1977	20,061	$21,927	$5,943	$15,984	$18,956
2	1978	16,794	15,984	4,978	11,009	13,496
3	1979	13,976	11,009	4,140	6,869	8,939
4	1980	11,609	6,869	3,439	3,430	5,150
5	1981	5,654	3,430	1,767	1,754	2,592
6	Totals	68,094		20,173		49,133
7	Average annual investment [4]					9,827
8	Annual rate base:					
9	Average annual investment					9,827
10	Average annual working capital allowance [5]					860
11	Total annual rate base					10,687

[1] Col. (b) times line 8 of schedule 2.
[2] Col. (c) plus col (e) divided by 2.
[3] Col. (f) of line 6 divided by 5.
[4] 0.135 times line 7 of schedule 1 divided by 4.5833 yr productive life.

[FR Doc.77-19686 Filed 7-12-77;8:45 am]

FEDERAL RESERVE SYSTEM

TEXAS COMMERCE BANCSHARES, INC.

Order Approving Acquisition of Bank

Texas Commerce Bancshares, Inc., Houston, Texas, 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, less directors' qualifying shares, of the successor by merger to Main Street National Bank of Dallas, Dallas, Texas ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of the successor organization is treated herein as the proposed acquisition of the shares of 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(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the second largest banking organization in Texas, controls 33 banks with aggregate deposits of approximately $4.1 billion, representing 7.7 percent of total commercial bank deposits in Texas.[1] Acquisition of Bank (25 million in deposits) would increase Applicant's share of commercial bank deposits in the State by less than 0.1 per cent, and would have no appreciable effect upon the concentration of banking resources in Texas.

Bank is the 46th largest of 110 banking organizations in the Dallas banking market, which is the relevant banking market,[2] and controls approximately 0.3 percent of the total commercial bank deposits in the market. Applicant currently

[1] All banking data are as of December 31, 1976, and reflect bank holding company formations and acquisitions approved through June 21, 1977.
[2] The relevant banking market is approximated by the Dallas RMA, which includes Dallas County and portions of six adjacent counties.

is the fifth largest banking organization in the market, controlling eight existing banking subsidiaries in the market with aggregate deposits of $285 million, representing 2.9 percent of market deposits. The acquisition of Bank would increase Applicant's market share to approximately 3.1 percent, leaving its market position well below that of the four larger banking organizations in the market, which holds approximately 66.7 percent of market deposits. Accordingly, consummation of the proposal is viewed as not substantially affecting concentration in the Dallas banking market.

While consummation of the proposal would appear to eliminate some existing competition inasmuch as Applicant and Bank operate in the same market, the amount being eliminated is not significant in light of the relative size of Applicant's existing subsidiary banks in the market and their distance from Bank. Moreover, the market would remain attractive to de novo entry even after acquisition of Bank, and numerous banks would remain in the market as potential entry points for expanding bank holding companies. Accordingly, on the basis of the record, it is concluded that consummation of the proposed transaction would have only a slightly adverse effect on competition in the Dallas banking market.

Considerations relating to the financial and managerial resources and future prospects of Bank, Applicant, and its subsidiaries are regarded as generally satisfactory and consistent with approval, particularly in light of Bank's retention of $240,000 of interim capital. Applicant will provide Bank with a capability to expand its real estate lending and data processing services and to provide specialized services to small businesses, trust services and investment services. Thus, considerations relating to the convenience and needs of the community to be served lend weight toward approval of the application and have been determined to be sufficient to outweigh any slightly adverse competitive effect that might result from consummation of the proposal. It has therefore been determined that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be 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 Dallas, acting pursuant to delegated authority.

By order of the Secretary of the Board, acting pursuant to delegated authority from the Board of Governors, effective July 6, 1977.

RUTH A. REISTER,
Assistant Secretary of the Board.

[FR Doc.77-20048 Filed 7-12-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

NATIONAL DIABETES ADVISORY BOARD AND ITS SUBCOMMITTEES

Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the National Diabetes Advisory Board and its subcommittees, National Institute of Arthritis, Metabolism, and Digestive Diseases, on July 14–15, 1977, Conference Room 4137, HEW North Building, and Rooms 8A24, 9A51, and 10A24, Building 31, National Institutes of Health, which was published in the FEDERAL REGISTER, May 27, 1977, 42 FR 27305.

Dated: July 6, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-20218 Filed 7-12-77;8:45 am]

Office of Education

ACCREDITATION AND INSTITUTIONAL ELIGIBILITY ADVISORY COMMITTEE

Availability of 1976 Annual Report

AGENCY: Department of Health, Education, and Welfare, Office of Education.

ACTION: Notice of Annual Report.

SUMMARY: This notice announces the availability of the 1976 Annual Report of the Advisory Committee on Accreditation and Institutional Eligibility. It also describes the functions of the Committee. Notice of the availability of this report is required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463). The report includes a summary of the Committee's activities during closed sessions of its meetings. Requests for the report may be directed to the Division of Eligibility and Agency Evaluation at the address listed below.

FOR FURTHER INFORMATION CONTACT:

John R. Proffitt, Director, Division of Eligibility and Agency Evaluation, Office of Education, Room 3030, ROB 3, 400 Maryland Avenue SW., Washington, D.C. 20202 (202–245–9873).

SUPPLEMENTARY INFORMATION: The Advisory Committee on Accreditation and Institutional Eligibility is established pursuant to section 253 of the Veterans' Readjustment Assistance Act (Chapter 33, Title 38, U.S. Code). The Committee is directed to:

1. Review all current and future policies relating to the responsibility of the Commissioner for the recognition and designation of accrediting agencies and associations wishing to be designated as nationally recognized accrediting agencies and associations, and recommend desirable changes in criteria and procedures;

2. Review all current and future policies relating to the repsonsibility of the Commissioner for the recognition and listing of State agencies wishing to be designated as reliable authority as to the quality of public postsecondary vocational education, and of nurse education, and recommend desirable changes in criteria and procedures;

3. Review and advise the Commissioner of Education in the formation of all current and future policy relating to the matter of institutional eligibility;

4. Review the provisions of current legislation affecting Office of Education responsibility in the area of accreditation and institutional eligibility and suggest needed changes to the Commissioner of Education;

5. Develop and recommend to the Commissioner of Education criteria and procedures for the recognition and designation of accrediting agencies and associations in accordance with legislative provisions, Presidential directives, or interagency agreements;

6. Review and recommend to the Commissioner of Education for designation as nationally recognized accrediting agencies and associations of reliable authority all applicant accrediting agencies and associations which meet criteria established under (5) above;

7. Develop and recommend to the Commissioner of Education criteria and procedures for the recognition, designation and listing of State agencies in accordance with statutory provisions, Executive Orders, or interagency agreements;

8. Review and recommend to the Commissioner of Education for designation as State agencies of reliable authority as to the quality of public postsecondary vocational education, and of nurse education, all applicant State agencies which meet criteria established under (7) above;

9. Develop, under the authority of the Vocational Education Act of 1963, as amended, and recommend for the approval of the Commissioner of Education, standards and criteria for specific categories of private vocational training institutions which have no alternative route by which to establish eligibility for Federal funding programs;

10. Develop, under the authority of the Higher Education Act of 1965, as amended, and recommend for the approval of the Commissioner of Education, standards and criteria for specific categories of institutions of higher education, for which there is no recognized accrediting agency or association, in order to establish eligibility for participation in the student loan programs authorized by Title IV–B thereof;

11. Maintain a continuous review of Office of Education administrative practice, procedures and judgments relating to accreditation and institutional eligibility and advise the Commissioner of needed changes;

12. Keep within its purview the accreditation and approval process as it develops in all levels of education;

13. Advise the Commissioner of Education concerning the relations of the Office with accrediting agencies or associations, or other approval bodies as the Commissioner may request.

14. Advise the Commissioner of Education, pursuant to the Bureau of the Budget (Office of Management and Budget) policy dated December 23, 1954, regarding the award of degree-granting status to Federal agencies and institutions.

15. Not later than March 31 of each year, make an annual report of its activities, findings and recommendations.

Signed at Washington, D.C., on June 30, 1977.

JOHN R. PROFFITT,
Director, Division of Eligibility and Agency Evaluation, Office of Education.

[FR Doc.77-19994 Filed 7-12-77;8:45 am]

Public Health Service

INDIAN HEALTH CARE IMPROVEMENT ACT

Delegations of Authority

Notice is hereby given that effective June 20, 1977, the following delegations of authority were made under Pub. L. 94–437, the Indian Health Care Improvement Act:

1. Delegation by the Secretary of Health, Education, and Welfare to the Assistant Secretary for Health of the authorities vested in the Secretary under:

(a) Title I of Pub. L. 94–437 (25 U.S.C. 1611 et seq) for an Indian Health Manpower Program, including the authorities under section 225(1) of the Public Health Service Act (42 U.S.C. 234(1)) as amended by section 104 of Title I, but excluding the authority to promulgate regulations;

(b) Title II of Pub. L. 94–437 (25 U.S.C. 1621 et seq) for a Health Services Program for Indians, excluding the authority to promulgate regulations;

(c) Title III of Pub. L. 94–437 (25 U.S.C. 1631 et seq) for a Health Facilities Program for Indians, excluding the authority to promulgate regulations;

(d) Section 1880(c) of the Social Security Act (42 U.S.C. 1395qq), as amended by section 401(b) of Pub. L. 94–437, and authority under section 402(c) of Pub. L. 94–437 to administer the special funds prescribed therein;

(e) Title V of Pub. L. 94–437 (25 U.S.C. 1651 et seq) for a Health Services Program for Urban Indians, excluding the authority to promulgate regulations and the authority under Section 507 to submit to the Congress an assessment and recommendations;

(f) Title VI of Pub. L. 94–437 (25 U.S.C. 1661) for a feasibility study regarding the establishment of an American School of Medicine and the development of a report based on the study, excluding the authority to submit a report to the Congress;

(g) Sections 701 (25 U.S.C. 1671) and 703 (25 U.S.C. 1673) of Pub. L. 94–437 for the development of the reports and plan required to be submitted to the Congress; and

(h) Section 704 of Pub. L. 94–437 (25 U.S.C. 1674) to enter into leases with Indian tribes.

In accordance with the requirements of Pub. L. 94–437, these authorities shall be redelegated through the Administrator, Health Services Administration, to the Director, Indian Health Service. Otherwise, these authorities may be redelegated as appropriate.

2. Delegation by the Assistant Secretary for Health to the Administrator, Health Services Administration, of all the authorities under Pub. L. 94–437 which were delegated to the Assistant Secretary for Health by the Secretary of Health, Education, and Welfare, excluding the authorities regarding Indian Health Scholarships under section 225 (1)(2)(A) and 225(1)(2)(B)(ii) of the Public Health Service Act, as added to the Public Health Service Act by Section 104 of Pub. L. 94–437.

In accordance with the requirements of Pub. L. 94–437, these authorities shall be redelegated to the Director, Indian Health Service. Otherwise, these authorities may be redelegated as appropriate.

Dated: July 6, 1977.

JOHN D. YOUNG,
Assistant Secretary for Management and Budget.

[FR Doc.77–20079 Filed 7–12–77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Consumer Affairs and Regulatory Functions

[Docket No. N–77–779]

MOBILE HOME ADVISORY COUNCIL

Request for Nominations

AGENCY: Department of Housing and Urban Development.

ACTION: Request for Nominations.

SUMMARY: This notice gives the public an opportunity to nominate persons for appointments to the National Mobile Home Advisory Council. The Council, consisting of representatives from consumer, government and industry organizations or agencies, is consulted to the extent feasible before the Department establishes, amends or revokes mobile home construction and safety standards.

DATE: Nominations are to be received on or before August 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Russell H. Dawson, Director, Mobile Home Standards Division, Office of the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, Department of Housing and Urban Development, Washington, D.C. 20410 (202—755–7970).

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of section 605 of the National Mobile Home Construction and Safety Standards Act of 1974, Title VI of Public Law 93–383 (The Act), notice is hereby given that members of the public wishing to nominate persons for appointment to the National Mobile Home Advisory Council should submit such nominations in writing to the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection (Attention: Mobile Home Standards Division), Department of Housing and Urban Development, 451 Seventh Street SW., Room 4100, Washington, D.C. 20410.

In addition, the 24-member Council provides the Department with an opportunity to obtain balanced views on mobile home standards issues. The Act stipulates that one-third of the membership of the Council must represent each of the following categories: (a) Consumer organizations, community organizations, and recognized consumer leaders; (b) the mobile home industry and related groups including one representative of small business; and (c) government agencies including Federal, State and local governments.

Section 6(a) of the National Mobile Home Advisory Council Charter stipulates that the Council members shall be appointed by the Secretary to serve two-year terms. In accordance with the Charter, one-half will expire on August 21, 1977, and the other half will expire on August 21, 1978.

Nominations are hereby solicited to fill the positions which will become open when one-half of the terms expire on August 21, 1977; the terms to which nominees will be appointed will expire on August 21, 1979. The Secretary will appoint a total of 12 new members to the Council, selecting four members from each of the three segments which make up the Council. Nominations may be made for represenatives of consumer, industry and Government organizations or agencies.

In submitting nominations, include the following information:

1. Name of nominee.
2. Home address and telephone number of nominee.
3. Business address and telephone number of nominee.
4. Sector (i.e., consumer, industry or Government) that nominee represents.
5. Pertinent experience and/or background of nominee that is believed to qualify the nominee as an appropriate member of the Council.
6. Name of group or person(s) making nomination.
7. The following data should be furnished for those nominated as official representatives of organized consumer or industrial groups or associations.
   (a) Name and address of organization.
   (b) Number of official members in organization.
   (c) Nominee's position in organization.
8. The name of the Government agency, its location, and the nominee's position or title should be provided for those nominated to represent Government agencies.
9. Any other pertinent comments or remarks.

The following terms expire on August 21, 1977:

COMMUNITY AND CONSUMER REPRESENTATIVES

John L. Adams, Consultant, Florida Coalition of Mobile Home Owners, Ft. Lauderdale, Florida.

Herbert F. Hugo,[1] President, Golden State Mobile Home Owners League, Napa, California.

Peter B. Maier, Center for Study of Responsive Law, Housing Research Group, Washington, D.C.

Charles Mann, State President, Federation of Mobile Home Owners of Florida, St. Petersburg, Florida.

[1] As a result of the resignation of two members of the Council and the deaths of two others, these persons were appointed July 13, 1976, to complete the unexpired terms. By virtue of the fact that their terms were so short and to provide continuity to the membership of the Council, these persons will be considered for appointment to the Council for one full term.

GOVERNMENT REPRESENTATIVES

William E. Dell,[1] Chief, Factory-Built Housing, Mobile Home and Recreational Vehicle Section, Department of Labor and Industries, Seattle, Washington (resigned April 12, 1977).

Lee Melancon, Coordinator of Research and Planning, State of Louisiana, Baton Rouge, Louisiana.

Betty Niven, Chairperson, Oregon State Housing Council, Eugene Joint Housing Committee, Eugene, Oregon.

Marion B. Robinson,[1] Division of Inspection Services, Columbia, South Carolina.

INDUSTRY REPRESENTATIVES

Donald A. Barrow, Vice President of Product Development, Skyline Corporation, Elkhart, Indiana.

James Printy, Manager, Product Engineering, The Coleman Company, Incorporated, Wichita, Kansas.

Daniel P. Riedel, President, Vindale Corporation, Brookville, Ohio.

William Novak,[1] Chairman of the Board, Gallatin Homes Corporation, Billings, Montana.

The following terms expire on August 21, 1978:

COMMUNITY AND CONSUMER REPRESENTATIVES

Jane Conrad, American Mobile Home Association, Brighton, Colorado.

Margery Moore, Counselor, Orleans County Council of Social Agencies, Newport, Vermont.

Robert Myers, President, Michigan Mobile Homeowners Association, Ypsilanti, Michigan.

William R. Palmer, Editor, Mobile Home Owners Association of New Jersey, Incorporated, Monmouth Junction, New Jersey.

GOVERNMENT REPRESENTATIVES

Richard Bullock, Chief, Manufactured Housing Section, Wisconsin Department of Industry, Labor and Human Relations, Madison, Wisconsin.

Fred H. Jolly, Director, Division of Housing and Environmental Health, State Department of Health, Lincoln, Nebraska.

Kenneth E. Meiser, Assistant Deputy Public Advocate, Division of Public Interest Advocacy, New Jersey Department of Public Advocate, Trenton, New Jersey.

C. Sutton Mullen, Administrator, Industrialized Building Law, State Corporation Commission, Richmond, Virginia.

INDUSTRY REPRESENTATIVES

Charles T. Ashford, Vice President, Products, Conchemco, Lenexa, Kansas.

Philip J. Braff, President, Sahara Mobile Homes, Gates Mills, Ohio.

Daniel Siegel, Siegel Mobile Home Group, Siegel Financial Services, Salt Lake City, Utah.

William Stewart, California Mobile Home Dealers Association, Santa Ana, California.

The Department forwarded to the Office of Management and Budget a recommendation that the Council should be allowed to continue in 1977. If a final decision is made to terminate the Council, then this request for nominations will be withdrawn through a notice in the FEDERAL REGISTER. A final decision is expected to be made shortly.

The nominees selected by the Secretary are expected to be announced by publication in the FEDERAL REGISTER.

[1] See footnote 1, p. 36038.

Issued at Washington, D.C., July 6, 1977.

GENO C. BARONI,
Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

[FR Doc.77-20215 Filed 7-12-77;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 77-4]

ARMAND LOZANO, M.D.

Hearing

Notice is hereby given that on January 21, 1977, the Drug Enforcement Administration, Department of Justice, issued to Armand Lozano, M.D., Franklin, Massachusetts, an Order to Show Cause as to why the Drug Enforcement Administration registration AL4254607 issued to Respondent pursuant to 21 U.S.C. 823 should not be revoked.

Thirty days having elapsed since the said Order to Show Cause was received by the Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Tuesday, July 26, 1977, in the U.S. Tax Court Courtroom, 13th Floor, U.S. Custom House, 2 India Street, Boston, Massachusetts.

Dated: July 7, 1977.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc.77-20162 Filed 7-12-77;8:45 am]

[Docket No. 77-14]

BLUE HILL DRUG CO., DAVID BROTHERS PROP.

Hearing

Notice is hereby given that on March 28, 1977, the Drug Enforcement Administration, Department of Justice, issued to Blue Hill Drug Company, David Brothers Prop., Mattapan, Massachusetts, an Order to Show Cause as to why the Drug Enforcement Administration registration AB1949809 issued to Respondent pursuant to 21 U.S.C. 823 should not be revoked.

Thirty days having elapsed since the said Order to Show Cause was received by the Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 1:00 p.m. on Thursday, July 28, 1977, or as soon thereafter as this matter may be reached, in the U.S. Tax Court Courtroom, 13th Floor, U.S. Custom House, 2 India Street, Boston, Massachusetts.

Dated: July 7, 1977.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc.77-20161 Filed 7-12-77;8:45 am]

[Docket No. 76-45]

LINCOLN ERAMO, M.D.

Hearing

Notice is hereby given that on December 9, 1976, the Drug Enforcement Administration, Department of Justice, issued to Lincoln Eramo, M.D., Pittsfield, Massachusetts, an Order to Show Cause as to why the Drug Enforcement Administration registration AE1218456 issued to Respondent pursuant to 21 U.S.C. 823 should not be revoked.

Thirty days having elapsed since the said Order to Show Cause was received by the Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 1:00 p.m. on Wednesday, July 27, 1977, or as soon thereafter as this matter may be reached, in the U.S. Tax Court Courtroom, 13th Floor, U.S. Custom House, 2 India Street, Boston, Massachusetts.

Dated: July 7, 1977.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc.77-20160 Filed 7-12-77;8:45 am]

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

COMMITTEE MEETING

AGENCY: National Advisory Council on Extension and Continuing Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Executive Committee of the National Advisory Council on Extension and Continuing Education. It also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATE: Meeting: July 29, 1977, from 10:30 a.m. to 3 p.m.

ADDRESS: The O'Hare Hilton, O'Hare Airport, Chicago, Illinois 60666.

FOR FURTHER INFORMATION CONTACT:

James A. Turman, Executive Director, National Advisory Council on Extension and Continuing Education, 425 Thirteenth Street NW., Suite 529, Washington, D.C. 20004. Telephone 202-376-8888.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Extension and Continuing Education is authorized under Pub. L. 89-329. The Council is required to report annually to the President, the Congress, the Secretary of HEW, and the Commissioner of Education in the preparation of general regulations and with respect to policy matters

arising in the administration of Part A of Title I (HEA) including policies and procedures governing the approval of State plans under Section 105; and to advise the Assistant Secretary of HEW on Part B (Lifelong Learning activities) of the title. The Council is required to review the administration and effectiveness of all federally supported extension and continuing education programs.

The meeting of the Executive Committee will be open to the public beginning at 10:30 a.m. and ending at 3 p.m. on July 29, 1977. This meeting will be held at the O'Hare Hilton, O'Hare International Airport, Chicago, Illinois.

The proposed agenda includes a discussion of:

(1) Program priorities and activities for the year
(2) Council organization and committee structure
(3) Budget for Fiscal Year 1978
(4) Staff functions and responsibilities
(5) Meeting schedule and locations

All records of Council proceedings are available for public inspection at the Council's staff office, located in Suite 529, 425 13th Street NW., Washington, D.C.

Dated: July 6, 1977.

JAMES A. TURMAN,
Executive Director.

[FR Doc.77-19993 Filed 7-12-77;8:45 am]

NATIONAL MEDIATION BOARD

FREEDOM OF INFORMATION

Determination and Order Regarding Publication of Index

AGENCY: National Mediation Board.

ACTION: Notice of Order.

SUMMARY: The Board hereby publishes its determination and order pursuant to 5 U.S.C. section 552(a)(2)(C), a provision of the Freedom of Information Act, that publication of an index of all matters issued, adopted or promulgated by the National Mediation Board or the National Railroad Adjustment Board after July 4, 1967, which are required to be indexed by 5 U.S.C. section 552(a)(2), would be impracticable and unnecessary.

This determination and order is based on the exceptionally voluminous nature of the indexes of such materials and the availability of copies thereof on request at a price not to exceed the direct cost of duplication.

FOR FURTHER INFORMATION CONTACT:

Rowland K. Quinn, Jr., Executive Secretary, National Mediation Board. Telephone 202-523-5920.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 552(a)(2)(C), and 29 CFR 1208.2, the National Mediation Board hereby determines by Order that publication of indexes providing identifying information for the public as to any matter required by 5 U.S.C. 552(a)(2) to be made available or published by the National Mediation Board or the National Railroad Adjustment Board would be unnecessary and impracticable.

As provided in 29 CFR 1208.2(d), such indexes are available for public inspection and copies thereof will be furnished at a price not to exceed the direct cost of duplication.

Dated: July 6, 1977.

By order of the National Mediation Board.

ROWLAND K. QUINN, Jr.,
Executive Secretary.

[FR Doc.77-20003 Filed 7-12-77;8:45 am]

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

NATIONAL TRANSPORTATION ISSUES

Hearing

Conflicting views on national transportation issues will be aired at public hearings scheduled by the National Transportation Policy Study Commission for August 8, 1977, in Los Angeles, California.

The hearings, part of a nationwide series planned by the Commission, are intended to help determine the needs of our Nation's communities, the transportation industry, shippers, the traveling public and the American taxpayer.

The Commission, composed of 19 members, including twelve Members of Congress and seven public representatives, was created by Congress to examine, evaluate and analyze our Nation's transportation needs and resources through the year 2000. The Commission's final report and policy recommendations are due on December 31, 1978.

The Commission plans to organize testimony of witnesses to insure that it hears from all of the various interests with a stake in transportation, such as labor, management, shippers, consumers, state governments, and environmentalists.

The hearings will be held in the Los Angeles County Board of Supervisors Hearing Room (Room 383), Hall of Administration, 500 West Temple Street, Los Angeles, California.

Those interested in testifying personally or in submitting written statements should contact, no later than 6:00 p.m., July 29, 1977: Mr. Richard Kowalewski, NTPSC, 1750 K Street, NW, Suite 800, Washington, D.C. 20006, telephone number 202-254-7453.

Dated: July 8, 1977.

EDWARD R. HAMBERGER,
General Counsel.

[FR Doc.77-20027 Filed 7-12-77;8:45 am]

OFFICE OF THE FEDERAL REGISTER

EDUCATIONAL WORKSHOPS ON HOW TO USE THE FEDERAL REGISTER

Region II Workshops in New York, New York

The Office of the Federal Register will hold five separate workshops on "The Federal Register—What It Is and How To Use It" in New York, New York, as part of the General Services Administration's Consumer Representation Plan. Workshop dates: Monday, August 15, through Friday, August 19, at 9:30 a.m. Reservations are required for each session. Location: Conference Room 305 of the Federal Building at 26 Federal Plaza, New York, New York. For reservations, call Dorothy H. Gemmallo, 212-264-3514.

AGENDA

The content of each workshop session will be identical. Each workshop will last for approximately 2½ hours and will cover the following areas:

1. A brief history of the FEDERAL REGISTER.
2. The difference between legislation and regulations.
3. The relationship of the FEDERAL REGISTER and the CODE OF FEDERAL REGULATIONS.
4. Import elements of a typical FEDERAL REGISTER document.
5. An introduction to the finding aids of the Office of the Federal Register.

The Office of the Federal Register does not interpret specific agency regulations and the workshops will not provide a forum for the discussion of substantive questions. Rather, the workshops are designed as an introduction for the person who discovers that he or she must use FEDERAL REGISTER publications to keep track and to gain an understanding of the Federal regulations.

Dated: July 12, 1977.

FRED J. EMERY,
Director of the Federal Register.

[FR Doc.77-20291 Filed 7-12-77;9:31 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

[Doc. 301-12]

THROWN SILK

Solicitation of Public Views on Proposed Action

Pursuant to section 301(e)(1) of the Trade Act of 1974, regulations of the Office of the Special Representative for Trade Negotiations (STR) (Title 15 CFR 2006.5) and Executive Order No. 11846, the Section 301 Committee is by this notice requesting the submission of views from interested persons on proposed action in the form of quotas and/or increased duties against imports of silk mufflers, scarves, shawls, veils and handkerchiefs from Japan.

This proposed action is a result of the action by the Government of Japan in denying entry into Japan of thrown silk yarn from the United States, thereby maintaining an unjustifiable import restriction which impairs the value of trade commitments made to the United States and burdens and discriminates against U.S. Commerce.

Pursuant to section 301(d) a petition was filed with the STR on February 14, 1977 alleging discriminatory restrictions

and practices against U.S. exports of thrown silk by the Government of Japan (see FR Notice of March 1, 1977 p. 11935). A hearing on the alleged practice was held on March 29, 1977, where interested parties presented views on the alleged restrictions and practices.

Before and since the petition under section 301 was filed, the Government of the U.S. has been attempting to obtain the elimination of restrictions by Japan against U.S. exports of thrown silk yarns. Since mid 1976, the U.S. has been holding discussions with the Government of Japan with respect to the restrictions on thrown silk yarn exported from the U.S. During this period imports from countries such as the People's Republic of China; Korea, and the Republic of China have continued to enter Japan under quotas negotiated with those countries. Additional amounts have been licensed for import from other suppliers who did not have a quota arrangement with Japan. But exports from the U.S. continue to be denied entry into Japan.

Under section 301(a) of the Trade Act, the President shall take all appropriate and feasible steps to obtain the elimination of unjustified restrictions against U.S. commerce. These steps include the imposition of import restrictions on the products of the country restricting U.S. trade.

It is proposed that the U.S., pursuant to section 301(a) of the Trade Act, impose import restrictions in the form of quotas and/or increased duties on imports from Japan of silk mufflers, scarves, shawls, veils and handkerchiefs, provided for in items 372.1025, 372.1055, 372.5000, 372.5500, 372.6020, 372.6040, 372.6520, 372.6540, 370.1900, 370.8420, and 370.8440 of the Tariff Schedules of the United States Annotated (TSUSA). Imports into the U.S. in 1976 of the above articles from Japan totaled $12.261 million.

Interested persons are invited to submit views on the proposed action to the Office of the Special Representative for Trade Negotiations, Section 301 Committee Chairman, Room 715, 1800 G St., N.W., Washington, D.C. 20506. Written briefs must be submitted in twenty (20) copies. For complete information on submission of views, interested parties are referred to the regulations of the Office of the Special Representative for Trade Negotiations, Title 15 CFR part 2006. To be considered by the Section 301 Committee views of interested parties must be received in the Office of the STR by August 15, 1977.

MORTON POMERANZ,
Section 301 Chairman.

[FR Doc.77-20019 Filed 7-12-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Application No. 04/04-5179]

WILTAR INVESTMENTS CORP., INC.

Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under section 301(d) of the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 et seq.) has been filed by Wiltar Investments Corporation, Inc. (Applicant) with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1977).

The officers and directors are as follows:

William E. Tart, President, Director, Sole Stockholder, 2211 Mirror Lake Drive, Fayetteville, North Carolina 28302.

Ruth H. Tart, Vice President, 2211 Mirror Lake Drive, Fayetteville, North Carolina 28302.

Richard M. Wiggins, Secretary/Treasurer, Director, 1212 Longleaf Drive, Fayetteville, North Carolina.

The applicant will maintain an office at 222 Maiden Lane, Fayetteville, North Carolina 28302, and will begin operations with paid-in capital and paid-in surplus derived from the sale of 1,000 shares of common stock at $500 per share to William E. Tart. Mr. Tart is President and a major stockholder in Tart's TV, Furniture and Appliance Co., Inc.

As a small business investment company under section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owner and manager and the probability of successful operations of the Applicant under this management, including adequate profitability and financial soundness, in accordance with the Act and SBA rules and regulations.

Any person may, not later than July 28, 1977, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Fayetteville, North Carolina.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies.)

Dated: July 7, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-20128 Filed 7-12-77;8:45 am]

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 551]

INSPECTOR GENERAL, FOREIGN ASSISTANCE

Delegation of Authority No. 139

By virtue of the authority vested in me by section 621(a) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2381(a)), and section 4 of the Act of May 26, 1949 (22 U.S.C. 2658), I hereby designate and empower the Inspector General of the Foreign Service, Department of State, during the present vacancy in the Office of the Inspector General, Foreign Assistance, Department of State, to perform any and all of the functions conferred upon the said Inspector General, Foreign Assistance by section 624(d) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2384(d)), or otherwise, except for the issuance of those rules and regulations and other actions required by law to be approved by higher authority. This delegation is effective June 18, 1977.

This delegation of authority shall expire upon the filling of the vacancy in the Office of Inspector General, Foreign Assistance or upon termination of that office in accordance with legislation.

Dated: June 20, 1977.

CYRUS R. VANCE,
Secretary of State.

[FR Doc.77-19992 Filed 7-12-77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 77-173]

CHISELS, PUNCHES, HAMMERS AND SLEDGES (WITH OR WITHOUT HANDLES), VISES, C-CLAMPS, AND BATTERY SERVICE TOOLS FROM JAPAN

Antidumping Duties

AGENCY: U.S. Treasury Department.

ACTION: Determination on American manufacturers' petition; notice of desire to contest.

SUMMARY: This notice is to advise the public that the Customs Service has denied an American manufacturers' petition, requesting that antidumping duties be assessed with regard to chisels, punches, hammers and sledges (with or without handles), vises, c-clamps, and battery service tools from Japan, and has received notification of the manufacturers' desire to contest such decision.

EFFECTIVE DATE: July 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Michael Lublinski, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-2938).

SUPPLEMENTARY INFORMATION: On March 15, 1977, a petition was received in proper form, pursuant to section 516(a) of the Tariff Act of 1930, as amended by the Trade Act of 1974 (19 U.S.C. 1516(a)), from counsel acting on behalf of certain American manufacturers and wholesalers of chisels, punches, hammers and sledges, vises, c-clamps and battery service tools, among other things, asserting that a finding of dumping be issued and antidumping duties be assessed on those entries of the above-mentioned hand tools from Japan where it has been determined that sales were being made at prices less than the foreign market (or constructed) value, within the meaning of the Antidumping Act of 1921, as amended (19 U.S.C. 160 et seq.).

In addition, the petition asserted that the term "battery service tools" should include battery post and terminal cleaning brushes, battery terminal spreaders, angle-nose pliers, booster cables and battery service kits (terminal puller, cleaning brush and two terminals), as well as battery terminal lifters. An amendment of the determination of sales at less than fair value, made with regard to the importation of chisels, punches, hammers and sledges (with or without handles), vises, c-clamps, and battery service tools from Japan and published in the FEDERAL REGISTER on October 21, 1975 (40 FR 49111), excluded from the scope thereof all battery service tools other than battery terminal lifters.

A "Notice of petition filed by American manufacturer, producer or wholesaler" was published in the FEDERAL REGISTER on April 1, 1977 (42 FR 17556) with respect to the above-mentioned entries from Japan, and interested persons were afforded an opportunity to make written submissions. By letter dated May 18, 1977, the petitioner was notified that:

The scope of the class or kind of foreign merchandise determined to be sold in the United States at less than fair value is to be specified, as set forth in section 201(a) of the Antidumping Act of 1921, as amended (19 U.S.C. 160(a)), by the Secretary of the Treasury. Pursuant to a delegation of authority in such matters, the Assistant Secretary of the Treasury made a determination of sales at less than fair value in the above mattter, and specified the merchandise affected thereby. Subsequent to that determination, the Assistant Secretary was persuaded that it was inappropriate to include within such determination all battery service tools, as originally stated.

Having proceeded withip his statutory authority to determine that which had been sold at less than fair value, the Assistant Secretary was obligated to modify such determination once he was persuaded that it was in error. It is our opinion that his decision to amend the determination of sales at less than fair value in this case was therefore correct, and the scope of the term "battery service tools" should not be expanded to include that which was properly excluded. The International Trade Commission, upon the advice of the Assistant Secretary of the Treasury, amended the scope of its investigation to correspond to the modified determination. It is our opinion that, this action having been taken by the Assistant Secretary, the International Trade Commission acted properly by eliminating from the class or kind of merchandise under investigation all battery service tools other than battery terminal lifters.

As for the negative injury determination reached by the International Trade Commission, it must be emphasized that the Customs Service is foreclosed from investigating allegations as to injury or examining any conclusions of the International Trade Commission made within the scope of its statutory authority under section 201 of the Antidumping Act of 1921, as amended (19 U.S.C. 160). Therefore, it is our opinion that the negative determination of injury, having been made, must be considered valid in the absence of a decision of the Customs Court to the contrary, and is binding upon us. Accordingly, the decision not to assess antidumping duties was correct and your petition must be denied.

Notification was received by the Customs Service on May 31, 1977, of the American manufacturers' desire to contest in the United States Customs Court the failure of the Service to assess antidumping duties.

In accordance with the provisions of section 516(c) of the Tariff Act of 1930, as amended by the Trade Act of 1974 (19 U.S.C. 1516(c)), and § 175.24 of the Customs Regulations (19 CFR 175.24), notice is hereby given that the Commissioner of Customs has decided that the antidumping duties should not be assessed and that a domestic producer has given notice, as contemplated by section 516, that it desires to contest such decision.

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: July 7, 1977.

PETER O. SUCHMAN,
Deputy to the General Counsel for Tariff Affairs.

[FR Doc.77-20045 Filed 7-12-77;8:45 am]

[T.D. 77-172]

TANTALUM ELECTROLYTIC FIXED CAPACITORS

Antidumping Duties

AGENCY: U.S. Treasury Department.

ACTION: Determination of American manufacturer's petition; notice of desire to contest.

SUMMARY: This notice is to advise the public that the Customs Service has denied an American manufacturer's petition, requesting that antidumping duties be assessed with regard to tantalum electrolytic fixed capacitors from Japan, and has received notification of that manufacturer's desire to contest such decision.

EFFECTIVE DATE: July 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Craig Walker, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-2938).

SUPPLEMENTARY INFORMATION: On February 3, 1977, a petition was received in proper form, pursuant to section 516(a) of the Tariff Act of 1930, as amended, by the Trade Act of 1974 (19 U.S.C. 1516(a)), from counsel acting on behalf of Sprague Electric Company, asserting that a finding of dumping be issued and antidumping duties be assessed on those entries of tantalum electrolytic fixed capacitors from Japan where it has been determined that sales were being made at prices less than the foreign market (or constructed) value, within the meaning of the Antidumping Act of 1921, as amended (19 U.S.C. 160 et seq.)

A "Notice of Petition Filed by American Manufacturer, Producer or Wholesaler" was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15485) with respect to such entries from Japan, and interested persons were afforded an opportunity to make written submissions. By letter dated April 5, 1977, the petitioner was notified that:

The Customs Service is foreclosed from investigating allegations as to injury or examining any conclusions of the International Trade Commission made within the scope of its statutory authority under section 201 of the Antidumping Act of 1921, as amended (19 U.S.C. 160). It is our opinion that the negative determination of injury, having been made, must be considered valid in the absence of a decision of the Customs Court to the contrary, and therefore is binding upon us. Accordingly, the decision not to assess antidumping duties was correct and your petition must be denied.

Notification was received by the Customs Service on April 11, 1977, of Sprague Electric Company's desire to contest in the United States Customs Court the failure of the Service to assess antidumping duties.

In accordance with the provisions of section 516(c) of the Tariff Act of 1930, as amended by the Trade Act of 1974 (19 U.S.C. 1516(c)), and § 175.24 of the Customs Regulations (19 CFR 175.24), notice is hereby given that the Commissioner of Customs has decided that the antidumping duties should not be assessed and that a domestic producer has given notice, as contemplated by section

516, that it desires to contest such decision.

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: July 7, 1977.

PETER O. SUCHMAN,
Deputy to the General Counsel for Tariff Affairs.

[FR Doc.77-20046 Filed 7-12-77;8:45 am]

[T.D. 77-171]

WRENCHES, PLIERS, SCREWDRIVERS, AND METAL-CUTTING SNIPS AND SHEARS FROM JAPAN

Antidumping Duties

AGENCY: U.S. Treasury Department.

ACTION: Determination on American manufacturers' petition; notice of desire to contest.

SUMMARY: This notice is to advise the public that the Customs Service has denied an American manufacturers' petition, requesting that antidumping duties be assessed with regard to wrenches, pliers, screwdrivers, and metal-cutting snips and shears from Japan, and has received notification of the manufacturers' desire to contest such decision.

EFFECTIVE DATE: July 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Michael Lublinski, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-2938).

SUPPLEMENTARY INFORMATION: On March 15, 1977, a petition was received in proper form, pursuant to section 516(a) of the Tariff Act of 1930, as amended by the Trade Act of 1974 (19 U.S.C. 1516(a)), from counsel acting on behalf of certain American manufacturers and wholesalers of wrenches, pliers, screwdrivers and metal-cutting snips and shears (including bolt cutters), among other things, asserting that a finding of dumping be issued and antidumping duties be assessed on those entries of the above-mentioned hand tools from Japan where it has been determined that sales were being made at prices less than the foreign market (or constructed) value, within the meaning of the Antidumping Act of 1921, as amended (19 U.S.C 160 et seq.).

A "Notice of petition filed by American manufacturer, producer or wholesaler" was published in the FEDERAL REGISTER on April 5, 1977 (42 FR 18172) with respect to such entries from Japan, and interested persons were afforded an opportunity to make written submissions. By letter dated May 18, 1977, the petitioner was notified that:

> The Customs Service is foreclosed from investigating allegations as to injury or examining any conclusions of the International Trade Commission made within the scope of its statutory authority under section 201 of the Antidumping Act of 1921, as amended (19 U.S.C. 160). It is our opinion that the negative determination of injury, having been made, must be considered valid in the absence of a decision of the Customs Court to the contrary, and therefore is binding upon us. Accordingly, the decision not to assess antidumping duties was correct and your petiton must be denied.

Notification was received by the Custom Service on May 31, 1977, of the American manufacturers' desire to contest in the United States Customs Court the failure of the Service to assess antidumping duties.

In accordance with the provisions of section 516(c) of the Tariff Act of 1930, as amended by the Trade Act of 1974 (19 U.S.C. 1516(c)), and § 175.24 of the Customs Regulations (19 CFR 175.24) notice is hereby given that the Commissioner of Customs has decided that the antidumping duties should not be assessed and that a domestic producer has given notice, as contemplated by section 516, that it desires to contest such decision.

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: July 7, 1977.

PETER O. SUCHMAN,
Deputy to the General Counsel for Tariff Affairs.

[FR Doc.77-20047 Filed 7-12-77;8:45 am]

Office of the Secretary

[Treasury Dept. Order No. 208 (Rev. 4)]

ASSISTANT SECRETARY (ADMINISTRATION)

Designation to Act as "Head of the Agency" for Procurement Matters

Pursuant to the authority vested in me as Secretary of the Treasury by Title III of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377, 393), as amended (41 U.S.C., Chap. 4), particularly 41 U.S.C. 252, and by Reorganization Plan No. 26 of 1950, it is hereby ordered as follows:

1. The Assistant Secretary (Administration) is hereby designated to act as the Head of the Agency with respect to procurement. The Assistant Secretary (Administration) shall:

(a) Prescribe and publish the Treasury Procurement Regulations and other directives pertaining to procurement including, but not limited to, those incorporated in 41 CFR Chapter 10.

(b) Delegate to appropriate officials within the Office of the Secretary and bureaus of the Department authority to appoint Contracting Officers for the United States of America.

(c) Make all determinations and findings required by statute or regulation to be made by the Head of the Agency.

2. The authority delegated herein shall be exercised in accordance with the applicable limitations and requirements of the Federal Property and Administrative Services Act, as amended; the Federal Procurement Regulations, 41 CFR, Chap. 1; the applicable portions of the Federal Property Management Regulations, 41 CFR, Chap. 101; as well as other relevant statutes.

3. Treasury Department Order No. 208 (Revision 3), dated May 7, 1975, is rescinded.

Dated: June 29, 1977.

W. MICHAEL BLUMENTHAL,
Secretary.

[FR Doc.77-20076 Filed 7-12-77;8:45 a.m.]

[Treasury Dept. Order No. 208-1]

DIRECTOR, OFFICE OF ADMINISTRATIVE PROGRAMS, OFFICE OF THE SECRETARY OF THE TREASURY, ET AL.

Delegation of Procurement Authority

Pursuant to the authority vested in me as Assistant Secretary (Administration) by Treasury Department Order No. 208, Revision 4, it is hereby ordered as follows:

1. The authority to prescribe and publish Treasury Procurement Regulations is hereby delegated to the Director, Office of Administrative Programs, Office of the Secretary, without the power of further redelegation.

2. (a) The following officials of the Department of the Treasury are hereby delegated the authority to procure property and services consistent with Title III of the Federal Property and Administrative Services Act of 1949 (Act), as amended (41 U.S.C. 251-260), except as precluded by section 307 (41 U.S.C. 257) of the Act:

Director, Office of Administrative Programs, Office of the Secretary of the Treasury
Director, Bureau of Alcohol, Tobacco and Firearms
Comptroller of the Currency
Director, Federal Law Enforcement Training Center
Commissioner of Customs
Director, Bureau of Engraving and Printing
Commissioner, Bureau of Government Financial Operations
Commissioner of Internal Revenue
Director of the Mint
Commissioner of the Public Debt
National Director, U.S. Savings Bonds Division
Director, U.S. Secret Service

(b) Each of the officials named in (a) is deemed "chief officer responsible for procurement" within the meaning of 41 U.S.C. 257(b).

3. The authority delegated includes but is not limited to taking the following actions:

(a) To enter into and take all necessary actions with respect to purchases, contracts, leases, and other contractual procurement transactions;

(b) To make determinations and decisions with respect to procurement matters, except those determinations and decisions required by law or regulation to be made by other authority; and

(c) To designate persons qualified in procurement matters as Contracting Officers and representatives thereof and to signify such designation of qualified persons by issuance of Treasury Department Form 70-06.1 "Certificate of Appointment" in accordance with requirements and procedures established in Section 1.404 of the "Treasury Procurement Regulations".

4. The authority delegated herein shall be exercised in accordance with the applicable limitations and requirements of the Act; the Federal Procurement Regulations, 41 CFR, Chap. 1; the applicable portions of the Federal Property Management Regulations, 41 CFR, Chap. 101; as well as regulations issued by the Department of the Treasury which implement and supplement the Federal Procurement Regulations and the Federal Property Management Regulations, including but not limited to 41 CFR, Chap. 10 and Treasury Directives Manual Chapter 70-06, "Treasury Procurement Regulations".

5. To the extent permitted by the Act and this delegation, the authority herein delegated to the above-named officials may be redelegated by them by letter or bureau order to any subordinate officer or employee who has been duly designated to act as a Contracting Officer for the United States.

Dated: June 29, 1977.

WILLIAM J. BECKHAM, JR.,
Assistant Secretary (Administration).

[FR Doc.77-20075 Filed 7-12-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 434]

ASSIGNMENT OF HEARINGS

JULY 7, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 26739 Sub-No. 94 Crouch Freight Systems, Inc., MC 26739 Sub-No. 95 Crouch Freight Systems, Inc., and MC 26739 Sub-No. 96 Crouch Freight Systems, Inc., now being assigned October 12, 1977 for hearing at Interstate Commerce Commission in Washington, D.C.

MC 141804 Sub 31, Western Express now assigned July 13, 1977 at Los Angeles, California and will be held in Room 422, Courthouse Building, 312 North Spring Street.

MC 142497 Sub 1, Atlantic Charter Bus Service, Inc., now assigned August 2, 1977 at Norfolk, Virginia and will be held in Room 421, U.S. Post Office and Courthouse, 600 Grandy Street.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-20151 Filed 7-12-77;8:45 am]

[Notice No. 435]

ASSIGNMENT OF HEARINGS

JULY 8, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 42866 Sub-No. 16 National Van Lines, Inc., now being assigned October 12, 1977 for hearing at Interstate Commerce Commission in Washington, D.C.

MC 128273 Sub-No. 252 Midwestern Distribution, Inc. now being assigned October 19, 1977 for hearing at Interstate Commerce Commission in Washington, D.C.

MC 123872 Sub-No. 67 W&L Motor Lines, Inc., now being assigned October 19, 1977 for hearing at Interstate Commerce Commission in Washington, D.C.

MC 3854 Sub-No. 34 Burton Lines, Inc., now being assigned October 4, 1977 for hearing at Interstate Commerce Commission in Washington, D.C.

MC 119668 Sub-No. 7 Forrest Ratliff & Auburn Ratliff, DBA Ratliff Trucking Service now being assigned October 19, 1977 for hearing at Interstate Commerce Commission in Washington, D.C.

MC 42866 (Sub-No. 18), National Van Lines, Inc., now being assigned October 26, 1977, for hearing at Interstate Commerce Commission in Washington, D.C.

No. MC 119988 (Sub-No. 103), Great Western Trucking Co., Inc., now assigned July 18, 1977, at Seattle, Wash., will be held in Room 514, Federal Office Building, 915 2nd Avenue, instead of Room 1844.

No. MC 136595 (Sub-No. 6), Eastside Enterprises, Inc., d.b.a. Eastside Mobile Home Transportation, Inc., now assigned July 20, 1977, at Seattle, Wash., will be held in Room 514, 915 2nd Avenue, instead of Room 1844.

MC 140487 (Sub-No. 1), Yellowstone Trucking, Inc., now assigned July 13, 1967, at Seattle, Wash., will be held in Room 514, Federal Office Building, 915 2nd Avenue, instead of Room 1844.

MC 142698, B. A. Strickland, now assigned July 11, 1977, at Seattle, Wash., will be held in Room 514, Federal Office Building, 915 2nd Avenue, instead of Room 1844.

MC 138274 (Sub-No. 24), Shippers Best Express, Inc., now assigned July 14, 1977, at Seattle, Wash., will be held in Room 514, 915 2nd Avenue, instead of Room 1844.

MC 16682 (Sub-88), Mural Transport, Inc., now assigned July 18, 1977, at San Francisco, California, will be held in the Coast Guard Hearing Room, Room No. 314, 1 Embarcadero Center.

MC 124211 (Sub-280), Hilt Truck Line, Inc., now assigned July 20, 1977, at San Francisco, California, will be held in the Coast Guard Hearing Room, Room No. 314, 1 Embarcadero Center.

MC 134592 (Sub-9), Herb Moore and Hazel Moore, d.b.a. H & H Trucking Co., now assigned July 25, 1977, at San Francisco, California, will be held in the Federal Trade Commission, Hearing Room 12138, 12th Floor, 450 Golden Gate Avenue.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-20152 Filed 7-12-77;8:45 am]

[30th revised exemption No. 90 of Rule 19]

CAMINO, PLACERVILLE & LAKE TAHOE RAILROAD CO., ET AL.

Exemptions

To all railroads:

Exemption under provision of Rule 19 of the mandatory car service rules ordered in Ex Parte No. 241.

It appearing that the railroads named below own numerous 50-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 403, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a), and 2(b).

Camino, Placerville & Lake Tahoe Railroad company.[1]
Reporting Marks: CPLT.

The Clarendon and Pittsford Railroad Company.
Reporting Marks: CLP.

* * * * *

Greenville and Northern Railway Company.
Reporting Marks: GRN.

Greenwich & Johnsonville Railway Company.
Reporting Marks: GJ.

Lake Erie, Franklin & Clarion Railroad Company.
Reporting Marks: LEF.

Louisville and Wadley Railway Company.
Reporting Marks: LW.

Louisville, New Albany & Corydon Railroad Company.
Reporting Marks: LNAC.

McCloud River Railroad Company.
Reporting Marks: MR.

Missouri-Kansas-Texas Railroad Company.
Reporting Marks: BKTY-MKT.

Ogdensburg Bridge and Port Authority.
Reporting Marks: NSL.

Pearl River Valley Railroad Company.
Reporting Marks: PRV.

The Pittsburgh and Lake Erie Railroad Company.
Reporting Marks: P&LE.

[1] See footnote at end of document.

Providence and Worcester Company.
Reporting Marks: PW.
Raritan River Rail Road Company.
Reporting Marks: RR.
Sacramento Northern Railway.
Reporting Marks: SN.
St. Johnsbury & Lamoille County Railroad.
Reporting Marks: SJL.
Sierra Railroad Company.
Reporting Marks: SERA.
Terminal Railway, Alabama State Docks.[1]
Reporting Marks: TASD.
Tidewater Southern Railway Company.
Reporting Marks: TS.
Toledo, Peoria & Western Railroad Company.
Reporting Marks: TPW.
Vermont Railway, Inc.
Reporting Marks: VTR.
WCTU Railway Company.
Reporting Marks: WCTR.
Yreka Western Railroad Company.
Reporting Marks: YW.

NOTE.—Delete: Green Mountain Railroad Corporation.

Effective July 1, 1977, and continuing in effect until further order to this Commission.

Issued at Washington, D.C., June 28, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-20155 Filed 7-12-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

JULY 8, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43394—*Hominy Feed from and to Points in Southwestern, WTL and Southern Territories.* Filed by Southwestern Freight Bureau, Agent (No. B-694), for interested rail carriers.

Rates on hominy feed, in carloads, as described in the application, from and to points in southwestern, western trunkline and southern territories.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 60 to Southwestern Freight Bureau, Agent, tariff 225-N, I.C.C. No. 5212.

[1] Addition: Camino, Placerville & Lake Tahoe Railroad Company; Terminal Railway, Alabama State Docks.

Rates are published to become effective on August 7, 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-20156 Filed 7-12-77;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY ELIMINATION OF GATEWAY APPLICATIONS

JULY 8, 1977.

The following applications to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065(d)(2)), and notice thereof to all interested persons is hereby given as provided in such rules.

Carriers having a genuine interest in an application may file an original and three copies of verified statements in opposition with the Interstate Commerce Commission within 30 days from the date of publication. (This procedure is outlined in the Commission's report and order in Gateway Elimination, 119 M.C.C. 530.) A copy of the verified statement in opposition must also be served upon applicant or its named representative. The verified statement should contain all the evidence upon which protestant relies in the application proceeding including a detailed statement of protestant's interest in the proposal. No rebuttal statements will be accepted.

No. MC 83539 (Sub-No. 459G), filed May 31, 1977. Applicant: C & H Transportation Co., Inc., 1936-2010 West Commerce Street, Dallas, Tex. 75222. Applicant's representative: Thomas E. James, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: I. (A) Commodities the transportation of which because of size or weight requires the use of special equipment; (B) self-propelled articles, each weighting 15,000 pounds or more (except in driveaway service); and, (C) related machinery, parts, materials, and supplies moving in mixed loads, respectively, with the commodities described in (A) and (B) above:

(1)(a) Between points in Indiana, on the one hand, and, on the other, points in Colorado, except that no service shall be performed in the stringing or picking up of any of the commodities described in (A) above in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at points in Kentucky and New Mexico or Texas.

(1)(b) Between points in Indiana, on the one hand, and, on the other, points in North Carolina. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(1)(c) Between points in Indiana, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate gateways at points in Kentucky, Tennessee within 50 miles of Nashville, Tenn., and North Carolina or Georgia.

(1)(d) Between points in Indiana, on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(2)(a) Between points in Kentucky, on the one hand, and, on the other, points in Alabama. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(2)(b) Between points in Kentucky, on the one hand, and, on the other, points in Florida. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(2)(c) Between points in Kentucky, on the one hand, and, on the other, points in Georgia. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(2)(d) Between points in Kentucky, on the one hand, and, on the other, points in North Carolina. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(2)(e) Between points in Kentucky, on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(3)(a) Between points in Michigan, on the one hand, and, on the other, points in Arkansas, except that no service shall be performed in the stringing or picking up of the commodities described in (A) above in connection with main or trunk pipelines. The purpose of this filing is to eliminate a gateway at points in Indiana or Kentucky.

(3)(b) Between points in Michigan, on the one hand, and, on the other, points in Illinois, except that no service shall be performed in the stringing or picking up of any of the commodities described in (A) above in connection with main or truck pipelines. The purpose of this filing is to eliminate a gateway at points in Indiana.

(3)(c) Between points in Michigan, on the one hand, and, on the other, points in Missouri, except that no service shall be perfomed in the stringing or picking up of pipe in connection with oil or gas pipelines or in the stringing or picking up of any of the commodities described in (A) above in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at points in Indiana and Illinois.

(3) (d) Between points in Michigan, on the one hand, and, on the other, points in North Carolina. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(3) (e) Between points in Michigan, on the one hand, and, on the other, points in Oklahoma, except that no service shall be performed in the stringing or picking up of any of the commodities described in (A) above in connection with main or trunk pipelines. The purpose of this filing is to eliminate a gateway at points in Indiana.

(3) (f) Between points in Michigan, on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate a gateway at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(4) (a) Between points in Ohio, on the one hand, and, on the other, points in Alabama. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(4) (b) Between points in Ohio, on the one hand, and, on the other, points in Arkansas, except that no service shall be performed in the stringing or picking up of any of the commodities described in (A) above in connection with main or trunk pipelines. The purpose of this filing is to eliminate a gateway at points in Indiana or Kentucky.

(4) (c) Between points in Ohio, on the one hand, and, on the other, points in Colorado, except that no service shall be performed in the stringing or picking up of pipe in connection with oil and gas pipelines or in the stringing or picking up of any of the commodities described in (A) above in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at points in Indiana, Illinois, Missouri and Wichita, Kansas.

(4) (d) Between points in Ohio, on the one hand, and, on the other, points in Florida. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(4) (e) Between points in Ohio, on the one hand, and, on the other, points in Georgia. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(4) (f) Between points in Ohio, on the one hand, and, on the other, points in Illinois, except that no service shall be performed in the stringing or picking up of any of the commodities described in (A) above in connection with main or trunk pipelines. The purpose of this filing is to eliminate a gateway at points in Indiana.

(4) (g) Between points in Ohio, on the one hand, and, on the other, points in Iowa, except that no service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines or in the stringing or picking up of any of the commodities described in (A) above in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at points in Indiana and Illinois.

(4) (h) Between points in Ohio, on the one hand, and, on the other, points in Kansas, except that no service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines or in the stringing or picking up of the commodities described in (A) above in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at points in Indiana, Illinois and Missouri.

(4) (i) Between points in Ohio, on the one hand, and, on the other, points in Louisiana, except that no service shall be performed in the stringing or picking up of the commodities described in (A) above. The purpose of this filing is to eliminate gateways at points in Kentucky and Arkansas or Mississippi.

(4) (j) Between points in Ohio, on the one hand, and, on the other, points in Mississippi, except that no service shall be performed in the stringing or picking up of the commodities described in (A) above in connection with main or trunk pipelines. The purpose of this filing is to eliminate a gateway at points in Kentucky.

(4) (k) Between points in Ohio, on the one hand, and, on the other, points in Missouri, except that no service shall be performed in the stringing or picking up of the commodities described in (A) above in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at points in Indiana and Illinois.

(4) (l) Between points in Ohio, on the one hand, and, on the other, points in North Carolina. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(4) (m) Between points in Ohio, on the one hand, and, on the other, points in Oklahoma, except that no service shall be performed in the stringing or picking up of the commodities described in (A) above in connection with main or trunk pipelines. The purpose of this filing is to eliminate a gateway at points in Kentucky.

(4) (n) Between points in Ohio, on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(4) (o) Between points in Ohio, on the one hand, and, on the other, points in Texas, except that no service shall be performed in the stringing or picking up of the commodities described in (A) above. The purpose of this filing is to eliminate a gateway at points in Kentucky or Indiana.

(5) (a) Between points in Pennsylvania, on the one hand, and, on the other, points in Alabama. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(5) (b) Between points in Pennsylvania, on the one hand, and, on the other, points in Florida. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(5) (c) Between points in Pennsylvania, on the one hand, and, on the other, points in Georgia. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(5) (d) Between points in Pennsylvania, on the one hand, and, on the other, points in North Carolina. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(5) (e) Between points in Pennsylvania, on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(6) (a) Between points in Virginia, on the one hand, and, on the other, points in Alabama. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(6) (b) Between points in Virginia, on the one hand, and, on the other, points in Colorado, except that no service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines or in the stringing or picking up of commodities described in (A) above in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at points in Indiana, Illinois, Missouri and Wichita, Kansas.

(6) (c) Between points in Virginia, on the one hand, and, on the other, points in Florida. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(6) (d) Between points in Virginia, on the one hand, and, on the other, points in Georgia. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(6) (e) Between points in Virginia, on the one hand, and, on the other, points in Illinois, except that no service shall be performed in the stringing or picking up of the commodities described in (A) above in connection with main or trunk pipelines. The purpose of this filing is to eliminate a gateway at points in Indiana or Kentucky.

(6) (f) Between points in Virginia, on the one hand, and, on the other, points in Iowa, except that no service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines or in the stringing or picking up of the commodities described in (A) above in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at points in Indiana or Kentucky and Illinois.

(6) (g) Between points in Virginia, on the one hand, and, on the other, points in Missouri, except that no service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines or in the stringing or picking up of the commodities described in (A) above in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at points in Indiana or Kentucky and Illinois.

(6) (h) Between points in Virginia, on the one hand, and, on the other, points in Montana, except that carrier shall not engage in the stringing or picking up of pipe along pipelines. The purpose of this filing is to eliminate a gateway at points in Ohio.

(6) (i) Between points in Virginia, on the one hand, and, on the other, points in North Carolina. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(6) (j) Between points in Virginia, on the one hand, and, on the other, points in South Dakota, except that carrier shall not engage in the stringing or picking up of pipe along pipelines. The purpose of this filing is to eliminate a gateway at points in Ohio.

(6) (k) Between points in Virginia, on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate gateways at points in Kentucky, at points in Tennessee within 50 miles of Nashville, Tenn.

(6) (l) Between points in Virginia, on the one hand, and, on the other, points in Wyoming, except that carrier shall not engage in the stringing or picking up of pipe along pipelines. The purpose of this filing is to eliminate a gateway at points in Ohio.

(7) (a) Between points in West Virginia, on the one hand, and, on the other, points in Alabama. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(7) (b) Between points in West Virginia, on the one hand, and, on the other, points in Florida. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(7) (c) Between points in West Virginia, on the one hand, and, on the other, points in Georgia. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(7) (d) Between points in West Virginia, on the one hand, and, on the other, points in Illinois, except that no service shall be performed in the stringing or picking up of the commodities described in (A) above in connection with main or trunk pipelines. The purpose of this filing is to eliminate a gateway at points in Indiana or Kentucky.

(7) (e) Between points in West Virginia, on the one hand, and, on the other, points in Iowa, except that no service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines or in the stringing or picking up of the commodities described in (A) above in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at points in Indiana or Kentucky and Illinois.

(7) (f) Between points in West Virginia, on the one hand, and, on the other, points in Missouri, except that no service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines or in the stringing or picking up of commodities described in (A) above in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at points in Indiana or Kentucky and Illinois.

(7) (g) Between points in West Virginia, on the one hand, and, on the other, points in Montana, except that carrier shall not engage in the stringing or picking up of pipe along pipelines. The purpose of this filing is to eliminate a gateway at points in Ohio.

(7) (h) Between points in West Virginia, on the one hand, and, on the other, points in North Carolina. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(7) (i) Between points in West Virginia, on the one hand, and, on the other, points in North Dakota, except that carrier shall not engage in the stringing or picking up of pipe along pipelines. The purpose of this filing is to eliminate a gateway at points in Ohio.

(7) (j) Between points in West Virginia, on the one hand, and, on the other, points in South Dakota, except that carrier shall not engage in the stringing or picking up of pipe along pipelines. The purpose of this filing is to eliminate a gateway at points in Ohio.

(7) (k) Between points in West Virginia, on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate gateways at points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(7) (l) Between points in West Virginia, on the one hand, and, on the other, points in Wyoming, except that carrier shall not engage in the stringing or picking up of pipe along pipelines. The purpose of this filing is to eliminate a gateway at points in Ohio.

II. Commodities the transportation of which because of size or weight requires the use of special equipment, and related machinery, parts, materials, and supplies moving in connection therewith:

(1) (a) Between points in Indiana, on the one hand, and, on the other, points in Delaware. The purpose of this filing is to eliminate a gateway at Philadelphia, Pennsylvania.

(1) (b) Between points in Indiana, on the one hand, and, on the other, points in Idaho, except that carrier shall not engage in the stringing or picking up of pipeline along pipelines. The purpose of this filing is to eliminate gateways at points in Michigan or Ohio and Montana on and west of a line extending north and south through Dupuyer and Butte, Mont.

(1) (c) Between points in Indiana, on the one hand, and, on the other, points in Maryland. The purpose of this filing is to eliminate a gateway of points in Pennsylvania.

(1) (d) Between points in Indiana, on the one hand, and, on the other, points in Massachusetts. The purpose of this filing is to eliminate a Philadaelphia, Pennsylvania gateway.

(1) (e) Between points in Indiana, on the one hand, and, on the other, points in New Jersey. The purpose of this filing is to eliminate a gateway of points in Pennsylvania.

(1) (f) Between points in Indiana, on the one hand, and, on the other, points in New York. The purpose of this filing is to eliminate a gateway of points in Pennsylvania.

(1) (g) Between points in Indiana, on the one hand, and, on the other, points in Rhode Island. The purpose of this filing is to eliminate a Philadelphia, Pennsylvania gateway.

(1) (h) Between points in Indiana, on the one hand, and, on the other, points in the District of Columbia. The purpose of this filing is to eliminate a gateway of Philadelphia, Pennsylvania.

(2) (a) Between points in Kentucky, on the one hand, and, on the other, points in Delaware. The purpose of this filing is to eliminate a Philadelphia, Pennsylvania gateway.

(2) (b) Between points in Kentucky, on the one hand, and, on the other, points in Maryland. The purpose of this filing is to eliminate a gateway of points in Pennsylvania.

(2) (c) Between points in Kentucky, on the one hand, and, on the other, points in Massachusetts. The purpose of this filing is to eliminate a gateway of Philadelphia, Pennsylvania.

(2) (d) Between points in Kentucky, on the one hand, and, on the other, points in Missouri, except that no service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines or in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at points in Indiana and Illinois.

(2) (e) Between points in Kentucky, on the one hand, and, on the other, points in New Jersey. The purpose of this filing is to eliminate a gateway at points in Pennsylvania.

(2) (f) Between points in Kentucky, on the one hand, and, on the other, points in New York. The purpose of this filing is to eliminate a gateway at points in Pennsylvania.

(2) (g) Between points in Kentucky, on the one hand, and, on the other, points in Rhode Island. The purpose of this filing is to eliminate a gateway of Philadelphia, Pennsylvania.

(2) (h) Between points in Kentucky, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate the gateways of points in Kentucky; Tennessee within 50 miles of Nashville, Tenn., and North Carolina or Georgia.

(2) (i) Between points in Kentucky, on the one hand, and, on the other, the District of Columbia. The purpose of this filing is to eliminate a gateway of Philadelphia, Pennsylvania.

(3) (a) Between points in Michigan, on the one hand, and, on the other, points in Connecticut The purpose of this filing is to eliminate a gateway of Philadelphia, Pennsylvania.

(3) (b) Between points in Michigan, on the one hand, and, on the other, points in Delaware. The purpose of this filing is to eliminate a gateway of Philadelphia, Pennsylvania.

(3) (c) Between points in Michigan, on the one hand, and, on the other, points in Maryland. The purpose of this filing is to eliminate a gateway of points in Pennsylvania.

(3) (d) Between points in Michigan, on the one hand, and, on the other, points in Massachusetts. The purpose of this filing is to eliminate a gateway of Philadelphia, Pennsylvania.

(3) (e) Between points in Michigan, on the one hand, and, on the other, points in Minnesota, except that no service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines or in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at points in Indiana and Illinois.

(3) (f) Between points in Michigan, on the one hand, and, on the other, points in New Jersey. The purpose of this filing is to eliminate a gateway at points in Pennsylvania.

(3) (g) Between points in Michigan, on the one hand, and, on the other, points in New York. The purpose of this filing is to eliminate a gateway at points in Pennsylvania.

(3) (h) Between points in Michigan, on the one hand, and, on the other, points in Rhode Island. The purpose of this filing is to eliminate the gateway of Philadelphia, Pennsylvania.

(3) (i) Between points in Michigan, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate gateways at points in Kentucky; Tennessee within 50 miles of Nashville, Tennessee, and North Carolina or Georgia.

(3) (j) Between points in Michigan, on the one hand, and, on the other, points in Wisconsin, except that no service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines or in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at points in Indiana and Illinois.

(3) (k) Between points in Michigan, on the one hand, and, on the other, points in the District of Columbia. The purpose of this filing is to eliminate a gateway of Philadelphia, Pennsylvania.

(4) (a) Between points in Ohio, on the one hand, and, on the other, points in Connecticut. The purpose of this filing is to eliminate a gateway of Philadelphia, Pennsylvania.

(4) (b) Between points in Ohio, on the one hand, and, on the other, points in Delaware. The purpose of this filing is to eliminate a gateway of Philadelphia, Pennsylvania.

(4) (c) Between points in Ohio, on the one hand, and, on the other, points in Maryland. The purpose of this filing is to eliminate a gateway at points in Pennsylvania.

(4) (d) Between points in Ohio, on the one hand, and, on the other, points in Massachusetts. The purpose of this filing is to eliminate a gateway at Philadelphia, Pennsylvania.

(4) (e) Between points in Ohio, on the one hand, and, on the other, points in Minnesota, except that no service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines or in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at points in Indiana and Illinois.

(4) (f) Between points in Ohio, on the one hand, and, on the other, points in New Jersey. The purpose of this filing is to eliminate a gateway at points in Pennsylvania.

(4) (g) Between points in Ohio, on the one hand, and, on the other, points in New York. The purpose of this filing is to eliminate a gateway at points in Pennsylvania.

(4) (h) Between points in Ohio, on the one hand, and on the other, points in Rhode Island. The purpose of this filing is to eliminate a gateway at Philadelphia, Pennsylvania.

(4) (i) Between points in Ohio, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate gateways at points in Kentucky; Tennessee within 50 miles of Nashville, Tennessee, and North Carolina or Georgia.

(4) (j) Between points in Ohio, on the one hand, and, on the other, points in Wisconsin, except that no service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines or in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at points in Indiana and Illinois.

(4) (k) Between points in Ohio, on the one hand, and, on the other, the District of Columbia. The purpose of this filing is to eliminate a gateway at Philadelphia, Pennsylvania.

(5) (a) Between points in Pennsylvania, on the one hand, and, on the other, points in Connecticut. The purpose of this filing is to eliminate a gateway at Philadelphia, Pennsylvania.

(5) (b) Between points in Pennsylvania, on the one hand, and, on the other, points in Delaware. The purpose of this filing is to eliminate a gateway at Philadelphia, Pennsylvania.

(5) (c) Between points in Pennsylvania, on the one hand, and, on the other, points in Massachusetts. The purpose of this filing is to eliminate a gateway at Philadelphia, Pennsylvania.

(5) (d) Between points in Pennsylvania, on the one hand, and, on the other, points in Rhode Island. The purpose of this filing is to eliminate a gateway at Philadelphia, Pennsylvania.

(5) (e) Between points in Pennsylvania, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate gateways at points in Kentucky; Tennessee within 50 miles of Nashville, Tennessee, and North Carolina or Georgia.

(5) (f) Between points in Pennsylvania, on the one hand, and, on the other, points in the District of Columbia. The purpose of this filing is to eliminate a gateway at Philadelphia, Pennsylvania.

(6) (a) Between points in Virginia, on the one hand, and, on the other, points in Connecticut. The purpose of this filing is to eliminate a gateway at Philadelphia, Pennsylvania.

(6) (b) Between points in Virginia, on the one hand, and, on the other, points in Delaware. The purpose of this filing is to eliminate a gateway at Philadelphia, Pennsylvania.

(6) (c) Between points in Virginia, on the one hand, and, on the other, points in Maryland. The purpose of this filing is to eliminate a gateway at points in Pennsylvania.

(6) (d) Between points in Virginia, on the one hand, and, on the other, points in Massachusetts. The purpose of this filing is to eliminate a gateway at Philadelphia, Pennsylvania.

(6) (e) Between points in Virginia, on the one hand, and, on the other, points in Minnesota, except that no service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines or in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at points in Indiana and Illinois.

(6) (f) Between points in Virginia, on the one hand, and, on the other, points in New York. The purpose of this filing is to eliminate a gateway at points in Pennsylvania.

(6) (g) Between points in Virginia, on the one hand, and, on the other, points in Rhode Island. The purpose of this filing is to eliminate a gateway at Philadelphia, Pennsylvania.

(6) (h) Between points in Virginia, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate gateways at points in Kentucky; Tennessee within 50 miles of Nashville, Tennessee, and North Carolina.

(6) (i) Between points in Virginia, on the one hand, and, on the other, points in Wisconsin, except that no service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines or in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate

gateways at points in Indiana and Illinois.

(6) (j) Between points in Virginia, on the one hand, and, on the other, points in the District of Columbia. The purpose of this filing is to eliminate a gateway at Philadelphia, Pennsylvania.

(7) (a) Between points in West Virginia, on the one hand, and, on the other, points in Connecticut. The purpose of this filing is to eliminate a gateway at Philadelphia, Pennsylvania.

(7) (b) Between points in West Virginia, on the one hand, and, on the other, points in Delaware. The purpose of this filing is to eliminate a gateway at Philadelphia, Pennsylvania.

(7) (c) Between points in West Virginia, on the one hand, and, on the other, points in Maryland. The purpose of this filing is to eliminate a gateway at points in Pennsylvania.

(7) (d) Between points in West Virginia, on the one hand, and, on the other, points in Massachusetts. The purpose of this filing is to eliminate a gateway at Philadelphia, Pennsylvania.

(7) (e) Between points in West Virginia, on the one hand, and, on the other, points in Minnesota, except that no service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines or in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at points in Indiana and Illinois.

(7) (f) Between points in West Virginia, on the one hand, and, on the other, points in New Jersey. The purpose of this filing is to eliminate a gateway at points in Pennsylvania.

(7) (g) Between points in West Virginia, on the one hand, an, on the other, points in New York. The purpose of this filing is to eliminate a gateway at points in Pennsylvania.

(7) (h) Between points in West Virginia, on the one hand, and, on the other, points in Rhode Island. The purpose of this filing is to eliminate a gateway at Philadelphia, Pennsylvania.

(7) (i) Between points in West Virginia, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate gateways at points in Kentucky; Tennessee within 50 miles of Nashville, Tennessee, and North Carolina or Georgia.

(7) (j) Between points in West Virginia, on the one hand, and, on the other, points in Wisconsin, except that no service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines or in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at points in Indiana and Illinois.

(7) (k) Between points in West Virginia, on the one hand, and, on the other, points in the District of Columbia. The purpose of this filing is to eliminate a gateway at Philadelphia, Pennsylvania.

III. Such self-propelled articles, each weighing 15,000 pounds or more, which may be included in heavy machinery, and related machinery, tools, parts, and supplies moving in connection therewith, between points in Indiana, on the one hand, and, on the other, points in Idaho. The purpose of this filing is to eliminate gateways at points in Michigan and Montana on and west of a line extending north and south through Dupuyer and Butte, Montana.

IV. Commodities the transportation of which because of size or weight requires the use of special equipment, and related machinery, parts, materials, and supplies moving in connection therewith.

(1) (a) Between points in Connecticut, on the one hand, and, on the other, points in Alabama. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, points in Kentucky, and points in Tennessee within 50 miles of Nashville, Tenn.

(1) (b) Between points in Connecticut, on the one hand, and, on the other, points in Florida. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, points in Kentucky, and points in Tennessee within 50 miles of Nashville, Tenn.

(1) (c) Between points in Connecticut, on the one hand, and, on the other, points in Georgia. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, points in Kentucky, and points in Tennessee within 50 miles of Nashville, Tenn.

(1) (d) Between points in Connecticut, on the one hand, and, on the other, points in North Carolina. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, points in Kentucky, and points in Tennessee within 50 miles of Nashville, Tenn.

(1) (e) Between points in Connecticut, on the one hand and, on the other, points in South Carolina. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, points in Kentucky, and points in Tennessee within 50 miles of Nashville, Tennessee, and North Carolina or Georgia.

(1) (f) Between points in Connecticut, on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, points in Kentucky, and points in Tennessee within 50 miles of Nashville, Tenn.

(2) (a) Between points in Delaware, on the one hand, and, on the other, points in Alabama. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, points in Kentucky, and points in Tennessee within 50 miles of Nashville, Tenn.

(2) (b) Between points in Delaware, on the one hand, and, on the other, points in Colorado, except that no service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines or in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, and points in Indiana, Illinois, Missouri and Wichita, Kansas.

(2) (c) Between points in Delaware, on the one hand, and, on the other, points in Florida. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(2) (d) Between points in Delaware, on the one hand, and, on the other, points in Georgia. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, points in Kentucky, and points in Tennessee within 50 miles of Nashville, Tenn.

(2) (e) Between points in Delaware, on the one hand, and, on the other, points in Mississippi, except that no service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, and points in Kentucky.

(2) (f) Between points in Delaware, on the one hand, and, on the other, points in North Carolina. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, points in Kentucky, and points in Tennessee within 50 miles of Nashville, Tenn.

(2) (g) Between points in Delaware, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, and points in Kentucky; Tennessee within 50 miles of Nashville, Tennessee, and North Carolina or Georgia.

(2) (h) Between points in Delaware, on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(3) (a) Between the District of Columbia, on the one hand, and, on the other, points in Alabama. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(3) (b) Between the District of Columbia, on the one hand, and, on the other, points in Arkansas, except that no service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, and points in Kentucky.

(3) (c) Between the District of Columbia, on the one hand, and, on the other, points in Florida. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(3) (d) Between the District of Columbia, on the one hand, and, on the other, points in Georgia. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, points in Ken-

tucky and points in Tennessee within 50 miles of Nashville, Tenn.

(3) (e) Between the District of Columbia, on the one hand, and, on the other, points in Illinois, except that no service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, and points in Kentucky.

(3) (f) Between the District of Columbia, on the one hand, and, on the other, points in Iowa, except that no service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines or in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, and points in Indiana and Illinois.

(3) (g) Between the District of Columbia, on the one hand, and, on the other, points in Louisiana. The purpose of this filing is to eliminate the gateways of Philadelphia, Pennsylvania points in Kentucky, and points in Tennessee within 50 miles of Nashville, Tenn.

(3) (h) Between the District of Columbia, on the one hand, and, on the other, points in Mississippi, except that no service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, and points in Kentucky.

(3) (i) Between the District of Columbia, on the one hand, and, on the other, points in Missouri, except that no service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines or in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, and points in Indiana and Illinois.

(3) (j) Between the District of Columbia, on the one hand, and, on the other, points in North Carolina. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, points in Kentucky, and points in Tennessee within 50 miles of Nashville, Tenn.

(3) (k) Between the District of Columbia, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, and points in Kentucky, and points in Tennessee within 50 miles of Nashville, Tennessee, and North Carolina or Georgia.

(3) (l) Between the District of Columbia, on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, points in Kentucky, and points in Tennessee within 50 miles of Nashville, Tenn.

(4) (a) Between points in Maryland, on the one hand, and, on the other, points in Alabama. The purpose of this filing is to eliminate gateways at points in Pennsylvania, Kentucky, and points in Tennessee within 50 miles of Nashville, Tenn.

(4) (b) Between points in Maryland, on the one hand, and, on the other, points in Florida. The purpose of this filing is to eliminate gateways at points in Pennsylvania, Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(4) (c) Between points in Maryland, on the one hand, and, on the other, points in Georgia. The purpose of this filing is to eliminate gateways at points in Pennsylvania, Kentucky, and points in Tennessee within 50 miles of Nashville, Tenn.

(4) (d) Between points in Maryland, on the one hand, and, on the other, points in Georgia. hTe purpose of this shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines or in the stringing or picking of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at points in Pennsylvania, Indiana, and Illinois.

(4) (e) Between points in Maryland, on the one hand, and, on the other, points in Mississippi except that no service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at points in Pennsylvania and Indiana or Kentucky.

(4) (f) Between points in Maryland, on the one hand, and, on the other, points in North Carolina. The purpose of this filing is to eliminate gateways at points in Pennsylvania, Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(4) (g) Between points in Maryland, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate gateways at points in Pennsylvania, Kentucky, Tennessee within 50 miles of Nashville, Tennessee, and North Carolina or Georgia.

(4) (h) Between points in Maryland, on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate gateways at points in Pennsylvania, Kentucky, and points in Tennessee within 50 miles of Nashville, Tennessee.

(4) (i) Between points in Maryland, on the one hand, and, on the other, points in Wisconsin, except that no service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines or in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at points in Pennsylvania, Indiana and Illinois.

(5) (a) Between points in Massachusetts, on the one hand, and, on the other, points in Alabama. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(5) (b) Between points in Massachusetts, on the one hand, and, on the other points in Florida. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, points in Kentucky and points in Tennessee within 50 miles of Nashville, Tenn.

(5) (c) Between points in Massachusetts, on the one hand, and, on the other, points in Georgia. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, points in Kentucky, and points in Tennessee within 50 miles of Nashville, Tenn.

(5) (d) Between points in Massachusetts, on the one hand, and, on the other, points in North Carolina. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, points in Kentucky, and points in Tennessee within 50 miles of Nashville, Tenn.

(5) (e) Between points in Massachusetts, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, and points in Kentucky, Tennessee within 50 miles of Nashville, Tennessee, and North Carolina or Georgia.

(5) (f) Between points in Massachusetts, on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, and points in Kentucky, and Tennessee within 50 miles of Nashville, Tenn.

(6) (a) Between points in New Jersey and New York, on the one hand, and, on the other, points in Alabama. The purpose of this filing is to eliminate gateways at points in Pennsylvania, Kentucky, and points in Tennessee within 50 miles of Nashville, Tennesee.

(6) (b) Between points in New Jersey and New York, on the one hand, and, on the other, points in Florida. The purpose of this filing is to eliminate gateways at points in Pennsylvania, Kentucky, and points in Tennessee within 50 miles of Nashville, Tennessee.

(6) (c) Between points in New Jersey and New York, on the one hand, and, on the other, points in Georgia. The purpose of this application is to eliminate gateways at points in Pennsylvania, Kentucky, and points in Tennessee within 50 miles of Nashville, Tennessee.

(6) (d) Between points in New Jersey and New York, on the one hand, and, on the other, points in North Carolina. The purpose of this filing is to eliminate gateways at points in Pennsylvania, Kentucky, and points in Tennessee within 50 miles of Nashville, Tennessee.

(6) (e) Between points in New Jersey and New York, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate gateways at points in Pennsylvania, Kentucky; Tennessee within 50 miles of Nashville, Tennessee, and North Carolina or Georgia.

(6) (f) Between points in New Jersey and New York, on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate

gateways at points in Pennsylvania, Kentucky and points in Tennessee within 50 miles of Nashville, Tennessee.

(7)(a) Between points in Rhode Island, on the one hand, and, on the other, points in Alabama. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, points in Kentucky, and points in Tennessee within 50 miles of Nashville, Tenn.

(7)(b) Between points in Rhode Island, on the one hand, and, on the other, points in Florida. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, points in Kentucky, and points in Tennessee within 50 miles of Nashville, Tenn.

(7)(c) Between points in Rhode Island, on the one hand, and, on the other, points in Georgia. The purpose of this application is to eliminate gateways at Philadelphia, Pennsylvania, points in Kentucky, and points in Tennessee within 50 miles of Nashville, Tennessee.

(7)(d) Between points in Rhode Island, on the one hand, and, on the other, points in Illinois, except that no service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, and points in Indiana.

(7)(e) Between points in Rhode Island, on the one hand, and, on the other, points in North Carolina. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, points in Kentucky, and points in Tennessee within 50 miles of Nashville, Tennessee.

(7)(f) Between points in Rhode Island, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, points in Kentucky; Tennessee within 50 miles of Nashville, Tennessee, and North Carolina or Georgia.

(7)(g) Between points in Rhode Island, on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, and points in Kentucky, and points in Tennessee within 50 miles of Nashville, Tennessee.

V. (A) Commodities the transportation of which because of size or weight requires the use of special equipment; (B) self-propelled articles, each weighing 15,000 pounds or more (except in driveaway service); and (C) related machinery, parts, materials and supplies, moving in mixed loads respectively, with the commodities described in (A) and (B) above.

(1) Between points in Illinois, on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate gateways at points in Indiana, Kentucky, and points in Tennessee within 50 miles of Nashville, Tennessee.

(2)(a) Between points in Iowa, on the one hand, and, on the other, points in Florida. The purpose of this filing is to eliminate gateways at points in Illinois, Indiana, Kentucky, and points in Tennessee within 50 miles of Nashville, Tennessee.

(2)(b) Between points in Iowa, on the one hand, and, on the other, points in Georgia. The purpose of this filing is to eliminate gateways at points in Illinois, Indiana, Kentucky and points in Tennessee within 50 miles of Nashville, Tennessee.

(2)(c) Between points in Iowa, on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate gateways at points in Illinois, Indiana, Kentucky, and points in Tennessee within 50 miles of Nashville, Tennessee.

VI. Commodities the transportation of which because of size or weight requires the use of special equipment, and related machinery, parts, materials and supplies moving in connection therewith.

(1) Between points in Oregon, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate gateways at points in California, Indiana, Kentucky; Tennessee within 50 miles of Nashville, Tennessee, and North Carolina or Georgia.

(2)(a) Between points in Wisconsin, on the one hand, and, on the other, points in North Carolina. The purpose for this filing is to eliminate gateways at points in Illinois, Indiana, Kentucky and points in Tennessee within 50 miles of Nashville, Tennessee.

(2)(b) Between points in Wisconsin, on the one hand, and, on the other, points in Tennessee. The purpose of the filing is to eliminate gateways at points in Illinois, Indiana, Kentucky and points in Tennessee within 50 miles of Nashville, Tennessee.

VII. Machinery the transportation of which because of size or weight requires the use of special equipment, and related machinery, parts, materials and supplies moving in connection therewith.

(1)(a) Between points in New Hampshire, on the one hand, and, on the other, points in Indiana. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, and Worcester, Massachusetts.

(1)(b) Between points in New Hampshire, on the one hand, and, on the other, points in Kentucky. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, and Worcester, Massachusetts.

(1)(c) Between points in New Hampshire, on the one hand, and, on the other, points in Michigan. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, and Worcester, Massachusetts.

(1)(d) Between points in New Hampshire, on the one hand, and, on the other, points in New Mexico. The purpose of this filing is to eliminate gateways at points in Indiana or Kentucky and at Philadelphia, Pennsylvania, and Worcester, Massachusetts.

(1)(e) Between points in New Hampshire, on the one hand, and, on the other, points in Ohio. The purpose of this filing is to eliminate gateways at Philadelphia, Pennsylvania, and Worcester, Massachusetts.

(2)(a) Between points in Vermont, on the one hand, and, on the other, points in Colorado. The purpose of this filing is to eliminate gateways at Worcester, Massachusetts, Philadelphia, Pennsylvania, and points in Indiana, Illinois, Missouri and Wichita, Kansas.

(2)(b) Between points in Vermont, on the one hand, and, on the other, points in Illinois. The purpose of this filing is to eliminate gateways at Worcester, Massachusetts, Philadelphia, Pennsylvania, and points in Indiana.

(2)(c) Between points in Vermont, on the one hand, and, on the other, points in Indiana. The purpose of this filing is to eliminate gateways at Worcester, Massachusetts, and Philadelphia, Pennsylvania.

(2)(d) Between points in Vermont, on the one hand, and, on the other, points in Kentucky. The purpose of this filing is to eliminate gateways at Worcester, Massachusetts, and Philadelphia, Pennsylvania.

(2)(e) Between points in Vermont, on the one hand, and, on the other, points in Michigan. The purpose of this filing is to eliminate gateways at Worcester, Massachusetts, and Philadelphia, Pennsylvania.

(2)(f) Between points in Vermont, on the one hand, and, on the other, points in Ohio. The purpose of this filing is to eliminate gateways at Worcester, Massachusetts, and Philadelphia, Pennsylvania.

(2)(g) Between points in Vermont, on the one hand, and, on the other, points in Pennsylvania. The purpose of this filing is to eliminate gateways at Worcester, Massachusetts, and Philadelphia, Pennsylvania.

(2)(h) Between points in Vermont, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate gateways at Worcester, Massachusetts, Philadelphia, Pennsylvania, points in Kentucky; Tennessee within 50 miles of Nashville, Tennessee, and North Carolina or Georgia.

(2)(i) Between points in Vermont, on the one hand, and, on the other, points in West Virginia. The purpose of this filing is to eliminate gateways at Worcester, Massachusetts, and Philadelphia, Pennsylvania.

VIII. Heavy machinery, and related machinery parts, materials and supplies moving in connection therewith.

(1)(a) Between points in Kentucky, on the one hand, and, on the other, points in Alabama. The purpose of this filing is to eliminate gateways at points in Virginia within 100 miles of Johnson City, Tennessee and at Johnson City, Tennessee.

(1)(b) Between points in Kentucky, on the one hand, and, on the other, points in Florida. The purpose of this filing is to eliminate gateways at points in Virginia within 100 miles of Johnson City, Tennessee, and at Johnson City, Tennessee.

(1)(c) Between points in Kentucky, on the one hand, and, on the other, points in Georgia. The purpose of this filing is to eliminate gateways at points in Vir-

ginia within 100 miles of Johnson City, Tennessee and at Johnson City, Tennessee.

(1) (d) Between points in Kentucky, on the one hand, and, on the other, points in North Carolina. The purpose of this filing is to eliminate gateways at points in Virginia.

(1) (e) Between points in Kentucky, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate gateways at points in Virginia within 100 miles of Johnson City, Tennessee.

Restriction: The operations authorized in I through VIII above are restricted against the transportation of aircraft, missiles and parts thereof originating at or destined to points in South Carolina.

NOTE.—Applicant states that the purpose of this application is to eliminate gateways presented by Certificate No. MC 83539 (Sub-No. 323) which was pending before the Commission on and prior to November 23, 1973. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission within 10 days from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 1872 (Sub-No. E3), filed June 4, 1974. Applicant: ASHWORTH TRANSFER, INC., 1526 South 700 West Street, Salt Lake City, Utah 84104. Applicant's representative: Richard P. Kissinger, P.O. Box 17B, Denver, Colorado 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled vehicles, each weighing 15,000 pounds or more* (except motor vehicles as defined in Section 203(a)(13) of the Interstate Commerce Act, and vehicles moving in driveway service) and *related machinery, tools, parts* and *supplies moving in connection therewith*. Restriction: The operations authorized herein are restricted to commodities which are transported on trailers. (1) between points in New Mexico, on the one hand, and, on the other, points in Washington (Utah)*; (2) between points in New Mexico, on the one hand, and, on the other, points in Oregon (Utah)*; (3) between points in Arizona, on the one hand, and, on the other, points in Oregon, on, north and east of a line beginning at the Pacific Ocean and extending along U.S. Highway 20 to junction U.S. Highway 97, thence along U.S. Highway 97 to junction Oregon Highway 31, thence along Oregon Highway 31 to junction U.S. Highway 395, thence along U.S. Highway 395 to the Oregon-California state line (Utah)*; (4) between points in Arizona, on, north, and east of a line beginning at the Arizona-California state line and extending along Interstate Highway 10 to junction U.S. Highway 95, thence along U.S. Highway 95 to junction unmarked highway near Dome, Ariz., thence along unmarked highway to junction Interstate Highway 8 at Ligurta, Ariz., thence along Interstate Highway 8 to junction Arizona Highway 85, thence along Arizona Highway 85 to the United States-Mexico international boundary, on the one hand, and, on the other, points in Oregon (Utah)*; (5) between points in Colorado, on the one hand, and, on the other, points in Oregon (Utah)*; (6) between points in Idaho on and east of a line beginning at the Idaho-Montana state line and extending along U.S. Highway 93 to junction U.S. Highway Alternate 93, thence along U.S. Highway Alternate 93 to junction U.S. Highway 26, thence along U.S. Highway 26 to junction Interstate Highway 15, thence along Interstate Highway 15 to junction U.S. Highway 191, thence along U.S. Highway 191 to the Idaho-Utah state line, on the one hand, and, on the other, points in Oregon on and west of a line beginning at the Oregon-Washington state line and extending along Interstate Highway 5 to junction Oregon Highway 58, thence along Oregon Highway 58 to junction U.S. Highway 97, thence along U.S. Highway 97 to the Oregon-California state line (Utah or Montana)*;

(7) between points in Nevada on and east of a line beginning at the Nevada-California state line and extending along Interstate Highway 15 to junction U.S. Highway 93, thence along U.S. Highway 93 to junction Nevada Highway 25, thence along Nevada Highway 25 to junction Nevada Highway 38, thence along Nevada Highway 38 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway Alternate 50, thence along U.S. Highway Alternate 50 to the Nevada-Utah state line, on the one hand, and, on the other, points in Oregon on, north and east of a line beginning at the Pacific Ocean and extending along U.S. Highway 20 to junction U.S. Highway 97, thence along U.S. Highway 97 to junction Oregon Highway 31, thence along Oregon Highway 31 to junction U.S. Highway 395, thence along U.S. Highway 395 to the Oregon-California state line (Utah)*; (8) between points in Nevada on and east of a line beginning at the Nevada-Idaho state line and extending along U.S. Highway 93 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Nevada Highway 38, thence along Nevada Highway 38 to junction Nevada Highway 25, thence along Nevada Highway 25 to junction U.S. Highway 93, thence along U.S. Highway 93 to junction Interstate Highway 15, thence along Interstate Highway 15 to the Nevada-California state line, on the one hand, and, on the other, points in Oregon on and west of a line beginning at the Washington-Oregon state line and extending along U.S. Highway 197 to junction U.S. Highway 97, thence along U.S. Highway 97 to junction Oregon Highway 138, thence along Oregon Highway 138 to junction Oregon Highway 230, thence along Oregon Highway 230 to junction Oregon Highway 62, thence along Oregon Highway 62 to junction Interstate Highway 5, thence along Interstate Highway 5 to the Oregon-California state line (Utah)*; (9) between points in Wyoming, on the one hand, and, on the other, points in Oregon (Utah)*; (10) between points in Arizona, on the one hand, and, on the other, points in Washington (Utah)*; (11) between points in Colorado, on the one hand, and on the other, points in Washington (Utah)*;

(12) Between points in Idaho on and east of a line beginning at the Idaho-Montana state line and extending along U.S. Highway 93 to junction U.S. Highway Alternate 93, thence along U.S. Highway Alternate 93 to junction U.S. Highway 26, thence along U.S. Highway 26, to junction U.S. Highway 93, thence along U.S. Highway 93 to the Idaho-Nevada state line, on the one hand, and, on the other, points in Washington on, west, and north of a line beginning at the Washington-Oregon state line and extending along Washington Highway 433 to junction Washington Highway 4, thence along Washington Highway 4 to junction Interstate Highway 5, thence along Interstate Highway 5 to junction Interstate Highway 405, thence along Interstate Highway 405 to junction Washington Highway 522, thence along Washington Highway 522 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction unnumbered highway (3 miles east of Leavenworth, Wash.), thence along unnumbered highway to Entiat, Wash., thence along U.S. Highway 97 to junction Washington Highway 17, thence along Washington Highway 17 to junction Washington Highway 174, thence along Washington Highway 174 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction U.S. Highway 10, thence along U.S. Highway 10 to the Washington-Idaho state line (Utah or Montana)*; (13) between points in Idaho on and east of a line beginning at the Idaho-Montana state line and extending along U.S. Highway 93 to junction U.S. Highway Alternate 93, thence along U.S. Highway Alternate 93 to junction U.S. Highway 26, thence along U.S. Highway 26 to junction Interstate Highway 15, thence along Interstate Highway 15 to junction U.S. Highway 191, thence along U.S. Highway 191 to the Idaho-Utah state line, on the one hand, and, on the other, points in Washington (Utah or Montana)*; (14) between points in Nevada on, south, and east of a line beginning at the Nevada-Utah state line and extending along U.S. Highway 40 to

junction U.S. Highway 93, thence along U.S. Highway 93 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 95, thence along U.S. Highway 95 to junction Nevada Highway 58, thence along Nevada Highway 58 to the Nevada-California state line, on the one hand, and, on the other, points in Washington on, north and east of a line beginning at the Strait of Juan De Fuca at Port Angeles, Wash., and etxending along U.S. Highway 101 to junction Washington Highway 104, thence along Washington Highway 104 to junction Washington Highway 3, thence along Washington Highway 3 to junction Washington Highway 16, thence along Washington Highway 16 to junction Interstate Highway 5, thence along Interstate Highway 5 to junction Washington Highway 410, thence along Washington Highway 410 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction Washington Highway 124, thence along Washington Highway 124 to junction U.S. Highway 12, thence along U.S. Highway 12 to the Washington-Idaho state line (Utah)*; (15) between points in Wyoming, on the one hand, and, on the other, points in Washington (Utah or Montana*). The purpose of this application is to eliminate the gateways indicated by astericks above.

No. MC 1872 (Sub-No. E4), filed June 4, 1974. Applicant: ASHWORTH TRANSFER, INC., 1526 South 700 West Street, Salt Lake City, Utah 84104. Applicant's representative: Richard P. Kissinger, P.O. Box 17B, Denver, Colorado 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled vehicles, each weighing 15,000 pounds or more* (except motor vehicles as defined in Section 203(a)(13) of the Interstate Commerce Act, and vehicles moving in driveaway service) and *related machinery, tools, parts, and supplies moving in connection therewith;* Restriction: The operations authorized herein are restricted to commodities which are transported on trailers; (1) between points in Oregon, on the one hand, and, on the other, points in Iowa (Utah or Montana and Colorado or Wyoming)*; (2) between points in Oregon, on the one hand, and, on the other, points in Missouri (Utah or Montana and Colorado or Wyoming)*; (3) between points in Oregon, on the one hand, and, on the other, points in Kansas (Utah or Montana and Colorado or Wyoming)*; (4) between points in Oregon, on the one hand, and, on the other, points in Nebraska (Utah or Montana and Colorado or Wyoming)*; (5) between points in Oregon, on the one hand, and, on the other, points in South Dakota (Utah or Montana and Colorado or Wyoming)*; (6) between points in Washington, on the one hand, and, on the other, points in Iowa (Montana and Wyoming)*; (7) between points in Washington, on the one hand, and, on the other, points in Missouri (Utah or Montana and Colorado or Wyoming)*; (8) between points in Washington, on the one hand, and, on the other, points in Kansas (Utah or Montana and Colorado or Wyoming)*; (9) between points in Washington, on the one hand, and, on the other, points in Nebraska (Utah or Montana and Colorado or Wyoming)*; (10) between points in Washington, on the one hand, and, on the other, points in South Dakota (Utah or Montana and Colorado or Wyoming)*. The purpose of this filing is to eliminate the gateway indicated by an asterisk above.

No. MC 1872 (Sub-No. E17), filed June 4, 1974. Applicant: ASHWORTH TRANSFER, INC., 1526 South 700 West Street, Salt Lake City, Utah 84104. Applicant's representative: Richard P. Kissinger, P.O. Box 17B, Denver, Colorado 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over iregular routes, transporting: *Such iron and steel articles, as described in Appendix V to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, which are contractors' equipment and supplies*, (1) between points in Arizona, on the one hand, and, on the other, points in Iowa, Kansas, Missouri, Nebraska, and South Dakota (Colorado or Wyoming)*; (2) between points in Idaho, on the one hand, and, on the other, points in Iowa, Kansas, Missouri, Nebraska, and South Dakota (Wyoming or Colorado)*; (3) between points in Montana, on the one hand, and, on the other, points in Iowa, Kansas, Missouri, Nebraska (Wyoming or Colorado)*, and those points in South Dakota on and south of a line beginning at the South Dakota-Wyoming state line and extending along U.S. Highway 212 to junction U.S. Highway 85, thence along U.S. Highway 85 to junction South Dakota Highway 34, thence along South Dakota Highway 34 to junction Interstate Highway 90, thence along Interstate Highway 90 to the South Dakota-Minnesota state line (Wyoming)*; (4) between points in Montana on and west of a line beginning at the United States-Canada international boundary and exteding along U.S. Highway 91 to junction U.S. Highway 87, thence along U.S. Highway 87 to the Montana-Wyoming state line, on the one hand, and, on the other, points in South Dakota on, south, and east of a line beginning at the South Dakota-North Dakota state line and extending along South Dakota Highway 63 to Junction U.S. Highway 12, thence along U.S. Highway 12 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction U.S. Highway 212, thence along U.S. Highway 212 to the South Dakota-Wyoming state lines (Wyoming)*; (5) between points in New Mexico, on the one hand, and, on the other, points in Iowa, Kansas, Missouri, Nebraska, and south Dakota (Colorado or Wyoming)*; (6) between points in Nevada, on the one hand, and, on the other, points in Iowa, Kansas, Missouri, Nebraska and South Dakota (Colorado or Wyoming)*; (7) between points in Utah, on the one hand, and, on the other, points in Iowa, Kansas, Missouri, Nebraska, and South Dakota (Colorado or Wyoming)*. The purpose of this filing is to eliminate the gateway indicated by an asterisk above.

No. MC 2607 (Sub-No. E4), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Delaware, on the one hand, and, on the other, points in Oklahoma. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa. and points in Clark County, Ill.

No. MC 2607 (Sub-No. E5), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Delaware, on the one hand, and, on the other, points in Texas. The purpose fo this filing is to eliminate the gateways of Philadelphia, Pa. and Clark, Shelby and Cumberland Counties, Ill.

No. MC 2607 (Sub-No. E6), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hosuehold goods*, as defined by the Commission, between points in Delaware, on the one hand, and, on the other, points in Kentucky on and west of a line beginning at the Indiana-Kentucky state line and extending along Kentucky Highway 69 to Hartford, Ky., thence along U.S. Highway 231 to Beaver, Ky., thence along U.S. Highway 62 to junction U.S. Highway 431, thence along U.S. Highway 431 to the Tennessee-Kentucky state line. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa. and Camden, N.J. and points in Clark County, Ill.

No. MC 2607 (Sub-No. E7), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between New Castle County, Del., on the one hand, and, on the other, points in Fayette, Shelby, Tipton, Haywood, Lauderdale, Dyer, and Obion Counties, Tenn. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa. and points in Macon County, Ill.

No. MC 2607 (Sub-No. E49), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Virginia on and east of a line beginning at the North Carolina-Virginia state line, thence along Virginia Highway 35 to junction Interstate Highway 95, thence along Interstate Highway 95 to to Fredericksburg, Va., thence along U.S. Highway 17 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Maryland-Virginia state line, on the one hand, and, on the other, points in Kansas, on, north and west of a line beginning at Kansas City, Mo., thence along Interstate Highway 35 to junction U.S. Highways 50 and 59, thence along U.S. Highway 50 to junction Interstate Highway 35 near Emporia, thence along Interstate Highway 35 to the Oklahoma-Kansas state line. The purpose of this filing is to eliminate the gateways of Camden, N.J. and points in Clark, Coles and Cumberland, Counties, Ill.

No. MC 2607 (Sub-No. E51), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line, thence on Interstate Highway 83 to junction U.S. Highway 322, thence along U.S. Highway 322 to junction Pennsylvania Highway 147, thence along Pennsylvania Highway 147 to junction U.S. Highway 220, thence along U.S. Highway 220 to the New York-Pennsylvania State line, on the one hand, and, on the other, points in Kansas. The purpose of this filing is to eliminate the gateways of Camden, N.J. and points in Clark County, Ill.

No. MC 2607 (Sub-No. E52), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line, thence along U.S. Highway 222 to junction Pennsylvania Highway 501, thence along Pennsylvania Highway 501 to Pennsylvania Highway 895, thence along Pennsylvania Highway 895 to Pennsylvania Highway 125, thence along Pennsylvania Highway 125 to Interstate Highway 81, thence along Interstate Highway 81 to junction Pennsylvania Highway 61, thence along Pennsylvania Highway 61 to Pennsylvania Highway 42, thence along Pennsylvania Highway 42 to U.S. Highway 220, thence along U.S. Highway 220 to the New York-Pennsylvania State line, on the one hand, and, on the other, points in North Carolina. The purpose of this filing is to eliminate the gateway of Camden, N.J.

No. MC 2607 (Sub-No. E53), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania on and east of a line beginning at the Delaware-Pennsylvania State line, thence on Pennsylvania Highway 41 to junction Pennsylvania Highway 10, thence on Pennsylvania Highway 10 to junction U.S. Highway 422, thence on Pennsylvania Highway 422 to junction U.S. Highway 222, thence on U.S. Highway 222 to junction Pennsylvania Highway 309, thence along Pennsylvania Highway 309 to junction U.S. Highway 22, thence on U.S. Highway 22 to junction Pennsylvania Highway 33, thence on Pennsylvania Highway 33 to junction U.S. Highway 209, thence on U.S. Highway 209 to the New York-Pennsylvania State line, on the one hand, and, on the other, points in Iowa. The purpose of this filing is to eliminate the gateways of Camden, N.J. and points in Macon County, Ill.

No. MC 2607 (Sub-No. E54), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania on and east of a line beginning at the Delaware-Pennsylvania State line, thence along Pennsylvania Highway 41 to junction Pennsylvania Highway 841, thence along Pennsylvania Highway 841 to junction Pennsylvania Highway 82, thence along Pennsylvania Highway 82 to junction Pennsylvania Highway 23, thence on Pennsylvania Highway 23 to junction Pennsylvania Highway 100, thence on Pennsylvania Highway 100 to junction Pennsylvania Highway 309, thence along Pennsylvania Highway 309 to U.S. Highway 22, thence along U.S. Highway 22 to junction Pennsylvania Highway 33, thence along Pennsylvania Highway 33 to junction U.S. Highway 209, thence along U.S. Highway 209 to the New York-Pennsylvania State line, on the one hand, and, on the other, points in Tennessee on and west of a line beginning at South Fulton, Tenn., thence along U.S. Highway 51 to the Mississippi-Tennessee State line. The purpose of this filing is to eliminate the gateways of Camden, N.J. and points in Macon County, Ill.

No. MC 2607 (Sub-No. E55), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line, thence along U.S. Highway 222 to junction Pennsylvania Highway 61, thence along Pennsylvania Highway 61 to junction Pennsylvania Highway 895, thence along Pennsylvania Highway 895 to junction Pennsylvania Highway 443, thence along Pennsylvania Highway 443 to junction Pennsylvania Highway 309, thence along Pennsylvania Highway 309 to junction Pennsylvania Highway 93, thence along Pennsylvania Highway 93 to junction Interstate Highway 81, thence on Interstate Highway 81 to the New York-Pennsylvania State line, on the one hand, and, on the other, points in Missouri. The purpose of this filing is to eliminate the gateways of Camden, N.J. and points in Macon County, Ill.

No. MC 2607 (Sub-No. E56), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania state line, thence along U.S. Highway 222 to junction Pennsylvania Highway 501, thence along Pennsylvania Highway 501 to junction U.S. Highway 22, thence on U.S. Highway 22 to the junction Pennsylvania Highway 183, thence along Pennsylvania Highway 183 to Pennsylvania Highway 61, thence along Pennsylvania Highway 61 to Interstate Highway 81, thence along Interstate Highway 81 to the New York-Pennsylvania state line, on the one hand, and, on the other points in Illinois. The purpose of this filing is to eliminate the gateway of Camden, N.J.

No. MC 2607 (Sub-No. E57), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania on and east of a line beginning at the Maryland-Penn-

sylvania state line, thence along Pennsylvania Highway 10 to junction U.S. Highway 222, thence along U.S. Highway 222 to junction Pennsylvania Highway 309, thence along Pennsylvania Highway 309 to junction Pennsylvania Highway 22, thence along Pennsylvania Highway 22 to junction Pennsylvania Highway 33, thence along Pennsylvania Highway 33 to junction U.S. Highway 209, thence along U.S. Highway 209 to Matamoras, Pa., on the one hand, and, on the other, points in Indiana. The purpose of this filing is to eliminate the gateway of Camden, N.J.

No. MC 2607 (Sub-No. E58), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania on, east and south of a line beginning at the Delaware-Pennsylvania state line, thence on U.S. Highway 202 to New Hope, Pa., on the one hand, and, on the other, points in Wisconsin on and west of a line beginning at the Illinois-Wisconsin state line, thence on Interstate Highway 90 to junction U.S. Highway 51 to Hurley, Wis. The purpose of this filing is to eliminate the gateways of Camden, N.J. and points in Macon County, Ill.

No. MC 2607 (Sub-No. E59), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania state line and extending along Interstate Highway 83 to junction Interstate Highway 81, thence along Interstate Highway 81 to junction Pennsylvania Highway 61, thence along Pennsylvania State Highway 61 to junction Pennsylvania Highway 42, thence along Pennsylvania Highway 42 to junction U.S. Highway 220, thence along U.S. Highway 220 to the New York-Pennsylvania state line, on the one hand, and, on the other, points in Arkansas. The purpose of this filing is to eliminate the gateways of Camden, N.J., and points in Clark County, Ill.

No. MC 2607 (Sub-No. E60), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission between points in Pennsylvania on and east of a line beginning at the Delaware-Pennsylvania state line, thence along Pennsylvania Highway 41 to junction Pennsylvania Highway 841, thence along Pennsylvania Highway 841 to junction Pennsylvania Highway 82, thence along Pennsylvania Highway 82 to junction Pennsylvania Highway 23, thence along Pennsylvania Highway 23 to junction Pennsylvania Highway 100, thence along Pennsylvania Highway 100 to junction Pennsylvania Highway 29, thence along Pennsylvania Highway 29 to junction U.S. Highway 22, thence along U.S. Highway 22 to the New Jersey-Pennsylvania state line, on the one hand, and, on the other, points in Ohio. The purpose of this filing is to eliminate the gateway of Camden, N.J.

No. MC 2607 (Sub-No. E61), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania on and east of a line beginning at the Delaware-Pennsylvania State line, thence on U.S. Highway 202 to junction Pennsylvania Highway 100, thence on Pennsylvania Highway 100 to junction Pennsylvania Highway 29, thence on Pennsylvania Highway 29 to junction Pennsylvania Highway 309, thence along Pennsylvania Highway 309 to junction U.S. Highway 22, thence along Pennsylvania Highway 33 to junction U.S. Highway 209, thence along U.S. Highway 209 to junction Matamoras, Pa., on the one hand, and, on the other, points in West Virginia. The purpose of this filing is to eliminate the gateway of Camden, N.J.

No. MC 2607 (Sub-No. E62), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line, thence along Interstate Highway 83 to junction U.S. Highway 15, thence along U.S. Highway 15 to the New York-Pennsylvania State line, on the one hand, and, on the other, points in Georgia. The purpose of this filing is to eliminate the gateway of Camden, N.J.

No. MC 2607 (Sub-No. E63), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line, thence along U.S. Highway 15 to the New York-Pennsylvania State line, on the one hand, and, on the other, points in Oklahoma. The purpose of this filing is to eliminate the gateways of Camden, N.J., and points in Clark County, Ill.

No. MC 2607 (Sub-No. E64), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line, thence along Interstate Highway 83 to junction U.S. Highway 15, thence along U.S. Highway 15 to the New York-Pennsylvania State line, at Lawrenceville, Pa., on the one hand, and, on the other, points in Texas. The purpose of this filing is to eliminate the gateways of Camden, N.J., and points in Clark County, Ill.

No. MC 2607 (Sub-No. E65), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania on and east of a line beginning at Chester, Pa., thence along Pennsylvania Highway 320 to Interstate Highway 76, thence along Interstate Highway 76 north to junction Pennsylvania Highway 115, thence along Pennsylvania Highway 115 to Wilkes-Barre, Pa., thence along Pennsylvania Highway 309 to junction Pennsylvania Highway 29, thence along Pennsylvania Highway 29 to the New York-Pennsylvania State line, on the one hand, and, on the other, points in Harford, Baltimore, Howard, Montgomery, Ann Arundel, Prince Georges, Calvert, Charles, and St. Marys Counties, Md. The purpose of this filing is to eliminate the gateway of Camden, N.J.

No. MC 2607 (Sub-No. E68), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania on and east of a line beginning at the Delaware-Pennsylvania State line, thence along Pennsylvania Highway 41 to junction Pennsylvania Highway 841, thence along Pennsylvania Highway 841 to junction Pennsylvania Highway 82, thence along Pennsylvania Highway 82 to junction Pennsylvania Highway 23, thence along Pennsylvania Highway 23 to junction Pennsylvania Highway 100, thence along Pennsylvania Highway 100 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Pennsylvania

Highway 33, thence along Pennsylvania Highway 33 to junction U.S. Highway 209, thence along U.S. Highway 209 to Matamoras, Pa., at the New York-Pennsylvania State line, on the one hand, and, on the other, points in Kentucky on and west of a line beginning at the Indiana-Kentucky State line, thence south along U.S. Highway 431 to Central City, Ky., thence along U.S. Highway 62 to junction Kentucky Highway 171, thence along Kentucky Highway 171 to Kirkmansville, Ky., thence along Kentucky Highway 107 to junction U.S. Alternate Highway 41, thence along U.S. Alternate Highway 41 to the Tennessee-Kentucky State line. The purpose of this filing is to eliminate the gateways of Camden, N.J., and points in Clark County, Ill.

No. MC 2607 (Sub-No. E69), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line, thence along U.S. Highway 222 to junction Pennsylvania Highway 283, thence along Pennsylvania Highway 283 to junction Pennsylvania Highway 72, thence along Pennsylvania Highway 72 to junction Interstate Highway 81, thence north along Interstate Highway 81 to Frackville, Pa., thence along Pennsylvania Highway 61 to junction Pennsylvania Highway 42, thence along Pennsylvania Highway 42 to Millville, Pa., thence along U.S. Highway 220 to Williamsport, Pa., thence along U.S. Highway 220 to Williamsport, Pa., thence along U.S. Highway 15 to the New York-Pennsylvania State line, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate the gateway of Camden, N.J.

No. MC 2607 (Sub-No. E70), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania on, north and east of a line beginning at the Pennsylvania-New Jersey State line, thence along U.S. Highway 202 to Doylestown, Pa., thence along Pennsylvania Highway 611 north to junction U.S. Highway 209, thence along U.S. Highway 209 to Marshalls Creek, Pa., thence along Pennsylvania Highway 402 to junction U.S. Highway 6, thence along U.S. Highway 6 to Honesdale, Pa., thence along Pennsylvania Highway 191 to the New York-Pennsylvania State line, on the one hand, and, on the other, points in Allegheny, Washington, and Frederick Counties, Md. The purpose of this filing is to eliminate the gateway of Camden, N.J.

No. MC 2607 (Sub-No. E71), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Rhode Island, on the one hand, and, on the other, points in Wisconsin on and west of a line beginning at Ashland, Wis., thence along Wisconsin Highway 13 to Fifield, Wis., thence along Wisconsin Highway 70 to Radisson, Wis., thence along Wisconsin Highway 40 to junction Wisconsin Highway 64, thence along Wisconsin Highway 64 to junction Wisconsin Highway 124, thence along Wisconsin Highway 124 to junction U.S. Highway 53, thence along U.S. Highway 53 to LaCrosse, Wis., thence along U.S. Highway 61 to the Illinois-Wisconsin State line. The purpose of this filing is to eliminate the gateways of points in Kent County, Md., points in New Jersey within 20 miles of Camden, N.J., and points in Macon County, Ill.

No. MC 2607 (Sub-No. E72), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Household goods*, as defined by the Commission, between points in Rhode Island, on the one hand, and, on the other, points in Kentucky on and west of a line beginning at the Indiana-Kentucky State line, thence south along U.S. Highway 431 to Central City, Ky., thence along U.S. Highway 62 to junction Kentucky Highway 171, thence along Kentucky Highway 171 to Kirkmansville, Ky., thence along junction U.S. Alternate Highway 41, thence along U.S. Highway Alternate 41 to the Tennessee-Kentucky State line. The purpose of this filing is to eliminate the gateways of points in Kent County, Md., points in New Jersey within 20 miles of Camden, N.J., and points in Clark County, Ill.

No. MC 2607 (Sub-No. E74), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Household goods*, as defined by the Commission, between points in Rhode Island, on the one hand, and, on the other, points in Pennsylvania on, south and west of a line beginning at the New Jersey-Pensylvania State line, thence along U.S. Highway 22 to junction Pennsylvania Highway 61, thence along Pennsylvania Highway 61 to junction Pennsylvania Highway 54, thence along Pennsylvania Highway 54 to junction U.S. Highway 15, thence along U.S. Highway 15 to the New York-Pennsylvania State line. The purpose of this filing is to eliminate the gateway of Camden, N.J.

No. MC 2607 (Sub-No. E75), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Rhode Island, on the one hand, and, on the other, points in Ohio on, west and south of a line beginning at the Pennsylvania-Ohio State line, thence along U.S. Highway 30 to Canton, Ohio, thence along Interstate Highway 77 to Barberton, Ohio, thence along Interstate Highway 76 west to junction U.S. Highway 42, thence along U.S. Highway 42 to junction U.S. Highway 224, thence along U.S. Highway 224 to junction Ohio Highway 13, thence along Ohio Highway 13 to Huron, Ohio. The purpose of this filing is to eliminate the gateways of points in Kent County, Md., and points in New Jersey within 20 miles of Camden, N.J.

No. MC 2607 (Sub-No. E76), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Rhode Island, on the one hand, and, on the other, points in Tennessee on and west of a line beginning at the Kentucky-Tennessee State line, thence along U.S. Highway 45E to junction U.S. Highway 79 at Milan, Tenn., thence along U.S. Highway 79 to Memphis, Tenn. The purpose of this filing is to eliminate the gateways of points in Kent County, Md., points in New Jersey within 20 miles of Camden, N.J., and points in Macon County, Ill.

No. MC 2607 (Sub-No. E77), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Vermont, on the one hand, and, on the other, points in Pennsylvania on, south and west of a line beginning at the New Jersey-Pennsylvania State line, thence along U.S. Highway 202 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction U.S. Highway 322, thence along U.S. Highway 322 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction U.S. Highway 422 at Edensburg, Pa., thence along U.S. Highway

422 to the Ohio-Pennsylvania State line. The purpose of this filing is to eliminate the gateway of Camden, N.J.

No. MC 2607 (Sub-No. E78), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Virginia on and east of a line beginning at the North Carolina-Virginia State line, thence along Virginia Highway 32 to junction U.S. Highway 17, thence along U.S. Highway 17 to Yorktown, Va., on the one hand, and, on the other, points in Iowa on, south and west of a line beginning at the Illinois-Iowa State line, thence along Interstate Highway 80 to junction U.S. Highway 218, thence along U.S. Highway 218 to the Minnesota-Iowa State line. The purpose of this filing is to eliminate the gateways of Camden, N.J., and points in Macon County, Ill.

No. MC 2607 (Sub-No. E79), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between Alexandria, Va., and points within 20 miles in Virginia and points in Virginia on and east of a line beginning at the North Carolina-Virginia State line, thence along Virginia Highway 32 to junction U.S. Highway 17, thence along U.S. Highway 17 to Yorktown, Va., on the one hand, and, on the other, points in Missouri on, west and north of a line beginning at the Illinois-Missouri State line at St. Louis, Mo., thence along U.S. Highway 66 to Springfield, Mo., thence along U.S. Highway 65 to the Arkansas-Missouri State line. The purpose of this filing is to eliminate the gateways of Camden, N.J. and points in Clark, Coles, and Cumberland Counties, Ill.

No. MC 2607 (Sub-No. E80), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Virginia on and east of a line beginning at the North Carolina-Virginia State line, thence along Virginia Highway 35 to junction U.S. Highway 301, thence along U.S. Highway 301 to junction Interstate Highway 64, thence along Interstate Highway 64 to junction U.S. Highway 522 to Culpeper, Va., thence along U.S. Highway 15 to the Maryland-Virginia State line, on the one hand, and, on the other, points in Oklahoma on, north and west of a line beginning at the Kansas-Oklahoma State line, thence along U.S. Highway 77 to junction U.S. Highway 64, thence along U.S. Highway 64 to Enid, Okla., thence along U.S. Highway 60 to the Texas-Oklahoma State line. The purpose of this filing is to eliminate the gateways of Camden, N.J. and points in Clark, Coles, and Cumberland Counties, Ill.

No. MC 2607 (Sub-No. E81), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Virginia on and east of a line beginning at the North Carolina-Virginia State line, thence along Virginia Highway 32 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction Interstate Highway 95, thence along Interstate Highway 95 to junction Interstate Highway 64, thence along Interstate Highway 64 to junction U.S. Highway 522, thence along U.S. Highway 522 to the West Virginia-Virginia State line, on the one hand, and, on the other, points in Texas on and west of a line beginning at the Oklahoma-Texas State line, thence along U.S. Highway 75 to Dallas, Tex., thence along U.S. Highway 77 to Waco, Tex., thence along U.S. Highway 81 to Laredo, Tex. The purpose of this filing is to eliminate the gateways of Camden, N.J. and points in Clark, Coles, and Cumberland Counties, Ill.

No. MC 2607 (Sub-No. E82), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Alexandria, Va., and points within 20 miles thereof in Virginia, on the one hand, and, on the other, points in Iowa on, west and south of a line beginning at the Missouri-Iowa State line, thence along U.S. Highway 63 to Ottumwa, Iowa, thence along U.S. Highway 34 to junction U.S. Highway 59, thence along U.S. Highway 59 to the Minnesota-Iowa State line. The purpose of this filing is to eliminate the gateways of Camden, N.J. and points in Macon County, Ill.

No. MC 8973 (Sub-No. E143), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Plastic articles, hardware, and building materials, equipment, and supplies*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) from points in Morris County, New Jersey to points in that portion of Virginia on and south of a line beginning at junction of U.S. Highway 250 and the Virginia-West Virginia State line extending along U.S. Highway 29, thence along U.S. Highway 29 to junction Virginia Highway 229, thence along Virginia Highway 229 to junction U.S. Highway 211, thence along U.S. Highway 221 to junction Virginia Highway 123, thence along Virginia Highway 123 to junction Interstate Highway 495, thence along Interstate Highway 495 to the Virginia-Maryland State line. The purpose of this filing is to eliminate the gateway of the warehouse and plant facilities of Alcoa Aluminum Corporation at Woodbridge, N.J.

No. MC 8973 (Sub-No. E144), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, hardware, and building materials, equipment, and supplies*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) from points in Passaic County, N.J. to points in Maine, Ohio, Delaware, Maryland, Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateway of the warehouse and plant facilities of Alcoa Aluminum Corporation at Woodbridge, N.J.

No. MC 8973 (Sub-No. E145), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, hardware, and building materials, equipment, and supplies*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) from points in Passaic County, New Jersey, to points in that portion of New Jersey on and south of a line beginning at the New Jersey-Pennsylvania State line extending along New Jersey secondary Highway 546 to junction New Jersey Highway 31, thence along New Jersey Highway 31 to junction New Jersey Secondary Highway Spur 518, thence along New Jersey Secondary Highway Spur 518 to junction U.S. Highway 206, thence along U.S. Highway 206 to junction New Jersey Secondary Highway 533, thence along New Jersey Secondary Highway 533 to junction New Jersey Secondary Highway 514, thence along New Jersey Secondary Highway 514 to junction New Jersey Highway 27, thence along New Jersey Highway 27 to junction unnumbered highway to Rahway, thence along the unnumbered

highway to Carberet, thence along the unnumbered highway to the New Jersey-New York State line. The purpose of this filing is to eliminate the gateway of the warehouse of plant facilities of Alcoa Aluminum Corporation at Woodbridge, N.J.

No. MC 8973 (Sub-No. E146), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *plastic articles, hardware, and building materials, equipment, and supplies*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) from points in Passaic County, N.J., to points in that part of New York on and west of a line beginning at Lake Ontario extending along New York Highway 78 to junction New York Highway 16, thence along New York Highway 39, thence along New York Highway 39 to junction New York Highway 98, thence along New York Highway 98 to junction New York Highway 243, thence along New York Highway 243 to junction New York Highway 19, thence along New York Highway 19 to junction New York Highway 304, thence along New York Highway 304 to the New York-Pennsylvania State line, and points in that part of Richmond County, N.Y., on and south of a line beginning at Arthur Kill extending along Arthur Kill Road to junction Winchester Ave., thence along Winchester Ave. to junction Oceanic Ave., thence along Oceanic Ave. to Raritan Bay. The purpose of this filing is to eliminate the gateway of the warehouse and plant facilities of Alcoa Aluminum Corporation at Woodbridge, N.J.

No. MC 8973 (Sub-No. E147), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, hardware, and building materials, equipment, and supplies* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), from points in Passaic County, N.J. to points in that portion of New Hampshire on and east of a line beginning at the New Hampshire-Vermont State line extending along New Hampshire Highway 18 to junction U.S. Highway 3, thence along U.S. Highway 3 to junction Interstate Highway 93, thence along Interstate Highway 3 to the New Hampshire-Massachusetts State line. The purpose of this filing is to eliminate the gateway of the warehouse and plant facilities of Alcoa Aluminum Corporation at Woodbridge, N.J.

No. MC 8973 (Sub-No. E148), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, hardware, and building materials, equipment, and supplies* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, from points in Passaic County, N.J. to points in that portion of Vermont east of a line beginning at the United States-Canada International Boundary line extending along Vermont Highway 114, thence along Vermont Highway 114 to junction Vermont Highway 105, thence along Vermont Highway 105, to the Vermont-New Hampshire State line. The purpose of this filing is to eliminate the gateway of the warehouse and plant facilities of Alcan Aluminum Corp. at Woodbridge, N.J.

No. MC 8973 (Sub-No. E149), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, hardware, and building materials, equipment, and supplies* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), from points in Passaic County, N.J. to that portion of Massachusetts on and east of a line beginning at the Massachusetts-New Hampshire State line extending along Massachusetts Highway 38, thence along Massachusetts Highway 38 to junction Massachusetts Highway 3A, thence along Massachusetts Highway 3A to junction U.S. Highway 3, thence along U.S. Highway 3 to Massachusetts Highway 128, thence along Massachusetts Highway 128 to junction Massachusetts Highway 225, thence along Massachusetts Highway 225 to junction Massachusetts Highway 2, then along Massachusetts Highway 2 to junction Massachusetts Highway 60, thence along Massachusetts Highway 60 to junction Massachusetts Highway 38, thence along Massachusetts Highway 38 to Massachusetts Highway 138, thence along Massachusetts Highway 138 to the Massachusetts-Rhode Island State line. The purpose of this filing is to eliminate the gateway of the warehouse and plant facilities of Alcan Aluminum Corporation at Woodbridge, N.J.

No. MC 8973 (Sub-No. E150), Filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, hardware, and building materials, equipment, and supplies*, (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), from points in Passaic County, N.J., to points in that portion of Rhode Island on and east of a line beginning at Conanicut Island extending along unnumbered highway to Jamestown, thence along unnumbered highway to junction Rhode Island Highway 138, thence along Rhode Island Highway 138 to junction Rhode Island Highway 114, thence along Rhode Island Highway 114 to junction Rhode Island Highway 103, thence along Rhode Island Highway 103 to junction Rhode Island Highway 136, thence along Rhode Island Highway 136 to the Rhode Island-Massachusetts State line. The purpose of this filing is to eliminate the gateway of the warehouse and plant facilities of Alcan Aluminum Corporation at Woodbridge, N.J.

No. MC 8973 (Sub-No. E151) Filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, hardware, and building materials, equipment, and supplies*, (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), from points in Passaic County, N.J. to points in that portion of Pennsylvania on and west of a line beginning at the Pennsylvania-New York State line extending along Pennsylvania Highway 446 to junction Pennsylvania Highway 46, thence along Pennsylvania Highway 46 to junction Pennsylvania Highway 120, thence along Pennsylvania Highway 120 to junction Pennsylvania Highway 64, thence along Pennsylvania Highway 64 to junction Pennsylvania Highway 445, thence along Pennsylvania Highway 445 to junction unnumbered highway to Coburn, thence along unnumbered highway to junction U.S. Highway 322, thence along U.S. Highway 322 to junction Pennsylvania Highway 103, thence along Pennsylvania Highway 103 to junction U.S. Highway 522, thence along U.S. Highway 522 to junction Pennsylvania Highway 641, thence along Pennsylvania Highway 641 to junction Pennsylvania Highway 997, thence along Pennsylvania Highway 997 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Pennsylvania Highway 340, thence along Pennsylvania Highway 340 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Pennsylvania Highway 113,

thence along Pennsylvania Highway 113 to junction Interstate Highway 76, thence along Interstate Highway 76 to junction Pennsylvania Highway 363, thence along Pennsylvania Highway 363 to junction Pennsylvaia Highway 63, thence along Pennsylvania Highway 63 to junction Interstate Highway 276, thence along Interstate Highway 276 to junction Pennsylvania Highway 263, thence along Pennsylvania Highway 263 to junction Pennsylvania Highway 332, thence along Pennsylvania Highway 332 to junction Pennsylvania Highway 532, thence along Pennsylvania Highway 532 to the Pennsylvania-New Jersey State line. The purpose of this filing is to eliminate the gateway of the warehouse and plant facilities of Alcan Aluminum Corporation at Woodbridge, N.J.

No. MC 8973 (Sub-No. E152), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, hardware, and building materials, equipment, and supplies*, (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), from points in Somerset County, N.J., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, and Ohio. The purpose of this filing is to eliminate the gateway facilities of Alcan Aluminum Corporation at Woodbridge, N.J.

No. MC 8973 (Sub-No. E153), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, hardware, and building materials, equipment, and supplies*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), from points in Somerset County, N.J., to points in that portion of New Jersey on and east of a line beginning at the New Jersey-New York State line extending along Main St. in Sewaren to junction New Jersey Highway 35, thence along New Jersey Highway 35 to junction U.S. Highways 1 and 9, thence along U.S. Highways 1 and 9 to Avenel Ave., thence along Avenel Ave. to junction Rahway Ave., thence along Rahway Ave. to junction Homestead Ave., thence along Homestead Ave. to junction Blair Rd., thence along Blair Rd. to junction Roosevelt Ave., thence along Roosevelt Ave. to junction Interstate Highway 95, thence along Interstate Highway 95 to the Middlesex-Hudson Counties boundary line, thence along the Middlesex-Hudson Counties boundary line to the New Jersey-New York State line. The purpose of this filing is to eliminate the gateway of the warehouse and plant facilities of Alcan Aluminum Corporation of Woodbridge, N.J.

No. MC 8973 (Sub-No. E154), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street, N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *plastic articles, hardware, and building materials, equipment, and supplies*, (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), from points in Somerset County, N.J., to points in that portion of New York on, west, and north of a line beginning at the Pennsylvania-New York State line extending along New York Highway 328 to junction New York Highway 14, thence along New York Highway 14 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction New York Highway 28, thence along New York Highway 28 to junction New York Highway 23, thence along New York Highway 23 to the New York-Massachusetts State line, and that portion of New York on and east of a line beginning at New Dorp Beach Staten Island, extending along New Dorp Lane to junction Richmond Road, thence along Richmond Road to junction Interstate Highway 278, thence along Interstate Highway 278 to junction Fort Hamilton Parkway, thence along Fort Hamilton Parkway to junction Linden Boulevard and New York Highway 27, thence along New York Highway 27 to junction Van Wyck Expressway, thence along Van Wyck Expressway to junction New York Highway 25, thence along New York Highway 25 to junction New York Secondary Highway 7, thence along New York Secondary Highway 7 to junction New York Highway 25A, thence along New York Highway 25A to junction Hempstead Harbor, thence along Hempstead Harbor to Long Island Sound. The purpose of this filing is to eliminate the gateway of the warehouse and plant facilities of Alcan Aluminum Corporation at Woodbridge, N.J.

No. MC 8973 (Sub-No. E155), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *plastic articles, hardware, and building materials, equipment, and supplies*, (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), from points in Somerset County, N.J., to points in that portion of Pennsylvania on and west of a line beginning at the Pennsylvania-Maryland State line extending along U.S. Highway 220 to junction Pennsylvania Highway 350, thence along Pennsylvania Highway 350 to junction Pennsylvania Highway 53, thence along Pennsylvania Highway 53 to junction unnumbered highway at Kylertown, thence along unnumbered highway through Karthaus and Pottersdate to junction Pennsylvania Highway 120, thence along Pennsylvania Highway 120 to junction unnumbered highway at Westport, thence along unnumbered highway to junction Pennsylvania Highway 144, thence along Pennsylvania Highway 144 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 349, thence along Pennsylvania Highway 349 to junction Pennsylvania Highway 49, thence along Pennsylvania Highway 49 to the Pennsylvania-New York State line. Purpose: The warehouse and plant facilities of Alcan Aluminum Corporation at Woodbridge, N. J.

No. MC 8973 (Sub-No. E156), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *plastic articles, hardware, and building materials, equipment, and supplies*, (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), from points in Somerset County, N.J., to points in that portion of Maryland on and west of a line beginning at the Maryland-Pennsylvania State line extending along U.S. Highway 522 to the Maryland-West Virginia State line, and points in that portion of Maryland on and south of a line beginning at the Potomac River and extending along Maryland Highway 227 to junction Maryland Highway 210, thence along Maryland Highway 210 to junction Maryland Highway 373 thence along Maryland Highway 373 to junction Maryland Highway 381, thence along Maryland Highway 381 to junction Maryland Highway 231, thence along Maryland Highway 231 to junction east bank of the Patuxent River, thence along the Patuxent River to Lower Marlboro, thence along Maryland Highway 262 to junction Maryland Highway 4, thence along Maryland Highway 4 to junction Maryland Highway 263, thence along Maryland Highway 263 to the Chesapeake Bay, thence along the Chesapeake Bay to the Maryland-Virginia State line, thence along the State line to the Chesapeake Bay, thence along Maryland Highway 363 to junction U.S. Highway 13, thence along U.S. Highway 13 to junction U.S. Highway 113, thence along U.S. Highway 113 to junction Maryland Highway 365, thence along Maryland Highway 365 to Chincoteague Bay to the Maryland-Virginia State line. The purpose of this filing is to eliminate the gateway of Alcan Aluminum Corporation at Woodbridge, N.J.

No. MC 8973 (Sub-No. E157), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *plastic articles, hardware, and building materials, equipment, and supplies*, (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), from points in Somerset County, N.J., to points in that portion of Virginia on and south of a line beginning at the Virginia-West Virginia State line extending along U.S. Highway 522 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Virginia Highway 236, thence along Virginia Highway 236 to junction Interstate Highway 495, thence along Interstate Highway 495 to the Virginia-Maryland State line. The purpose of this filing is to eliminate the gateway of The Warehouse and plant facilities of Alcan Aluminum Corporation at Woodbridge, N.J.

No. MC 8973 (Sub-No. E158), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley,, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, hardware*, and *building materials, equipment*, and *supplies*, (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) from points in Union County, New Jersey to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Ohio, Delaware, Maryland, Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateway of the warehouse and plant facilities of Alcan Aluminum Corporation at Woodbridge, N.J.

No. MC 8973 (Sub-No. E159), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, hardware*, and *building materials, equipment*, and *supplies*, (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), from points in Union County, N.Y., to (1) points in that part of New Jersey beginning at the New York-New Jersey State line at Port Reading, thence west along unnumbered Highway to Woodbridge, thence east along unnumbered Highway to the New York-New Jersey State line and, (2) points in that part of New Jersey on and south of a line beginning at the New Jersey-Pennsylvania State line and extending east along the Gloucester County-Camden County line to junction U.S. Highway 130, thence east along U.S. Highway 130 to unnumbered Highway, thence along unnumbered Highway to junction New Jersey Highway 70, thence along New Jersey Highway 70 to junction U.S. Highway 206, thence along U.S. Highway 206 to junction New Jersey Highway 530, thence east along New Jersey Highway 530 to junction unnumbered Highway at Pemberton, thence north along unnumbered Highway through Wrightstown to Sykesville, thence northeast along New Jersey Highway 537, to junction U.S. Highway 9, thence north along U.S. Highway 9 to junction unnumbered Highway at Gordons Corners, thence north along unnumbered Highway to junction New Jersey Highway 520, thence along New Jersey Highway 520 to junction unnumbered Highway east of Holmdel, thence north along unnumbered Highway to junction New Jersey Highway 35, thence north along New Jersey Highway 35 to junction unnumbered Highway, thence north along unnumbered Highway to Keansburg and continuing to the shore of the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of the warehouse and plant facilities of Alcan Aluminum Corporation at Woodbridge, N.J.

No. MC 8973 (Sub-No. E160), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, hardware*, and *building materials, equipment*, and *supplies* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) from points in Union County, N.J., to (1) points in that part of New York, on, north, and west of a line beginning at the New York-Pennsylvania State line and extending along New York Highway 17 to junction New York Highway 30, thence along New York Highway 30 to junction New York Highway 28, thence along New York Highway 28 to junction New York Highway 28A, thence along New York Highway 28A to junction New York Highway 213, thence along New York Highway 213, to junction New York Highway 32, thence along New York Highway 32 to junction New York Highway 299, thence along New York Highway 299 to junction U.S. Highway 9W, thence along U.S. Highway 9W to junction New York Highway 55, thence east along New York Highway 55, to junction unnumbered Highway near Pawling, thence east along unnumbered Highway to the New York-Connecticut State line; (2) points in the part of Suffolk County, N.Y., on and east of a line beginning on the northern shore of Long Island near Old Field, thence south along Old Field Road to junction unnumbered Highway, thence south on unnumbered Highway to junction New York Highway 25A, thence along New York Highway 25A to junction New York Highway 97, thence along New York Highway 97 to junction New York Highway 27A, thence west along New York Highway 27A to a creek just east of Sayville, thence south along creek to Great South Bay, thence south along the Passenger ferry route and across Fire Island to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of the warehouse and plant facilities of Alcan Aluminum Corporation at Woodbridge, N.J.

No. MC 8973 (Sub-No. E161), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, hardware, and building materials, equipment, and supplies* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), from points in Union County, N.J., to points in that part of Connecticut on, north, and east of a line beginning at the New York-Connecticut State line extending along Connecticut Highway 39, to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Connecticut Highway 34, thence along Connecticut Highway 34 to the shore of Long Island Sound. The purpose of this filing is to eliminate the gateway of the warehouse and plant facilities of Alcan Aluminum Corporation at Woodbridge, N.J.

No. MC 8973 (Sub-No. E162), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, hardware*, and *building materials, equipment*, and *supplies* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), from points in Union County, N.J., to points in that part of Pennsylvania on and west of a line beginning at the Pennsylvania–New York State line extending along Pennsylvania Highway 92 to junction Interstate Highway 81, thence along Interstate Highway 81 to junction Pennsylvania Highway 309, thence along Pennsylvania Highway 309 to junction Pennsylvania Highway 93, thence along Pennsylvania Highway 93 to junction Pennsylvania Highway 924, thence along Pennsylvania Highway 924 to junction Highway 81, thence along Interstate Highway 81 to junction Pennsylvania Highway 61, thence along Pennsylvania Highway 61

to junction Pennsylvania Highway 183, thence along Pennsylvania Highway 183 to junction Pennsylvania Highway 10, thence along Pennsylvania Highway 10 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 322, thence along U.S. Highway 322 to junction U.S. Highway 202, thence along U.S. Highway 202 to the Pennsylvania-Delaware State line. The purpose of this filing is to eliminate the gateway of the warehouse and plant facilities of Alcan Aluminum Corporation at Woodbridge, N.J.

No. MC 8973 (Sub-No. E178), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Shephen Heisley, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pellets*, in bulk, *plastic hose in mixed loads with plastic pellets*, in bulk, and *materials, equipment* and *supplies used in the manufacture* and *sale of plastic articles* (except liquid commodities in bulk, in tank vehicles) except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between points in Essex County, N.J., on the one hand, and, on the other, those points in Pennsylvania on and west of a line beginning at the New York-Pennsylvainia state line and extending along Pennsylvania Highway 187, thence along Pennsylvania Highway 187 to junction U.S. Highway 6, thence south along U.S. Highway 6 to junction unnumbered road at Wyalusing, thence south along the road to Pennsylvania Highway 87, to junction U.S. Highway 220, thence west along U.S. Highway 220 to junction U.S. Highway 15, thence south along U.S. Highway 15 to the Lycoming County-Union County boundary line, thence west along the line to the Clinton-Union County line, thence south along the Union County line to Pennsylvania Highway 45, thence east along Pennsylvania Highway 45 to junction Pennsylvania Highway 235, thence south along Pennsylvania Highway 235 to junction Pennsylvania Highway 35, thence south along Pennsylvania Highway 35 to junction U.S. Highway 22, thence east along U.S. Highway 22 to Pennsylvania Highway 74, thence along Pennsylvania Highway 74 to Pennsylvania Highway 233, thence south along Pennsylvania Highway 233 to an unnumbered road just west of Laurel, thence east along the road to Pennsylvania Highway 34, thence south along Pennsylvania Highway 34 to Pennsylvania Highway 234, thence east along Pennsylvania Highway 234 to junction U.S. Highway 30, thence east along U.S. Highway 30 to junction Interstate Highway 83, thence south along Interstate Highway 83 to the Pennsylvania-Maryland state line. The purpose of this filing is to eliminate the gateway of Ridgefield, N.J.

No. MC 8973 (Sub-No. E230), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardware used in the manufacture and sale of plastic articles*, from points in Indiana to points in New York on and east of a line beginning at the Pennsylvania-New York state line extending along U.S. Highway 209 to junction Interstate Highway 87, thence along Interstate Highway 87 to junction New York Highway 23, thence along New York Highway 23 to junction New York Highway 23B, thence along New York Highway 23B to junction New York Highway 23, to the Massachusetts state line. The purpose of this filing is to eliminate the gateways of Woodbridge and Ridgefield, N.J.

No. MC 8973 (Sub-No. E231), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardware used in the manufacture and sale of plastic articles*, from points in Kentucky to points in Connecticut, Massachusetts and Rhode Island. The purpose of this filing is to eliminate the gateways of Woodbridge and Ridgefield, N.J.

No. MC 8973 (Sub-No. E232), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardware used in the manufacture and sale of plastic articles*, from points in Kentucky to points in New Jersey on and east of a line beginning on the Pennsylvania-New Jersey state line, extending along U.S. Highway 206 to junction New Jersey Highway 517, thence along New Jersey Highway 517 to junction New Jersey Highway 523, thence along New Jersey Highway 523 to the Pennsylvania state line, south along the state line to junction New Jersey Highway 541, thence along New Jersey Highway 541 to junction New Jersey Highway 38, thence along New Jersey Highway 38 to junction U.S. Highway 206, thence along U.S. Highway 206 to junction New Jersey Highway 70, thence along New Jersey Highway 70 to junction New Jersey Highway 72, thence along New Jersey Highway 72 to junction New Jersey Highway 563, thence along New Jersey Highway 563 to junction New Jersey Highway 563 spur, thence along New Jersey Highway spur 563 to junction U.S. Highway 9, thence along U.S. Highway 9 to junction New Jersey Highway 52, thence along New Jersey Highway 52 to Great Egg Harbor to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Woodbridge and Ridgefield, N.J.

No. MC 8973 (Sub-No. E233), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardware used in the manufacture and sale of plastic articles*, from points in Kentucky to points in that part of New York on and east of a line beginning at the U.S.-Canada Boundary and extending along Interstate Highway 87 to junction New York Highway 8, thence along New York Highway 8 to junction New York Highway 30, thence along New York Highway 30 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Interstate Highway 87, thence along Interstate Highway 87 to junction U.S. Highway 209, thence along U.S. Highway 209 to junction New York Highway 55, thence along New York Highway 55 to the Pennsylvania state line, including New York, N.Y. and Long Island, N.Y. The purpose of this filing is to eliminate the gateways of Woodbridge and Ridgefield, N.J.

No. MC 8973 (Sub-No. E234), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street, N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardware used in the manufacture and sale of plastic articles*, from points in Maryland to points in Massachusetts and Rhode Island. The purpose of this filing is to eliminate the gateways of Woodbridge and Ridgefield, N.J.

No. MC 8973 (Sub-No. E235), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardware used in the manufacture and sale of plastic articles*, from points in Maryland, to points in that part of Connecticut on and east of a line beginning at the New York-Connecticut state line and extending along U.S. Highway 44 to junction U.S. Highway 7, thence along U.S. Highway 7 to junction Connecticut Highway 63, thence along Connecticut Highway 63 to junction Connecticut Highway 4, thence along Connecticut Highway 4 to junction Interstate Highway 84, thence along Interstate Highway 84 to junction Connecticut Highway 72, thence along Connecticut Highway 72 to junction Connecticut Highway 9, thence along Connecticut Highway 9 to junction Connecticut Highway 17, thence along Connecticut Highway 17 to junction Connecticut Highway

77, thence along Connecticut Highway 77 to junction Connecticut Highway 146, thence along Connecticut Highway 146 to Builford, thence west on Connecticut Highway 146 to unmarked road to Sachern Head, thence to Long Island Sound. The purpose of this filing is to eliminate the gateways of Woodbridge and Ridgefield, N.J.

No. MC 8973 (Sub-No. E236), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardware used in the manufacture and sale of plastic articles*, from points in Massachusetts to points in Delaware. The purpose of this filing is to eliminate the gateways of Woodbridge and Ridgefield, N.J.

No. MC 8973 (Sub-No. E237), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardware used in the manufacture and sale of plastic articles*, from points in Massachusetts to points in that part of New Jersey on and south of a line beginning at the New Jersey-Pennsylvania state line and extending along New Jersey Highway 57 to junction New Jersey Highway 517, thence along New Jersey Highway 517 to junction New Jersey Highway 24, thence along New Jersey Highway 24 to junction New Jersey Highway 510, thence along New Jersey Highway 510 to the Essex-Hudson County line, thence east and south along the county line to the New York line. The purpose of this filing is to eliminate the gateways of Woodbridge and Ridgefield, N.J.

No. MC 8973 (Sub-No. E238), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardware used in the manufacture and sale of plastic articles*, from points in Massachusetts to points in that part of Ohio on and west of a line beginning at Lake Erie at Cleveland, and extending along U.S. Highway 422 to junction Ohio Highway 82, thence along Ohio Highway 82 to the Pennsylvania state line. The purpose of this filing is to eliminate the gateways of Woodbridge and Ridgefield, N.J.

No. MC 8973 (Sub-No. E239), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardware used in the manufacture and sale of plastic articles*, from points in Michigan to points in Connecticut, Massachusetts and Rhode Island. The purpose of this filing is to eliminate the gateways of Woodbridge and Ridgefield, N.J.

No. MC 8973 (Sub-No. E240), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardware* used in the manufacture and sale of plastic articles, from points in Michigan to points in that part of New Jersey on and east of a line beginning at the New York-New Jersey state line and extending along New Jersey Highway 284, thence along New Jersey Highway 284 to junction New Jersey Secondary Highway 565, thence along New Jersey Secondary Highway 565 to junction New Jersey Highway 15, thence along New Jersey Highway 15 to junction Secondary Highway 517, thence along New Jersey Highway 517 to junction U.S. Highway 206, thence along U.S. Highway 206 to junction New Jersey Secondary Highway 513, thence along New Jersey Secondary Highway 513 to the Pennsylvania state line, thence along the state line to junction New Jersey Secondary Highway 541, thence along New Jersey Secondary Highway 541 to junction Interstate Highway 295, thence along Interstate Highway 295 to junction New Jersey Highway 73, thence along New Jersey Highway 73 to junction Atlantic City Expressway, thence along Atlantic City Expressway to junction New Jersey Highway 54, thence along New Jersey Highway 54 to junction New Jersey Secondary 555, thence along New Jersey Secondary 555 to junction New Jersey Highway 47, thence along New Jersey Highway 47 to unnumbered road at Delmont, thence south along this road to Moores Beach and the Delaware Bay. The purpose of this filing is to eliminate the gateways of Woodbridge and Ridgefield, N.J.

No. MC 8973 (Sub-No. E241), filed December 17, 1976. Applicant. METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardware used in the manufacture and sale of plastic articles*, from points in Michigan to points in that part of New York on, south and east of a line beginning on the New Jersey-New York state line and extending along New York Highway 94 to junction Interstate Highway 87, thence along Interstate Highway 87 to junction New York Highway 23, thence along New York Highway 23 to the Massachusetts state line, including New York, N.Y. and Long Island, N.Y. The purpose of this filing is to eliminate the gateways of Woodbridge and Ridgefield, N.J.

No. MC 8973 (Sub-No. E242), filed December 17, 1976. Applicant METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardware used in manufacture and sale of plastic articles*, from points in that part of New York on and south and east of a line beginning at the New York-New Jersey state line and extending along New York Highway 17 to junction Interstate Highway 87, thence along New York Highway 87 to junction New York Highway 199, to the Connecticut state line, to points in Ohio. The purpose of this filing is to eliminate the gateways of Woodbridge and Ridgefield, N.J.

No. MC 8973 (Sub-No. E243), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor carrier, over irregular routes, transporting: *Hardware used in the manufacture and sale of Plastic articles*, from points in New York on, north and east of a line beginning at Lake Ontario at Sackets Harbor, extending along New York Highway 3 to junction New York Highway 12, thence along New York Highway 12 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction Interstate Highway 87, thence along Interstate Highway 87 to junction New York Highway 17, thence south to the New Jersey state line to the Richmond-Kings County line, thence along the County line to Lower New York Bay, to points in Maryland. The purpose of this filing is to eliminate the gateways of Woodbridge and Ridgefield, N.J.

No. MC 8973 (Sub-No. E244), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardware used in the manufacture and sale of plastic articles*, from points in New York on and east of a line beginning at the U.S.-Canada Boundary line and extending along Interstate Highway 87 to junction New York Highway 3, thence along New York Highway 3 to junction New York Highway 86, thence along New York Highway 86 to junction New York Highway 73, thence along New York Highway 73 to junction Interstate Highmay 87, thence along Interstate Highway 87 to junction New York Highway 17, thence along New York Highway 17 to

the New Jersey state line, thence along this line to the Richmond-Kings County line, thence south to Lower New York Bay, to points in Maryland. The purpose of this filing is to eliminate the gateways of Woodbridge and Ridgefield, N.J.

No. MC 8973 (Sub-No. E245), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 2001. Authority sought to operate as a *common carrier*, by motor carrier, over irregular routes, transporting: *Hardware used in the manufacture and sale of plastic articles*, from points in Ohio to points in Massachusetts on and east of a line beginning at the Connecticut-Massachusetts state line at Clayton, along unmarked road through Southfield, to junction Massachusetts Highway 57, thence along Massachusetts Highway 57 to junction Massachusetts Highway 147, thence along Massachusetts Highway 147 to junction Interstate Highway 291, thence along Interstate Highway 291, to junction Intersate Highway 90, thence along Interstate Highway 90 to junction Interstate Highway 290, thence along Interstate Highway 290 to junction Massachusetts Highway 12, thence along Massachusetts Highway 12 to junction Massachusetts Highway 31, thence to the New Hampshire state line. The purpose of this filing is to elminiate the gateways of Woodbridge and Ridgefield, N.J.

No. MC 8973 (Sub-No. E246), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardware used in the manufacture and sale of plastic articles*, from points in Ohio to points in New Jersey on and east of a line beginning at the New York-New Jersey state line extending along New Jersey Highway 511 to junction New Jersey Highway 513, thence along New Jersey Highway 513 to junction U.S. Highway 46, thence along U.S. Highway 46 to junction New Jersey Highway 53, thence along New Jersey Highway 53 to junction U.S. Highway 202, thence along U.S. Highway 202 to junction U.S. Highway 206, thence along U.S. Highway 206 to junction New Jersey Highway 27, thence along New Jersey Highway 27 to junction New Jersey Highway 522, thence along New Jersey Highway 522 to junction U.S. Highway 130, thence along U.S. Highway 130 to junction New Jersey Highway 571, thence along New Jersey Highway 571 to junction New Jersey Highway 547, thence along New Jersey Highway 547 to junction New Jersey Highway 37, thence along New Jersey Highway 37 to unmarked road to Tom's River, N.J., along Tom's River to Barnegat Bay, thence along the Intracoastal Waterway to Barnegat Inlet, to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Woodbridge and Ridgefield, N.J.

No. MC 8973 (Sub-No. E247), filed December 17, 1976.. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardware used in the manufacture and sale of* plastic articles, from points in Ohio to points in New York on and south of a line beginning at the NewYork-New Jersey state line and extending along New York Highway 17 to junction U.S. Highway 6, to the Connecticut state line, including New York, N.Y. and Nassau and Suffolk Counties, N.Y. The purpose of this filing is to eliminate the gateways of Woodbridge and Ridgefield, N.J.

No. MC 8973 (Sub-No. E248), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardware used in the manufacture and sale of plastic articles*, from points in Rhode Island to points in Delaware and Ohio. The purpose of this filing is to eliminate the gateways of Woodbridge and Ridgefield, N.J.

No. MC 8973 (Sub-No. E249), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardware used in the manufacture and sale of plastic articles*, from points in Rhode Island to points in New Jersey on and south of a line beginning at the New Jersey-Pennsylvania state line and extending along Interstate Highway 80 at Columbia to junction U.S. Highway 46 just west of Netcong, thence along U.S. Highway 46 to junction Interstate Highway 80 east of Netcong, to junction U.S. Highway 46 to junction New Jersey Highway 506, thence along New Jersey Highway 506 to junction New Jersey Highway 7, thence along New Jersey Highway 7 to junction U.S. Highway 1 and 9, thence along U.S. Highway 1 and 9 to unnumbered road to the Holland Tunnel, thence to the New York state line. The purpose of this filing is to eliminate the gateways of Woodbridge and Ridgefield, N.J.

No. MC 8973 (Sub-No. E250), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardware used in the manufacture and sale of plastic articles*, from points in Rhode Island to points in (1) New York on and south of a line beginning at Lake Erie at Silver Creek and extending along New York Highway 428 to junction New York Highway 39, thence along New York Highway 39 to junction New York Highway 353, thence along New York Highway 353 to junction New York Highway 17, thence along New York Highway 17 to junction New York Highway 21, thence along New York Highway 21 to junction New York Highway 36, thence along New York Highway 36 to junction New York Highway 417, thence along New York Highway 417 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction New York Highway 17, thence along New York Highway 17 to Waverly, N.Y., and (2) points in Richmond County, N.Y. The purpose of this filing is to eliminate the gateways of Woodbridge and Ridgefield, N.J.

No. MC 8973 (Sub-No. 1251), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardware used in the manufacture and sale of plastic articles*, from points in West Virginia to points in Connecticut, Massachusetts and Rhode Island. The purpose of this filing is to eliminate the gateways of Woodbridge and Ridgefield, N.J.

No. MC 8973 (Sub-No. E252), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardware used in the manufacture and sale of pastic articles*, from points in West Virginia to points in New York on and east of a line beginning at the U.S.-Canada Boundary, extending along Interstate Highway 87 to junction New York Highway 3, thence along New York Highway 3 to Tupper Lake, thence north on New York Highway 3 to junction New York Highway 86, thence along New York Highway 86 to junction New York Highway 73, thence along New York Highway 73 to junction Interstate Highway 87, thence along Interstate Highway 87 to junction Interstate Highway 787, thence along Interstate Highway 787 to junction New York Highway 43, thence along New York Highway 43 to junction New York Highway 22, thence along New York Highway 22 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 9W, thence along U.S. Highway 9W to the New Jersey State line, including New York, N.Y. and Suffolk and Nassau Counties, N.Y. The purpose of this filing is to eliminate the gateways of Woodbridge and Ridgefield, N.J.

No. MC 8973 (Sub-No. E253), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., NW., Washington, D.C.

20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardware used in the manufacture and sale of plastic articles*, from points in Ohio to points in Connecticut and Rhode Island. The purpose of this filing is to eliminate the gateways of Woodbridge and Ridgefield, N.J.

No. MC 61825 (Sub-No. E957), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry I. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron* and *steel articles as are used as construction materials*, (A) between points in Ashland, Columbiana, Crawford, Erie, Fostoria, Huron, Lorain, Medina, Richland, Stark, Summit, and Wayne Counties, Ohio within 125 miles of Wellsburg, W. Va., on the one hand, and, on the other, points in Pennsylvania on and east of a line beginning at the Pennsylvania-New York State line, and extending along U.S. Highway 220 to junction U.S. Highway 22, to junction U.S. Highway 219, thence along U.S. Highway 219 to the Pennsylvania-Maryland State line; (B) between points in Pennsylvania on and east of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 220 to junction U.S. Highway 22, to junction U.S. Highway 219 to the Pennsylvania-Maryland State line, on the one hand, and, on the other, points in Ashland, Columbiana, Drawford, Erie, Fostoria, Huron, Lorain, Medina, Richland, Stark, Summit and Wayne Counties, Ohio, within 125 miles of Wellsburg, W. Va. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E958), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry I. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron* and *steel articles as are used as Construction materials*, (A) between points in Ashtabula, Cuyahoga, Geauga, Lake, Mahoning, Portage, and Trumbull Counties, Ohio, within 125 miles of Wellsburg, W. Va., on the one hand, and, on, the other, points in Pennsylvania on and south of a line beginning at the Pennsylvania-New Jersey state line and extending along U.S. Highway 22 to junction U.S. Highway 11, to the Pennsylvania-Maryland state line; (B) between points in Pennsylvania on and south of a line beginning at the Pennsylvania-New Jersey state line and extending along U.S. Highway 22 to junction U.S. Highway 11, to the Pennsylvania-Maryland state line, on the one hand, and, on the other, points in Ashtabula, Cuyahoga, Geauga, Lake, Mahoning, Portage, and Trumbull Counties, Ohio, within 125 miles of Wellsburg, V. Va. The purpose of this filing is to eliminate the gateway of Coketown, Broake County, W. Va.

No. MC 61825 (Sub-No. E959), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry I. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron* and *steel articles as are used as Construction materials*, (A) between points in Ashland, Ashtabula, Carroll, Columbiana, Crawford, Cuyahoga, Erie, Fostoria, Geauga, Holmes, Huron, Jefferson, Lake, Lorain, Mahoning, Medina, Portage, Richland, Stark, Summit, Trumbull, Tuscarawas, Wayne, Counties, Ohio, within 125 miles of Wellsburg, W. Va., on the one hand, and, on the other, points in West Virginia except the Counties of Brooke, Hancock, Marshall, Ohio and Wetzel; (B) between points in West Virginia except points in Brooke, Hancock, Marshall, Ohio and Wetzel Counties, on the one hand, and, on the other, points in Ashland, Ashtabula, Carroll, Columbiana, Crawford, Cuyahoga, Erie, Fostoria, Geauga, Holmes, Huron, Jefferson, Lake, Lorain, Mahoning, Medina, Portage, Richland, Stark, Summit, Trumbull, Tuscarawas, and Wayne Counties, Ohio within 125 miles of Wellsburg, W. Va. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E960), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry I. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron* and *steel articles as are used as Construction materials*, (A) between points in Belmont, Guernsey, and Harrison Counties, Ohio, on the one hand, and, on the other, points in West Virginia except points in Brooke, Cabell, Calhoun, Doddridge, Gilmer, Hancock, Harrison, Jackson, Marshall, Mason, Monongalia, Ohio, Pleasants, Putnam, Ritchie, Roan, Tyler, Wetzel, Wirt, and Wood Counties; (B) between points in West Virginia except points in Brooke, Cabell, Calhoun, Doddridge, Gilmer, Hancock, Harrison, Jackson, Marshall, Mason, Monongalia, Ohio, Pleasants, Putnam, Ritchie, Roane, Tyler, Wetzel, Wirt, and Wood Countes, on the one hand, and, on the other, points in Belmont, Guernsey, and Harrison Counties, Ohio. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 125777 (Sub-No. E28), filed June 4, 1974. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, Ind. 46403. Applicant's representative: Robert A. Tatge (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in bulk, in dump vehicle, from Oregon, Ill., to points in Washington, Montana, Idaho, Wyoming, Louisiana, North Carolina, South Carolina, Georgia, Florida, Arizona, Nevada, California, Oregon, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, Maryland, Virginia, Iowa, Nebraska, Pennsylvania, New York, Maine, Vermont, and New Hampshire. The purpose of this filing is to eliminate the gateways of Michigan City, Ind., Bridgmen, Mich., and Troy Grove, Ill.

No. MC 125777 (Sub-No. E95), filed June 4, 1974. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, Ind. 46403. Applicant's representative: Robert A. Tatge (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry Fertilizer*, in bulk, in dump vehicles, from Chicago Heights, Ill., to points in Nebraska, Kansas, North Dakota, South Dakota, Minnesota, Kentucky, (except points on and east of Interstate Highway 75), and Ohio (except points in Cuyahoga, Geuga, Lorain, and Portage Counties and except those points on and north of U.S. Highway 30). The purpose of this filing is to eliminate the gateway of the plant sites and storage facilities of International Minerals and Chemical Corporation at or near Clinton, Iowa.

No. MC 125777 (Sub-No. E97), filed June 4, 1974. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, Ind. 46403. Applicant's representative: Robert A. Tatge (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro alloys*, in dump vehicles, from Knoxville, Tenn., to points in Colorado, North Dakota, Minnesota, Utah, Arizona, Nebraska, Washington, Oregon, California, Idaho, Montana, Wyoming, South Dakota, Kansas (except points on an east of Interstate Highway 35), and Nevada. The purpose of this filing is to eliminate the gateway of Keokuk, Iowa.

By the Commission.

H. GORDON HOMME,
Acting Secretary.

[FR Doc.77-20154 Filed 7-12-77;8:45 am]

[Notice No. 193]

MOTOR CARRIER TRANSFER PROCEEDINGS

JULY 13, 1977.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Sec-

tion 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC 77197. By application filed July 1, 1977, BRANTLEY BROS. MOVING & STORAGE CO., INC., 17 Frelinghuysen Avenue, Newark, NJ 07114, seeks temporary authority to transfer the operating rights of UNIVERSAL STORAGE WAREHOUSE AND UNIVERSAL VAN-PAC, INC., Internal Revenue Service, successor-in-interest, by Neil A. Kleinberg, assignee for the benefit of creditors, 225 Millburn Avenue, Millburn, NJ 07041, under section 210a(b). The transfer to BRANTLEY BROS. MOVING & STORAGE CO., INC., of the operating rights of UNIVERSAL STORAGE WAREHOUSE AND UNIVERSAL VAN-PAC, INC., Internal Revenue Service, successor-in-interest, by Neil A. Kleinberg, assignee for the benefit of creditors, is presently pending.

By the Commission.

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

[FR Doc.77-20153 Filed 7-12-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

AGENCY HOLDING THE MEETING: Civil Aeronautics Board.

TIME AND DATE: 10 a.m., July 12, 1977.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Briefing by the Board's Bureau of International Affairs on U.S.-U.K. talks recently held in London.

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, (202-673-5068).

SUPPLEMENTAL INFORMATION: Ambassador Boyd is scheduled to brief the Board regarding the U.S.-U.K. talks on July 14, 1977. In order for the Board to have the benefit of its staff's views before Ambassador Boyd's briefing, the following Members have voted that agency business requires that the Board meet on less than seven days' notice.

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West

Additionally, the following Members have voted that the meeting will be closed to public observation under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B):

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West

EXPLANATION OF THE CLOSING

This meeting will concern the U.S.-U.K. bilateral discussions recently held in London. The principles and main provisions of a new air services bilateral were agreed to in London. Detailed drafting remains to be done. It is anticipated that the new agreement will be signed in Bermuda this month. Public disclosure of the opinions, evaluations and strategies of the U.S. participants in the U.S.-U.K. talks could seriously compromise the ability of the U.S. delegation to successfully conclude the agreement in the best interests of the United States. Accordingly, the Board finds that public observation of this meeting would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B) and that the meeting will be closed to public observation.

PERSONS EXPECTED TO ATTEND

BOARD MEMBERS

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West

ASSISTANTS TO BOARD MEMBERS

Mr. Dennis A. Rapp
Mr. John R. Hancock
Mr. Robert E. Cohn
Mr. Elias C. Rodriquez
Mr. Frederic D. Houghteling
Mr. John T. Golden
Mr. James L. Casey

OFFICE OF THE GENERAL COUNSEL

Mr. James C. Schultz
Mr. Peter B. Schwarzkopf
Ms. Carol Light

BUREAU OF INTERNATIONAL AFFAIRS

Mr. Rosario J. Scibilia
Ms. Mary Irene Pett

BUREAU OF OPERATING RIGHTS

Ms. Barbara Clark

OFFICE OF THE SECRETARY

Mrs. Phyllis T. Kaylor
Ms. Deborah A. Lee

OTHER

Ms. Rose Basiliko

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B).

Dated: July 7, 1977.

JAMES C. SCHULTZ,
General Counsel.

[S-860-77 Filed 7-8-77;4:52 pm]

2

AGENCY HOLDING THE MEETING: Civil Aeronautics Board.

TIME AND DATE: 3:30 p.m., July 14, 1977.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Briefing by Ambassador Boyd on U.S.-U.K. talks recently held in London.

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary (202-673-5068).

SUPPLEMENTARY INFORMATION: The following Members have voted that the meeting will be closed to public observation under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B):

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West

EXPLANATION OF THE CLOSING

This meeting will concern the U.S.-U.K. bilateral discussions recently held in London. The principles and main provisions of a new air services bilateral were agreed to in London. Detailed drafting remains to be done. It is anticipated that the new agreement will be signed in Bermuda this month. Public disclosure of the opinions, evaluations and strategies of the U.S. participants in the U.S.-U.K. talks could seriously compromise the ability of the U.S. delegation to successfully conclude the agreement in the best interests of the United States. Accordingly, the Board finds that public observation of this meeting would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B) and that the meeting will be closed to public observation.

PERSONS EXPECTED TO ATTEND

BOARD MEMBERS

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West

ASSISTANTS TO BOARD MEMBERS

Mr. Dennis A. Rapp
Mr. Robert E. Cohn
Mr. John R. Hancock
Mr. Elias C. Rodriquez
Mr. Frederic D. Houghteling
Mr. John T. Golden
Mr. James L. Casey

OFFICE OF THE GENERAL COUNSEL

Mr. James C. Schultz
Mr. Peter B. Schwarzkopf
Ms. Carol Light

BUREAU OF INTERNATIONAL AFFAIRS

Mr. Rosario J. Scibilia
Ms. Mary Irene Pett

BUREAU OF OPERATING RIGHTS

Ms. Barbara Clark

OFFICE OF THE SECRETARY

Mrs. Phyllis T. Kaylor
Ms. Deborah A. Lee

OTHER

Ambassador Alan S. Boyd, Department of State

Dr. W. Stephen Piper, Assistant to Ambassador Alan S. Boyd
Ms. Rose Basiliko, Alderson Reporting Company

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b (c)(9)(B) and 14 CFR 310b.5(9)(B).

Dated: July 7, 1977.

JAMES C. SCHULTZ,
General Counsel.

[S-861-77 Filed 7-8-77;4:52 pm]

3

AGENCY HOLDING MEETING: Federal Power Commission.

TIME AND DATE: August 1, 1977, 9:30 a.m.

PLACE: 825 North Capitol Street, Conference Room 5200.

STATUS: Open.

MATTERS TO BE CONSIDERED: Conservation-Technical Advisory Task Force—Efficiency in Use of Gas.

CONTACT PERSON FOR MORE INFORMATION:

Thomas Jennings, GPAC, Telephone 202–275–4400.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B.

JULY 7, 1977.

[S-862-77 Filed 7-11;9:18 am]

4

AGENCY HOLDING THE MEETING: Interstate Commerce Commission—Division 3.

TIME AND DATE: 9:30 a.m., Monday, July 11, 1977.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th and Constitution Avenue NW., Washington, D.C.

STATUS: Short notice of opening meeting—Division 3 has voted unanimously to hold an open meeting, on short notice to consider the following.

MATTER TO BE CONSIDERED: Meeting of Division 3 with Office of Proceedings Staff.

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Hildred Hersman, Confidential Assistant to Commissioner Brown, Telephone 202–275–7535.

JULY 8, 1977.

[S-859-77 Filed 7-8-77;4:52 pm]

5

AGENCY HOLDING THE MEETING: U.S. Railroad Retirement Board.

TIME AND DATE: 10 a.m., July 20, 1977.

PLACE: Board's meeting room on the 8th floor of its headquarters building at 844 Rush Street, Chicago, Illinois 60611.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

(1) Union participation on promotion panels.
(2) Recovery of annuity overpayments by partial withholding.
(3) Redesign of the health insurance computer system.
(4) Approval of purchase of hanging tape file library.

Portions closed to the public:

(5) Appeal to the Board of denial of annuity application, Raymond R. Bachand.

CONTACT PERSON FOR MORE INFORMATION:

R. F. Butler, Secretary of the Board. Telephone No. 312–387–4920.

[S-858-77 Filed 7-8-77;4:52 pm]

6

AGENCY HOLDING THE MEETING: Securities and Exchange Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 35271, July 8, 1977.

PREVIOUS ANNOUNCED TIME AND DATE: July 12, 1977, 10 a.m.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

STATUS: Closed meeting.

SUBJECT MATTER TO BE CONSIDERED: Disclosure matter arising from or bearing enforcement implications.

CHANGES IN THE MEETING: The above-captioned item is rescheduled to occur on Thursday, July 14, 1977 at 10 a.m. Chairman Williams, Commissioners Loomis, Pollack, and Evans have voted to approve the above change and have determined that no earlier notice thereof was possible.

JULY 8, 1977.

[S-863-77 Filed 7-11-77;9:18 am]

7

AGENCY HOLDING THE MEETING: Securities and Exchange Commission.

TIME AND DATE: July 11, 1977, 9 a.m.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

STATUS: Closed meeting.

SUBJECT MATTER TO BE DISCUSSED: Amicus participation.

Chairman Williams, Commissioners Loomis, Evans, and Pollack voted to close the meeting and determined that Commission business required consideration of this matter and that no earlier notice thereof was possible.

JULY 8, 1977.

[S-864-77 Filed 7-11-77;9:18 am]

federal register

WEDNESDAY, JULY 13, 1977

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

SPECIAL EDUCATIONAL NEEDS OF MIGRATORY CHILDREN

Grants to State Educational Agencies

Title 45—Public Welfare

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

PART 116d—GRANTS TO STATE EDUCATIONAL AGENCIES TO MEET THE SPECIAL EDUCATIONAL NEEDS OF MIGRATORY CHILDREN

Interim Final Regulations

AGENCY: Office of Education, HEW.

ACTION: Interim final regulations.

SUMMARY: This document is an interim final regulation expanding the regulations which implement section 122 of Title I of the Elementary and Secondary Education Act of 1965. Section 122 provides for grants to State educational agencies to meet the special educational needs of migratory children. In addition to generally amending and expanding the present regulations, these interim final regulations reflect and implement relevant amendments made to Title I by the Education Amendments of 1974. Publication is required by section 431 of the General Education Provisions Act. These interim final regulations also reflect the study required by section 503 of the Education Amendments of 1972 (see paragraph 2 under Supplementary Information).

EFFECTIVE DATES: Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(a)) these interim regulations have been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of transmission subject to the provisions therein concerning Congressional action and adjournment.

DATES: (See Item 7 under Supplementary Information.) Comments must be received on or before August 29, 1977.

HEARINGS

Pharr, Texas, August 16, 1977, 9:00 a.m. to 12 Noon, 2:00 p.m. to 5:00 p.m., and 7:00 p.m. to 10:00 p.m.

Tifton, Georgia, August 18, 1977, 9:00 a.m. to 12 Noon, 2:00 p.m. to 5:00 p.m., and 7:00 p.m. to 10:00 p.m.

Geneseo, New York, August 22, 1977, 9:00 a.m. to 12 Noon, 2:00 p.m. to 5:00 p.m., and 7:00 p.m. to 10:00 p.m.

Lansing, Michigan, August 24, 1977, 9:00 a.m. to 12 Noon, 2:00 p.m. to 5:00 p.m., and 7:00 p.m. to 10:00 p.m.

San Jose, California, August 26, 1977, 9:00 a.m. to 12 Noon, 2:00 p.m. to 5:00 p.m., and 7:00 p.m. to 10:00 p.m.

ADDRESSES: Written suggestions, objections, or other statements should be sent to the U.S. Office of Education, Room 4012, 400 Maryland Avenue, SW., Washington, D.C. 20202. Attention: Chairman, Office of Education Task Force on Section 503. (Comments and suggestions submitted in writing will be available for review at the above address between the hours of 8:30 a.m. and 4:00 p.m. Monday through Friday of each week).

HEARINGS

Pharr, Texas, San Juan Alamo High School Auditorium, 1229 South I Road;

Tifton, Georgia, Rural Development Center Auditorium, U.S. Highway 41 North;

Geneseo, New York, Holcomb Learning Center, Campus of State University College;

Lansing, Michigan, Eastern High School Auditorium, 220 North Pennsylvania Street;

San Jose, California, Santa Clara County Schools Office, Room G, 100 Skyport Drive;

FOR FURTHER INFORMATION CONTACT:

Dallas, Texas: Mr. Jerry Brader, 214/655-3671; *Atlanta, Georgia:* Dr. John Robinson, 401/881-3076; *New York, New York:* Barbara Brandon, 212/264-4370; *Chicago, Illinois:* Dr. Morris Osburn, 312/353-2259; *San Francisco, California:* Ms. Janice Williams, 415/556-3929; and *Washington, D.C.:* Mr. Vidal A. Rivera, Jr., 202/245-2427.

SUPPLEMENTARY INFORMATION: In accordance with section 503 of the Education Amendments of 1972 (Pub. L. 92-318) and under the authority of Title I, section 122 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241c-2) as enacted by Pub. L. 93-380, a notice of proposed rulemaking was published in the FEDERAL REGISTER on July 8, 1975, (40 FR 28622) setting forth in proposed 45 CFR Part 116d the requirements for participation by State educational agencies in programs for financial assistance provided by Title I of the Elementary and Secondary Education Act, section 122. Section 122 is administered at the Federal level by the Office of Education which issues regulations governing grants made by the Commissioner of Education under that program.

At present there are no guidelines related to Part 116d. Should guidelines be issued in the future, they will be published in the FEDERAL REGISTER and will be limited to material in the nature of suggestions or recommended courses of action for meeting certain mandatory requirements set forth in these interim regulations.

The interim final regulations set forth below provide definitions of migratory agricultural workers, migratory fishermen, of agricultural activities and fishing activities and of formerly and currently migratory children. The regulations also set forth the managerial responsibilities of State educational agencies, the bases for determining the amount to be made available for grants, the requirements for the submission of applications by State educational agencies, and the criteria for the Commissioner's approval of those applications.

These interim regulations will become final in the same manner and have the same legal effect as any other final regulations. (See paragraph above captioned "Effective date.") However, after the public has been given additional opportunity to comment on these interim regulations, the Commissioner plans to publish final regulations which will reflect whatever changes are considered necessary as a result of comments which have been received.

1. *Program purpose.* The purpose of section 122 of the Elementary and Secondary Education Act, and of this interim regulation, which implements section 122, is to enable the grantees (State educational agencies) to establish or improve programs designed to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen, and enable the grantees to coordinate these programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of the children. An eligible State educational agency may conduct its State program either directly or through a local educational agency or agencies.

2. *Section 503 procedures and effect.* Section 503 of the Education Amendments of 1972 requires the Commissioner to study all rules, regulations, guidelines, or other published interpretations or orders issued by him or by the Secretary after June 30, 1965, in connection with, or affecting, the administration of Office of Education programs; to report to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives concerning this study; and to publish in the FEDERAL REGISTER such rules, regulations, guidelines, interpretations, and orders with an opportunity for public hearing on the matters so published. The interim regulations below reflect the results of this study as it pertains to the program under Title I, section 122 of the Elementary and Secondary Education Act. All preceding rules, regulations, guidelines, and other published interpretations and orders issued in connection with or affecting Part 116 will be superseded when this interim regulation becomes effective.

3. *Amendments made by Pub. L. 93-380.* The interim regulation set forth below reflects and implements amendments made to Title I of the Elementary and Secondary Education Act by Pub. L. 93-380, the Education Amendments of 1974. In particular, the interim regulation makes conforming changes in or additions to the current regulation, relating to eligibility of migratory children of migratory fishermen, the General Education Provisions Act requirements for a general application and an annual program plan, the counting of formerly migratory children for funding purposes, and the use of migrant student record transfer system.

4. *Effect of Part 116.* A new Part 116, published as a final regulation in the FEDERAL REGISTER at 41 FR 42893 (September 28, 1976), sets forth general requirements applicable to all programs funded under Title I of the Act, including grants for programs for migratory children. The significant provisions in the new Part 116 which apply to programs under Part 116d are required submissions by States to the Commissioner and criteria for approval of submissions (§ 116.3), State administration and technical assistance (§ 116.4), review and complaint procedures (§ 116.6),

reports by State educational agencies (§ 116.7), the prohibition against consideration of Title I funds in determining State aid (§ 116.18), withholding of funds by the Commissioner for nonconformity (§ 116.20), planning grants (§ 116.30), use of program funds for construction and equipment (§ 116.32), reimbursement for expenses incurred by parent council members and volunteers (§ 116.33), education aides (§ 116.34), staffing for programs and projects (§ 116.35), preservice and inservice training (§ 116.36), the prohibition against supplanting (§ 116.40), the relation of Title I projects to other programs (§ 116.41), administrative control of Title I property (§ 116.42), measurement of educational achievement and evaluation of programs (§ 116.43), dissemination and utilization of results of educational research and demonstration (§ 116.44), public information (§ 116.45), and reports by applicant agencies (§ 116.46).

5. *Effect of Office of Education General Provisions Regulations.* Assistance provided under this part is also subject to applicable provisions contained in the overall Office of Education General Provisions Regulations, published in the FEDERAL REGISTER at 38 FR 30654 (November 6, 1973), and now set forth in 45 CFR Parts 100–100c, in connection with the same study under section 503 of the Education Amendments of 1972 of which this publication is a part. 45 CFR Parts 100–100c relate to fiscal, administrative and property management, monitoring and reporting of program performance, accountability for Federal funds, and other matters. It should be noted that the program for migratory children under this part is considered to be a State administered program which may involve financial assistance to local educational agencies as subgrantees; therefore, unless otherwise specified, the provisions of Part 100b of 45 CFR, rather than Part 100a, apply.

6. *Citations of legal authority.* As required by section 431(a) of the General Education Provisions Act (20 U.S.C. 1232 (a)), and section 503 of the Education Amendments of 1972, a citation of statutory or other legal authority for each section of the regulations has been placed in parentheses on the line following the text of the section.

On occasion, a citation appears at the end of a subdivision of the section. In that case the citation applies to all that appears in that section between the citation and the next preceding citation. When the citation appears only at the end of the section, it applies to the entire section.

7. *Opportunity for public comment.* Nearly all of the comments on the Notice of Proposed Rulemaking were received at a briefing meeting for State administrators of Title I programs for migratory children. No comments were received at the public hearing on August 27, 1975, and written comments were received from school officials and interested persons in only six States. The Office of Education, therefore, wishes to provide interested persons, particularly from the population to be served, with opportunities to submit comments for the Office to consider for possible revisions of these interim regulations.

8. *Public comment and changes in the interim regulation.* A number of comments submitted to the Office of Education in response to the notice of proposed rulemaking resulted in changes to the interim regulation. These changes are discussed below.

(a) The definition of "agricultural activity" has been modified so as not to be limited to activities carried out on farms and ranches.

(b) Several commenters noted inconsistencies between the definitions of "migratory agricultural worker," "currently migratory child," and "migratory fisherman" with respect to their obtaining employment in States comprising a single school district. The definitions have been revised to refer to moving from one school administrative area to another in those cases where the State comprises a single school district.

(c) One commenter recommended elimination of the definitional requirement that a "currently migratory child" be one who has moved with a parent or guardian who is a migratory agricultural worker or a migratory fisherman. An appropriate change was made in the definition. It is not necessary that a currently migratory child migrate with his parent or guardian: *Provided, That:* The child himself is migratory as defined; and that the parent or guardian is migratory as defined.

(d) The definition of "fishing activity" has been modified to specifically include individuals who are engaged in catching or processing fish for personal subsistence.

(e) Several commenters recommended that the term "guardian" as used in the definition of "currently migratory child" be interpreted to include "crew leaders" who assume responsibility for children for the purpose of transporting them to agricultural work sites or processing plants, arranging for their employment at those sites and supervising them while they are there. The interim regulation adds a definition of "guardian" which is not considered to cover these "crew leaders." "Crew leaders" having custody of children for the primary purpose of supervising their employment are not considered persons standing in the place of a parent. Furthermore, to include individuals other than those included in the definition of "guardian" could result in counting and serving children not considered to be within the class of children which Congress intended to be covered for example, children of non-farm families who join "crew leaders" for summer agricultural employment could be counted. However, the fact that a child is accompanied by a crew leader and not by a parent or guardian will not disqualify him if it is shown that the child's parent, or guardian, as defined, is a migratory agricultural worker or migratory fisherman. See discussion in paragraph (c).

(f) Several commenters requested interpretations of that part of the definition of "formerly migratory child" concerning his residing "* * * in an area served by an agency carrying out a program or project under this part." The quoted phrase is taken from the statute. Language interpreting this phrase has been added to the definition.

(g) Section 116d.6. *Participation of operating agencies.* One commenter suggested that in view of uncertainties as to the migratory children who will actually be present in the State when a program is implemented for them, the State application present data by "grade group" rather than by grade level. This suggestion was adopted, and the interim regulation modified accordingly.

(h) Section 116d.31, now headed *Use of funds and information in State application.* A commenter recommended that the section be revised to make it clear that the needs assessment should cover all eligible children expected to reside in the State during the fiscal year in which the program described by the application is to be conducted. This suggestion was adopted. In addition, the interim regulation deletes language in the proposed rule which appeared to require that a State educational agency provide services to preschool children. Also with respect to § 116d.31, one commenter stated that the required description of inservice training should be based on the experience of the preceding year, but that the applicant be permitted to provide inservice training according to "current need," as assessed after the hiring of personnel. Language has been inserted to indicate that the description should be an estimate of needs for inservice training for the fiscal year in which the project is to be conducted, and that these estimates should be based on all relevant information, including but not limited to the prior year's experience. The State educational agency may then provide for inservice training according to current need, subject to the requirements for amendment of applications in § 116d.8.

(i) Section 116d.10. *Allocation of funds to administrative and program functions.* Several formal and informal comments on the notice of proposed rulemaking were directed to § 116d.33 of the notice of proposed rulemaking, now § 116d.10. In general, that section was not considered to be sufficiently explicit for the purposes of distinguishing between services to be charged to a State's Title I administrative funds and those to be charged to funds provided under the State educational agency's application for a grant for programs for migratory children. The section was revised to provide clearer guidance on this matter, although the basic criteria for determining what activities are to be charged to administrative funds and what are to be charged to program funds have been retained. Funds are provided under section 143(b) of Title I for a State educational agency's use in administering all programs under that Title, including programs for migratory children. For States other than the outlying areas, this

amount is not to be less than $150,000, or, if higher, one percent of the amount allocated for the fiscal year for grants to agencies in that State. Section 143(b) does not specify what portion of this "set-aside" for State administration is to be used for each of the various Title I programs. Since the State educational agencies both administer and carry out the program for migratory children, it is necessary that for this program a standard be established for State educational agency use of the limited amount of administrative funds. Section 116d.10 is based on the principle that only the same type of State administrative services which the State educational agency performs in connection with other Title I programs should be paid from State administrative funds. These administrative services are generally limited to the preparation of applications and reports required to be submitted by the State educational agency to the Commissioner, the approval and supervision of subgrantee activities, and technical assistance to subgrantees. Functions similar to those performed by local educational agencies under Part 116a, or by State agencies under Parts 116b and 116c, must be charged to program funds notwithstanding that they may be administrative in nature, or that they are performed by both the local educational agencies and the State educational agency in the other Title I programs referred to above.

A commentor stated that the implementation of an evaluation and the preparation of the evaluation report were inseparable activities pertaining to instruction and should be charged to program funds rather than administrative funds. The interim regulation has been modified to provide that implementation of an evaluation and compilation of notes and preliminary reports for internal State educational agency use may be charged to programs funds, but that the design and preparation of the final State evalution report must be charged to administrative funds.

9. *Response to other comments.* A number of comments were considered which did not result in changes to the interim regulation. The Office of Education believes that several of these changes suggested by these commenters are beyond its authority under the Act, or relate to matters already covered by the interim regulation. Some of the comments requested interpretations of provisions in the notice of proposed rulemaking. The major comments which did not result in changes are summarized and discussed in greater detail below, with interpretations where appropriate.

(a) Several commenters questioned whether persons crossing an international boundary could be considered as having moved from one school district to another within the definitions of "currently migratory child" and "migratory agricultural worker." A related question was whether children must be United States citizens in order to be counted or served as migratory children. The Office of Education interprets crossing an international boundary as moving from one school district to another as that term is used in the definitions. Citizenship is not an eligibility requirement.

(b) Two commenters recommended that the definition of "currently migratory child," "migratory agricultural worker," and "migratory fisherman," be revised to provide that moving from one attendance area to another should qualify a child or worker as migrant. In this connection, it was pointed out that children may move from palce to place within very large school districts. This suggestion was not adopted because the pertinent legislative history indicates that Congress generally intended the program to serve children migrating from school district to school district. Senate Rept. No. 93–1026, 93rd Cong. 2d Sess. 142–143. The definitions do cover children crossing school administrative areas in States comprising a single school district. This is because the enabling legislation directs the Commissioner to determine grants for all States where migratory children reside and to make grants to the State educational agencies of any such States which meet the eligibility requirements stated in § 116d.39 of this interim regulation; this would include States comprising a single school district.

(c) A commenter questioned whether a child or worker who during the year resides in two or more school districts, but works in only one district, could be considered migratory. Also, with respect to employment, commenters asked whether individuals seeking to be self-employed as agricultural workers or fishermen are within the definition of "currently migratory child," "migratory agricultural worker," and "migratory fisherman." The Office of Education considers a person to be migratory if that person moved from one school district to another in order to secure agricultural or fishing employment, regardless of whether employment is actually secured. Individuals seeking to be self-employed are considered as seeking employment.

(d) Several commenters questioned whether the definition of "migratory fishermen" applies to those fishermen who move from a school district to international waters and return to the same school district. The Office of Education interprets the law as not covering these fishermen. The legislative history of Pub. L. 93–380 indicates that only those fishermen migrating from one school district into a different school district were to be considered migratory fishermen. Sen. Rep. 93–1026, 93rd Cong. 2nd Sess. 142–143.

(e) Several commenters recommended deletion of the requirements in §§ 116d.2 and 116d.35 that a child cannot be considered to be a formerly migratory child without the concurrence of his parents. No change has been made in the interim regulation, because the requirement for parental concurrence is statutory.

(f) One commenter recommended deletion of the requirement in § 116d.5 directing a State educational agency to identify to the Commissioner the local educational agencies which will operate the State program as subgrantees. This suggestion was rejected because it is considered important that the Commissioner know, at the time the State application is reviewed, what agencies will carry out the State program. If the information is not known at the time of the State application, the State educational agency may later identify the operating agencies in an amendment to the State application as provided in § 116d.8.

(g) A commenter questioned why, under § 116d.6, State educational agencies are required to submit more information than they are required to submit with respect to Title I program for grants to local educational agencies. The commenter also questioned whether this requirement (which will require some States and local educational agencies to change their accounting system) is inconsistent with 45 CFR 100b.274. The Office of Education has made no change in the interim regulation. More information is required of a State educational agency with respect to the migrant program because the State educational agency operates the migrant program rather than merely administering it as it does the Title I program for grants to local educational agencies. The interim regulation is consistent with 45 CFR 100b.274, which provides that "subject to the provisions and limitations" of applicable Federal statutes and limitations, State rules shall apply.

(h) A commenter recommended that the words "imprudent, wasteful, extravagant or otherwise" be deleted from § 116d.11(a) (§ 116d.34(a) of the proposed rule), dealing with State educational agency management of operating agencies. No change was made in the interim regulation because the emphasis and specificity supplied by the words is considered important.

(i) A commenter suggested that the last sentence of § 116d.21 be revised to restrict the Commissioner to the use of the migrant student record transfer system in determining amounts available for grants under this section. Another commenter recommended that there be some restriction in this section on the amount reallocated to a State, pointing out that under the Title I program for grants to local educational agencies no grantee may receive more than a prescribed formula amount. The Office of Education interprets the enabling statute to authorize the use of the migrant student record transfer system and another system concurrently, if it would produce the most complete and accurate information. (It is expected however, that, except in unusual circumstances involving a particular State or outlying area, the migrant student record transfer system will be the sole source of data for determining the amounts available in accordance with the statutory formula). With respect to the second comment, unlike the Title I statute governing local educational agency programs, the statute governing the migrant program contains

a special reallocation provision authorizing the formula amount of any State to be reduced or raised under specified conditions.

(j) *Excess funds.* A commenter requested clarification as to when, and on what criteria, will the existence of excess funds in a State be determined under § 116d.22. In addition one commenter recommended that § 116d.22(b) be revised to make it clear that the Commissioner could not reallocate funds which the State educational agency had already allocated to local educational agencies or previously encumbered for other program purposes. The existence of excess funds within the meaning of § 116d.22 may be determined when the State educational agency's application is submitted or at any time during the fiscal year for which the funds were appropriated to be used. It is anticipated that information received subsequent to the application would, in most cases, be contained in a report required to be submitted by the State educational agency to the Commissioner (on a case-by-case-basis) as authorized by 20 U.S.C. 1232c(b)(1)(A)(III) and 45 CFR Part 116, § 116.3(a). The Commissioner, however, is authorized to obtain information from reliable outside sources. Determination of excess funds will be determined on a case-by-case-basis, according to the need of the recipient. The Commissioner would not reallocate funds which had been actually obligated at the State or local level. The reallocation provisions in § 116d.22 are written assuming that the State educational agency and its operating agencies will not intentionally reserve funds for subgrantees in excess of their actual need. However, language has been added to § 116d.6 to make it clear that no operating agency may obligate program funds prior to the effective date of the approved State application or the date its application is submitted to the State educational agency in substantially approvable form, whichever is later.

(k) *Interstate coordination.* A commenter recommended that §§ 116d.31(b)(7) (116d.31(h) of the proposed rule) and § 116d.39(a), both containing requirements concerning interstate coordination, be deleted. This suggestion was rejected because these requirements are considered essential to the implementation of the statutory requirement that States coordinate their programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to the school records of children.

(l) *Formerly migratory children.* With reference to § 116d.35 titled "Inclusion of formerly migratory children," a commenter suggested revision to preclude projects developed solely for formerly migratory children. Another commenter recommended a provision that no monies be made available for programs serving formerly migratory children unless needed services are provided for both school age and preschool currently migratory children. No change was made in either provision. The Office of Education interprets the enabling statute to authorize projects developed solely for migratory children subject to the conditions set forth in § 116d.35. Since preschool children do not generate funds, programs for formerly migratory children who are of school age are considered to take priority over programs established for any preschool children, whether currently or formerly migratory.

(m) *Parental involvement.* A commenter criticized §116d.37, concerning parental involvement, as being "weak" and permitting the applicant to avoid providing for meaningful parent participation. Another commenter recommended that § 116.40 of the notice of proposed rulemaking published March 11, 1975 for 45 CFR Part 116, containing general requirements for Title I programs, be revised to allow compensation for loss of wages for parent council members who attend statewide council meetings. Another commenter was of the opinion that per diem payments for parent council members "above and beyond allowable expenses" should not be allowed. No change has been made in either Part 116 or 116d with respect to these matters. A stricter Federal requirement for parental participation would be impracticable to implement in some States since the Title I migrant program is a State, not a local program, and that the majority of the parents are migratory. In recognition of this fact, the enabling statute does not require parental involvement in the migrant program as it does for the Title I, program for grants to local educational agencies. A State educational agency may, of course, have any program for parental involvement which is consistent with Federal law and regulations.

The general standards for allowable costs as set forth in Appendix B, which applies to the Title I migrant program through Part 100b of this chapter (See 45 CFR 100b.81) are that the costs "be necessary and reasonable" to the proper administration of the grant program. It is recognized that, in some cases, it may be necessary for the State educational agency to establish a uniform allowance for parent advisory council members in order to secure the necessary parent participation. This matter ulitmately would have to be judged on a case-by-case basis.

(n) *Supporting services.* One commenter recommended that paragraph (a) of § 116.38 be revised to provide that health, welfare, and other supporting services may be coordinated under this part for eligible children who are not participating in an instructional program. This suggestion was rejected because the enabling statute establishes the migrant program as an "educational" program, which the Office of Education interprets to mean a program for instruction. For this reason, support services are authorized only to the extent that they enable eligible children to participate in an instructional program.

(o) *Program description.* A commenter recommended revision of § 116d.39(b), providing that the Commissioner may approve a State application only if the State program described in that application shows promise of meeting the needs of the children to be served, particularly with respect to their basic skills. The recommendation was that the phrase "basic skills" be amplified by adding the parenthetical phrase "(readiness, developmental and remedial)." This suggestion was rejected because the Office of Education lacks the authority to require all of these concepts to be implemented in every State program. The applicant may, of course, apply them as need warrants.

10. *Other changes in Part 116d.* (a) A number of typographical and technical corrections and clarification have been made and certain sections have been reorganized or renumbered.

(b) A new definition of "day care services" has been added to the definition section.

(c) Section 116d.3(a)(4) requires a State educational agency applying to the Commissioner for a grant to request specifically the approval to use funds "carried over" from the previous fiscal year.

(d) The provisions of § 116d.3, paragraphs (c) and (d) of the proposed rule, and § 116d.4 of the proposed rule have been deleted because they are covered by 45 CFR Part 116, § 116.3.

(e) Section 116d.6 adds language requiring the State educational agency to submit to the Commissioner substantive amendments to project applications from operating agencies, and establishing a time limit for the Commissioner's review of these project applications and amendments.

(f) Section 116d.8 adds language regarding application for use of "carryover" funds and adds a provision requiring amendments to State applications to be signed by the Chief Executive Officer of the State educational agency or his designee.

(g) A new § 116d.12 headed *Child eligibility and evidence of child eligibility,* has been added to Subpart C. This section requires a State educational agency or its operating agency to obtain documentary evidence of a child's status as a migratory child of a migratory agricultural worker or migratory fisherman as a condition of counting him for funding purposes or serving him under this program.

(h) The second sentence of the introduction to § 116d.31 of the proposed rule, giving examples of some special educational needs of migratory children, has been deleted, because it is not appropriate for a regulation.

(i) Section 116d.31 has been revised to require the State educational agency to describe the basis for its estimates of the number of migrant children expected to be residing in the State and to be served there.

(j) A new § 116d.31a has been added, which defines what type of preschool program may be funded under this part. This definition is intended to emphasize the distinction between a preschool educational program and day care services eligible for funding under § 116d.38.

NOTE.—The U.S. Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: April 6, 1977.

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

Approved: June 15, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Subpart A—General

Sec.
116d.1 Applicability.
116d.2 Definitions.

Subpart B—Managerial Responsibilities of State Educational Agencies

116d.3 State applications.
116d.5 Designation of operating agencies.
116d.6 Participation of operating agencies.
116d.7 Supervision of programs and projects.
116d.8 Amendments to applications.
116d.9 Title and control of property.
116d.10 Allocation of funds to administrative and program functions.
116d.11 Funding of subgrantee projects; requirements for adjustment of funds not needed by subgrantee.
116d.12 Child eligibility and evidence of child eligibility.

Subpart C—Amounts Available for Grants and Payments

116d.21 Total amount available for grants.
116d.22 Entitlement.
116d.23 Payments.
116d.24 Special arrangements by the Commissioner to conduct migrant programs.

Subpart D—Program Requirements

116d.31 Use of funds and information in State application.
116d.31a Programs of instruction for preschool migratory children.
116d.32 State budgets.
116d.35 Inclusion of formerly migratory children.
116d.36 Comparable access of migratory children to State and locally funded educational facilities and services.
116d.37 Parental involvement.
116d.38 Supporting services.
116d.39 Criteria for the approval of State applications.
116d.40 Cooperative programs.
116d.41 Commissioner's disapproval of State applications; notice and hearing.

Appendix—Section 122 Programs for Migratory Children.

AUTHORITY: Sec. 101(a)(2)(E), Pub. L. 93-380, 88 Stat. 492 (20 U.S.C. 241c-2), unless otherwise noted.

Subpart A—General

§ 116d.1 Applicability.

(a) These regulations govern programs and projects for which funds are provided to State educational agencies under section 122 of Title I of the Elementary and Secondary Education Act of 1965 to meet the special educational needs of migratory children of migratory agricultural workers and migratory fishermen.

(b) Except as otherwise provided, assistance under this Part is subject to applicable provisions contained in Part 116 (general requirements relating to Title I of the Act) and Part 100b of this chapter (relating to fiscal, administrative, property management and other matters).

(20 U.S.C. 241c-2.)

§ 116d.2 Definitions.

"Agricultural activity" means:

(a) Any activity related to crop production (including preparing soil and storing, curing, canning or freezing of crops);

(b) Any activity related to the production and processing of milk, poultry, and livestock (for human consumption); and

(c) Any operation involved in forest nurseries and fish farms. The term does not include cutting, transporting, and sawing of timber.

(20 U.S.C. 241c-2.)

"Currently migratory child" means a child (a) Whose parent or guardian is a migratory agricultural worker or migratory fisherman; and (b) who has within the past twelve months moved from one school district into another (or, in a State comprising a single school district has moved from one school administrative area into another) in order to enable the child, the child's guardian, or a member of the child's immediate family to obtain temporary or seasonal employment in an agricultural or fishing activity.

(20 U.S.C. 241c-2.)

"Day care services" means services:

(a) Provided outside the home and during the day for the purpose of custodial care of children and infants; and

(b) Which satisfy applicable State law standards governing the provision of these services.

"Fishing activity" means any activity directly related to the catching and processing of fish and shellfish either for initial distribution through commercial market channels or as a primary means of personal subsistence.

(20 U.S.C. 241c-2.)

"Formerly migratory child" means a child defined by section 122(a)(3) of the Act. That section provides that: "With the concurrence of his parents, a migratory child of a migratory agricultural worker or migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this part." The term "area" in the preceding sentence means the legally prescribed geographic area over which a local educational agency or combination of such agencies exercises administrative control or direction. Any child is considered to reside within the "area served" referred to in the statutory language of section 122(a)(3) quoted in this definition, if that child:

(a) Otherwise satisfies the definition of section 122(a)(3), and

(b) Resides in an "area" as defined in the preceding sentence within which any currently or formerly migratory children are being served by a project, as defined in this section.

(20 U.S.C. 241c-2(a)(3).)

"Guardian" means:

(a) A person who has been appointed the legal guardian of a migratory child through formal proceedings in accordance with State law;

(b) A person who the State agency finds would be appointed to be the legal guardian of a migratory child under the law of the child's domiciliary State if formal guardianship proceedings were undertaken; or

(c) A person standing in place of a parent to the child.

(20 U.S.C. 241c-2.)

"Migratory agricultural worker" means a person who has within the past twelve months, moved from one school district to another (or, in a State that comprises a single school district, from one school administrative area to another) in order to enable the person to obtain temporary or seasonal employment in an agricultural activity.

(20 U.S.C. 241c-2.)

"Migratory fisherman" means a person who has within the past twelve months, moved from one school district to another (or, in a State that comprises a single school district, from one school administrative area to another) in order to enable the person to obtain temporary or seasonal employment in a fishing activity as defined in this section.

(20 U.S.C. 241c-2; Sen. Rept. No. 93-1026, pp. 142-143 (1974).)

"Project" means an activity or set of activities:

(a) Which consists of instructional services, or supporting services provided under § 116d.38, or both;

(b) Which is provided under this part to migratory children in a particular area within a State by a State educational agency, either directly or through a local educational agency; and

(c) Which is designed to meet the purposes of the applicable State program as defined in this section.

(20 U.S.C. 241c-2.)

"State program" means the overall plan for services, activities, personnel and materials set forth in a State application for a grant under this part to meet the special educational needs of migratory children of migratory agricultural workers and migratory fishermen.

(20 U.S.C. 241c-2.)

Subpart B—Managerial Responsibilities of State Educational Agencies

§ 116d.3 State applications.

(a) *General.* A State educational agency which desires to receive assistance under this part shall submit to the Commissioner an application which:

(1) Is in the form prescribed by § 100a.43 of this chapter (standard ap-

plication form for Federal assistance (non-construction programs));

(2) Is signed by the chief executive officer of the State educational agency or the designated representative of that officer;

(3) Contains the assurances and other information required in this part and in Part 116 of this chapter; and

(4) Requests approval to use, during the fiscal year covered by the application, any funds under this part which were made available to the State educational agency for the preceding fiscal year but were not obligated by that agency.

(b) *Receipt of application.* The Commissioner may decline to consider an application under this part if it is received after the date established by the Commissioner for receipt of applications.

(c) *Annual program plan.* An application submitted under paragraph (a) of this section constitutes (for the purposes of this part) the annual program plan required by section 434(b) of the General Education Provisions Act, and must conform to the requirements of that section.

(20 U.S.C. 241c-2; 1232c(b).)

§ 116d.5 Designation of operating agencies.

The State educational agency in its application under § 116d.3 shall identify the agency or agencies it has designated to operate the proposed educational program for migratory children of migratory agricultural workers and migratory fishermen. If all or part of the State program is operated directly by the State educational agency, that agency shall identify in its application the personnel and other resources in that agency, (including any resources to be made available to that agency by service contract) that will be made available to conduct the program. If all or part of the State program is operated through a local educational agency or agencies as subgrantee(s), the State educational agency shall identify in its application the local educational agency or agencies.

(20 U.S.C. 241c-2(a)(1), 1232c(b).)

§ 116d.6 Participation of operating agencies.

(a) If all or part of the State program is operated through one or more local educational agencies ("operating agencies"), the State educational agency shall require each of these operating agencies to submit to the State educational agency an application (in the form prescribed by § 100a.43 of this chapter) which sets forth:

(1) The project to be carried out;

(2) The relationship between the project and the State program;

(3) The objectives to be achieved for each grade group;

(4) The estimated number of children to be served;

(5) The services to be provided to achieve the objectives;

(6) The types and number of staff to be employed; and

(7) An appropriate budget.

(b) The State educational agency shall review an operating agency's application for conformity with the State program set forth in the State application as approved by the Commissioner. Within ten days after the State educational agency has approved an application by an operating agency, the State educational agency shall send the Commissioner a copy of the approved application and any substantive amendments thereto. Within 30 days after receiving a copy of the approved application or any substantive amendments, the Commissioner shall review the application or amendment to determine whether it conforms to the State program as set forth in the State application approved by the Commissioner.

(c) Each operating agency shall maintain records of all financial transactions pertaining to the project for the time period prescribed by § 100b.477 of this chapter. Each operating agency shall provide timely financial reports (including the financial status report prescribed by § 100b.403 of this chapter, and the performance report prescribed by § 100b.432 of this chapter) to the State educational agency.

(d) An operating agency may not obligate funds under this part (within the meaning of § 100b.55(c) of this chapter) before:

(1) The effective date of the approved application from the State educational agency to the Commissioner, or

(2) The date the operating agency's application is submitted to the State educational agency in substantially approvable form, whichever occurs later.

(20 U.S.C. 241c-2(a), 1232c(b).)

§ 116d.7 Supervision of programs and projects.

Each State educational agency shall describe in its application the procedures and resources which that agency proposes to use to ensure that the proposed projects are carried out in accordance with the State application as approved by the Commissioner.

(20 U.S.C. 241c-2(a)(1)(A), 1232c(b).)

§ 116d.8 Amendments to applications.

A State educational agency shall submit to the Commissioner an amendment to its application (including an application to use funds made available for the previous fiscal year but not obligated in that year) which is signed by the chief executive officer of that agency or his designee under the following circumstances:

(a) When the agency makes a material change in the administration of its approved State program or in the organization, policies, or operations affecting that program;

(b) If information becomes available which is required by subpart D of this part and which was not previously furnished in the application;

(c) If changes are made in the appropriation or other laws governing the approved State program and the Commissioner indicates to the State educational agency that an amendment to the State application is required by such changes.

(20 U.S.C. 241c-2(a)(1), 1232c(b).)

§ 116d.9 Title and control of property.

(a) Subject to paragraph (b) of this section, a State educational agency shall maintain title to, and administrative control over, property acquired with funds under this part.

(b) If, as a matter of State law, a State agency other than the State educational agency is required to exercise functions described in paragraph (a) of this section, then the State educational agency shall arrange for the exercise of those functions by that agency and that agency shall be responsible under this part for the exercise of those functions. However, the State educational agency shall retain the right to use the property and to move or otherwise dispose of it in a manner best designed to carry out the purposes of this part.

(20 U.S.C. 241c(a)(3), 241c-2(a)(1)(C), 1232c(b).)

§ 116d.10 Allocation of funds to administrative and program functions.

(a) *Administrative functions.* The State educational agency shall use funds provided under section 143(d) of Title I of the Act only to perform administrative functions under this part which are the same as or similar to those carried out by the State educational agency with respect to programs and projects under parts 116a, 116b, and 116c of this chapter. These functions include:

(1) Preparation of the State educational agency's application to the Commissioner;

(2) Design and publication of application, evaluation and financial report forms and transmittal of these forms with appropriate instructions to operating agencies;

(3) Reviewing applications and reports from those agencies;

(4) Fiscal control and fund accounting;

(5) The design and preparation of State evaluation and financial reports to be submitted to the Commissioner;

(6) Technical assistance for operating agencies in the development of their applications and the monitoring of their projects for compliance with the State application; and

(7) Dissemination of information.

(b) *Program functions.* The State educational agency shall use funds provided under section 143(a) of Title I of the Act for use under this part only to perform functions which are unique to the program under this part or are the same of similar to services provided by local educational agencies in that State under part 116a of this chapter, and which are not listed under paragraph (a) of this section. These functions include:

(1) State-wide recruitment and identification of migrant children;

(2) State and local interagency coordination and interstate activities;

(3) Implementation of the migrant student record transfer system;

(4) Processing reports submitted by operating agencies under § 116d.6;

(5) Inservice training programs for instructional and support personnel;

(6) Maintaining inventories of property acquired with funds provided under this part;

(7) Negotiating and awarding contracts;

(9) Evaluations and compilation of notes and preliminary reports for internal State educational agency use with respect to evaluations.

(20 U.S.C. 241g, 1232c(b).)

§ 116d.11 Funding of subgrantee projects; requirements for adjustment of funds not needed by subgrantee.

(a) Each State educational agency receiving a grant under this part shall issue appropriate rules to avoid imprudent, wasteful, extravagant or otherwise expenditures of funds by subgrantees which would defeat the intent of the Act to meet the special educational needs of migratory children.

(b) In keeping with the proper and efficient administration of the State program for migratory children, the State educational agency shall include in the rules described in paragraph (a) of this section provision for appropriate adjustment (based on periodic reports on the implementation of the projects) of expenditures actually incurred, so as to avoid the allocation or disbursement of funds to the subgrantee in excess of actual need. Following these adjustments the State educational agency may increase the funding of the projects conducted by other subgrantees in the State who demonstrate need for these funds. The subgrantee shall reflect any such adjustment under this paragraph by appropriate amendment to its project application and in its final fiscal report.

(20 U.S.C. 241c-2; 1232c(b).)

§ 116d.12 Child eligibility and evidence of child eligibility.

A child may not be counted pursuant to § 116d.21, and may not be served by funds made available under this part, unless the State educational agency or a designated operating agency has first obtained documentary evidence sufficient to demonstrate that the child is a currently or formerly migratory child as defined in § 116d.2.

(20 U.S.C. 241c-2, 1232c(a), 1232c(b).)

Subpart C—Amounts Available for Grants and Payments

§ 116d.21 Total amount available for grants.

(a) Except as provided in sections 124 and 125 of Title I of the Act, as amended, the Commissioner determines the total amount of a grant which may be made available for use in any State for any fiscal year under this part for programs and projects designed to meet the special educational needs of migratory children of migratory agricultural workers and migratory fishermen under section 122(b) of Title I of the Act, as amended and for Puerto Rico, under section 122 (b) of Title I and section 843(d) of Pub. L. 93-380 (section 122 of Title I and section 843(d) are set forth in the appendix).

(b) For the purpose of this section, the Commissioner determines the number of migratory children in a State, including currently and formerly migratory children, as defined in this part, on the basis of statistics made available by the migrant student record transfer system or such other system as the Commissioner may determine most accurately and fully reflects the actual number of migrant students.

(20 U.S.C. 241c-2(b).)

§ 116d.22 Entitlement.

(a) *Entitlement based on estimated cost of program.* The State educational agency of a State for which a total amount has been determined under § 116d.21 is entitled to receive a grant in the amount determined by the Commissioner to be needed to carry out a State program approved by the Commissioner under § 116d.39. Except as provided by paragraph (d) of this section, this amount may not exceed the total amount determined under § 116d.21.

(b) *Informational basis for determining amount of entitlement.* The Commissioner determines the amount of the grant which a State educational agency is entitled to receive under this section on the basis of the best information available to him at the time he approves the application, including information on the number of children to be served and the nature and scope of the program. The Commissioner will redetermine this amount at any time during the fiscal year if the best information available demonstrates a basis for this redetermination.

(c) *Consideration of costs of past and future activities and amount of available funds.* The information on which the Commissioner determines the amount a State educational agency shall receive under this section includes:

(1) The total amount available to the State agency for its grant under § 116d.21;

(2) The estimated cost of program activities completed to date under preceding grant awards and the number of children who have been or are being served;

(3) The estimated cost of other activities to be initiated before the end of the current grant period (pursuant to the preceding grant award) and the estimated number of children to be served;

(4) In the case of requests for increases over the amount previously determined by the Commissioner under this section, the estimated cost of providing, if needed, special educational services that could be initiated before the end of the current grant period and the number of children who could be served thereby if additional funds were made available; and

(5) The unused amount from the State educational agency's grant pursuant to the preceding grant award.

(20 U.S.C. 241c-2(a)(1), 241c-2(b).)

(d) *Reallocation of excess funds.* If the Commissioner determines that the amount available for grants for a State as determined in accordance with § 116d.21 exceeds the amount determined to be needed under this section the Commissioner shall, to the extent necessary, allocate this excess to other State educational agencies whose total amount available for grants under § 116d.21 would otherwise be insufficient to serve eligible children in that State.

(20 U.S.C. 241c-2(b); Sen. Rep. No. 634, 91st Cong., 2nd Sess. 12-13 (1970).)

§ 116d.23 Payments.

The Commissioner shall make all payments of funds under this part in accordance with the requirements in Subpart E of Part 100b of this chapter. The amount of the payments to a State educational agency under this part may not exceed the amount of the grant to which that agency is entitled as determined by the Commissioner in accordance with § 116d.22 nor the amount obligated in accordance with § 100b.55(c) of this chapter during the period covered by the application.

(20 U.S.C. 241c-2, 1232d.)

§ 116d.24 Special arrangements by the Commissioner to conduct migrant programs.

If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, or that it would result in more efficient and economic administration or, that it would add substantially to the welfare or educational attainment of such children, the Commissioner may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States and, for this purpose, the Commissioner may use all of part of the total of grants available for any such State under this section.

(20 U.S.C 241c-2(a)(2).)

Subpart D—Program Requirements

§ 116d.31 Use of funds and information in State application.

(a) *Use of funds.* A State educational agency shall use funds provided under section 143(a) of the Act for use under this part only to perform the functions referred to in § 116d.10(b), and to carry out a program for instruction, and (subject to § 116d.38) for supporting services.

(b) *Information in application.* The State educational agency shall in its application to the Commissioner describe the proposed State program and shall specify the following:

(1) The areas within the State in which currently migratory children are expected to reside, and formerly migratory children are residing, and the approximate dates of the arrival in, and departure from, those areas of the currently migratory children;

(2) A statement showing the estimated number of currently and formerly migratory children expected to reside or

residing in the State and the number of these children in each category (currently or formerly migratory) to be served, and the sources and methods used to calculate these estimates;

(3) A summary of the information (including information from other State educational agencies and the migrant student record transfer system) concerning the special educational needs of the migratory children expected to reside in the State in or during the periods covered by the application. The State educational agency shall include in this summary all available information with respect to educational performance and cultural and linguistic background which is relevant to assessing the educational needs of the children;

(4) A statement of the objectives (including performance criteria) of the program, a description of each service to be provided, the estimated number of children by age and anticipated grade placement (including eligible children enrolled or to be enrolled in private schools), a description of any inservice training estimated to be required (including the type of training, frequency and number and type of staff members who will participate in that training), the type and number of staff which it is estimated will be employed, and the facilities and materials to be used. The estimates required by this paragraph shall be based on all relevant information, including, but not limited to, the prior year's experience;

(5) A statement of the procedures and instruments by which the effectiveness of the program will be evaluated in accordance with § 116.43 of this chapter;

(6) A description of the agency's program for involving parents and appropriate representatives of migratory children in accordance with the requirements of § 116d.37;

(7) A description of the types of information (in addition to the migrant student record transfer system) which the State educational agency will communicate to State educational agencies in other States about the migratory children to be served and the agency's plan for insuring as much continuity as possible in the education of these children;

(8) A designation of the State educational agency activities proposed to be charged to administrative funds pursuant to § 116d.10(a); and

(9) A description of the State educational agency's plan for meeting the requirements of § 116.45 of this chapter pertaining to dissemination of public information.

(20 U.S.C. 241c-2(a), 1232c(b).)

§ 116d.31a Programs of instruction for preschool migratory children.

For the purpose of § 116d.31(a), a program of instruction designed to meet the preschool educational needs of migratory children of migratory agricultural workers or of migratory fishermen means a program:

(a) Limited to children who are under the age at which public elementary education is provided in accordance with State law;

(b) Comprised primarily of activities designed to increase the children's readiness for instruction in the basic academic skills, and not merely for custodial purposes; and

(c) Conducted by or under the direct supervision of a person qualified under State law to conduct the activities referred to in paragraph (b) of this section.

(20 U.S.C. 241c-(a)(1)(D).)

§ 116d.32 State budgets.

A State educational agency shall include in its application a budget in a form prescribed by the Commissioner showing:

(a) The estimated costs for each service and the total costs of all services as described in the application;

(b) The estimated amount of unobligated funds which are available from the preceding fiscal year's appropriation; and

(c) The amount applied for from the current fiscal year's appropriation.

(20 U.S.C. 1232c(b).)

§ 116d.35 Inclusion of formerly migratory children.

Formerly migratory children may participate in projects which include currently migratory children, or may participate in projects developed solely for the formerly migratory children, under the following conditions:

(a) Their participation will not prevent the participation of currently migratory children nor dilute the effectiveness of programs for those children;

(b) There is on file current valid documentation of each formerly migratory child's eligibility status; and

(c) There is on file the signature of the parent or guardian indicating consent to each formerly migratory child's participation. This signature must be obtained annually and be dated not earlier than 12 months prior to the beginning of the child's participation.

(20 U.S.C. 241c-2(a)(3).)

§ 116d.36 Comparable access of migratory children to State and locally funded educational facilities and services.

(a) *Assurances by State educational agency.* Each State educational agency applying for a grant under this part shall include in its application an assurance that, during the time migratory children reside in the State, the State educational agency will not conduct a program for migratory children under this part through a local educational agency which does not provide for access by migratory children to State and locally funded educational facilities and services comparable to those ordinarily provided to non-migrant children who reside in the attendance area in which the migratory children are served. The preceding sentence does not apply in the case of a project initiated at a time during which State and locally-funded educational facilities and services are not ordinarily available to non-migratory children; however, this exception does not limit or modify the requirements contained in § 116.40 of this chapter relating to supplanting of State and local funds, and services which by law the applicant is required to provide to migratory children. Nothing in this section limits or modifies the requirement of § 116a.26 of this chapter, paragraphs (g) and (h) of this section, pertaining to maintenance of comparability in school attendance areas where projects funded under Part 116a of this chapter are being conducted, and which serve migratory children.

(b) *Comparable access defined.* The requirements of paragraph (a) of this section are satisfied only if migratory children have access to all State and locally funded instructional, health, nutrition and transportation services on the same basis as provided by the local educational agency to non-migratory children residing in the attendance area where migratory children are being served.

(2 U.S.C. 241c-2(a)(1)(C), 241e(a)(3)(C).)

§ 116d.37 Parental involvement.

Each State educational agency applying for a grant under this part shall demonstrate in its application that:

(a) The State educational agency has, (to the extent feasible considering the parents' time of residence in the State) consulted with the parents of children to be served or who are being served, and considered the views of these parents with respect to the planning of the State program; and

(b) One or more advisory councils will be established in the State composed of parents of children to be served or who are being served and of other persons knowledgeable of the needs of migratory children, and that such council(s) will be consulted and their views considered concerning the operation and evaluation of the present State program and local projects and the planning of future programs and projects.

(20 U.S.C. 241c-2(a)(1)(C), 241e(a)(8), 1231d.)

§ 116d.38 Supporting services.

(a) *General.* A State educational agency of its designated operating agency may provide health, welfare and other supporting services under this part, but only to the extent necessary to enable eligible school age and preschool children to participate effectively in instructional services.

(b) *Day care services.* Day care services for infants and very young children may not be provided under this part except as a support service to eligible preschool and older children, and then only on specific approval by the Commissioner. A State educational agency requesting funds under this part for day care services shall include this request in its application to the Commissioner or in an amendment to that application, and shall accompany its request with sufficient information to enable the Commis-

sioner to determine that the day care described in the request is:

(1) Not available from other public or private agencies;

(2) Essential to enable preschool and school age migratory children to participate in the instructional program under this part; and

(3) Not extravagent in view of the cost, the number of children who would receive day care, the number of eligible children involved, and the effect the availability of such services would have on the attendance and participation of such eligible preschool and school age migratory children in instructional services provided under this part.

(c) *Day care services; required information.* A State educational agency requesting funds under this part for day care services shall support its request with information as to the estimated costs, a description of the specific services, and the pertinent conditions indicating a need for the services, including the estimated number of children requiring the service, the public and private agencies contacted to provide the services and their written responses, and a detailed account of the effect that the absence of the services has had on the attendance and participation of children in previous programs and would be expected to have on the attendance and participation of children in the program covered by the application. The State educational agency also shall provide information as to the estimated number of eligible preschool and school age children whose attendance and participation would be improved by the availability of such services and the extent of the improvement.

(20 U.S.C. 241c-2(a)(1)(A), (D).)

§ 116d.39 Criteria for the approval of State applications.

The Commissioner shall approve a State application only if he determines that it contains the information required by § 116d.31, and complies with all other requirements in this part and applicable requirements of Parts 100b and 116 of this chapter, and if he determines that:

(a) Payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen, and to coordinate these programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of these children;

(b) Services to be provided show reasonable promise of meeting the special educational needs of migratory children of migratory agricultural workers and migratory fishermen as demonstrated by the needs assessment required by § 116d.31(b)(3) particulary with respect to improvements in the educational performance of children in the basic programs of instruction; and that payments under this part will be used for programs and projects which are of sufficient size, scope and quality to give reasonable promise of substantial progress towards meeting such needs;

(c) Provision will be made for programs of instruction to meet the preschool eductional needs of migratory children of migratory agricultural workers and migratory fishermen if (considering the amount of funds available) this provision will not detract from the operation of programs and projects for children of school age;

(d) The State Program has been planned and will be operated in coordination with programs administered under Part B of Title III of the Economic Opportunity Act of 1964;

(e) In the planning of the State program described in the application, the State educational agency has consulted with other agencies, including the State educational agencies which have provided services for such children and are knowledgeable of their needs; and

(f) The State educational agency's plan for insuring continuity in the education of migratory children includes appropriate procedures for coordinating programs and projects with similar programs and projects in other States and for the agency's full participation in and full utilization of the migrant student record transfer system established by the Commissioner.

(20 U.S.C. 241c-2.)

§ 116d.40 Cooperative programs.

Two or more State educational agencies may submit to the Commissioner a joint application for a program or project involving children to be served by all of those particular agencies. By an appropriate interagency agreement, one such agency with the approval of the Commissioner may administer such a program or project.

(20 U.S.C. 1232c(b)(1).)

§ 116d.41 Commissioner's disapproval of State application; notice and hearing.

The Commissioner may not finally disapprove an application of a State educational agency under this part except after reasonable notice and opportunity for a hearing to that agency.

(20 U.S.C. 241c-2(a)(1).)

APPENDIX.—SECTION 122 PROGRAMS FOR MIGRATORY CHILDREN

SEC. 122(a)(1) A State educational agency or a combination of such agencies, upon application, shall be entitled to receive a grant for any fiscal year under this section to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers or of migratory fishermen. The Commissioner may approve such an application only upon his determination:

(A) That payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen, and to coordinate these programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

(B) That in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under part B of title III of the Economic Opportunity Act of 1964;

(C) That such programs and projects will be administered and carried out in a manner consistent with the basic objectives of clauses (1)(B) and (3) through (12) of section 141(a); and

(D) That, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool educational needs of migratory children of migratory agricultural workers or of migratory fishermen, whenever such agency determines that compliance with this clause will not detract from the operation of programs and projects described in clause (A) of this paragraph after considering funds available for this purpose.

The Commissioner shall not finally disapprove an application of a State educational agency under this paragraph except after reasonable notice and opportunity for a hearing to the State educational agency.

(2) If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States, and for this purpose he may use all or part of the total of grants available for any such State under this section.

(3) For purposes of this section, with the concurrence of his parents, a migratory child of a migratory agricultural worker or of a migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this subsection. Such children who are presently migrant, as determined pursuant to regulations of the Commissioner, shall be given priority in the consideration of programs and activities contained in applications submitted under this subsection.

(b) Except as provided in sections 124 and 125, the total grants which shall be made available for use in any State (other than Puerto Rico) for this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by (1) the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State full time, and (2) the full-time equivalent of the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State part time, as determined by the Commissioner in accordance with regulations, except that if, in the case of any State, such amount exceeds the amount required under subsection (a), the Commissioner shall allocate such excess, to the extent necessary, to other States whose total of grants under this sentence would otherwise be insufficient for all such children to

be served in such other States. The total grant which shall be made available for use in Puerto Rico shall be arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States. In determining the number of migrant children for the purposes of this section the Commissioner shall use statistics made available by the migrant student record transfer system or such other system as he may determine most accurately and fully reflects the actual number of migrant students.

SECTION 843(d) OF PUB. L. 93-380

Notwithstanding any provision of part A of title I of the Elementary and Secondary Education Act of 1965 (section 241c et seq. of this title), the amount which the Commonwealth of Puerto Rico is eligible to receive under subpart 1 of such part A (this section) or under sections 121, 122, or 123 (sections 241c-1, 241c-2, or 241c-3 of this title) for the fiscal year ending June 30, 1975, shall not exceed 50 per centum of the full amount the Commonwealth of Puerto Rico would receive (after required ratable reductions) under such subpart (this section) or section (section 241c-1, 241c-2, or 241c-3 of this title) but for this subsection, and for the fiscal years ending June 30, 1976, September 30, 1977, and September 30, 1978, such amount shall not exceed 75 per centum of the full amount the Commonwealth of Puerto Rico would receive (after required ratable reductions) under such subpart or section but for this subsection.

[FR Doc.77-19384 Filed 7-12-77;8:45 am]

federal register

WEDNESDAY, JULY 13, 1977

PART III

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Base Flood Elevation Determinations for Various Communities

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-3093]

CITY OF PRATTVILLE, ALABAMA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Prattville, Alabama. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, Prattville, Alabama. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor C. M. Gray, City Hall, P.O. Box 277, Prattville, Alabama 36067.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Prattville, Alabama in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measure required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pine Creek tributary 2.	U.S. Highway 31	357
Pine Creek tributary 1.	U.S. Highway 31	356
	Holly Lane	308
Pine Creek	Alabama Highway 14	287
	Grahmhaven Dam	263
	Cobb's Ford Rd	241
	U.S. Highway 31	238
	Doster Rd	221
	U.S. Highway 82 bypass.	221
	U.S. Highway 31 and 82.	159
Autauga Creek tributary 2.	Gulf, Mobile, Ohio and Illinois Central RR.	225
Autauga Creek tributary 1.	do	208
	Lower Kingston Rd	206
Autauga Creek	U.S. Highway 82 Business.	196
	Dam	194
	Gulf, Mobile, Ohio and Illinois Central RR.	175
	Bridge St	175
	Alabama Highway 14	174
	U.S. Highway 82 bypass.	161
	County Rd. 4	159

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 16, 1977.

RICHARD W. KRIMM,
Acting Federal Insurance Administrator.

[FR Doc.77-19564 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3097]

CITY OF BISBEE, COCHISE COUNTY, ARIZONA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Bisbee, Cochise County, Arizona. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review on the Bulletin Board in front of Bisbee Municipal Building, 118 Arizona Street, Bisbee, Arizona. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Charles E. Eads, Mayor of Bisbee, Bisbee Municipal Building, 118 Arizona Street, Bisbee, Arizona 85603.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872; Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Bisbee, Cochise County, Arizona in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 P.L. 90–448), 42 U.S.C. 4001–4128, and 42 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more-stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Mule Gulch (Lowell Circle).	Downstream corporate limits.	5,016
	U.S. Highway No. 80.	5,019
	Douglas Rd	5,058
	Southern Pacific R.R.	5,067
Mule Gulch	Downstream corporate limits.	5,302
	U.S. Highway No. 80.	5,309
	Corporate limits	5,310
	Confluence with Brewery Gulch.	5,311
	Inlet to 10 ft x 12 ft concrete box culvert.	5,340
	Main St	5,374
	Outlet 660 ft concrete box culvert.	5,382
	Clawson Ave	5,398
	Inlet 660 ft concrete box culvert.	5,405
	Confluence of Quarry Canyon.	5,416

Source of flooding	Location	Elevation in feet above mean sea level
	Confluence of Stream M.	5,439
	Garden Ave.	5,440
	do.	5,463
	Gladys Ave.	5,495
	Moon Ave.	5,524
	Star Ave.	5,532
	Main St.	5,540
	Gentry Ave.	5,556
	Main St.	5,572
	Canyon Store.	5,585
	Confluence of Wood Canyon and Morales Creek.	5,587
Morales Creek	Confluence with Mule Gulch.	5,587
	Wood Canyon Rd.	5,591
	Main St.	5,596
	U.S. Highway No. 80.	5,633
	West Blvd.	5,678
	Corporate limits.	5,692
Wood Canyon	Confluence with Mule Gulch.	5,587
	Corporate limits.	5,640
Brewery Gulch	Church St.	5,311
	Walsh Ave.	5,333
	Youngblood Hill Ave.	5,352
	Corporate limits.	5,499
Stream E-1	Confluence with stream F-1.	4,964
	State Highway No. 92.	4,967
	Cochise Lane.	5,018
	Corporate limits.	5,030
Stream F-1	Corporate limits.	4,877
	Hereford Rd.	4,907
	Santa Cruz Dr.	4,930
	Confluence of stream E-1.	4,964
	State Highway No. 92.	5,016
	Corporate limits.	5,045
Stream G-1	Corporate limits.	4,916
	Via Alegre.	4,939
	Santa Cruz Dr.	4,944
	Graham Dr.	4,957
	Ft. Huachuca Lane.	4,970
	State Highway No. 92.	4,977
	Cochise Lane.	5,046
	Corporate limits.	5,050
Stream X	Corporate limits.	4,962
	Confluence of stream Y.	4,962
	B Ave.	4,972
	Center Ave.	4,991
	Corporate limits.	5,058
	do.	5,079
	Oakland St.	5,080
	Hillside St.	5,083
	State Highway No. 92.	5,103
	Czar Ave.	5,114
	Neptune Ave.	5,130
	Atlanta Ave.	5,151
	Corporate limits.	5,172

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 16, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19565 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3062]

CITY OF WEST HELENA, ARKANSAS

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of West Helena, Arkansas.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Clerk's Office, Municipal Building, West Helena, Arkansas.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Jesse E. Porter, 98 Plaza, West Helena, Arkansas.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of West Helena, Arkansas in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Caney Creek	Downstream corporate limits.	209
	Upstream of Highway 242.	233
	Upstream of Highway 49B.	252
	Upstream corporate limits	260
Caney Creek lateral A.	Upstream of Highway 242.	234
Caney Creek lateral B.	Upstream of Springdale Rd.	264
	Downstream of Springdale Rd.	261
Caney Creek lateral C.	Corporate limits.	211
Caney Creek lateral D.	Corporate limits.	210
	Upstream of Ashlier St.	223
Crooked Creek	Corporate limits.	244
	Upstream of Kentucky St.	248
	Upstream of Anderson Ave.	255
	Upstream of 6th St.	269
	Downstream of 9th St.	272
Crooked Creek lateral A.	Downstream of Highway 242.	277
Crooked Creek lateral B.	Corporate limits.	238
Crooked Creek lateral C.	Corporate limits.	236
	Upstream of Highway 49B.	242
	Downstream of Plaza Ave.	225

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: May 3, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-19566 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3085]

TOWN OF WESTON, CONNECTICUT

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Weston, Connecticut.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall, Weston, Connecticut.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. F. Donald McCormick, Town Hall, P.O. Box 100F, Weston, Connecticut 06883.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the town of Weston, Connecticut, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Saugatuck River...	River Rd.	59
	Cartbridge Rd.[1]	96
	do.[2]	101
	Davis Hill Rd.	120
	Valley Forge Rd.[1]	170
	do.[2]	174
Jenning's Brook....	Davis Hill Rd.[1]	167
	Deep Wood Rd.	226
Beaver Brook.....	Slumber Lane	76
	Goodhill Rd.	92
	Steep Hill Rd.	270
Kettle Creek.....	Goodhill Rd.[1]	63
	do.[2]	65
	River Rd.[1]	84
	Weston Rd.[1]	132
	do.[2]	168
Aspetuck River....	Sawmill Rd.	149
	11 O'Clock Lane	175
	Redding Rd.	239
West Branch Saugatuck River.	Georgetown Rd.	202
	Godfrey Bridge	253
Tributary A.....	Newton Turnpike [1]	230
	do.[2]	222
	Lord's Highway [1]	247
	Tobacco Rd.[1]	257

[1] Downstream side.
[2] Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 3, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-19567 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3096]

VILLAGE OF PALM SPRINGS, FLORIDA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Palm Springs, Florida.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Village Hall, 226 Cypress Lane, Palm Springs, Florida.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor William Gilpin, Village Hall, 226 Cypress Lane, Palm Springs, Florida 33461.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Palm Springs, Florida in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

The elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Shallow flooding (rainfall runoff).	Corner of Bonnie Blvd. and Davis Rd.	13
	Corner of Pinehurst Rd. and Davis Rd.	13
	Corner of Longfellow Dr. and Henthorne Dr.	13
	Corner of Greenbrier Dr. and Longfellow Dr.	13
	Corner of Henthorne Dr. and Emerson Circle.	13
	Corner of Riverdale Rd. and Davis Rd.	13
	Corner of Henthorne Dr. and 10th Ave.	13

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 16, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19568 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3104]

VILLAGE OF BRADLEY, KANKAKEE COUNTY, ILLINOIS

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Bradley, Kankakee County, Illinois.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or

remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Lobby of the Village Hall, 147 South Michigan, Bradley, Illinois.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Glenn Mulligan, Village President, Village Hall, 147 South Michigan, Bradley, Illinois 60915.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Bradley, Kankakee County, Illinois in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Soldier Creek	Confluence of North Branch Soldier Creek.	624
	Con Rail	625
	Kinzie Ave.	627
North Branch Soldier Creek.	Erie St.	629
	Illinois Central R.R.	633
	North St.	654
	Pfitzer Dr.	661

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 4, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19569 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3103]

CITY OF KEOKUK, LEE COUNTY, IOWA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Keokuk, Lee County, Iowa.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Bulletin Board, Municipal Building, 415 Blondeau Street, Keokuk, Iowa.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable C. S. Eppers, Mayor of Keokuk, 415 Blondeau Street, Keokuk, Iowa 52632.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Keokuk, Lee County, Iowa in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River	Confluence of Des Moines River.	502
	U.S. Highway 136 and 218.	504
	Northern corporate limits.	519
Des Moines River	Western corporate limits.	502
Soap Creek	5th St.	503
	10th St.	519
	Des Moines Ave.	550
	Johnson Street Rd.	591
	Cramer Lane.	593
	Carbide Ave.	625

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 4, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19570 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3076]

CITY OF FRANKLIN, LOUISIANA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Franklin, Louisiana.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Franklin, Louisiana.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor J. M. Fernandez, City Hall, P.O. Box 567, Franklin, Louisiana 70538.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Franklin, Louisiana in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bayou Teche	Willow St.	7
	Sterling Bridge	7
Overland hurricane surge.	Morris St. west of South Pacific RR.	9
	Pine St. west of South Pacific RR.	10
	U.S. Highway 90 northwest of South Pacific RR. branch.	9
	Barrow St. north of South Pacific RR. branch.	10

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 9, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19571 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3100]

TOWN OF JONESVILLE, LOUISIANA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Jonesville, Louisiana.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall, Jonesville, Louisiana. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor G. D. Babin, Town Hall, P.O. Box 428, Jonesville, Louisiana 71343.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Jonesville, Louisiana in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pumping Plant Canal.	10th St.[1]	55
	do.[2]	56
	Willow St.[1]	56
	do.[2]	57
	U.S. 84	61
Little River Canal.	1st St.[1]	55
	do.[2]	56

[1] Downstream side.
[2] Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 4, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19572 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3066]

TOWN OF BRADLEY, PENOBSCOT COUNTY, MAINE

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Bradley, Penobscot County, Maine. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Office on Main Street in Bradley, Maine. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Michael Knowles, Town Manager, Town Office, Maine Street, Bradley, Maine 04411.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Bradley, Penobscot County, Maine in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Penobscot River	Upstream corporate limits.	90
	Old Town-Orono town line.	73
	Confluence with Blacksman Stream.	65
	Downstream corporate limits.	51
Otter Stream	Upstream corporate limits.	87
	Bullen St	84
	Confluence with Penobscot River.	82
Great Works Stream.	Power line crossing	108
	Cram St	94
	Confluence with Boynton Brook.	85
	Confluence with Penobscot River.	83
Boynton Brook	Limit of detailed study 3,670 ft upstream of mouth.	107
	1,060 ft above mouth	86
Oliver Brook	1,060 ft upstream of confluence of Great Works Stream.	83
	Confluence with Great Works Stream.	81

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 3, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-19573 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3065]

TOWN OF MILFORD, PENOBSCOT COUNTY, MAINE

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Milford, Penobscot County, Maine.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Milford Municipal Building, Davenport Street, Milford, Maine 04461. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Ms. Doris Comstock, Town Clerk, Milford Municipal Building, Davenport Street, Milford, Maine 04461.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Milford, Penobscot County, Maine in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Penobscot River	Downstream corporate limits.	90
	Route 2 Bridge	97
	Confluence with Deadwater.	111
	Divergence of Stipp-water River.	117
	Confluence with Sunkhaze Stream.	121
	Confluence of Castigan Crook.	123
	Upstream corporate limits	124
Otter Stream	Downstream corporate limits.	87
	End of Bullen Rd	90
	County Road Bridge	106
	Call Road (extended)	109
	Centerline of power line crossing.	112
Otter Chain Stream.	Confluence with Otter Stream.	109
	2nd County Road Bridge.	109
	Centerline of power line crossing.	109
	3rd County Road Bridge.	110
Costigan Brook	Confluence with Penobscot River.	123
	Main Central R R	123
	Upstream corporate limits.	123

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42

U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 3, 1977.

HOWARD B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.77-19574 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3073]

OWN OF VEAZIE, PENOBSCOT COUNTY, MAINE

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Veazie, Penobscot County, Maine.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Bulletin Board at the Town Hall, Bangor, Maine.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. James Finkle, Town Manager of Veazie, MRB274A, Bangor, Maine.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Veazie, Penobscot County, Maine in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Penobscot River	Confluence with Eaton Brook.	31
	Below Veazie Dam	34
	Above Veazie Dam	43
	Northeast corporate limits.	46
Unnamed stream	Main St.	51
	Maine Central RR.	67
	State St.	70

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 4, 1977.

J. ROBERT HUNTER,
Acting Federal
Insurance Administrator.

[FR Doc.77-19575 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3082]

TOWNSHIP OF CEDARVILLE, MICHIGAN

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Cedarville, Michigan.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Township Hall, Cedarville, Michigan.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Albert Lindberg, Township Hall, Box 367, Cedarville, Michigan 49719.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Cedarville, Michigan in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 110-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Green Bay	Cedar River Rd. (County Road 352) (extended) 600 ft from intersection with State Highway M-35.	584

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 4, 1977.

J. ROBERT HUNTER,
Acting Federal
Insurance Administrator.

[FR Doc.76-19576 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3071]

CITY OF GRAND HAVEN, MICHIGAN

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Grand Haven, Michigan.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, 519 Washington Street, Grand Haven, Michigan.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor John Walhout, City Hall, 519 Washington Street, Grand Haven, Michigan 49417.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Grand Haven, Michigan in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation [in feet, national geodetic vertical datum
South Channel	U.S. Highway 31	584
	3d St	584
Grand River	C&O RR	584

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 3, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-19577 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3084]

TOWNSHIP OF PENTWATER, MICHIGAN

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Pentwater, Michigan. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Township Hall, 324 South Hancock Street, Pentwater, Michigan 49449.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Wallace Flynn, P.O. Box 23, Pentwater, Michigan 49449.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line, 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Pentwater, Michigan, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pentwater Lake	County Road B-15	584

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 3, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-19578 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3072]

TOWNSHIP OF SPRING LAKE, MICHIGAN

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Spring Lake, Michigan. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being

already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Township Hall, 106 South Buchanan Street, Spring Lake, Michigan.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Ernest Trimble, Township Hall, 106 South Buchanan Street, Spring Lake, Michigan 49456.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood of Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Spring Lake, Michigan, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Grand River	Confluence with Lloyd Bayou.	585
	Confluence with Pottawattomie Bayou.	588

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 2787, January 24, 1974).)

Issued: May 3, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-19579 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3080]

TOWN OF SIDON, MISSISSIPPI

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Sidon, Mississippi. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall, Sidon, Mississippi.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Joe W. Alford, Sidon, Mississippi.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Sidon, Mississippi, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Old Yazoo River bendway (Yazoo River backwater).	South St. (extended)	126
	Front St. (extended)	126
Ponding area	Southeast corporate limits.	126

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4011–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 31, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-19580 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3102]

BOROUGH OF HOPEWELL, MERCER COUNTY, NEW JERSEY

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Borough of Hopewell, Mercer County, New Jersey. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base

flood elevations are available for review at the Clerk's Office, 19 North Greenwood Avenue, Hopewell, New Jersey.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor William H. Walker, Municipal Building, 4–6 Columbia Avenue, Hopewell, New Jersey.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Borough or Hopewell, Mercer County, New Jersey, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Beden Brook	400 ft south of East Prospect St.	167
	100 ft south of Columbia Ave.	172
	Columbia Ave	174
	100 ft south of West Broad St.	177

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 3, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77–19581 Filed 7–12–76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI–3083]

TOWNSHIP OF MARLBORO, NEW JERSEY

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Marlboro, New Jersey. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community:

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Municipal Building, Marlboro, New Jersey.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Arthur Goldweit, Municipal Building, Drawer D, Marlboro, New Jersey 07746.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Marlboro, New Jersey, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Deep Run	Texas Rd.	67
	Tennent Rd.	78
	Crine Rd.	86
Tributary B	Tennent Rd.	83
	Central Railroad of New Jersey.	115
Tributary C	Harbor Rd.	88
	Central Railroad of New Jersey.	113
Barclay Brook	Riley Rd.	84
Milford Brook	Robertsville Rd.	118
	Route 18 (Old Bridge Rd.)	144
South Branch Tepehemus Brook.	Silvers Rd.	113
Matawan Creek	Wilson Ave.	41
	Greenwood Rd.	52
Gravelly Brook	Lloyd Rd.	75
Willow Brook	Pleasant Valley Rd.	80
	Schanes Rd.	110
Tributary F	Igoe Rd.	94
	do.	114
Big Brook	Boundary Rd.	80
	Central Railroad of New Jersey.	95
	Route 79	99
Tributary H	Vanderburg Rd.	98
Tributary K	School Rd. East	118
	do.	128
Tributary L	do.	112

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 4, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77–19582 Filed 7–12–77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI–3098]

VILLAGE OF PANAMA, CHAUTAUQUA COUNTY, NEW YORK

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Panama, Chautauqua County, New York. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community:

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Panama Post Office, East Main Street, Panama, New York.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Jarvis Ireland, Mayor of Panama, P.O. Box 17, Panama, New York 14767.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Panama, Chautauqua County, New York, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Broken-straw Creek.	Downstream corporate limits.	1,509
	South Broadway St....	1,541
	Pond Rd (extended)..	1,609
	Top of Weir at Pond..	1,649

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 16, 1977.

RICHARD W. KRIMM,
Acting Federal Insurance Administrator.

[FR Doc.77-19583 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3079]

CITY OF NORTH WILKESBORO, NORTH CAROLINA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of North Wilkesboro, North Carolina. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, North Wilkesboro, North Carolina.

Any person having knowledge, information, or wishng to make a comment on these proposed elevations should immediately notify Mayor George C. Wieball, City Hall, P.O. Box 218, North Wilkesboro, North Carolina 28659.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of North Wilkesboro, North Carolina, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary M-1.....	North Carolina Route 18.	106
Reddies River.....	Upstream side of dam.	980
	Downstream side of dam.	979
	U.S. Highway 421-A..	976
Tributary Y-3.....	C St.....	991
	B St.....	990
Tributary Y-2.....	B St.....	979
Tributary Y-1.....	River Rd.....	965
Yadkin River.....	U.S. Highway 421-A..	969
	U.S. Highway 421.....	966

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 4, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19584 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3087]

CITY OF KENT, PORTAGE COUNTY, OHIO

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Kent, Portage County, Ohio. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Bulletin Board, Kent City, 319 South Water Street, Kent, Ohio.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. David E. Firestone, City Manager of Kent, Kent City Hall, 319 South Water Street, Kent, Ohio 44240.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Kent, Portage County, Ohio, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entites. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Cuyahoga River	Upstream corporate limits.	1,040
	Corporate limits	1,040
	Standing Rock Ave. (extended).	1,039
	Crain St	1,037
	Main St	1,034
	S. R. 59	1,018
	Norfolk & Western RR.	1,017
	Hughey Dr. (extended).	1,016
	Middlebury Rd	1,016
Fish Creek	McKinney Dr. (extended).	1,031
	Fairchild Dr	1,030
	Downstream Norfolk & Western RR.	1,029
	Admore Dr. (extended).	1,028
	Spaulding Dr	1,027
	Corporate limits	1,025
Plum Creek	Upstream corporate limits.	1,029
	S. R. 261	1,028
	Magadore Rd	1,027
	B. & O. RR	1,017

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 16, 1977.

RICHARD W. KRIMM,
Acting Federal Insurance Administrator.

[FR Doc.77-19585 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3101]

CITY OF SHEFFIELD LAKE, CORAIN COUNTY, OHIO

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Sheffield Lake, Corain County, Ohio.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, 609 Harris Road, Sheffield Lake, Ohio.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Donald L. Smith, Mayor of Sheffield Lake, 609 Harris Road, Sheffield Lake, Ohio 44054.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Sheffield Lake, Lorain County, Ohio, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be constructed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Lake Erie	Flood zones along Lake Erie are limited to a very narrow band extending upward from the lake shore to elevation 590.5 ft. This represents the still water elevation plus wave action.	590.5
Day ditch	Lake Rd	585.0
	Tennison Ave	587.0
	Ivanhoe Ave	596.0
	Rowelyn Ave	600.0
	Ferndale Ave	605.0
	Belle Ave	606.0
	Brockly Ave	606.0
	Knickerbocker Rd	606.0
	Holl Ave	607.0
	Corporate limits (downstream).	612.0
Schumaker ditch	Lake Rd	595.0
	Hawthorne Ave	595.0
	Bicycle path	603.0
	Corporate limits (downstream).	606.0

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Adminis-

trator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974.)

Issued: May 3, 1977.

HOWARD B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.77-19586 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3075]

CURRY COUNTY, OREGON

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Curry County, Oregon.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Curry County Courthouse, Gold Beach, Oregon.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Bernard Mather, County Clerk, Curry County Courthouse, Gold Beach, Oregon 97444.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Curry County, Oregon, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rogue River	U.S. Highway 101 bridge.	43
	Confluence with Edison Creek.	55
	Confluence with Jim Hunt Creek.	66
	Confluence with Kimball Creek.	84

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 20, 1977.

HOWARD B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.77-19587 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3081]

CITY OF SEASIDE, OREGON

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Seaside, Oregon.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, 851 Broadway, Seaside, Oregon.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Joyce C. Williams, City Hall, 851 Broadway, Seaside, Oregon 97138.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Seaside, Oregon, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Necanicum River	Avenue U	14
	Avenue G	12
	Broadway St	11
	12th Ave	11
Neawanna Creek	Broadway St	12
	12th Ave	13
	U.S. Highway 101	11
Circle Creek	Rippet Rd. (downstream side).	30

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 3, 1977.

HOWARD B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.77-19588 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3095]

CITY OF CONNELLSVILLE, FAYETTE COUNTY, PENNSYLVANIA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Connellsville, Fayette County, Pennsylvania.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, Arch Street, Connellsville, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable John T. Shaw, Mayor of Connellsville, P.O. Box 698, Connellsville, Pennsylvania 15425.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Connellsville, Fayette County, Pennsylvania, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Youghiogheny River.	Northwest corporate limits.	878
	U.S. Route 119	879
	Con Rail bridge	880
	Confluence with Connell Run.	883
Mounts Creek	Northwest corporate limits.	877
	Norfolk and Western Railroad Bridge.	879
	4th St	879
	Broad Ford Rd	886
Connell Run	B&O Railroad culvert.	883
	South Arch St	885
	South Pittsburgh St	893
	Wills Ave	916
	South alley	937
	Hill St	973
	Perry St	998
	Locust St	1,031
Trump Run	B&O Railroad culvert.	891
	Arch St	897
	Davidson Ave, (extended).	908
	Austin Ave, (extended).	927
	South Pittsburgh St	933

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968, effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 9, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19589 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3078]

BOROUGH OF LANSDALE, MONTGOMERY COUNTY, PENNSYLVANIA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Borough of Lansdale, Montgomery County, Pennsylvania.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Borough Office, 421 West Main Street, Lansdale, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Richard Bitner, 421 West Main Street, Lansdale, Pennsylvania 19446.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Borough of Lansdale, Montgomery County, Pennsylvania, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Branch of Neshaminy Creek.	Downstream corporate limits.	301
	Downstream end of R.R. embankment and sewage treatment plant levee.	302
	Con Rail tracks downstream.	311
	Con Rail tracks upstream.	312
	West 8th St	314
	Franconia Ave	321
	West 5th St	322

Source of flooding	Location	Elevation in feet above mean sea level
Wissahickon Creek	Downstream corporate limits.	348
	Hancock St.	353
	East Main St. downstream.	367
	East Main St. upstream.	369
	1st dam upstream of East Main St.	370
	2d dam upstream of East Main St.	373
	100 ft downstream of Knapp Rd.	379

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 3, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-19590 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3074]

TOWNSHIP OF LOWER MORELAND, MONTGOMERY COUNTY, PENNSYLVANIA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Lower Moreland, Montgomery County, Pennsylvania.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Township Building, 640 Red Line Road, Huntingdon Valley, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Peter Terpeluk, Township Manager, Township Building, 640 Red Line Road, Huntingdon Valley, Pennsylvania 19006.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Lower Moreland, Montgomery Co., Pennsylvania, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Huntingdon Valley Creek.	Pennsylvania Route 232 (upstream).	118
	Red Lion Rd. (upstream).	121
	Philmont Ave. (upstream).	124
	Tomlinson Rd. (upstream).	139
	Philmont Dr. (upstream).	168
	Byberry Rd. (upstream).	211
	Warfield Lane (downstream).	264
Pennypack Creek.	Downstream corporate limits.	115
	Old Welsh Rd. (upstream).	118
	Fetters Mill Rd. (downstream).	128
	Upstream corporate limits.	139

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 4, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19591 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3094]

BOROUGH OF NEWTON-HAMILTON, MIFFLIN COUNTY, PENNSYLVANIA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Borough of Newton-Hamilton, Mifflin County, Pennsylvania. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named commmunity.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Newton-Hamilton Borough Office, Kinsloe Street, Newton, Hamilton. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mrs. Elizabeth B. Miller, Village Secretary, P.O. Box 63, Newton-Hamilton, Pennsylvania 17075.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Borough of Newton-Hamilton, Mifflin County, Pennsylvania in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities.

These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Juniata River	Northeast corporate limit.	534
	Southeast corporate limit.	535
	Bridge St.	535

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 9, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19592 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3114]

CITY OF READING, PENNSYLVANIA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Reading, Pennsylvania. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Eighth and Washington Streets, Reading, Pennsylvania. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Joseph P. Kuzminski, Eighth and Washington Streets, City Hall, Reading, Pennsylvania 19601.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Reading, Pennsylvania in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Schuylkill River	U.S. 422	200
	Bingaman St.	207
	Penn St.	209
	Schuylkill St.	215
	Warren St. bypass	229
Angelica Creek	Morgantown Rd.	210
	Morgantown Rd dam.	220
Wyomissing Creek	West Shore bypass	208
	Museum Rd.	211
Tulpehocken Creek	Reading Belt R.R.	215
	Warren St. (Route 422).	215

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 3, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-19593 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3077]

TOWNSHIP OF SHENANGO, LAWRENCE COUNTY, PENNSYLVANIA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Shenango, Lawrence County, Pennsylvania. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Township Building, 900 Allegheny Avenue, New Castle, Pennsylvania. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Herbert F. Bintrim, Chairman of the Board of Supervisors of Shenango Township, 900 Allegheny Avenue, New Castle, Pennsylvania 16101.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Shenango, Lawrence County, Pennsylvania in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Big Run	Willowbrook Rd.	997
	Butler Ave.	992
	East Washington St.	984
	Pennsylvania Ave.	872
	Greenhouse Rd.	836
	Township Line Bridge and corporate limits.	822
Big Run	Old Pittsburgh Rd.	1,032
Tributary No. 1	Savannah Rd.	1,011
Big Run	Hoover Rd.	1,052
Tributary No. 2	U.S. Route 422 bypass.	1,027
	Willowbrook Rd.	1,005
McKee Run	Foot bridge.	1,073
	Old Pittsburgh Rd.	1,060
	Private driveway	942
	Savannah Rd.	898
	Union Valley Rd.	883
	Confluence with tributary No. 1.	858
	Downstream corporate limits.	848
Snake Run	1,035 ft above corporate limits.	988
	Downstream corporate limits.	909

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 4, 1977.

J. ROBERT HUNTER,
Acting Federal
Insurance Administrator.

[FR Doc.77-19594 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3064]

CITY OF TITUSVILLE, CRAWFORD COUNTY, PENNSYLVANIA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Titusville, Crawford County, Pennsylvania. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall in Titusville, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor J. E. Fleming, Jr., City Hall, Titusville, Pennsylvania 16534.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Titusville, Crawford County, Pennsylvania, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.S. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Oil Creek	Pine Creek	1,171
	Brown Street Bridge	1,182
	Smock Boulevard Bridge.	1,190
	Central Avenue Bridge.	1,201
Church Run	Central Avenue Bridge.	1,190
	Drake Road Bridge	1,196
	Martin and Walnut St. culvert.	1,201
	Franklin Road Bridge.	1,211
	Church Run Road Bridge.	1,226
	Corporate limits	1,235
Hammond Run	Bloss Street Bridge	1,195
	Barber Street Bridge	1,210
	Fleming Road Bridge.	1,220
Trout Run	Bloss Street Bridge	1,193
	South Barber Street Bridge.	1,213
	Corporate limits	1,241
Pine Creek	Corporate limits	1,176

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 9, 1977.

J. ROBERT HUNTER,
Acting Federal,
Insurance Administrator.

[FR Doc.77-19595 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3105]

TOWNSHIP OF TURBETT, JUNIATA COUNTY, PENNSYLVANIA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Turbett, Juniata County, Pennsylvania. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Ms. Kepner's House, R.D. 1, Port Royal, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Ms. Jean Kepner, Secretary of the Board of Turbett, R.D. 1, Port Royal, Pennsylvania 17082.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Torbett, Juniata County, Pennsylvania, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–488), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regu-

lations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Tiosaroca Creek	ConRail	438
	Route 75	438
	LR 34063	443
Juniata River	Northeast corporate limits.	427
	LR 34006 (extended)	431

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 4, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19596 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3086]

CITY OF FREDERICK, BROWN COUNTY, SOUTH DAKOTA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Frederick, Brown County, South Dakota. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Community Center, Frederick, South Dakota.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Glen M. Bain, Frederick, South Dakota 57441.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Frederick, Brown County, South Dakota, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Maple River	3d Ave. (extended)	1,367
	Main St.	1,369
	Brown County Route 5.	1,379

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 4, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19597 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3069]

CITY OF LAVERNIA, WILSON COUNTY, TEXAS

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of LaVernia, Wilson County, Texas. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, Box 225, LaVernia, Texas.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Ewald Koepp, Jr., Box 225, LaVernia, Texas 78121.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of La Veania, Wilson County, Texas, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed eleva-

tions will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Cibolo Creek	Confluence with Dry Hollow Creek.	477
	Downstream corporate limits.	470
Dry Hollow Creek	Upstream corporate limits.	481
	Dry Hollow Rd.	480
South Creek	Upstream corporate limits.	489
	U.S. Highway 87	477
	Downstream corporate limits.	475

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 20, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-19598 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3092]

CITY OF MISSION, HIDALGO COUNTY, TEXAS

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Mission, Hidalgo County, Texas. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Bulletin Board in the Main Entrance Lobby of City Hall, 900 Doherty Avenue, Mission, Texas.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Arnaldo Ramirez, Mayor of Mission, City Hall, 900 Doherty Avenue, Mission, Texas 78572.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Mission, Hidalgo County, Texas, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Ponding Area	Between the main canal, West 1st St. and Nicholson Ave.	117

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 16, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19599 Filed 7-1277; 8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3091]

WILSON COUNTY, TEXAS

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Wilson County, Texas. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the County Clerk's Office, Floresville, Texas.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Judge Gresham L. Aiken, Floresville, Texas.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the County of Wilson, Texas, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Dry Hollow Creek..	County Rd. A.....	480
	Downstream of County Rd. C.	494
Collins Creek.....	Confluence with Dry Hollow Creek.	493
	Downstream of FM 1346.	499
Tributary No. 2 (Dry Hollow Creek).	County Rd. B.....	489
Tributary No. 3 (Dry Hollow Creek).	3300 ft upstream from Dry Hollow Creek.	487
Tributary No. 4 (Dry Hollow Creek).	600 ft upstream from Dry Hollow Creek.	485

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended: 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: May 17, 1977.

RICHARD W. KRIMM,
Acting Federal Insurance Administrator.

[FR Doc.77-19680 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3067]

TOWN OF SALTVILLE, SMYTH AND WASHINGTON COUNTIES, VIRGINIA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Saltville, Smyth and Washington Counties, Virginia. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall on the bulletin board, Town Hall Square, Saltville, Virginia.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Frank E. Lewis, Mayor of Saltville, Town Hall Square, Saltville, Virginia 24370.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Saltville, Smyth and Washington Cos., Virginia, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Fork Holston River.	Smyth/Washington County boundary.	1,676
	Confluence with Allison Creek.	1,696
	Government Plant Rd.	1,711
	Upstream corporate limits.	1,726
McHenry Creek.....	Confluence with North Fork, Holston River.	1,695
	Corporate limits within 1 mi of confluence with North Fork, Holston River.	1,786
	State Route 91.....	1,858
	Smyth/Washington County boundary.	1,909
Allison Creek.....	Confluence with North Fork, Holston River.	1,699
	Allison Gap Rd.....	1,744
	Upstream corporate limits.	1,766
Cedar Branch.....	Downstream corporate limits.	1,745
	Upstream corporate limits.	1,842

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 20, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-19601 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3090]

CITY OF OCEAN SHORES, GRAYS HARBOR COUNTY, WASHINGTON

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Ocean Shores, Grays Harbor County, Washington. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, Point Brown Avenue, Ocean Shores, Washington.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Bill McDeavitt, City Manager of Ocean Shores, P.O. Box 909, Ocean Shores, Washington 98569.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Ocean Shores, Grays Harbor County, Washington, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat., which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Pacific Ocean	North corporate limit.	23
	Chance A La Mer (extended).	22
	Ocean Lake Way (extended).	22
	Taurus St. (extended).	22
	Butter Clam St. (extended).	22
	Decatur St. (extended).	22
	Sportmens Way (extended).	22
	South corporate limit.	22
North Bay	North corporate limit.	14
	Albatross St.	14
	River View St. (extended).	14
Grays Harbor	Tonquin St.	15
Duck Lake	Chance A La Mer	13.5
	Albatross St.	13.5
	Overlake Dr.	13.5
	Dover Ct. (extended).	13.5
	Mount Olympus Ave.	13.5
Grand Canal	Albatross St. (extended).	13.5
	Ocean Lake Way	13.5
	Cukeesota St. (extended).	13.5
Lake Minard	Razor Clam St.	13.5
	Tonquin St.	13.5

NOTE.—Elevation given in feet above mean sea level is per Ruskin, Fisher & Associates Datum (RFAD) which is 202 ft below national geodetic and vertical datum of 1929.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 4, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19602 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3089]

CITY OF OMAK, OKANOGAN COUNTY, WASHINGTON

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Omak, Okanogan County, Washington. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Bulletin Board in the County Clerk's Office, 2 North Ash Street, Omak, Washington.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Clarence Nash, Mayor of Omak, P.O. Box 72, Omak, Washington 98841.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Omak, Okanogan County, Washington, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Okanogan River	Central Ave.	840
	State Route 97	842

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 16, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19603 Filed 7-12-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3063]

TOWN OF RIVERSIDE, OKANOGAN COUNTY, WASHINGTON

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Riverside, Okanogan County, Washington.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Bulletin Board in the Riverside Town Hall, Riverside, Washington.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Lorenzo Bettyloun, Mayor of Riverside, Riverside Town Hall, Riverside, Washington 98849.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determina-

tions of base flood elevations (100-year flood) for the Town of Riverside, Okanogan County, Washington, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Okanogan River	North corporate limits.	861
	Tunk Valley Rd.	859
	South corporate limits.	858
Johnson Creek	Main Street Bridge	870
	State Street Bridge	884
	Highway 97	928

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 2, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77–19604 Filed 7–12–77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI–3068]

TOWN OF HARTFORD, WEST VIRGINIA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Hartford, West Virginia.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall, Hartford, West Virginia.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Charles Black, Town Hall, Hartford, West Virginia 25247.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washinton, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Hartford, West Virginia, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River	Entire corporate boundary.	580

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 3, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77–19605 Filed 7–12–77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI–3099]

TOWN OF MASON, WEST VIRGINIA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Mason, West Virginia.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall, Mason, West Virginia.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Fred Taylor, Box 438, Mason, West Virginia 25260.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Mason, West Virginia, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Uub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in

their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River	Pomroy Mason Highway Bridge.	577

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 3, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-19606 Filed 7-12-77;8:45 am]

federal register

WEDNESDAY, JULY 13, 1977

PART IV

FEDERAL TRADE COMMISSION

■

MAGNUSON-MOSS WARRANTY ACT

Interpretations and Explanatory Statement

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER G—RULES, REGULATIONS, STATEMENTS AND INTERPRETATIONS UNDER MAGNUSON-MOSS WARRANTY ACT

PART 700—INTERPRETATIONS OF MAGNUSON-MOSS WARRANTY ACT

Adoption of Interpretations and Explanatory Statement

AGENCY: Federal Trade Commission.

ACTION: Final interpretations.

SUMMARY: These are interpretations of several provisions of the Magnuson-Moss Warranty Act. They represent the Commission's views on various aspects of the Act. The continued questions and requests for advisory opinions directed to the Commission make appropriate the issuance of the Interpretations at this time.

The Interpretations apply to consumer products distributed in commerce and sold with a written warranty. They are intended to clarify the requirements of the Act for consumers, manufacturers, importers, distributors, and retailers. They are not, however, substantive rules, and do not have the force or effect of statutory provisions; like industry guides they are advisory in nature. Failure to comply with them, however, may result in corrective action by the Commission under the applicable statutory provisions.

The explanatory statement which precedes the Interpretations details the changes made by the Commission from the "Proposed Interpretations" published in the FEDERAL REGISTER of August 16, 1976, 41 F.R. 34654.

EFFECTIVE DATE: July 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Alan Rubin, Attorney, Division of Special Statutes, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580. (202–724–1100.)

SUPPLEMENTARY INFORMATION: From the time the Magnuson-Moss Warranty Act, Pub. L. 93–637, 15 U.S.C. 2301, was signed into law in January of 1975, many questions concerning the Act have been directed to the Commission. The Commission has determined that guidance should be provided in order that compliance with the terms of the Act be facilitated. For these same reasons the Commission published, on June 18, 1975, a policy statement in the FEDERAL REGISTER to provide interim guidance during the initial implementation of the statute.

As questions and requests for advisory opinions continue to be directed to the Commission, further guidance of a more permanent nature is appropriate. Therefore, the Commission, on August 16, 1976, proposed interpretations of the Magnuson-Moss Warranty Act to assist warrantors and suppliers of consumer products to comply with the Act, and called for comment on them.

Twenty-five comments were received by the Commission during the comment period. Some of the comments addressed only one proposed interpretation while others addressed several of them. In response to these comments the Commission has made several revisions in the "Proposed Interpretations" and now issues these final Interpretations of the Magnuson-Moss Warranty Act. The explanatory statement discusses these revisions and the reasons they were made.

The final Interpretations in many instances parallel the views the Commission expressed in its June 18, 1975, interim policy statement (40 FR 25721). In some instances the explanations in the earlier policy statement have been paraphrased or altered in these interpretations. The fact that some items from the earlier statement are omitted from these interpretations does not mean that the Commission no longer holds those views.

These interpretations apply to consumer products distributed in commerce and sold with a written warranty. They are intended to clarify the requirements of the Act for consumers, manufacturers, importers, distributors, and retailers. They are not, however, substantive rules, and do not have the force or effect of statutory provisions; like industry guides they are advisory in nature. Failure to comply with them, however, may result in corrective action by the Commission under the applicable statutory provisions.

EXPLANATION OF CHANGES FROM PROPOSED INTERPRETATIONS

After careful consideration of the comments submitted, the Commission has revised some of the proposed interpretations. The provisions set forth below are as they appear in the final interpretations. The text below each provision explains where and why the change(s) from the proposed version have been made.

PRODUCTS COVERED

Section 700.1(a) The Act applies to written warranties on tangible personal property which is normally used for personal, family, or household purposes. This definition includes property which is intended to be attached to or installed in any real property without regard to whether it is so attached or installed. This means that a product is a "consumer product" if the use of that type of product for such purposes is not uncommon. The percentage of sales, or the use to which a product is put by an individual buyer is not determinative. For example, products such as automobiles and typewriters which are used for both personal and commercial purposes come within the definition of consumer product. Where it is unclear whether a particular product is covered under the definition of consumer product, any ambiguity will be resolved in favor of coverage.

In adopting this final interpretation, the Commission has made two revisions from the proposed subsection. Additional text is added after the first sentence to eliminate the continued misunderstanding—evidenced by two of the comments—of the standard for determining whether a product is a "consumer product" under the Act. These comments indicated confusion as to whether a product used for both commercial and personal purposes, such as a passenger car used by a sales representative to make business calls, is covered by the Act. The additional text sets out the correct determining standard; namely, that it is the normal use of the category of products (e.g., sedans), not the use to which an individual product (e.g., a particular sales representative's sedan) is normally placed. Additionally, subsections (a) and (b) have been consolidated to improve the readability of the final interpretation.

Section 700.1(j) The Act covers written warranties on consumer products "distributed in commerce" as that term is defined in section 101(3). Thus, by its terms the Act arguably applies to products exported to foreign jurisdictions. However, the public interest would not be served by the use of Commission resources to enforce the Act with respect to such products. Moreover, the legislative intent to apply the requirements of the Act to such products is not sufficiently clear to justify such an extraordinary result. The Commission does not contemplate the enforcement of the Act with respect to consumer products exported to foreign jurisdictions. Products exported for sale at military post exchanges remain subject to the same enforcement standards as products sold within the United States, its territories, and possessions.

The proposed interpretation stated that the Commission does not contemplate enforcement of the Act for products "manufactured solely for export." Two comments note that this language in the proposed interpretation appears to make the manufacturer's intent to export the determining standard rather than the actual export of the product. Another comment noted that the word "solely" in the proposed interpretation could be read as subjecting a manufacturer to Commission enforcement unless all units of a single product are exported. The Commission did not intend either of these readings. Therefore, the Commission has substituted the word "exported" for the phrase "manufactured solely for export" in the final interpretation.

WRITTEN WARRANTY

Section 700.3(b) Certain terms, or conditions, of sale of a consumer product may not be "written warranties" as that term is defined in section 101(6), and should not be offered or described in a manner that may deceive consumers as to their enforceability under the Act. For example, a seller of consumer products may give consumers an unconditional right to revoke acceptance of goods within a certain number of days after delivery without regard to defects or failure to meet a specified level of performance. Or a seller may permit consumers to return products for any reason for credit toward purchase of another item. Such terms of sale taken alone are not written warranties under the Act. Therefore, suppliers should avoid any characterization of such terms of sale as warranties. The use of such terms as "free trial period" and "trade-in credit policy" in this regard would be appropriate. Furthermore, such terms of sale should be stated separately from any written warranty. Of course, the offering and performance of such

terms of sale remain subject to section 5 of the Federal Trade Commission Act, 15 U.S.C. 45.

The Commission has made some minor changes in these subsections. First, a textual change is made to make it clear that this subsection refers to unconditional rights of revocation of the consumer, and not to rights which may depend on the existence of some defect or other circumstances. Second, the first sentence of proposed subsection (c) which read "Such terms of sale should not be described as written warranties, as this may deceive consumers, leading them to believe that such terms may be enforced as warranties under the Act" has been deleted as it merely restates the first sentence of proposed subsection (b), yet adds nothing to the meaning of the interpretation. Finally, the two subsections have been consolidated into one to improve the readability of the interpretation.

PARTIES "ACTUALLY MAKING" A WRITTEN WARRANTY

Section 700.4 Section 110(f) of the Act provides that only the supplier "actually making" a written warranty is liable for purposes of FTC and private enforcement of the Act. A supplier who does no more than distribute or sell a consumer product covered by a written warranty offered by another person or business and which identifies that person or business as the warrantor is not liable for failure of the written warranty to comply with the Act or rules thereunder. However, other actions and written and oral representations of such a supplier in connection with the offer or sale of a warranted product may obligate that supplier under the Act. If under state law the supplier is deemed to have "adopted" the written affirmation of fact, promise, or undertaking, the supplier is also obligated under the Act. Suppliers are advised to consult state law to determine those actions and representations which may make them co-warrantors, and therefore obligated under the warranty of the other person or business.

The Commission has made two textual changes in this subsection. First, the next to last sentence of the paragraph has been added to clarify when a supplier may become obligated under the warranty of another person or business—i.e., when the supplier "adopts" the warranty. Second, the Commission has added the phrase "of the other person or business" to the end of the subsection to clarify to which written warranty the Commission is referring in the interpreation. These changes do not alter the meaning of the interpretation from the proposed version.

DESIGNATION OF WARRANTIES

Section 700.6(a) Section 103 of the Act provides that written warranties on consumer products manufactured after July 4, 1975, and actually costing the consumer more than $10 excluding tax, must be designated either "Full (statement of duration) Warranty" or "Limited Warranty." Warrantors may include a statement of duration in a limited warranty designation. The designation should appear clearly and conspicuously as a caption, or prominent title, clearly separated from the text of the warranty. The full (statement of duration) warranty and limited warranty are the exclusive designations permitted under the Act, unless a specific exception is created by rule.

The Commission has inserted an additional sentence after the first sentence in this subsection. The added text provides that "Warrantors may include a statement of duration in a limited warranty designation." This is a reiteration of the Commission's previously adopted interpretation set out in Part 3 of the Commission's "Implementation and Enforcement Policy," 40 FR 25721 (June 18, 1975). The added language indicates that the Commission has not changed its position on the question of duration statements in limited warranty designations.

Section 700.6(b) Section 104(b)(4) states that "the duties under subsection (a) (of section 104) extend from the warrantor to each person who is a consumer with respect to the consumer product." Section 101(3) defines a consumer as "a buyer (other than for purposes of resale) of any consumer product, any person to whom such product is transferred during the duration of an implied or written warranty (or service contract) applicable to the product * * *." Therefore, a full warranty may not expressly restrict the warranty rights of a transferee during its stated duration. However, where the duration of a full warranty is defined solely in terms of first purchaser ownership there can be no violation of section 104(b)(4), since the duration of the warranty expires, by definition, at the time of transfer. No rights of a subsequent transferee are cut off as there is no transfer of ownership "during the duration of (any) warranty." Thus, these provisions do not preclude the offering of a full warranty with its duration determined exclusively by the period during which the first purchaser owns the product, or uses it in conjunction with another product. For example, an automotive battery or muffler warranty may be designated as "full warranty for as long as you own your car." Because this type of warranty leads the consumer to believe that proof of purchase is not needed so long as he or she owns the product, a duty to furnish documentary proof may not be reasonably imposed on the consumer under this type of warranty. The burden is on the warrantor to prove that a particular claimant under this type of warranty is not the original purchaser or owner of the product. Warrantors or their designated agents may, however, ask consumers to state or affirm that they are the first purchaser of the product.

The Commission has made three changes in this interpretation. First, proposed subsections (b) and (c) have been consolidated into one to improve the readability of the interpretation. Second, the Commission has inserted two additional sentences between the third and fourth sentences of proposed interpretation § 700.6(b). These sentences are intended to clarify the rationale underlying the Commission's interpretation. Finally, the Commission has substituted the word "documentary" for the word "such" in the last sentence of the proposed interpretation and has added an additional sentence at the end of the interpretation. The purpose of these two changes is to make clear that the Commission does not intend this interpretation to prohibit a warrantor or seller from simply inquiring at the time a warranty claim is made whether the consumer was the first purchaser of the warranted product. The Commission intends this interpretation to only prohibit the warrantor from requiring written proof, such as sales slips, titles, etc. from the consumer as a condition of the warranty's validity.

USE OF WARRANTY REGISTRATION CARDS

Section 700.7(a) Under section 104(b)(1) of the Act, a warrantor offering a full warranty may not impose on consumers any duty other than notification of a defect as a condition of securing remedy of the defect or malfunction, unless such additional duty can be demonstrated by the warrantor to be reasonable. Warrantors have in the past stipulated the return of a "warranty registration" or similar card. By "warranty registration card" the Commission means a card which must be returned by the consumer shortly after purchase of the product and which is stipulated or implied in the warranty to be a condition precedent to warranty coverage and performance.

The Commission has added additional text to the end of the proposed interpretation to clarify the definition of "warranty registration card" as that term is used in the interpretation. The Commission has added this text to distinguish between the more common warranty registration card (as defined) and other types of cards or evidence of purchase or warranty coverage, return of which may be a stipulated condition for warranty coverage. The Commission intends only the former type of card to be covered by this interpretation.

Section 700.7(b) A requirement that the consumer return a warranty registration card or a similar notice as a condition of performance under a full warranty is an unreasonable duty. Thus, a provision such as "This warranty is void unless the warranty registration card is returned to the warrantor" is not permissible in a full warranty, nor is it permissible to imply such a condition in a full warranty.

The Commission has deleted the parenthetical phrase "other than a notice of a defect" from the proposed interpretation. The proposed interpretation could be read as Commission approval of a requirement in a full warranty that notification of a defect be in writing. This reading is not intended by the Commission since such a requirement may be an unreasonable duty under section 104(b)(1) of the Act.

Section 700.7(c) This does not prohibit the use of such registration cards where a warrantor suggests use of the card as one possible means of proof of the date the product was purchased. For example, it is permissible to provide in a full warranty that the consumer may fill out and return a card to place on file proof of the date the product was purchased. Any such suggestion to the consumer must include notice that failure to return the card will not affect rights under the warranty, so long as the consumer can show in a reasonable manner the date the product was purchased. Nor does this interpretation prohibit a seller from obtaining from purchasers at the time of sale information requested by the warrantor.

The Commission has added a sentence at the end of this subsection. This sentence was added to make clear that the

interpretation above does not prohibit warrantors from employing registration systems which do not impose on consumers a duty to return a warranty registration card shortly after purchase. This sentence was also added to expressly permit sellers to gather information at the point of sale for their warranty records, or for product safety recall or other purposes.

DUTY TO INSTALL UNDER A FULL WARRANTY

Section 700.9 Under section 104(a)(1) of the Act, the remedy under a full warranty must be provided to the consumer without charge. If the warranted product has utility only when installed, a full warranty must provide such installation without charge regardless of whether or not the consumer originally paid for installation by the warrantor or his agent. However, this does not preclude the warrantor from imposing on the consumer a duty to remove, return, or reinstall where such duty can be demonstrated by the warrantor to meet the standard of reasonableness under section 104(b)(1).

One comment noted that the proposed interpretation did not indicate, as the Commission had previously done in its advisory opinion to Armstrong Cork Co. of December 1, 1975, that the duty to reinstall under a warranty applies "regardless of whether or not the consumer originally paid for installation by the warrantor or his agent." This raises the question whether this omission indicates a partial retraction by the Commission of its advisory opinion in *Armstrong Cork*. The interpretation was intended by the Commission as a restatement of the previous advisory opinion; thus the addition of the phrase at the end of the second sentence in the final interpretation is made to eliminate any possible misinterpretation.

SECTION 102(C)

Section 700.10(a) Section 102(c) prohibits tying arrangements that condition coverage under a written warranty on the consumer's use of an article or service identified by brand, trade, or corporate name unless that article or service is provided without charge to the consumer.

There are two comments in this interpretation. Each mistakenly stated that the Commission has misstated the law by omitting the provision that allows "tie-ins" if the tied article or service is provided without charge to the consumer. The proposed interpretation did not omit this as it stated that section 102(c) prohibits tying arrangements where consumers must purchase the tied article or service. This rephrasing was done to shorten the proposed interpretation and to improve its readability. However, it appears that this rephrasing has caused some confusion. Therefore, the Commission has revised the wording of the interpretation to track more closely the language of the statute so as to avoid undue confusion.

Section 700.10(d). (This section has been deleted.)

There were many comments critical of the proposed interpretation. The commentators argued that the Commission's position was neither justified under the statute nor reflective of marketplace realities. The Commission has decided to delete the proposed interpretation from the final "Interpretations."

The Commission is persuaded that the proposed interpretation does not reflect the Congressional purpose or intent behind section 102(c). Section 102(c) prohibits tying arrangements in warranties that effectively restrict the consumer's ability to choose among competing brands of products or services that can be used in conjunction with the warranted product. The proposed interpretation was premised on the existence of a class of consumers whose choice would be restricted under such warranty provisions, i.e., those consumers who would elect to have the product installed by another commercial installer but for the fact that the warranty on the product conditions the remedy of reinstallation on the consumer's use of the warrantor's installation service. This premise, however, does not reflect marketplace realities.

It appears that there are only two groups of buyers of products carrying such warranties. (The products subject to these warranty terms are almost exclusively automotive replacement parts.) One group, the "do-it-yourselfers," buy the product at a lower price and install it themselves. The second group is composed of consumers who buy the product knowing that the seller will also install it for them at an additional charge. Under the Commission's proposed interpretation neither of these two groups would be aided. If the warrantor agrees to provide free re-installation regardless of whether the warrantor did the original installation, the costs of re-installation for consumers who originally purchased the product uninstalled will be reflected in a higher purchase price for the product. This would result in the "do-it-yourselfer" group paying for a reinstallation warranty, when his or her original reason for purchasing the product was to save the cost of installation. The warrantor's other alternative is to not provide reinstallation for anybody, resulting in a potential loss of warranty coverage for consumers who purchase the product installed. Thus, the proposed interpretation might result in harm to consumers without fulfilling the intent of the statutory provision on which it is based.

The deletion of this interpretation does not change the Commission's interpretation that under a full warranty, the warrantor must undertake to reinstall any product without charge as part of the remedy under section 104(a)(1). An exception is permitted where the warrantor can demonstrate that it is reasonable under section 104(b)(1) to impose the duty of reinstallation on the consumer, see the Commission's advisory opinion to Armstrong Cork Co. of December 1, 1975, and § 700.9 of these "Interpretations."

WRITTEN WARRANTY, SERVICE CONTRACT, AND INSURANCE DISTINGUISHED FOR PURPOSES OF COMPLIANCE UNDER THE ACT

Section 700.11(a) The Act recognizes two types of agreements which may provide similar coverage of consumer products, the written warranty, and the service contract. In addition, other agreements may meet the statutory definition of either "written warranty" or "service contract", but are sold and regulated under state law as contracts of insurance. One example is the automobile breakdown insurance policies sold in many jurisdictions and regulated by the state as a form of casualty insurance. The McCarran-Ferguson Act, 15 U.S.C. 1011 et seq. precludes jurisdiction under federal law over "the business of insurance" to the extent an agreement is regulated by state law as insurance. Thus, such agreements are subject to the Magnuson-Moss Warranty Act only to the extent they are not regulated in a particular state as the business of insurance.

There were no comments submitted on this interpretation. However, the Commission added on its own initiative, additional text at the end of the third sentence of the proposed interpretation to clarify that an agreement is only insurance, and not subject to the Commission's jurisdiction, if it is regulated as such by state law. This additional phrase reinforces the point that the party offering the contract cannot employ the name or title of "breakdown insurance" to escape jurisdiction of the Act via the provisions of the McCarran-Ferguson Act; rather the distinction rests on the active regulation by a state of a particular undertaking as the business of insurance.

Section 700.11(b) "Written warranty" and "service contract" are defined in sections 101(6) and 101(8) of the Act, respectively. A written warranty must be "part of the basis of the bargain." This means that it must be conveyed at the time of sale of the consumer product and the consumer must not give any consideration beyond the purchase price of the consumer product in order to benefit from the agreement. It is not a requirement of the Act than an agreement obligate a supplier of the consumer product to be a written warranty, but merely that it be part of the basis of the bargain between a supplier and a consumer. This contemplates written warranties by third-party non-suppliers.

One comment suggested that the word "price" be inserted after the word "purchase" in the second sentence to clarify the interpretation. The Commission has adopted this suggestion to avoid any misunderstanding.

Accordingly, the Commission hereby amends Title 16 of the Code of Federal Regulations (CFR), Chapter I, Subchapter G, Rules, Regulations, Statements, and Interpretations under the Magnuson-Moss Warranty Act, by adding a new Part 700, reading as follows:

Sec.

700.1 Products covered.
700.2 Date of manufacture.
700.3 Written warranty.
700.4 Parties "actually making" a written warranty.
700.5 Expressions of general policy.
700.6 Designation of warranties.
700.7 Use of Warranty Registration Cards.
700.8 Warrantor's decision as final.
700.9 Duty to install under a full warranty.
700.10 Section 102(c).
700.11 Written warranty, service contract, and insurance distinguished for purposes of compliance under the Act.

Sec.
700.12 Effective date of 16 CFR, Parts 701 and 702.

AUTHORITY: Magnuson-Moss Warranty Act, Pub. L. 93-637, 15 U.S.C. 2301.

§ 700.1 Products covered.

(a) The Act applies to written warranties on tangible personal property which is normally used for personal, family, or household purposes. This definition includes property which is intended to be attached to or installed in any real property without regard to whether it is so attached or installed. This means that a product is a "consumer product" if the use of that type of product is not uncommon. The percentage of sales or the use to which a product is put by any individual buyer is not determinative. For example, products such as automobiles and typewriters which are used for both personal and commercial purposes come within the definition of consumer product. Where it is unclear whether a particular product is covered under the definition of consumer product, any ambiguity will be resolved in favor of coverage.

(b) Agricultural products such as farm machinery, structures and implements used in the business or occupation of farming are not covered by the Act where their personal, family, or household use is uncommon. However, those agricultural products normally used for personal or household gardening (for example, to produce goods for personal consumption, and not for resale) are consumer products under the Act.

(c) The definition of "Consumer product" limits the applicability of the Act to personal property, "including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed." This provision brings under the Act separate items of equipment attached to real property, such as air conditioners, furnaces, and water heaters.

(d) The coverage of separate items of equipment attached to real property includes, but is not limited to, appliances and other thermal, mechanical, and electrical equipment. (It does not extend to the wiring, plumbing, ducts, and other items which are integral component parts of the structure.) State law would classify many such products as fixtures to, and therefore a part of, realty. The statutory definition is designed to bring such products under the Act regardless of whether they may be considered fixtures under state law.

(e) The coverage of building materials which are not separate items of equipment is based on the nature of the purchase transaction. An analysis of the transaction will determine whether the goods are real or personal property. The numerous products which go into the construction of a consumer dwelling are all consumer products when sold "over the counter," as by hardware and building supply retailers. This is also true where a consumer contracts for the purchase of such materials in connection with the improvement, repair, or modification of a home (for example, paneling, dropped ceilings, siding, roofing, storm windows, remodeling). However, where such products are at the time of sale integrated into the structure of a dwelling they are not consumer products as they cannot be practically distinguished from realty. Thus, for example, the beams, wallboard, wiring, plumbing, windows, roofing, and other structural components of a dwelling are not consumer products when they are sold as part of real estate covered by a written warranty.

(f) In the case where a consumer contracts with a builder to construct a home, a substantial addition to a home, or other realty (such as a garage or an in-ground swimming pool) the building materials to be used are not consumer products. Although the materials are separately identifiable at the time the contract is made, it is the intention of the parties to contract for the construction of realty which will intergrate the component materials. Of course, as noted above, any separate items of equipment to be attached to such realty are consumer products under the Act.

(g) Certain provisions of the Act apply only to products actually costing the consumer more than a specified amount. Section 103 applies to consumer products actually costing the consumer more than $10, excluding tax. The $10 minimum will be interpreted to include multiple-packaged items which may individually sell for less than $10, but which have been packaged in a manner that does not permit breaking the package to purchase an item or items at a price less than $10. Thus, a written warranty on a dozen items packaged and priced for sale at $12 must be designated, even though identical items may be offered in smaller quantities at under $10. This interpretation applies in the same manner to the minimum dollar limits in section 102 and rules promulgated under that section.

(h) Warranties on replacement parts and components used to repair consumer products are covered; warranties on services are not covered. Therefore, warranties which apply solely to a repairer's workmanship in performing repairs are not subject to the Act. Where a written agreement warrants both the parts provided to effect a repair and the workmanship in making that repair, the warranty must comply with the Act and the rules thereunder.

(i) The Act covers written warranties on consumer products "distributed in commerce" as that term is defined in section 101(3). Thus, by its terms the Act arguably applies to products exported to foreign jurisdictions. However, the public interest would not be served by the use of Commission resources to enforce the Act with respect to such products. Moreover, the legislative intent to apply the requirements of the Act to such products is not sufficiently clear to justify such an extraordinary result. The Commission does not contemplate the enforcement of the Act with respect to consumer products exported to foreign jurisdictions. Products exported for sale at military post exchanges remain subject to the same enforcement standards as products sold within the United States, its territories and possessions.

§ 700.2 Date of manufacture.

Section 112 of the Act provides that the Act shall apply only to those consumer products manufactured after July 4, 1975. When a consumer purchases repair of a consumer product the date of manufacture of any replacement parts used in the measuring date for determining coverage under the Act. The date of manufacture of the consumer product being repaired is in this instance not relevant. Where a consumer purchases or obtains on an exchange basis a rebuilt consumer product, the date that the rebuilding process is completed determines the Act's applicability.

§ 700.3 Written warranty.

(a) The Act imposes specific duties and liabilities on suppliers who offer written warranties on consumer products. Certain representations, such as energy efficiency ratings for electrical appliances, care labeling of wearing apparel, and other product information disclosures may be express warranties under the Uniform Commercial Code. However, these disclosures alone are not written warranties under this Act. Section 101(6) provides that a written affirmation of fact or a written promise of a specified level of performance must relate to a specified period of time in order to be considered a "written warranty."[1] A product information disclosure without a specified time period to which the disclosure relates is therefore not a written warranty. In addition, section 111(d) exempts from the Act (except section 102(c)) any written warranty the making or content of which is required by federal law. The Commission encourages the disclosure of product information which is not deceptive and which may benefit consumers, and will not construe the Act to impede information disclosure in product advertising or labeling.

(b) Certain terms, or conditions, of sale of a consumer product may not be "written warranties" as that term is defined in Section 101(6), and should not be offered or described in a manner that may deceive consumers as to their enforceability under the Act. For example, a seller of consumer products may give consumers an unconditional right to revoke acceptance of goods within a certain number of days after delivery without regard to defects or failure to meet a specified level of performance. Or a seller may permit consumers to return products for any reason for credit toward purchase of another item. Such terms of sale taken alone are not written warranties under the Act. Therefore, suppliers should avoid any characterization of such terms of sale as warranties. The use of such terms as "free trial period"

[1] A "written warranty" is also created by a written affirmation of fact or a written promise that the product is defect free, or by a written undertaking of remedial action within the meaning of § 101(6)(B).

and "trade-in credit policy" in this regard would be appropriate. Furthermore, such terms of sale should be stated separately from any written warranty. Of course, the offering and performance of such terms of sale remain subject to section 5 of the Federal Trade Commission Act, 15 U.S.C. 45.

(c) The Magnuson-Moss Warranty Act generally applies to written warranties covering consumer products. Many consumer products are covered by warranties which are neither intended for, nor enforceable by, consumers. A common example is a warranty given by a component supplier to a manufacturer of consumer products. (The manufacturer may, in turn, warrant these components to consumers.) The component supplier's warranty is generally given solely to the product manufacturer, and is neither intended to be conveyed to the consumer nor brought to the consumer's attention in connection with the sale. Such warranties are not subject to the Act, since a written warranty under section 101(6) of the Act must become "part of the basis of the bargain between a supplier and a buyer for purposes other than resale." However, the Act applies to a component supplier's warranty in writing which is given to the consumer. An example is a supplier's written warranty to the consumer covering a refrigerator that is sold installed in a boat or recreational vehicle. The supplier of the refrigerator relies on the boat or vehicle assembler to convey the written agreement to the consumer. In this case, the supplier's written warranty is to a consumer, and is covered by the Act.

§ 700.4 Parties "actually making" a written warranty.

Section 110(f) of the Act provides that only the supplier "actually making" a written warranty is liable for purposes of FTC and private enforcement of the Act. A supplier who does no more than distribute or sell a consumer product covered by a written warranty offered by another person or business and which identifies that person or business as the warrantor is not liable for failure of the written warranty to comply with the Act or rules thereunder. However, other actions and written and oral representations of such a supplier in connection with the offer or sale of a warranted product may obligate that supplier under the Act. If under state law the supplier is deemed to have "adopted" the written affirmation of fact, promise, or undertaking, the supplier is also obligated under the Act. Suppliers are advised to consult state law to determine those actions and representations which may make them co-warrantors, and therefore obligated under the warranty of the other person or business.

§ 700.5 Expressions of general policy.

(a) Under section 103(b), statements or representations of general policy concerning customer satisfaction which are not subject to any specific limitation need not be designated as full or limited warranties, and are exempt from the requirements of sections 102, 103, and 104 of the Act and rules thereunder. However, such statements remain subject to the enforcement provisions of section 110 of the Act, and to section 5 of the Federal Trade Commission Act, 15 U.S.C. 45.

(b) The section 103(b) exemption applies only to general policies, not to those which are limited to specific consumer products manufactured or sold by the supplier offering such a policy. In addition, to qualify for an exemption under section 103(b) such policies may not be subject to any specific limitations. For example, policies which have an express limitation of duration or a limitation of the amount to be refunded are not exempted. This does not preclude the imposition of reasonable limitations based on the circumstances in each instance a consumer seeks to invoke such an agreement. For instance, a warrantor may refuse to honor such an expression of policy where a consumer has used a product for 10 years without previously expressing any dissatisfaction with the product. Such a refusal would not be a specific limitation under this provision.

§ 700.6 Designation of warranties.

(a) Section 103 of the Act provides that written warranties on consumer products manufactured after July 4, 1975, and actually costing the consumer more than $10, excluding tax, must be designated either "Full (statement of duration) Warranty" or "Limited Warranty". Warrantors may include a statement of duration in a limited warranty designation. The designation or designations should appear clearly and conspicuously as a caption, or prominent title, clearly separated from the text of the warranty. The full (statement of duration) warranty and limited warranty are the exclusive designations permitted under the Act, unless a specific exception is created by rule.

(b) Section 104(b)(4) states that "the duties under subsection (a) (of section 104) extend from the warrantor to each person who is a consumer with respect to the consumer product." Section 101(3) defines a consumer as "a buyer (other than for purposes of resale) of any consumer product, any person to whom such product is transferred during the duration of an implied or written warranty (or service contract) applicable to the product * * *." Therefore, a full warranty may not expressly restrict the warranty rights of a transferee during its stated duration. However, where the duration of a full warranty is defined solely in terms of first purchaser ownership there can be no violation of section 104(b)(4), since the duration of the warranty expires, by definition, at the time of transfer. No rights of a subsequent transferee are cut off as there is no transfer of ownership "during the duration of (any) warranty." Thus, these provisions do not preclude the offering of a full warranty with its duration determined exclusively by the period during which the first purchaser owns the product, or uses it in conjunction with another product. For example, an automotive battery or muffler warranty may be designated as "full warranty for as long as you own your car." Because this type of warranty leads the consumer to believe that proof of purchase is not needed so long as he or she owns the product a duty to furnish documentary proof may not be reasonably imposed on the consumer under this type of warranty. The burden is on the warrantor to prove that a particular claimant under this type of warranty is not the original purchaser or owner of the product. Warrantors or their designated agents may, however, ask consumers to state or affirm that they are the first purchaser of the product.

§ 700.7 Use of warranty registration cards.

(a) Under section 104(b)(1) of the Act a warrantor offering a full warranty may not impose on consumers any duty other than notification of a defect as a condition of securing remedy of the defect or malfunction, unless such additional duty can be demonstrated by the warrantor to be reasonable. Warrantors have in the past stipulated the return of a "warranty registration" or similar card. By "warranty registration card" the Commission means a card which must be returned by the consumer shortly after purchase of the product and which is stipulated or implied in the warranty to be a condition precedent to warranty coverage and performance.

(b) A requirement that the consumer return a warranty registration card or a similar notice as a condition of performance under a full warranty is an unreasonable duty. Thus, a provision such as, "This warranty is void unless the warranty registration card is returned to the warrantor" is not permissible in a full warranty, nor is it permissible to imply such a condition in a full warranty.

(c) This does not prohibit the use of such registration cards where a warrantor suggests use of the card as one possible means of proof of the date the product was purchased. For example, it is permissible to provide in a full warranty that a consumer may fill out and return a card to place on file proof of the date the product was purchased. Any such suggestion to the consumer must include notice that failure to return the card will not affect rights under the warranty, so long as the consumer can show in a reasonable manner the date the product was purchased. Nor does this interpretation prohibit a seller from obtaining from purchasers at the time of sale information requested by the warrantor.

§ 700.8 Warrantor's decision as final.

A warrantor shall not indicate in any written warranty or service contract either directly or indirectly that the decision of the warrantor, service contractor, or any designated third party is final or binding in any dispute concerning the warranty or service contract. Nor shall a warrantor or service contractor state that it alone shall determine what is a defect under the agreement. Such state-

ments are deceptive since section 110(d) of the Act gives state and federal courts jurisdiction over suits for breach of warranty and service contract.

§ 700.9 Duty to install under a full warranty.

Under section 104(a)(1) of the Act, the remedy under a full warranty must be provided to the consumer without charge. If the warranted product has utility only when installed, a full warranty must provide such installation without charge regardless of whether or not the consumer originally paid for installation by the warrantor or his agent. However, this does not preclude the warrantor from imposing on the consumer a duty to remove, return, or reinstall where such duty can be demonstrated by the warrantor to meet the standard of reasonableness under section 104(b)(1).

§ 700.10 Section 102(c).

(a) Section 102(c) prohibits tying arrangements that condition coverage under a written warranty on the consumer's use of an article or service identified by brand, trade, or corporate name unless that article or service is provided without charge to the consumer.

(b) Under a limited warranty that provides only for replacement of defective parts and no portion of labor charges, section 102(c) prohibits a condition that the consumer use only service (labor) identified by the warrantor to install the replacement parts. A warrantor or his designated representative may not provide parts under the warranty in a manner which impedes or precludes the choice by the consumer of the person or business to perform necessary labor to install such parts.

(c) No warrantor may condition the continued validity of a warranty on the use of only authorized repair service and/or authorized replacement parts for non-warranty service and maintenance. For example, provisions such as, "This warranty is void if service is performed by anyone other than an authorized 'ABC' dealer and all replacement parts must be genuine 'ABC' parts," and the like, are prohibited where the service or parts are not covered by the warranty. These provisions violate the Act in two ways. First, they violate the section 102(c) ban against tying arrangements. Second, such provisions are deceptive under section 110 of the Act, because a warrantor cannot, as a matter of law, avoid liability under a written warranty where a defect is unrelated to the use by a consumer of "unauthorized" articles or service. This does not preclude a warrantor from expressly excluding liability for defects or damage caused by such "unauthorized" articles or service; nor does it preclude the warrantor from denying liability where the warrantor can demonstrate that the defect or damage was so caused.

§ 700.11 Written warranty, service contract, and insurance distinguished for purposes of compliance under the Act.

(a) The Act recognizes two types of agreements which may provide similar coverage of consumer products, the written warranty, and the service contract. In addition, other agreements may meet the statutory definitions of either "written warranty" or "service contract," but are sold and regulated under state law as contracts of insurance. One example is the automobile breakdown insurance policies sold in many jurisdictions and regulated by the state as a form of casualty insurance. The McCarran-Ferguson Act, 15 U.S.C. 1011 et seq., precludes jurisdiction under federal law over "the business of insurance" to the extent an agreement is regulated by state law as insurance. Thus, such agreements are subject to the Magnuson-Moss Warranty Act only to the extent they are not regulated in a particular state as the business of insurance.

(b) "Written warranty" and "service contract" are defined in sections 101(6) and 101(8) of the Act, respectively. A written warranty must be "part of the basis of the bargain." This means that it must be conveyed at the time of sale of the consumer product and the consumer must not give any consideration beyond the purchase price of the consumer product in order to benefit from the agreement. It is not a requirement of the Act that an agreement obligate a supplier of the consumer product to a written warranty, but merely that it be part of the basis of the bargain between a supplier and a consumer. This contemplates written warranties by third-party non-suppliers.

(c) A service contract under the Act must meet the definitions of section 101(8). An agreement which would meet the definition of written warranty in section 101(6) (A) or (B) but for its failure to satisfy the basis of the bargain test is a service contract. For example, an agreement which calls for some consideration in addition to the purchase price of the consumer product, or which is entered into at some date after the purchase of the consumer product to which it applies, is a service contract. An agreement which relates only to the performance of maintenance and/or inspection services and which is not an undertaking, promise, or affirmation with respect to a specified level of performance, or that the product is free of defects in materials or workmanship, is a service contract. An agreement to perform periodic cleaning and inspection of a product over a specified period of time, even when offered at the time of sale and without charge to the consumer, is an example of such a service contract.

§ 700.12 Effective date of 16 CFR, Parts 701 and 702.

The Statement of Basis and Purpose of the final rules promulgated on December 31, 1975, provides that Parts 701 and 702 will become effective one year after the date of promulgation, December 31, 1976. The Commission intends this to mean that these rules apply only to written warranties on products manufactured after December 31, 1976.

By direction of the Commission dated June 8, 1977.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-19901 Filed 7-12-77;8:45 am]

federal register

WEDNESDAY, JULY 13, 1977

PART V

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

■

PATENTS, DATA, COPYRIGHTS AND RELATED MATTERS

Final Regulations

Title 41—Public Contracts and Property Management

CHAPTER 9—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

PATENTS, DATA AND COPYRIGHTS

Final Regulations

AGENCY: Energy Research and Development Administration.

ACTION: Final regulations.

SUMMARY: The Energy Research and Development Administration (ERDA) finalizes its regulations on Patents, Data, and Copyrights and related matters. These regulations revise those inherited from the Atomic Energy Commission (AEC) and the temporary regulations issued early in the period of transition from AEC to ERDA. Consequently, there is now provided for ERDA a unified body of final regulations for Patents, Data, and Copyrights.

DATE: Effective date, July 13, 1977.

ADDRESS: Albert Sopp (Office of the Assistant General Counsel for Patents; U.S. Energy Research and Development Administration, Washington, D.C. 20545).

FOR FURTHER INFORMATION CONTACT:

Albert Sopp, 301–353–4970.

SUPPLEMENTARY INFORMATION: These regulations revise the following issuances which are hereby revoked: ERDA Temporary Regulation No. 9 (Immediate Action Directive 9100–1) published on April 15, 1975 (40 FR 16848); ERDA Procurement Regulations, Part 9–9, published on October 7, 1975 (40 FR 46802); and proposed regulations for Patents, Data and Copyrights published for permissive use and public comment on October 15, 1975 (40 FR 48363). Other sections of Chapter 9 as identified below are hereby amended or revised as indicated to conform with these regulations. When ERDA was formed on January 19, 1975, only the patent, data and copyright regulations applicable to the Atomic Act were available. In April 1975, ERDA issued Temporary Regulation No. 9 providing interim guidance to ERDA's contracting officers concerning ERDA's two statutory provisions, the Atomic Energy Act of 1954, as amended, and the Federal Nonnuclear Energy Act of 1974. After the ERDA Procurement Regulations were published on October 7, 1975, ERDA published proposed regulations governing patent, data, and copyright matters on October 15, 1975, for public comment and permissive use. The proposed regulations sought to harmonize the patent and data policies controlling invention and data rights in ERDA contracts involving either nuclear or nonnuclear activities. Comments received from the public on the proposed regulations were summarized in ERDA's Report to the President and Congress of the United States, ERDA 76–16 published January 1976 (For sale by the U.S. Government Printing Office, Washington, D.C. 20402. Price, $4).

Based on the comments received and ERDA's operating experience under the proposed regulations for the past 18 months, the proposed regulations for Patents, Data and Copyrights have been revised to form the final regulations set forth below.

Because the Patent, Data and Copyright Regulations of Part 9–9 set forth below impact on and are referred to in other parts of Chapter 9, amendments have been made to the affected sections of those other parts and are included herein following the text of revised Part 9–9. In addition, §§ 9–3.150 to 9–3.150–5 entitled "Treatment of Proposal Information" set forth in the ERDA Procurement Regulations published on October 7, 1975 have been revised and, as now finalized, incorporate material concerning proposal information formerly appearing in § 9–9.202–3(d) of the proposed regulation on "Patents, Data and Copyrights" published on October 15, 1975. With this revision the provisions concerning treatment of proposal information appear in one place, § 9–3.150 et. seq., in Chapter 9.

A considerable number of changes of a significant nature which have been incorporated in the Patent, Data and Copyright regulations are the result of the many constructive suggestions received from interested members of the public. In several situations ERDA's operating experience over the past 18 months has confirmed the appropriateness of these suggestions, while in other instances agency experience gained through negotiation of contract patent and data clauses has shown some suggestions as not being feasible, suitable, or acceptable. Among policy and procedural changes have been the establishment in § 9–9.109–6(h) of new policy and procedures for granting patent waivers to nonprofit educational institutions on the basis of their technology transfer programs and capabilities similar to the guidelines prepared for the Federal Procurement Regulations, and the identification of small business as a typical waiver situation.

The following table sets forth other revisions and amendments to the patent and data clauses of ERDA PR, Part 9–9, Patents, Data and Copyrights, published on October 15, 1975. For the most part the changes are technical and procedural and are the combined result of public suggestions and agency experience. The portion of Part 9–9 covering policy and procedures has been revised, amplified or clarified as appropriate to explain and provide instructions and guidelines for the clause changes which are briefly described below.

§ 9–9.102–1, 2. Provides that the Authorization and Consent clauses in contracts for research, development or demonstration, or for supply, are flowed down to subcontractors.

§ 9–9.107–5(a). Patent Rights (long form) clause has been amended to clarify contracting officer's status as focal point for contractor except in situations peculiar solely to processing of patent matters.

Subparagraph (b)(2). Simplifies time period calculation for requesting "greater rights".

Paragraph (c). Conforms contractor sublicensing rights with FPR.

Paragraph (i). Limits application of withholding of payment provisions to prime contractors.

Subparagraph (k)(4). Broadens conditions not requiring contractor licensing of background patents.

Paragraph (m). Adds provision placing specific limits on patent rights obtained by Government in conformance with FPR.

§ 9–9.107–5(e). Provides an optional subparagraph (c)(1) for Patent Rights clause in which the license right reserved to contractor upon request is not necessarily royalty free where contractor has access to Restricted Data.

§ 9–9.107–5(g) (1), (2). Provides optional paragraphs for use in Patent Rights (long form) clause permitting contractors having revocable or irrevocable licenses to grant sublicenses beyond sublicensing obligations existing at time of contracting.

§ 9–9.107–5(h). Provides paragraph for use in Patent Rights (long form) clause in contracts for operation of Government owned facilities requiring grant to Government of paid-up license in inventions integrated into facility.

§ 9–9.107–6. Permits use of Patent Rights (short form) clause for certain consultant contracts.

§ 9–9.107–6(g). Provides paragraph in Patent Rights (short form) clause enabling streamlined publication review for patent clearance.

§ 9–9.202–3(c). Provides new Additional Technical Data Requirements clause in which Government has the right to order contract data "first produced or specifically used in the performance of the contract" unless data specifically used are proprietary.

§ 9–9.202–3(e)(2). Revises Rights in Technical Data (long form) clause; incorporates new definition of "proprietary data" and new term "contract data" (replacing 'subject data').

Subparagraph (b)(2)(ii). Provides in Rights in Technical Data (long form) clause that contractor has right to privately use contract data if data requirements of contract are met and has obligation to treat data received from external sources in accordance with restrictions thereon.

Paragraph (d). Establishes new provision in Rights in Technical Data (long form) clause obligating contractor to acquire data and rights therein from subcontractor to meet data requirements of prime contract.

§ 9–9.202–3(e)(3). Modifies paragraph in Rights in Technical Data (long form) clause to permit data to be excluded from delivery as limited rights data; provides uniform restrictive legend with optional subparagraphs to cover different needs for data.

§ 9–9.202–3(e)(4). Modifies paragraph in Rights in Technical Data (long form) clause to permit data to be excluded from

contractors licensing obligations regarding contract data.

§ 9-9.202-3(f). Establishes new Rights in Data—Special Works clause for books, motion pictures, etc., to be produced under contract and provides for Government ownership of such works.

§ 9-9.202-3(g). New Rights in Technical Data (short form) clause is provided for use in contracts generally parallel with use of Patent Rights (short form) clause unless proprietary data is involved.

§ 9-9.202-4 (a), (b), (c). A basic Rights in Technical Data (facility) clause is provided for use in operating contracts and subcontracts for special production plants, facilities, or equipment therefor. Clause provides Government ownership in technical data first produced under contract and unlimited rights and facilities license in Government for technical data specifically used unless proprietary. Clause obligates operating contractor to employ rights in technical data (long form) clause in subcontracts in accordance with policy and procedures of this subpart.

Although these regulations are effective July 13, 1977, the submission of comments and suggestions from interested persons to Mr. Albert Sopp at the above address is encouraged.

(Section 105 of the Energy Reorganization Act of 1974 (Pub. L. 93-438).)

Dated: June 28, 1977.

ROBERT W. FRI,
Acting Administrator.

1. Revisions or amendments to Parts of Chapter 9 are to be made as set forth below:

PART 9-1—GENERAL

§ 9-1.109-2 [Amended]

2. In § 9-1.109-2(b), second line, after "Headquarters,", insert

"or the Assistant General Counsel for Patents, as appropriate,";

3. In § 9-1.5408, redesignate paragraphs (a) and (b) (1) as paragraph (a), redesignate paragraphs (b) (2), (3), (4) and (c) as (b), (c), (d) and (e) respectively, and revise the heading for § 9-1.5408 and new paragraph (a) as follows:

§ 9-1.5408 Protection and private use of information and data by contractors.

(a) The contractor's obligations for protection of information and data received from ERDA and other contractors or subcontractors, and for the contractor's private use of contract data first produced in the performance of the contract, are set forth in subparagraph (b) (2) of each Rights in Technical Data clause in subpart 9-9.2. This subparagraph provides that the contractor may, subject to patent, security or other provisions of the contract, use for its private purposes contract data it first produces in the performance of the contract provided that the contractor has met its data requirements (e.g., delivery of data in the form of progress or status reports specified to be delivered) as of the date of the private use of such data. It is not necessary that a "Final Report" be submitted in order to privately use data if all required progress and interim reports and other technical data then due have been delivered. Paragraph (b) (2) further provides that technical or other data received by the contractor in the performance of the contract must be held in confidence by the contractor in accordance with restrictions accompanying the data.

* * * * *

PART 9-3—PROCUREMENT BY NEGOTIATION

4. Revise §§ 9-3.150, 9-3.150-1, 9-3.150-2, 9-3.150-3, 9-3.150-4, 9-3.151, 9-3.151-1, 9-3.151-2, 9-3.151-3, 9-3.152 to read as follows:

§ 9-3.150 Proposal information.

§ 9-3.150-1 General.

It is the policy of ERDA to use information contained in proposals only for evaluation purposes except to the extent such information is generally available to the public, is already the property of the Government or the Government already has unrestricted use rights, or is or has been made available to the Government from any source, including the proposer or offeror, without restriction. The term proposals as used in this section includes responses to Program Opportunity Notices (PONs), Program Research and Development Announcements (PRDAs), and solicitations of a similar nature in addition to Requests For Proposals (RFPs). As a practical matter, ERDA cannot assume any responsibility for disclosure or use of any such information unless it is identified by the proposer or offeror in accordance with this section. Unless a solicitation specifies otherwise, ERDA will not refuse to consider a solicited proposal or an unsolicited proposal merely because the proposal is restrictively marked. (See also Subparts 9-4.51, 9-4.52, 9-4.57, 9-4.58 and 10 CFR Part 709.)

§ 9-3.150-2 Treatment of proposal information.

(a) A proposal may include technical data and other data, including trade secrets and/or privileged or confidential commercial or financial information, which the proposer does not want disclosed to the public or used by the Government for any purpose other than proposal evaluation. To protect such data the proposer should specifically identify each page including each line or paragraph thereof containing the data to be protected and mark the cover sheet of the proposal with the following notice.

NOTICE

The data contained in pages ____ of this proposal have been submitted in confidence and contain trade secrets and/or privileged or confidential commercial or financial information, and such data shall be used or disclosed only for evaluation purposes, provided that if a contract is awarded to this proposer as a result of or in connection with the submission of this proposal, the Government shall have the right to use or disclose the data herein to the extent provided in the contract. This restriction does not limit the Government's right to use or disclose data obtained without restriction from any source, including the proposer.

References to the above notice on the cover sheet should be placed on each page to which the notice applies. Data, or abstracts of data, marked with this notice will be retained in confidence and used by ERDA or its designated representative(s), including Government contractors and consultants, as set forth in § 9-3.150-4 below, solely for the purpose of evaluating the proposal. The data so marked will not otherwise be disclosed or used without the proposer's prior written permission except to the extent provided in any resulting contract, or to the extend required by law. Proposers should be aware of the provisions of § 9-3.150-4 below if they desire to modify the above notice or otherwise seek to limit the evaluation to the Government only. The restriction contained in the notice does not limit the Government's right to use or disclose any data contained in the proposal if it is obtainable from any source, including the proposer, without restriction. Although it is ERDA's policy to treat all proposals as confidential, the Government assumes no liability for disclosure or use of unmarked data and may use or disclose such data for any purpose. See FPR 1-3.103(b) regarding disclosure to other offerors.

(b) Should a contract be awarded based on a proposal, it is ERDA policy, in consideration of the award, to obtain unlimited rights for the Government in the technical data contained in the proposal unless the prospective contractor marks those portions of the technical information which he asserts as "proprietary data", or specifies those portions of such technical data which are not directly related to or will not be utilized in the work to be funded under the contract. "Proprietary data" is defined in § 9-9.201(b) of these Regulations as technical data which embody a trade secret developed at private expense, such as design procedures or techniques, chemical composition of materials or manufacturing methods, processes or treatments, including minor modifications thereof, provided that such data: (1) Are not generally known or available from other sources without obligation concerning their confidentiality, (2) have not been made available by the owner to others without obligation concerning their confidentiality, and (3) are not already available to the Government without obligation concerning their confidentiality. A proposer who receives a contract award shall mark the data identified as proprietary by specifying the appropriate proposal page numbers to be inserted in the "Rights to Proposal Data" clause of paragraph (c) of this section, which clause shall be included in the contract. Subject to the concurrence of the contracting officer, information unrelated to the contract may be deleted from the proposal by the contractor. The responsibility, however, of identifying technical data as proprietary

or deleting it as unrelated rests with the prospective contractor.

(c) Pursuant to paragraph (b) of this section, the following clause shall be included in any contract based on a proposal. This clause is intended to apply only to technical data and not to other data such as priviliged or confidential commercial or financial information.

RIGHTS TO PROPOSAL DATA

Except for technical data contained on pages ____ of the contractors' proposal dated _____ which are asserted by the contractor as being proprietary data, it is agreed that as a condition of the award of this contract, and notwithstanding the provisions of any notice appearing on the proposal, the Government shall have the right to use, duplicate, and disclose and have others do so for any purpose whatsoever, the technical data contained in the proposal upon which this contract is based.

§ 9–3.150–3 Handling notice.

In order that proposals may be handled in confidence consistent with the policies set forth in this section, the following notice shall be affixed to a cover sheet attached to each proposal upon receipt by ERDA. Use of the following notice neither alters any obligation of the Government, nor diminishes any rights in the Government to use or disclose data or information.

NOTICE FOR HANDLING PROPOSALS

This proposal shall be used or duplicated only for ERDA evaluation purposes, and this notice shall be affixed to any reproduction or abstract thereof. Disclosure of this proposal outside the Government for ERDA evaluation purposes shall not be made unless the provisions of § 9–3.150–4 are followed. The restrictions contained in this notice do not apply to any data or commercial or financial information contained in this proposal if it is already generally available to the public, is already available to the Government on an unrestricted basis or is the property of the Government, or is or becomes available from any source, including the proposer, without restriction.

§ 9–3.150–4 Disclosure outside Government.

(a) *Policy.* It is the policy of ERDA to have proposals evaluated by the most competent persons available in Government. In addition, ERDA frequently meets its evaluation needs by having proposals reviewed by evaluators outside the Government, such as, by consultants, grantees, contractors, and contractor organizations operating or managing Government-owned facilities. Such latter outside evaluations may be made provided the requirements in (b) and (c) of this section are met. A decision to employ outside evaluation shall take into consideration ERDA requirements for avoidance of organizational conflicts of interest set forth in Subpart 9–1.54 and the competitive relationship, if any, between the proposer and the prospective outside evaluator.

(b) *Approval.* Decisions in ERDA Headquarters to evaluate proposals outside the Government shall be made by the responsible program division director, and in ERDA field offices by the field office manager. If the proposal under consideration expressly indicates that only Government evaluation is authorized and evaluation outside the Government is nevertheless desired, the proposer should be advised that ERDA may be unable to give full consideration to the proposal unless the proposer consents in writing to having the proposal evaluated outside the Government.

(c) *Agreement with evaluator.* Where it is determined to evaluate a proposal outside the Government, such as, by consultants, grantees and contractors including those who operate or manage government owned facilities, the following agreement or an equivalent arrangement for the treatment of the proposal shall be obtained from the outside evaluator before ERDA furnishes a copy of the proposal to such person. In addition, care should be taken that the notice required by § 9–3.150–3 is affixed to a cover sheet attached to the proposal before it is disclosed to the evaluator.

CONDITIONS FOR EVALUATING PROPOSALS

Whenever ERDA furnishes a proposal for evaluation, the recipient agrees to use the information contained in the proposal only for ERDA evaluation purposes and to treat the information obtained in confidence. This requirement does not apply to information obtainable from any source, including the proposer, without restriction. Any notice or restriction placed on the proposal by either ERDA or the originator of the proposal shall be conspicuously affixed to any reproduction or abstract thereof and its provisions strictly complied with. Upon completion of the evaluation, the recipient shall return all copies of the proposal and abstracts, if any, to the ERDA office which initially furnished the proposal for evaluation. Unless authorized by the ERDA initiating office, the recipient shall not contact the originator of the proposal concerning any aspect of its contents.

§ 9–3.151 Identification of proprietary data in proposals.

§ 9–3.151–1 Solicited proposals (including PONs and PRDAs).

Even though the statement of work contained in a solicitation sets forth the known requirements for technical data, i.e., technical data which will be specified to be delivered, there is no assurance that the contractor will deliver all of this data because paragraph (e) of the Rights in Technical Data (long form) clause of § 9–9.202–3(e)(2) of these regulations permits the contractor to withhold proprietary data from delivery. In order to ascertain the technical data each proposer intends to actually withhold as proprietary data, and as an aid in determining whether to include the provision for limited rights in proprietary data set forth in optional paragraph (g) of the Rights in Technical Data (long form) clause, the provision set forth in § 9–3.151–2 below shall be included in the solicitation. This provision explains that solicitations will include ERDA's known requirements for technical data, and that the proposer must submit a list identifying to the best of its knowledge which of this data will be withheld pursuant to paragraph (e) of the Rights in Technical Data (long form) clause of § 9–9.202–3(e)(2), or state that no technical data will be withheld. The submission of such list does not constitute a stipulation or determination by the Government that the data identified therein are in fact proprietary. In addition, the provision to be included in the solicitation refers to the Additional Technical Data Requirements clause, § 9–9.202–3(c) of these regulations, as being included in the proposed contract where, due to programmatic considerations, it is contemplated that all of the requirements for technical data will not be known at the time of contracting. When a proposer specifically identifies the proprietary data to be withheld, the contracting officer shall, as advised by the appropriate program manager, determine whether: (a) The Government needs limited rights in the proprietary data, in which case the optional paragraph (g) will be included in the Rights in Technical Data (long form) clause, (b) The Government needs the right to require contractor licensing of proprietary data to the Government and responsible third parties, in which case optional paragraph (h) will be included in the Rights in Technical Data (long form) clause, and (c) The Government needs un-limited rights in the proprietary data, in which case negotiations may be held to purchase or obtain a suitable license in the proprietary data.

§ 9–3.151–2 Solicitations.

The following provision shall normally be included in solicitations which may result in contracts calling for research, development or demonstration work or contracts for supplies in which delivery of required technical data are contemplated.

The section of this solicitation which describes the work to be performed also sets forth ERDA's known requirements for technical data. The Additional Technical Data Requirements clause if included in this solicitation, provides the Government with the option to order additional technical data, the requirements for which are not known at the time of contracting. There is, however, a built-in limitation on the kind of technical data which may be required. This limitation is found in paragraph (e) of the Rights in Technical Data clause which provides that the contractor may withhold delivery of proprietary data.

Accordingly, it is necessary that your proposal state that the work to be performed and the known requirements for technical data as set forth in the solicitation have been reviewed, and either state that to the best of your knowledge, no data will be withheld, or submit a list identifying the proprietary data which to the best of your knowledge will likely be used in the contract performance and will be withheld.

§ 9–3.151–3 Unsolicited proposals.

The contracting officer shall during contract negotiations identify technical data which will be required to be furnished under the contract. In such instance the proposer shall be required as part of the negotiation record to submit a list identifying to the best of his knowledge which of this data will be withheld as proprietary under paragraph (e) of the Rights in Technical Data (long form) clause, or state that no technical data will be withheld. The con-

tracting officer shall then make the determinations, in the same manner as set forth in § 9–3.151–1 above for solicited proposals, pertaining to the proprietary data identified to be withheld.

§ 9–3.152 Required notice of right to request patent waiver.

As set forth in § 9–9.107–4(a)(6) of these regulations, offerors and prospective contractors are to be provided with notice of and the right to request, in advance of or within 30 days after the effective date of contracting, a waiver of all or any part of the rights of the United States with respect to subject inventions. In no event will the fact that an offeror has requested such a waiver be a consideration in the evaluation of his offer or the determination of his acceptability. Accordingly, the following notice will be given to all prospective contractors and will be inserted in all solicitations which may result in contracts calling for research, development or demonstration work:

Offerors and prospective contractors in accordance with applicable statutes and ERDA Regulations (41 CFR 9–9.109–6) have the right to request in advance of or within 30 days after the effective date of contracting a waiver of all or any part of the rights of the United States in subject inventions —;

PART 9–4—SPECIAL TYPES AND METHODS OF PROCUREMENT

§ 9–4.5110–1 [Amended]

5. In § 9–4.5110–1, last line, delete portion in parenthesis;

§ 9–4.5110–2 [Amended]

§ 9–4.5110–2, revise paragraph (b) by changing the last sentence and parenthetical statement as follows:

The contractor or principal investigator may publish contract data if approved by ERDA in accordance with the provisions of the Patent Rights clause, § 9–9.107–5(a) (long form) or § 9–9.107–6 (short form). —;

§ 9–4.5112–8 [Reserved]

6. In § 9–4.5112–8, delete in entirety and change to—(Reserved)—.

§ 9–4.5603 [Amended]

§ 9–4.5603(c) is revised as follows:

(c) The level at which a participant cost shares is a factor considered pursuant to grant of waiver of patent rights under § 9–9.109–6. —;

PART 9–7—CONTRACT CLAUSES

§ 9–7.5006–7 [Amended]

7. Section 9–7.5006–7 is revised as follows:

See paragraph (c) of the following clauses: § 9–9.202–3(e)(2), Rights in technical data (long form); § 9–9.202–3(g)(2), Rights in technical data (short form), and § 9–9.202–4(c)(2), Rights in technical data (facility). —;

8. Section 9–7.5006–8 is revised as follows:

§ 9–7.5006–8 Copyright (Special works).

See § 9–9.202–3(f)(2) which provides for ownership by Government of data first produced or composed in the performance of the contract. —;

§ 9–7.5006–10 [Amended]

9. Section 9–7.5006–10(d)(7) is revised as follows:

(7) Royalty payments and patent costs:

(i) Royalties and other costs for use of patents in accordance with FPR 1–15.205–36.

(ii) Patent costs in accordance with FPR 1–15.205–26 —;

§ 9–7.5006–12 [Amended]

10. In § 9–7.5006–12(d)(7) is revised as follows:

(7) Royalty payments and patent costs:

(i) Royalties and other costs for use of patents in accordance with FPR 1–15.205–36.

(ii) Patent costs in accordance with the FPR 1–15.205–26 —;

11. In § 9–7.5006–13 is revised as follows:

§ 9–7.5006–13 Rights in technical data.

(a) Clauses affecting the Government's acquisition and rights in technical data are set forth in Subpart 9–9.2 and are to be used as indicated in the following situations.

(1) For contracts with commercial organizations, see § 9–9.202–3(c) and § 9–9.202–3(e)(2);

(2) For contracts with nonprofit or education institutions or consultants, where no proprietary data is involved, see § 9–9.202–3(g)(2);

(3) For facilities contracts, see § 9–9.202–4(c)(2);

(4) For contracts calling for production of books, motion picture or television recordings or scripts, and the like, see § 9–9.202–3(f)(2).

12. Revise § 9–7.5006–16 to 9–7.5006–22 inclusive as follows:

§ 9–7.5006–16 Authorization and consent.

See § 9–9.102–1 (supply or service contracts) and § 9–9.102–2 (research, development or demonstration contracts).

§ 9–7.5006–17 Patent indemnification.

See § 9–9.103–1 (formally advertised contracts) and § 9–9.103–3 (negotiated contracts).

§ 9–7.5006–18 Notice and assistance.

See § 9–9.104.

§ 9–7.5006–19 Classified inventions.

See § 9–9.106.

§ 9–7.5006–20 Patent Rights (long form) clause.

See § 9–9.107–5(a).

§ 9–7.5006–21 Patent Rights (short form) clause.

See § 9–9.107–6.

§ 9–7.5006–22 Patents—reporting of royalties.

See § 9–9.110 —;

13. In § 9–7.5006–59, revise the text appearing under the heading "Private use of contract information and data" as follows:

§ 9–7.5006–59 Private use of contract information and data.

Use of contract information or data by the contractor for private purposes is governed by subparagraph (b)(2) of each Rights in Technical Data clause in Subpart 9–9.2 —;

PART 9–59—ADMINISTRATION OF COST-TYPE CONTRACTOR PROCUREMENT ACTIVITIES

§ 9–59.004 [Amended]

14. In § 9–59.004, revise the item appearing in the 20th line under the subheading "Subject" as follows:

Patents, Data and Copyrights —;

§ 9–59.004 [Amended]

15. In § 9–59.004, revise the item appearing in the 20th line under the subheading "Reference" as follows:

Parts 9–9 —;

16. In the Appendix to 41 CFR Chapter 9, in Temporary Regulation No. 16, published in March, 1976 (41 FR 10606), in § 9–4.5804–4(b), change the reference to "§ 9–3.150–4" to "§ 9–3.150–3".

NOTE.—Revision of Part 9–16, "Procurement Forms" to the extent necessary to be compatible with revised Part 9–9, "Patents, Data and Copyrights" is still under consideration for revision at a later date. Accordingly, in the event of any conflict found to exist between Part 9–16 and revised Part 9–9, the provisions of Part 9–9 shall govern.

17. ERDA Temporary Regulation No. 9 in the Appendix to 41 CFR Chapter 9 is revoked.

18. Part 9–9 in 41 CFR Chapter 9 is revised to read as follows:

Part 9–9 Patents, Data, and Copyrights

Sec.

9–9.000 Scope of part.

Subpart 9–9.1—Patents

9–9.100 Scope of subpart.
9–9.101 [Reserved]
9–9.102 Authorization and consent.
9–9.102–1 Authorization and consent for supplies or services.
9–9.102–2 Authorization and consent in contracts for research and development or demonstration.
9–9.103 Patent indemnification of Government by contractor.
9–9.103–1 Patent indemnification in formally advertised contracts-commercial status predetermined.
9–9.103–2 [Reserved]
9–9.103–3 Patent indemnification in negotiated contracts.
9–9.103–4 Waiver of indemnity by the Government.
9–9.104 Notice and assistance.
9–9.105 [Reserved]
9–9.106 Classified inventions.
9–9.107 Patent rights under contracts for research development and demonstration and under special contracts.
9–9.107–1 General.

Sec.
9-9.107-2 [Reserved]
9-9.107-3 Policy.
9-9.107-4 Procedures.
9-9.107-5 Clause for contracts (long form).
9-9.107-6 Clause for contracts (short form).
9-9.107-7 Foreign contracts.
9-9.108 [Reserved]
9-9.109 Administration of patent clauses.
9-9.109-1 Patent rights follow-up.
9-9.109-2 Follow-up by contractor.
9-9.109-3 Follow-up by Government.
9-9.109-4 Remedies.
9-9.109-5 Conveyance of invention rights acquired by the Government.
9-9.109-6 Waivers.
9-9.110 Reporting of royalties.

Subpart 9-9.2—Technical Data and Copyrights

9-9.200 Scope of subpart.
9-9.201 Definitions.
9-9.202 Acquisition and use of technical data.
9-9.202-1 General.
9-9.202-2 Policy.
9-9.202-3 Procedures.
9-9.202-4 Procedures (Government-owned, contractor operated facilities).
9-9.202-5 Negotiations and deviations.

AUTHORITY: Sec. 105 of the Energy Reorganization Act of 1974 (Pub. L. 93-438).

§ 9-9.000 Scope of part.

This part sets forth policies, instructions, and contract clauses pertaining to patents, data, and copyrights in connection with the procurement of supplies and services.

Subpart 9-9.1—Patents

§ 9-9.100 Scope of subpart.

(a) This subpart sets forth policies, procedures, and contract clauses with respect to inventions made, conceived, or utilized in the course of or under any contracts, grants, agreements, understandings, or other arrangements entered into with or for the benefit of ERDA. ERDA's primary mission requires the use of its procurement process to insure the conduct of research, development and demonstration leading to the ultimate commercial utilization of all efficient sources of energy. Accordingly, ERDA's mission is not oriented toward reprocurement for Government use, except where procurements are involved with special classified programs or the construction or improvement of Government-owned facilities. To accomplish its mission, ERDA must work in cooperation with industry in the development of new energy sources and in achieving the ultimate goal of widespread commercial use. To this end, Congress has provided ERDA with an array of incentives to secure the adoption of the new technology developed for ERDA. An important incentive in commercializing technology is that provided by the patent system. As set forth in these Regulations, patent incentives, including ERDA's authority to waive the Government's patent rights to the extent provided for by statute, will be utilized in appropriate situations at the time of contracting to encourage industrial participation, foster commercial utilization and competition and make the benefits of ERDA's activities widely available to the public. In addition to considering the waiver of patent rights at the time of contracting, ERDA will also consider the incentive of a waiver of patent rights upon the reporting of an identified invention when requested by the contractor or the employee-inventor with the permission of the contractor. These requests can be made whether or not a waiver request was made at the time of contracting. Waivers for identified inventions will be provided where it is determined that the patent waiver will be a real incentive to achieving the development and ultimate commercial utilization of inventions. Where a waiver of the Government patent rights is granted, either at the time of contracting or upon request or after an invention is made, certain safeguards will be required by ERDA to protect the public interest.

(b) Another major ERDA mission is to manage the nation's uranium enrichment and other classified programs, where R&D procurements are directed toward processes and equipment not available to the public. To accomplish ERDA's programs for bringing private industry into these and other special programs to the maximum extent permitted by national security and policy considerations, it is desirable that the technology developed in these programs be made available on a selected basis for use in the particular fields of interest and under controlled conditions by properly cleared industrial and scientific research institutions. To insure such availability and control, the grant of waivers in these programs may necessarily be more limited than in other ERDA programs.

§ 9-9.101 [Reserved]

§ 9-9.102 Authorization and consent.

(a) Under 28 U.S.C. 1498, any suit for unauthorized use of a United States patent based on the manufacture or use by or for the United States of an invention described in and covered by a patent of the United States by a contractor or by a subcontractor (at any tier) can be maintained only against the Government in the Court of Claims, and not against the contractor or subcontractor, in those cases where the Government has authorized or consented to the manufacture or use of the patented invention. Accordingly, to insure that work by a contractor or subcontractor under a Government contract may not be enjoined by reason of patent infringement, authorization and consent shall be given in the prime contract and shall apply to all subcontracts thereunder as provided below. The liability of the Government for damages in such suit against it may, however, ultimately be borne by a contractor or subcontractor in accordance with the terms of any patent indemnity clause also included in the contract or subcontract, and an authorization and consent clause does not detract from any patent indemnification commitment by a contractor or a subcontractor. Therefore, both a patent indemnity clause and an authorization and consent clause may be included in the same contract or subcontract.

(b) In certain contracting situations, such as those involving demonstration projects, consideration should be given to the impact of third party-owned patents covering technology that may be incorporated in the project which may ulimately affect widespread commercial use of the project results. In such situations, patent counsel should be consulted to determine what modifications, if any, should be made to the utilization of the Authorization and Consent and Patent Indemnity provisions or what other action might be deemed appropriate.

(c) An Authorization and Consent clause shall not be used in contracts where both complete performance and delivery are to be outside the United States, its possessions or Puerto Rico.

§ 9-9.102-1 Authorization and consent in contracts for supplies or services.

The following contract clause shall be included in all contracts for supplies or services except when prohibited by § 9-9.102(c) or in contracts for research, development, or demonstration work and in subcontracts thereunder in which the clause in § 9-9.102-2 is required.

AUTHORIZATION AND CONSENT

The Government hereby gives its authorization and consent (without prejudice to any rights of indemnification) for all use and manufacture, in the performance of this contract or any part hereof or any amendment hereto or any subcontract hereunder (including any lower-tier subcontract) of any invention described in and covered by a patent of the United States (a) embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract or (b) utilized in the machinery, tools or methods the use of which necessarily results from compliance by the Contractor or the using subcontractor with (i) specifications or written provisions now or hereafter forming a part of this contract, or (ii) specific written instructions given by the Contracting Officer directing the manner of performance. The entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clauses, if any, included in this contract or any subcontract hereunder (including all lower-tier subcontracts), and the Government assumes liability for all other infringement to the extent of the authorization and consent hereinabove granted.

§ 9-9.102-2 Authorization and consent in contracts for research, development or demonstration.

Greater latitude in the use of patented inventions may be necessary in a contract for research, development, or demonstration work than in a contract for supplies. Unless prohibited by § 9-9.102(c), the following clause shall be included in all contracts calling for research, development, or demonstration work and shall be included in contracts calling for both supplies and research, development, or demonstration work where the latter work is a primary purpose of the contract. In all other contracts for both supplies and research, development, or demonstration work, the Authorization and Consent clause in § 9-9.102-1 shall be used. If the following clause is included in a contract, the

clause in § 9-9.102-1 shall not be included.

AUTHORIZATION AND CONSENT

The Government hereby gives its authorization and consent for all use and manufacture of any invention described in and covered by a patent of the United States in the performance of this contract or any part hereof or any amendment hereto or any subcontract hereunder (including all lower-tier subcontracts).

§ 9-9.103 Patent indemnification of Government by contractor.

In order that the Government may be reimbursed for liability for patent infringement arising out of or resulting from the performance of construction contracts or contracts for supplies, including standard parts and components which normally are or have been sold or offered for sale to the public in the commercial open market, or which are the same as such supplies with a relatively minor modification thereof, a clause providing for indemnification of the Government shall be included in such contracts as well as in subcontracts, as appropriate, in accordance with the instructions set forth below. However, a Patent Indemnity clause normally shall not be used in contracts or subcontracts:

(a) When the Authorization and Consent clause in § 9-9.102-2 applicable to research, development, or demonstration contracts is authorized, except that in contracts calling also for supplies of the kind described above, or for supplying standard parts or components, the Patent Indemnity clause in § 9-9.103-3(b) may be used with respect to such supplies; in subcontracts thereunder, the Patent Indemnity clause of § 9-9.103-1 or 9-9.103-3 (b) shall be used as appropriate.

(b) When the contract is for supplies which clearly are not, or have not been, sold or offered for sale to the public in the commercial open market;

(c) When both performance and delivery are to be outside the United States, its possessions, or Puerto Rico, unless the contract indicates that the supplies are ultimately to be shipped into the United States, its possessions or Puerto Rico, in which case the instructions of § 9-9.103-1 or § 9-9.103-3 are applicable; or

(d) When the contract is for an amount of $10,000 or less (as a matter of administrative convenience, however, the clause need not be deleted where it is a part of a standard form being used for such contracts, since it is self-deleting).

§ 9-9.103-1 Patent indemnification in formally advertised contracts—commercial status predetermined.

Except as prohibited by § 9-9.103, the following clause is appropriate in formally advertised contracts for supplies when it has been determined in advance of issuing the invitation for bids that the supplies (or such supplies apart from relatively minor modifications to be made thereto) normally are or have been sold or offered for sale by any supplier to the public in the commercial open market:

PATENT INDEMNITY

If the amount of this contract is in excess of $100,000, the Contractor shall indemnify the Government and its officers, agents, and employees against liability, including costs, for infringement of any United States letters patent (except U.S. letters patent issued upon an application which is now or may hereafter be kept secret or otherwise withheld from issue by order of the Government) arising out of the manufacture or delivery of supplies or out of construction, alteration, modification, or repair of real property (hereinafter referred to as "construction work") under this contract, or out of the use or disposal by or for the account of the Government of such supplies or construction work. The foregoing indemnity shall not apply unless the Contractor shall have been informed as soon as practicable by the Government of the suit or action alleging such infringement, and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in the defense thereof; and further, such indemnity shall not apply to: (a) An infringement resulting from compliance with specific written instructions of the Contracting Officer directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the contract not normally used by the Contractor; (b) an infringement resulting from addition to, or change in, such supplies or components furnished or construction work performed which addition or change was made subsequent to delivery or performance by the Contractor; or (c) a claimed infringement which is settled without the consent of the Contractor, unless required by final decree of a court of competent jurisdiction.

§ 9-9.103-2 [Reserved]

§ 9-9.103-3 Patent indemnification in negotiated contracts.

The fact that a contract is negotiated does not preclude inclusion of a Patent Indemnity clause in such a contract, and such clause may be included in negotiated construction contracts and in contracts for supplies when such supplies normally are or have been sold or offered for sale to the public in the commercial open market, or are such supplies with relatively minor modifications made thereto, or in contracts for supplying standard parts or components.

(a) Subject to the foregoing and to the prohibitions in § 9-9.103, the clause in § 9-9.103-1 is approved for use in negotiated contracts for construction work or supplies.

(b) Except as prohibited by § 9-9.103, the following clause is appropriate in research, development, or demonstration contracts when it has been determined by ERDA in any particular contracting situation that the contract will require standard supplies sold or offered for sale to the public on the commercial open market or utilize the contractor's practices or methods which normally are or have been used in providing goods and services on the commercial open market.

PATENT INDEMNITY

The Contractor shall indemnify the Government and its officers, agents, and employees against liability, including costs, for infringement of U.S. Letters Patent (except U.S. Letters Patent issued upon an application which is now or may hereafter be kept secret or otherwise withheld from issue by order of the Government) resulting from the Contractor's: (a) Furnishing or supplying standard parts or components which have been sold or offered for sale to the public on the commercial open market; or (b) utilizing its normal practices or methods which normally are or have been used in providing goods and services in the commercial open market, in the performance of the contract; or (c) utilizing any parts, components, practices, or methods to the extent to which the Contractor has secured indemnification from liability. The foregoing indemnity shall not apply unless the Contractor shall have been informed as soon as practicable by the Government of the suit or action alleging such infringement, and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in the defense thereof; and further, such indemnity shall not apply to a claimed infringement which is settled without the consent of the Contractor, unless required by final decree of a court of competent jurisdiction or to an infringement resulting from addition to or change in such supplies or components furnished or construction work performed which addition or change was made subsequent to delivery or performance by the Contractor.

§ 9-9.103-4 Waiver of indemnity by the Government.

If it is desired to exempt one or more specified United States patents from the Patent Indemnity clause in § 9-9.103-1 and § 9-9.103-3(b), concurrence for such exemption shall be obtained from the patent counsel assisting the procuring activity, and the following clause shall be included in the contract, in addition to the Patent Indemnity clause.

WAIVER OF INDEMNITY

Any provision of this contract to the contrary notwithstanding, the Government hereby authorizes and consents to the use and manufacture, solely in the performance of this contract, of any invention covered by the United States patents identified as listed below, and waives indemnification by the Contractor with respect to such patents: (Identify the patents by number or by other means if more appropriate).

§ 9-9.104 Notice and assistance.

The Government should be notified by the contractor of all claims of infringement in connection with the performance of a Government contract which come to the contractor's attention. The contractor should also assist the Government, to the extent of evidence and information in the possession of the contractor, in connection with any suit against the Government, or any claims against the Government made before suit has been instituted, on account of any alleged patent or copyright infringement arising out of or resulting from the performance of the contract. Accordingly, the following clause shall be included in all contracts in excess of $10,000 for supplies, services, construction, research, development, or demonstration work. However, the clause shall not be included in contracts:

(a) Where both performance and delivery are to be outside the United States, its possessions, or Puerto Rico, unless the contract indicates that the supplies are ultimately to be shipped into the United States, its possessions, or Puerto Rico; or

(b) Of $10,000 or less (as a matter of administrative convenience, however, the clause need not be deleted when it is part of a standard form being used for such contracts since it is self-deleting).

NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT

The Provisions of this clause shall be applicable only if the amount of this contract exceeds $10,000.

(a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which the Contractor has knowledge.

(b) In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed hereunder, the Contractor shall furnish to the government when requested by the Contracting Officer, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where the Contractor has agreed to indemnify the Government.

(c) This clause shall be included in all subcontracts.

§ 9–9.105 [Reserved]

§ 9–9.106 Classified inventions.

Unauthorized disclosure of classified subject matter, whether in a patent application or resulting from the issuance of a patent, may be a violation of not only the Atomic Energy Act of 1954, as amended, and other laws relating to espionage and national security, but also provisions pertaining to disclosure of information incorporated in the contract. Accordingly, the following clause shall be included in every contract which covers or is likely to cover classified subject matter.

CLASSIFIED INVENTIONS

(a) The Contractor shall not file or cause to be filed on any invention or discovery conceived or first actually reduced to practice in the course of or under this contract in any country other than the United States, an application or registration for a patent without first obtaining written approval of the Contracting Officer.

(b) When filing a patent application in the United States on an invention or discovery conceived or first actually reduced to practice in the course of or under this contract the subject matter of which is classified for reasons of security, the Contractor shall observe all applicable security regulations covering the transmission of classified subject matter. When transmitting the patent application to the United States Patent and Trademark Office, the Contractor shall by separate letter identify by agency and number the contract or contracts which require security classification markings to be placed on the application.

(c) The substance of this clause shall be included in subcontracts which cover or are likely to cover classified subject matter.

§ 9–9.107 Patent rights under contracts for research, development and demonstration and under special contracts.

§ 9–9.107–1 General.

This section sets forth the policies, procedures, and practices of ERDA in connection with inventions, patents, and related matters based upon the Atomic Energy Act of 1954, as amended (42 USC 2182), and the Federal Nonnuclear Energy Research and Development Act of 1974 (42 USC 5908); and, to the extent not inconsistent with the foregoing statutes, the revised Presidential Memorandum and Statement of Government Patent Policy, August 23, 1971 (36 R.R. 16887–16892). Section 152 of the Atomic Energy Act provides that the title to inventions useful in the nuclear energy field made or conceived in the course of or under a contract, subcontract, or arrangement entered into for the benefit of the Commission (now ERDA) shall be vested in the Government. Government rights in such an invention may be waived consistent with the policy of Section 152. In a similar manner, Section 9 of the Federal Nonnuclear Energy Research and Development Act provides that title to inventions made or conceived in the course of or under ERDA contracts other than in the nuclear energy field shall vest in the Government and that all or part of the rights of the Government in such inventions may be waived if it is determined, in conformity with the provisions of Section 9, that the interests of the United States and the general public will best be served by such waiver.

§ 9–9.107–2 [Reserved]

§ 9–9.107–3 Policy.

(a) Whenever any invention is made or conceived in the course of or under any contract of ERDA, title to such invention shall vest in the United States unless the Administrator or his designee waives all or any part of the rights of the United States. While waivers are to be granted only in conformity with the specific minimum considerations and under the carefully delineated conditions set forth in § 9–9.109–6, it is recognized that waivers comprise a necessary part of the commercialization incentives available to ERDA. It is intended, therefore, that waivers will be provided in appropriate situations to encourage industrial participation and foster rapid commercial utilization in the overall best interest of the United States and the general public. With regard to any waivers granted under this Part 9–9, ERDA shall maintain a publicly available, periodically updated record of such waiver determinations.

(b) In contracts having as a purpose the conduct of research, development or demonstration work and in other special contracts, the Government shall normally acquire title in and to any invention or discovery conceived or first actually reduced to practice in the course of or under the contract, allowing the contractor to retain a nonexclusive, revocable, paid-up license in the invention and the right to file and retain title in any foreign country in which the Government does not elect to secure patent rights. The contractor's nonexclusive license retained in the invention may be revoked or modified by ERDA only to the extent necessary to achieve expeditious practical application of the invention pursuant to an application for and the grant of an exclusive license in the invention.

(c) In contracts having as a purpose the conduct of research, development or demonstration work and in other special contracts the Government may have to acquire the right to require licensing of background patent rights by the contractor to insure reasonable public availability and accessibility necessary to practice the subject of the contract in the fields of technology specifically contemplated in the contract effort. The need for background patent rights and the particular rights that should be obtained for either the Government or the public will depend upon the type, purpose, and scope of the contract effort, and the cost to the Government of obtaining such rights. Accordingly, the background patent rights provision which will be appropriate for many contract situations is included in the Patent Rights clause.

(d) Nothing in this Part 9–9 shall be deemed to convey to any individual, corporation or other business organization immunity from civil or criminal liability, or to create defenses to actions under the antitrust laws.

§ 9–9.107–4 Procedures.

(a) *Selection of Patent Rights clause.*—(1) Whenever a contract, subcontract or other arrangement has as a purpose the conduct of research, development or demonstration work, the operation of a Government-owned research or production facility, the furnishing of architect-engineer, design or other special services, or the coordination and direction of the work of others, the contracting officer shall include in the proposed contract either the Patent Rights clause of § 9–9.107–5(a), or the clause of § 9–9.107–6. The clause set forth in § 9–9.107–6 may be used only in contracts calling for basic or applied research work with non-profit or educational institutions or in certain consultant contracts as set forth in paragraph (a)(5) of this section.

(2) The Patent Rights clauses of § 9–9.107–5(a) and § 9–9.107–6 provide that the Government shall acquire title to each invention made (i.e., conceived or first actually reduced to practice) in the course of or under the contract. However, the contractor shall retain in such invention a nonexclusive, revocable license, and subject to ERDA security requirements and regulations, may file and retain title in any foreign country in which the Government does not elect to secure patent rights. The contractor or the inventor may also retain greater rights than these after an invention has been identified and reported to ERDA if the Administrator or his designee determines that the interests of the United States and the general public will best be served by a waiver of such rights, utilizing the considerations set forth in § 9–9.109–6.

(3) The Patent Rights clauses shall normally include the provisions set forth in paragraph (l) of the clause in § 9–9.107–5(a) and paragraph (f) of the clause in § 9–9.107–6. If the contracting officer determines that the work to be per-

formed under the contract would not be useful in the production or utilization of special nuclear material or atomic energy, paragraphs (l) or (f) may be omitted.

(4) The primary missions of ERDA may require that certain rights in the contractor's privately developed background patents be acquired for the Government's future production, research, development and demonstration projects. Similar rights may also be required to enable private parties to utilize a subject of the contract in the fields of technology specifically contemplated in the contract effort. To this end, subject to specified exceptions and negotiations, the Patent Rights clause in contracts over $250,000 shall normally include provisions obtaining rights of the type specified in § 9-9.107-5 to such background patents. It is recognized that the precise rights to be acquired will depend upon the facts of each situation and are a matter for determination by ERDA and for negotiation with the contractor. General guidelines for use by contracting officers and contract negotiators are provided in § 9-9.107-5(b).

(5) The short form Patent Rights clause in § 9-9.107-6 may be used in contracts calling for basic or applied research where the contractor is a nonprofit or educational institution, and in special situations such as consultant contracts. However, this clause will not be used in contracts calling for the operation of Government-owned facilities, contracts in which an advance waiver or greater rights has been granted, in certain consultant contracts as explained in § 9-9.107-6, or in other special contracts.

(6) Solicitations and proposed contracts shall provide offerors and prospective contractors with notice of and the right to request, in advance of or within 30 days after the effective date of contracting, a waiver of all or any part of the rights of the United States with respect to subject inventions. In no event will the fact that an offeror has requested such a waiver be a consideration in the evaluation of his offer or the determination of his acceptability. If an advance waiver is granted, the Patent Rights clause of § 9-9.107-5(a) shall be utilized and appropriately modified in accordance with the terms of such waiver. To provide adequate notice to prospective contractors or offerors, the following provision will be inserted in all solicitations which may result in contracts calling for research, development or demonstration:

> Offerors and prospective contractors in accordance with applicable statutes and ERDA Regulations (41 CFR 9-9.109-6) have the right to request in advance of or within 30 days after the effective date of contracting a waiver of all or any part of the rights of the United States in subject inventions.

(7) Under its Access Permit Program, ERDA may make Restricted Data applicable to civil uses of atomic energy available to persons requiring such data for use in their business, trade or profession. Under such programs, the special terms and conditions of the type set forth in 10 CFR 725.23 (b) and (d) should be used instead of the provisions set forth in this Part.

(b) *License for the Government, States and domestic municipal governments.* When a waiver is granted or foreign rights are retained by either the contractor or the inventor, the Government shall retain for the United States, States, and domestic municipal governments at least a paid-up, nonexclusive, irrevocable license in all applicable inventions unless the Administrator or his designee determines that it would not be in the public interest to acquire such rights for the States and domestic municipal governments. Requests by contractors for such determinations, together with a justification therefor, shall be submitted to the contracting officer. The contracting officer shall refer such requests to the patent counsel assisting the procuring activity for forwarding the request, along with appropriate comments and recommendations, to the Assistant General Counsel for Patents to serve as a basis for a determination by the Administrator or his designee.

(c) *Right to sublicense foreign Governments.* The Patent Rights clause does not provide the Government with the right to grant sublicenses to a foreign government pursuant to any treaty or agreement in subject inventions to which the contractor has been granted greater or foreign rights. The Administrator or his designee may determine at the time of contracting that it would be in the national interest to acquire this right, or he may reserve the right to make this determination after the invention is identified. When such a determination is made or such right is reserved, the Patent Rights clause should be amended as set forth in § 9-9.107-5(d).

(d) *License rights (upon request) to the contractor.* Paragraph (c) of the Patent Rights (long form) clause of § 9-9.107-5(a) specifies the license rights retained by the contractor in inventions made in the course of or under the contract. In appropriate circumstances, such as in contracts for the operation of Government-owned facilities or special long term, cost reimbursement Government-funded research, development or demonstration work, this provision shall be modified to provide a revocable, nonexclusive, royalty-free license in inventions only upon request by the contractor for reservation of such license. In such situations, the paragraph set forth in § 9-9.107-5(e) shall be substituted for paragraph (c)(1) of the Patent Rights (long form) clause. However, in programs of the type discussed in § 9-9.107-4(a)(7), or in certain contracts or subcontracts involving access to Restricted Data, royalty free licenses shall not necessarily be granted with respect to inventions or discoveries resulting from the contractor's or subcontractor's access to Restricted Data.

(e) *License rights to contractor (irrevocable).* Paragraph (c)(1) of the Patent Rights (long form) clause specifies that the license rights retained by the contractor in such inventions are revocable. In special circumstances the license may be irrevocable, in which case the paragraph (c)(1) set forth in § 9-9.107-5(f) shall be substituted for paragraphs (c)(1), (c)(2) and (c)(3) of the Patents Rights (long form) clause. Since granting irrevocable licenses may interfere with ERDA's licensing program which is intended to promote the commercial utilization of inventions resulting from its research, development, or demonstration programs, contractors desiring irrevocable licenses shall submit a written request with a justification to the contracting officer. The contracting officer shall refer such requests to the patent counsel assisting the procuring activity for forwarding the request, along with appropriate comments and recommendations to the Assistant General Counsel for Patents to serve as a basis for approval by the Administrator or his designee.

(f) *Contractor sublicensing.* The right of a contractor having a license as set forth in paragraphs (d) and (e) of this section to grant a revocable license to one or more sublicensees may be considered appropriate by the Administrator or his designee in certain circumstances, such as, for example, where the contractor is cost sharing; where the contractor's control or involvement in the technology which is the subject of the contract is substantial; where the reservation of licensing rights in the contractor would best promote commercialization or utilization of the technology, or where substantial segments of the user population already have licenses or would otherwise be licensed. In such situations, the paragraph in § 9-9.107-5(g)(1) may be substituted for paragraph (c)(1) of § 9-9.107-5(a), or the paragraphs in § 9-9.107-5(g)(2) may be substituted for paragraphs (c)(1), (c)(2), and (c)(3) of § 9-9.107-5(a), as appropriate.

(g) *Facilities license.* Whenever a contract has as a purpose the design, construction or operation of a Government-owned research, development, demonstration, or production facility, it is necessary that the Government be accorded certain rights with respect to further use of the facility by or on behalf of the Government upon termination of the contract, including the right to make, use, transfer, or otherwise dispose of all articles, materials, products, or processes embodying inventions or discoveries used or embodied in the facility regardless of whether or not conceived or actually reduced to practice under or in the course of such a contract. Accordingly, the paragraph of § 9-9.107-5(h) shall be used in all such contracts in addition to the provisions of the "long form" Patent Rights clause.

(h) *Subcontracts.* (1) The policy expressed in § 9-9.107-3 is applicable to prime contracts and to subcontracts regardless of tier. The Patent Rights clause of § 9-9.107-5(a) or § 9-9.107-6 shall be included in all subcontracts having as a purpose the conduct of research, development, or demonstration

work. However, the Patent Rights clause contained in the prime contract is not to be deemed automatically appropriate for subcontracts. For example, it would not be appropriate to the extent that waivers have been granted the prime contractor at the time of contracting. A separate waiver, if any, must be obtained by subcontractors. Further, the withholding of payment provision of the prime contract will not normally be included in a subcontract except upon request of the contracting officer and except for subcontracts awarded by contractors who operate Government-owned facilities and for other special contracting situations in which cases the withholding of payment provision may be flowed down to the first tier subcontractor only. Whenever either the prime contractor or a proposed subcontractor considers the inclusion of the Patent Rights clause of § 9–9.107–5(a) or § 9–9.107–6 to be inappropriate, or the subcontractor refuses to accept such a clause in its subcontract, the matter shall be referred prior to award of the subcontract to the contracting officer for resolution in accordance with § 9–9.107–4(k). Upon such referral, the same considerations and procedures followed in selecting the appropriate Patent Rights clause included in the prime contract shall be used in selecting the subcontract clause.

(2) Contractors shall not use their ability to award subcontracts as economic leverage to acquire rights for themselves in the inventions resulting from subcontracts, and a waiver granted to a prime contractor is not normally applicable to inventions of subcontractors. However, in appropriate circumstances the prime contractor's waiver may be made applicable to the inventions of any or all subcontractors, such as, for example, where there are pre-existing special research and development arrangements between the prime contractor and subcontractor, or where the prime contractor and subcontractor are partners in a cooperative effort. In addition, in such circumstances the prime contractor may be permitted to acquire nonexclusive licenses in the subcontractor's inventions when a waiver for subcontractor inventions is not applicable.

(i) *Record of decisions.* Patent Counsel assisting the procuring activity shall record the basis for the following actions: (1) Waivers at the time of contracting; (2) Waivers granted on identified inventions; (3) Determinations that no license need be obtained for States or domestic municipal governments; (4) Determinations that the right to sublicense foreign governments should be obtained; and (5) The grant of irrevocable licenses.

(j) *Publication of invention disclosures.* The Patent Rights clauses specify that the Government may duplicate and disclose invention disclosures reported under the contract, although it is not ERDA's practice to publish invention disclosures. Since public disclosure before the filing of a U.S. patent application may create a bar to filing certain foreign applications, the clauses also require that patent approval for release or publication of information relating to the contract work be secured from patent counsel prior to any such release or publication. When the contractor has requested or obtained a waiver, or has advised of its interest in obtaining certain filing rights, provision is made for ERDA to use its best efforts to withhold release or publication of such information for a specified time period in accordance with paragraph (d)(1) of the clause in § 9–9.107–5(a) to permit the timely filing of a U.S. patent application by the contractor.

(k) *Negotiations and deviations.* Contracting officers shall contact the field patent counsel assisting their activity or the Assistant General Counsel for Patents, for assistance to the contracting officer in selecting, negotiating or approving appropriate patent, copyright, and data clauses. It should be noted that such clauses may be involved in and affected by the negotiations for a patent waiver. In the case of field activities, patent counsel will coordinate such review and assistance with the Chief Counsel in accordance with established local procedures. Any intended departures or deviations from the policy, procedures, or the clauses specified in this Part 9–9 which shall constitute a deviation from these regulations or from the Federal Procurement Regulations shall be referred by the Contracting Officer to the Assistant General Counsel for Patents for review and concurrence prior to obtaining approval in accordance with § 9–1.109–2. A deviation amounting to a class deviation to the FPR or the ERDA–PR shall be forwarded through the Assistant General Counsel for Patents to the Director of Procurement as provided in § 9–1.109–2(b).

§ 9–9.107–5 Clause for contracts (long form).

(a) *Patent rights clause.* When the contracting officer has determined that a contract falls within § 9–9.107–4(a)(1), except where the clause of § 9–9.107–6 is applicable, the following clause shall be included in the contract.

PATENT RIGHTS

(a) *Definitions.* (1) "Subject Invention" means any invention or discovery of the contractor conceived or first actually reduced to practice in the course of or under this contract, and includes any art, method, process, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plants, whether patented or unpatented under the Patent Laws of the United States of America or any foreign country.

(2) "Contract" means any contract, grant, agreement, understanding, or other arrangement, which includes research, development, or demonstration work, and includes any assignment or substitution of parties.

(3) "States and domestic municipal governments" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and any political subdivision and agencies thereof.

(4) "Government agency" includes an executive department, independent commission, board, office, agency, administration, authority, Government corporation, or other Government establishment of the Executive Branch of the Government of the United States of America.

(5) "To the point of practical application" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine and under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

(6) "Patent Counsel" means the ERDA Patent Counsel assisting the procuring activity.

(b) *Allocation of principal rights.*—(1) *Assignment to the Government.* The Contractor agrees to assign to the Government the entire right, title, and interest throughout the world in and to each Subject Invention, except to the extent that rights are retained by the Contractor under paragraphs (b)(2) and (c) of this clause.

(2) *Greater rights determinations.* The Contractor or the employee-inventor with authorization of the Contractor may request greater rights than the nonexclusive license and the foreign patent rights provided in paragraph (c) of this clause on identified inventions in accordance with 41 CFR 9–9.109–6. Such requests must be submitted to Patent Counsel (with notification by Patent Counsel to the Contracting Officer) at the time of the first disclosure pursuant to paragraph (e)(2) of this clause, or not later than 9 months after conception or first actual reduction to practice, whichever occurs first, or such longer period as may be authorized by Patent Counsel (with notification by Patent Counsel to the Contracting Officer) for good cause shown in writing by the Contractor.

(c) *Minimum rights to the contractor.*—(1) *Contractor license.* The Contractor reserves a revocable, nonexclusive, paid-up license in each patent application filed in any country on a Subject Invention and any resulting patent in which the Government acquires title. The license shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and shall include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license shall be transferable only with approval of ERDA except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(2) *Revocation limitations.* The Contractor's nonexclusive license retained pursuant to paragraph (c)(1) of this clause and sublicenses granted thereunder may be revoked or modified by ERDA, either in whole or in part, only to the extent necessary to achieve expeditious practical application of the Subject Invention under ERDA's published licensing regulations (10 CFR 781), and only to the extent an exclusive license is actually granted. This license shall not be revoked in that field of use and/or the geographical areas in which the Contractor, or its sublicensee, has brought the invention to the point of practical application and continues to make the benefits of the invention reasonably accessible to the public, or is expected to do so within a reasonable time.

(3) *Revocation procedures.* Before modification or revocation of the license or sublicense, pursuant to paragraph (c)(2) of this clause, ERDA shall furnish the Contractor a written notice of its intention to modify or revoke the license and any sublicense thereunder, and the Contractor shall be allowed 30 days, or such longer period as may be authorized by the Patent Counsel (with notification by Patent Counsel to the Contracting Officer) for good cause shown in writing by

the Contractor, after such notice to show cause why the license or any sublicense should not be modified or revoked. The Contractor shall have the right to appeal, in accordance with 10 CFR 781, any decision concerning the modification or revocation of his license or any sublicense.

(4) *Foreign patent rights.* Upon written request to Patent Counsel (with notification by Patent Counsel to the Contracting Officer), in accordance with paragraph (e)(2)(i) of this clause, and subject to ERDA security regulations and requirements, there shall be reserved to the Contractor, or the employee-inventor with authorization of the Contractor, the patent rights to a Subject Invention in any foreign country where the Government has elected not to secure such rights provided:

(i) The recipient of such rights, when specifically requested by ERDA and three years after issuance of a foreign patent disclosing said Subject Invention, shall furnish ERDA a report setting forth:

(A) The commercial use that is being made, or is intended to be made, of said invention, and

(B) The steps taken to bring the invention to the point of practical application or to make the invention available for licensing.

(ii) The Government shall retain at least an irrevocable, nonexclusive, paid-up license to make, use, and sell the invention throughout the world by or on behalf of the Government (including any Government agency) and States and domestic municipal governments, unless the Administrator or his designee determines that it would not be in the public interest to acquire the license for the States and domestic municipal governments.

(iii) Subject to the rights granted in (c)(1), (2) and (3) of this clause, the Administrator or his designee shall have the right to terminate the foreign patent rights granted in this paragraph (c)(4) in whole or in part unless the recipient of such rights demonstrates to the satisfaction of the Administrator or his designee that effective steps necessary to accomplish substantial utilization of the invention have been taken or within a reasonable time will be taken.

(iv) Subject to the rights granted in (c)(1), (2), and (3) of this clause, the Administrator or his designee shall have the right, commencing four years after foreign patent rights are accorded under this paragraph (c)(4), to require the granting of a nonexclusive or partially exclusive license to a responsible applicant or applicants, upon terms reasonable under the circumstances and in appropriate circumstances to terminate said foreign patent rights in whole or in part, following a hearing upon notice thereof to the public, upon a petition by an interested person justifying such hearing:

(A) If the Administrator or his designee determines, upon review of such material as he deems relevant, and after the recipient of such rights, or other interested person, has had the opportunity to provide such relevant and material information as the Administrator or his designee may require, that such foreign patent rights have tended substantially to lessen competition or to result in undue market concentration in any section of the United States in any line of commerce to which the technology relates; or

(B) Unless the recipient of such rights demonstrates to the satisfaction of the Administrator or his designee at such hearing that the recipient has taken effective steps, or within a reasonable time thereafter is expected to take such steps, necessary to accomplish substantial utilization of the invention.

(d) *Filing of patent applications.* (1) With respect to each Subject Invention in which the Contractor or the inventor requests foreign patent rights in accordance with paragraph (c)(4) of this clause, a request may also be made for the right to file and prosecute the U.S. application on behalf of the U.S. Government. If such request is granted, the Contractor or inventor shall file a domestic patent application on the invention within 6 months after the request for foreign patent rights is granted, or such longer period of time as may be approved by the Patent Counsel for good cause shown in writing by the requester. With respect to the invention, the requester shall promptly notify the Patent Counsel (with notification by Patent Counsel to the Contracting Officer) of any decision not to file an application.

(2) For each Subject Invention on which a domestic patent application is filed by the Contractor or inventor, the Contractor or inventor shall:

(i) Within 2 months after the filing or within 2 months after submission of the invention disclosure if the patent application previously has been filed, deliver to the Patent Counsel a copy of the application as filed including the filing date and serial number;

(ii) Within 6 months after filing the application or within 6 months after submitting the invention disclosure if the application has been filed previously, deliver to the Patent Counsel a duly executed and approved Assignment to the Government, on a form specified by the Government;

(iii) Provide the Patent Counsel with the original patent grant promptly after a patent is issued on the application; and

(iv) Not less than 30 days before the expiration of the response period for any action required by the Patent and Trademark Office, notify the Patent Counsel of any decision not to continue prosecution of the application.

(3) With respect to each Subject Invention in which the Contractor or inventor has requested foreign patent rights, the Contractor or inventor shall file a patent application on the invention in each foreign country in which such request is granted in accordance with applicable statutes and regulations and within one of the following periods:

(i) Eight months from the date of filing a corresponding United States application, or if such an application is not filed, six months from the date the request was granted;

(ii) Six months from the date a license is granted by the Commissioner of Patents and Trademarks to file the foreign patent application where such filing has been prohibited by security reasons; or

(iii) Such longer periods as may be approved by the Patent Counsel for good cause shown in writing by the Contractor or inventor.

(4) Subject to the license specified in paragraphs (c)(1), (2) and (3) of this clause, the Contractor or inventor agrees to convey to the Government, upon request, the entire right, title, and interest in any foreign country in which the Contractor or inventor fails to have a patent application filed in accordance with paragraph (d)(3) of this clause, or decides not to continue prosecution or to pay any maintenance fees covering the invention. To avoid forfeiture of the patent application or patent the Contractor or inventor shall, not less than 60 days before the expiration period for any action required by any Patent Office, notify the Patent Counsel of such failure or decision, and deliver to the Patent Counsel the executed instruments necessary for the conveyance specified in this paragraph.

(e) *Invention identification, disclosures, and reports.* (1) The Contractor shall establish and maintain active and effective procedures to ensure that Subject Inventions are promptly identified and timely disclosed. These procedures shall include the maintenance of laboratory notebooks or equivalent records and any other records that are reasonably necessary to doucment the conception and/or the first actual reduction to practice of Subject Inventions, and records which show that the procedures for identifying and disclosing the inventions are followed. Upon requests, the Contractor shall furnish the Contracting Officer a description of these procedures so that he may evaluate and determine their effectiveness.

(2) The Contractor shall furnish the Patent Counsel (with notification by Patent Counsel to the Contracting Officer) on an ERDA-approved form:

(i) A written report containing full and complete technical information concerning each Subject Invention within 6 months after conception or first actual reduction to practice whichever occurs first in the course of or under this contract, but in any event prior to any on sale, public use or public disclosure of such invention known to the Contractor. The report shall identify the contract and inventor and shall be sufficiently complete in technical detail and appropriately illustrated by sketch or diagram to convey to one skilled in the art to which the invention pertains a clear understanding of the nature, purpose, operation, and to the extent known, the physical, chemical, biological, or electrical characteristics of the invention. The report should also include any request for foreign patent rights under paragraph (c)(4) of this clause and any request to file a domestic patent application under (d)(1) of this clause. However, such requests shall be made within the period set forth in paragraph (b)(2) of this clause. When an invention is reported under this paragraph (e)(2)(i), it shall be presumed to have been made in the manner specified in Section 9(a) (1) and (2) of 42 U.S.C. 5908 unless the Contractor contends it was not so made in accordance with paragraph (g)(2)(ii) of this clause.

(ii) Upon request, but not more than annually, interim reports on an ERDA-approved form listing Subject Inventions and subcontracts awarded containing a Patent Rights clause for that period and certifying that:

(A) The Contractor's procedures for identifying and disclosing Subject Inventions as required by this paragraph (e) have been followed throughout the reporting period;

(B) All Subject Inventions have been disclosed or that there are no such inventions;

(C) All subcontracts containing a Patent Rights clause have been reported or that no such subcontracts have been awarded; and

(iii) A final report on an ERDA-approved form within three months after completion of the contract work listing all Subject Inventions and all subcontracts awarded containing a Patent Rights clause and certifying that:

(A) All Subject Inventions have been disclosed or that there were no such inventions; and

(B) All subcontracts containing a Patent Rights clause have been reported or that no such subcontracts have been awarded.

(3) The Contractor shall obtain patent agreements to effectuate the provisions of this clause from all persons in its employ who perform any part of the work under this contract except nontechnical personnel, such as clerical employees and manual laborers.

(4) The Contractor agrees that the Government may duplicate and disclose Subject Invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this clause. If the Contractor is to file a foreign patent application on a Subject Invention, the Government agrees, upon written request, to use its best efforts to withhold publication of such invention disclosures until the expiration of the time period specified in paragraph (d)(1)

of this clause, but in no event shall the Government or its employees be liable for any publication thereof.

(f) *Publication.* It is recognized that during the course of the work under this contract, the Contractor or its employees may from time to time desire to release or publish information regarding scientific or technical developments conceived or first actually reduced to practice in the course of or under this contract. In order that public disclosure of such information will not adversely affect the patent interests of ERDA or the Contractor, patent approval for release or publication shall be secured from Patent Counsel prior to any such release or publication.

(g) *Forfeiture of rights in unreported Subject Inventions.* (1) The Contractor shall forfeit to the Government, at the request of the Administrator or his designee, all rights in any Subject Invention which the contractor fails to report to Patent Counsel (with notification by Patent Counsel to the Contracting Officer) within 6 months after the time the Contractor:

(i) Files or causes to be filed a United States or foreign patent application thereon; or

(ii) Submits the final report required by paragraph (e)(2)(iii) of this clause, whichever is later.

(2) However, the Contractor shall not forfeit rights in a Subject Invention if, within the time specified in (1)(i) or (1)(iii) of this paragraph (g), the Contractor:

(i) Prepared a written decision based upon a review of the record that the invention was either conceived nor first actually reduced to practice in the course of or under the contract and delivers the same to Patent Counsel (with notification by Patent Counsel to the Contracting Officer); or

(ii) Contending that the invention is not a Subject Invention the Contractor nevertheless discloses the invention and all facts pertinent to this contention to the Patent Counsel (with notification by Patent Counsel to the Contracting Officer); or

(iii) Establishes that the failure to disclose did not result from the Contractor's fault or negligence.

(3) Pending written assignment of the patent applications and patents on a Subject Invention determined by the Administrator or his designee to be forfeited (such determination to be a final decision under the Disputes Clause of this contract), the Contractor shall be deemed to hold the invention and the patent applications and patents pertaining thereto in trust for the Government. The forfeiture provision of this paragraph (g) shall be in addition to and shall not supersede other rights and remedies which the Government may have with respect to Subject Inventions.

(h) *Examination of records relating to inventions.* (1) The Contracting Officer or his authorized representative, until the expiration of 3 years after final payment under this contract, shall have the right to examine any books (including laboratory notebooks), records, documents, and other supporting data of the Contractor which the Contracting Officer or his authorized representative reasonably deem pertinent to the discovery or identification of Subject Inventions or to determine compliance with the requirements of this clause.

(2) The Contracting Officer or his authorized representative shall have the right to examine all books (including laboratory notebooks), records and documents of the Contractor relating to the conception of first actual reduction to practice of inventions in the same field of technology as the work under this contract to determine whether any such inventions are Subject Inventions, if the Contractor refuses or fails to:

(i) Establish the procedures of paragraph (e)(1) of this clause; or

(ii) Maintain and follow such procedures; or

(iii) Correct or eliminate any material deficiency in the procedures within thirty (30) days after the Contracting Officer notifies the Contractor of such a deficiency.

(i) *Withholding of payment (Not applicable to subcontracts).* (1) Any time before final payment of the amount of this contract, the Contracting Officer may, if he deems such action warranted, withhold payment until a reserve not exceeding $50,000 or 5 percent of the amount of this contract, whichever is less, shall have been set aside if in his opinion the Contractor fails to:

(i) Establish, maintain and follow effective procedures for identifying and disclosing Subject Inventions pursuant to paragraph (e)(1) of this clause; or

(ii) Disclose any Subject Invention pursuant to paragraph (e)(2)(i) of this clause; or

(iii) Deliver the interim reports pursuant to paragraph (e)(2)(ii) of this clause; or

(iv) Provide the information regarding subcontracts pursuant to paragraph (j)(5) of this clause; or

(v) Convey to the Government in an ERDA approved form the title and/or rights of the Government in each Subject Invention as required by this clause.

(2) The reserve or balance shall be withheld until the Contracting Officer has determined that the Contractor has rectified whatever deficiencies exist and has delivered all reports, disclosures, and other information required by this clause.

(3) Final payment under this contract shall not be made by the Contracting Officer before the Contractor delivers to Patent Counsel all disclosures of Subject Inventions and other information required by (e)(2)(i) of this clause, the final report required by (e)(2)(iii) of this clause, and Patent Counsel has issued a patent clearance certification to the Contracting Officer.

(4) The Contracting Officer may, in his discretion, decrease or increase the sums withheld up to the maximum authorized above. If the Contractor is a nonprofit organization, the maximum amount that may be withheld under this paragraph shall not exceed $50,000 or 1 percent of the amount of this contract, whichever is less. No amount shall be withheld under this paragraph while the amount specified by this paragraph is being withheld under other provisions of the contract. The withholding of any amount or subsequent payment thereof shall not be construed as a waiver of any rights accruing to the Government under this contract.

(j) *Subcontracts.* (1) For the purpose of this paragraph the term "Contractor" means the party awarding a subcontract and the term "Subcontractor" means the party being awarded a subcontract, regardless of tier.

(2) Unless otherwise authorized or directed by the Contracting Officer, the Contractor shall include the Patent Rights clause of 41 CFR 9-9.107-5(a) or 41 CFR 9-9.107-6 as appropriate, modified to identify the parties in any subcontract hereunder having as a purpose the conduct of research, development, or demonstration work. In the event of refusal by a Subcontractor to accept this clause, or if in the opinion of the Contractor this clause is inconsistent with ERDA's patent policies, the Contractor:

(i) Shall promptly submit written notice to the Contracting Officer setting forth reasons for the Subcontractor refusal and other pertinent information which may expedite disposition of the matter; and

(ii) Shall not proceed with the subcontract without the written authorization of the Contracting Officer.

(3) Except as may be otherwise provided in this clause, the Contractor shall not, in any subcontract or by using a subcontract as consideration therefor, acquire any rights in its Subcontractor's Subject Invention for the Contractor's own use (as distinguished from such rights as may be required solely to fulfill the Contractor's contract obligations to the Government in the performance of this contract).

(4) All invention disclosures, reports, instruments, and other information required to be furnished by the Subcontractor to ERDA, under the provisions of a Patent Rights clause in any subcontract hereunder may, in the discretion of the Contracting Officer, be furnished to the Contractor for transmission to ERDA.

(5) The Contractor shall promptly notify the Contracting Officer in writing upon the award of any subcontract containing a Patent Rights clause by identifying the Subcontractor, the work to be performed under the subcontract, and the dates of award, and estimated completion. Upon the request of the Contracting Officer the Contractor shall furnish him a copy of the subcontract.

(6) The Contractor shall identify all Subject Inventions of the Subcontractor of which it acquires knowledge in the performance of this contract and shall notify the Patent Counsel (with notification by Patent Counsel to the Contracting Officer) promptly upon the identification of the inventions.

(7) It is understood that the Government is a third party beneficiary of any subcontract clause granting rights to the Government in Subject Inventions, and the Contractor hereby assigns to the Government all rights that the Contractor would have to enforce the Subcontractor's obligations for the benefit of the Government with respect to Subject Inventions. The Contractor shall not be obligated to enforce the agreements of any Subcontractor hereunder relating to the obligations of the Subcontractor to the Government regarding Subject Inventions.

(k) *Background Patents.* (1) "Background Patent" means a domestic patent covering an invention or discovery which is not a Subject Invention and which is owned or controlled by the Contractor at any time through the completion of this contract:

(i) Which the Contractor, but not the Government, has the right to license to others without obligation to pay royalties thereon, and

(ii) Infringement of which cannot reasonably be avoided upon the practice of any specific process, method, machine, manufacture or composition of matter (including relatively minor modifications thereof) which is a subject of the research, development, or demonstration work performed under this contract.

(2) The Contractor agrees to and does hereby grant to the Government a royalty-free, nonexclusive, license under any Background Patent for purposes of practicing a subject of this contract by or for the Government in research, development, and demonstration work only.

(3) The Contractor also agrees that upon written application by the ERDA, it will grant to responsible parties for purposes of practicing a subject of this contract, nonexclusive licenses under any Background Patent on terms that are reasonable under the circumstances. If, however, the Contractor believes that exclusive or partially exclusive rights are necessary to achieve expeditious commercial development or utilization, then a request may be made to ERDA for ERDA approval of such licensing by the Contractor.

(4) Notwithstanding the foregoing paragraph (k)(3), the Contractor shall not be obligated to license any Background Patent if the Contractor demonstrates to the satis-

faction of the Administrator or his designee that:

(i) a competitive alternative to the subject matter covered by said Background Patent is commercially available or readily introduciable from one or more other souces; or

(ii) the Contractor or its licensees are supplying the subject matter covered by said Background Patent in sufficient quantity and at reasonable prices to satisfy market needs, or have taken effective steps or within a reasonable time are expected to take effective steps to so supply the subject matter.

(l) *Atomic energy.* (1) No claim for pecuniary award or compensation under the provisions of the Atomic Energy Act of 1954, as amended, shall be asserted by the Contractor or its employees with respect to any invention or discovery made or conceived in the course of or under this contract.

(2) Except as otherwise authorized in writing by the Contracting Officer, the Contractor will obtain patent agreements to effectuate the provisions of paragraph (l)(1) of this clause from all persons who perform any part of the work under this contract, except nontechnical personnel, such as clerical employees and manual laborers.

(m) *Limitation of rights.* Nothing contained in this patent rights clause shall be deemed to give the Government any rights with respect to any invention other than a subject invention except as set forth in the Patent Rights clause of this contract with respect to Background Patents and the Facilities License.

(b) *Licenses in contractor Background Patents.* (1) It will normally be the case that a contractor qualified to perform work under an ERDA contract will have developed a degree of expertise in the general field of activity to which the contract relates. Accordingly, it will not be unusual for a prospective contractor to have an established patent position relating to the general fields of work to be performed under an ERDA contract and to have ongoing research and development programs in that general field which could result in patentable inventions. Since the contractor is obligated to apply its best efforts to accomplishing the objectives of the contract work, it is to be expected that inventions owned or controlled by the contractor at any time during the contract period may be utilized in connection with the work performed under the contract. If such inventions are or become the subject of a patent, such patented inventions may control a subject of the contract.

(2) It is usually the case that at the time an ERDA contract is negotiated, such inventions, if any, of the contractor are not known to the Government and may not be known to the contractor either. Use by the contractor of such inventions in connection with the contract work does not necessarily result in a need for rights in those inventions by the Government or others. However, failure of ERDA to obtain limited rights on behalf of the Government and/or third parties in a narrow class of those inventions, defined as "Background Patents", could frustrate the objectives of ERDA to promptly make the benefits of its programs widely available to the public and to promote the commercial utilization of the technology developed or demonstrated under ERDA programs. Therefore, it is ERDA's policy to obtain limited license rights in Background Patents on a basis that is reasonable under the circumstances of the particular contract and takes into account the relative equities of the contractor, the Government and the general public.

(3) Paragraph (k) of the Patent Rights clause of § 9-9.107-5(a) sets out the background patent provisions that will be appropriate for many ERDA contracting situations by balancing the needs of ERDA programs with the equities of the contractor. This clause obtains a paid-up, nonexclusive license for the Government for research, development and demonstration work only and thus includes any use of the background patents under ERDA programs where research, development or demonstration work is being conducted. The clause also requires the contractor to license responsible parties on reasonable terms at the request of ERDA in the field of technology specifically contemplated in the contract effort. The background provisions, however, are only applicable insofar as infringement of the patents cannot reasonably be avoided in order to utilize the results of the contract work for these purposes. Additionally, the clause is not effective if the contractor can demonstrate to the satisfaction of the Administrator or his designee that commercial alternatives are available or readily introduceable from one or more sources, or that the contractor or its licensees are supplying the market in sufficient quantities and at reasonable prices or have taken effective steps or within a reasonable time are expected to take effective steps to so supply the market. In determining whether to request such licensing, ERDA will recognize the need, where appropriate, to limit licensing to preserve the commercialization incentives provided by the patent, and also to meet the needs of the public for early availability of the technology.

(4) Subparagraph (k)(1) defines those inventions which will fall within the definition of what constitutes a background patent, while subparagraphs (k)(2) and (k)(3) define the scope or field of use of any license granted. Although ERDA as stated in subparagraph (3) of this paragraph (b) controls the requesting of licenses to responsible parties, the final resolution of questions regarding the scope of such licenses, the terms thereof including reasonable royalties are then left to the negotiation of the parties with final resolution of the issues being made by a court of competent jurisdiction if necessary. In subparagraph (k)(4), the decision not to apply the licensing requirement of subparagraph (k)(3), however, is subject to the final decision of the Administrator or his designee. The final authority of ERDA in these decisions is required because the determinations are dependent in substantial part on the requirements of ERDA's specific mission.

(5) Balancing of the respective equities in particular contracting situations, however, may require that paragraph (k) be modified. Paragraph (k) should normally be deleted for contracts under $250,000 and may not be appropriate in certain types of study contracts, planning contracts, contracts with educational institutions, and contracts for specialized equipment for in-house use by ERDA or not intended for further procurement by the Government or for use by the public. Except for the deletion of paragraph (k) in contracts under $250,000 as permitted in this paragraph (5), deletions or modifications of paragraph (k) set forth in this section are to be made with the advice of patent counsel.

(6) On the other hand, there will be situations where the equities between the Government and the contractor, or anticipated Government needs, would require that rights be obtained for either the Government or for the public greater than those set forth in paragraph (k). For example, where (i) The contribution of the Government towards the development and/or commercialization of the Background Patent is substantially greater than that of the contractor, (ii) It is expected that the Government may be involved in special long-term projects, or (iii) The Government may require substantial production, procurement or utilization for purposes outside of research, development, and demonstration, it may be necessary to obtain greater rights. In such situations, consideration should be given to extending the Government's rights beyond research, development, and demonstration work, or to adjust royalties that may be due by the Government to reflect the Government's contribution. Such adjustment could take the form of credit to be given the Government based upon its contribution through the contract, or a royalty based upon the relative contributions of the contractor and the Government. Consideration could also be given to utilizing the relative contributions in determining reasonable royalties to be charged to others.

(7) Similarly, it may be necessary to obtain greater rights for the public in the contractor's background patents where, for example, the contractor's background patents cover the basic technology intended to be developed under the contract effort, rather than components or products or processes which are ancillary thereto. In such cases, subparagraph (4) of paragraph (k) should be deleted or modified as to the contract as a whole or a portion thereof. Deletion or modification of subparagraph (4) might also be appropriate where the future market for the subject of the contract will be very large and there are presently only a few suppliers available.

(8) It may also be appropriate to modify the rights acquired by paragraph (k) where the contractor's background patent rights were of primary importance in granting the contractor a waiver. For example, if the contractor was permitted to retain exclusive rights to Subject Inventions based upon the consideration that both foreground and background inventions would be licensed at reasonable royalties, then paragraph (k) should be

modified. The modification may be made applicable to the fields of technology, inventions, or other aspects of the contract. Concomitant with such modification, the licensing obligations for subject inventions should also be modified to be compatible therewith. In such cases, the definition of "Background Patent" should be broadened to include all patents useful in the practice of a subject of the contract, and subparagraph (k)(4) should be deleted or appropriately modified.

(9) The application of paragraph (k) is limited to the practice of any specific process, method, or machine, manufacture or composition of matter which is a subject of the research, development or demonstration work performed under the contract, otherwise referred to as "a subject of this contract" in subparagraphs (2) and (3). The expression "a subject of this contract" is intended to limit the licensing required in paragraph (k) to the fields of technology specifically contemplated in the contract effort. During negotiations, when the subject matter of the contract is known, a more specific statement of the fields of technology intended to be covered may be substituted for the expression "subject of this contract". For example, the application of paragraph (k) may be limited to the generation of electric power utilizing coal derived fuels, to high temperature gas cooled reactors, or other specified fields of technology of interest to ERDA programs.

(10) The considerations and statements in the foregoing subparagraphs (1)–(9) of this paragraph also apply to the negotiation, application and inclusion of background patent rights provisions in subcontracts.

(c) *License for the States and domestic municipal governments.* When the Administrator or his designee determines at the time of contracting that it would not be in the public interest to acquire a paid-up license in subject inventions for States and domestic municipal governments, paragraph (c)(4)(ii) of the Patent Rights clause in § 9-9.107-5(a) shall be replaced with the following paragraph (c)(4)(ii):

(ii) The Government shall retain at least an irrevocable, nonexclusive, paid-up license to make, use, and sell the invention throughout the world by or on behalf of the Government of the United States (including any Government agency).

(d) *Right to sublicense foreign governments.* (1) When the Administrator or his designee determines at the time of contracting that it would be in the national interest to acquire the right to sublicense foreign governments pursuant to any treaty or agreement, a sentence shall be added to the end of paragraph (c)(4)(ii) of the Patent Rights clause in § 9-9.107-5(a) as follows:

This license shall include the right of the Government to sublicense foreign governments pursuant to any treaty or agreement with such foreign governments.

(2) When the Administrator or his designee wishes to reserve the right to make the determination to sublicense foreign governments pursuant to any treaty or agreement until after the invention has been identified, a sentence shall be added to the end of paragraph (c)(4)(ii) of the Patent Rights clause in § 9-9.107-5(a) as follows:

This license shall include the right of the Government to sublicense foreign governments pursuant to any treaty or agreement with such foreign governments if the Administrator or his designee determines after the invention has been identified that it would be in the national interest to acquire this right.

(e) *License rights (upon request) to contractor (revocable).* When the Administrator or his designee determines that the contractor may, subject to the provisions of § 9-9.107-4(a)(7) involving access to Restricted Data, reserve a revocable, nonexclusive, paid-up license in Subject Inventions, only upon a request by the contractor for the retention of such a license, paragraph (c)(1) of the clause in § 9-9.107-5(a) shall be replaced with the following paragraph (c)(1):

(c)(1) The Contractor may reserve upon request a revocable, nonexclusive, paid-up license in each patent application filed in any country on a Subject Invention and any resulting patent in which the Government acquires the title. The license shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and shall include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license shall be transferable only with approval of ERDA except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(f) *License rights to contractor (irrevocable).* When the Administrator or his designee determines that the contractor may reserve an irrevocable, nonexclusive, paid-up license in the inventions resulting from the contract, paragraph (c)(1) of the Patent Rights clause of § 9-9.107-5(a) shall be replaced with the following paragraph (c)(1), and paragraphs (c)(2) and (c)(3) of § 9-9.107-5(a) and references thereto shall be cancelled:

(c)(1) The Contractor reserves an irrevocable, nonexclusive, paid-up license in each patent application filed in any country on a Subject Invention and any resulting patent in which the Government acquires title. The License shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and shall include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license shall be transferable only with approval of ERDA except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(g) *Contractor sublicenses (revocable).* (1) When the Administrator or his designee determines at the time of contracting that, as indicated in § 9-9.107-4(f), it would be in the interests of the Government to permit a contractor having the right to retain a revocable nonexclusive license in a subject invention to have the further right to grant to one or more sublicensees a revocable license of the same scope, the following paragraph may be substituted for paragraph (c)(1) of the Patent Rights clause in § 9-9.107-5(a):

(c)(1) The Contractor reserves a revocable, nonexclusive, paid-up license in each patent application filed in any country on a Subject Invention and any resulting patent in which the Government acquires title. The license shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and shall include the right to grant revocable, nonexclusive sublicenses of the same scope. The license shall be transferable only with approval of ERDA except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(2) Where the Contractor has been granted the right to retain a nonexclusive, irrevocable license in a subject invention, and it is determined as in (g)(1) of this section to leave in the contractor the right to grant one or more revocable sublicenses thereunder, the following three paragraphs will be substituted for paragraphs (c)(1), (c)(2), and (c)(3) of the Patent Rights clause in § 9-9.107-5(a):

(c)(1) *Contractor license.* The Contractor reserves an irrevocable, nonexclusive, paid-up license in each patent application filed in any country on a Subject Invention and any resulting patent in which the Government acquires title. The license shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and shall include the right to grant revocable, nonexclusive sublicenses which are revocable under the same terms and conditions as set forth in paragraphs (c) (2) and (3) of this clause. The license shall be transferable only with approval of ERDA except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(c)(2) *Revocation limitations.* Any sublicense granted by the Contractor may be revoked or modified by ERDA, either in whole or in part, only to the extent necessary to achieve expeditious practical application of the Subject Invention under ERDA's published licensing regulations (10 CFR 781), and only to the extent an exclusive license is actually granted. This sublicense shall not be revoked in that field of use and/or the geographical areas in which the Contractor, or its sublicensee, has brought the invention to the point of practical application and continues to make the benefits of the invention reasonably accessible to the public, or is expected to do so within a reasonable time.

(c)(3) *Revocation procedures.* Before modification or revocation of any sublicense pursuant to paragraph (c)(2) of this clause, ERDA shall furnish the Contractor and the sublicensee written notice of its intention to modify or revoke the sublicense, and the Contractor and the sublicensee shall be allowed 30 days, or such longer period as may be allowed by the Patent Counsel (with notification by Patent Counsel to the Contracting Officer) for good cause shown in writing by the Contractor or the sublicensee, after such notice to show cause why the sublicense should not be modified or revoked. The Contractor or the sublicensee shall have the right to appeal in accordance with 10 CFR 781, any decision concerning the modification or revocation of the sublicense.

(h) *Facilities license.* The following paragraph will be included as paragraph (n) of the Patent Rights (long form) clause in each contract having as a purpose the design, construction, or operation of a Government-owned research, development, demonstration or production facility. The scope of the license in the following paragraph may, in appropriate situations, be expanded to cover similar facilities.

(n) *Facilities license.* In addition to the rights of the parties with respect to inventions or discoveries conceived or first actually reduced to practice in the course of or under this contract, the Contractor agrees to and does hereby grant to the Government an irrevocable, nonexclusive paid-up license in and to any inventions or discoveries regardless of when conceived or actually reduced to practice or acquired by the Contractor, which are owned or controlled by the Contractor at any time through completion of this contract and which are incorporated or embodied in the construction of the facility or which are utilized in the operation of the facility or which cover articles, materials, or products manufactured at the facility (1) to practice or to have practiced by or for the Government at the facility, and (2) to transfer such license with the transfer of that facility. The acceptance or exercise by the Government of the aforesaid rights and license shall not prevent the Government at any time from contesting the enforceability, validity or scope of, or title to, any rights or patents herein licensed.

§ 9–9.107–6 Clause for contracts (short form).

The following clause may be used instead of the clause of § 9–9.107–5(a) in contracts for basic or applied research where the contractor is a nonprofit or educational institution and in special situations including consultant contracts. This clause shall not be used in long term consultancy arrangements for work in ERDA programs covered by ERDA Manual Chapter 7604. In such instances the clauses in ERDAM 7604 shall be used. Also this clause is not to be used in contracts calling for the operation of Government-owned facilities, or contracts in which an advance waiver has been granted, or other special contracts such as those for the conduct of major long-term continuing programs or basic agreements providing for the assignments of new tasks from time to time by mutual agreement.

PATENT RIGHTS (SHORT FORM)

(a) *Definitions.* (1) "Subject Invention" means any invention or discovery of the Contractor conceived or first actually reduced to practice in the course of or under this contract, and includes any art, method, process, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plants, whether patented or unpatented, under the Patent Laws of the United States of America or any foreign country.

(2) "Patent Counsel" means the ERDA Patent Counsel assisting the procuring activity.

(b) *Invention disclosures and reports.* (1) The Contractor shall furnish the Patent Counsel (with notification by Patent Counsel to the Contracting Officer):

(i) A written report containing full and complete technical information concerning each Subject Invention within 6 months after conception or first actual reduction to practice whichever occurs first in the course of or under this contract, but in any event prior to any on sale, public use, or public disclosure of such invention known to the Contractor. The report shall identify the contract and inventor and shall be sufficiently complete in technical detail and appropriately illustrated by sketch or diagram to convey to one skilled in the art to which the invention pertains a clear understanding of the nature, purpose, operation, and to the extent known, the physical, chemical, biological, or electrical characteristics of the invention;

(ii) Upon request, but not more than annually, interim reports on an ERDA-approved form listing Subject Inventions for that period and certifying that all Subject Inventions have been disclosed or that there were no such inventions; and

(iii) A final report on an ERDA-approved form within 3 months after completion of the contract work listing all Subject Inventions and certifying that all Subject Inventions have been disclosed or that there were no such inventions.

(2) The Contractor agrees that the Government may duplicate and disclose Subject Invention disclosures and all other reports and papers furnished or required to be furnished pursuant to the contract.

(c) *Allocation of principal rights.*—(1) *Assignment to the Government.*

The Contractor agrees to assign to the Government the entire right, title, and interest throughout the world in and to each Subject Invention, except to the extent that rights are retained by the Contractor under paragraphs (c)(2) and (d) of this clause.

(2) *Greater rights determinations.* The Contractor, or the employee-inventor with authorization of the Contractor, may request greater rights than the nonexclusive license and the foreign patent rights provided in paragraph (d) of this clause on identified inventions in accordance with the procedure and criteria of 41 CFR 9–9.109–6. A request for a determination of whether the Contractor or the employee-inventor is entitled to retain such greater rights must be submitted to the Patent Counsel (with notification by Patent Counsel to the Contracting Officer) at the time of the first disclosure of the invention pursuant to paragraph (b)(1) of this clause or not later than 9 months after conception or first actual reduction to practice, whichever occurs first, or such longer period as may be authorized by the Patent Counsel (with notification by Patent Counsel to the Contracting Officer) for good cause shown in writing by the Contractor. The information to be submitted for a greater rights determination is specified in 41 CFR 9–9.109–6(e).

(d) *Minimum rights to the contractor.* The Contractor reserves a revocable, nonexclusive, paid-up license in each patent application filed in any country on a Subject Invention and any resulting patent in which the Government acquires title. Revocation shall be in accordance with the procedure of paragraphs (c)(2) and (3) of the clause in 41 CFR 9–9.107–5(a). The Contractor also has the right to request foreign rights in accordance with the procedures of paragraph (c)(4) of the clause in 41 CFR 9–9.107–5(a).

(e) *Employee and subcontractor agreements.* Unless otherwise authorized in writing by the Contracting Officer, the Contractor shall:

(1) Obtain patent agreements to effectuate the provisions of the Patent Rights clause from all persons who perform any part of the work under this contract except nontechnical personnel, such as clerical employees and manual laborers.

(2) Unless otherwise authorized or directed by the Contracting Officer, the Contractor shall include the Patent Rights clause of 41 CFR 9–9.107–5(a) or 41 CFR 9–9.107–6, as appropriate, modified to identify the parties in any subcontract hereunder having as a purpose the conduct of research, development or demonstration work; and

(3) Promptly notify the Contracting Officer in writing upon the award of any subcontract containing a Patent Rights clause by identifying the subcontractor, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon the request of the Contracting Officer the Contractor shall furnish a copy of the subcontract to such requester.

(f) *Atomic energy.* (1) No claim for pecuniary award or compensation under the provisions of the Atomic Energy Act of 1954, as amended, shall be asserted by the Contractor or its employees with respect to any invention or discovery made or conceived in the course of or under this contract.

(2) Except as otherwise authorized in writing by the Contracting Officer, the Contractor will obtain patent agreements to effectuate the provisions of paragraph (f)(1) of this clause from all persons who perform any part of the work under this contract, except nontechnical personnel such as clerical employees and manual laborers.

(g) *Publication.* In order that information concerning scientific or technical developments conceived or first actually reduced to practice in the course of or under the contract is not prematurely published so as to adversely affect patent interest of ERDA, the Contractor agrees to submit to the Patent Counsel for patent review a copy of each paper 60 days prior to its intended publication date. The Contractor may publish such information after expiration of a 60-day period following such submission or prior thereto if specifically approved by Patent Counsel, unless the Contractor is informed that in order to protect patentable subject matter, publication must be further delayed.

§ 9–9.107–7 Foreign contracts.

The clauses authorized for contracts in § 9–9.107–5(a) and § 9–9.107–6 may be modified by the contracting officer in consultation with patent counsel to meet the requirements peculiar to foreign procurement.

§ 9–9.108 [Reserved]

§ 9–9.109 Administration of patent clauses.

§ 9–9.109–1 Patent Rights follow-up.

It is important that the Government and the contractor know and exercise their rights in inventions conceived or first actually reduced to practice in the course of or under Government contracts in order to ensure their expeditious availability to the public, to enable the Government, the contractor, and the public to avoid unnecessary payment of royalties and to defend themselves against claims and suits for patent infringement. To attain these ends, contracts having Patent Rights clauses should be so administered that:

(a) Inventions are identified, disclosed, and reported as required by the contract clauses;

(b) The rights of the Government in such inventions are established;

(c) When appropriate, patent applications are timely filed and prosecuted by the contractor, the inventor, or by the Government as appropriate;

(d) The filing of patent applications is documented by formal instruments such as licenses or assignments; and

(e) Expeditious commercial utilization of such inventions is achieved.

§ 9–9.109–2 Follow-up by contractor.

(a) The Patent Rights clause requires contractors to establish and maintain effective procedures to ensure that inventions made under the contract are identified, disclosed, and when appropriate, patent applications filed, and that the Government's rights therein are established and protected. When it is determined after the award of a contract that the contractor or subcontractor may not have a clear understanding of the rights and obligations of the parties under a Patent Rights clause, a post-award orientation conference or letter should be used by ERDA to explain these rights and obligations. When reviewing a contractor's procedures, particular attention shall be given to ascertaining their effectiveness for identifying and disclosing inventions.

(b) A qualified representative of the contractor shall furnish to the patent counsel (with notification by patent counsel to the contracting officer) interim reports upon request, and, upon completion of the contract work, a final report setting forth:

(1) A list of all subject inventions made during the reporting period;

(2) A certification that all subject inventions have been disclosed or that there were no such inventions, and that the contractor's procedures for identifying and disclosing inventions have been followed throughout the period;

(3) A list of all subcontracts entered into during the reporting period which contain a Patent Rights clause, together with copies of such subcontracts (if not earlier furnished to ERDA), or a statement that there were no such subcontracts.

(c) Ordinarily, inventions and discoveries will be reported on Form ERDA 213 (copies of which shall be made available by patent counsel) or on such other form that has been approved by patent counsel. Reporting of inventions promptly and before the completion of the work under the respective contracts will aid patent clearance. Submission of annual interim reports, where contracts cover an extended period, will also facilitate the disposition of patent matters and expedite the issuance of final patent clearance.

§ 9–9.109–3 Follow-up by Government.

(a) With respect to each contract, subcontract, or other agreement under their jurisdictions, the heads of procuring activities are responsible:

(1) For assuring compliance with the provisions of this Part 9–9 in executing or approving any contracts, subcontracts, other agreements, understandings, or other arrangements, or any supplements thereto. The patent counsel assisting their activity should be consulted to ensure that only authorized departure is made from the requirements set forth in these regulations and that all substantive and procedural rights required by section 152 of the Atomic Energy Act of 1954, as amended, or section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974, are obtained;

(2) For transmitting the information requested on the Patent Information Sheet, Form ERDA 242, to the Assistant General Counsel for Patents;

(3) For reviewing, in consultation with the contractor, subcontractor, or vendor, arrangements for obtaining adequate patent agreements from employees and others performing work under any contract, subcontract, or other agreements containing patent provisions in favor of the Government. (The form of such patent agreement actually in use or proposed for use shall be forwarded for approval to the patent counsel assisting the procuring activity.);

(4) For forwarding a notice of completion or termination of the work and a request for patent clearance to the Assistant General Counsel for Patents for each contract, subcontract, or other agreement containing patent provisions giving rise to rights in the Government; and

(5) For withholding payments due to contractors in accordance with paragraph (i) of the Patent Rights clause of § 9–9.107–5(a) until, in the case of interim reports, a determination has been made in consultation with patent counsel that existing deficiencies have been corrected or that delivery of all reports, disclosures, and other information have been made, or, in the case of final reports, receipt of written patent clearance certification from the Assistant General Counsel for Patents.

(b) The Assistant General Counsel for Patents, upon receipt of the Patent Information Sheet, Form ERDA 242, will assign the patent responsibility and notify the person who transmits the Information Sheet of the patent counsel assigned to conduct the patent surveillance of the reported contract, subcontract, or other agreement. Upon receipt of the notice of completion or termination as provided in paragraph (a)(4) of this section, a notice of patent clearance will be issued by the Assistant General Counsel for Patents when there has been to his best knowledge and belief compliance with the patent provisions.

(c) The patent counsel assigned to assist the procuring activity will assist contracting officers in selecting and negotiating patent provisions, and in the case of field activities, will coordinate such assistance with the Chief Counsel in accordance with established local procedures. Patent counsel will generally submit Patent Information sheets and otherwise assist heads of procuring activities, contractors, contracting officers, subcontractors and vendors in: Reporting of inventions and discoveries; reviewing and providing patent clearance prior to publication or release of reports and proposed technical articles and prior to public release or disclosure of information regarding scientific and technical developments made in the course of or under the contract; handling claims for patent and copyright infringement; the preparation of certificates to initiate patent clearance; and the handling of other patent matters.

(d) *Patent application filing and determination of rights to inventions and discoveries.* The Assistant General Counsel for Patents or his designee shall:

(1) Make the determination specified in Section 9, (a) (1) and (2) of 42 U.S.C. 5908 concerning inventors;

(2) Determine whether and where patent protection will be obtained on inventions;

(3) Represent ERDA before domestic and foreign patent offices;

(4) Accept assignments and instruments confirmatory of the Government's rights to inventions; and

(5) Represent ERDA in patent matters not specifically reserved to the Administrator or his designee under these Regulations.

§ 9–9.109–4 Remedies

If a contractor operating under a Patent Rights clause fails to establish, maintain, or follow effective procedures for identifying and disclosing inventions as required by the Patent Rights clause or fails to correct any deficiency after notice thereof, the contracting officer may require the contractor to make available for examination books, records, and documents relating to inventions in the same field of technology as the contract to enable an agency determination of whether there are such inventions, and may invoke the withholding of payments provision. Further, the contracting officer may invoke the withholding of payments provision if a contractor fails to disclose an invention deemed by ERDA to be a subject invention.

§ 9–9.109–5 Conveyance of invention rights acquired by the Government.

Whenever the Government acquires the entire right, title, and interest in an invention pursuant to a contract or by operation of law, assignments shall be obtained from the inventor to the Government with the consent of the contractor, to perfect or confirm the Government's rights. The form of conveyance of title from the inventor to the contractor must be legally sufficient to convey the rights the contractor is required to convey to the Government.

§ 9–9.109–6 Waivers.

(a) *General.* The Administrator or his designee may waive all or any part of the rights of the United States (other than certain rights prescribed in paragraph (i) of this section) with respect to any invention or class of inventions made or which may be made by any person or class of persons in the course of or under any contract of ERDA, if it is determined that the interests of the United States and the general public as set forth in the Atomic Energy Act of 1954, as amended (42 U.S.C. 2182), and the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908), will best be served by such waivers. In making such determinations, the Ad-

ministrator or his designee shall have the following objectives:

(1) Making the benefits of the energy research, development, and demonstration program widely available to the public in the shortest practicable time;

(2) Promoting the commercial utilization of such inventions;

(3) Encouraging participation by private persons in ERDA's energy research, development, and demonstration program; and

(4) Fostering competition and preventing undue market concentration or the creation or maintenance of other situations inconsistent with the antitrust laws.

If it is not possible to attain each of these objectives immediately and simultaneously for any one waiver determination, the Administrator or his designee will seek to reconcile these objectives in light of the overall purposes of the patent policy sections of the Atomic Energy Act of 1954, as amended, and of the Federal Nonnuclear Energy Research and Development Act of 1974. Over time, however, the application of this waiver policy is expected to attain each of these objectives. In addition to the patent policies provided by legislation, and where not inconsistent therewith, the waiver determinations will also be guided by the revised Presidential Memorandum and Statement of Government Patent Policy issued August 23, 1971 (36 FR 16887–16892).

(b) *Advance waiver.* In determining whether a waiver to the contractor at the time of contracting will best serve the interests of the United States and the general public, the Administrator or his designee shall, as a minimum, specifically include as considerations the following:

(1) The extent to which the participation of the contractor will expedite the attainment of the purposes of the program;

(2) The extent to which a waiver of all or any part of such rights in any or all fields of technology is needed to secure the participation of the particular contractor;

(3) The extent to which the work to be performed under the contract is useful in the production or utilization of special nuclear material or atomic energy;

(4) The extent to which the contractor's commercial position may expedite utilization of the research, development, and demonstration program results;

(5) The extent to which the Government has contributed to the field of technology to be funded under the contract;

(6) The purpose and nature of the contract, including the intended use of the results developed thereunder;

(7) The extent to which the contractor has made or will make substantial investment of financial resources or technology developed at the contractor's private expense which will directly benefit the work to be performed under the contract;

(8) The extent to which the field of technology to be funded under the contract has been developed at the contractor's private expense;

(9) The extent to which the Government intends to further develop to the point of commercial utilization the results of the contract effort;

(10) The extent to which the contract objectives are concerned with the public health, public safety, or public welfare;

(11) The likely effect of the waiver on competition and market concentration;

(12) In the case of a nonprofit educational institution, the extent to which such institution has a technology transfer capability and program approved by the Administrator or his designee as being consistent with the applicable policies of this section; and

(13) The small business status of the contractor.

(c) *Waiver of identified inventions.* In determining whether a waiver to the contractor or inventor of rights to an identified invention will best serve the interests of the United States and the general public, the Administrator or his designee shall, as a minimum, specifically include as considerations the following:

(1) The extent to which such waiver is a reasonable and necessary incentive to call forth private risk capital for the development and commercialization of the invention;

(2) The extent to which the plans, intentions, and ability of the contractor or inventor will obtain expeditious commercialization of such invention;

(3) The extent to which the invention is useful in the production or utilization of special nuclear material or atomic energy;

(4) The extent to which the Government has contributed to the field of technology of the invention;

(5) The purpose and nature of the invention, including the anticipated use thereof;

(6) The extent to which the contractor has made or will make substantial investment of financial resources or technology developed at the contractor's private expense which will directly benefit the commercialization of the invention;

(7) The extent to which the field of technology of the invention has been developed at the contractor's expense;

(8) The extent to which Government intends to further develop the invention to the point of commercial utilization;

(9) The extent to which the invention is concerned with the public health, public safety, or public welfare;

(10) The likely effect of the waiver on competition and market concentration;

(11) In the case of a nonprofit educational institution, the extent to which such institution has a technology transfer capability and program approved by the Administrator or his designee as being consistent with the applicable policies of this section; and

(12) The small business status of the contractor.

(d) *Procedures.* (1) All waiver determinations shall be initiated by a written request. Such requests may be submitted by existing or potential contractors in the case of requests for an advance waiver and by contractors or employee-inventors in the case of requests for waiver for identified inventions. A request for an advance waiver may also be made for an identified invention which has already been conceived and which reasonably may be first actually reduced to practice in the course of or under an ERDA contract. Such waiver requests must include a copy of the patent or patent application covering the identified invention.

(2) A request for an advance waiver shall be submitted to the contracting officer or to contractors for their subcontractors at anytime prior to execution of the contract or within thirty (30) days thereafter, but should normally be submitted as part of the contract proposal. Advance waivers may also be requested where the purpose or scope of work of an existing contract is to be substantially altered. When advance waivers are granted, the rights set forth in paragraphs (b), (c) and (d) of the clause of § 9–9.107–5(a) should be modified to conform to the waiver granted.

(3) A request for waiver (other than advance waivers) for an identified invention shall be submitted to the patent counsel (with notification by patent counsel to the contracting officer) at the time the invention is reported to ERDA, or not later than nine (9) months after conception or first actual reduction to practice, whichever occurs first, or such longer period as may be authorized by the patent counsel (with notification by patent counsel to the contracting officer) for good cause shown in writing by the contractor or inventor.

(4) All requests for waiver received by ERDA or its contractors will be forwarded promptly to the patent counsel assisting the procuring activity, together with any reference or supporting documents provided by the requestor and any documents or comments provided by the staff of the activity. If the request for waiver appears to contain insufficient information, the patent counsel may seek additional information from the requestor to supplement the request and may also seek additional information from other sources. The patent counsel will thoroughly analyze the request in view of each of the objectives and considerations set forth in this § 9–9.109–6 and shall also consider the overall rights obtained by the Government in the patent, copyright, and data clauses of the contract. Where it appears that a lesser part of the rights of the United States than requested would be more appropriate in view of the policies set forth in this § 9–9.109–6, the patent counsel should attempt to negotiate a compromise acceptable to both the requestor and ERDA.

(5) The patent counsel will prepare and recommend a Statement of Considerations setting forth the rationale for either accepting or rejecting the waiver request. While the Statement need not make specific findings as to each and every consideration of paragraph (b) or (c) of this section, it will cover those

that raise significant issues and those that are decisive, and it will explain the basis for the recommended determination. There may be occasions when the application of the various considerations in (b) or (c) of this section to a particular case could cause conflicting results, and in those instances the differences will be reconciled giving due regard to the overall policies set forth in this § 9–9.109–6. Field patent counsel will coordinate actions on advance waivers with the Chief Counsel of the field office concerned as required by local procedures.

(6) The Statement shall be forwarded to the Assistant General Counsel for Patents to serve as a recommended basis for the waiver determination. The Assistant General Counsel for Patents will also obtain comments from the appropriate ERDA program division to assist the Administrator or his designee in the waiver determination. In situations where time does not permit a delay in contract negotiations for the preparation and mailing of a full written Statement, field patent counsel may submit a recommendation on the waiver verbally to the Assistant General Counsel for Patents and request a verbal determination from the Administrator or his designee. Such action shall be promptly confirmed in writing.

(7) In making waiver determinations, the Administrator or his designee shall objectively review all requests for waiver in view of the objectives and considerations set forth in this § 9–9.109–6. If this determination and the rationale therefor is not accurately reflected in the recommended Statement of Considerations, a new Statement shall be prepared.

(8) Where the request for advance waiver has not been approved prior to the effective date of the contract and the terms and conditions of the waiver have thus not been made a part of the contract, the contracting officer shall promptly notify the requestor by letter of the determination of the Administrator or his designee, and the basis therefor. If the advance waiver is approved, the letter shall state the scope, terms, and conditions of such waiver. Where the terms and conditions of an approved advance waiver have not been made a part of the contract, the letter shall inform the requestor that the advance waiver shall be effective (i) As of the effective date of the contract for an advance waiver of inventions identified, i.e., conceived prior to the effective date of the contract, or (ii) As of the date the invention is reported with an election by the contractor to retain rights therein, i.e., for an invention conceived or first actually reduced to practice after the effective date of the contract; provided a copy of the letter is signed and returned to the contracting officer by the requestor acknowledging the acceptance of the scope, terms, and conditions of the advance waiver. After the acceptance by the contractor of an advance waiver, the contracting officer shall cause a unilateral no-cost modification to be made to the contract incorporating the terms and conditions of the waiver in lieu of previous patent provisions. Whenever a requested determination has been denied, the requestor may, within thrity (30) days, request reconsideration. Such a request shall include any additional facts and rationale not previously submitted which support the request. Requests for reconsideration shall be submitted and processed in accordance with the procedures set forth in paragraph (d) of this section.

(e) *Content of waiver requests.* (1) All requests for waiver shall include the following information:

(i) The requestor's identification, business address, and, if represented by counsel, the counsel's name and address;

(ii) An identification of the pertinent contract or proposed contract and a copy of the contract statement of work or a non-proprietary statement which fully describes the proposed work to be performed;

(iii) The nature and extent of waiver requested;

(iv) A full and detailed statement of facts, to the extent known by or available to the requestor, directed to each of the considerations set forth in paragraph (b) or (c) of this section, as applicable, and a statement applying such facts and considerations to the policies set forth in paragraph (a) of this section. It is important that this submission be tailored to the unique aspects of each request for waiver, and be as complete as feasible; and

(v) The signature of the requestor or his authorized representative with the following statement:

> The facts set forth in this request for waiver are within the knowledge of the requestor and are submitted with the intention that the Administrator or his designee rely on them in reaching the waiver determination.

(2) Requests for waiver for identified inventions shall, in addition to items (1) (i)–(v) above, include:

(i) The full names of all inventors;

(ii) A statement of whether a patent application has been filed on the invention, together with a copy of such application if filed, or, if not filed, a complete description of the invention;

(iii) If a patent application has not been filed, any information which may indicate a potential statutory bar to the patenting of the invention under 35 U.S.C. 102 or a statement that no such bar is known to exist; and

(iv) Where the requestor is the inventor, written authorization from the applicable contractor or subcontractor permitting the inventor to request a waiver.

(3) Subject to ERDA regulations, requirements, and restrictions on the treatment of proprietary and classified information, all material submitted in requests for waiver or in support thereof will be made available to the public after a determination on the waiver request has been made, regardless of whether a waiver is granted. Accordingly, requests for waiver should not contain information or data that the requestor is not willing to have made public. If proprietary or classified information is needed to make the waiver determination, such information shall not be submitted unless specifically requested by the patent counsel:

(f) *Record of waiver determinations.* The Assistant General Counsel for Patents shall maintain and periodically update a publicly available record of waiver determinations.

(g) *Waiver situations and types of waivers.* (1) The various factual situations which are appropriate for waivers cannot be categorized precisely inasmuch as the appropriateness of a waiver will depend upon the manner in which the considerations set forth in paragraph (b) or paragraph (c) of this section relate to the facts and circumstances surrounding the particular contracting situation or the particular invention in order to best achieve the objectives set forth in paragraph (a) of this section. However, some examples where waivers might be appropriate are the following:

(i) Cost sharing contracts;

(ii) Situations in which ERDA is providing increased funding to a specific ongoing privately sponsored research development, or demonstration project;

(iii) Situations involving the private use of Government facilities and the contractor is funding all or a part of such costs;

(iv) Situations in which the equities of the contractor are so substantial in relation of that of the Government that the waiver is necessary to obtain the participation of the contractor; and

(v) Situations involving contracts with small businesses concerning their privately developed technology.

(2) As stated in paragraph (a) of this section, waivers may be granted as to all or any part of the rights of the United States to an invention except for certain rights set forth in paragraph (i) in this section. Accordingly, the waiver of all patent rights that are inherent to an invention, rather than part of the rights, will not necessarily be appropriate. The scope of the waiver will depend upon the relationship of the contractual situation or identified invention to the considerations set forth in paragraph (b) or (c) in order to best achieve the objectives set forth in paragraph (a) of this section. For example, waivers may be restricted to a particular field of use in which the contractor has substantial equities or a commercial position, or restricted to those uses that are not the primary object of the contract effort. Waivers may also be limited to particular geographical locations, may be made effective only for a specified duration of time, or may require the contractor to license others at reduced royalties in consideration of the Government's contribution to the research, development, or demonstration effort.

(3) In advance waivers of identified inventions, the invention will be deemed to be a subject invention and the waiver will be considered as being effective as of the effective date of the contract. This will be true regardless of whether the identified invention had been first

actually reduced to practice prior to the time of contracting or would be reduced to practice under the contract. A purpose of such waivers is to clarify and definitize the rights of the parties to such inventions when the facts surrounding the first actual reduction to practice prior to or during the contract are or will be difficult to establish.

(h) *Waivers to educational institutions.* (1) Except to the extent that a nonprofit educational institution may be engaged as a contractor operating a Government-owned facility or undertaking other special contracts, the following considerations apply to the granting of advance and identified waivers to educational institutions having an approved technology transfer program and capability. To obtain approval of its technology transfer program, educational institutions shall forward their requests to ERDA as provided in paragraph (2) below.

(2) A nonprofit educational institution desiring to obtain approval of its technology transfer program and capability shall provide the agency with the following information:

(i) General information concerning the institution, including:

(A) A copy of its Articles of Incorporation;

(B) A statement of the institution's purpose and aims; and

(C) A statement indicating the source of the institution's funds;

(ii) A copy of the institution's established patent policy, together with the date and manner of its adoption;

(iii) The name, title, address, and telephone number of the officer responsible for administration of patent and invention matters and a description of staffing in this area, including all offices which contribute to the institution's patent management capabilities;

(iv) A description of the institution's procedures for identifying and reporting inventions and a description of the procedures for evaluation of such inventions for inclusion in the institution's promotional program;

(v) A copy of the agreement signed by employees engaged in research and development, indicating their obligation in regard to inventions conceived or first actually reduced to practice in the course of their assigned duties;

(vi) A copy of the invention report form or outline utilized for preparation of invention reports;

(vii) A statement of whether the institution has an agreement with any patent management organizations or consultants and a copy of any such agreements;

(viii) A description of the plans and intentions of the institution to bring to the marketplace inventions to which it retains title including a description of the efforts typically undertaken by the institution to license its inventions;

(ix) A description of the institution's past patent application and patent licensing activities, including the following:

(A) Number of inventions reported to the institution during each of the past ten (10) years;

(B) Number of patent applications filed during each of the past ten (10) years;

(C) Number of patents obtained during each of the past ten (10) years;

(D) Number of exclusive licenses issued during each of the past ten (10) years;

(E) Number of nonexclusive licenses, other than those to sponsoring Government agencies, issued during each of the past ten (10) years;

(F) Gross royalty income during each of the past ten (10) years; and

(G) A general description of royalties charged, including minimum and maximum royalty rates;

(x) A list of subsidiary or affiliate institutions which would be covered by an agreement signed by the institution;

(xi) If the institution is a subsidiary or affiliate organization, the name of the other related organization and a description of the relationship;

(xii) The amount of Government support for research and development activities currently being administered by the institution, giving Government agency and breakdown;

(xiii) A statement of the institution's policies with respect to the sharing of royalties with employees; and

(xiv) A description of the uses made of any net income generated by the institution's patent management program.

(3) Before an institution's technology transfer program and capabilities are approved, the institution shall have a technology transfer program which, as a minimum shall include the five (5) criteria listed below. In addition to these criteria, consideration will be given to whether or not other Government agencies have approved an Institutional Patent Agreement with the requesting institution. The five criteria are:

(i) An established patent policy which is consistent with the four policy objectives in § 9–9.109–6(a) and is administered on a continuous basis by an officer or organization responsible to the institution;

(ii) Agreements with employees requiring them to assign to the institution or its designee or the Government any invention conceived or first actually reduced to practice by them in the course of or under Government contracts and awards or assurance that such agreements are obtained prior to the assignment of personnel to Government-supported research and development projects;

(iii) Procedures for insuring that inventions are promptly identified and timely disclosed to the officer or organization administering the patent policy of the institution;

(iv) Procedures for insuring that inventions disclosed to the institution are evaluated for inclusion in the institution's promotional program; and

(v) An active and effective promotional program for the licensing and marketing of inventions.

(4) In considering approval of technology transfer programs and capabilities in connection with requests for advance waivers, such approval shall be considered in lieu of commercial, manufacturing, and marketing capabilities which normally reside in industry. Such approval shall not be considered sufficient in and of itself as justifying the granting of an advance waiver to an institution. Approval of the grant of advance waiver must be viewed in light of the considerations of § 9–9.109–6(b) above and the four objectives set forth in § 9–9.109–6(a) above.

(5) In requests for identified waivers, however, the fact that an institution with an approved technology transfer program and capabilities has identified an invention and has expressed a desire to commercialize it through a request for a waiver therefor shall normally be presumed to have met the criteria of § 9–9.109–6(c) unless it is indicated that under one or more of the criteria the presumption is inapplicable.

(i) *Terms and conditions of waivers.* Each waiver shall contain, as a minimum, provisions covering each of the following:

(1) Advance waivers shall apply only to inventions reported in accordance with paragraph (e)(2)(i) of the clause of § 9–9.107–5(a) and with which is included an election as to whether the contractor will retain the rights waived in the invention, and specifying those countries in which rights will be retained.

(2) Subject to the rights granted in paragraphs (c) (1), (2) and (3) of the Patent Rights clause of § 9–9.107–5(a), the contractor or inventor shall agree to convey to the Government, upon request, the entire domestic right, title, and interest in any Subject Invention when the contractor or inventor as appropriate:

(i) Does not elect, in accordance with (i)(1) of this section to retain such rights; or

(ii) Fails to have a United States patent application filed on the invention in accordance with paragraph (i)(5) of this section, or decides not to continue prosecution of such application; or

(iii) At any time, no longer desires to retain title.

(3) Subject to the rights granted in paragraph (c) (1), (2) and (3) of the Patent Rights clause of § 9–9.107–5(a), the contractor or inventor shall agree to convey to the Government, upon request, the entire rights, title and interest in any Subject Invention in any foreign country if the contractor or inventor, as appropriate:

(i) Does not elect, in accordance with paragraph (i)(1) of this section, to retain such rights in the country; or

(ii) Fails to have a patent application filed in the country on the invention in accordance with paragraph (i)(6) of this section, or decides not to continue prosecution or to pay any maintenance fees covering the invention. To avoid forfeiture of the patent application or patent, the contractor or inventor shall notify the patent counsel not less than 60 days before the expiration period for any

action required by the foreign patent office.

(4) Conveyances requested pursuant to paragraph (i) (2) or (3) of this section shall be made by delivering to the patent counsel duly executed instruments and such other papers as are deemed necessary to vest in the Government the entire right, title, and interest in the invention to enable the Government to apply for and prosecute patent applications covering the invention in this or the foreign country, respectively, or otherwise establish its ownership of the invention.

(5) (i) With respect to each invention in which the contractor has an advance waiver and elects to retain domestic rights pursuant to paragraph (i) (1) of this section, the contractor shall have a domestic patent application filed within 6 months after submission of the invention disclosure pursuant to paragraph (e) (2) (i) of the clause of § 9-9.107-5(a) or such longer period as may be approved by the patent counsel for good cause shown in writing by the contractor or inventor. For identified inventions waived to the contractor or inventor, the contractor or inventor shall have a domestic patent application filed within 6 months after the waiver has become effective. With respect to such inventions, the contractor or inventor shall promptly notify the patent counsel of any decision not to file an application.

(ii) For each subject invention on which a patent application is filed by the contractor or inventor, the contractor or inventor shall:

(A) Within 2 months after the filing or within 2 months after submission of the invention disclosure if the patent application previously has been filed, deliver to patent counsel a copy of the application as filed including the filing date and serial number;

(B) Include the following statement in the second paragraph of the specification of the application and any patents issued on a Subject Invention, "The Government has rights in this invention pursuant to Contract No. _____ (or Grant No. _____) awarded by the U.S. Energy Research and Development Administration.";

(C) Within 6 months after filing the application or within 6 months after submitting the invention disclosure if the application has been filed previously, deliver to the patent counsel a duly executed and approved instrument fully confirmatory of all rights to which the Government is entitled, and provide ERDA an irrevocable power to inspect and make copies of the patent application filed;

(D) Provide the patent counsel with a copy of the patent within 2 months after a patent is issued on the application; and

(E) Not less than 30 days before the expiration of the response period for any action required by the Patent and Trademark Office, notify the patent counsel of any decision not to continue prosecution of the application and deliver to the patent counsel executed instruments granting the Government a power of attorney.

(iii) For each invention in which the contractor initially elects pursuant to (i) (1) of this section not to retain the rights waived, the contractor shall inform the patent counsel promptly in writing of the date and identity of any on sale, public use, or public disclosure of the invention which may constitute a statutory bar under 35 U.S.C. 102, which was authorized by or known to the contractor, or any contemplated action of this nature.

(6) (i) With respect to each Invention in which the contractor elects pursuant to (i) (1) of this section to retain the rights waived in a foreign country, or in which the contractor or inventor has obtained a waiver of foreign rights on an identified invention, the contractor or inventor shall have a patent application filed on the invention in that country, in accordance with applicable statutes and regulations, and within one or the following periods:

(A) Eight (8) months from the date of a corresponding United States application filed by the contractor or inventor, or if such an application is not filed, 6 months from the date the invention is submitted in a disclosure pursuant to paragraph (e) (2) (i) of the clause of § 9-9.107-5(a);

(B) Six (6) months from the date a license is granted by the Commissioner of Patents and Trademarks to file foreign applications where such filing has been prohibited by security reasons; or

(C) Such longer period as may be approved by the patent counsel.

(ii) The contractor or inventor shall notify the patent counsel promptly of each foreign application filed and upon written request shall furnish an English version of the application without additional compensation.

(7) The contractor or inventor shall, three years after a waiver is effective as to an invention, and at three-year intervals thereafter, and when specifically requested by the patent counsel, furnish patent counsel a report setting forth:

(i) The commercial use that is being made, or is intended to be made, of said invention, and

(ii) The steps taken to bring the invention to the point of practical application or to make the invention available for licensing;

(8) The Government's retention of at least an irrevocable, nonexclusive, paid-up license to make, use, and sell the invention throughout the world by or on behalf of the Government (including any Government agency) and States and domestic municipal governments, unless the Administrator or his designee determines that it would not be in the public interest to acquire the license for the States and domestic municipal governments.

(9) The right in the Administrator or his designee to require the granting of a nonexclusive, exclusive, or partially exclusive license to a responsible applicant or applicants, upon terms reasonable under the circumstances:

(i) To the extent that the invention is required for public use by Governmental regulations;

(ii) As may be necessary to fulfill health, safety or energy needs; or

(iii) For such other purposes as may be stipulated in the applicable agreement.

(10) The right of the Administrator or his designee to terminate such waiver in whole or in part unless the recipient of such waiver demonstrates to the satisfaction of the Administrator or his designee that effective steps have been taken, or within a reasonable time thereafter are expected to be taken, necessary to accomplish substantial utilization of the invention.

(11) The right in the Administrator or his designee commencing four years after a waiver is effective as to an invention, to require the granting of a nonexclusive or partially exclusive license to a responsible applicant or applicants, upon terms reasonable under the circumstances, and in appropriate circumstances to terminate the waiver in whole or in part, following a hearing upon notice thereof to the public, upon a petition by an interested person justifying such hearing:

(i) If the Administrator or his designee determines, upon review of such material as he deems relevant, and after the recipient of the waiver or other interested person has had the opportunity to provide such relevant and material information as the Administrator or his designee may require, that such waiver has tended substantially to lessen competition or to result in undue market concentration in any section of the United States in any line of commerce to which the technology relates; or

(ii) Unless the recipient of the waiver demonstrates to the satisfaction of the Administrator or his designee at such hearing that he has taken effective steps, or within a reasonable time thereafter is expected to take such steps, necessary to accomplish substantial utilization of the invention.

(j) *Terminations.* (1) Any waiver may be terminated at the discretion of the Administrator or his designee, in whole or in part, if the request for waiver is found to contain false material statements or nondisclosure of material facts, and such were specifically relied upon in reaching the waiver determination.

(2) Any waiver, as applied to particular inventions, may be terminated at the discretion of the Administrator or his designee, in whole or in part, if the requirements set forth in paragraph (i) of this section (Terms and conditions of waivers) have not been fulfilled, and such failure is determined by the Administrator or his designee to be material and detrimental to the interests of the United States and the general public.

(3) Prior to terminating a waiver under paragraph (j) (1) or (j) (2) of this section, the recipient of the waiver will be given written notice of the intention to terminate the waiver, the extent of

such proposed termination and the reason therefor, and a period of 30 days, or such longer period as the Administrator or his designee shall determine for good cause shown in writing, to show cause why the waiver should not be so terminated.

(4) All terminations of waivers shall be subject to the rights granted in paragraph (c)(1) of the clause of § 9-9.107-5(f), and termination shall normally be partial in nature, requiring the waiver recipient to grant nonexclusive or partially exclusive licenses to responsible applicants upon terms reasonable under the circumstances.

(k) *Effective date.* Waivers shall be effective on the following dates:

(1) For advance waivers of identified inventions, i.e., inventions conceived prior to the effective date of the contract, on the effective date of the contract even though the advance waiver may have been requested after that date;

(2) For identified inventions under advance waivers, i.e., inventions conceived or first actually reduced to practice after the effective date of the contract, on the date the invention is reported with the election to retain rights as to that invention; and

(3) For waivers of identified inventions (other than under an advance waiver), on the date of the letter notifying the requestor that the waiver has been granted.

§ 9-9.110 Reporting of royalties.

In order that ERDA may be informed regarding royalty payments to be made by a contractor in connection with any procurement, construction, or operation where the amount of the royalty payment is reflected in the contract price, or is to be reimbursed by the Government, the negotiator shall (a) Obtain from the offeror information concerning any royalty payments expected to be made in connection with the proposed procurement, construction, or operation, together with the names of the licensors and either the patent numbers involved or such other information as will permit identification of the patents and patent applications as well as the basis on which the royalties are to be paid, or (b) Obtain from the offeror a certificate that the contract price includes no amount representing the payment of any royalty by the offeror directly to others in connection with the performance of the contract, or (c) Insert in the contract the clause set forth below:

REPORTING OF ROYALTIES

If this contract is in the amount which exceeds $10,000 and if any royalty payments are directly involved in the contract or are reflected in the contract price to the Government, the contractor agrees to report in writing to the Patent Counsel (with notification by Patent Counsel to the Contracting Officer) during the performance of this contract and prior to its completion or final settlement the amount of any royalties or other payments paid or to be paid by it directly to others in connection with the performance of this contract together with the names and addresses of licensors to whom such payments are made and either the patent numbers involved or such other information as will permit the identification of the patents or other basis on which the royalties are to be paid. The approval of ERDA of any individual payments or royalties shall not stop the Government at any time from contesting the enforceability, validity or scope of, or title to, any patent under which a royalty or payments are made.

Subpart 9-9.2—Technical Data and Copyrights

§ 9-9.200 Scope of subpart.

This subpart sets forth ERDA's policy, procedures, and contract clauses with respect to the acquisition and use of technical data and copyrights in contracts or subcontracts entered into, with or for the benefit of the Government.

§ 9-9.201 Definitions.

For the purpose of this subpart, the following terms have the meanings set forth below:

(a) "Technical Data" means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental, demonstration, or engineering work or be usable or used to define a design or process or to procure, produce, support, maintain, or operate materiel. The data may be graphic or pictorial delineations in media such as drawings or photographs, text in specifications or related performance or design type documents, or computer software (including computer programs, computer software data bases, and computer software documentation). Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identification and related information. Technical data as used in this subpart does not include financial reports, cost analyses, and other information incidental to contract administration.

(b) "Proprietary Data" means technical data which embody trade secrets developed at private expense, such as design procedures or techniques, chemical composition of materials, or manufacturing methods, processes, or treatments, including minor modifications thereof, provided that such data:

(1) Are not generally known or available from other sources without obligation concerning their confidentiality,

(2) Have not been made available by the owner to others without obligation concerning their confidentiality, and

(3) Are not already available to the Government without obligation concerning their confidentiality.

(c) "Contract Data" means technical data first produced in the performance of the contract, technical data which are specified to be delivered in the contract, technical data that may be called for under the Additional Technical Data Requirements clause of the contract, if any, or technical data actually delivered in connection with the contract.

(d) "Unlimited Rights" means rights to use, duplicate or disclose technical data, in whole or in part, in any manner and for any purpose whatsoever, and to permit others to do so.

§ 9-9.202 Acquisition and use of technical data.

§ 9-9.202-1 General.

(a) The provisions herein pertain to research, development, demonstration and supply contracts, and contracts for the operation, design or construction of Government-owned facilities which are covered by § 9-9.202-4. Under ERDA's broad charter to perform research, development and demonstration work in both nuclear and nonnuclear fields, and to meet the objectives stated in § 9-9.202-2 below, ERDA has extensive needs for technical data. The satisfaction of these needs and the achievement of ERDA's objectives through a sound data policy are found in the balancing of the needs and equities of the Government, its contractors, and the general public.

(b) It is important to keep a clear distinction between contract requirements for the delivery of technical data on the one hand, and rights in technical data on the other. The legal rights which the Government acquires in technical data in ERDA contracts (other than "facilities" contracts) are set forth in the Rights in Technical Data (long form) clause of § 9-9.202-3(e)(2). However, this clause does not obtain for the Government the delivery of any data whatsoever. Rather, known requirements for the technical data to be delivered by the contractor shall be set forth as part of the contract (e.g. in the Statement of Work). An Additional Technical Data Requirements clause is included in this Subpart to enable the contracting officer to require the contractor to furnish additional technical data, the requirement for which was not known at the time of contracting. There is, however, a built-in limitation on the kind of technical data which a contractor may be required to deliver under either the contract Statement of Work or the Additional Technical Data Requirements clause. This limitation is found in the withholding provision of paragraph (e) of the Rights in Technical Data (long form) clause of § 9-9.202-3(e) which provides that the contractor need not furnish "proprietary data". It is specifically intended that the contractor may withhold "proprietary data" even though a requirement for technical data specified in the Statement of Work or called for pursuant to the Additional Technical Data Requirements clause would seemingly require the furnishing of proprietary data. This withholding of proprietary data is the primary means by which the contractor may protect its proprietary position.

(c) There are, however, two situations where the Government, or its representative, may need to have limited access to a contractor's proprietary data. First, paragraph (f) of the Rights in Technical Data (long form) clause gives the contracting officer's representatives the lim-

ited right to inspect at the contractor's facility the contractor's proprietary data which was withheld from delivery under paragraph (e) of the clause for the purpose of verifying that such data were properly withheld or to evaluate work performance. In carrying out the inspection, normally the conrtacting officer's representative is an ERDA employee although he may be an employee of an ERDA contractor acting under an agreement to treat in confidence the proprietary data to be inspected. However, where the contractor whose data are to be inspected demonstrates that there would be a possible conflict of interest if the inspection were made by such a contractor employee, the contracting officer's representative may be limited to an ERDA employee. Paragraph (f) has a built-in exclusion from these inspection rights for "specific items of proprietary data" when they are so specified in the contract schedule. Such exclusions limit even ERDA's minimum rights of evaluating contract work performance and verifying that technical data withheld by the contract or is proprietary in fact. Such exclusions should be sparingly used, and only in situations where program personnel stipulate to the fact that ERDA has no need for access to the specified items to be excluded from paragraph (f), i.e., that the nondisclosure and nonaccessibility will not adversely affect the ERDA program involved. It should also be noted that paragraph (f) permits exclusion of "specific items" of proprietary data and, accordingly, should not be used to exclude classes of technical data or all technical data pertaining to specific items orp rocesses or classes of items or processes. The second situation, where the Government may have limited access to a contractor's proprietary data, is provided in optional paragraph (g) of the Rights in Technical Data (long form) clause. When used, optional paragraph (g) provides the Government the right to require the contractor to furnish with limited rights the proprietary data previously withheld under paragraph (e). In this situation, the limited rights in proprietary data and the Government's obligation for limited use and disclosure of such data as set forth in the Rights in Technical Data (long form) clause provides the means by which the contractor protects its proprietary position. Paragraph (g) will be used only where it is determined by ERDA that for programmatic reasons there is a need for the delivery of proprietary data to the Government. Where proprietary data is to be delivered under paragraph (g) and subparagraph (a) or (b) of the Limited Rights Legend is to be applied to the data, the contractor may, if he can show the possibility of a conflict of interest regarding disclosure of such data to other contractors, limit or modify subparagraphs (a) or (b) as set forth in § 9-9.202(e)(3), to exclude or include certain contractors.

(d) The contractor licensing provisions of optional paragraph (h) of the Rights in Technical Data (long form) clause enable ERDA to require limited licenses in proprietary contract data to be granted to the Government and responsible parties in certain circumstances. Such a license may parallel or supplement the license obtained in background patents under the provisions of paragraph (k) of the Patent Rights clause of Subpart 9-9.1. Paragraph (h) is normally to be included in contracts for research, development or demonstration where it is deemed by ERDA that the limited license afforded therein is necessary to ensure widespread commercial use or practical utilization of a subject of the contract. As explained in § 9-9.202-3(e)(4), paragraph (h) provides that upon request by ERDA, the contractor will grant to the Government and responsible third parties a license in proprietary data only where such data in the form of results obtained by its use, i.e., essential equipment, articles, products and the like which were the subject of the contract, are not otherwise available or cannot be made available in a reasonable time as set forth in paragraph (h).

(e) It is the responsibility of prime contractors and higher-tier subcontractors, in meeting their obligations with respect to contract data, to obtain from their subcontractors the rights in, access to, and delivery of such data on behalf of the Government. Accordingly, subject to the policy set forth in these regulations, and subject to the approval of the contracting officer where required, selection of appropriate technical data provisions for subcontracts is the responsibility of the prime contractor or higher-tier subcontractor. In many but not all instances, inclusion in a subcontract of the Rights in Technical Data (long form) clause of § 9-9.202-3(e)(2) will suffice to obtain for the benefit of the Government the rights in and, if appropriate, access to technical data. Access by ERDA to technical data, i.e., the inspection rights afforded in paragraph (f) of the Rights in Technical Data (long form) clause, § 9-9.202-3(e)(2), normally should be obtained only in first tier subcontracts having as a purpose the conduct of research, development or demonstration work or the furnishing of supplies for which there are substantial technical data requirements as reflected in the prime contract. If a subcontractor refuses to accept technical data provisions affording rights in and access to technical data on behalf of the Government, the contractor shall so inform the contracting officer in writing and not proceed with the subcontract without written authorization of the contracting officer. In prime contracts (or higher-tier subcontracts) which contain the Additional Technical Data Requirements clause, it is the further responsibility of the contractor (or higher-tier subcontractor) to determine whether inclusion of such clause in a subcontract is required to satisfy technical data requirements of the prime contract (or higher tier subcontract). As is the case for ERDA in its determination of technical data requirements, the Additional Technical Data Requirements clause should not be used at any subcontracting tier where the technical data requirements are fully known, and normally the clause will be used only in subcontracts having as a purpose the conduct of research, development or demonstration. Prime contractors and higher tier subcontractors shall not use their power to award subcontracts as economic leverage to inequitably acquire rights in the subcontractor's proprietary data for their private use, and they shall not acquire rights on behalf of the Government to proprietary data for standard commercial items unless required by the prime contract.

(f) Related to the acquisition and use of technical data are the contractor's rights in contract data as well as technical data furnished to the contractor by ERDA or its contractors. These rights are set forth in paragraph (b)(2) of each Rights in Technical Data clause of this Subpart and provide that the contractor may, subject to patent, security and other provisions of the contract, use for its private purposes contract data it first produces in the performance of the contract provided that the contractor has met its data requirements (e.g., delivery of data in the form of progress or status reports specified to be delivered) as of the date of the private use of such data. It is not necessary that a "Final Report" be submitted in order to privately use data if all required progress and interim reports and other technical data then due have been delivered. Paragraph (b)(2) further provides that technical or other data received by the contractor in the performance of the contract must be held in confidence by the contractor in accordance with restrictions accompanying the data.

(g) An additional clause in this Subpart includes that of paragraph 9-9.202-3(f)(2) entitled Rights in Data—Special Works which is to be used in place of or in addition to the Rights in Technical Data clause in contracts where a purpose of the contract is the production of copyrightable material, a substantial portion of which is to be first produced in the performance of the contract, such as motion pictures, television recordings, books, histories, etc. Where, during contract negotiations, it may be determined to purchase, i.e., "specifically acquire," unlimited rights in technical data, or to lease or obtain a license therein, or to obtain rights in existing data, an appropriate clause therefor should be obtained from patent counsel. In situations where technical data including computer software are to be leased or licensed, the terms of any agreement restricting the Government's rights will be included in the contract as either a special provision or an agreement annexed thereto. Another clause, the Rights in Technical Data (short form) clause of § 9-9.202-3(g)(2), is provided for use in research contracts with educational institutions and consultants. Such contracts may, for example, include those for conducting symposia, training or education, or other contracts not involving possible use of proprietary data.

§ 9-9.202-2 Policy.

The technical data policy is directed toward achieving the following objectives:

(a) Making the benefits of the energy research, development and demonstration programs of ERDA widely available to the public in the shortest practicable time;

(b) Promoting the commercial utilization of the technology developed under ERDA programs;

(c) Encouraging participation by private persons in ERDA energy research, development and demonstration programs; and

(d) Fostering competition and preventing undue market concentration or the creation or maintenance of other situations inconsistent with the antitrust laws.

§ 9-9.202-3 Procedures (Supply, Research, Development or Demonstration Contracts).

(a) *Known requirements for technical data.* Technical data requirements are determined in relation to the intended use of that data, which in turn depends upon the intended use of the contract end item. In many contracts for research, the end item may often be a technical report or series of such reports, while in contracts beyond research the subject of the contract may be a feasibility model, an engineering or advance development model, or a prototype. The extent to which required technical data may be needed often depends on the level of maturity of design and perfection of the end item, and, for a demonstration plant or prototype may include data pertaining to performance, operational, and environmental testing, repair, maintenance, operation, quality assurance, detailed design, logistics, training, etc. Known technical data requirements shall be programmatically ascertained prior to contracting and shall be included in requests for proposals or disclosed during contract negotiations for incorporation as data requirements in the contract Statement of Work.

(b) *Additional requirements for technical data.* In contracts for research, development or demonstration it is not normally possible or appropriate for the Government to ascertain all actual needs for technical data in advance of contracting. Accordingly, the Additional Technical Data Requirements clause in (c) below shall normally be used in such contracts (and, if appropriate, in subcontracts) to enable the ordering of technical data as the actual need and requirement therefor became known during the course of the contract. If all technical data requirements are known in advance of contracting and are set forth in the contract Statement of Work, this clause need not be used. The Additional Technical Data Requirements clause should not normally be used in supply contracts because the required technical data therefor are ordinarily known in advance and thus are specified in the contract Statement of Work or Specification.

(c) *Additional technical data requirements clause.*

Additional Technical Data Requirements

(a) In addition to the technical data specified elsewhere in this contract to be delivered, the Contracting Officer may at any time during the contract performance or within one year after final payment call for the Contractor to deliver any technical data first produced or specifically used in the performance of this contract except technical data pertaining to items of standard commercial design.

(b) The provisions of the "Rights in Technical Data" clause included in this contract are applicable to all technical data called for under this "Additional Technical Data Requirements" clause. Accordingly, nothing contained in this clause shall require the Contractor to actually deliver any technical data, the delivery of which is excused by paragraph (e) of the "Rights in Technical Data" clause.

(c) When technical data are to be delivered under this clause, the Contractor will be compensated for appropriate costs for converting such data into the prescribed form, for reproduction, and for delivery.

(d) *Proposals.* The policy and procedures for treatment of proposal information solicited and unsolicited proposals are contained in § 9-3.150 of these Regulations in which it is provided that proposals may be marked with the Notice set forth in § 9-3.150-2(a). It is ERDA policy, in consideration of the contract award, to obtain unlimited rights in the technical data contained in the proposal unless the prospective contractor marks those portions of the technical information which he asserts as being proprietary data. If a contract is to be awarded based on a proposal even though it is marked with the Notice in § 9-3.150-2(a), the prospective contractor is obliged under § 9-3.150-2(b) to identify the portions thereof which contain proprietary data, and the contract in such instance shall contain the Rights to Proposal Data clause set forth in § 9-3.150-2(c) identifying data asserted to be proprietary data by page number. Under § 9-3.150-2 (b) and § 9-3.151-1 which set forth procedures for identifying proprietary data, it is provided that, subject to the concurrence of the contracting officer, the proposer may delete proposal information unrelated to the contract, identify the proprietary data in his proposal or state that there is no proprietary data in the proposal. Data identified as proprietary does not constitute a stipulation by the Government that it is in fact proprietary data.

(e) *Rights in technical data.* (1) The Rights in Technical Data (long form) clause set forth in paragraph (2) below will be used in all contracts having as a purpose the conduct of research, development or demonstration or in contracts for supplies, or in any other contract where technical data are expected to be first produced under the contract, where technical data are specified to be delivered in the contract or where the contract contains the Additional Data Requirements clause. Accordingly, all such contracts will contain the Rights in Technical Data (long form) clause of paragraph (2) below except as noted in § 9-9.202-4 and § 9-9.202-3 (f) and (g) and except contracts for standard commercial "off-the-shelf" supplies where technical data such as operating or repair manuals are routinely furnished with the supplies.

(2) *Rights in technical data clause.*

Rights in Technical Data—Long Form

(a) *Definitions.* (1) "Technical Data" means recorded information regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental, or demonstration, or engineering work, or be usable or used to define a design or process, or to procure, produce, support, maintain, or operate materiel. The data may be graphic or pictorial delineations in media such as drawings or photographs, text in specifications or related performance or design type documents or computer software (including computer programs, computer software data bases, and computer software documentation). Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identification, and related information. Technical data as used herein does not include financial reports, cost analyses, and other information incidental to contract administration.

(2) "Proprietary Data" means technical data which embody trade secrets developed at private expense, such as design procedures or techniques, chemical composition of materials, or manufacturing methods, processes, or treatments, including minor modifications thereof, provided that such data:

(i) Are not generally known or available from other sources without obligation concerning their confidentiality,

(ii) Have not been made available by the owner to others without obligation concerning its confidentiality, and

(iii) Are not already available to the Government without obligation concerning their confidentiality.

(3) "Contract Data" means technical data first produced in the performance of the contract, technical data which are specified to be delivered in the contract, technical data that may be called for under the "Additional Technical Data Requirements" clause of the contract, if any, or technical data actually delivered in connection with the contract.

(4) "Unlimited Rights" means rights to use, duplicate, or disclose technical data, in whole or in part, in any manner and for any purpose whatsoever, and to permit others to do so.

(b) *Allocation of rights.* (1) The Government shall have:

(i) Unlimited rights in contract data except as otherwise provided below with respect to proprietary data.

(ii) The right to remove, cancel, correct or ignore any marking not authorized by the terms of this contract on any technical data furnished hereunder, if in response to a written inquiry by ERDA concerning the propriety of the markings, the Contractor fails to respond thereto within 60 days or fails to substantiate the propriety of the markings. In either case ERDA will notify the Contractor of the action taken.

(iii) No rights under this contract in any technical data which are not contract data.

(2) The Contractor shall have:

(i) The right to withhold proprietary data in accordance with the provisions of this clause.

(ii) the right to use for its private purposes, subject to patent, security or other provisions of this contract, contract data it

first produces in the performance of this contract provided the data requirements of this contract have been met as of the date of the private use of such data. The Contractor agrees that to the extent it receives or is given access to proprietary data or other technical, business or financial data in the form of recorded information from ERDA or an ERDA contractor or subcontractor, the Contractor shall treat such data in accordance with any restrictive legend contained thereon, unless use is specifically authorized by prior written approval of the Contracting Officer.

(3) Nothing contained in this "Rights in Technical Data" clause shall imply a license to the Government under any patent or be construed as affecting the scope of any licenses or other rights otherwise granted to the Government under any patent.

(c) *Copyrighted material.* (1) The Contractor shall not, without prior written authorization of the Contracting Officer, establish a claim to statutory copyright in any contract data first produced in the performance of the contract. To the extent such authorization is granted, the Government reserves for itself and others acting on its behalf a royalty-free, non-exclusive, irrevocable, world-wide license for Governmental purposes to publish, distribute, translate, duplicate, exhibit and perform any such data copyrighted by the Contractor.

(2) The Contractor agrees not to include in the technical data delivered under the contract any material copyrighted by the Contractor and not to knowingly include any material copyrighted by others without first granting or obtaining at no cost a license therein for the benefit of the Government of the same scope as set forth in paragraph (c)(1) above. If such royalty-free license is unavailable and the Contractor nevertheless determines that such copyrighted material must be included in the technical data to be delivered, rather than merely incorporated therein by reference, the Contractor shall request the written authorization of the Contracting Officer to include such copyrighted material in the technical data without a license.

(d) *Subcontracting.* It is the responsibility of the Contractor to obtain from its subcontractors technical data and rights therein, on behalf of the Government, necessary to fulfill the Contractor's obligations to the Government with respect to such data. In the event of refusal by a subcontractor to accept a clause affording the Government such rights, the Contractor shall:

(1) Promptly submit written notice to the Contracting Officer setting forth reasons for the subcontractor refusal and other pertinent information which may expedite disposition of the matter; and

(2) Not proceed with the subcontract without the written authorization of the Contracting Officer.

(e) *Withholding of proprietary data.* Notwithstanding the inclusion of the "Additional Technical Data Requirements" clause in this contract or any provision of this contract specifying the delivery of technical data, the Contractor may withhold proprietary data from delivery, provided that the Contractor furnishes in lieu of any such proprietary data so withheld technical data disclosing the source, size, configuration, mating and attachment characteristics, functional characteristics and performance requirements ("Form, Fit and Function" data, e.g., specification control drawings, catalog sheets, envelope drawings, etc.) or a general description of such proprietary data where "Form, Fit and Function" data are not applicable. The Government shall acquire no rights to any proprietary data so withheld except that such data shall be subject to the "inspection rights" provisions of paragraph (f), and, if included, the "Limited rights in proprietary data" provisions of paragraph (g) and the "Contractor licensing" provisions of paragraph (h).

(f) *Inspection rights.* Except as may be otherwise specified in this contract for specific items of proprietary data which are not subject to this paragraph, the Contracting Officer's representatives, at all reasonable times up to three (3) years after final payment under this contract, may inspect at the Contractor's facility any proprietary data withheld under paragraph (e) and not furnished under paragraph (g) for the purposes of verifying that such data properly fell within the withholding provision of paragraph (e), or for evaluating work performance.

(3) *Optional clause—limited rights in proprietary data.* In research, development or demonstration contracts and supply contracts where it is determined that delivery of proprietary data is necessary with limited rights in the Government, the Rights in Technical Data (long form) clause shall be supplemented by the additional paragraph (g) set forth below. It should be noted that this paragraph does not entitle the contractor to place a Limited Rights Legend on any technical data furnished to the Government under paragraph (g) below unless the contracting officer requests in writing delivery of identified technical data previously withheld under paragraph (e) of the Rights in Technical Data clause. Paragraph (g) provides that proprietary data may be specified in the contract as being excluded from the delivery requirements of paragraph (g). Alternatively, the Limited Rights Legend specified in paragraph (g) may be made applicable to only those classes of proprietary data determined as being necessary for delivery with limited rights. In addition, when furnishing proprietary data with the Limited Rights Legend, subparagraphs (a), (b) and (c) thereunder may be modified as follows. When proprietary data is to be furnished only for evaluation, subparagraph (a) of the Limited Rights Legend shall be used, and subparagraphs (b) and (c), if otherwise inapplicable, may be deleted. When there is a programmatic requirement that proprietary data be disclosed to other ERDA contractors only for information or use in connection with work performed under their contracts, subparagraph (b) of the Limited Rights Legend shall be used, and subparagraphs (a) and (c) may be deleted if otherwise inapplicable. In either of the foregoing examples, the contractor may, if he can show the possibility of a conflict of interest because of disclosure of such data to certain contractors or evaluators, exclude such contractors or evaluators from subparagraphs (a) or (b). If the data is required solely for emergency repair or overhaul, subparagraph (c) of the Limited Rights Legend shall be retained, and subparagraphs (a) and (b) may unless otherwise applicable, be deleted. In the event it is determined that all of the subparagraphs (a), (b) and (c) of the Limited Rights Legend are to be deleted, the word "none" shall be inserted in the Legend after the colon (:).

(g) *Limited rights in proprietary data.* Except as may be otherwise specified in this contract as technical data which are not subject to this paragraph, the Contractor shall, upon written request from the Contracting Officer at any time prior to three (3) years after final payment under this contract, promptly deliver to the Government any "proprietary data" withheld pursuant to paragraph (e) of the "Rights in Technical Data" clause of this contract. The following legend and no other is authorized to be affixed on any "proprietary data" delivered pursuant to this provision, provided the "proprietary data" meets the conditions for initial withholding under paragraph (e) of the "Rights in Technical Data" clause. The Government will thereafter treat the "proprietary data" in accordance with such legend.

LIMITED RIGHTS LEGEND

This "proprietary data," furnished under Contract No. _____ with the United States Energy Research and Development Administration (and purchase order No. _____ if applicable) may be duplicated and used by the Government with the express limitations that the "proprietary data" may not be disclosed outside the Government or be used for purposes of manufacture without prior permission of the Contractor, except that further disclosure or use may be made solely for the following purposes:

(a) This "proprietary data" may be disclosed for evaluation purposes under the restriction that the proprietary data be retained in confidence and not be further disclosed;

(b) This "proprietary data" may be disclosed to other Contractors participating in the Government's program of which this contract is a part for information or use in connection with the work performed under their contracts and under the restriction that the "proprietary data" be retained in confidence and not be further disclosed; or

(c) This "proprietary data" may be used by the Government or others on its behalf for emergency repair or overhaul work under the restriction that the "proprietary data" be retained in confidence and not be further disclosed.

This legend shall be marked on any reproduction of this data in whole or in part.

(4) *Optional clause—contractor licensing.* In many contracting situations the achievement of ERDA's objectives would be frustrated if the Government at the time of contracting did not obtain on behalf of responsible third parties and itself limited license rights in and to proprietary contract data. Where for example, the contractor is required to license background patents, consideration should be given to securing co-extensive license rights to the Government and responsible third parties at reasonable royalties, and under appropriate restrictions, for contract data which are proprietary data in order to practice the technology which is a subject of the contract. When such a license right is deemed necessary, the Rights in Technical Data (long form) clause should be supplemented by the addition of paragraph (h) below. Paragraph (h) will normally be sufficient to cover proprietary contract data for items and processes that were used in the contract and are necessary in order to insure widespread commercial use of a subject of the contract. The expression "subject of the contract" is intended to limit the licensing required in clause (h) below to the fields of tech-

nology specifically contemplated in the contract effort and may be replaced by a more specific statement of the fields of technology intended to be covered in the manner described in § 9-9.107-5(b)(9) of Subpart 9-9.1 of these Regulations pertaining to "Background Patents." Where, however, proprietary contract data cover the main purpose or basic technology of the research, development or demonstration effort of the contract, rather than subcomponents, products or processes which are ancillary to the contract effort, the limitations set forth in subparagraphs (1)-(4) of paragragh (h) should be modified or deleted. Paragraph (h) further provides that technical data may be specified in the contract as being excluded from or not subject to the licensing requirements thereof. This exclusion can be implemented by limiting the applicability of the provisions of paragraph (h) to only those classes or categories of proprietary data determined as being essential for licensing. Although contractor licensing may be required under paragraph (h), the final resolution of questions regarding the scope of such licenses, the terms thereof including provisions for confidentiality and reasonable royalties, is then left to the negotiation of the parties with resolution of the issues being made, if necessary, by a court of competent jurisdiction.

(h) *Contractor licensing.* Except as may be otherwise specified in this contract as technical data not subject to this paragraph, the Contractor agrees that upon written application by ERDA, it will grant to the Government and responsible third parties, for purposes of practicing a subject of this contract, a nonexclusive license in any contract data which are proprietary data on terms and conditions reasonable under the circumstances including appropriate provisions for confidentiality; provided, however, the Contractor shall not be obligated to license any data if the Contractor demonstrates to the satisfaction of the Administrator or his designee that:

(1) Such data are not essential to the manufacture or practice of hardware designed or fabricated, or processes developed, under this contract;

(2) Such data, in the form of results obtained by their use, have a commercially competitive alternative available or readily introduceable from one or more other sources;

(3) Such data, in the form of results obtained by their use, are being supplied by the Contractor or its licensees in sufficient quantity and at reasonable prices to satisfy market needs, or the Contractor or its licensees have taken effective steps or within a reasonable time are expected to take effective steps to so supply such data in the form of results obtained by its use; or

(4) Such data, in the form of results obtained by their use, can be furnished by another firm skilled in the art of manufacturing items or performing processes of the same general type and character necessary to achieve the contract results.

(i) *Rights in data—special works.* (1) The clause set forth in paragraph (2) below shall be used in all contracts where the principal purpose or a task of the contract is the production of copyrightable works, even though such works may incorporate uncopyrighted material or material previously copyrighted by the contractor or others. Such contracts include those:

(i) Primarily for production of motion picture or television recordings or scripts, musical compositions or arrangements, sound tracks or recordings, translations, adaptations, and the like;

(ii) For books, compilations, surveys, histories, or technology information pamphlets;

(iii) For works pertaining to management studies, support services, training, career guidance, or similar functions of ERDA; and

(iv) For works pertaining to guidance or instruction of ERDA officials or employees in the discharge of official duties.

The clause in paragraph (2) below should be modified with the assistance of patent counsel where the contract calls for the editing, translation, addition, or other modification of the subject matter of an existing work.

(2) *Rights in data—special works clause.*

RIGHTS IN DATA—SPECIAL WORKS

(a) The term "Data" as used herein means recorded information regardless of form or characteristic, such as writings, sound recordings, pictorial reproductions, drawings, or other graphic representations, and works of similar nature (whether or not copyrighted) which are specified to be delivered under this contract. The term includes data such as management studies and data produced under support services contracts but does not include financial reports, cost analyses, and other information incidental to contract administration.

(b) All data first produced or composed in the course of or under this contract shall be the sole property of the Government. Except with the prior written permission of the Contracting Officer, the Contractor agrees not to assert any rights at common law or in equity or establish any claim to statutory copyright in such data. The Contractor shall not publish or reproduce such data in whole or in part or in any manner or form, or authorize others so to do, without the written consent of the Contracting Officer until such time as the Government may have released such data to the public.

(c) The Contractor hereby grants to or will obtain for the Government a royalty-free, nonexclusive and irrevocable license throughout the world (1) to publish, translate, reproduce, deliver, perform, use, and dispose of, in any manner, any and all data which are not first produced or composed in the performance of this contract but which are incorporated in the work furnished under this contract; and (2) to authorize others so to do.

(d) The Contractor shall indemnify and save and hold harmless the Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, (1) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the public translation, reproduction, delivery, performance, use, or disposition of any data furnished under this contract; or (2) based upon any libelous, defamatory, or other unlawful matter contained in such data.

(e) Nothing contained in this clause shall imply a license to the Government under any patent, or be constructed as affecting the scope of any licenses or other rights otherwise granted to the Government under any patent.

(g) *Rights in technical data clause (short form).* (1) The clause set forth in paragraph (2) below may be used in contracts for basic research including grants, Special Support Research Agreements with educational institutions, contracts with consultants, contracts for symposia or for the conduct of training and educational programs, and in other contracts of a similar nature. This clause shall not be used in any contract where proprietary information of the contractor may be utilized in the performance of work under the contract, and in such instances the Additional Technical Data Requirements clause of § 9-9.202-3(c) and the Rights in Technical Data (long form) clause of § 9.202-3(e)(2) shall be used. The short form clause of this section shall not be used in situations involving long-term consultancy arrangements for work in ERDA programs covered by ERDA Manual Chapter 7604. In such instances the clauses in ERDAM 7604 shall be used.

(2) *Rights in technical data clause—short form.*

RIGHTS IN TECHNICAL DATA—SHORT FORM

(a) *Definitions.* The definitions of terms set forth in 41 CFR 9-9.201 apply to the extent these terms are used herein.

(b) *Allocation of rights.* (1) The Government shall have:

(i) Unlimited rights in technical data first produced or specifically used in the performance of this contract;

(ii) The right of the Contracting Officer or his representatives to inspect at all reasonable times up to three (3) years after final payment under this contract all technical data first produced or specifically used in the contract (for which inspection the Contractor or its subcontractor shall afford proper facilities to ERDA);

(iii) The right to have any technical data first produced or specifically used in the performance of this contract delivered to the Government as the Contracting Officer may from time to time direct during the progress of the work or in any event as the Contracting Officer shall direct upon completion or termination of this contract.

(2) The Contractor shall have:

The right to use for its private purposes, subject to patent, security or other provisions of this contract, technical data it first produces in the performance of this contract provided the data requirements of this contract have been met as of the date of the private use of such data. The Contractor agrees that to the extent it receives or is given access to proprietary data or other technical, business or financial data in the form of recorded information from ERDA or an ERDA contractor or subcontractor, the Contractor shall treat such data in accordance with any restrictive legend contained thereon, unless use is specifically authorized by prior written approval of the Contracting Officer.

(c) *Copyrighted material.* (1) The Contractor agrees to, and does hereby grant to the Government, and to its officers, agents, servants and employees acting within the scope of their duties:

(i) A royalty-free, nonexclusive, irrevocable license to reproduce, translate, publish, use, and dispose of and to authorize others so to do, all copyrightable material first produced or composed in the performance of this contract by the Contractor, its employees or any individual or concern specifically employed or assigned to originate and prepare such material; and

(ii) a license as aforesaid under any and all copyrighted or copyrightable works not first produced or composed by the Contractor in the performance of this contract but which are incorporated in the material furnished under the contract, provided that such license shall be only to the extent the Contractor now has, or prior to completion or final settlement of the contract may acquire, the right to grant such license without becoming liable to pay compensation to others solely because of such grant.

(2) The Contractor agrees that it will not knowingly include any material copyrighted by others in any written or copyrightable material furnished or delivered under this contract without a license as provided for in subparagraph (1)(ii) hereof, or without the consent of the copyright owner, unless it obtains specific written approval of the Contracting Officer for the inclusion of such copyrighted material.

§ 9–9.202–4 Procedures (government-owned, contractor-operated facilities).

(a) *General.* It is essential that ERDA maintain continuity in its programs which are implemented by contracts for the operation of Government-owned, contractor-operated facilities. Contract data first produced or specifically used in the performance of such contracts must be considered as integral to and remaining with the facility or plant after termination of such contracts and thus available to ERDA and its future contractors for the continued use of the facilities or plant. However, it is recognized that these contracts by their nature cannot always be subject to one set of prescribed contract provisions which will always apply. Accordingly, the Rights in Technical Data—Facility clause set forth in paragraph (c)(2) below is to be used as a basic or minimal clause which may be modified or expanded with the concurrence of patent counsel to meet particular contract situations.

(b) *Subcontracting.* Unless otherwise directed by the contracting officer, the contractor shall follow the policy and procedures of § 9–9.202–1, 2, and 3 above and shall employ the provisions of the Additional Technical Data Requirements clause of § 9–9.202–3(c) and the Rights in Technical Data clause of § 9–9.202–3(e)(2) where appropriate except in subcontracts for the design of special production plants or facilities or specially designed equipment for such facilities or plants in which instances contractors shall include the provisions of the Rights in Technical Data clause of § 9–9.202–4.

(c) *Rights in technical data clause—facility.* (1) Whenever a contract has as a purpose the operation of a Government-owned contractor-operated research or production facility, the clause set forth in (2) of this paragraph shall normally be included in the contract. Inasmuch as this clause secures to the Government ownership, access to, and, if requested, delivery of all technical data first produced in the performance of the contract and access to and delivery of technical data which are specifically used in the performance of the contract, there is no need to include the Additional Technical Data Requirements clause of § 9–9.202–3(c).

(2) Rights in technical data clause—facility.

RIGHTS IN TECHNICAL DATA—FACILITY

(a) *Definitions.* (1) "Technical Data" means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental, or demonstration, or engineering work or be usable or used to define a design or process or to procure, produce, support maintain, or operate materiel. That data may be graphic or pictorial delineations in media such as drawings or photographs, text in specifications or related performance or design type documents, or computer software (including computer programs, computer software data bases and computer software documentation). Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identification and related information. Technical data as used herein does not include financial reports, cost analyses and other information incidental to contract administration.

(2) "Proprietary Data" means technical data which embody trade secrets developed at private expense, such as design procedures or techniques, chemical composition of materials, or manufacturing methods, processes, or treatments, including minor modifications thereof, provided that such data:

(i) Are not generally known or available from other sources without obligation concerning their confidentiality;

(ii) Have not been made available by the owner to others without obligation concerning their confidentiality; and

(iii) Are not already available to the Government without obligation concerning their confidentiality.

(3) "Unlimited Rights" means rights to use, duplicate, or disclose technical data, in whole or in part, in any manner and for any purpose whatsoever, and to permit others to do so.

(b) *Allocation of rigths.* (1) The Government shall have:

(i) Ownership in all technical data first produced in the performance of the contract,

(ii) The right to inspect technical data first produced or specifically used in the performance of the contract at all reasonable times (for which inspection the proper facilities shall be afforded ERDA by the Contractor and its subcontractors),

(iii) The right to have all technical data first produced or specifically used in the performance of the contract delivered to the Government or otherwise disposed of by the Contractor, either as the Contracting Officer may from time to time direct during the progress of the work or in any event as the Contracting Officer shall direct upon completion or termination of this contract, provided, that nothing contained in this paragraph shall require the Contractor to actually deliver any technical data the delivery of which is excused by this Rights in Technical Data clause,

(iv) Unlimited rights in technical data specifically used in the performance of this contract except technical data pertaining to items of standard commercial design; the Contractor agrees to leave a copy of such technical data at the facility or plant to which such data relate, and to make available for access or to deliver to the Government such data upon request by the Contracting Officer; provided, that if such data are proprietary, the rights of the Government in such data shall be governed solely by the provisions of paragraph (e) hereof—"Limited Rights in Proprietary Data,"

(v) The right to remove, cancel, correct or ignore any marking not authorized by the terms of this contract on any technical data furnished hereunder if, in response to a written inquiry by ERDA concerning the propriety of the markings, the Contractor fails to respond thereto within 60 days or fails to substantiate the propriety of the markings. In either case ERDA will notify the Contractor of the action taken.

(2) The Contractor shall have:

(i) The right to withhold its proprietary data, subject to the provisions of this clause;

(ii) The right to use for its private purposes, subject to patent, security or other provisions of this contract, technical data it first produces in the performance of this contract, provided the data requirements of this contract have been met as of the date of the private use of such data. The Contractor agrees that to the extent it receives or is given access to proprietary data or other technical, business or financial data in the form of recorded information from ERDA or an ERDA contractor or subcontractor, the Contractor shall treat such data in accordance with any restrictive legend contained thereon, unless use is specifically authorized by prior written approval of the Contracting Officer.

(3) Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any licenses or other rights otherwise granted to the Government under any patent.

(c) *Copyrighted material.* (1) The Contractor shall not, without prior written authorization of the Contracting Officer, establish a claim to statutory copyright in any technical data first produced in the performance of this contract. To the extent such authorization is granted, the Government reserves for itself and others acting on its behalf a royalty-free, nonexclusive, irrevocable, world-wide license for Governmental purposes to publish, distribute, translate, duplicate, exhibit and perform any such data copyrighted by the Contractor.

(2) The Contractor agrees not to include in the technical data delivered under the contract any material copyrighted by the Contractor and not to knowingly include any material copyrighted by others without first granting or obtaining at no cost a license therein for the benefit of the Government of the same scope as set forth in paragraph (c)(1) above. If the Contractor believes that such copyrighted material for which the license cannot be obtained must be incuded in the technical data to be delivered, rather than merely incorporated therein by reference, the Contractor shall obtain the written authorization of the Contracting Officer to include such material in the technical data prior to its delivery.

(d) *Subcontracting.* (1) Unless otherwise directed by the Contracting Officer, the Contractor agrees to use in subcontracts having as a purpose the conduct of research, development or demonstration or in subcontracts for supplies, the contract clause provisions in 41 CFR 9–9.202–3(c) and 41 CFR 9–9.202–3(e)(2) in accordance with the policy and procedures at 41 CFR 9–9.202– 1, 2, and 3.

(2) It is the responsibility of the Contractor to obtain from its subcontractors rights, on behalf of the Government, in technical data necessary to fulfill the Contractor's obligations to the Government with respect to such data. In the event of refusal by a subcontractor to accept a clause affording the Government rights in technical data as set forth above, the Contractor shall:

(i) Promptly submit written notice to the Contracting Officer setting forth reasons for the subcontractor refusal and other pertinent

information which may expedite disposition of the matter; and

(ii) Not proceed with the subcontract without the written authorization of the Contracting Officer.

(d) *Optional clause—limited rights in proprietary data.* In contracts where it is determined that delivery of proprietary data is necessary with limited rights in the Government, the Rights in Technical Data clause of this section shall be supplemented by the additional paragraph (e) set forth below. Paragraph (e) provides that technical data may be specified in the contract as being excluded from the delivery requirements thereof. Alternatively, paragraph (e) may be limited or made applicable to only those classes of proprietary data determined as being necessary for delivery with limited rights. In addition, when furnishing proprietary data with the Limited Rights Legend, subparagraphs (a), (b), and (c) thereunder may be modified as follows. When proprietary data is to be furnished only for evaluation, subparagraph (a) of the Limited Rights Legend shall be used, and subparagraphs (b) and (c), if otherwise inapplicable, may be deteled. When there is a programmatic requirement that proprietary data be disclosed to other ERDA contractors only for information or use in connection with work performed under their contracts, subparagraph (b) of the Limited Rights Legend shall be used, and subparagraphs (a) and (c) may be deleted if otherwise inapplicable. In either of the foregoing examples, the contractor may, if he can show the possibility of a conflict of interest because of disclosure of such data to certain contractors, or evaluators, exclude such contractors or evaluators from subparagraphs (a) or (b). If the data is required solely for emergency repair or overhaul, subparagraph (c) of the Limited Rights Legend shall be retained, and subparagraphs (a) and (b), may unless otherwise applicable, be deleted. In the event that it is determined that all of the subparagraphs (a), (b), and (c) of the Limited Rights Legend are to be deleted, the word "none" shall be inserted in the Legend after the colon (:).

(e) *Limited rights in proprietary data.* Except as may be otherwise specified in this contract as technical data which are not subject to this paragraph, the Contractor agrees to and does hereby grant to the Government an irrevocable, nonexclusive paid-up license and right to use by or for the Government any proprietary data of the Contractor specifically used in the performance of this contract; provided, however, that to the extent that any proprietary data when furnished or delivered is specifically identified by the Contractor at the time of initial delivery to the Government or a representative of the Government, such data shall not be used within or outside the Government except as provided in the "Limited Rights Legend" set forth below. All such proprietary data shall be marked with the following "Limited Rights Legend":

LIMITED RIGHTS LEGEND

This "proprietary data," furnished under Contract No. _____ with the United States Energy Research and Development Administration (and purchase order No. _____ if applicable) may be duplicated and used by the Government with the express limitations that the "proprietary data" may not be disclosed outside the Government or be used for purposes of manufacture without prior permission of the Contractor, except that further disclosure or use may be made solely for the following purposes:

(a) This "proprietary data" may be disclosed for evaluation purposes under the restriction that the proprietary data be retained in confidence and not be further disclosed;

(b) This proprietary data may be disclosed to other Contractors participating in the Government's program of which this contract is a part for information or use in connection with the work performed under their contracts and under the restriction that the "proprietary data" be retained in confidence and not be further disclosed.

(c) This "proprietary data" may be used by the Government or others on its behalf for emergency repair or overhaul work under the restriction that the "proprietary data" be retained in confidence and not be further disclosed.

This legend shall be marked on any reproduction of this data in whole or in part.

§ 9–9.202–5 Negotiations and deviations.

Contracting officers shall contact the field patent counsel assisting the activity, or the Assistant General Counsel for Patents, for assistance to the contracting officer in selecting, negotiating, or approving appropriate data and copyright clauses in accordance with the procedures as set forth in § 9–9.107–4(k). In particular, advice of patent counsel should be obtained regarding the appropriateness or modification of optional paragraphs (g) and (h) of the Rights in Technical Data (long form) clause, the exclusion of specific items of proprietary data from paragraph (f) in said clause, and the exclusion of the Additional Technical Data Requirements clause of § 9–9.202–3(c).

[FR Doc.77–19987 Filed 7–12–77;8:45 am]

federal register

WEDNESDAY, JULY 13, 1977
PART VI

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Assistant Secretary for Planning and Evaluation

■

TELECOMMUNICATIONS DEMONSTRATION GRANTS

Final Regulations

Title 45—Public Welfare

SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, GENERAL ADMINISTRATION

PART 63—GRANT PROGRAMS ADMINISTERED BY THE OFFICE OF THE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION

Telecommunications Demonstration Grants

AGENCY: Department of Health, Education, and Welfare, (HEW).

ACTION: Final regulations.

SUMMARY: This regulation governs the award of grants for demonstrations to promote the development of non-broadcast telecommunications facilities and services for the transmission, distribution, and delivery of health, education, and public or social service information. The purpose of the regulation is to implement the Telecommunications Demonstration Grant Program authorized by the Educational Broadcasting Facilities and Telecommunications Demonstration Act of 1976.

EFFECTIVE DATE: August 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Howard H. Hupe, Director, Office of Telecommunications Policy, Department of Health, Education, and Welfare, Room 403-E, HEW South Portal Building, 200 Independence Avenue SW., Washington, D.C. 20201. Telephone: 202-245-1891.

SUPPLEMENTARY INFORMATION: The final regulations, which revised Part 63 of Title 45 of the Code of Federal Regulations, established criteria for distribution of grants for telecommunications demonstrations under Section 392A of the Communications Act of 1934, as amended by section 8 of the Educational Broadcasting Facilities and Telecommunications Demonstration Act of 1976 (Pub. L. 94-309, 47 U.S.C. 392a). Proposed regulations were published on January 24, 1977 (42 FR 4135) for review by the public and subsequent revision, as necessary, according to comments received.

A summary of the comments received in response to the proposed regulations, and resultant actions taken with respect to the regulations, are included in the following preamble.

1. *Programming.*—Several individuals and organizations commented that programming distribution services of various kinds, should be eligible for assistance under the Demonstration Program. One respondent suggested that the regulations be changed so as to permit eligibility for information distribution projects from organizations whose capabilities did not necessarily include telecommunications facilities. The same letter requested clarification of the term, "development of programming materials and content."

While it is recognized that availability of programming is critical to utilization of telecommunications systems, programming and programming clearinghouse services are ineligible for support for several reasons:

(a) Programs with specific constituencies are more appropriate locations for determining the need for, and supporting the development of, programming materials because they are intimately familiar with the needs of their respective constituent groups and consequently, in a better position to determine the applicability of programming materials to those needs.

(b) Several sources of programming support are available. As a specific example, the Office of Education supports programming under the Emergency School Aid and Special Projects Acts. In addition, various other agencies sponsor programming under discretionary authorities which provide for dissemination of information to the public.

For these reasons, programming will continue to be excluded from this Program. In support of this policy, one comment noted that the exclusion was a particularly wise decision.

2. *Eligible equipment.*—Several inquiries were made regarding purchase of equipment for: a) training television and radio personnel, b) furnishing homes with radio subcarrier terminals, c) furnishing schools with videocassette recorders, and d) equipping production studios. These requests are generally examples of serious operational needs for large blocks of equipment to supplement existing systems. However, in isolation, they do not constitute a full demonstration and thus, would not qualify for support. In addition, because these kinds of equiument are generally recognized as effective, such demonstrations would not necessarily represent an innovative method of utilizing equipment, as required by the regulations.

Some very worthwhile projects, such as those requesting training equipment, are basically intended for purposes other than those authorized by the legislation for this Program and should, more appropriately, apply for support from other programs. For example, projects that are basically intended for training purposes might more appropriately apply for support from adult and vocational education programs.

3. *Eligible systems.*—Questions were raised as to the eligibility of specialized systems such as the Instructional Television Fixed Service (ITFS), a pending fixed radio service for community education, slow-scan television, mini-microwave, mini-TV broadcast, and community rebroadcast systems. One respondent requested a clarification of the term "non-broadcast telecommunications facilities," for purposes of determining whether a specific system was eligible for a grant. Attention is directed to § 63.-23 (d) and (e) of the regulations. The intent of the definition is to broadly incorporate a wide variety of telecommunications systems or equipment which falls outside the Federal Communications Commission (FCC) definition of broadcasting (roughly stated: radio frequency emissions meant for reception by the general public with commonly available equipment), and therefore are considered non-broadcast. Non-broadcast equipment is specified by the authorizing legislation and is not subject to change by regulation. In some cases, however, it is conceivable that equipment normally associated with broadcasting could be used in a non-broadcast application and would thus qualify for support as part of a demonstration project. It is important that the definition remain flexible in order to stimulate development of innovative projects. Therefore, no change in this section is planned at this time.

With regard to systems which have actions pending before the FCC (such as the fixed radio service mentioned above), it should be noted that all appropriate and necessary coordination with the FCC must have taken place before grant funds may be expended or obligated.

4. *Size of grants.*—Many respondents asked if a specific number of grants would be made, or if there would be limits to the size of grants. One suggested that as much as two-thirds of the first year budget be allocated to a major project and that the remainder be apportioned over a limited number of smaller projects. Efforts will be made to distribute grants among a variety of projects dealing with a variety of technologies and a variety of applications. In addition, it should be noted that competition is expected to be strong for the amount of funds available, as approximately 500 organizations and individuals have indicated preliminary interest in the Program. Proposals will be reviewed by a panel which will include persons from the health, education, social services, and telecommunications fields and recommendations on number and size of grants will be made by them based on the proposals before them. No further limitations on the size of grants is planned at this time.

5. *Research and development.*—Several respondents inquired about grants for feasibility studies or equipment development. Such projects could be considered for funding only within the context of system demonstrations but would not be eligible in isolation. No change is planned for including this kind of project at this time.

6. *Profit-making institutions.*—Two inquiries were made as to whether profit-making institutions were eligible for grants. Attention is directed to the authorizing legislation, Pub. L. 94-309, which indicates that the Secretary may award grants or contracts to "public and private non-profit agencies, organizations, and institutions." This stipulation is repeated in the first paragraph of the FEDERAL REGISTER notice of January 24, 1977. In addition, Department policy requires "that grants be awarded only to non-profit organizations and institutions, governments and their agencies and individuals." Profit-making institutions could, however, participate in the program as suppliers or contractors to non-profit grantees.

7. *Matching requirements.*—Several respondents were concerned about matching funds. Matching funds are not specifically required, but there must be evidence of "significant local commitment" to a proposed project to help ensure that demonstrations meet local needs and hold promise for continued support. One form of commitment could be local contributions in any form.

8. *Closing date.*—There were many comments, both formal and informal, regarding the length of time allowed for response to the Solicitation for Grant Applications. Suggestions were that a 30, 60, or 90-day time period be established, depending upon the perceived needs of prospective applicants. Small organizations, with limited experience in grants processing, favored a longer time period; while projects that could benefit from immediate support favored a short period. In order to accommodate most interests in a fair manner, a 45-day period will be set for submission of proposals.

9. *Eligibility criteria.*—One comment suggested that the criteria for evaluation of projects were quite general and that persons in fields related to specific applications could be helpful in assisting with the evaluation process. The criteria were designed intentionally to serve only as general guidelines for proposals, in order to encourage creativity and to stimulate planning for innovative projects. However, the comment makes a valid point and assistance will be sought, by the review panel, from persons qualified to assess specific applications.

10. *Editorial changes.*—One respondent suggested clarification of the section related to FCC coordination. As a result, some language has been changed to clarify items (1), (4), and (5) under § 63.23 (d).

A suggestion was made that changing the word "structures" to "buildings" in § 63.23(a) would clarify the intent of the Program. While the suggestion has merit, the regulations must conform to current legislative language. However, interested parties are encouraged to submit such recommendations at legislative hearings related to renewal of the Act.

Dated: April 27, 1977.

HENRY AARON,
Assistant Secretary for Planning and Evaluation.

Approved: July 5, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary.

Therefore, 45 CFR Part 63 is amended as follows:

1. By amending § 63.1 as follows:

a. By revising the second sentence of paragraph (a);

b. By revising the heading of paragraph (c); and

c. By adding a new paragraph (c)(2).

§ 63.1 Purpose and scope.

(a) * * * Such grants include those under section 232 of the Community Services Act (42 U.S.C. 2835), section 1110 of the Social Security Act (42 U.S.C. 1310), section 392A of the Communications Act of 1934, and such other authority as may be delegated to the Assistant Secretary for policy research activities. * * *

* * * * *

(c) *Objectives*—(1) *Policy Research.* * * *

(2) *Telecommunications Demonstrations.* The overall objective of the Telecommunications Demonstration Program is to promote the development of nonbroadcast telecommunications facilities and services for the transmission, distribution, and delivery of health, education, and social service information.

§ 63.2 [Amended]

2. By adding after the words "Projects Eligible" in paragraph (b) of § 63.2 a new subparagraph heading as follows:

(b) * * * (1) *Policy Research.* * * *

3. By adding to paragraph (b) § 63.2 a new paragraph to read as follows:

(b) * * *

(2) *Telecommunications Demonstrations.* Any projects which meet the special criteria in § 63.6(c) shall be eligible for a telecommunications demonstration grant.

§ 63.6 [Amended]

4. By revising the last sentence of paragraph (a) of § 63.6 to read as follows:

(a) * * * Such supplements may modify the criteria in paragraphs (b) and (c) of this section to provide greater specificity or otherwise improve their applicability to a given announcement or solicitation.

* * * * *

7. By revising the heading of paragraph (b) of § 63.6 to read as follows:

* * * * *

(b) *Criteria for Evaluation of Policy Research Projects.* * * *

8. By adding after the end of paragraphs (b)(8) of § 63.6 the word "and"; deleting the word "and" from the end of paragraph (b)(9) and inserting in lieu thereof a period; and by redesignating paragraph (b)(10) as paragraph (d) and inserting as a heading thereof (d) *Applicants Performance on Prior Award.*

9. By inserting, after paragraph (b) of § 63.6 a new paragraph (c) to read as follows:

(c) *Criteria for Evaluation of Telecommunications Demonstrations Projects.* Review of applications for Telecommunications Demonstrations grants will take into account such factors as are listed in paragraphs (c)(1) through (10) of this section. Each applicant must include in the application, prior to final evaluation by the Assistant Secretary, documentation indicating specifically and separately how and to what extent each of these criteria have been or will be met:

(1) That the project for which application is made demonstrates innovative methods or techniques of utilizing nonbroadcast telecommunications equipment or facilities to satisfy the purpose of this authority;

(2) That the project will have original research value which will demonstrate to other potential users that such methods or techniques are feasible and cost-effective;

(3) That the services to be provided are responsive to local needs as identified and assessed by the applicant;

(4) That the applicant has assessed existing telecommunications facilities (if any) in the proposed service area and explored their use of interconnection in conjunction with the project;

(5) That there is significant local commitment (e.g., evidence of support, participation, and contribution by local institutions and agencies) to the proposed project, indicating that it fulfills local needs, and gives some promise that operational systems will result from successful demonstrations and will be supported by service recipients or providers;

(6) That demonstrations and related activities assisted under this section will remain under the administration and control of the applicant;

(7) That the applicant has the managerial and technical capability to carry out the project for which the application is made;

(8) That the facilities and equipment acquired or developed pursuant to the applications will be used substantially for the transmission, distribution, and delivery of health, education, or social service information, and that use of such facilities and equipment may be shared among these and additional public or other services;

(9) That the provision has been made to submit a summary and factual evaluation of the results of the demonstration at least annually for each year in which funds are received, in the form of a report suitable for dissemination to groups representative of national health, education, and social service telecommunications interests; and,

(10) That the project has potential for stimulating cooperation and sharing among institutions and agencies, both within and across disciplines.

§ 63.16 [Amended]

10. By adding at the end of § 63.16 the following: ", except as specified in § 63.23 of this subpart."

11. By adding a new section at the end of subpart B to read as follows:

§ 63.23 Telecommunications Demonstration Grants.

The provisions of this section apply only to grants awarded under authority of 392A of the Communications Act of 1934.

(a) Funds provided under the Telecommunications Demonstrations Program shall be available to support the

planning, development, and acquisition or leasing of facilities and equipment necessary to the demonstration. However, funds shall not be available for the construction, remodeling, or repair of structures to house facilities or equipment acquired or developed with such funds, except that such funds may be used for minor remodeling which is necessary for and incident to the installation of such facilities or equipment.

(b) Funds shall not be available for the development of programming materials or content.

(c) The funding of any demonstration under this authority shall continue for not more than three years from the date of the original grant or contract.

(1) Applications for assistance under the Act may project goals and activities over a period of up to three years. Approval of a multi-year project is intended to offer the project a reasonable degree of stability over time and to facilitate additional long range planning.

(2) Applications proposing a multi-year project must be accompanied by an explanation of the need for multi-year support, an overview of the objectives and activities proposed, and budget estimates to attain these objectives in any proposed subsequent year.

(3) Subject to the availability of funds, an application for assistance to continue a project during the project period will be reviewed on a non-competitive basis to determine—

(i) If the award recipient has compiled with the award terms and conditions, the Act, and applicable regulations;

(ii) The effectiveness of the project to date in terms of progress toward its goals, or the constructive changes proposed as a result of the ongoing evaluation of the project; and,

(iii) If continuation of the project would be in the best interests of the Government.

(d) The use of equipment in demonstration projects shall be subject to the rules and regulations of the Federal Communications Commission (FCC), and grant funds may not be expended or obligated for purchase, lease, or use of such equipment prior to appropriate and necessary coordination by the grantee with the Commission. In particular:

(1) For any project requiring a new or modification of an existing authorization(s) from the FCC, application(s) to the FCC for such authorization(s) must have been tendered for filing prior to the closing date established by any solicitation for grant applications offered under the Telecommunications Demonstration Program.

(2) If the project is to be associated with an existing telecommunications activity requiring an FCC authorization, such operating authority for that activity must be current and valid.

(3) For any project requiring a new or modification of an existing authorization(s) from the FCC, the applicant must file with the Secretary of Health, Education, and Welfare a copy of each FCC application and any amendments thereto.

(4) For any project requiring a new or modification of an existing authorization(s) from the FCC, the applicant must tender for filing with the FCC a copy of the application to the Secretary for a telecommunications demonstration grant.

(5) If the applicant fails to file required applications by the closing date established by the solicitation for grant applications, or if the FCC returns as substantially incomplete or deficient, dismisses, or denies an application required for the project, or any part thereof, or for the operation of any facility with which the project is associated, the Secretary may return the application for Federal assistance.

(e) For the purposes of this program, the term 'non-broadcast telecommunications facilities' includes but is not limited to, cable television systems, communications satellite systems and related terminal equipment, and other methods of transmitting, emitting, or receiving images and sounds or intelligence by means of wire, radio, optical, electromagnetic, and other means (including non-broadcast utilization of telecommunications equipment normally associated with broadcasting use).

(f) Each applicant shall provide such information as the Assistant Secretary deems necessary to make a Federal assessment of the impact of the project on the quality of the human environment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (including the National Historical Preservation Act and other environmental acts). (42 U.S.C. 4332(2)(C)).

[FR Doc.77-20150 Filed 7-12-77;8:45 am]

federal register

WEDNESDAY, JULY 13, 1977

PART VII

INTERSTATE COMMERCE COMMISSION

■

ABANDONMENT OF RAILROAD SERVICES

System Diagram Maps of Various Railroad Companies

INTERSTATE COMMERCE COMMISSION

[AB 196 (SDM)]

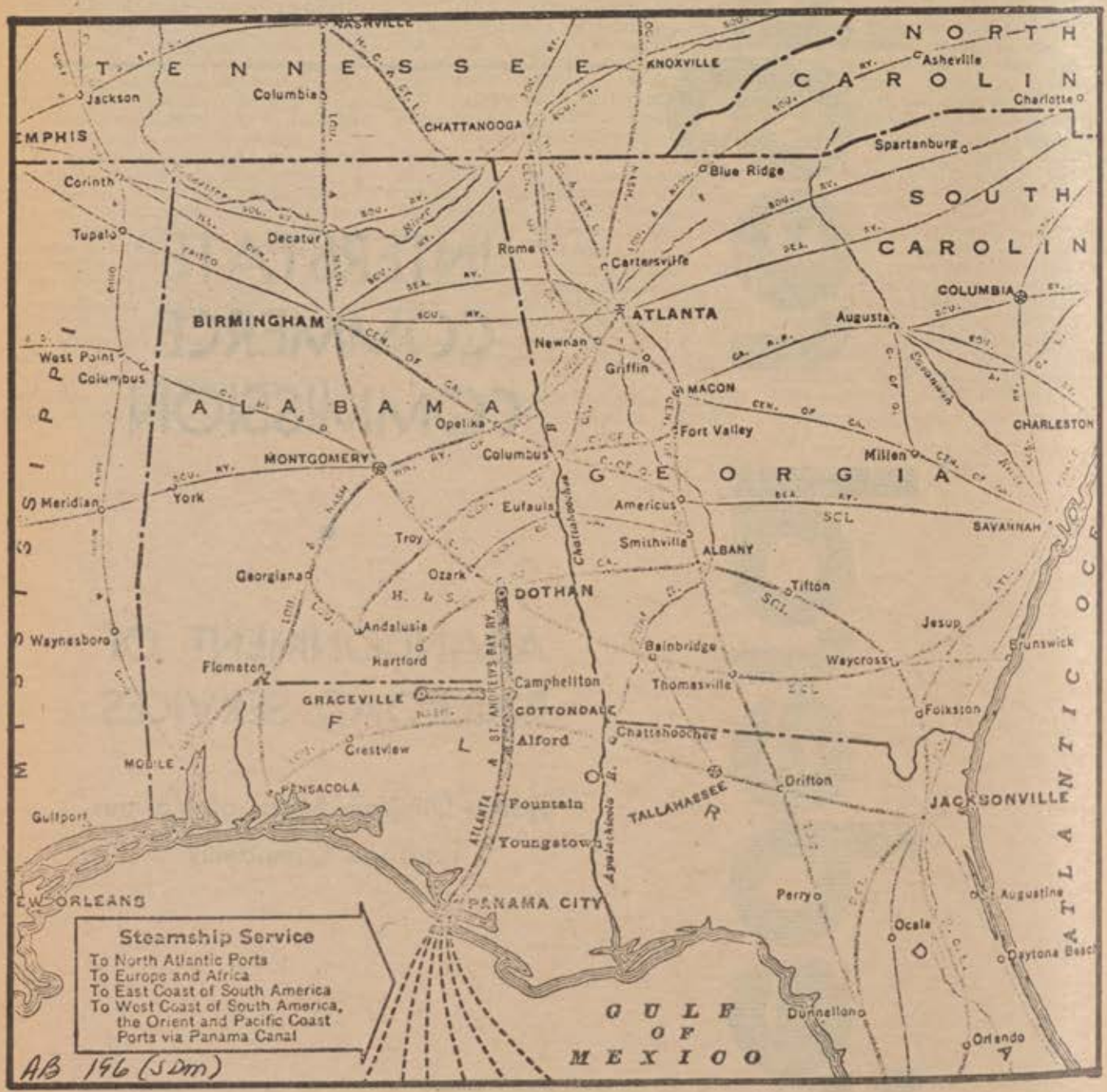
ATLANTA & SAINT ANDREWS BAY RAILWAY CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Atlanta & Saint Andrews Bay Railway Company, has filed with the Commission its color-coded system diagram map in docket No. AB 196 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commisison or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the Office of the Commission, Section of Dockets, by requesting docket No. AB 196 (SDM).

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



[FR Doc.77-19820 Filed 7-12-77;8:45 am]

[AB 77 (SDM)]

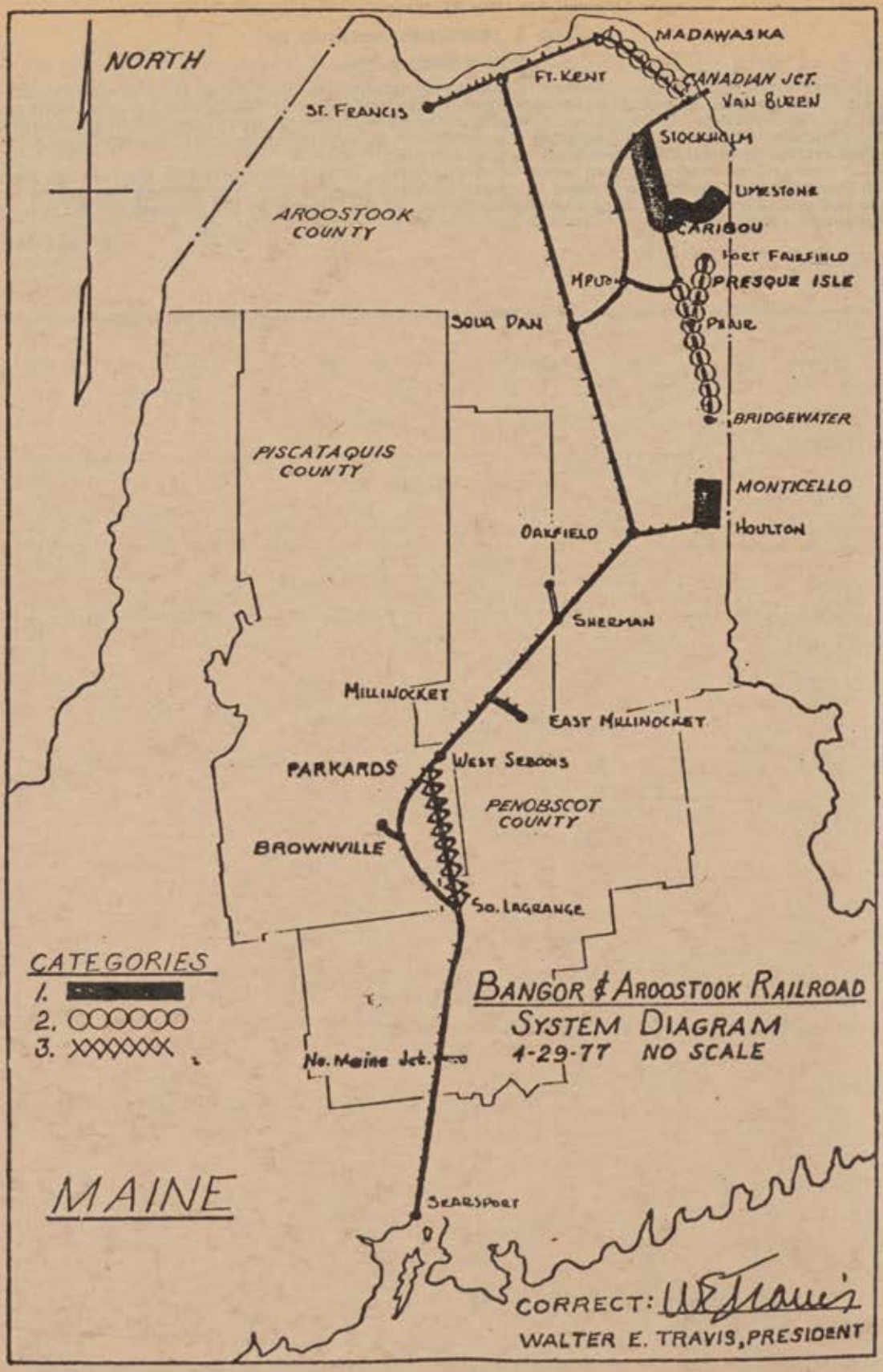
BANGOR & AROOSTOOK RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22 that the Bangor and Aroostook Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 77 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on May 20, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 77 (SDM).

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


NORTH
MADAWASKA
FT. KENT
CANADIAN JCT.
VAN BUREN
ST. FRANCIS
STOCKHOLM
LIMESTONE
AROOSTOOK COUNTY
CARIBOU
FORT FAIRFIELD
PRESQUE ISLE
SOUR DAN
PENOBSCOT
BRIDGEWATER
PISCATAQUIS COUNTY
MONTICELLO
OAKFIELD
HOULTON
SHERMAN
MILLINOCKET
EAST MILLINOCKET
PARKARDS
WEST SEBOOMS
PENOBSCOT COUNTY
BROWNVILLE
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BANGOR & AROOSTOOK RAILROAD
SYSTEM DIAGRAM
1-29-77 NO SCALE
No. Maine Jct.
MAINE
SEARSPORT
CORRECT:
WALTER E. TRAVIS, PRESIDENT

DESCRIPTION OF LINES, ALL WITHIN THE STATE OF MAINE, IN CATEGORIES No. 1 THROUGH No. 3

SYSTEM DIAGRAM MAP

No. 1 Category

(A) 13.67 miles of branch line between Caribou (Mile 227.93) and Stockholm (Mile 241.60) in Aroostook County.

(B) 14.62 miles of the Limestone "L" Branch between Caribou (Mile L–1.05) and Limestone (Mile L–15.67) in Aroostook County.

(C) 10.76 miles of branch line between Houlton (Mile 167.95) and Monticello (Mile 178.71) in Aroostook County. Station at Houlton Mile 166.03.

No. 2 Category

(A) 16.45 miles of branch line between Bridgewater (Mile 188.83) and Phair (Mile 205.28) in Aroostook County.

(B) 18.45 miles of track, 5.18 miles of branch line between Phair (Mile 205.28) and Presque Isle (Mile 210.46) and 13.27 miles of the Fort Fairfield "F" Branch between Phair (Mile F–0.00) and Fort Fairfield (Mile F–13.27) in Aroostook County. Station at Presque Isle Mile 211.64.

(C) 20.16 miles of the Van Buren "V" Branch between Canadian Junction (Mile V–2.47) and Madawaska (Mile V–22.63) in Aroostook County. Station at Madawaska Mile V–25.05.

No. 3 Catgory

(A) 27.96 miles of the Medford Cut-off "M" between South Lagange (Mile M–0.00) and Packard (Mile M–27.96) in Penobscot and Piscataquis Counties.

[49 CFR Part 1121]

BANGOR & AROOSTOOK RAILROAD CO.–AB 77

CATEGORIES OF TRACK SHOWN ON SYSTEM DIAGRAM MAP

Section 1121.20(b).

(1) All lines or portions of lines which the Carrier anticipates will be the subject of an abandonment or discontinuance application to be filed within the three year period following the date upon which the diagram, or any amended diagram, is filed with the Commission.

(2) All lines or portions of lines potentially subject to abandonment which the Carrier has under study and believes may be the subject of a future abandonment application because of either anticipated operating losses or excessive rehabilitation costs as compared to potential revenues.

(3) All lines or portions of lines for which an abandonment or discontinuance application is pending before the Commission on the date upon which the diagram, or any amended diagram, is filed with the Commission.

[FR Doc.77–19819 Filed 7–12–77;8:45 am]

[AB 195 (SDM)]

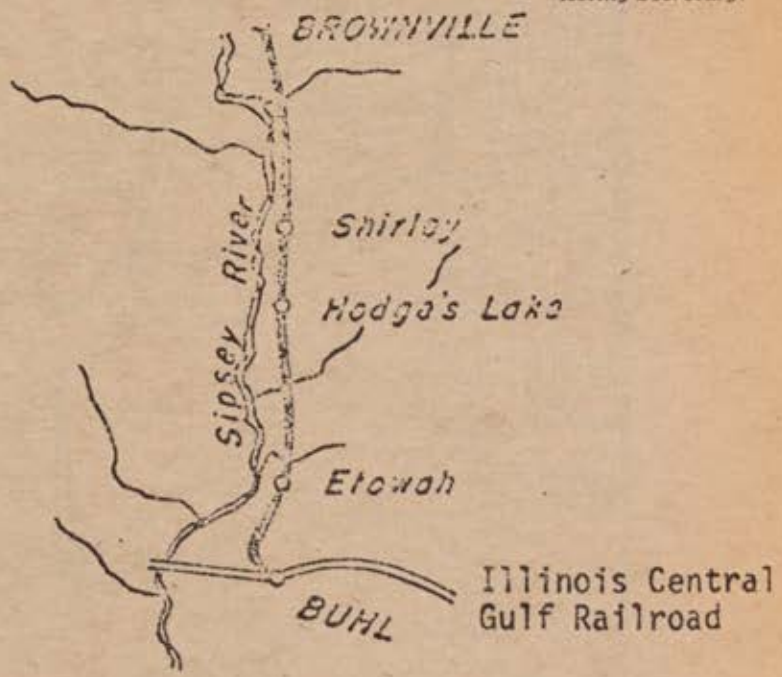
MOBILE & GULF RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Mobile & Gulf Railroad Company, has filed with the Commission its color-coded system diagram map in Docket No. AB 195 (SDM). The maps reproduced here in black and white are reasonable reproductions of that map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map also may be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 195 (SDM).

H. G. HOMME, Jr.,
Acting Secretary.



MOBILE & GULF RAILROAD CO.
Scale 1" = 4 Miles

F.F. DUNCAN, C.E.

[FR Doc.77–19821 Filed 7–12–77;8:45 am]

[AB 139 (SDM)]

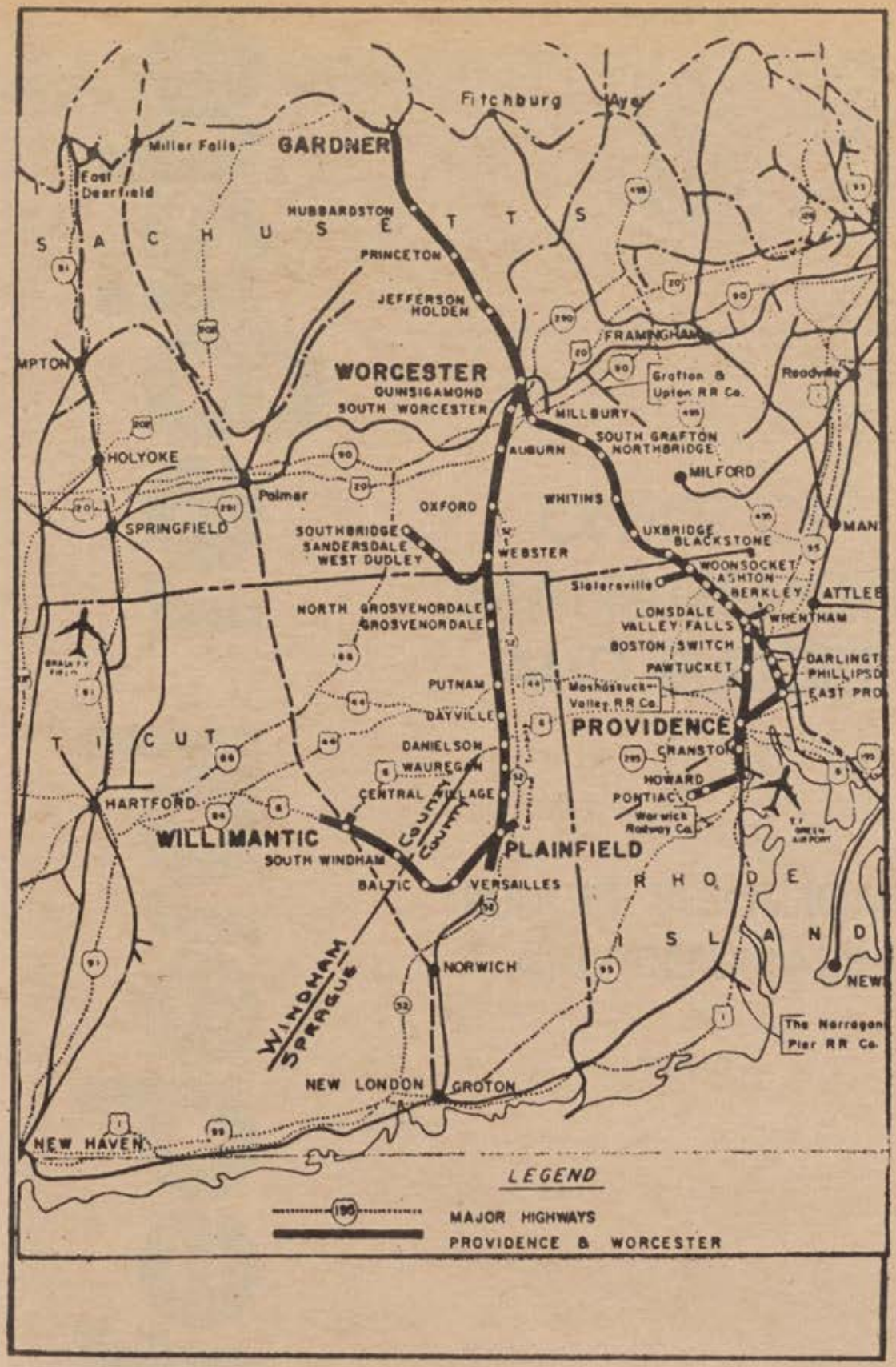
PROVIDENCE & WORCESTER RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Providence and Worcester Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 139 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 139 (SDM).

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



[FR Doc.77-19822 Filed 7-12-77;8:45 am]

federal register

WEDNESDAY, JULY 13, 1977

PART VIII

OFFICE OF MANAGEMENT AND BUDGET

■

BUDGET RESCISSIONS AND DEFERRALS

Reports

OFFICE OF MANAGEMENT AND BUDGET

BUDGET RESCISSIONS AND DEFERRALS

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Impoundment Control Act of 1974, I herewith propose rescission of $850,000 appropriated for the National Transportation Safety Board. In addition, I am reporting three new deferrals of budget authority totalling $170.1 million and revisions to two deferrals previously transmitted that contain increases totalling $22.2 million.

The details of the proposed rescission and the deferrals are contained in the attached reports.

Jimmy Carter

THE WHITE HOUSE,
July 7, 1977.

CONTENTS OF SPECIAL MESSAGE
(In thousands of dollars)

Rescission #	Item	Budget Authority
	Other Independent Agencies:	
	National Transportation Safety Board	
R77-15	Salaries and expenses	850
Deferral #		
	Funds Appropriated to the President:	
	International Security Assistance	
D77-37A	Military assistance	79,000
	Department of State:	
	Administration of Foreign Affairs	
D77-59	Acquisition, operation, and maintenance of buildings abroad (special foreign currency program)	18,000
	Department of the Treasury:	
	Office of the Secretary	
D77-60	Antirescission financial assistance fund	150,000
D77-28A	State and local government fiscal assistance trust fund	97,680
	Department of Transportation:	
	Federal Aviation Administration	
D77-61	Construction, Metropolitan Washington Airports	2,100
	Subtotal, deferrals	346,780
	Total, rescission and deferrals	347,630

SUMMARY OF SPECIAL MESSAGES
FOR FY 1977
(in thousands of dollars)

	Rescissions	Deferrals
Thirteenth special message:		
New items	850	170,100
Changes to amounts previously submitted	---	22,180
Effect of the thirteenth special message	850	192,280
Previous special messages	1,166,590	7,249,312
Total amount proposed in special messages	1,167,440 (in 15 rescission proposals)	7,441,592 (in 61 deferrals)

NOTE: All amounts listed represent budget authority except for $134,807,092 consisting of two general revenue sharing deferrals of outlays only (D77-26 and D77-27A). Reports for D77-26 and D77-27A are included in the special messages of October 1, 1976, and December 3, 1976, respectively.

Rescission Proposal No: R77-15

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency National Transportation Safety Board	New budget authority (P.L. 94-387) $13,800,000
Bureau	Other budgetary resources -0-
Appropriation title & symbol	Total budgetary resources 13,800,000
Salaries and Expenses 9570310	Amount proposed for rescission $850,000
OMB identification code: 95-0310-0-1-407	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

The Department of Transportation and Related Agencies Appropriation Act, 1977, provided funds to the National Transportation Safety Board for an increase of 71 end-of-year permanent positions over the actual FY 1976 level. Delays in filling the additional positions have resulted in the accumulation of $850,000 that cannot be obligated by the end of this fiscal year when the availability of the funds ceases. Therefore, $850,000 has been placed in reserve and is proposed for rescission in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effects:

This rescission request is prompted by delays that have already occurred in filling additional permanent positions. Therefore, the rescission proposal will have no programmatic impact.

Outlay Effect:

There is no outlay effect of this proposal since the funds cannot be used.

NATIONAL TRANSPORTATION SAFETY BOARD

Salaries and expenses

Of the funds appropriated under this head in the Department of Transportation and Related Agencies Appropriation Act, 1977, $850,000 are rescinded.

D77-37A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. D77-37 transmitted to the Congress on December 3, 1976, and printed as House Document 95-4 and Senate Document 95-14.

This revision reflects an increase in the amount deferred for the Military assistance account within International Security Assistance. The $73 million originally deferred has been increased by $6 million bringing the total now deferred to $79 million. The $6 million increase consists of funds originally programmed for Ethiopia. However, military assistance to Ethiopia has been suspended because of the recent expulsion from that country of several official American personnel. The $6 million will be deferred pending foreign policy developments that may make it appropriate to resume military aid.

Deferral No: D77-37A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Funds Appropriated to the President	New budget authority (P.L. 94-441, P.L. 95-26) $264,550,000 *
Bureau International Security Assistance	Other budgetary resources 62,590,392 *
Appropriation title & symbol: Military Assistance, 1977 1171080	Total budgetary resources 327,140,392 *
	Amount to be deferred: Part of year $79,000,000*
	Entire year
OMB identification code: 11-1080-0-1-052	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program [X] Yes [ ] No	[ ] Other
Type of account or fund: [X] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year (expiration date)	[ ] Contract authority
[ ] No-year	[ ] Other

*JUSTIFICATION:

Pursuant to the Foreign Assistance Act of 1961, as amended, the President is authorized to furnish military assistance "...to any friendly country or international organization, the assisting of which the President finds will strengthen the security of the United States and promote world peace..." The Foreign Assistance and Related Programs Appropriation Act, 1977 (Public Law 94-441) appropriated $247,300,000 for fiscal year 1977 for this purpose. In addition, the Supplemental Appropriations Act, 1977 (Public Law 95-26) appropriated $17,250,000.

In 1974 the Congress enacted Section 620(x) of the Foreign Assistance Act of 1961, as amended, which suspends all military assistance to the Government of Turkey "...until the President determines and certifies to the Congress that substantial progress toward agreement has been made regarding military forces in Cyprus..." In 1976, legislation was proposed that would have the effect of removing the restrictions on military assistance to Turkey contained in Section 620(x), but the legislation was not enacted. The amount planned for Turkey in this account in fiscal year 1977, $73 million, has been deferred pending a Presidential certification regarding Cyprus or enactment of legislation by the 95th Congress which removes the Presidential certification requirements. Additionally, $6 million programmed for Ethiopia is being deferred due to the current suspension of military deliveries to that country. Military aid was suspended when several official American personnel were expelled from that country. The $6 million will be deferred pending foreign policy developments that may make it appropriate to resume military aid to Ethiopia.

ESTIMATED EFFECT:

This deferral will have no programmatic or budgetary impact.

OUTLAY EFFECT:

There is no outlay effect resulting from this deferral.

Deferral No: 77-59

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of State	New budget authority (P.L. 94-362 and 95-26): $ 30,235,000
Bureau:	Other budgetary resources: 11,443,357
Appropriation title & symbol: Acquisition, Operation, and Maintenance of Buildings Abroad (Special Foreign Currency Program) 19x0538	Total budgetary resources: 41,678,357
	Amount to be deferred: Part of year: $; Entire year: 18,000,000
OMB Identification code: 19-0538-0-1-152	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund: [ ] Annual; [ ] Multiple-year (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

JUSTIFICATION: The Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-301), empowers the Secretary of State to acquire buildings, residences, and grounds by purchase, construction, long-term lease, or exchange in foreign countries for use by the U.S. Government and its employees and to operate and maintain such facilities.

The Supplemental Appropriations Act, 1977, (P.L. 95-26) appropriated $24.7 million to this account for the purpose of acquiring three sites, developing plans and specifications, and constructing three apartment buildings for State and Agency for International Development personnel in Cairo, Egypt. The objective of this project is to stabilize housing costs in an area characterized by spiraling rental costs in a severely competitive real estate market.

Because of the time required to survey, to complete the necessary legal and administrative details associated with acquiring land in Cairo, and to design the necessary buildings, the Department will be unable in fiscal year 1977 to obligate the major portion of the supplemental funds made available for this project. It is currently estimated that, of the $24.7 million supplemental appropriation, $6.7 million will be obligated in 1977 for site acquisition and architectural and engineering costs. The remaining $18 million that is intended for construction costs of the three buildings will be obligated in 1978, and is reserved under authority of the Antideficiency Act (31 U.S.C. 665).

ESTIMATED EFFECTS: The deferral of these funds will have no effect on the Department's overseas building program.

OUTLAY EFFECTS: There is no outlay effect of this deferral.

Deferral No: D77-60

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Treasury	New budget authority (P.L. 94-447, 95-29): $1,570,000,000
Bureau: Office of the Secretary	Other budgetary resources: 312,500,000
Appropriation title & symbol: Antirecession Financial Assistance Fund 1/ 20-7/80108	Total budgetary resources: 1,882,500,000
	Amount to be deferred: Part of year: $ —; Entire year: 150,000,000
OMB Identification code: 20-0108-0-1-852	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☒ Yes ☐ No	☐ Other
Type of account or fund: ☐ Annual; ☒ Multiple-year September 30, 1978 (expiration date); ☐ No-year	Type of budget authority: ☒ Appropriation; ☐ Contract authority; ☐ Other

Justification:

The Economic Stimulus Appropriations Act, 1977, (P.L. 95-29), provided $632.5 million in supplemental funding for the Antirecession financial assistance program. The purpose for that appropriation was to accelerate funding for the program in the last quarter of fiscal year 1977. Based on current projections, the appropriation is $150 million in excess of the funds required to accelerate the program for the last quarter.

In addition, legislation (P.L. 95-30) has been enacted which entitles U.S. territories to receive one percent of the total quarterly allocation for the fourth quarter of fiscal year 1977. However, no additional funds have been appropriated to fulfill this requirement. A reprogramming of $4-5 million from the deferred funds may be accomplished to finance the allocations to the territories.

Estimated Effects:

This action will not impact the implementation of Antirecession financial assistance program. The $150 million deferral will be reserved for the remainder of fiscal year 1977 (possibly, less $4-5 million that may be reprogrammed), and made available to meet program requirements in fiscal year 1978.

1/ This account is the subject of another deferral, D77-57.

Outlay Effect (estimated in millions of dollars)

Comparison with President's 1978 budget:

1. Budget outlay estimate for FY 1977	$ 2,175.0
2. Outlay savings, if any, included in the budget outlay estimate	-0-
Current Outlay Estimates for FY 1977:	
3. Without deferral	1,882.5
4. With deferral	1,732.5
5. Current outlay savings (line 3 - line 4)	+150.0
Outlay savings for FY 1978	-150.0
Outlay savings for FY 1979	-0-

D77-28A

SUPPLEMENTARY REPORT
Report Pursuant to Section 1014(c) of P.L. 93-344

This report updates Deferral No. D77-28 transmitted to the Congress on October 1, 1976, and printed as House Document No. 94-650.

This report for the State and local government fiscal assistance trust fund in the Office of the Secretary of the Treasury increases the previously reported deferral from $81.5 million to $97.7 million. This increase of $16.2 million is the net effect of releases made through the course of the year and the addition of $25.0 million derived from additional budgetary resources appropriated in P.L. 95-29.

Deferral No: D77-28A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Treasury	New budget authority (P.L. 92-512 & 95-29): $6,654,780,000*
Bureau: Office of the Secretary	Other budgetary resources: 83,953,000*
Appropriation title & symbol: State and Local Government Fiscal Assistance Trust Fund 1/ 20X8111	Total budgetary resources: 6,738,733,000*
	Amount to be deferred: Part of year: $ 3,000,000*
	Entire year: 94,680,000*
OMB identification code: 20-8111-0-7-851	* Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [X] Yes [ ] No	[X] Other: P.L. 92-512 & P.L. 94-488, section 6.
* Type of account or fund: [ ] Annual; [ ] Multiple-year _____ (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other _____

*Justification:

The Secretary of the Treasury must hold a portion of this account in reserve to meet valid claims from State and local governments that past general revenue sharing payments to them were too small. Because the total amount appropriated for all governments is fixed, the alternative to such a reserve is recurring recomputations of entitlements of 39,000 governments for prior entitlement periods. Accordingly, the Office of Revenue Sharing withheld from obligation an amount equal to one-half of one percent of the amounts appropriated for each entitlement period through FY 1975. In addition, one-half of one percent of the $4,991 million appropriated for general revenue sharing in the Economic Stimulus Appropriations Act, 1977 (P.L. 95-29) is now being withheld from obligation.

This cumulative unobligated reserve is available to the Secretary of the Treasury to satisfy legitimate claims against the Trust Fund for prior entitlement periods. After adjusting for such releases from the reserve, the amount now deferred is $97.7 million. The unobligated amount retained in the Trust Fund will be further reduced whenever the Secretary determines that a lesser amount is adequate to meet foreseeable liabilities against the Trust Fund. The reduction will be made by paying the additional amount to recipients as part of a regular distribution.

Estimated Effect:

This action will postpone distribution of the amount of the reserve until necessary adjustments and corrections have been identified. It will also avoid substantial confusion and complexities in the administration of the program.

*Revised from previous report.

1/ This account is the subject of two other deferrals, D77-26 and D77-27A.

*Outlay Effect (estimated in millions of dollars):

Comparison with President's 1977 Budget:

1. Budget outlay estimate for FY 1977	$6,776.0
2. Outlay savings, if any, included in the budget outlay estimate	-0-
Current Outlay Estimates for FY 1977:	
3. Without deferral	6,853.0
4. With deferral	6,758.3
5. Current outlay savings (line 3 - line 4)	+94.7
Outlay savings for FY 1978	-94.7
Outlay savings for FY 1979	-0-

* Revised from previous report.

Deferral No: D77-61

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Transportation	New budget authority (P.L. 94-387) $ 5,000,000
Bureau Federal Aviation Administration	Other budgetary resources 12,935,944
Appropriation title & symbol Construction, Metropolitan Washington Airports 69X1333 695/71333 696/81333 697/91333	Total budgetary resources 17,935,944
	Amount to be deferred: Part of year $ ____ Entire year 2,100,000
OMB identification code: 69-1333-0-1-405	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other ____
Type of account or fund: ☐ Annual 695/71333 Sept. 30, 1977 1/ 696/81333 Sept. 30, 1978 ☒ Multiple-year 697/91333 Sept. 30, 1979 (expiration date) ☒ No-year 69X1333	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification:

This appropriation finances construction of major improvements and expansion of facilities at Washington National and Dulles International Airports. Projects are undertaken to insure capability of these airports to adequately, safely, and efficiently meet air travel needs of the public and to promote development of aviation. Because of the time required for the selection of engineering consultant firms and negotiation of construction contracts, it is not possible to finalize all contracts during FY 1977. This deferral of $2.1 million is being reported because the construction contract for the pedestrian connection to the METRO station at Washington National Airport will not be awarded during fiscal 1977. Selection of a consultant engineering firm to design the connection is in process and a design contract is expected to be awarded by June 1977. The earliest time the construction contract can be expected to be awarded is the second quarter of FY 1978. This deferral action is consistent with the Congressional intent to provide multi-year funding for total costs of these projects and is taken under provisions of the Antideficiency Act (31 USC 665).

Estimated Effects:

The amount deferred could not be economically used, if made available, in fiscal year 1977 because of the planned multi-year design and construction cycle. The construction contract for the pedestrian connection to the METRO station will be deferred through FY 1977 to FY 1978. None of the deferred funds, however, will lapse.

1/ None of these funds are deferred.

Outlay Effect:

There is no outlay effect of this deferral.

[FR Doc.77-20217 Filed 7-11-77;11:45 am]

CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS

JULY 1977.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014(e) provides for a monthly report listing all current year budget authority with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This month's report gives the status as of July 1, 1977, of the 14 rescissions and 58 deferrals contained in the first 12 special messages transmitted to the Congress for fiscal year 1977. These messages were transmitted to the Congress on July 29, September 22, October 1, November 5, December 3, 1976, January 7, and 17, March 9, and 24, April 4, and 28, and May 18, 1977.

RESCISSIONS (TABLE A AND ATTACHMENT A)

One rescission totaling $126.2 million in FY 1977 budget authority is presently before the Congress. Table A summarizes the status of rescissions proposed as of July 1, 1977. Attachment A shows the history and status of each rescission proposed for fiscal year 1977.

DEFERRALS (TABLE B AND ATTACHMENT B)

As of July 1, 1977, $4,276.4 million in 1977 budget authority was being deferred from obligation and another $38.0 million in 1977 obligations was being deferred from expenditure. Table B summarizes the status of existing deferrals. Attachment B shows the history and status of each deferral proposed during fiscal year 1977.

INFORMATION FROM SPECIAL MESSAGES

The special messages containing information on each of the rescissions and deferrals covered by the cumulative report are contained in the Federal Registers of:

Tuesday, August 3, 1976 (Vol. 41, No. 150, Part VI)
Monday, September 27, 1976 (Vol. 41, No. 188, Part III)
Thursday, October 7, 1976 (Vol. 41, No. 196, Part IV)
Wednesday, November 10, 1976 (Vol. 41, No. 218, Part VII)
Wednesday, December 8, 1976 (Vol. 41, No. 237, Part II)
Thursday, January 13, 1977 (Vol. 42, No. 9, Part X)
Monday, January 24, 1977 (Vol. 42, No. 15, Part VIII)
Wednesday, March 16, 1977 (Vol. 42, No. 51, Part IV)
Wednesday, March 30, 1977 (Vol. 42, No. 61, Part VI)
Friday, April 8, 1977 (Vol. 42, No. 68, Part VI)
Wednesday, May 4, 1977 (Vol. 42, No. 86, Part VI)
Monday, May 23, 1977 (Vol. 42, No. 99, Part IX)

BERT LANDE,
Director.

TABLE A

STATUS OF 1977 RESCISSION PROPOSALS

	Amount (In millions of dollars)
Proposed rescissions	1,261.6
Withdrawn (R77-4A, Special Message No. 4, R77-13A, Special Message No. 8)	-95.0
Accepted by the Congress (R77-3, R77-5, R77-8, R77-9, R77-10, R77-11)	-711.6
Rejected by the Congress	-60.4
Adjustments	-268.4 1/
Pending before the Congress	126.2

TABLE B

STATUS OF 1977 DEFERRALS

	Amount (In millions of dollars)
Proposed deferrals	7,249.3
Routine Executive releases (-2,449.7M) and adjustments (-459.6M) 2/ through July 1, 1977.	-2,909.3
Overturned by the Congress	-25.6
Currently before the Congress	4,314.4 3/

1/ This amount is the difference between $721.0 million in Navy shipbuilding and conversion funds originally proposed for rescission and $452.6 million rescinded. When the rescission was proposed, these funds were already obligated for supply contracts. In testimony before the House Appropriations Committee, the Secretary of Defense concurred in the opinion that these contracts should not be terminated.

2/ An amount equal to $1,652.7 million included in the "Adjustments" column of Attachment B to this report represents superseded deferrals. This amount is not included in the "Adjustments" entry above because superseded deferrals are netted out in calculating the amount shown on the line "Deferrals proposed by the President" to avoid double counting.

3/ Includes $38.0 million of outlays in two Treasury deferrals--D77-26 and D77-27A.

ATTACHMENT A

A-1

STATUS OF RESCISSIONS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

As of July 1, 1977

Agency/Bureau/Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Funds Appropriated to the President							
International Security Assistance:							
Foreign military credit sales.....	R77-5	[41,500] 1/	01-17-77	41,500 2/	03-25-77		
Department of Commerce							
U.S. Travel Service							
Salaries and expenses.	R77-6	[525]	01-17-77			525	03-15-77
National Oceanic and Atmospheric Administration:							
Operations, research, and facilities.....	R77-7	[1,500]	01-17-77			1,500	03-15-77
Department of Defense-Military							
Retired pay, Defense....	R77-8	[143,600]	01-17-77	143,600 2/	03-25-77		
Shipbuilding and conversion, Navy.....	R77-9	[721,000] 3/	01-17-77	452,600 2/	03-25-77		
Shipbuilding and conversion, Navy.....	R77-14	126,212	05-18-77				
Other procurement, Air Force.....	R77-10	[14,350]	01-17-77	14,350 2/	03-25-77		
Department of Defense-Civil							
Corps of Engineers-Civil:							
Revolving fund.....	R77-2	[6,600]	09-22-76			6,600	03-02-77
Department of the Interior							
Bureau of Mines:							
Helium fund.....	R77-3	[47,500]	09-22-76	47,500 4/	03-10-77		

A-2

Agency/Bureau/Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Department of State							
Contributions for international peace-keeping activities.....	R77-11	[12,000]	01-17-77	12,000 2/	03-25-77		
Department of Transportation							
Federal Highway Administration:							
Highway crossing Federal projects.....	R77-4	[35,000]	09-22-76				
	R77-4A	0	11-05-76			35,000 5/	10-01-76
Coast Guard:							
Retired pay.....	R77-12	[6,803]	01-17-77			6,803	03-15-77
Other Independent Agencies							
Legal Services Corporation:							
Payment to the Legal Services Corporation.	R77-1	[45,000] 6/	07-29-76			45,000 6/	10-01-76
Small Business Administration:							
Business loan and investment fund.....	R77-13	[60,000]	01-17-77				
	R77-13A	0	03-09-77			60,000 7/	10-01-76 7/
TOTAL:		126,212		711,550		155,428	

1/ This amount was included in a deferral (D77-38) that was transmitted to the Congress on 12-03-76.
2/ P.L. 95-15.
3/ Of the $721,000,000 proposed for rescission, $452,600,000 was rescinded because the difference, totaling $268,400,000, was previously obligated. The $452,600,000 was assumed to be included in a deferral (D77-34) transmitted to the Congress on 11-05-76.
4/ P.L. 95-10.
5/ A supplementary report withdrawing the proposed rescission was transmitted to the Congress on November 5, 1976.
6/ These funds were not withheld during the 45-day Congressional consideration period.
7/ A supplementary report withdrawing the proposed rescission was transmitted to the Congress on March 9, 1977. These funds were not withheld during the 45-day Congressional consideration period.

STATUS OF DEFERRALS

ATTACHMENT B

B-1

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Funds Appropriated to the President

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 07-01-77
Emergency Refugee and Migration Assistance Fund	D77-1		8,640	10-01-76					
				10-26-76	-1,000				
				11-12-76	-1,200				
				12-29-76	-2,000				
				01-10-77	-1,000				
				01-31-77	-2,100				
				05-25-77				+3,660	5,000
International Security Assistance									
Military assistance, 1977	D77-37		73,000	12-03-76					73,000
Foreign military credit sales	D77-38		740,000	12-03-76				-41,500 1/	
				01-10-77	-23,627				
				01-25-77	-565,533				
				05-06-77	-27,500				
				05-20-77				+12,258	74,098
TOTAL:			821,640		-643,960			-25,582	152,098

1/ This amount was proposed for rescission (R77-5). The proposal was accepted by the Congress in P.L. 95-15.

B-2

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Agriculture

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 07-01-77
Foreign Agricultural Service									
Salaries and expenses: (Special foreign currency program)	D77-2	[1,610]		10-01-76					
				01-17-77				-1,610 1/	
	D77-2A		1,743	01-17-77					1,743
Agricultural Stabilization and Conservation Service									
Commodity credit corporation administrative expenses	D77-3		2,919	10-01-76					
				12-30-76	-2,629				
				03-25-77	-84				
				05-19-77	-140				66
Forest Service									
Expenses, brush disposal	D77-4		22,321	10-01-76					22,321
Licensee programs	D77-5	[146]		10-01-76					
				01-17-77				-146 1/	
	D77-5A		239	01-17-77					239
TOTAL:		1,756	27,222		-2,853			-1,756	24,369

1/ Subsequently incorporated in a supplementary report.

B-3

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Commerce

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 07-01-77
General Administration									
Special foreign currency program	D77-45		654	01-17-77					654
National Oceanic and Ateospheric Administration									
Operations, research, and facilities	D77-46	[7,500]		01-17-77					
				03-28-77	-1,200				
				04-28-77				-6,300 1/	
	D77-46A		6,300	04-28-77					6,300
Promote and develop fishery products and research pertaining to American fisheries	D77-6	[1,771]		10-01-76					
				01-07-77				-1,771 1/	
	D77-6A		1,772	01-07-77					
				03-08-77	-600				1,172
Fisheries loan fund	D77-7		5,799	10-01-76					5,799
Offshore shrimp fisheries fund	D77-8		59	10-01-76					
				05-06-77	-58				1
Fisherman's guaranty fund	D77-9	[356]		10-01-76					
				01-07-77				-356 1/	
	D77-9A		544	01-07-77					544

B-4

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Commerce (continued)

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 07-01-77
Maritime Administration									
Ship construction	D77-47	[200,900]		01-17-77					
				04-04-77				-200,900 1/	
	D77-47A		200,900	04-04-77					
				05-16-77	-102,900				98,000
TOTAL:		210,527	216,028		-104,758			-209,327	112,470

1/ Subsequently incorporated in a supplementary report.

B-5

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Defense, Military

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 07-01-77
Shipbuilding and conversion, Navy.....	D77-3A		929,250	11-05-76 01-17-77				-452,600 1/	476,650
Military construction, all services.....	D77-10	[76,483]		10-01-76 12-03-76				-76,483 2/	
	D77-10A	[335,803]		12-03-76 01-17-77				-335,803 2/	
	D77-10B	[387,652]		01-17-77 03-09-77				-387,652 2/	
	D77-10C		424,240	03-09-77 03-25-77 03-28-77 03-30-77 04-12-77 04-14-77 05-23-77 06-08-77	-12,960 -18,527 -34,011 -8,210 -5,425 -24,253 -29,931				290,923
TOTAL:		800,018	1,353,490		-133,317			-1,252,618	767,573

1/ This amount was included in a rescission proposal (R77-9). The proposal was accepted by the Congress in P.L. 95-15.
2/ Subsequently incorporated in a supplementary report.

B-6

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Defense, Civil

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 07-01-77
Corps of Engineers-Civil Construction, general...	D77-5J	[7,760]		03-24-77 03-14-77	-5,095				
	D77-5JA		2,665	05-18-77 05-18-77				-2,665 1/	2,665
Panama Canal Canal Zone Government: Capital outlay.....	D77-11		146	10-01-76					146
Miscellaneous Accounts Wildlife conservation, etc., military reservations.....	D77-12	[363]		10-01-76 03-09-77				-363 1/	
	D77-12A		515	03-09-77					515
TOTAL:		8,123	3,326		-5,095			-3,028	3,326

1/ Subsequently incorporated in a supplementary report.

B-7

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Health, Education, and Welfare

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 07-01-77
Office of the Assistant Secretary for Health									
Scientific activities overseas (Special foreign currency program)	D77-13	[1,113]		10-01-76 01-07-77				-1,113 1/	
	D77-13A		2,113	01-07-77					2,113
Office of Education									
Higher education	D77-14	[31,702]		10-01-76 11-05-76				-31,702 1/	
	D77-14A		303,862	11-05-76 02-28-77	-23,082				280,780
Social Security Administration									
Limitation on construction	D-77-15	[17,272]		10-01-76 11-05-76				-17,272 1/	
	D77-15A		18,673	11-05-76					18,673
Special Institutions									
Howard University	D77-35		500	11-05-76					500
TOTAL:		50,087	325,148		-23,082			-50,087	302,066

1/ Subsequently incorporated in a supplementary report.

B-8

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of the Interior

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 07-01-77
Bureau of Land Management									
Oregon and California grant lands	D77-16	[5,426]		10-01-76 05-18-77				-5,426 1/	
	D77-16A		7,615	05-18-77					7,615
Bureau of Reclamation									
Colorado River Basin Project	D77-54		4,790	03-24-77 03-15-77	-4,790				0
Bureau of Outdoor Recreation									
Land and water conservation fund	D77-17		30,000	10-01-76					30,000
National Park Service									
Road construction	D77-18		3,245	10-01-76 10-01-76	-3,245				0
Geological Survey									
Payment from proceeds, sale of water	D77-19		30	10-01-76					30
Bureau of Mines									
Drainage of anthracite mines	D77-20		3,525	10-01-76					3,525
TOTAL:		5,426	49,205		-8,035			-5,426	41,170

1/ Subsequently incorporated in a supplementary report.

B-9

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Justice

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 07-01-77
Federal Prison System									
Buildings and facilities.	D77-21		1,900	10-01-76				-1,900 1/	0
TOTAL:			1,900					-1,900	0

1/ This deferral resulted from anticipated savings attributable to a plan for leasing a New York State correctional facility. The lease proposal on which the deferral was based was not accepted by New York and the funds are needed to construct the facility as originally planned. Funds related to this deferral were not withheld.

B-10

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Labor

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 07-01-77
Employment and Training Administration									
Advances to the unemployment trust fund and other funds.....	D77-39		2,919,000	12-03-76 12-28-76	-1,119,000				1,800,000
TOTAL:			2,919,000		-1,119,000				1,800,000

B-11

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of State

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 07-01-77
Administration of Foreign Affairs									
Acquisition, operation, and maintenance of buildings abroad.....	D77-22		14,225	10-01-76					14,225
TOTAL:			14,225						14,225

B-12

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Transportation

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 07-01-77
Coast Guard									
Acquisition, construction and improvements..	D77-23		22,581	10-01-76					22,581
Federal Aviation Administration									
Civil supersonic aircraft development termination.	D77-24	[464]		10-01-76 01-17-77				-464 1/	
	D77-24A		8,080	01-17-77					8,080
Facilities and equipment (Airport and airway trust fund).....	D77-25	[276,101]		10-01-76 01-17-77				-276,101 1/	
	D77-25A	[287,095]		01-17-77 03-09-77				-287,095 1/	
	D77-25B		278,095	03-09-77					278,095
Federal Highway Administration									
Trust fund share of other highway programs.....	D77-48		31,250	01-17-77					31,250
TOTAL:		563,660	340,006					-563,660	340,006

1/ Subsequently incorporated in a supplementary report.

A-13

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of the Treasury

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken By OMB/Agency	Releases Resulting From Subsequent Actions Taken By House	Releases Resulting From Subsequent Actions Taken By Senate	Adjustments	Amount Deferred as of 07-01-77
Office of the Secretary									
Antirecession financial assistance fund.....	D77-57		6,030	04-28-77					
				05-01-77	-938				
				05-31-77				+355	
				06-30-77				+280	5,731
State and local government fiscal assistance trust fund.....	D77-26		113,732 1/	10-01-76					
				11-01-76	-28,433 1/				
				01-31-77	-28,433 1/				
				05-01-77	-28,433 1/				28,433 1/
State and local government fiscal assistance trust fund.....	D77-27	(10,000) 1/		10-01-76					
				12-03-76				-10,000 1/2/	
	D77-27A		21,075 1/	12-03-76					
				12-31-76	-10,893 1/				
				01-31-77	-1,590 1/				
				05-01-77				+12,860 1/	
				06-01-77	-5,835 1/				9,617 1/
State and local government fiscal assistance trust fund.....	D77-28		81,500	10-01-76					
				11-01-76	-226				
				12-01-76	-196				
				12-31-76	-7,888				
				03-01-77	-317				
				04-01-77	-4				
				05-01-77				+8,268	
				07-01-77	-384				80,763
Loans to the District of Columbia for capital outlay.....	D77-36		51,002	11-05-76					51,002
TOTAL:			138,532BA		-9,943BA			+9,078BA	137,496BA
		10,000	134,807O		-109,617O			+2,860O	30,050O

1/ Outlays only.
2/ Subsequently incorporated in a supplementary report.

B-14

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Energy Research and Development Administration

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken By OMB/Agency	Releases Resulting From Subsequent Actions Taken By House	Releases Resulting From Subsequent Actions Taken By Senate	Adjustments	Amount Deferred as of 07-01-77
Operating expenses (Energy extension service).....	D77-49		7,500	01-17-77					
				02-22-77				-7,500 1/	0
Operating expenses (Magnetic fusion energy).....	D77-50		12,000	01-17-77		-12,000 2/			0
Operating expenses (Program support-community operations).....	D77-51		5,400	01-17-77		-5,400 3/			0
Operating expenses (Biomedical and environmental research).....	D77-52		8,200	01-17-77		-8,200 4/			0
Operating expenses.....	D77-55		80,500	04-04-77					
				06-29-77	-24,710				55,790
Operating expenses (Clinch River Breeder Reactor Plant project).....	D77-58		31,800	05-18-77					31,800
Plant and capital equipment.....	D77-56		46,660	04-04-77					46,660
TOTAL:			192,060		-24,710	-25,600		-7,500	134,250

1/ This adjustment reflects the impact of P.L. 95-3 which makes the source of ERDA's funding their regular 1977 appropriations, rather than the continuing resolution (P.L. 94-473), without need for enactment of authorizing legislation.
2/ Impoundment resolution H. Res. 305 passed the House on March 3, 1977, rejecting this deferral.
3/ Impoundment resolution H. Res. 306 passed the House on March 3, 1977, rejecting this deferral.
4/ Impoundment resolution H. Res. 307 passed the House on March 3, 1977, rejecting this deferral.

#15

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: General Services Administration

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 07-01-77
Rare Silver Dollar Program.....	D77-29	[1,709]		10-01-76 01-07-77				-1,709 1/	
	D77-29A		1,797	01-07-77					1,797
TOTAL:		1,709	1,797					-1,709	1,797

1/ Subsequently incorporated in a supplementary report.

B-16

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Other Independent Agencies

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 07-01-77
Action									
Operating expenses, international and domestic programs.....	D77-40		550	12-03-76 12-31-76 06-03-77	-15 -360				175
Foreign Claims Settlement Commission									
Payment of Vietnam prisoner of war claims.	D77-30		10,833	10-01-76					10,833
American Revolution Bicentennial Administration									
Commemorative activities fund.....	D77-31	[1,346]		10-01-76 01-07-77				-1,346 1/	
	D77-31A		198	01-07-77					198
Interstate Commerce Commission									
Payment for directed rail service.....	D77-32		13,700	10-01-76					13,700
National Commission on the Observance of International Women's Year									
Salaries and expenses....	D77-33		600	10-01-76					600
U.S. Information Agency									
Salaries and expenses (special foreign currency program).....	D77-41		2,437	01-07-77					2,437
Special international exhibitions.....	D77-42		1,716	01-07-77					1,716

B-17

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Other Independent Agencies (continued)

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Releases Resulting From Subsequent Actions Taken by: OMB/Agency	Releases Resulting From Subsequent Actions Taken by: House	Releases Resulting From Subsequent Actions Taken by: Senate	Adjustments	Amount Deferred as of 07-01-77
Special international exhibitions (special foreign currency program)	D77-43		112	01-07-77					112
U.S. Railway Association									
Payments for the purchase of Conrail securities	D77-44		680,700	01-07-77					
				01-27-77	-162,000				
				06-27-77	-103,000				415,700
TOTAL:		1,346	710,926		-265,375			-1,346	445,551
TOTAL, ALL DEFERRALS:		1,642,652BA 10,0000	7,114,505BA 134,807O		-2,340,126BA -109,617O	-25,600BA	-2,115,032BA +2,860O	4,276,397BA 38,050O

1/ Subsequently incoporated in a supplementary report.

[FR Doc.77-20216 Filed 7-11-77;11:45 am]

federal register

WEDNESDAY, JULY 13, 1977
PART IX

FEDERAL ENERGY ADMINISTRATION

■

MIDDLE DISTILLATE PRICES

Analysis of Post-Exemption Monitoring System

FEDERAL ENERGY ADMINISTRATION

[10 CFR Parts 211 and 212]

POST-EXEMPTION MONITORING OF MIDDLE DISTILLATE PRICES

Analysis; June 1976 to April 1977

AGENCY: Federal Energy Administration.

ACTION: Notice of Analysis of the Middle Distillate Post-Exemption Monitoring System June 1976 to April 1977.

SUMMARY: Analyses of the middle distillate post-exemption monitoring system have been prepared by the Federal Energy Administration ("FEA") Office of Energy Information and Analysis. They are published in conjunction with the Further Notice of Proposed Rulemaking and Public Hearing for Middle Distillate Prices, issued May 26, 1977 (42 FR 27937, June 1, 1977). The latest comprehensive data reported to the FEA indicate that the prior announcement by FEA that trigger prices had been exceeded has been substantially revised. Survey prices were below index values during April for the Nation as a whole and for all regions except the North Central. January and March monthly survey prices in the North Central region still exceeded the monthly index prices.

FOR FURTHER INFORMATION CONTACT:

William C. Gillespie (Price Analysis Division), Federal Building, 12th and Pennsylvania Avenue NW., Room 4430, Washington, D.C. 20461, 202–566–9307. Laura Kuitunen and Dennis M. Moore (Office of General Counsel), Federal Building, 12th and Pennsylvania Avenue NW., Room 5138, Washington, D.C. 20461. 202–566–9567 or 566–2085.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Index Prices.
III. Purpose of Hearings.
IV. North Central Region Monitoring System Analysis, June 1976 to January 1977.
V. National Analysis of the Middle Distillate Post-Exemption Monitoring System, June 1976 to April 1977.

I. Background

On June 15, 1976 FEA issued and submitted to the Congress two separate amendments which provided for the exemption of middle distillates from allocation and price controls. The first amendment related to the exemption of No. 2 heating oil and No. 2–D diesel fuel and the second amendment provided for the exemption of No. 1 heating oil, No. 1–D diesel fuel, and kerosene. Since neither of these amendments was disapproved by either house of Congress pursuant to the review procedures set forth in section 551 of the Energy Policy and Conservation Act, the amendments became effective July 1, 1976.

In its discussions with members of Congress regarding these amendments, and in response to concerns expressed by these members, FEA committed to take certain actions following the effectiveness of the exemption to assure that no unwarranted price increases would occur once controls were removed. FEA's commitment to Congress began September 1, 1976 and terminated March 31, 1977, but the weekly monitoring and price index system was voluntarily extended through April 30, 1977. Since that time, the monthly monitoring and price index system has ben extended indefinitely.

Although the Congressional commitment for monitoring and taking corrective action in response to levels of survey prices has expired, FEA intends to focus continuing attention on this problem and study the desirability of taking further actions with regard to the middle distillate price monitoring system.

The procedure adopted by FEA for monitoring prices of middle distillates is as follows: actual prices are compared to prices projected to remain in effect if controls had continued ("index" or "trigger" prices), nationally and regionally, plus two cents.

FEA computes two separate national index prices based on actual average June 1976 prices for No. 2 heating oil and No. 2–D diesel fuel, adjusted to take into account (1) seasonal price variations of No. 2 heating oil during 1960–1967, (2) actual increases/decreases in the price of imported and domestically produced crude oil, (3) actual increases/decreases in the prices of imported middle distillates (weighted by their monthly relative volumes in 1972, the last normal import year before the embargo), (4) increases in non-product costs of refiners, as defined and limited under FEA cost pass-through regulations, and estimated increases in operating costs of resellers and retailers, and (5) the two cents/gallon flexibility factor.

Only prices for No. 2 heating oil and No. 2–D diesel fuel are included in computing the two indices. However, prices for No. 1–D diesel fuel, kerosene, and other middle distillates not included in the index are periodically monitored by FEA using sales price data reported to FEA by refiners and large resellers. If price increases for such products not in the index differ significantly from price increases for products in the index, FEA investigates and takes appropriate action.

A system of regional index prices has also been adopted to protect against unduly disproportionate price increases in one or more regions, even though actual average national prices have not exceeded the national index prices.

Regional index prices are computed and monitored on essentially the same basis as the national index prices, except that the June 1976 price basis and some of the adjustment factors are related to the region concerned rather than to the nation. Regional index prices appropriately differ from the national index prices due to variances among the regions in June 1976 average middle distillate prices, differences in percentages of sales by non-refiners, and differences in the adjustment for imports.

II. Index Prices

In a Notice of Proposed Rulemaking issued on March 28, 1977 FEA stated that final monthly data for January and preliminary weekly survey data for March indicated that the index prices for middle distillates were exceeded by survey prices in the North Central region. (42 FR 16807, March 30, 1977) FEA, therefore, held hearings in Chicago on this subject on April 4 and April 12, 1977.

On May 26, 1977, FEA announced it would take no action with respect to the past heating season but issued a Further Notice of Proposed Rulemaking and Public Hearing on the post-exemption monitoring of middle distillate prices to consider further action, if appropriate, with respect to middle distillates over the next heating season. (42 FR 27937, June 1, 1977.)

The Further Notice of Proposed Rulemaking stated that preliminary survey prices had exceeded preliminary index values for the weeks ending April 9, 16, and 23, for the nation as a whole, for the Southern region and for the North Central region. The latest comprehensive data reported to the FEA, however, indicate that the previous statistics have been substantially revised. (See Table I.) January and March monthly survey prices in the North Central region only exceeded the monthly index prices. The results of the FEA survey of average heating oil prices for the weeks ending April 9 through April 30, 1977 indicate that final weekly survey prices are below final weekly index values for the nation as a whole and for all regions except the North Central.

FEA uses residential heating oil prices collected by telephone to make preliminary calculations for weekly heating oil survey prices, in the absence of weekly price figures on different categories of sales (industrial, institutional/utility and other sales). Preliminary weekly survey price estimates are based upon the weekly telephone survey of prices charged to residential users and upon the two month old monthly printed survey of sales volumes to all end users of middle distillate products.

FEA preliminary weekly index estimates are based (for example) upon two month old crude oil cost data. Both preliminary weekly survey prices and index values are updated to reflect more current data when that data becomes available.

As soon as the latest monthly actual data from all end users are available, weekly price figures are replaced by the final monthly price. The final monthly index values represent crude oil cost changes with a one-month lag and are calculated when that data become available.

The updated weekly survey prices and index values for April are based on

March's monthly survey prices, sales volumes and estimated March crude oil costs (based on February's actual crude oil costs). These final weekly statistics revealed that the preliminary weekly statistics issued by FEA for April, which were based on February's monthly survey data, which estimated crude oil costs for February (from January costs) and which showed that the survey prices in the South region, North Central region, and the nation as a whole exceeded index values, did not accurately reflect the middle distillate prices during April.

These recalculations of weekly April survey prices resulted in declines in the weekly survey prices for April 30 from the preliminary weekly prices previously reported for April 30 in FEA's May 13 press release as follows: South, 0.4 cents per gallon; North Central and U.S., 0.3 cent; the Northeast, 0.2 cent; and no change in the West. The downward revision in the survey price occurred primarily because significant shifts in relative volumes of the different categories of sales (residential, industrial, utility and other bulk sales) caused shifts in the computation of weekly survey prices when March data was substituted for the previously used February data.

Furthermore, recalculations of April weekly index values, again using estimated March crude oil costs (based on actual February crude oil costs), resulted in April index values which increased by 0.4 to 0.5 cent per gallon, nationally and in each region, from the previously reported values. Thus, national and regional (except the North Central region) heating oil prices to all ultimate consumers, when computed with updated statistics, no longer exceed the FEA index level.

Additional analysis of middle distillate pricing data is already underway. FEA has begun gathering supplementary data to ascertain the relationship between the cost increases attributable to No. 2 heating oil incurred by sellers and the prices charged to consumers for that product. FEA will also collect data on an expanded basis to verify the validity of the survey group which is currently used as the basis for ascertaining average middle distillate prices.

The following table displays the results of the latest survey price/index price computations:

MIDDLE DISTILLATES POST-EXEMPTION MONITORING REPORT

April 30, 1977

Table I
Heating Oil Survey Price/Index Price
(Figures in cents per gallon)

Date	Northeast	South	North Central	West	U.S.
Jun '76	38.2/40.2	34.3/36.3	35.0/37.0	38.2/40.2	36.6/38.6
Jul '76	38.1/39.6	34.1/35.9	35.2/36.6	38.1/39.8	36.5/38.1
Aug '76	38.6/40.7	34.4/36.7	35.4/37.3	38.7/40.5	36.9/38.9
Sep '76	39.1/41.0	34.7/37.0	35.7/37.7	39.5/40.9	37.3/39.3
Oct '76	39.6/41.5	35.0/36.9	36.0/37.6	39.6/41.0	37.7/39.4
Nov '76	40.7/42.0	36.3/37.9	37.1/38.6	39.7/41.8	38.7/40.2
Dec '76	41.9/42.9	37.3/38.8	38.6/39.5	39.4/42.8	39.8/41.1
Jan '77	43.2/43.5	38.6/39.3	40.4/40.0	40.2/43.3	41.2/41.7
Feb '77	44.2/45.2	39.7/40.7	41.1/41.4	40.9/44.7	42.1/43.2
Mar '77	44.5/45.4	40.1/40.8	41.7/41.5	41.5/44.8	42.5/43.4
Apr 9	44.5/45.2	40.2/40.6	41.7/41.3	41.6/44.6	42.6/43.2
Apr 16	44.5/45.2	40.2/40.6	41.8/41.3	41.7/44.6	42.6/43.2
Apr 23	44.5/45.2	40.4/40.6	41.8/41.3	41.7/44.6	42.6/43.2
Apr 30	44.5/45.2	40.4/40.6	41.8/41.3	41.7/44.6	42.6/43.2

Table I shows the results of the FEA's system for post-exemption monitoring of middle distillate prices. The "index price" (right of the slash) is FEA's best estimate of what average prices would have been under controls plus a two cents per gallon flexibility factor to account for statistical error and factors not otherwise included in the index equation that could have affected prices under controls. The "survey price" (left of the slash) for heating oil is a four-week moving average price for all sales to ultimate consumers calculated from an FEA survey of refiners and heating oil marketers. Weekly estimates of survey prices are revised each month when the monthly survey statistics become available. The weekly index values are revised to the monthly index values as soon as the actual costs data used in the calculation of the monthly index value become available to the FEA. A detailed explanation of the monitoring system is provided in the September 21, 1976, Federal Register notice, in which it was indicated that FEA might subsequently shift to a one-month lag for including crude oil prices in the index. The method of calculating crude costs in the index was changed from a two-month lag to a one-month lag on February 5, 1977. For further details, see February 16, 1977, Federal Register.

Source: FEA

III. Purpose of Hearings

The national and regional hearings announced in the May 26, 1977 Further Notice of Proposed Rulemaking and Public Hearings (42 FR 27937, June 1, 1977) will still take place. The purpose of the proposed rulemaking and public hearings is to provide an additional opportunity for receipt of comments and testimony on the manner in which the FEA middle distillate price monitoring system operated during the past heating season and on what action, if any, ought to be taken by FEA with respect to possible further monitoring of or re-imposition of controls on middle distillates through the next heating season. This purpose remains unchanged in spite of the latest data on survey prices reported in section V below, as the Analysis of the Middle Distillate Post-Exemption Monitoring System June 1976 to April 1977.

IV. North Central Region Monitoring System Analysis, June 1976 to January 1977

INTRODUCTION

This report has been prepared to provide an analysis and facts related to the Federal Energy Administration's (FEA) distillate monitoring system in the North Central region. The need for this information arose as a result of the exceeding of the index of the No. 2 heating oil monitoring system during January and March in the North Central Region and identified by the FEA on March 28. The purpose of the report is to provide relevant facts needed by the Government, industry, and the public in recommending courses of remedial action to the FEA. The major portion of data provided herein are derived from FEA's post-exemption monitoring system established immediately after the decontrol of middle distillates in June 1976. Some historical pricing data are provided which were derived from a survey of heating oil distributors implemented by the Cost of Living Council in late 1973. Information documenting how the system operates may be found in 41 FR 41155, September 21, 1976 and 42 FR 9415, February 16, 1977. This report is limited to the factors related to the monthly index value and survey price for January in the North Central region.

WHY MONTHLY SURVEY PRICE INCREASED OVER WEEKLY SURVEY PRICE

When the FEA computed its January monthly index value on March 23 from statistics reported to the FEA on its No. 2 Heating Oil Supply/Price Monitoring Report, the index value in the North Central region was exceeded in January by 0.4 cent per gallon (Table 1) and for all weeks in March. The recalculation of the index value on March 23 to replace the weekly index values for January with a monthly index value indicated that the monthly survey price for the month of January was 0.6 cent of a penny higher than the survey value for January 28, the last weekly survey price computed for January. The factors that accounted for this 0.6 cent per gallon increase are summarized in Table 2 and are as follows:

1. Nonresidential prices increased from December to January by 0.5 cent per gallon more than residential prices collected on FEA's weekly survey, yielding a net increase of 0.2 cent per gallon on the survey price. For the weekly survey price computation, nonresidential prices are estimated by assuming they increased the same as residential prices from the latest monthly value. By this procedure the FEA underestimated the weekly index value.

2. Residential prices collected on FEA's monthly survey were 0.3 cent of a penny higher than those collected on FEA's weekly survey for the week of January 28. The net impact on the survey price of this factor was 0.2 cent per gallon.

3. A change in the business practices for one company in the survey caused a 0.1 cent increase in the survey price. A lower-priced company had a shift in its reported sales volume from one category to another and as a result of the weighting scheme used in the suvey caused an 0.1 cent increase in the survey price.

4. A shift in sales volumes fom lower-priced companies to higher-priced companies and rounding accounted for about 0.1 cent per gallon.

These factors only explain why the weekly survey did not indicate that the index value had been exceeded for the month of January, and except for the change in the business practices, are unrelated to the fact that the monthly index value was exceeded for the month of January.

COMPUTATION OF JANUARY INDEX VALUE

The index value for the North Central region for January 1977 was 40.0 cents per gallon, which was 5.0 cents per gallon above the June survey price for the North Central region. This means that an increase in the survey value from June to January of greater than 5.0 cents per gallon would have caused the survey value to exceed the index value. Of the 5.0 cents per gallon total, 2.0 cents was accounted for by the flexibility factor, 1.5 cents by the increase in crude costs, 0.3 cent by the increase in refiners' nonproduct costs, and an estimated .06 cent increase in costs for nonrefiners, and a 1.1 cent per gallon increase due to the adjustment for seasonality (See Table 3).

PRICE INCREASES BY TYPE OF SELLER

Retailers, resellers/retailers, and refiners as groups increased residential prices between June 1976 and January 1977 by more than the amount necessary to exceed the index value (Table 4). Refiners and resellers/retailers increased prices for nonresidential use by more than the amount necessary to exceed index value. The data reported to the FEA indicate that retailers increased nonresidential prices by less than the index value; however, the volume of sales by retailers to nonresidential users was too small to establish a clear indication of price increases. Rack prices to resellers, which would be representative of the wholesale price for retailers, increased by 0.8 cent less than the amount necessary to exceed the index value.

PRICE INCREASES BY CATEGORY OF SALE

Prices to all types of ultimate consumers except the industrial category rose by amounts greater than that needed to exceed the index value (Table 5). The industrial category increased by the same amount as the index value, 5.0 cents per gallon. Increases in price for the four categories of sales reported to the FEA were as follows:

Residential—5.5 cents per gallon;
Industrial—5.0 cents per gallon;
Institutional/Utility—5.5 cents per gallon;
Other—5.7 cents per gallon.

Prices for sales to nonultimate consumers (i.e., resellers) for both rack and delivered types of sales increased by 4.2 cents per gallon, which was 0.8 cent per gallon less than the increase in the index value. These types of sales are not included in the index and survey values, but do represent costs of purchases to firms that sell to ultimate consumers.

RELATIVE IMPORTANCE OF TYPES OF SALES IN SURVEY

In computing the survey value, the FEA averages together prices reported by all the companies within a particular category of sales and stratum based on the volume of sales reported by the individual companies, which vary from month to month. The overall average price for sales to ultimate consumers is computed by averaging together the average prices for the categories of sales using fixed percentage factors. The fixed percentages are shown in Table 6 and can be used to assess the impact of price increases for particular categories on the survey price. For example, increases in residential prices accounted for 56.1 percent of the increase in the survey price, industrial prices accounted for 27.7 percent, and so forth.

RESIDENTIAL AND RACK INCREASES BY STATE

The FEA survey was designed to be statistically valid for regional average prices. Pricing data are collected by state, however, and indicate that not all states within the region experienced increases in residential prices greater than the increase in the index value. Only Indiana, Michigan, Minnesota, Missouri, and Nebraska had residential price increases greater than the increase in the index value (Table 7). Rack prices increased by less than the index value in all states in the region. The FEA has not conducted a state analysis for nonresidential sales.

MARGINS FOR TYPES OF SELLERS

The margins for residential sales by all types of sellers, computed as the difference between average residential and rack prices, increased between June 1976 and January 1977 (Table 8). Resellers/retailers had the highest increase (1.5 cents per gallon), refiners had the second highest increase (1.2 cents per gallon), and retailers had the smallest increase (0.8 cent per gallon). For sales to nonresidential users, refiners increased

margins from June 1976 to January 1977 by 0.6 cent per gallon; resellers/retailers increased their margin by 0.8 cent per gallon; retailers, which accounted for only a small portion of nonresidential sales, did not increase their nonresidential margins.

AVERAGE MARGIN FOR RESIDENTIAL SALES OVER TIME

The difference between residential and rack prices, which is taken as a measure of the average margin for residential sales by all sellers, increased by 1.3 cents per gallon from 7.1 cents per gallon in June 1976 to 8.4 cents in January 1977 (Table 9).

The residential margins in January 1977 were greater than they were during any month between January 1974 and July 1976 (Table 10). The 1.3 cents per gallon increase was less than the 1.6 cents per gallon increase for the same period in the immediately prior year (June 1975 to January 1976).

RESIDENTIAL MARGINS BY STATE

Increases in residential margins varied by state. Significant increases in the residential margin occurred in Indiana (3.5 cents per gallon), Michigan (2.2 cents per gallon), Minnesota (1.0 cent per gallon), Missouri (1.0 cent per gallon), Nebraska (2.9 cents per gallon), and Wisconsin (0.9 cent per gallon) (Table 11). Margins for the other states remained relatively constant.

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Table 1: North Central Regional Heating Oil Survey Price and Index Price

Cents per gallon

	Survey Price	Index Price
June 76	35.0	37.0
July 76	35.2	36.6
August 76	35.4	37.3
September 76	35.7	37.7
October 76	36.0	37.6
November 76	37.1	38.6
December 76	38.6	39.5
January 77	40.4	40.0

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1)

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Table 2: FACTORS ACCOUNTING FOR INCREASE IN JANUARY MONTHLY SURVEY VALUE OVER JANUARY 28 WEEKLY SURVEY VALUE

(cents per gallon)

	Value in Weekly Survey	Value in Monthly Survey	Increase	Impact[1] on Survey
1. Residential Prices	42.6	42.9	0.3	0.2
2. Nonresidential Prices	36.5	37.0	0.5	0.2
3. Change In Business Practice				0.1
4. Shift In Weights And Rounding				0.1
				0.6

[1] Impact measured by multiplying increase by weight in survey

Source: FEA

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Table 3: MONTHLY COST COMPONENTS OF HEATING OIL INDEX PRICE FOR NORTH CENTRAL REGION

(cents per gallon)

Month	Price	Change In Crude Costs	Change In Refiners Nonproduct Costs	Change In Nonrefiners Margin	Seasonal Adjustment	Import Adjustment	Flexibility Factor	Index Price
June 1976	35.0	0.0	0.0	0.0	0.0	0.0	2.000	37.0
July 1976	35.0	-0.183	-0.140	0.025	-0.139	0.0	2.000	36.6
Aug 1976	35.0	0.232	0.219	0.047	-0.142	0.0	2.000	37.3
Sept 1976	35.0	0.426	0.278	0.030	-0.036	0.0	2.000	37.7
Oct 1976	35.0	0.160	0.109	0.034	0.318	0.0	2.000	37.6
Nov 1976	35.0	0.787	0.193	0.057	0.540	0.0	2.000	38.6
Dec 1976	35.0	1.167	0.188	0.059	1.056	0.0	2.000	39.5
Jan 1977	35.0	1.457	0.311	0.059	1.141	0.0	2.000	40.0

Source: FEA

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Table 4: PRICES FOR RESIDENTIAL AND NONRESIDENTIAL SALES BY TYPE OF SELLER IN THE NORTH CENTRAL REGION

(cents per gallon)

	June 1976	January 1977	Increase
Residential			
Retailers	38.5	43.6	5.1
Resellers/Retailers	37.6	43.3	5.7
Refiners	36.8	42.3	5.5
Nonresidential			
Retailers	35.0	38.8	3.8*
Resellers/Retailers	33.2	38.8	5.6
Refiners	31.4	36.2	4.8
Rack for Resale	30.3	34.5	4.2
Increase to equal index			5.0

*Represents low volume of sales.

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1).

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Table 5: PRICE INCREASES BY CATEGORY FROM JUNE 1976 TO JANUARY 1977 IN THE NORTH CENTRAL REGION

(cents per gallon)

	June 1976	January 1977	Increase
Sales to Ultimate Consumers			
Residential	37.4	42.9	5.5
Industrial	32.4	37.4	5.0
Institutional/Utility	30.4	35.9	5.5
Other	32.4	38.1	5.7
Sales to Nonultimate Consumers			
Rack	30.3	34.5	4.2
Delivered	31.0	35.2	4.2
Increase to Exceed Index			5.0

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1).

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Table 6: FIXED PERCENTAGES OF HEATING OIL SALES BY CATEGORY USED IN THE NORTH CENTRAL REGION SURVEY

Stratum	Residential	Industrial	Institutional Utility	Other	Stratum Total
1	34.4%	20.5%	11.7%	2.7%	69.3%
2	11.8	6.8	.3	.1	19.0
3	9.9	.4	.3	1.1	11.7
Category Total	56.1%	27.7%	12.3%	3.9%	100.0%

Source: FEA

Table 7: Residential and Rack Prices and Changes Between June 1976 and January 1977

(Figures in cents per gallon)

State	Residential			Rack Prices		
	June 1976	January 1977	Change	June 1976	January 1977	Change
Illinois	37.5	41.8	4.3	30.0	34.3	4.3
Indiana	36.6	43.9	7.3	30.2	34.0	3.8
Iowa	36.4	41.0	4.6	29.4	34.1	4.7
Kansas	35.3	37.8	2.5	29.5	33.8	4.3
Michigan	37.1	43.2	6.1	30.6	34.5	3.9
Minnesota	38.0	43.6	5.6	30.3	34.9	4.6
Missouri	37.2	42.9	5.7	29.3	34.0	4.7
Nebraska	34.4	41.1	6.7	30.3	33.9	3.6
North Dakota	37.2	41.8	4.6	30.9	35.2	4.3
Ohio	38.6	43.4	4.8	31.1	35.7	4.6
South Dakota	37.5	41.0	3.5	30.8	34.5	3.7
Wisconsin	38.1	43.0	4.9	30.8	34.8	4.0
North Central	37.4	42.9	5.5	30.3	34.5	4.2
Increase in Price Needed to Equal North Central Index January 1977			5.0			5.0

Source: FEA P112. Survey is statistically valid only for regional average prices.

Table 8: MARGINS FOR RESIDENTIAL AND NONRESIDENTIAL SALES BY TYPE OF SELLER IN THE NORTH CENTRAL REGION

(cents per gallon)

	June 1976	January 1977	Increase
Residential			
Retailers	8.2	9.0	0.8
Resellers/Retailers	7.3	8.8	1.5
Refiners	6.5	7.7	1.2
Nonresidential			
Retailers	4.7	4.7	0.0
Resellers/Retailers	2.9	3.7	0.8
Refiners	1.1	1.7	0.6

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1).

Table 9: DIFFERENCE BETWEEN HEATING OIL AVERAGE RACK PRICES AND AVERAGE RESIDENTIAL PRICES

(cents per gallon)

	Rack	Residential	Difference
Jun 76	30.3	37.4	7.1
Jul 76	30.6	37.6	7.0
Aug 76	30.8	37.8	7.0
Sept 76	31.3	38.1	6.8
Oct 76	31.4	38.5	7.1
Nov 76	32.1	39.8	7.7
Dec 76	33.3	41.3	8.0
Jan 77	34.5	42.9	8.4

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1).

Table 10: HEATING OIL COSTS, PRICES AND MARGINS FOR NORTH CENTRAL REGION OVER TIME

(cents per gallon)

	Purchase Price	Residential Price	Margin
Jan 74	23.9	30.8	6.9
Feb 74	25.6	31.9	6.3
Mar 74	26.3	34.4	8.1
Apr 74	25.6	31.8	6.2
May 74	26.6	33.4	6.8
Jun 74	28.2	34.3	6.1
Jul 74	28.0	34.7	6.7
Aug 74	28.2	35.2	7.0
Sep 74	28.1	35.4	7.3
Oct 74	27.6	33.6	6.0
Nov 74	27.7	36.0	8.3
Dec 74	27.1	33.9	6.8
Jan 75	27.4	33.6	6.2
Feb 75	27.3	33.4	6.1
Mar 75	28.1	34.3	6.2
Apr 75	28.9	33.9	5.0
May 75	29.7	35.3	5.6
Jun 75	30.6	35.9	5.3
Jul 75	31.5	36.6	5.1
Aug 75	30.7	36.3	5.6
Sep 75	30.6	36.7	6.1
Oct 75	31.5	37.7	6.2
Nov 75	32.1	38.0	5.9
Dec 75	31.7	38.3	6.6

Source: Monthly Energy Review, FEA

	Rack Price	Residential Price	Margin
Jan 76	31.2	38.1	6.9
Feb 76	30.5	37.2	6.7
Mar 76	29.1	37.0	7.9
Apr 76	29.5	37.1	7.6
May 76	30.1	37.4	7.3
Jun 76	30.3	37.4	7.1
Jul 76	30.6	37.6	7.0
Aug 76	30.8	37.8	7.0
Sep 76	31.3	38.1	6.8
Oct 76	31.4	38.5	7.1
Nov 76	32.1	39.8	7.7
Dec 76	33.3	41.3	8.0
Jan 77	34.5	42.9	8.4

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1).

Table 11: DIFFERENCE BETWEEN RACK AND RESIDENTIAL PRICES BY STATE

(cents per gallon)

State	June 1976	January 1977
Illinois	7.5	7.5
Indiana	6.4	9.9
Iowa	7.0	6.9
Kansas	5.8	4.0
Michigan	6.5	8.7
Minnesota	7.7	8.7
Missouri	7.9	8.9
Nebraska	4.1	7.2
North Dakota	6.3	6.6
Ohio	7.5	7.7
South Dakota	6.7	6.5
Wisconsin	7.3	8.2
North Central	7.1	8.4

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1). Survey is statistically valid only for regional average prices.

V. National Analysis of the Middle Distillate Post-Exemption Monitoring System, June 1976 to April 1977

INTRODUCTION

This report has been prepared to provide facts and analysis related to the Federal Energy Administration's (FEA) Distillate Monitoring System for all regions and the Nation over the period June 1976 through April 1977. Its purpose is to provide pertinent facts essential for the Government, industry, and the public in recommending courses of remedial action to the FEA in public hearings which will be held in July. The major portion of data provided herein are derived from FEA's Post-Exemption Monitoring System established immediately after the decontrol of middle distillates in June 1976. Some historical pricing data are provided which were derived from a survey of heating oil distributors implemented by the Cost of Living Council in late 1973. Information documenting how the system operates may be found in 41 FR 41155, September 21, 1976 and 42 FR 9415, February 16, 1977.

SURVEY PRICES AND INDEX VALUES

Final statistics for March from FEA's monthly survey of heating oil prices indicated that through the month of March survey prices exceeded index values only in the North Central region (Table 1–NE through Tables 1–US). Survey prices exceeded index values in the North Central region for January and March. This revises previous information (reported in FEA's May 13th press release) that the index had been exceeded at the national level, and for the South and North Central regions.

The updated weekly survey prices and index values for April, which are based on March's monthly survey prices and February's actual crude costs, indicated that survey prices exceeded index values during April only in the North Central region. Preliminary statistics issued by the FEA, based on February's monthly survey data and estimated crude costs for February, had indicated that survey prices exceeded index values in the South region and the U.S., in addition to the North Central region. In the South region, the survey price was revised downward by 0.4 cent per gallon from those reported in FEA's May 13th press release because the monthly sales volumes applied to weekly residential prices changed significantly from February to March. For the same reason the U.S. weekly survey price was revised downward by 0.3 cent. Index values were revised upward by 0.4 and 0.5 cent per gallon in the South and U.S., respectively, due to the replacing of estimated crude costs with actual crude costs during February.

INCREASE IN INDEX VALUES

Index values increased from June 1976 through March 1977 by 4.5 cents per gallon in the North Central region; 5.2 cents in the Northeast region; 4.5 cents in the South region; 4.6 cents in the West region; and 4.8 cents for the U.S. (Table 2–NE through Tables 2–U.S.). Taking into account the two-cent flexibility factor, this means that survey prices could have increased by 6.5 cents in the North Central region, 7.2 cents in the Northeast region; and so on, for survey prices to have equalled index values in March 1977.

The individual costs components included in the index value computation increased as follows: (1) Refiners' crude and operating costs rose an average of 3.5 cents per gallon for all regions; (2) the FEA's estimate of the increase in nonrefiners' operating costs was 0.2 cent per gallon in the Northeast region and less than this amount in the other regions. These estimates were based on the increase in the Bureau of Labor Statistics' survey of wages for truckers and warehouseman, not actual costs collected directly from heating oil distributors; (3) normal seasonal price movements accounted for roughly a penny in March, varying slightly by region, and (4) increases in the prices of foreign heating imported into the U.S. accounted for an increase of 0.5 cent per gallon in the Northeast region, 0.2 cent nationwide and were zero in the other regions.

PRICE INCREASE TO ULTIMATE CONSUMERS BY REFINERS AND RETAILERS

In all regions, except the West, refiners increased prices to residential users more than retailers increased prices to residential users from June 1976 through March 1977. Price increases from June through March by refiners and retailers to residential users were as follows:

	Residential				
	Northeast	South	North central	West	United States
Refiners	6.5	7.5	7.2	3.7	6.9
Retailers	6.2	6.4	6.5	3.8	6.1

However, average prices charged by refiners to residential users were less than those charged by retailers (Table 3–NE through Table 3–U.S.).

PRICE INCREASES BY CATEGORY OF SALE

Prices to all types of consumers in all regions rose by less than amounts needed to exceed index values, except for prices to residential, institutional/utility, and the "other" category of customers in the North Central region, residential prices in the South, and the "other" category of customers in the West region. Increases in price for the four categories of sales by region and the amounts needed to equal index values were as follows:

	Northeast	South	North central	West	United States
Residential	6.3	7.0	6.9	4.2	6.5
Industrial	6.4	5.8	6.3	0.5	5.4
Institutional/utility	5.5	4.3	6.7	2.1	4.7
Other	5.4	5.2	6.7	8.0	6.0
Needed to equal index	7.2	6.5	6.5	6.6	6.8

Price increases for sales to nonultimate consumers (i.e., resellers) for both rack and delivered types of sales increased on a regional basis as follows:

	Northeast	South	North central	West	United States
Rack	5.6	5.1	5.5	3.3	5.4
Delivered	5.6	5.0	5.8	2.8	5.3

These types of sales are not included in the index and survey values, but they represent costs of purchases to firms that sell to ultimate consumers. In all regions except the West, these wholesale prices rose by more than the increases in the index values, but by less than amounts needed to exceed index values after taking into account the flexibility factor.

RELATIVE IMPORTANCE OF TYPES OF SALES IN SURVEY

In computing the survey values, the FEA averages together the prices reported by all the companies within a particular category of sales and stratum based on the volume of sales reported by the individual companies, which vary from month to month. The overall average price for sales to ultimate consumers is computed by averaging together the average prices for the categories of sales using fixed-percentage factors. The fixed percentages for all regions are shown in Table 5–NE through Tables 5–U.S. and can be used to assess the impact of price increases for particular categories on the survey price. For example, in the North Central region increases in residential prices accounted for 56.1 percent of the increase in the survey price in that region, industrial prices accounted for 27.7 percent, and so forth.

RETAILER MARGINS

Increases in retailer margins from June 1976 through March 1977 by regions were as follows: Northeast, 1.5 cents per gallon; South, 2.0; North Central, 0.8; West 0.9; and U.S., 0.9. However, increases in retailer margins by region from March 1976 through March 1977 were all less than a penny except for the West and were as follows: Northeast, 0.2 cent per gallon; South 0.7; North Central, 0.2; West 1.4; and U.S., 0.3 (see table 6 for summary and Table 7–NE through Tables 7–U.S. for historical details.)

REFINER MARGINS

Since the FEA does not have separate statistics on the costs of refiners for refining and marketing heating oil, the FEA cannot compute a refiners' margin for heating oil. However, the FEA does collect statistics on the increases of refiners' nonproduct costs which can be used along with increases in refiners' product costs to evaluate the average increase in refiners' heating oil margin. In the following table, average increases in refiners' sales to residential users, all other consumers, and rack customers are

compared by region to increases in crude and nonproduct costs:

	North-east	South	North central	West	United States
Residential.....	6.5	7.5	7.2	3.7	6.9
Other ultimate sales...	5.9	6.2	5.8	4.8	6.6
Rack sales.....	5.6	5.1	5.5	3.3	5.4
Crude and nonproduct...	3.5	3.5	3.5	3.5	3.5

For all these types of sales, refiners increased prices by more than their increases in crude and nonproduct costs.

REFINERS AND RETAILERS RESIDENTIAL MARGINS

In all regions refiners' margins for sales to residential customers were lower than those for retailers (Table 8–NE through Tables 8–U.S.). Refiners' residential margins are measured as the difference between their residential selling prices and rack prices.

RESIDENTIAL AND RACK INCREASES BY STATE

The FEA's survey was designed to be statistically valid for regional average prices, not for state averages. Pricing data are collected by state, however. Information on a state basis is presented in Tables 9 through 11 and will not be covered in detail here. These data, in general, indicate that within certain regions there were significant differences in price movements.

Table 1-NE. Northeast Regional Heating Oil Survey Price and Index Price
Cents per gallon

	Survey Price	Index Price
June 76	38.2	40.2
July 76	38.1	39.6
August 76	38.6	40.7
September 76	39.1	41.0
October 76	39.6	41.5
November 76	40.7	42.0
December 76	41.9	42.9
January 77	43.2	43.5
February 77	44.2	45.2
March 77	44.5	45.4
April 9, 1977	44.5	45.2
April 16, 1977	44.5	45.2
April 23, 1977	44.5	45.2
April 30, 1977	44.5	45.2

Source: No. 2 Heating Oil Supply/Price Monitoring Report
(Form FEA-P112-M-1)

Table 1-S. South Regional Heating Oil Survey Price and Index Price
Cents per gallon

	Survey Price	Index Price
June 76	34.3	36.3
July 76	34.1	35.9
August 76	34.4	36.7
September 76	34.7	37.0
October 76	35.0	36.9
November 76	36.3	37.9
December 76	37.3	38.8
January 77	38.6	39.3
February 77	39.7	40.7
March 77	40.1	40.8
April 9, 1977	40.2	40.6
April 16, 1977	40.2	40.6
April 23, 1977	40.4	40.6
April 30, 1977	40.4	40.6

Source: No. 2 Heating Oil Supply/Price Monitoring Report
(Form FEA-P112-M-1)

Table 1-NC. North Central Regional Heating Oil Survey Price and Index Price
Cents per gallon

	Survey Price	Index Price
June 76	35.0	37.0
July 76	35.2	36.6
August 76	35.4	37.3
September 76	35.7	37.7
October 76	36.0	37.6
November 76	37.1	38.6
December 76	38.6	39.5
January 77	40.4*	40.0*
February 77	41.1	41.4
March 77	41.7*	41.5*
April 9, 1977	41.7*	41.3*
April 16, 1977	41.8*	41.3*
April 23, 1977	41.8*	41.3*
April 30, 1977	41.8*	41.3*

Source: No. 2 Heating Oil Supply/Price Monitoring Report
(Form FEA-P112-M-1)

* Survey Price exceeded the index price.

Table 1-W. West Regional Heating Oil Survey Price and Index Price
Cents per gallon

	Survey Price	Index Price
June 76	38.2	40.2
July 76	38.1	39.8
August 76	38.7	40.5
September 76	39.5	40.9
October 76	39.6	41.0
November 76	39.7	41.8
December 76	39.4	42.8
January 77	40.2	43.3
February 77	40.9	44.7
March 77	41.5	44.8
April 9, 1977	41.6	44.6
April 16, 1977	41.7	44.6
April 23, 1977	41.7	44.6
April 30, 1977	41.7	44.6

Source: No. 2 Heating Oil Supply/Price Monitoring Report
(Form FEA-P112-M-1)

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Table 1-US. National Average Heating Oil Survey Price and Index Price
Cents per gallon

	Survey Price	Index Price
June 76	36.6	38.6
July 76	36.5	38.1
August 76	36.9	38.9
September 76	37.3	39.3
October 76	37.7	39.4
November 76	38.7	40.2
December 76	39.8	41.1
January 77	41.2	41.7
February 77	42.1	43.2
March 77	42.5	43.4
April 9, 1977	42.6	43.2
April 16, 1977	42.6	43.2
April 23, 1977	42.6	43.2
April 30, 1977	42.6	43.2

Source: No. 2 Heating Oil Supply/Price Monitoring Report
(Form FEA-P112-M-1)

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Table 2-NE. Northeast Regional Monthly Cost Components of Heating Oil Index Price
Cents per gallon

Month	Price	Change In Crude Costs	Change In Refiners Nonproduct Costs	Change In Nonrefiners Margin	Seasonal Adjustment	Import Adjustment	Flexibility Factor	Index Price
June 1976	38.2	0.0	0.0	0.0	0.0	0.0	2.0	40.2
July 1976	38.2	-0.183	-0.140	0.075	-0.152	-0.210	2.0	39.6
Aug 1976	38.2	0.232	0.219	0.142	-0.155	0.0	2.0	40.7
Sept 1976	38.2	0.426	0.278	0.090	-0.039	0.008	2.0	41.0
Oct 1976	38.2	0.160	0.109	0.105	0.347	0.525	2.0	41.5
Nov 1976	38.2	0.787	0.193	0.172	0.591	0.008	2.0	42.0
Dec 1976	38.2	1.167	0.188	0.180	1.153	0.005	2.0	42.9
Jan 1977	38.2	1.457	0.311	0.180	1.245	0.123	2.0	43.5
Feb 1977	38.2	2.476	0.660	0.135	1.328	0.377	2.0	45.2
Mar 1977	38.2	2.815	0.689	0.165	1.089	0.466	2.0	45.4

Source: FEA Middle Distillates Post-Exemption Monitoring System.

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Table 2-S. South Regional Monthly Cost Components of Heating Oil Index Price
Cents per gallon

Month	Price	Change In Crude Costs	Change In Refiners Nonproduct Costs	Change In Nonrefiners Margin	Seasonal Adjustment	Import Adjustment	Flexibility Factor	Index Price
June 1976	34.3	0.000	0.000	0.000	0.0	0.000	2.0	36.3
July 1976	34.3	-0.183	-0.140	0.021	-0.136	0.000	2.0	35.9
Aug 1976	34.3	0.232	0.219	0.040	-0.139	0.000	2.0	36.7
Sept 1976	34.3	0.426	0.278	0.026	-0.035	0.000	2.0	37.0
Oct 1976	34.3	0.160	0.109	0.030	0.311	0.004	2.0	36.9
Nov 1976	34.3	0.787	0.193	0.049	0.530	0.000	2.0	37.9
Dec 1976	34.3	1.167	0.188	0.051	1.036	0.001	2.0	38.8
Jan 1977	34.3	1.457	0.311	0.051	1.120	0.007	2.0	39.3
Feb 1977	34.3	2.476	0.660	0.038	1.199	0.022	2.0	40.7
Mar 1977	34.3	2.815	0.689	0.047	0.984	0.000	2.0	40.8

Source: FEA Middle Distillates Post-Exemption Monitoring System.

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Table 2-NC. North Central Regional Monthly Cost Components of Heating Oil Index Price
Cents per gallon

Month	Price	Change In Crude Costs	Change In Refiners Nonproduct Costs	Change In Nonrefiners Margin	Seasonal Adjustment	Import Adjustment	Flexibility Factor	Index Price
June 1976	35.0	0.000	0.000	0.000	0.0	0.0	2.0	37.0
July 1976	35.0	-0.183	-0.140	0.025	-0.139	0.0	2.0	36.6
Aug 1976	35.0	0.232	0.219	0.047	-0.142	0.0	2.0	37.3
Sept 1976	35.0	0.426	0.278	0.030	-0.036	0.0	2.0	37.7
Oct 1976	35.0	0.160	0.109	0.034	0.318	0.0	2.0	37.6
Nov 1976	35.0	0.787	0.193	0.057	0.540	0.0	2.0	38.6
Dec 1976	35.0	1.167	0.188	0.059	1.056	0.0	2.0	39.5
Jan 1977	35.0	1.457	0.311	0.059	1.141	0.0	2.0	40.0
Feb 1977	35.0	2.476	0.660	0.044	1.221	0.0	2.0	41.4
Mar 1977	35.0	2.815	0.689	0.054	1.002	0.0	2.0	41.5

Source: FEA Middle Distillates Post-Exemption Monitoring System.

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Table 2-W. West Regional Monthly Cost Components of Heating Oil Index Price
Cents per gallon

Month	Price	Change In Crude Costs	Change In Refiners Nonproduct Costs	Change In Nonrefiners Margin	Seasonal Adjustment	Import Adjustment	Flexibility Factor	Index Price
June 1976	38.2	0.000	0.000	0.000	0.0	0.000	2.0	40.2
July 1976	38.2	-0.183	-0.140	0.018	-0.152	0.000	2.0	39.8
Aug 1976	38.2	0.232	0.219	0.034	-0.155	0.000	2.0	40.5
Sept 1976	38.2	0.426	0.278	0.021	-0.039	0.004	2.0	40.9
Oct 1976	38.2	0.160	0.109	0.025	0.347	0.135	2.0	41.0
Nov 1976	38.2	0.787	0.193	0.041	0.588	0.004	2.0	41.8
Dec 1976	38.2	1.167	0.188	0.043	1.149	0.000	2.0	42.8
Jan 1977	38.2	1.457	0.311	0.043	1.241	0.000	2.0	43.3
Feb 1977	38.2	2.476	0.660	0.032	1.324	0.000	2.0	44.7
Mar 1977	38.2	2.815	0.689	0.039	1.086	0.000	2.0	44.8

Source: FEA Middle Distillates Post-Exemption Monitoring System.

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Table 2-US. National Cost Components of Heating Oil Price Index
Cents per gallon

Month	Price	Change In Crude Costs	Change In Refiners Nonproduct Costs	Change In Nonrefiners Margin	Seasonal Adjustment	Import Adjustment	Flexibility Factor	Index Price
June 1976	36.6	0.000	0.000	0.000	0.0	0.000	2.0	38.6
July 1976	36.6	-0.183	-0.140	0.041	-0.145	- 0.054	2.0	38.1
Aug 1976	36.6	0.232	0.219	0.079	-0.148	0.000	2.0	38.9
Sept 1976	36.6	0.426	0.278	0.050	-0.037	0.003	2.0	39.3
Oct 1976	36.6	0.160	0.109	0.058	0.332	0.169	2.0	39.4
Nov 1976	36.6	0.787	0.193	0.095	0.565	0.003	2.0	40.2
Dec 1976	36.6	1.167	0.188	0.099	1.102	0.003	2.0	41.1
Jan 1977	36.6	1.457	0.311	0.099	1.111	0.049	2.0	41.7
Feb 1977	36.6	2.476	0.660	0.075	1.273	0.148	2.0	43.2
Mar 1977	36.6	2.815	0.689	0.091	1.044	0.171	2.0	43.4

Source: FEA Middle Distillates Post-Exemption Monitoring System.

Table 3-NE. Northeast: Heating Oil Prices for Refiners and Retailers by Types of Customers
Cents per gallon

		ULTIMATE SALES			
		Residential		Other Than Residential	
		Refiners	Retailers	Refiners	Retailers
Jun	76	39.1	40.6	32.1	34.8
Jul	76	38.8	40.5	31.9	35.2
Aug	76	40.0	40.9	32.6	35.9
Sept	76	40.4	41.3	31.9	36.5
Oct	76	41.0	41.9	33.4	36.7
Nov	76	41.2	42.9	34.5	37.8
Dec	76	43.4	44.7	34.9	37.7
Jan	77	44.2	45.4	37.4	40.8
Feb	77	44.8	46.4	38.3	41.8
Mar	77	45.6	46.8	38.0	42.1

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1)

Table 3-S. South: Heating Oil Prices for Refiners and Retailers by Types of Customers
Cents per gallon

		ULTIMATE SALES			
		Residential		Other Than Residential	
		Refiners	Retailers	Refiners	Retailers
Jun	76	36.2	39.6	31.7	36.9
Jul	76	35.3	39.6	31.9	35.8
Aug	76	37.0	39.6	31.7	34.1
Sept	76	37.4	39.9	31.8	35.4
Oct	76	38.8	40.5	32.1	37.0
Nov	76	40.4	42.1	33.7	37.4
Dec	76	41.1	43.4	34.4	36.5
Jan	77	42.1	44.8	35.4	40.2
Feb	77	43.0	46.3	36.4	41.3
Mar	77	43.7	46.0	36.9	42.4

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1)

Table 3-NC. North Central: Heating Oil Prices for Refiners and Retailers by Types of Customers
Cents per gallon

		ULTIMATE SALES			
		Residential		Other Than Residential	
		Refiners	Retailers	Refiners	Retailers
Jun	76	36.8	38.1	31.4	33.7
Jul	76	36.8	38.4	31.3	34.0
Aug	76	37.3	38.6	31.7	34.0
Sept	76	37.4	39.1	32.2	34.5
Oct	76	37.7	39.6	32.3	35.3
Nov	76	39.6	40.3	33.2	34.4
Dec	76	40.7	41.9	34.8	36.4
Jan	77	42.3	43.5	36.2	38.5
Feb	77	42.9	44.4	36.8	39.7
Mar	77	44.0	44.6	37.2	39.6

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1)

Table 3-W. West: Heating Oil Prices for Refiners and Retailers by Types of Customers
Cents per gallon

		ULTIMATE SALES			
		Residential		Other Than Residential	
		Refiners	Retailers	Refiners	Retailers
Jun	76	40.1	43.2	33.2	46.2
Jul	76	39.9	47.5	34.2	43.4
Aug	76	40.4	46.6	34.2	44.5
Sept	76	40.8	47.0	36.8	45.7
Oct	76	41.7	46.1	35.4	45.0
Nov	76	42.1	44.9	34.8	45.3
Dec	76	42.1	44.9	35.9	44.9
Jan	77	43.1	45.4	36.1	46.2
Feb	77	44.0	46.3	36.4	46.6
Mar	77	43.8	47.0	38.0	46.6

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1)

Table 3-US. National Average: Heating Oil Prices for Refiners and Retailers by Types of Customers Cents per gallon

	ULTIMATE SALES			
	Residential		Other Than Residential	
	Refiners	Retailers	Refiners	Retailers
Jun 76	37.9	40.4	31.7	36.0
Jul 76	37.4	40.3	31.8	35.0
Aug 76	38.6	40.7	31.9	35.8
Sept 76	39.0	41.3	32.1	36.5
Oct 76	39.7	41.7	32.5	37.0
Nov 76	41.2	42.5	33.7	37.0
Dec 76	42.3	43.7	34.7	37.2
Jan 77	44.0	45.1	36.1	40.5
Feb 77	44.0	46.1	36.9	41.3
Mar 77	44.8	46.5	37.3	41.6

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1)

Table 4-A. Heating Oil Prices to Ultimate Consumers

Use	Report Date	Region Northeast	South	North Central	West	United States
		(cents per gallon)				
Residential	June 76	40.3	38.3	37.4	41.5	39.3
	July 76	40.1	38.0	37.6	42.0	39.3
	Aug. 76	40.7	38.7	37.8	42.2	39.8
	Sept. 76	41.2	39.0	38.1	42.5	40.2
	Oct. 76	41.6	39.9	38.5	43.5	40.7
	Nov. 76	42.7	41.6	39.8	44.0	41.9
	Dec. 76	43.9	42.5	41.3	43.8	43.0
	Jan. 77	45.2	43.8	42.9	44.6	44.4
	Feb. 77	46.1	45.1	43.7	45.4	45.3
	Mar. 77	46.6	45.3	44.3	45.7	45.8
Industrial	June 76	34.0	32.1	32.4	37.9	33.7
	July 76	34.0	32.2	32.7	36.4	33.6
	Aug. 76	34.5	32.5	32.7	37.1	33.8
	Sept. 76	35.1	32.6	33.2	38.1	34.4
	Oct. 76	35.6	32.8	33.2	37.8	34.6
	Nov. 76	36.8	34.2	34.0	36.4	35.4
	Dec. 76	38.1	35.5	35.6	35.9	36.5
	Jan. 77	39.7	36.5	37.4	36.8	38.0
	Feb. 77	40.2	37.6	38.2	38.4	38.7
	Mar. 77	40.4	37.9	38.7	38.4	39.1
Institutional/ Utility	June 76	32.0	32.2	30.4	36.1	32.4
	July 76	31.6	32.2	30.5	35.8	32.2
	Aug. 76	32.3	31.6	30.9	36.8	32.4
	Sept. 76	32.0	31.8	31.2	37.8	32.6
	Oct. 76	33.1	32.0	31.2	37.7	32.9
	Nov. 76	34.4	33.1	32.2	36.7	33.7
	Dec. 76	35.2	33.7	34.1	36.8	34.5
	Jan. 77	36.7	35.2	35.9	37.1	35.9
	Feb. 77	40.2	35.8	36.3	38.6	37.1
	Mar. 77	37.5	36.5	37.1	38.2	37.1
Other Heating Uses	June 76	34.5	33.5	32.4	34.4	33.6
	July 76	36.3	32.1	32.8	37.4	33.5
	Aug. 76	34.2	32.8	33.0	38.9	34.0
	Sept. 76	35.0	34.1	33.5	39.6	35.0
	Oct. 76	35.3	33.3	34.2	39.3	34.7
	Nov. 76	34.4	34.1	35.0	39.9	35.2
	Dec. 76	37.0	35.1	36.3	40.3	36.4
	Jan. 77	37.8	37.0	38.1	40.8	37.9
	Feb. 77	39.5	38.5	38.6	41.5	39.1
	Mar. 77	39.9	38.7	39.1	42.4	39.6

Source: The data in Table 4-A are derived from a survey sample of approximately 600 refiners and distributors who sell heating oil to ultimate consumers; Form FEA-P112-M-1.

Table 4-B. Heating Oil Prices to Other Than Ultimate Consumers

Use	Report Date	Region: Northeast	South	North Central	West	United States
		(cents per gallon)				
Rack	June 76	31.1	30.6	30.3	31.2	30.8
	July 76	31.7	30.8	30.6	31.4	31.1
	Aug. 76	32.9	31.3	30.8	31.5	31.5
	Sept. 76	32.2	31.1	31.3	33.0	31.7
	Oct. 76	32.6	31.6	31.4	32.4	32.1
	Nov. 76	33.2	32.2	32.1	32.6	32.7
	Dec. 76	34.3	33.3	33.3	32.9	33.8
	Jan. 77	35.4	34.6	34.5	33.5	35.0
	Feb. 77	36.2	35.3	35.3	33.8	35.8
	Mar. 77	36.7	35.7	35.8	34.5	36.2
Delivered	June 76	31.7	31.4	31.0	32.2	31.4
	July 76	31.6	30.2	31.5	32.3	31.0
	Aug. 76	32.7	31.4	31.8	32.3	31.8
	Sept. 76	32.9	31.5	32.3	31.9	32.1
	Oct. 76	33.2	32.1	32.4	32.2	32.5
	Nov. 76	33.6	33.2	33.2	33.2	33.3
	Dec. 76	34.7	33.4	34.1	33.4	34.1
	Jan. 77	35.5	34.7	35.2	33.7	35.1
	Feb. 77	36.9	36.0	36.2	34.4	36.2
	Mar. 77	37.3	36.4	36.8	35.0	36.7

Source: The data in Table 4-B are derived from a survey sample of approximately 600 refiners and distributors who sell heating oil to ultimate consumers; Form FEA-P112-M-1.

Table 5-S: South Regional Fixed Percentages of Heating Oil Sales by Category
Cents per gallon

	STRATUM 1	2	3	Total
Residential	16.1	8.6	7.2	31.9
Industrial	27.3	1.0	1.4	29.7
Institutional/Utility	23.1	0.6	0.2	23.9
Other	12.6	1.3	0.6	14.5
Total	79.1	11.5	9.4	100.0

Source: FEA Middle Distillates Post-Exemption Monitoring System.

Table 5-MC: North Central Regional Fixed Percentages of Heating Oil Sales by Category
Cents per gallon

	STRATUM			
	1	2	3	Total
Residential	34.4	11.8	9.9	56.1
Industrial	20.5	6.8	0.4	27.7
Institutional/Utility	11.7	0.3	0.3	12.3
Other	2.7	0.1	1.1	3.9
Total	69.3	19.0	11.7	100.0

Source: FEA Middle Distillates Post-Exemption Monitoring System.

Table 5-NE: Northeast Regional Fixed Percentages of Heating Oil Sales by Category
Cents per gallon

	STRATUM			
	1	2	3	Total
Residential	32.8	20.4	15.3	68.5
Industrial	17.0	4.7	1.7	23.4
Institutional/Utility	5.9	0.3	0.1	6.3
Other	1.1	0.6	0.1	1.8
Total	56.8	26.0	17.2	100.0

Source: FEA Middle Distillates Post-Exemption Monitoring System.

Table 5-W: West Regional Fixed Percentages of Heating Oil Sales by Category
Cents per gallon

	STRATUM			
	1	2	3	Total
Residential	20.3	3.6	3.5	27.4
Industrial	28.4	5.9	6.0	40.3
Institutional/Utility	14.5	3.5	4.6	22.6
Other	7.6	0.3	1.8	9.7
Total	70.8	13.3	15.9	100.0

Source: FEA Middle Distillates Post-Exemption Monitoring System.

Table 5-US: National Fixed Percentages of Heating Oil Sales by Category
Cents per gallon

	STRATUM			
	1	2	3	Total
Residential	28.3	14.0	11.0	53.3
Industrial	21.3	4.6	1.7	27.6
Institutional/Utility	11.9	0.7	0.6	13.2
Other	4.7	0.6	0.6	5.9
Total	66.2	19.9	13.9	100.0

Source: FEA Middle Distillates Post-Exemption Monitoring System.

Table 6: Retailer Margin
January 1976 to March 1977

	Northeast	South	North Central	West	United States
Jan 76	9.3	7.9	6.9	9.3	8.8
Feb 76	9.1	8.2	6.7	9.4	8.8
Mar 76	9.5	8.3	7.3	9.7	9.2
Apr 76	9.5	7.9	7.1	9.9	9.1
May 76	9.2	7.1	6.7	9.8	8.6
June 76	8.2	7.0	6.7	10.2	8.6
July 76	8.4	7.1	6.5	11.3	8.0
Aug 76	8.8	7.6	6.3	12.8	8.5
Sept 76	8.9	7.3	6.5	12.6	8.7
Oct 76	9.0	7.6	6.8	11.6	8.6
Nov 76	9.4	8.7	6.8	11.3	9.1
Dec 76	9.6	8.7	7.5	10.5	9.2
Jan 77	9.7	8.7	7.8	10.3	9.3
Feb 77	9.6	9.5	7.8	10.7	9.4
Mar 77	9.7	9.0	7.5	11.1	9.5

Table 7-NE: Northeast Regional Heating Oil Costs, Prices and Margins for Nonrefiners to Residential Consumers
Cents per gallon

	Purchase Price	Residential Price	Residential Margin
Jan 74	22.9	31.8	8.9
Feb 74	25.2	33.7	8.5
Mar 74	25.0	32.8	7.8
Apr 74	25.9	34.6	8.7
May 74	26.7	35.2	8.5
Jun 74	27.6	36.1	8.5
Jul 74	28.2	35.4	7.2
Aug 74	28.2	36.2	8.0
Sept 74	29.1	36.9	7.8
Oct 74	29.7	36.3	6.6
Nov 74	29.8	38.9	9.1
Dec 74	29.4	38.5	9.1
Jan 75	30.0	39.6	9.6
Feb 75	29.5	38.8	9.3
Mar 75	29.4	37.9	8.5
Apr 75	29.5	37.1	7.6
May 75	30.3	37.3	7.0
Jun 75	30.3	37.7	7.4
Jul 75	30.4	37.4	7.0
Aug 75	31.2	38.5	7.3
Sept 75	31.2	39.1	7.9
Oct 75	32.0	40.1	8.1
Nov 75	32.1	40.3	8.2
Dec 75	32.8	41.1	8.3
Jan 76	31.8	41.1	9.3
Feb 76	32.0	41.1	9.1
Mar 76	31.6	41.1	9.5
Apr 76	31.3	40.8	9.5
May 76	31.2	40.4	9.2
Jun 76	32.4	40.6	8.2
Jul 76	32.1	40.5	8.4
Aug 76	32.1	40.9	8.8
Sept 76	32.4	41.3	8.9
Oct 76	32.9	41.9	9.0
Nov 76	33.5	42.9	9.4
Dec 76	35.1	44.7	9.6
Jan 77	35.7	45.4	9.7
Feb 77	36.8	46.4	9.6
Mar 77	37.1	46.8	9.7

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1)

Table 7-S: South Regional Heating Oil Costs, Prices and Margins for Nonrefiners to Residential Consumers
Cents per gallon

	Purchase Price	Residential Price	Residential Margin
Jan 74	23.4	30.3	6.9
Feb 74	25.3	32.4	7.1
Mar 74	25.2	32.3	7.1
Apr 74	26.2	33.1	6.9
May 74	27.5	35.3	7.8
Jun 74	26.6	33.5	6.9
Jul 74	26.8	32.9	6.1
Aug 74	28.6	35.8	7.2
Sept74	28.4	34.9	6.5
Oct 74	28.6	35.5	6.9
Nov 74	29.0	36.4	7.4
Dec 74	28.6	35.8	7.2
Jan 75	28.7	35.6	6.9
Feb 75	28.7	35.8	7.1
Mar 75	28.0	34.8	6.8
Apr 75	28.8	35.3	6.5
May 75	29.4	35.6	6.2
Jun 75	30.6	36.4	5.8
Jul 75	29.4	35.8	6.4
Aug 75	30.4	36.8	6.4
Sept75	30.3	36.7	6.4
Oct 75	31.2	37.5	6.3
Nov 75	32.0	38.7	6.7
Dec 75	30.6	35.6	6.0
Jan 76	32.2	40.1	7.9
Feb 76	31.9	40.1	8.2
Mar 76	31.5	39.8	8.3
Apr 76	31.6	39.5	7.9
May 76	31.5	38.6	7.1
Jun 76	32.6	39.6	7.0
Jul 76	32.5	39.6	7.1
Aug 76	32.0	39.6	7.6
Sept76	32.6	39.9	7.3
Oct 76	32.9	40.5	7.6
Nov 76	33.4	42.1	8.7
Dec 76	34.7	43.4	8.7
Jan 77	36.1	44.8	8.7
Feb 77	36.8	46.3	9.5
Mar 77	37.0	46.0	9.0

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1)

Table 7-NC: North Central Regional Heating Oil Costs, Prices and Margins for Nonrefiners to Residential Consumers
Cents per gallon

	Purchase Price	Residential Price	Residential Margin
Jan 74	23.9	30.8	6.9
Feb 74	25.6	31.9	6.3
Mar 74	26.3	34.4	8.1
Apr 74	25.6	31.8	6.2
May 74	26.6	33.4	6.8
Jun 74	28.2	34.3	6.1
Jul 74	28.0	34.7	6.7
Aug 74	28.2	35.2	7.0
Sept74	28.1	35.4	7.3
Oct 74	27.6	33.6	6.0
Nov 74	27.7	36.0	8.3
Dec 74	27.1	33.9	6.8
Jan 75	27.4	33.6	6.2
Feb 75	27.3	33.4	6.1
Mar 75	28.1	34.3	6.2
Apr 75	28.9	33.9	5.0
May 75	29.7	35.2	5.6
Jun 75	30.6	35.9	5.3
Jul 75	31.5	36.6	5.1
Aug 75	30.7	36.3	5.6
Sept75	30.6	36.7	6.1
Oct 75	31.5	37.7	6.2
Nov 75	32.1	38.0	5.9
Dec 75	31.7	38.3	6.6
Jan 76	32.0	38.9	6.9
Feb 76	31.9	38.6	6.7
Mar 76	30.7	38.0	7.3
Apr 76	30.7	37.8	7.1
May 76	31.1	37.8	6.7
Jun 76	31.4	38.1	6.7
Jul 76	31.9	38.4	6.5
Aug 76	32.3	38.6	6.3
Sept76	32.6	39.1	6.5
Oct 76	32.8	39.6	6.8
Nov 76	33.5	40.3	6.8
Dec 76	34.4	41.9	7.5
Jan 77	35.7	43.5	7.8
Feb 77	36.6	44.4	7.8
Mar 77	37.1	44.6	7.5

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1)

Table 7-W: West Regional Heating Oil Costs, Prices and Margins for Nonrefiners to Residential Consumers
Cents per gallon

	Purchase Price	Residential Price	Residential Margin
Jan 74	22.8	30.5	7.7
Feb 74	27.5	35.0	7.5
Mar 74	NA	NA	NA
Apr 74	26.4	33.4	7.0
May 74	26.7	36.3	9.6
Jun 74	27.7	37.5	9.8
Jul 74	28.7	36.2	7.5
Aug 74	28.2	35.9	7.7
Sept 74	29.1	33.7	4.6
Oct 74	29.6	35.9	6.3
Nov 74	28.9	36.9	8.0
Dec 74	28.2	34.9	6.7
Jan 75	29.1	37.8	8.7
Feb 75	29.0	37.2	8.2
Mar 75	27.6	36.8	9.2
Apr 75	28.8	37.9	9.1
May 75	29.8	37.4	7.6
Jun 75	30.4	37.6	7.2
Jul 75	30.4	38.8	8.4
Aug 75	32.2	40.3	8.1
Sept 75	31.7	39.5	7.8
Oct 75	33.5	40.0	6.5
Nov 75	33.2	40.8	7.6
Dec 75	33.4	42.9	9.5
Jan 76	32.9	42.2	9.3
Feb 76	33.1	42.5	9.4
Mar 76	32.6	42.3	9.7
Apr 76	32.1	42.0	9.9
May 76	32.7	42.5	9.8
Jun 76	33.0	43.2	10.2
Jul 76	36.2	47.5	11.3
Aug 76	33.8	46.6	12.8
Sept 76	34.4	47.0	12.6
Oct 76	34.5	46.1	11.6
Nov 76	33.6	44.9	11.3
Dec 76	34.4	44.9	10.5
Jan 77	35.0	45.3	10.3
Feb 77	35.6	46.3	10.7
Mar 77	35.9	47.0	11.1

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1)

Table 7-US: National Average Heating Oil Costs, Prices and Margins for Nonrefiners to Residential Consumers
Cents per gallon

	Purchase Price	Residential Price	Residential Margin
Jan 74	23.4	31.1	7.7
Feb 74	25.4	32.8	7.4
Mar 74	25.9	33.8	7.9
Apr 74	25.9	34.0	8.1
May 74	26.8	35.1	8.3
Jun 74	27.5	35.3	7.8
Jul 74	28.1	35.2	7.1
Aug 74	28.1	35.8	7.7
Sept 74	28.7	36.3	7.6
Oct 74	28.9	35.6	6.7
Nov 74	29.1	37.9	8.8
Dec 74	28.5	36.9	8.4
Jan 75	29.1	37.4	8.3
Feb 75	28.7	37.0	8.3
Mar 75	28.4	36.6	8.2
Apr 75	29.3	36.1	6.8
May 75	30.0	36.7	6.7
Jun 75	30.3	37.1	6.8
Jul 75	30.6	37.2	6.6
Aug 75	31.2	38.0	6.8
Sept 75	31.0	38.0	7.4
Oct 75	31.8	39.3	7.5
Nov 75	32.1	39.4	7.3
Dec 75	32.4	40.1	7.7
Jan 76	32.0	40.8	8.8
Feb 76	32.0	40.8	8.8
Mar 76	31.5	40.7	9.2
Apr 76	31.3	40.4	9.1
May 76	31.4	40.6	8.6
Jun 76	31.8	40.4	8.6
Jul 76	32.3	40.3	8.0
Aug 76	32.2	40.7	8.5
Sept 76	32.6	41.3	8.7
Oct 76	33.1	41.7	8.6
Nov 76	33.4	42.5	9.1
Dec 76	34.5	43.7	9.2
Jan 77	35.8	45.1	9.3
Feb 77	36.7	46.1	9.4
Mar 77	37.0	46.5	9.5

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1)

Table 8-NE: Northeast: Heating Oil Margins for Refiners and Retailers by Residential sales and Other Than Residential Sales
Cents per gallon

	Residential Margins		Other Than Residential Margins	
	Refiners	Retailers	Refiners	Retailers
June 76	8.0	8.2	1.0	2.4
July 76	7.2	8.4	0.3	3.1
Aug 76	8.2	8.8	0.8	3.8
Sept 76	8.3	8.9	-0.2	4.1
Oct 76	8.4	9.0	0.8	3.6
Nov 76	9.0	9.4	1.4	4.3
Dec 76	9.2	9.6	0.7	2.6
June 77	9.0	9.7	2.0	5.1
Feb 77	8.9	9.6	2.4	5.0
Mar 77	9.0	9.7	1.4	5.0

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA P112-M-1)

Table 8-S: South: Heating Oil Margins for Refiners and Retailers by Residential sales and Other Than Residential Sales
Cents per gallon

	Residential Margins		Other Than Residential Margins	
	Refiners	Retailers	Refiners	Retailers
June 76	5.7	7.0	1.2	4.3
July 76	4.6	7.1	1.2	3.3
Aug 76	5.8	7.6	0.5	2.1
Sept 76	6.3	7.3	0.7	2.8
Oct 76	7.3	7.6	0.6	4.1
Nov 76	8.2	8.7	1.5	4.0
Dec 76	7.5	8.7	0.8	1.8
June 77	7.6	8.7	0.9	4.1
Feb 77	7.8	9.5	1.2	4.5
Mar 77	8.1	9.0	1.3	5.3

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA P112-M-1)

Table 8-NC: North Central: Heating Oil Margins for Refiners and Retailers by Residential sales and Other Than Residential Sales
Cents per gallon

	Residential Margins		Other Than Residential Margins	
	Refiners	Retailers	Refiners	Retailers
June 76	6.6	6.7	1.2	2.3
July 76	6.2	6.5	0.7	2.1
Aug 76	6.5	6.3	0.9	3.7
Sept 76	6.1	6.5	0.9	1.9
Oct 76	6.3	6.8	0.9	2.5
Nov 76	7.5	6.8	1.1	0.9
Dec 76	7.5	7.5	1.6	2.0
June 77	7.8	7.8	1.7	2.8
Feb 77	7.7	7.8	1.6	3.1
Mar 77	8.3	7.5	1.5	2.5

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA P112-M-1)

Table 8-W: West: Heating Oil Margins for Refiners and Retailers by Residential sales and Other Than Residential Sales
Cents per gallon

	Residential Margins		Other Than Residential Margins	
	Refiners	Retailers	Refiners	Retailers
June 76	8.9	10.2	2.0	13.2
July 76	8.5	11.3	2.8	7.2
Aug 76	8.9	12.8	2.7	10.7
Sept 76	8.8	12.6	4.8	11.3
Oct 76	9.4	11.6	3.1	10.5
Nov 76	9.5	11.3	3.2	11.7
Dec 76	9.2	10.5	3.0	10.5
June 77	7.5	10.3	2.5	11.1
Feb 77	10.2	10.7	2.6	11.0
Mar 77	9.2	11.1	3.4	10.7

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA P112-M-1)

Table 8-US: National Average: Heating Oil Margins for Refiners and Retailers by Residential sales and Other Than Residential Sales
Cents per gallon

	Residential Margins		Other Than Residential Margins	
	Refiners	Retailers	Refiners	Retailers
June 76	7.2	8.6	1.0	4.2
July 76	6.4	8.0	0.8	2.7
Aug 76	7.3	8.5	0.6	3.6
Sept 76	7.4	8.7	0.5	3.9
Oct 76	7.8	8.6	0.5	3.9
Nov 76	8.6	9.1	1.1	3.6
Dec 76	8.5	9.2	0.9	2.7
June 77	9.2	9.3	1.3	4.7
Feb 77	8.5	9.4	1.4	4.6
Mar 77	8.7	9.5	1.2	4.6

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA P112-M-1)

Table 9-NE. Northeast Regional Heating Oil Residential and Rack Prices and Changes Between June 1976 and March 1977
cents per gallon

	Residential Prices			Rack Prices		
State	June 1976	March 1977	Change	June 1976	March 1977	Change
Connecticut	41.1	47.4	6.3	31.1	36.8	5.7
Maine	41.2	47.3	6.1	31.4	36.8	5.4
Massachusetts	40.8	46.5	5.7	30.9	36.6	5.7
New Hampshire	41.4	47.4	6.0	31.3	36.5	5.2
New Jersey	39.9	46.4	6.5	30.8	36.4	5.6
New York	40.8	46.9	6.1	31.0	36.7	5.7
Pennsylvania	39.1	45.4	6.3	31.6	36.8	5.2
Rhode Island	41.4	47.9	6.5	31.0	36.7	5.7
Vermont	41.4	48.1	6.7	32.3	37.7	5.4
Northeast	40.3	46.6	6.3	31.1	36.7	5.6
Increase in price Needed to Equal Northeast Index March 1977			7.2			7.2

Source: FEA P112. Survey is statistically valid only for regional average prices.

Table 9-S. South Regional Heating Oil Residential and Rack Prices and Changes Between June 1976 and March 1977
cents per gallon

State	Residential Prices June 1976	Residential Prices March 1977	Residential Prices Change	Rack Prices June 1976	Rack Prices March 1977	Rack Prices Change
Alabama	-	-	-	29.6	35.7	6.1
Arkansas	-	-	-	29.1	34.2	5.1
Delaware	38.6	46.6	8.0	31.3	36.3	5.0
District of Columbia	39.8	46.8	7.0	31.5	37.3	5.8
Florida	41.8	44.1	2.3	30.6	35.8	5.2
Georgia	35.6	42.6	7.0	30.7	35.8	5.1
Kentucky	37.9	44.4	6.5	30.9	36.0	5.1
Louisiana	-	-	-	29.0	33.9	4.9
Maryland	38.2	45.5	7.3	31.0	36.3	5.3
Mississippi	-	-	-	29.0	34.1	5.1
North Carolina	38.2	43.8	5.6	30.9	36.1	5.2
Oklahoma	-	-	-	31.4	34.7	3.3
South Carolina	38.2	44.0	5.8	31.0	36.4	5.4
Tennessee	37.9	42.9	5.0	31.1	35.6	4.5
Texas	-	-	-	29.6	34.3	4.7
Virginia	39.6	46.1	6.5	31.2	36.2	5.0
West Virginia	40.4	45.9	5.4	31.1	37.0	5.9
South	38.3	45.3	7.0	30.6	35.7	5.1
Increase in price Needed to Equal South Index March 1977			6.5			6.5

Source: FEA P112. Survey is statistically valid only for regional average prices.

Table 9-NC. North Central Regional Heating Oil Residential and Rack Prices and Changes Between June 1976 and March 1977
Cents per gallon

State	Residential Prices June 1976	Residential Prices March 1977	Residential Prices Change	Rack Prices June 1976	Rack Prices March 1977	Rack Prices Change
Illinois	37.5	44.1	6.6	30.0	35.6	5.6
Indiana	36.6	45.4	8.8	30.2	35.2	5.0
Iowa	36.4	42.9	6.5	29.4	35.2	5.8
Kansas	35.3	42.2	6.9	29.5	34.9	5.4
Michigan	37.1	44.8	7.7	30.6	36.0	5.4
Minnesota	38.0	45.2	7.2	30.3	35.9	5.6
Missouri	37.2	44.3	7.1	29.3	35.1	5.8
Nebraska	34.4	42.4	8.0	30.3	35.0	4.7
North Dakota	37.2	43.4	6.2	30.9	36.3	5.4
Ohio	38.6	43.7	5.1	31.1	36.7	5.6
South Dakota	37.5	42.6	5.1	30.8	35.4	4.6
Wisconsin	38.1	44.5	6.4	30.8	36.5	5.7
North Central	37.4	44.3	6.9	30.3	35.8	5.5
Increase in Price Needed to Equal North Central Index, March 1977			6.5			6.5

Source: FEA P112. Survey is statistically valid only for regional average prices.

Table 9-W. West Regional Heating Oil Residential and Rack Prices and Changes Between June 1976 and March 1977
cents per gallon

State	Residential Prices June 1976	Residential Prices March 1977	Residential Prices Change	Rack Prices June 1976	Rack Prices March 1977	Rack Prices Change
Alaska	48.6	53.1	4.5	34.0	39.2	5.2
Arizona	-	-	-	30.7	33.1	2.4
California	39.9	41.9	2.0	29.8	36.4	6.6
Colorado	-	-	-	30.3	32.8	2.5
Hawaii	-	-	-	33.8	37.4	3.6
Idaho	40.2	44.4	4.2	31.6	35.1	3.5
Montana	-	-	-	31.3	35.0	3.7
Nevada	41.4	45.0	3.6	30.7	34.8	4.1
New Mexico	-	-	-	29.2	33.7	4.5
Oregon	40.1	44.4	4.3	31.4	34.3	2.9
Utah	-	-	-	30.7	34.1	3.4
Washington	41.1	44.9	3.8	30.8	34.0	3.2
Wyoming	-	-	-	31.2	33.0	1.8
West	41.5	45.7	4.2	31.2	34.5	3.3
Increase in Price Needed to Equal West Index, March 1977			6.6			6.6

Source: FEA P112. Survey is statistically valid only for regional average prices.

Table 9-US. National Average and Regional Heating Oil Residential and Rack Prices and Changes Between June 1976 and March 1977
cents per gallon

State	Residential Prices June 1976	Residential Prices March 1977	Residential Prices Change	Rack Prices June 1976	Rack Prices March 1977	Rack Prices Change
Northeast	40.3	46.6	6.3	31.1	36.7	5.6
South	38.3	45.1	6.8	30.6	35.7	5.1
North Central	37.4	44.3	6.9	30.3	35.8	5.5
West	41.5	45.7	4.2	31.2	34.5	3.3
United States	39.3	45.8	6.5	30.8	36.2	5.4
Increase in Price Needed to Equal National Index, March 1977			6.8			6.8

Source: FEA P112. Survey is statistically valid only for regional average prices.

Table 10-NE. Northeast Regional Difference Between Heating Oil Average Rack Prices and Average Residential Prices
cents per gallon

Month		Rack	Residential	Difference
Jun	76	31.1	40.3	9.2
Jul	76	31.7	40.1	8.4
Aug	76	31.9	40.7	8.8
Sept	76	32.2	41.2	9.0
Oct	76	32.6	41.6	9.0
Nov	76	33.2	42.7	9.5
Dec	76	34.3	43.9	9.6
Jan	77	35.4	45.2	9.8
Feb	77	36.2	46.1	9.9
Mar	77	36.7	46.6	9.9

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1)

Table 10-S. South Regional Difference Between Heating Oil Average Rack Prices and Average Residential Prices
cents per gallon

Month		Rack	Residential	Difference
Jun	76	30.6	38.3	7.7
Jul	76	30.8	38.0	7.2
Aug	76	31.3	38.7	7.4
Sept	76	31.1	39.0	7.9
Oct	76	31.6	39.9	8.3
Nov	76	32.2	41.6	9.4
Dec	76	33.3	42.5	9.2
Jan	77	34.6	43.8	9.2
Feb	77	35.3	45.1	9.8
Mar	77	35.7	45.3	9.6

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1)

Table 10-NC. North Central Regional Difference Between Heating Oil Average Rack Prices and Average Residential Prices
cents per gallon

Month		Rack	Residential	Difference
Jun	76	30.3	37.4	7.1
Jul	76	30.6	37.6	7.0
Aug	76	30.9	37.8	6.9
Sept	76	31.3	38.1	6.8
Oct	76	31.4	38.5	7.1
Nov	76	32.1	39.8	7.7
Dec	76	33.3	41.3	8.0
Jan	77	34.5	42.9	8.4
Feb	77	35.3	43.7	8.4
Mar	77	35.8	44.3	8.5

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1)

Table 10-W. West Regional Difference Between Heating Oil Average Rack Prices and Average Residential Prices
cents per gallon

Month		Rack	Residential	Difference
Jun	76	31.2	41.5	10.3
Jul	76	31.4	42.0	10.6
Aug	76	31.5	42.2	10.7
Sept	76	32.0	42.5	10.5
Oct	76	32.4	43.5	11.1
Nov	76	32.8	44.0	11.2
Dec	76	32.9	43.8	10.9
Jan	77	33.5	44.6	11.1
Feb	77	33.8	45.4	11.6
Mar	77	34.5	45.7	11.2

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1)

Table 10-US. National Regional Difference Between Heating Oil Average Rack Prices and Average Residential Prices cents per gallon

Month	Rack	Residential	Difference
Jun 76	30.8	39.3	8.5
Jul 76	31.1	39.3	8.2
Aug 76	31.5	39.8	8.3
Sept 76	31.7	40.2	8.5
Oct 76	32.1	40.7	8.6
Nov 76	32.7	41.9	9.2
Dec 76	33.8	43.0	9.2
Jan 77	35.0	44.4	9.4
Feb 77	35.8	45.3	9.5
Mar 77	36.2	45.8	9.6

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1)

Table 11-NE. Northeast Regional Difference Between Rack and Residential Prices by State cents per gallon

State	June 1976	March 1977
Connecticut	10.0	10.6
Maine	9.8	10.5
Massachusetts	9.9	9.9
New Hampshire	10.1	10.9
New Jersey	9.1	10.0
New York	9.8	10.2
Pennsylvania	7.5	8.6
Rhode Island	10.4	11.2
Vermont	9.1	10.4
Northeast	9.2	9.9

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1). Survey is statistically valid only for regional average prices.

Table 11-S. South Regional Difference Between Rack and Residential Prices by State cents per gallon

State	June 1976	March 1977
Alabama	-	-
Arkansas	-	-
Delaware	7.3	10.3
District of Columbia	8.3	9.5
Florida	11.2	8.3
Georgia	4.9	6.8
Kentucky	7.0	8.4
Louisiana	-	-
Maryland	7.2	9.2
Mississippi	-	-
North Carolina	7.3	7.7
Oklahoma	-	-
South Carolina	7.2	7.6
Tennessee	6.8	7.3
Texas	-	-
Virginia	8.4	9.9
West Virginia	9.3	8.9
South	7.7	9.6

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1). Survey is statistically valid only for regional average prices.

Table 11-NC. North Central Regional Difference Between Rack and Residential Prices by State cents per gallon

State	June 1976	March 1977
Illionis	7.5	8.5
Indiana	6.4	10.2
Iowa	7.0	7.7
Kansas	5.8	7.3
Michigan	6.5	8.8
Minnesota	7.7	9.3
Missouri	7.9	9.2
Nebraska	4.1	7.4
North Dakota	6.3	7.1
Ohio	7.5	7.0
South Dakota	6.7	7.2
Wisconsin	7.3	8.0
North Central	7.1	8.5

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1). Survey is statistically valid only for regional average prices.

Table 11-W. West Regional Difference Between Rack and Residential Prices by State cents per gallon

State	June 1976	March 1977
Alaska	14.6	13.9
Arizona	-	-
California	10.1	5.5
Colorado	-	-
Hawaii	-	-
Idaho	8.6	9.3
Montana	-	-
Nevada	10.7	10.2
New Mexico	-	-
Oregon	8.7	10.1
Utah	-	-
Washington	10.3	10.9
Wyoming	-	-
West	10.3	11.2

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1). Survey is statistically valid only for regional average prices.

Table 11-US. National Regional Difference Between Rack and Residential Prices by State cents per gallon

State	June 1976	March 1977
Northeast	9.2	9.9
South	7.7	9.4
North Central	7.1	8.5
West	10.3	11.2
United States	8.5	9.6

Source: No. 2 Heating Oil Supply/Price Monitoring Report (Form FEA-P112-M-1). Survey is statistically valid only for regional average prices.

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

Issued in Washington, D.C., July 1, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-19532 Filed 7-12-77;8:45 am]

federal register

WEDNESDAY, JULY 13, 1977

PART X

DEPARTMENT OF STATE

■

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits To Fish Off the Coasts of the United States

DEPARTMENT OF STATE

[Public Notice 554]

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits To Fish Off the Coasts of United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94–265) (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that all applications for such permits be published in the FEDERAL REGISTER.

Applications for fishing during 1977 have been received from the Governments of Spain and Poland and are published herewith.

Dated: July 7, 1977.

ALBERT L. ZUCCA,
Director, Office of Fisheries Affairs.

MINISTERIO DE COMERCIO
SUBSECRETARIA DE LA MARINA MERCANTE

DIRECCION GENERAL DE PESCA MARITIMA

-SPAIN-

ASUNTO:
OBJECT: APPLICATION FOR VESSEL PERMITS TO FISH WITHIN THE FOR OF THE UNITED STATES OF AMERICA.- Squid (Illex)

This format includes applications for new 12 (Twelve) Spanish fishing vessels permits, corresponding to the period from November 1th to December 31th, 1977, for the Squid (Illex) fishery, and are requested as complement of the first allocation -incomplete catched-, and also as complement of the reallocation that we expect to be confirmed early next June, and are in addition to the applications submited in February, 22th, 1977.

Madrid, May, 20th, 1977

THE AUTHORIZED OFFICIAL,

THE UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

APPLICATION FOR VESSEL PERMITS TO FISH WITHIN THE FISHERY CONSERVATION ZONE OF THE UNITED STATES, OR FOR ANADROMOUS SPECIES OR CONTINENTAL SHELF FISHERY RESOURCES

DATE May, 20th, 1977 APPLICATION NO. _____ (For use of issuing Officer)

In accordance with the provision of Section 204 of the Fishery Conservation and Management Act of 1976, (16 U.S.C. 1801-1882), and the governing international fisheries agreement entered into with the Government of the United States of America, which entered into force on February, 1977 (date), the government (or competent authority) of SPAIN hereby submits this application for permits for fishing vessels under its jurisdiction to fish within the fishery conservation zone of the United States, or beyond that zone for anadromous species or Continental Shelf fishery resources subject to the jurisdiction of the United States.

The following information is submitted in support of this application (See additional sheets as required).

A completed Fishing Vessel Identification Form for each permit that is requested; and a compilation of data contained in questions 5 and 20 in the attached Fishing Vessel Identification Form.

Submitted May, 20th, 1977 (Date)

(Signature of Authorized Official)

-Bilateral Agreements Adv (Title)

..... See attached she

#	OCEAN AREA	NAME OF VESSEL	TYPE OF VESSEL	PERIOD (from-to)	SPECIES	ANTICIPATED CATCH (mt)	GEAR TO BE USED
1	ICNAF 5 - 6	VILACHAN	SEINE TRAWLER	1/11-31/12/77	Loligo	133	O.T.B.
2	ICNAF 5 - 6	PEÑALBA	SIDE TRAWLER	1/11-31/12/77	Loligo	133	O.T.B.
3	ICNAF 5 - 6	FLIPPER	SIDE TRAWLER	1/11-31/12/77	Loligo	133	O.T.B
4	ICNAF 5 - 6	PUERTO ARGENTE	SIDE TRAWLER	1/11-31/12/77	Loligo	107	O.T.B
5	ICNAF 5 - 6	ITSAS TXORI	SIDE TRAWLER	1/11-31/12/77	Loligo	133	O.T.B
6	ICNAF 5 - 6	PEYEGAIA II	SEINE TRAWLER	1/11-31/12/77	Loligo	200	O.T.B
7	ICNAF 5 - 6	VIZCAYA II	SIDE TRAWLER	1/11-31/12/77	Loligo	114	O.T.B
8	ICNAF 5 - 6	NAPOSA VI	SIDE TRAWLER	1/11-31/12/77	Loligo	193	O.T.B
9	ICNAF 5 - 6	PONLAVIAN	STERN TRAWLER	1/11-31/12/77	Loligo	133	O.T.B
10	ICNAF 5 - 6	COSTA DE TIRRANOVA	SIDE TRAWLER	1/11-31/12/77	Loligo	114	O.T.B
11	ICNAF 5 - 6	URGAMA	STERN TRAWLER	1/11-31/12/77	Loligo	133	O.T.B
12	ICNAF 5 - 6	JUNCHO	SIDE TRAWLER	1/11-31/12/77	Loligo	134	O.T.B.

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 1.977 Application No. 0078 For Use of Issuing Office

State: SPAIN

1. Name of Vessel: VILACHAN
2. Vessel No.: Hull No. VI-8 Registration No. 9272
3. Name and Address of Owner / Name and Address of Charte

Name	CANDIDO PENA FREIRE	CANDIDO PENA FREIRE
Address	El Con. - Moaña	El Con Moaña
	(PONTEVEDRA)	(Pontevedra)
Cable Address	It has not	

4. *Homeport and State of Registry: Las Palmas
5. Type of Vessel (T.C.P.) HYDR TRAWLER
6. Tonnage (Gross) 219.76 (Net) 160
7. Length 31.72 M. F. Breadth 8.02 M. V. Draft 3.81
8. Horsepower 800 shp. 11. Maximum Speed 11 nudos
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.972
14. Number and Nationality of Personnel 25 Spanish
Officers 2 Crew 1 Other (Specify) 16
15. Communications: VHF-FM (x), AM/SSB, Telex (x), Telegraph Other
International Radio Call Sign E.A.P.C
Radio Frequencies Monitored 2182 kcs. 16 VHF
Other Working Frequencies 2191Khz Ajo-dice 18
Schedule Hx

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer (X), Other
17. Cargo Capacity (MT) 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	230 m³
Frozen Fish	300 m³	Tanks	
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
12 tons. for day
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC ICNAF 5 y 6	1.11.77 31.12.77	Loligo		Otter trawl

21. Name and Address of Agent Appointed to receive any legal process issued in the United States:
D. Guillermo Martinez Colón - President of INTERNATIONAL TRADING SHIPPING AGENCY
25 Broadway - New York N.Y 10.004 Tf 253 212 425 - 5686
Cable Address - INAGENA
Telex - ITT 420211 New York

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 1.977 Application No. 0079 For Use of Issuing Office

State: SPAIN

1. Name of Vessel: PEÑALBA
2. Vessel No.: Hull No. VI-5 Registration No. 1718
3. Name and Address of Owner / Name and Address of Charte

Name	MANUEL GESTOSO	MANUEL GESTOSO COSTAS
Address	Tomás A. Alonso, 294	Tomás A. Alonso, 294
	VIGO	VIGO
Cable Address	It has not	

4. Homeport and State of Registry: Vigo
5. Type of Vessel (O.T.B) SIDE TRAWLER
6. Tonnage (Gross) 480 (Net) 140
7. Length 44.26 M. F. Breadth 8.37 M. V. Draft 4.40
8. Horsepower 1060 shp. 11. Maximum Speed 10 nudos
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.966
14. Number and Nationality of Personnel 27 Spanish
Officers 3 Crew 7 Other (Specify) 17
15. Communications: VHF-FM ( ), AM/SSB, Telex (X), Telegraph Other
International Radio Call Sign E.E.K.N
Radio Frequencies Monitored 2182 - kHz
Other Working Frequencies 2191 kHz
Schedule Hx

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (1), Fathometer (1), Other
17. Cargo Capacity (MT) 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	430 m³
Frozen Fish	420 m³	Tanks	
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
15 tons.for day
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC ICNAF 5 y 6	1.11.77 31.12.77	Loligo		Otter trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
D. Guillermo Martinez Colón - President of INTERNATIONAL TRADING SHIPPING AGENCY
25 Broadway - New York N.Y. 10.004 Tf 253 212 425 - 5686
Cable Address - INAGENA
Telex - ITT 420211 New York

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office: 0080

State: SPAIN

1. Name of Vessel: PUERTO DE ASHDOD
2. Vessel Hull No.: VI-5 — Registration No.: 816
3. Name and Address of Owner: PESCANAO, S.A., Orillamar, 303, VIGO — Name and Address of Charte: PESCANAO, S.A., Orillamar, 301, VIGO
   Cable Address: It has not
4. Homeport and State of Registry: Vigo
5. Type of Vessel: S.T.E. (STERN TRAWLER)
6. Tonnage (Gross): 426.11 (Net): 145
7. Length: 35.5 m. 8. Breadth: 9.) m. 9. Draft: 3.40
10. Horsepower: 1.100 shp. 11. Maximum Speed: 11 nudos
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other:
12. Date Built: 1.969
14. Number and Nationality of Personnel: 20 Spanish
    Officers: 2 Crew: 2 Other (Specify): 16
15. Communications: VHF-FM (X), MF/SSB, Voice (X), Telegraph, Other:
    International Radio Call Sign: E.E.Y.K
    Radio Frequencies Monitored: 2.182 kcs. 16 VHF
    Other Working Frequencies: 2107 - 2038 Aprobice
    Schedule: 0x
16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca (1), Navsat ( ), Radar (1), Fathometer (2), Other:
17. Cargo Capacity (MT) — 18. Cargo Space: Number / Name
    Salted Fish: — Freezer:
    Fresh Fish: — Dry Hold: 350 m³
    Frozen Fish: 350 m³ — Tanks:
    Fish Meal: — Other:
    Other:
19. Processing Equipment (Indicate daily Capacity,MT): 12 tons. for day
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC ICNAF 5 y 6	1.11.77 31.12.77	Loligo		Otter trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
D. Guillermo Martinez Colón - President of INTERNATIONAL TRADING SHIPPING AGENCY - 25 Broadway New York N.Y. 10.004
Tf 253 212 425 - 5586
Cable Address: INAGEN
Telex - ITT 420211 New York

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office: 0081

State: SPAIN

1. Name of Vessel: PUERTO DE ASHDOD
2. Vessel Hull No.: VI-6 — Registration No.: 8.
3. Name and Address of Owner: ~~ISLANDO SAN GINES RAMOS~~ — Name and Address of Charte: PESCANAO, S.A., Miami Pl. Cable Acces. Florida, Pescanao USA MIAMI
   Cable Address: It has not
4. Homeport and State of Registry: ASHDOD
5. Type of Vessel: (S.T.E.) (STERN TRAWLER)
6. Tonnage (Gross): 426 (Net):
7. Length: 35.0 m. 8. Breadth: m 9. Draft: 4.2
10. Horsepower: 700 shp. 11. Maximum Speed: 9 nudos
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other:
12. Date Built: 1.966
14. Number and Nationality of Personnel: 19 Israeli
    Officers: 2 Crew: 2 Other (Specify): 15
15. Communications: VHF-FM ( ), MF/SSB, Voice ( ), Telegraph, Other:
    International Radio Call Sign: 4X-AL
    Radio Frequencies Monitored: 2182
    Other Working Frequencies:
    Schedule:
16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (1), Fathometer (1), Other:
17. Cargo Capacity (MT) — 18. Cargo Space: Number / Name
    Salted Fish: — Freezer:
    Fresh Fish: — Dry Hold: 303 m³
    Frozen Fish: 303 m³ — Tanks:
    Fish Meal: — Other:
    Other:
19. Processing Equipment (Indicate daily capacity,MT): 7 Tns for day
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC ICNAF 5 y 6	1.11.77 31.12.77	Loligo		Otter trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
D. Guillermo Martinez Colón - President of INTERNATIONAL TRADING SHIPPING AGENCY - 25 Broadway New York N.Y. 10.004 Tf 253 212 425
Cable Address - INAGEN
Telex - ITT 420211 New York

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 1.977 Application No. 0082 For Use of Issuing Office

State: SPAIN

1. Name of Vessel ITXAS TXORI
2. Vessel No.: Hull No. BI-4-152 Registration No. 152
3. Name and Address of Owner / Name and Address of Charte

Owner	Charte
Name ONDARSUTARRA, S.A.	ONDARSUTARRA, S.A
Address Apartado 19	Apartado, 19
ONDARROA (Vizcaya)	ONDARROA (VIZCAYA)
Cable Address It has not	

4. Homeport and State of Registry: Ondarroa
5. Type of Vessel (O.T.B.) STERN TRAWLER
6. Tonnage (Gross) 329,07 (Net) 100
7. Length 33.6 m. B. Breadth 7,87 m. D. Draft 3,85
10. Horsepower 1.200 shp. 11. Maximum Speed 11 nudos
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.974
14. Number and Nationality of Personnel 20 Spanish
Officers 2 Crew 3 Other (Specify) 15
15. Communications: VHF-FM ( ), AM/SSB, Voice (X), Telegraph Other
International Radio Call Sign E.G.J.U.
Radio Frequencies Monitored 2182/ khz
Other Working Frequencies 2191 - Apendice 18
Schedule Hs

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (2), Fathometer (1), Other
17. Cargo Capacity (MT) / 18. Cargo Space Number / Cargo

Salted Fish		Freezer	
Fresh Fish		Dry Hold	225 m^3
Frozen Fish	225 m^3	Tanks	
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
15 tons. for day
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC ICNAF 5 y 6	1.11.77 31.12.77	Loligo		Otter trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
D. Guillermo Martinez Colón - President of INTERNATIONAL TRADING
SHIPPING AGENCY - 25 Broadway - New York N.Y. 10.004 - Tf. 252-212 425 -
Cable Address - INAGENA
Telex - ITT 420211 New York

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 1.977 Application No. 0083 For Use of Issuing Office

State: SPAIN

1. Name of Vessel PEVEGASA II
2. Vessel No.: Hull No. V2-6 Registration No. 9222
3. Name and Address of Owner / Name and Address of Charte

Owner	Charte
Name PEVEGA, S.A.	PEVEGA, S.A.
Address Alfredo L. Jones, 5	Alfredo, L. Jones, 5
LAS PALMAS G. CANARIA	LAS PALMAS G. CANARIA
Cable Address It has not	

4. Homeport and State of Registry: Las Palmas
5. Type of Vessel (O.T.B.) STERN TRAWLER
6. Tonnage (Gross) 314,12 (Net) 100
7. Length 38,30 m. B. Breadth 8,52 m. D. Draft 3,10
10. Horsepower 960 shp. 11. Maximum Speed 12 nudos
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.974
14. Number and Nationality of Personnel 18 Spanish
Officers 2 Crew 3 Other (Specify) 13
15. Communications: VHF-FM (X), AM/SSB, Voice (X), Telegraph Other
International Radio Call Sign E.G.I.C.
Radio Frequencies Monitored 2182 and VHF
Other Working Frequencies 2191 - Apendice 18
Schedule Hs

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (2), Fathometer (1), Other
17. Cargo Capacity (MT) / 18. Cargo Space Number / Cargo

Salted Fish		Freezer	
Fresh Fish		Dry Hold	390 m^3
Frozen Fish	390 m^3	Tanks	
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
12 tons. for day
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC ICNAF 5 y 6	1.11.77 31.12.77	Loligo		Otter trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
D. Guillermo Martinez Colón - President of INTERNATIONAL TRADING
SHIPPING AGENCY - 25 Broadway - New York N.Y. 10.004
Tf. 252-212-425- 5656
Cable Address - INAGENA
Telex - ITT 420211 New York

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 1.977 Application No. 0084 For Use of Issuing Office

State: SPAIN

1. Name of Vessel VIEIRASA II
2. Vessel No.: Hull No. VI-5 Registration No. 8386
3. Name and Address of Owner / Name and Address of Charterer
   Name S.A. EDUARDO VIEIRA / S.A EDUARDO VIEIRA
   Address Avda.Orillamar, 1 / Avda. Orillamar, 1
   VIGO / VIGO
   Cable Address It has not
4. Homeport and State of Registry: Vigo
5. Type of Vessel (O.T.M.) SIDE TRAWLER
6. Tonnage (Gross) 249.19 (Net) ng
7. Length 33.59 M. B. Breadth 6.81 M. D. Draft 4
8. Horsepower 730 shp. 11. Maximum Speed 10 nodes
9. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
   Other
10. Date Built 1.962
11. Number and Nationality of Personnel 19 Spanish
    Officers 2 Crew 2 Other (Specify) 15
12. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraph
    Other
    International Radio Call Sign E.D.N.T
    Radio Frequencies Monitored 2182 khz
    Other Working Frequencies 2191 Apendice 18
    Schedule Hr

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( )
    Decca (I), Hovcat ( ), Radar (1), Fathometer (1),
    Other
17. Cargo Capacity (MT) / 18. Cargo Space Number / Name
    Salted Fish — Freezer
    Fresh Fish — Dry Hold
    Frozen Fish 280 m³ — Tanks
    Fish Meal — Other
    Other
19. Processing Equipment (Indicate daily capacity,MT)
    6 tons. for day
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Nw ATLANTIC ICNAF 5 & 6	1.11.77 31.12.77	Loligo		Otter trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    D. Guillermo Martinez Colin - President of INTERNATIONAL TRADING SHIPPING AGENCY - 25 Broadway New York N.Y. 10.004
    tf. 212 212 425 - 5656
    Cable Address - INAGENA
    Telex - ITT 420211 New York

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 1.977 Application No. 0085 For Use of Issuing Office

State: SPAIN

1. Name of Vessel MARINA VI
2. Vessel No.: Hull No. HU - 3 Registration No. 13
3. Name and Address of Owner / Name and Address of Charterer
   Name MARITIMA PULIN, S.A / MARITIMA PULIN, S.A
   Address Glorieta Norte, s/n / Glorieta Norte, s/n
   HUELVA / HUELVA
   Cable Address It has not
4. Homeport and State of Registry: HUELVA
5. Type of Vessel (O.T.M) SIDE TRAWLER
6. Tonnage (Gross) 450 (Net) 150
7. Length 35,50 M. B. Breadth 9,32 M. D. Draft 6,20
8. Horsepower 1.170 shp. 11. Maximum Speed 11 nodes
9. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
   Other
10. Date Built 1.975
11. Number and Nationality of Personnel 19 spanish
    Officers 2 Crew 3 Other (Specify) 14
12. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph
    Other
    International Radio Call Sign E.G.Y.N
    Radio Frequencies Monitored 2.206
    Other Working Frequencies 3.370 - 4.139.5 KHZ
    Schedule Hr

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( )
    Decca ( ), Hovcat ( ), Radar (I), Fathometer (I,
    Other
17. Cargo Capacity (MT) / 18. Cargo Space Number / Name
    Salted Fish — Freezer
    Fresh Fish — Dry Hold 430 m³
    Frozen Fish 430 m³ — Tanks
    Fish Meal — Other
    Other
19. Processing Equipment (Indicate daily capacity,MT)
    12 Tns for day
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC ICNAF 5 and 6	1.11.77 31.12.77	Loligo		Otter trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    D. Guillermo Martinez Colin - President of INTERNATIONAL TRADING SHIPPING AGENCY 25 Broadway New York N.Y. 10.004
    tf. 212 212 425 - 5656
    Cable Address - INAGENA
    Telex - ITT 420211 New York

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 1.977 Application No. 0056 For Use of Issuing Office

State: SPAIN

1. Name of Vessel POALAMAR
2. Vessel No.: Hull No. CO-8 Registration No. 3633
3. Name and Address of Owner / Name and Address of Charte

Name PASCUAL ALABAU NAVARRO	Pesquera Galica, S.A
Address Muelle Linares Rivas, 6 LA CORUÑA	Muelle Linares Rivas, 6 LA CORUÑA
Cable Address It has not	

4. Homeport and State of Registry: La Coruña
5. Type of Vessel (O.T.B.) STERN TRAWLER
6. Tonnage (Gross) 282.25 (Net) 95
7. Length 29 m. 8. Breadth 8.70 M. 9. Draft 3.90
10. Horsepower 1.200 shp. 11. Maximum Speed 12 nudos
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.975
14. Number and Nationality of Personnel 22 Spanish
Officers 5 Crew 3 Other (Specify) 17
15. Communications: VHF-FM (X), AM/SSB, Voice (X), Telegraph Other
International Radio Call Sign E.H.F.E.
Radio Frequencies Monitored 2182 can 16 VHF 2191 - 2058 - Aparat

16. Navigation Equipment: Loran C (X), Loran A ( ), Omega (X), Decca (X), Navsat ( ), Radar (X), Fathometer (X), Other
17. Cargo Capacity (MT) 18. Cargo Space Number Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	286 m³
Frozen Fish	286 m³	Tanks	
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT) 8 tons for day
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC ICNAF 5 & 6	1.11.77 31.12.77	Loligo		Otter trawl

21. Name and Address of Agent Appointed to Receive any Legal Process Issued in the United States
D. Guillermo Martinez Calle - President of INTERNATIONAL TRADING SHIPPING AGENCY - 25 Broadway New York N.Y. 10.004
TF. 253 212 425 - 5686
Cable Address - INAGENA
Telex - ITT 420911 New York

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 1.977 Application No. 0087 For Use of Issuing Office

State: SPAIN

1. Name of Vessel COSTA DE TERRANOVA
2. Vessel No.: Hull No. CO-1 Registration No. 144
3. Name and Address of Owner / Name and Address of Charte

Name JUSTO OJEDA PEREZ	JUSTO OJEDA PEREZ
Address Rosualdo Alvargonzá-lez, 5 GIJON	Rosualdo Alvargonzáles, 5 GIJON
Cable Address It has not	

4. Homeport and State of Registry: Gijón
5. Type of Vessel (O.T.B.) SIDE TRAWLER
6. Tonnage (Gross) 351 (Net) 210
7. Length 40 m. 8. Breadth 7.40 M. 9. Draft 3
10. Horsepower 800 shp. 11. Maximum Speed 13 nudos
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.962
14. Number and Nationality of Personnel 18 Spanish
Officers 2 Crew 2 Other (Specify) 14
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraph Other
International Radio Call Sign E.O.O.B
Radio Frequencies Monitored 2182 kHz
Other Working Frequencies
Schedule H

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer (X), Other
17. Cargo Capacity (MT) 18. Cargo Space Number Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	300 m³
Frozen Fish	300 m³	Tanks	
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT) 7 tons. for day
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC ICNAF 5 & 6	1.11.77 31.12.77	Loligo		Otter trawl

21. Name and Address of Agent Appointed to Receive any Legal Process Issued in the United States
D. Guillermo Martinez Calle - President of INTERNATIONAL TRADING SHIPPING AGENCY - 25 Broadway New York N.Y. 10.004
TF 253 212 425 - 5686
Cable Address INAGENA
Telex ITT 420911 New York

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 1.977 Application No. 0085 For Use of Issuing Office

State: SPAIN

1. Name of Vessel: MARINA
2. Vessel No.: Hull No. 08-8 Registration No. 3629
3. Name and Address of Owner: Name: PESQUERA GALAICA, S.A. Address: Muelle Linares Rivas, 6. LA CORUÑA. Cable Address: It has not
   Name and Address of Charterer: PESQUERA GALAICA, S.A. Muelle Linares Rivas, 6 LA CORUÑA
4. Homeport and State of Registry: La Coruña
5. Type of Vessel: (F.T.S.) STERN TRAWLER
6. Tonnage (Gross): 282.25 (Net): 85
7. Length: 29 m. B. Breadth: 8.60 m. D. Draft: 3.90
8. Horsepower: 1.200 shp. 11. Maximum Speed: 15 nudos
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other:
12. Date Built: 1.975
14. Number and Nationality of Personnel: 27 Spanish. Officers: 2 Crew: 7 Other (Specify): 17
15. Communications: VHF-FM (X), AM/SSB, Voice (X), Telegraph, Other:
    International Radio Call Sign: E.H.F.A.
    Radio Frequencies Monitored: 2182 kHz and 16
    Other Working Frequencies: 2191-2053 Apendix 18
    Schedule: 24
16. Navigation Equipment: Loran C (X), Loran A ( ), Omega (X), Decca (X), Navsat ( ), Radar (2), Fathometer (2), Other:
17. Cargo Capacity (MT): Salted Fish: Frozen Fish: Frozen Fish 286 m³. Fish Meal: Other:
    18. Cargo Space: Number: Name: Hold 286 m³. Tanks: Other:
19. Processing Equipment (Indicate daily capacity, MT): 8 tons. for day
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC ICNAF 5 & 6	1.11.77 31.12.77	Loligo		Otter trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States: D. Guillermo Martinez Collo - President of INTERNATIONAL TRADING SHIPPING AGENCY - 25 Broadway New York N.Y. 10004. TF. 252 212 425 - 5080. Cable Address - INAGUNA. TELEX - ITT 420211 New York

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 1.977 Application No. 0090 For Use of Issuing Office

State: SPAIN

1. Name of Vessel: JUANCHO
2. Vessel No.: Hull No. 01 - 4 Registration No. 1931
3. Name and Address of Owner: Name: LUIS PAZOS CAEIRO. Address: Salvador Moreno, 53 PONTEVEDRA. Cable Address: It has not
   Name and Address of Charterer: LUIS PAZOS CAEIRO. Salvador moreno, 53 PONTEVEDRA
4. Homeport and State of Registry: Marín
5. Type of Vessel: (F.T.S.) STERN TRAWLER
6. Tonnage (Gross): 283.5 (Net): 85
7. Length: 37.27 m. B. Breadth: 7.31 m. D. Draft: 3.90
8. Horsepower: 1.000 shp. 11. Maximum Speed: 10 nudos
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other:
12. Date Built: 1.975
14. Number and Nationality of Personnel: 18 Spanish. Officers: 2 Crew: 3 Other (Specify):
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph, Other:
    International Radio Call Sign: E.H.F.O.
    Radio Frequencies Monitored: 2182 kHz and 16
    Other Working Frequencies: 2191 - Apendice 18
    Schedule: 24
16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca (X), Navsat ( ), Radar (2), Fathometer ( ), Other:
17. Cargo Capacity (MT): Salted Fish: Frozen Fish: Frozen Fish 200 m. Fish Meal: Other:
    18. Cargo Space: Number: Name: Hold 250 m³. Tanks: Other:
19. Processing Equipment (Indicate daily capacity, MT): 7 tons. for day
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC ICNAF 5 & 6	1.11.77 31.12.77	Loligo		Otter trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States: D. Guillermo Martinez Collo - President of INTERNATIONAL TRADING SHIPPING AGENCY - 25 Broadway N.Y. New York N.Y. 10.004. TF 252 212 425 - 5080. Cable Address - INAGUNA. Telex - ITT 420211 New York

PL-77-0036

Vessels Permit Applied for: 1977

Application No. PL-77-0036
For Use of Issuing Office

Nation: POLAND

1. Name of Vessel: m/s "DOUGLAS"

2. Vessel Hull No.: ____ Registration No.: 293520

3. Name and Address of Owner:
Name: COMPAGNIE DE NAVIGATION
Address: FRUITIERE
POSTAL 80 RUE D'HAUTEVILLE
Cable address: PARIS 75010
NAVIFRU

Name and Address of Charterer:
FIRMA "TRANSOCEAN"
70-952 Szczecin
ul.Odrowąża 1 POB 631
"TRANSOCEAN"
Szczecin

4. Homeport and Port of Registry: NANTES, FRANCE

5. Type of Vessel: FREEZER

6. Tonnage (Gross): 4536 (Net): 2499

7. Length: 115 m. B. Breadth: 15,4 m. D. Draft: 7,11 m.

8. Horsepower: 5.400 shp. 11. Maximum Speed: 16 kn.

9. Propulsion: Diesel (*), Steam ( ), Nuclear ( )
Other: ____

10. Date Built: 1959

12. Number and Nationality of Personnel: 32
Officers: 10 Crew: 21 Other (Specify): 1

13. Communications: VHF-FM (*), AM/SSB, Telex ( ), Telephone ( )
Other: ____
International Radio Call Sign: FVGD
Radio Frequencies Monitored: 4198, 4201, 6202, 6302, 8377, 1256
Other Working Frequencies: 12604,16754,16806
Schedule: local time 08^{00} - 12^{00}, 16^{00}-19^{00}, 20^{00}-01^{00}

14. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Radar ( ), Radar ( ), Fathometer ( ),
Other: GYRO COMPASS, DIRECTION FINDER

15. Cargo Capacity (MT): ____ 16. Large Vessel Activity: Trawler 4 Purse Seine ____ Long Line I, II, III, IV
Salted Fish: -
Fresh Fish: -
Frozen Fish: 2400
Fish Meal: 600
Other: -

17. Processing Equipment (Indicate daily capacity,MT):
-

18. Fisheries for which Permit is Required:

Ocean Area	Period (From-To)	Species	Quantity Caught (MT)	Gear to be Used
NE PACIFIC 1977 FROM 10.VII - TO 31.XII.1977				

19. Name and Address of Agent appointed to receive and forward papers issued to the Vessel in the U.S.:
AGENPOL INTERNATIONAL INC OFFICIAL REPRESENTATIVE ETC WORLD TRADE CENTER IKONEUSS WELTHANDELSZ SUITE 2222 NEW YORK NY 10048

[FR Doc.77-19983 Filed 7-12-77;8:45 am]