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WEDNESDAY, JANUARY 25, 1978



highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Reservations for February are being accepted for the free Friday workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L Street NW., 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, Workshop Coordinator, 202-523-3517.

SUNSHINE ACT MEETINGS 3472

BOYCOTTS

Commerce/ITA amends the Export Administration Regulations on Restrictive Trade Practices and Boycotts, effective 1-18-78, (Part III of this issue) 3508

Treasury issues new guidelines consisting of questions and answers 3454

RADIOACTIVE MATERIAL

NRC issues final environmental statement on transportation of radioactive material by air, comments by 3-15-78 3368

BANK OFFICERS

Treasury/Comptroller proposes procedures and standards applicable to suspensions and prohibitions where felony is charged, comments by 2-24-78 3368

NYLON YARN FROM FRANCE

Treasury initiates antidumping investigation, 1-25-78 3470

REHABILITATION LONG-TERM TRAINING

HEW/HDSO announces competition for grants; applications by 3-24-78 and 4-21-78 3439

GUARANTEED STUDENT LOAN PROGRAM

HEW/OE announces special allowance for quarter ending 12-31-77 3439

CONTROLLED SUBSTANCES

Justice/DEA issues rule transferring Phencyclidine to Schedule II, effective 2-24-78 3359

GLYPHOSATE

EPA renews feed additive regulation permitting experimental use of herbicide glyphosate in soybean hulls, effective 1-25-78 3358

CONTINUED INSIDE

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

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

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

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

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

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Subscription orders (GPO)	202–783–3238
Subscription problems (GPO)	202–275–3050
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	202–523–5022
Scheduling of documents for publication.	523–3187
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5237
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–3517
Code of Federal Regulations (CFR)	523–3419
	523–3517
Finding Aids	523–5227

PRESIDENTIAL PAPERS:

Executive Orders and Proclamations.	523–5286
Weekly Compilation of Presidential Documents.	523–5284
Public Papers of the Presidents	523–5285
Index	523–5285

PUBLIC LAWS:

Public Law dates and numbers	523–5266
	523–5282
Slip Laws	523–5266
	523–5282
U.S. Statutes at Large	523–5266
	523–5282
U.S. Government Manual	523–5287
Automation	523–5240
Special Projects	523–4534

HIGHLIGHTS—Continued

AVIATION RADIO SERVICES

FCC proposes to permit the authorization of additional Aeronautical Advisory Station at landing area to separate helicopter and fixed-wing aircraft communications, comments by 2-24-78 3408

COUNTERVAILING DUTIES

Treasury/Customs initiates countervailing duty investigation on optic liquid level sensing systems from Canada 3453

PRIVACY ACT

EPA systems of records; annual publication (Part II of this issue) 3502

MEETINGS—

Commerce/ITA: Computer Systems Technical Advisory Committee, 2-16-78 3418

Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee, 2-14-78 3419

Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee, 2-14-78 3420

Commerce/NOAA: Gulf of Mexico Fishery Management Council, 2-7 through 2-9-78 3421

DOD/AF: Scientific Advisory Board Electronic Systems Division Advisory Group, Air Force Systems Command, 2-9 and 2-10-78 3422

FCC: Radio Technical Commission for Marine Services, 2-16-78 3436

HEW/NIH: Committee on Cancer Immunotherapy, National Cancer Institute, 2-9-78 3441

General Clinical Research Centers Committee, Division of Research Resources, 2-6 and 2-7-78 3442

HEW/SECY: National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, 2-10 and 2-11-78 3439

HUD: Task Force on Housing Costs Advisory Committees, 2-8 through 2-10-78 3442

Interior-NPS: Biscayne National Monument, Florida, Draft Environmental Statement on General Management Plan, 1-25 and 1-26-78 3444

NRC: Advisory Committee on Reactor Safeguards, 2-9 through 2-11-78 3445

NSF: Biological Research Resources Program, Conference on Long-Term Ecological Measurements, 2-6 through 2-10-78 3445

Biological Research Resources Program, Symposium on the Impact of Federal Wildlife Regulation's on the Systematics/Ecology Community, 2-14 and 2-15-78 3445

Subcommittee on Human Cell Biology of the Advisory Committee for Physiology, Cellular, and Molecular Biology, 2-10 and 2-11-78 3445

SBA: Region I Regional Advisory Councils Executive Board, 2-13-78 3452

Region IX Regional Advisory Councils Executive Board, 2-8-78 3453

Region X Regional Advisory Council Executive Board, 2-7-78 3453

CHANGED MEETINGS—

SBA: Region II Regional Advisory Councils Executive Board, 1-26-78 3452

Region III Regional Advisory Councils Executive Board, 1-24-78 3452

Region IV Regional Advisory Councils Executive Board, 1-19-78 3452

Region VI Regional Advisory Councils Executive Board, 1-17-78 3452

Region VII Regional Advisory Councils Executive Board, 1-18-78 3453

HEARING—

FRS-Treasury/Comptroller-FDIC-FHLBB: joint hearing, 3-15 and 3-16-78 3370

SEPARATE PARTS OF THIS ISSUE

Part II, EPA 3502

Part III, Commerce/ITA 3508

Part IV, Interior/RB & DOE/FERC 3540

contents

AGRICULTURAL MARKETING SERVICE

Rules

Tomatoes, imported; grade, size, quality and maturity exemptions 3349

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Farmers Home Administration; Forest Service.

AIR FORCE DEPARTMENT

Notices

Meetings:
Scientific Advisory Board 3422

COMMERCE DEPARTMENT

See Economic Development Administration; Industry and Trade Administration; National Oceanic and Atmospheric Administration.

COMPTROLLER OF CURRENCY

Proposed Rules

Financial institutions; credit needs of local communities, assessment; hearing 3370
Suspensions and prohibitions where felony charged; procedures and standards 3368

CUSTOMS SERVICE

Rules

Articles conditionally free, subject to reduced rate, etc.:
Guyana aircraft; duty and tax exemptions on certain supplies and equipment 3358

Notices

Countervailing duty petitions and preliminary determinations:
Optic liquid level sensing systems from Canada 3453

DEFENSE DEPARTMENT

See Air Force Department.

DRUG ENFORCEMENT ADMINISTRATION

Rules

Schedules of controlled substances:
Phencyclidine 3359

ECONOMIC DEVELOPMENT ADMINISTRATION

Rules

Business development projects; project modification policy 3349

ECONOMIC REGULATORY ADMINISTRATION

Notices

Appeals and applications for exception, etc.; cases filed with Administrative Review Office:
List of applicants 3423

EDUCATION OFFICE

Notices

Guaranteed student loan program; special allowances for quarter ending December 31, 1977 3439

ENERGY DEPARTMENT

See Economic Regulatory Administration; Federal Energy Regulatory Commission.

ENVIRONMENTAL PROTECTION AGENCY

Rules

Air programs, new source review; authority delegation to Kentucky 3360
Pesticides, tolerances in animal feeds:
Glyphosate 3358

Proposed Rules

Air programs, energy related authority:
Kansas 3401
Pesticide programs:
Packaging, special 3401

Notices

Pesticide applicator certification and interim certification; State plans:
Wyoming 3435
Pesticides; tolerances, registration, etc.:
Bentazon 3434
Glyphosate 3434
Privacy Act; systems of records. 3502
Toxic and hazardous substances control:
TSCA Interagency Testing Committee report to EPA; availability and inquiry, extension of time 3434

FARMERS HOME ADMINISTRATION

Notices

Disaster and emergency areas:
Louisiana 3410
New York 3410
North Carolina 3410
Texas (2 documents) 3411

FEDERAL COMMUNICATIONS COMMISSION

Rules

FM broadcast stations; table of assignments:
South Carolina 3362
Texas 3363

Proposed Rules

Aviation services:
Aeronautical advisory station, additional authorized to separate helicopter and fixed-wing aircraft communications 3408
FM broadcast stations; table of assignments:
Maryland and Virginia 3403
Montana 3405
Radio broadcast services and practice and procedure:
AM broadcast stations; directional antennas, radiation pattern conversions; inquiry; extension of time 3402
New Mexico 3407
Television broadcast stations; table of assignments:
Alabama 3402

Notices

Committees; establishment, renewals, terminations, etc.:
Cable Signal Leakage Advisory Committee 3435
Docket number assignments; new numbering system adopted 3435
Meetings:
Marine Services Radio Technical Commission 3436
Rulemaking proceedings filed, granted, denied, etc.; petitions by various companies 3435

FEDERAL DEPOSIT INSURANCE CORPORATION

Proposed Rules

Financial institutions; credit needs of local communities, assessment; hearing 3370

FEDERAL ENERGY REGULATORY COMMISSION

Notices

Environmental statements; availability, etc.:
Michigan Wisconsin Pipe Line Co. et al 3540
Natural gas companies:
Certificates of public convenience and necessity; applications, abandonment of service and petitions to amend; corrections (2 documents) 3424
Hearings, etc.:
Black Hills Power & Light Co.. 3422
Florida Gas Transmission Co.. 3425
Florida Power Corp 3425
High Island Offshore System. 3426
Holyoke Water Power Co. et al 3426
New York Power Pool 3427
Northern Natural Gas Co 3428
Pennzoil Louisiana & Texas Offshore, Inc., et al 3428

Southern Energy Co. et al 3428
Supron Energy Corp 3424
Transcontinental Gas Pipe Line Corp 3429

FEDERAL HOME LOAN BANK BOARD

Proposed Rules

Financial institutions; credit needs of local communities, assessment; hearing 3370

FEDERAL INSURANCE ADMINISTRATION

Proposed Rules

Flood Insurance Program, National:
Flood elevation determinations, etc. (52 documents) 3372–3400

FEDERAL MARITIME COMMISSION

Rules

Shipping conditions, unfavorable, in foreign trade of U.S.; Guatemala:
Favored carriers list, certain deletions 3361
Suspension of rule 3361

Notices

Organization and functions:
Managing director; show cause orders, et al 3436

FEDERAL RESERVE SYSTEM

Proposed Rules

Financial institutions; credit needs of local communities, assessment; hearing 3370

Notices

Federal Open Market Committee:
Domestic policy directives..... 3437
Applications, etc.:
Chemical New York Corp..... 3436
Chilton Bancshares, Inc 3437
Deshler State Co..... 3437
Groom Bancshares, Inc 3437
Mercantile Bancorporation, Inc 3437
Royal Trustco, Ltd 3438

FISH AND WILDLIFE SERVICE

Rules

Fishing:
Savannah (and Blackbeard Island) National Wildlife Refuge, Ga., et al 3365

FOREST SERVICE

Notices

Environmental statements; availability, etc.:
Mount Rogers National Recreation Area and Scenic Highway, Va 3411

GENERAL ACCOUNTING OFFICE

Notices

Regulatory reports review; proposals, approvals, etc. (FEC, ICC)..... 3438

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Education Office; Human Development Services Office; National Institutes of Health.

Notices

Meetings:
Protection of Human Subjects of Biomedical and Behavioral Research, National Commission..... 3439

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See also Federal Insurance Administration.

Notices

Meetings:
Housing Costs Task Force, Advisory Committees 3442

HUMAN DEVELOPMENT SERVICES OFFICE

Notices

Rehabilitation long-term training grants; applications and closing dates, 1978 FY 3439

INDUSTRY AND TRADE ADMINISTRATION

Rules

Trade practices, restrictive, or boycotts 3508

Notices

Meetings:
Computer Systems Technical Advisory Committee (3 documents) 3418–3420
Scientific articles; duty free entry:
City College of New York Research Foundation 3411
Colorado State University..... 3412
Energy Research and Development Administration 3412
Geophysical Institute 3413
Iowa State University et al 3414
Long Island University 3414
National Institutes of Health.. 3417
Stevens Institute of Technology 3418
University of California..... 3418

INTERIOR DEPARTMENT

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

Notices

Environmental statements; availability, etc.:
ANG Coal Gasification Co., N. Dak..... 3540
Biscayne National Monument, Fla 3444

INTERSTATE COMMERCE COMMISSION

Rules

Motor and water carriers:
Freight and passenger tariffs and schedules; construction, filing, and posting 3365
Rail carriers:
Accounts, uniform system; extension of time 3365
Subsidies, commuter rail service continuation standards, and emergency operating payments; conformity with uniform system of accounts; extension of time 3364
Subsidies, rail service continuation standards; conformity with uniform system of accounts; extension of time 3364

Notices

Fourth section applications for relief 3471
Motor carriers:
Property brokers, applications 3471
Railroad car service rules, mandatory; exemptions 3470

JUSTICE DEPARTMENT

See Drug Enforcement Administration.

LAND MANAGEMENT BUREAU

Notices

Alaska native selections; applications, etc.:
Kuugpik Corp., Inc 3442

LEGAL SERVICES CORPORATION

Notices

Grants and contracts; applications (2 documents)..... 3444

MANAGEMENT AND BUDGET OFFICE

Notices

Clearance of reports; list of requests 3448

NATIONAL INSTITUTES OF HEALTH

Notices

Meetings:
Cancer Immunotherapy Committee..... 3441
General Clinical Research Centers Committee 3442

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Notices

Fishing by foreign vessels in U.S. waters:
Fee schedule 3420
Meetings:
Gulf of Mexico Fishery Management Council 3421

NATIONAL PARK SERVICE

Rules

Freehold and leasehold interests; conveyance on NPS lands; Historic Preservation Advisory Council comment opportunity 3360

Notices

Meetings:
Chesapeake & Ohio Canal National Historic Park Commission 3443

NATIONAL SCIENCE FOUNDATION

Notices

Impact of Federal wildlife regulations on systematics/ecology community, symposium ... 3445
Long-term ecological measurements conference 3445
Meetings:
Physiology, Cellular, and Molecular Biology Advisory Committee 3445

NUCLEAR REGULATORY COMMISSION

Proposed Rules

Radioactive material, packaging and transportation; environmental statement 3368

Notices

Meetings:
Reactor Safeguard Advisory Committee 3445
Rulemaking petitions:
Citizens United for Responsible Energy 3448
Safety analysis reports, safety evaluation reports; availability, etc.:
Fluor Pioneer, Inc 3447
Applications, etc.:
Northern States Power Co 3447
Omaha Public Power District. 3447

SECURITIES AND EXCHANGE COMMISSION

Rules

Interpretative releases relating to Securities Act and Investment Company Act; sales literature for mutual funds 3350

Notices

Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc. (2 documents) 3449
Hearings, etc.:
Chicago Milwaukee Corp 3450
Hallcraft Homes, Inc 3450
Hartford Variable Annuity Life Insurance Co. et al. (2 documents) 3451

SMALL BUSINESS ADMINISTRATION

Notices

Applications, etc.:
Columbia Ventures, Inc 3451
Meetings, advisory councils:
Region I Executive Board 3452
Region II Executive Board; correction 3452
Region III Executive Board; correction 3452
Region IV Executive Board; correction 3452
Region VI Executive Board; correction 3452
Region VII Executive Board; correction 3453
Region IX Executive Board ... 3453
Region X Executive Board 3453

TEXTILE AGREEMENTS IMPLEMENTATION COMMITTEE

Notices

Textile and apparel categories; correlation with Tariff Schedules of U.S.; correction 3421

TREASURY DEPARTMENT

See also Comptroller of Currency; Customs Service.

Notices

Antidumping:
Yarn, nylon, from France 3470
Boycotts, international:
Guidelines; questions and answers; Tax Reform Act provisions 3454

list of cfr parts affected in this issue

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

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

7 CFR

980 3349

10 CFR

PROPOSED RULES:

71 3368
73 3368

12 CFR

PROPOSED RULES:

24 3368
Ch. I 3370
Ch. II 3370
Ch. III 3370
Ch. V 3370

13 CFR

308 3350
309 3350
315 3350

15 CFR

369 3508

17 CFR

231 3350
271 3350

19 CFR

10 3358

21 CFR

561 3358
1308 3359

24 CFR

PROPOSED RULES:

1917 (52 documents) 3372-3400

36 CFR

17 3360

40 CFR

52 3361
60 3361
61 3361

40 CFR—Continued

PROPOSED RULES:

55 3401
162 3401

46 CFR

507 (2 documents) 3361

47 CFR

73 (2 documents) 3362, 3363

PROPOSED RULES:

1 3402
73 (5 documents) 3402-3407
87 3408

49 CFR

1125 3364
1127 3364
1201 3365
1310 3365

50 CFR

33 3365

CUMULATIVE LIST OF PARTS AFFECTED DURING JANUARY

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

1 CFR

Ch. I 1

3 CFR

EXECUTIVE ORDERS:

10866 (Revoked by EO 12033) 1915
10943 (Revoked by EO 12033) 1915
11861 (Amended by EO 12035) .. 3073
12033 1915
12034 1917
12035 3073

PROCLAMATIONS:

4544 1919
4545 2375
4546 3071
4547 3251

5 CFR

213 ..... 1471-1474, 1921, 1922, 2167, 2377, 2378, 2815, 2816, 3253
302 2378
330 2378
353 2379
511 1473
534 1473
772 2379

PROPOSED RULES:

300 1506

7 CFR

2 ..... 1289, 3254
16 969
26 2816
215 1059
271 ..... 1611, 1922
301 1924
401 2379-2383
404 2381
722 2384
725 1
729 2817
792 2818
795 1929
905 ..... 2384, 2820
907 ..... 753, 969, 1785, 2719
910 ..... 970, 1060, 2817
912 2385
913 2385
916 2385
917 2385
928 1785
929 1474
959 ..... 1475, 2818
967 ..... 1475, 2818
971 2386
980 3349
1201 2627
1421 ..... 2821, 2825, 2830, 2835, 2837, 2841, 2845
1430 1061
1435 1476
1468 2

7 CFR—Continued

1472 3
1488 1786
1822 2852
1804 3074
1933 2852
1955 1290
1980 1291
2853 3140
2871 3

PROPOSED RULES:

210 1955
760 1958
907 2401
911 2401
915 ..... 974, 2401
945 1096
980 1098
993 2182
1001 ..... 779, 3127
1139 2404
1421 2404
1426 2404
1464 1351
1701 ..... 11, 12, 1098, 3284
1823 1098

9 CFR

73 1062
113 1478
114 1479

PROPOSED RULES:

92 1506
94 1962
316 3145
317 ..... 1099, 2881, 3145, 3284
319 3284
381 ..... 1099, 2881

10 CFR

0 1929
1 2719
9 10
20 2167
30 2386
35 2167
51 970
Ch. II 1613
205 ..... 1479, 1930
211 1291

PROPOSED RULES:

71 3368
73 3368
100 2729
205 2729
303 2729
1002 3128

12 CFR

204 1615
511 1786

12 CFR—Continued

PROPOSED RULES:

7 ..... 1800, 2731, 2732, 2881
24 3368
Ch. I 3370
Ch. II 3370
Ch. III 3370
Ch. V 3370

13 CFR

101 3
105 3078
124 1489
308 3350
309 3350
315 3350

PROPOSED RULES:

108 3130
121 12

14 CFR

1 2316
21 2316
23 2317
25 2320
27 2324
29 2326
39 ..... 3, 4, 949, 950, 1293-1301, 1786, 2168, 2733, 3078-3080
71 ..... 5, 6, 951-953, 1303, 1304, 1787, 3080-3083
73 3083
75 3083
91 2328
93 6
95 1304
97 1787
121 ..... 1789, 2328, 3084
127 3084
135 3084
145 3084
159 2720
207 3086
208 3086
212 3087
214 3087
221 1322
298 1489
302 1323
371 ..... 2387, 3087
372a 2387
378 ..... 2387, 3088
378a 2387, 3088
385 1616
1245 3088

PROPOSED RULES:

39 ..... 13, 974, 975, 1352-1355, 1801, 2733, 3130-3132
71 ..... 1802, 2182, 2183, 3133, 3134
73 ..... 2183, 2734

14 CFR—Continued

PROPOSED RULES—Continued

75 1802
97 1803
207 2882
369 3285

15 CFR

Ch. III 7
301 7
303 ..... 753, 2169
369 3508
806 2169

PROPOSED RULES:

377 3134

16 CFR

0 753
2 3088
3 ..... 754, 3088
4 ..... 754, 1937
13 ..... 2388, 3089, 3090
195 ..... 954, 1790

PROPOSED RULES:

4 ..... 779, 1804
13 ..... 1506, 2406
1201 2734
1303 1804
Ch. II 2185

17 CFR

1 1323
200 ..... 755, 3258
210 1063
211 2870
230 2392
231 3350
240 ..... 1327, 2392
270 2393
271 3350

PROPOSED RULES:

210 878

18 CFR

PROPOSED RULES:

2 1509
154 1509

19 CFR

10 3358
153 954
159 ..... 955, 956, 1790, 3258
174 1937

PROPOSED RULES:

Ch. II 3407
6 1963
22 3286
24 1806
153 ..... 1099, 1356-1358
201 2883
209 2886
210 2886
211 ..... 2883, 2886

20 CFR

404 ..... 1938, 2627
416 1938
616 2625

20 CFR—Continued

PROPOSED RULES:

404 1964
416 1964

21 CFR

Ch. I 1940
25 1940
73 1490
172 2871
173 2872
175 ..... 2872, 2873
176 2393
177 ..... 1941, 2874
178 ..... 1941, 2873
440 2393
444 1941
514 1941
520 1941
522 1941
540 8
556 1942
558 1942
561 ..... 2629, 3358
606 2142
640 2142
813 1940
1308 3359

PROPOSED RULES:

81 3287
101 ..... 2889, 3287
145 2889
146 1509
182 ..... 1509, 2408, 2890
184 ..... 1509, 2890
186 ..... 1509, 2408, 2890
207 2526
210 2526
225 2526
310 1966
333 1210
343 1100
501 2526
510 2526
511 1100
514 2526
558 ..... 1966, 2526, 3032
610 2890
640 2890
740 ..... 1101, 1966
800 1106
801 1106

22 CFR

51 ..... 1791, 3090

23 CFR

630 1490
640 1328
642 1328

PROPOSED RULES:

625 2734
658 2634

24 CFR

300 1791
570 ..... 1602, 2714
803 2875
888 2875
891 2356
1911 2570

24 CFR—Continued

1912 2570
1914 ..... 3090, 3259
1915 3091
1916 3261
1917 ..... 2062-2082, 2286-2300, 3263-3269
1920 3269-3274

PROPOSED RULES:

570 1610
1917 ..... 2735, 3372-3400

25 CFR

259 2393

PROPOSED RULES:

113 2408

26 CFR

1 ..... 1064, 2169, 2721, 3107
Ch. I 2721
11 1064

PROPOSED RULES:

1 976
20 976
301 2892

27 CFR

PROPOSED RULES:

4 2186
5 2186
7 2186
18 3137
194 3137
250 3137
251 3137

28 CFR

0 ..... 1066, 3115
43 1066

PROPOSED RULES:

50 1506

29 CFR

1 1942
4 1491
5 2394
94 2150
97 2150
1910 2586
2610 2721
2615 1334

PROPOSED RULES:

1607 1506
2605 1358
2608 1358

30 CFR

50 1617
700 2721
710 2721
715 2721
716 2722
722 2722
740 2722
830 2722

PROPOSED RULES:

11 979
70 979

30 CFR—Continued

PROPOSED RULES—Continued

71 979
91 979
211 781

31 CFR

500 1335
515 1336

32 CFR

166 1617
230 1066
292a 3274
505 1336
656 1792
723 2169
816 1070
861 ..... 1070, 2394
865 ..... 1619, 2394
983 1070
984 1070

PROPOSED RULES:

70 2634
553 3139
832 ..... 980, 2735
1460 2187
1469 2187

32A CFR

Ch. VI 8

33 CFR

3 ..... 1056, 2372
117 ..... 956-958, 1336-1338
128 2170
165 2170
203 1434
207 ..... 3115, 3275

PROPOSED RULES:

117 ..... 981, 982, 1363
206 3287
282 3048

34 CFR

235 2722

36 CFR

7 1792
17 3360

PROPOSED RULES:

7 779
9 2188
223 1628

37 CFR

201 ..... 771, 958
202 ..... 763, 964, 965
203 774
204 774

38 CFR

14 2722

PROPOSED RULES:

Ch. I 2635
1 1628
2 1635
3 2737

39 CFR

111 ..... 1619, 3118

PROPOSED RULES:

111 1966

40 CFR

3 1338
20 1339
35 ..... 1493, 1598
52 ..... 10, 755, 1070, 1341, 1793, 3275-3279, 3361
60 ..... 10, 1494, 3361
61 ..... 10, 3361
180 ..... 1795, 1796
205 1796
220 1071
227 1071
228 1071
249 1872
458 1341

PROPOSED RULES:

2 2637
52 ..... 4, 1967, 2896-2898
55 3401
86 1108
124 1256
162 3401
180 15

41 CFR

5A-1 1347
5A-2 1347
5A-16 1348
5A-72 1348
5A-73 1348
5A-76 1350
15-1 967
15-3 1797
105-61 1798
114-26 761
128-48 3279

PROPOSED RULES:

Ch. 20 3288
20-1 3288
60-3 1506

42 CFR

1 2877
5 1586
23 2877
33 2877
51 2878
56b 2878
57 2878
58 2878
66 1498
122 1253
450 3118
460 2630
476 2282
478 854

PROPOSED RULES:

Ch. IV 2412
50 2899
57 3344
81 1968
121 3056
405 ..... 780, 2412, 2740
446 2413
447 2413

42 CFR—Continued

PROPOSED RULES—Continued

448 2413
449 ..... 780, 2412, 2413, 2740
450 ..... 780, 2413, 2740, 2741
451 2413
452 2413
462 2413
474 2413

43 CFR

4 2723
20 1072

PROPOSED RULES:

4100 1108

45 CFR

46 1758
85 2132
100a 1762
118 2630
124 2630
162 2630
190 2631
205 2631
232 2170
302 2178
1301 2632
1451 2878

PROPOSED RULES:

16 1968
46 1050
128 ..... 1862, 2899
137 ..... 1865, 2899
139 ..... 1868, 2899
185 ..... 1968, 1969
205 2899
1351 1363
1606 20
1622 1807
1623 19

46 CFR

188 967
251 1621
280 8
310 9
350 1943
507 3361

PROPOSED RULES:

283 1363

47 CFR

2 2879
21 1498
73 ..... 1499-1503, 2879, 2880, 3362, 3363
74 1943
78 1943
81 ..... 1623, 2395
83 ..... 1623, 2395
87 1504
94 1624

PROPOSED RULES:

1 3402
73 ..... 1510-1516, 2413, 3402-3407
87 3408

49 CFR

172 970
179 2180

49 CFR—Continued

228 3122
255 1091
266 858
1006 972
1011 1091
1033 ..... 762, 971, 1092, 2395, 2725, 3125, 3281
1036 1954
1047 2396
1056 ..... 762, 3125
1059 972
1100 2632
1102 1799
1125 ..... 1692, 3364
1127 ..... 1715, 3364
1131 1625
1201 ..... 1732, 1799, 3126, 3365
1203 2726
1240 ..... 1799, 3126
1241 ..... 1799, 2726, 3126
1243 ..... 1799, 3126

49 CFR—Continued

1308 972
1310 3365

PROPOSED RULES:

171 1369
173 ..... 983, 1369
174 983
177 983
178 ..... 983, 2741
266 1108
391 16
392 ..... 20, 1809
395 ..... 20, 21
523 1370
533 1370
571 2189
1057 1109
1200 1370
1201 ..... 1371, 3140
1206 1371
1240 3140
1241 ..... 1375, 3140

49 CFR—Continued

PROPOSED RULES—Continued

1331 1809

50 CFR

17 968
20 ..... 1093, 1799
21 968
33 ..... 2633, 2726, 3283, 3365
216 ..... 1093, 1627
260 1094
402 870
611 2726
651 777

PROPOSED RULES:

17 968
601 1460
602 1460
603 1460
611 3292
652 21

FEDERAL REGISTER PAGES AND DATES—JANUARY

Pages	*Date*	*Pages*	*Date*	*Pages*	*Date*
1-751	Jan. 3	1611-1783	11	2719-2814	19
753-947	4	1785-1913	12	2815-3069	20
949-1057	5	1915-2166	13	3071-3250	23
1059-1287	6	2167-2373	16	3251-3347	24
1289-1469	9	2375-2625	17	3349-3542	25
1471-1610	10	2627-2717	18		

reminders

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

Rules Going Into Effect Today

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

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—
- Dried prunes produced in Calif.; amendment of handling regulations; comments by 1-31-78 ..... 2182; 1-16-78
- Texas and other marketing areas; milk orders; comments by 1-30-78 .. 65088; 12-29-77

Agricultural Stabilization and Conservation Service—
- Dairy Indemnity Payment Program (1978-1981); removal of certain dairy products from the commercial market; comments by 1-30-78 .. 1958; 1-13-78

Forest Service—
- Land exchange guidelines; comments by 2-2-78..... 63649; 12-19-77
- Rights-of-way on National Forest System lands; comments by 2-1-78 ..... 62163; 12-9-77

Office of the Secretary—
- Nondiscrimination—direct USDA programs and activities, prohibition of age discrimination; comments by 1-30-78 ... 65202; 12-30-77

Rural Electrification Administration—
- Rural telephone program:
  - Specification for telephone cable for aerial and underground duct applications; telephone cables for direct burial; filled telephone cables; filled buried wire; and parallel conductor drop wire (2 documents); comments by 2-2-78..... 11, 12; 1-3-78

BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM

Procurement requirements and procedures; military resale commodities; comments by 1-30-78 ..... 64378; 12-23-77

CIVIL AERONAUTICS BOARD

All-cargo air taxis; increased aircraft size; reply comments by 2-2-78 ..... 62930; 12-14-77

Protection of charter participants' funds; comments by 1-31-78 ... 61408; 21-2-77

COMMERCE DEPARTMENT

Maritime Administration—
- Limitations on the award and payment of operating differential subsidy for liner operators; comments by 1-31-78..... 8; 1-3-78
  - [First published at 42 FR 61460, 12-5-77]

National Oceanic and Atmospheric Administration—
- National Sea Grant Program funding regulations; comments by 1-31-78. 65218; 21-30-77

Office of the Secretary—
- Consumer Product Information Labeling Program; performance characteristic information required by other agencies; comments by 1-30-78 ..... 64909; 12-29-77

COMMODITY FUTURES TRADING COMMISSION

Commodity trading requirements; reporting requirements for traders and future commission merchants, to publish monthly aggregate position on foreign participants in U.S. futures markets and to appoint agents in the U.S. to perform certain functions; comments by 2-1-78 ..... 62147; 12-9-77

ENERGY DEPARTMENT

Economic Regulatory Administration—
- Resale of crude oil; amendments to mandatory petroleum price regulations; comments by 1-31-78 ..... 64856; 12-29-77

ENVIRONMENTAL PROTECTION AGENCY

Pesticide programs; insecticide residue tolerance; comments by 2-2-78.... 15; 1-3-78

Prevention of significant air quality deterioration; extension of public comment period on proposal and conference; comments by 1-31-78 ..... 64378; 12-23-77
- [First published at 42 FR 57471 and 57479, 11-3-77]

State implementation plans:
- California; revision; malfunction regulations; comments by 1-30-78 ..... 65207; 12-30-77
- Kentucky; air quality maintenance area designation; comments by 2-2-78 .. 14; 1-3-78
- Mississippi; plan revision; comments by 2-2-78..... 65208; 12-30-77

Stationary gas turbines; standards of performance for new stationary sources; comments by 1-31-78 ..... 62164; 12-9-77

FEDERAL COMMUNICATIONS COMMISSION

Class D transmitters operating in citizens radio service; spurious and harmonic emissions; reply comments by 2-3-78 ..... 59893; 11-22-77
- [First published at 42 FR 42362, 8-23-77]

Land Mobile Radio Services, consolidation of regulations; reply comments by 2-2-78..... 39560; 8-4-77; 45007; 9-8-77

FEDERAL RESERVE SYSTEM

Eligible bankers' acceptances; interpretation of Regulation A; comments by 2-1-78 ..... 63897; 12-21-77

Truth in lending; right of rescission; comments by 2-1-78 ..... 62146; 12-9-77

FEDERAL TRADE COMMISSION

Freedom of Information Act requests; fees for reproduction and search costs; comments by 2-3-78 ..... 779; 1-4-78

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—
- Indirect food additives: paper and paperboard in contact with aqueous and fatty foods; comments by 1-30-78 ... 65150; 12-30-77; 2393; 1-17-78

Social Security Administration—
- Federal Old Age, Survivors, and Disability Insurance (1950-); deletion of out-of-date regulations; comments by 1-30-78 ..... 64886; 12-29-77

INTERIOR DEPARTMENT

Fish and Wildlife Service—
- Possession of shotshells loaded with material other than steel shot while taking waterfowl in non-toxic shot zones; comments by 1-31-78 ..... 63437; 12-16-77
- Special regulation describing Upper Mississippi River Wild Life Non-toxic shot will be required in waterfowl hunting seasons commencing in 1978; comments by 1-31-78 ..... 65214; 12-30-77
- Status review of Mexican duck; comments by 2-1-78 ..... 60579; 11-28-77
- Ten species of reptiles, status review; comments by 2-1-78..... 57492; 11-3-77

Land Management Bureau—
- Rights-of-way on public lands; comments by 2-1-78..... 62505; 12-13-77

National Park Service—
- Hawaii Volcanoes National Park, Hawaii; backcountry camping registration requirement; comments by 2-4-78 .. 780; 1-4-78

INTERSTATE COMMERCE COMMISSION

Branch Line Accounting System; revision; comments by 1-31-78 ..... 1732; 1-11-78

Railroads and motor carriers of passengers; accounting for certain government transfers; comments by 1-31-78 .. 1371; 1-9-78

Standards for determining rail services continuation subsidies, report and order; comments by 1-31-78 ..... 1692; 1-11-78

LABOR DEPARTMENT

Occupational Safety and Health Administration—
- Identification, classification, and regulation of toxic substances posing a potential occupational carcinogenic risk; comments period extended to 1-30-78 ..... 60753; 11-29-77
  - [First published at 42 FR 54148, 10-4-77]

LEGAL SERVICES CORPORATION

Financial assistance and denial of refunding; procedures governing termination, comments by 2-2-78 ..... 16; 1-3-78

Procedures governing suspension of financial assistance; comments by 2-2-78..... 19; 1-3-78

PENSION BENEFIT GUARANTY CORPORATION

Employee Retirement Income Security Act; reporting and notification requirements for reportable events; comments by 1-30-78 ..... 59285; 11-16-77

SECURITIES AND EXCHANGE COMMISSION

Disclosure of security ratings; comments by 2-1-78 ..... 58414; 11-9-77

Going private transactions by public companies or their affiliates; comments by 1-31-78 ..... 60090; 11-23-77

Qualifications of accountants; comments by 1-31-78 ..... 64311; 12-22-77

Short form for registration of securities, comments by 1-31-78 ..... 58677; 11-10-77

SMALL BUSINESS ADMINISTRATION

Offshore marine services; small business size standards; comments by 2-2-78 ..... 12; 1-3-78

TRANSPORTATION DEPARTMENT

Coast Guard—

Albemarle and Chesapeake Canal, Va., drawbridge operation regulations; comments by 2-4-78 ..... 981; 1-5-78

Electronic navigation equipment; vessels of 1,600 gross tons or more; comments by 1-13-78 ..... 59012; 11-14-77

Federal Aviation Administration—

Civil supersonic airplanes; noise and sonic boom requirements; comment period extended to 1-31-78 .... 62400; 12-12-77

[First published at 42 FR 55176, Oct. 13, 1977]

Federal Highway Administration—

Exemption from preparing driver's logs for operations between certain fixed locations; comments by 1-3-78 ..... 58418; 11-9-77

100-mile exemption; driver's logs; comments by 1-31-78 ..... 21; 1-3-78

National Highway Traffic Safety Administration—

Nonpassenger automobile average fuel economy standards model years 1980-1981; comments by 1-30-78. 63185; 12-15-77

TREASURY DEPARTMENT

Internal Revenue Service—

Abatement of income taxes of certain members of the Armed Forces of the U.S. upon death; comments by 2-2-78 .....63648; 12-19-77

Income tax; investment credit for movie and television films; comments by 2-3-78..... 63791; 12-20-77

Income tax; new jobs credit; comments by 1-30-78 ..... 62932; 12-14-77

Public inspection of written determinations; comments by 1-30-77 63431; 12-16-77

Next Week's Meetings

ARTS AND HUMANITIES, NATIONAL FOUNDATION

National Endowment for the Arts—

Visual Arts Advisory Panel, La Jolla, Calif. (open), 2-2 and 2-3-78 2464; 1-17-78

COMMERCE DEPARTMENT

Census Bureau—

Census Advisory Committee on Spanish Origin Population for 1980 Census, Suitland, Md. (open), 2-3-78 ..... 1979; 1-13-78

Industry and Trade Administration—

Materials and acoustic wave, memory and photo conductive device; Washington, D.C. (closed), 2-1-78 .... 1813; 1-12-78

Microcircuit Subcommittee of the Semiconductor Technical Advisory Committee; Washington, D.C. (closed), 2-1 through 2-3-78 ..... 1814; 1-12-78

Numerically Controlled Machine Tool Technical Advisory Committee; Washington, D.C. (partially open), 1-31-78. 1113; 1-6-78

Transistor, Diode, and Thyristor Subcommittee, Semiconductor Technical Advisory Committee; Washington, D.C. (closed), 2-1 through 2-3-78 ..... 1815; 1-12-78

DEFENSE DEPARTMENT

Navy Department—

Chief of Naval Operations Executive Panel Advisory Committee, Strategic Subpanel; Washington, D.C. (closed), 2-1 and 2-2-78 ..... 2205; 1-16-78

Office of the Secretary—

President's Commission on Military Compensation; Washington, D.C. (open), 2-2-78..... 2205; 1-16-78

Wage Committee; Washington, D.C. (closed), 1-30-78 ..... 56776; 10-28-77

ENERGY DEPARTMENT

Natural Gas Advisory Committee Subcommittee; Washington, D.C. (open), 1-31-78 ..... 64924; 12-29-77

Bonneville Power Administration—

Draft environmental statement, public response Meeting; Billings, Mont. (open), 2-1-78..... 64401; 12-23-77

ENVIRONMENTAL PROTECTION AGENCY

Administrator's Toxic Substances Advisory Committee; Washington, D.C. (open), 1-31-78 ..... 1985; 1-13-78

National Ambient Air Quality Standard for Photochemical Oxidants; Washington, D.C. (open), 1-30-78 .... 65264; 12-30-77

Polybrominated biphenyls (PBBs); Edison, N.J. (open), 2-3-78 ..... 65209; 12-30-77

Science Advisory Board, Ecology Advisory Committee; Arlington, Va. (open), 1-30 and 1-31-78 ..... 65265; 12-30-77

Science Advisory Board, Environmental Pollutant Movement and Transformation Advisory Committee; Arlington, Va. (open), 1-30 and 1-31-78 ..... 65265; 12-30-77

FEDERAL COMMUNICATIONS COMMISSION

Radio Technical Commission for Marine Services, Special Committee No. 71—"VHF Automated Radiotelephone Systems;" Washington, D.C. (open), 2-1-78 ... 2443; 1-17-78

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Disease Control Center—

Safety and Occupational Health Study Section; Silver Spring, Md. (partially open), 2-2 and 2-3-78 ..... 65268; 12-30-77

Education Office—

National Advisory Council on Vocational Education; Los Angeles, Calif. (open), 1-31 through 2-2-78.... 1653; 1-11-78; 2008; 1-13-78

National Advisory Council on Women's Educational Programs; Washington, D.C. (open), 1-30 and 2-1-78 ..... 2009; 1-13-78

Food and Drug Administration—

Contraceptive and Other Vaginal Drug Products Panel; Chevy Chase, Md. (open), 2-3 and 2-4-78 1999; 1-13-78

Health care services; Philadelphia, Pa., 2-1-78..... 2002; 1-13-78

Miscellaneous External Drug Products Panel; Bethesda and Rockville, Md. (open), 1-29 and 1-30-78 .. 38; 1-3-78

Miscellaneous Internal Drug Products Panel; Rockville, Md. (open), 1-28 through 1-30-78 ..... 63470; 12-16-77

Obstetrics and Gynecology Advisory Committee; Rockville, Md. (open) 1-30 and 1-31-78 (2 documents)..... 38; 1-3-78; 2003; 1-13-78

Ophthalmic Panel; Chevy Chase, Md. (open), 2-3 and 2-4-78 1999; 1-13-78

Health Care Financing Administration and Public Health Service—

Sterilizations funded by HEW; Chicago, Ill. (open), 2-1-78 ..... 64649; 12-27-77

Sterilizations funded by HEW; Philadelphia, Pa. (open), 1-31-78 ..... 64649; 12-27-77

Sterilizations funded by HEW; Kansas City, Mo. (open), 2-2-78 ... 64649; 12-27-77

Health Services Administration—

Maternal and Child Health Research Grants Review Committee; Rockville, Md. (partially open), 2-1 through 2-3-78 ..... 1134; 1-6-78

National Institutes of Health—

Coal Mine Health Research Advisory Committee; Rockville, Md. (open), 2-3-78. 65267; 12-30-77

Communicative Disorders Review Committee; Bethesda, Md. (open), 1-29-78. 63477; 12-16-77

Dental Caries Program Advisory Committee; Bethesda, Md. (open), 2-6 and 2-7-78..... 61632; 12-6-77

Ethics Advisory Board; Washington, D.C. (open), 2-3 and 2-4-78 2007; 1-13-78

National Advisory Child Health and Human Development Council; Bethesda, Md. (open), 1-30-78 ..... 64442; 12-23-77

National Advisory Dental Research Council; Bethesda, Md. (closed), 2-2 and 2-3-78..... 63478; 12-16-77

National Advisory General Medical Sciences Council; Bethesda, Md. (open), 2-1 and 2-2-78 ..... 64442; 12-23-77

National Advisory Research Resources Council; Bethesda, Md. (partially open), 1-30 and 1-31-78..... 63478; 12-16-77

National Commission on Digestive Diseases; Houston, Tex. (open), 2-4-78. 1547; 1-10-78

National Heart, Lung, and Blood Advisory Council and Its Manpower Subcommit-

tee and Research Subcommittee; Bethesda, Md. (partially open), 2-2 to 2-4-78 ..... 65274; 12-30-77
Transplantation Biology and Immunology Committee; Bethesda, Md. (partially open), 2-2 and 2-3-78 ..... 65274; 12-30-77

HISTORIC PRESERVATION ADVISORY COUNCIL
Washington, D.C. (open), 2-1 and 2-2-78. 2197; 1-16-78

INTERIOR DEPARTMENT
Geological Survey—
Coal Mining Oklahoma; Stigler, Okla. (open), 1-31-78 ..... 65298; 12-30-77
National Park Service—
Appalachian National Scenic Trail Advisory Council; Roanoke, Va. (open), 2-4-78. 2240; 1-16-78
Office of the Secretary—
Bureau of Indian Affairs Reorganization Task Force; Oklahoma City, Okla. (open), 2-1-78 ..... 2453; 1-17-78
Bureau of Indian Affairs Reorganization Task Force; Denver, Colo. (open), 2-1-78 ..... 2453; 1-17-78
Bureau of Indian Affairs Reorganization Task Force; Portland, Ore. (open), 2-2-78 ..... 2453; 1-17-78

LABOR DEPARTMENT
Occupational Safety and Health Administration—
National Advisory Committee on Occupational Safety and Health, Subgroups I and II; Washington, D.C. (open), 1-30-78 ..... 2020; 1-13-78
Pension and Welfare Benefit Programs—
Proposed class exemption for certain transactions involving insurance company separate accounts; Washington, D.C. (open), 2-3-78 ..... 65308; 12-30-77

MANPOWER POLICY, NATIONAL COMMISSION
Washington, D.C. (open), 2-3-78 .. 2463; 1-17-78

NATIONAL SCIENCE FOUNDATION
Advisory Committee for Behavioral and Neural Sciences, Subcommittee on Psychobiology; Washington, D.C. (closed), 2-2 and 2-3-78 ..... 2022; 1-13-78
Advisory Committee for Environmental Biology; Subcommittee on Systematic Biology; Washington, D.C. (closed), 2-2 and 2-3-78 ..... 2022; 1-13-78
Advisory Committee for Physiology, Cellular and Molecular Biology; Subcommittee on Molecular Biology; Washington, D.C. (closed), 1-30 and 1-31-78 ..... 2021; 1-13-78
Advisory Committee for Physiology, Cellular and Molecular Biology; Subcommittee on Cell Biology; Washington, D.C. (closed), 2-2 through 2-4-78 ..... 2021; 1-13-78

NUCLEAR REGULATORY COMMISSION
Reactor Safeguards Advisory Committees—
Arkansas Nuclear One, Unit No. 2 Subcommittee; Washington, D.C. (open), 2-2-78 ..... 2465; 2-2-78
Fluid/Hydraulic Dynamic Effects; Los Angeles, Calif. (open), 1-31-78 ..... 2466; 1-17-78
Maine Yankee Nuclear Plant; Washington, D.C. (open), 2-4-78 ..... 2957; 1-20-78

SCIENCE AND TECHNOLOGY POLICY OFFICE
Intergovernmental Science, Engineering, and Technology Advisory Panel, Natural Resources and Environment Task Force; Washington, D.C. (open), 1-31 and 2-1-78 ..... 1566; 1-10-78
Working Group on Basic Research in the Department of Energy; La Jolla, Calif. (open), 2-2 and 2-3-78 ... 2028; 1-13-78

STATE DEPARTMENT
Office of the Secretary—
Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Washington, D.C. (open), 1-31 and 2-1-78 ..... 64491; 12-23-77
Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Washington, D.C. (open), 2-1-78. 62985; 12-14-77

TELECOMMUNICATIONS POLICY OFFICE
U.S. INMARSAT Preparatory Committee Working Group; Washington, D.C. (open), 1-31-78 ..... 51681; 9-29-77

TRANSPORTATION DEPARTMENT
National Highway Traffic Safety Administration—
National Highway Safety Advisory Committee; Albuquerque, N.M. (open), 1-29 and 2-3-78 ..... 1870; 1-12-78

Next Week's Public Hearings

AGRICULTURE DEPARTMENT
Forest Service—
Cougar Lakes Wilderness Study Area Report; Yakima, Wash., 2-4-78 ..... 61481; 12-5-77

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
New England Regional Fishery Management Council; Ellsworth, Me., 1-30-78 ..... 784; 1-4-78
New England Regional Fishery Management Council; Galilee, R.I., 1-31-78 ..... 784; 1-4-78
New England Regional Fishery Management Council; New Bedford, Mass., 2-1-78 ..... 784; 1-4-78
New England Regional Fishery Management Council; Brunswick, Mass., 2-3-78 ..... 784; 1-4-78
New England Regional Fishery Management Council; Hyannis, Mass., 2-2-78 ..... 784; 1-4-78

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INTERNATIONAL TRADE COMMISSION
Cane and beet sugars, sirups, and molasses; Washington, D.C., 2-2-78 ..... 64744; 12-28-77
Cane and beet sugars, sirups, and molasses; New Orleans, La., 1-4-78, Minneapolis, Minn., 1-17-78, and Washington, D.C., 2-2-78 ..... 60961; 11-30-77

LABOR DEPARTMENT
Pension and Welfare Benefit Programs—
Proposed class exemption for certain transactions involving insurance company separate accounts; Washington, D.C., 2-3-78 ..... 65308; 12-30-78

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

rules and regulations

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.

[3410-02]

Title 7—Agriculture

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

[§ 980.212—Amdt. 1]

PART 980—VEGETABLES: IMPORT REGULATIONS

Tomatoes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment exempts tomatoes imported into the United States from the grade, size, quality, and maturity provisions of the tomato import regulations if the tomatoes are used in noncommercial outlets for experimental purposes.

EFFECTIVE DATE: January 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone: 202-447-6393.

SUPPLEMENTARY INFORMATION: The amendment will enable persons engaged in research to obtain supplies of tomatoes necessary for experimental purposes that might otherwise fail the requirements of the regulation. It is hereby found that the following amendment will tend to effectuate the declared policy of the act.

It is further found that it is impractical and contrary to the public interest to give preliminary notice, or to engage in public rulemaking procedure, and that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) This amendment must become effective immediately if affected importers are to derive maximum benefits from it, (2) compliance with this amendment will not require any special preparation on the part of importers, and (3) this amendment relieves restrictions on the importation of tomatoes into the United States.

Section 980.212(b) is hereby amended to read as follows:

§ 980.212 Import regulations; tomatoes.

* * * * *

(b) *Grade, size, quality, and maturity requirements.* On and after the effective date hereof no person may import fresh tomatoes except pear shaped, cherry, hydroponic, and greenhouse tomatoes as defined herein, or tomatoes to be used in noncommercial outlets for experimental purposes unless they are inspected and meet the following requirements:

* * * * *

(2) Prior to importation of tomatoes to be used in noncommercial outlets for experimental purposes, the importer shall apply for and obtain from the Vegetable Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, an approved Certificate for Special Purpose Shipment, complete Part I and comply with all procedures specified thereon. A separate certificate is required for each shipment. Three copies of the certificate shall accompany shipment, of which one copy shall be surrendered to the Federal or Federal-State Inspector of the U.S. Department of Agriculture at the port of entry.

(3) Upon completion of shipment receiver making final disposition of the tomatoes shall complete Part II of the Certificate. Importer shall be responsible for the return, within 10 days, of a signed copy of the certificate to the Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, certifying that the tomatoes were used for the purpose specified thereon.

* * * * *

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

Effective date. Dated January 20, 1978 to become effective January 23, 1978.

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

[FR Doc. 78-2162 Filed 1-24-78; 8:45 am]

[3510-24]

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

Amendment of Project Modification Policy

AGENCY: Economic Development Administration (EDA), Department of Commerce.

ACTION: Final rule.

SUMMARY: These amendments revise EDA's regulation on project modification by describing the policy and procedures for the modification of business development projects. Currently, EDA has published rules only on the modification of public works projects. The intended effect of this change is to establish a more comprehensive project modification policy and procedures.

DATES: Effective date: January 25 1978. Comments by: Feburary 24, 197?

ADDRESSES: Send comments t(sistant Secretary for Economic D(opment, U.S. Department of Com merce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: For information on these amendments only:

James F. Marten, U.S. Department of Commerce, Room 7009, Washington, D.C. 20230, 202-377-5441.

SUPPLEMENTARY INFORMATION: Currently, EDA has an articulated policy regarding the modification of public works projects only. This regulation is located at 13 CFR 309.26; it applies to public works projects receiving assistance under sections 101, 201, 304, and 403, and Titles IX and X of the Public Works and Economic Development Act of 1965, as amended (Act), and public works projects funded under Chapter 4 of Title II of the Trade Act of 1974.

As amended, § 309.26 will also contain the policy and procedures regarding the modification of business development projects. This new provision will apply to loan and guarantee projects receiving assistance under sections 202 and 304 of the Act, Title IX of the Act, and Title II, Chapters 3 and 4 of the Trade Act of 1974. The requirements for the modification of

business development projects are described in new subsection (b) of § 309.26. The existing rules on the modification of public works projects have been placed in a revised subsection (a) of § 309.26.

Parts 308, dealing with Title IX assistance, and 315, on Trade Act assistance, also are amended to include references to the new scope of § 309.26.

Because these amendments relate to the EDA grant and loan program, they are exempt from the procedures described in section 553 of the Administrative Procedure Act (5 U.S.C. 553). However, in the spirit of public policy set forth in that Act, interested persons may submit written suggestions regarding these amendments to the Assistant Secretary for Economic Development at the above address.

NOTE.—EDA has determined that this document does not constitute a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular No. A-107.

Accordingly, 13 CFR Chapter III is amended by revising Parts 308, 309 and 315 to read as follows:

PART 308—SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE GRANTS

1. Section 308.28(a)(1) is revised to read as follows:

§ 308.28 General requirements.

(a) * * *

(1) Such project or activity complies with the requirements and conditions set forth in §§ 309.1, 309.3, 309.4, 309.5, 309.6, 309.9. 309.14, 309.15, 309.26 and Part 310 of these regulations, and section 702 of the Act, and that

* * * * *

PART 309—GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE

1. Section 309.26 is revised to read as follows:

§ 309.26 Project modification.

(a) *Public works projects.* (1) Proposed modifications in public works projects receiving assistance under sections 101, 201, 304, and 403 of the Act, Titles IX and X of the Act and Title II, Chapter 4 of the Trade Act of 1974 must comply with the following requirements.

(i) The proposed changes must result from joint discussions between EDA and the grantee.

(ii) The proposed changes must be submitted to EDA for appropriate program and technical reviews.

(iii) The proposed changes must be accompanied by revised cost estimates to verify that the project can still be contructed within the approved funds.

(A) If the proposed changes reduce the project's cost, funds which would make the EDA grant rate exceed the maximum grant rate in the original offer will be deobligated unless the Assistant Secretary determines that increasing the grant rate to the maximum allowable grant rate at the time the project was approved is necessary to complete the project.

(2) Proposed changes will be processed for approval following normal amendment procedures.

(3) EDA is under no obligation to accept proposed project changes and may choose to deobligate the project's funds. The following project changes will not be accepted:

(i) Changes in the economic or community development purpose of the project unless the Assistant Secretary determines that, under circumstances existing with regard to the particular project, such changes would substantially further the economic and community development objectives of the project;

(ii) Changes in the target population which will benefit from the project;

(iii) Limitations in the accessibility of project facilities to the target population; and

(iv) Changes in the general geographic location (i.e. city, community, Indian Reservation, Redevelopment Area) of the project.

(b) *Business development loan and guarantee projects.* (1) Proposed modifications in loan and guarantee projects receiving assistance under sections 202 and 304 of the Act, Title IX of the Act, and Title II, Chapters 3 and 4 of the Trade Act of 1974 must comply with the following requirements.

(i) The proposed changes must result from joint discussions between EDA and the borrower.

(ii) The proposed changes must be submitted to EDA for appropriate program and technical reviews.

(iii) The proposed changes must be accompanied by revised cost estimates to verify that the project still can be accomplished within the approved funds.

(2) Proposed changes will be processed following normal amendment procedures.

(3) EDA is under no obligation to accept proposed changes and may choose to deobligate the project's funds.

PART 315—ADJUSTMENT ASSISTANCE FOR FIRMS AND COMMUNITIES

1. Subpart A of Part 315 is revised by adding a new § 315.4 to read as follows:

§ 315.4 Project modifications.

Projects receiving financial assistance under Subparts C and F of this part and public works projects receiving assistance under Subpart F of this part may be modified according to the procedures described at 13 CFR 309.26

(Sec. 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, as amended (40 FR 56702, as amended).)

Dated: January 12, 1978.

ROBERT HALL,
Assistant Secretary for Economic Development.

[FR Doc. 78-2073 Filed 1-24-78; 8:45 am]

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5899; IC-10096; File No. S7-537]

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

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

Sales Literature For Mutual Funds

AGENCY: Securities and Exchange Commission.

ACTION: Amendment to Statement of Policy.

SUMMARY: The Commission amends its Statement of Policy governing mutual fund sales literature to eliminate the ten-year limitation on the period that can be portrayed in certain total return charts and tables; to eliminate the required use, in most instances, of a certain total return chart; and to make certain technical modifications to the total return charts and tables. In addition, the Commission gives notice that it has decided against imposing a general ten-year limitation on the period of time which can be portrayed in charts and tables approved by the Statement of Policy and has also decided against requiring that a certain chart accompany the use of all other charts in the Statement. These actions were taken, primarily, to settle several issues on which public comment had been requested.

EFFECTIVE DATE OF AMENDMENT: January 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Gene A. Gohlke, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-755-1815.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced the adoption of an amendment to its Statement of

Policy ("Statement") (Statement of Policy adopted by the Commission August 11, 1950, and amended January 31, 1955; November 5, 1957; May 19, 1975; and September 1, 1977 ([15 FR 5469 as amended 20 FR 793; 22 FR 8977; 40 FR 21711; and 42 FR 45291]) governing sales literature of investment companies. The amendment eliminates the 10-year limitation on the presentation of investment results on a total return basis in Sample Charts E, F, and G and Sample Table 5; eliminates the required use of Sample Chart E with Sample Chart G; and makes certain modifications to the information presented in Sample Charts E and F and Sample Table 5. In addition and as a result of the comments received in response to the request for comments contained in Release No. 33-5862 and IC-9916 (42 FR 45291) the Commission has decided not to impose a 10-year limitation on the period of time that can be portrayed in Sample Charts A, B, C, and D and Sample Tables 1, 2, 3, and 4 and not to require the use of Sample Chart E whenever one or more of Sample Charts A, B, C, or D are used.

ADOPTION OF THE TOTAL RETURN CHARTS AND TABLES AND REQUEST FOR COMMENTS

In Release No. 33-5862 and IC-9916 the Commission amended the Statement by adopting three new charts, Sample Charts E, F, and G and a new table, Sample Table 5, all of which portrayed fund results on a total return basis (assumed reinvestment of income dividends and capital gains distributions). Among the requirements established for these charts and tables in order to make them not misleading were that the period portrayed was to be limited to the most recent 10 years or life of the fund if shorter and that Sample Chart E was to accompany all presentations of Sample Charts F and G.

The period portrayed was limited to the most recent 10 years because it was believed that the average, noninstitutional investor does not maintain an investment in a fund for more than 10 years and that the management and economic environment that existed more than a decade ago may not be relevant to an investor considering an investment in a fund today. Because the most recent 10 years was considered to be the longest period of time that could be portrayed in total return charts without making them misleading, the Commission decided that a 10-year limit would also be appropriate for other sample charts and tables approved by the Statement.[1] However, before imposing this limitation, the Commission decided to ask for public comment. If a 10-year limitation were to be imposed on all approved charts and tables, the Commission realized that there may be circumstances in which the portrayal of periods in excess of 10 would not be misleading. Therefore, the Commission also requested comments on how best to deal with such exceptional circumstances.

A further requirement for the use of total return charts is that Sample Chart E must be used in every piece of sales literature which contains any other total return chart. Thus, Sample Chart E must accompany Sample Charts F and G whenever they are used. The Commission also considered requiring the use of Sample Chart E whenever any chart approved by the Statement was used in order to attain some degree of comparability among funds as well as to avoid circumstances in which funds would use total return charts only when the results appear favorable and revert to other charts when total return results are not favorable. Before imposing such a requirement, the Commission requested comments from the public on the required use of Sample Chart E whenever any other chart was used in sales literature.

Comments on the above questions have been received. In regard to a 10-year limitation, all of the comments were opposed to any period limitation other than the life of the fund. The following reasons were among those given for believing that a time-period limitation was inappropriate:

1. The average period during which an investor holds funds shares is very difficult to calculate and varies greatly among funds having different investment objectives.

2. Even if the average holding period were 10 years, there are many investors who own shares for longer periods and they should be able to see how their fund performed during such longer periods of time.

3. A great emphasis on a 10-year period might give unsophisticated investors the idea that performance during the most recent 10 years was in some way predictive of future results.

4. Because the investment and economic environments are changing continually, the most recent 10 years appears to have no more or less relevance to the future than any other 10-year period and the record of results over a number of 10-year periods can be potentially valuable.

In regard to the proposal to require the use of Sample Chart E with all other charts and tables, all writers providing comments were opposed to such a requirement for a variety of reasons. Several of the reasons given were as follows:

1. The total return charts are complex and may result in investor confusion if they are used in conjunction with non-total return charts;

2. Total return charts may not be appropriate for all types of funds;

3. The additional cost of including a total return chart in every piece of sales literature that contains any other chart may result in a lesser use of charts to the detriment of investors; and

4. Registrants should have the option of using the total return charts in situations where they appear appropriate.

Based upon the comments received as well as the Commission's further consideration of the issues involved, the following decisions and amendments to the Statement have been made.

NO CHANGE IN CURRENT STATEMENT TIME PERIOD REQUIREMENTS FOR NON-TOTAL RETURN CHARTS AND TABLES

The Commission has determined that charts and tables are not misleading which portray investment results for periods of a minimum of the most recent 10 years (unless the life of the fund is shorter) and a maximum of the life of the fund with periods in excess of 10 years but less than the life of the fund shown in multiples of five years. Consequently, for Sample Charts A, B, C, and D and Sample Tables 1, 2, 3, and 4, the current time period requirements of the Statement remain unchanged.

The language of the Statement pertaining to Sample Charts E, F, and G, Sample Table 5 and total return successive period tables is amended to allow such charts and tables to portray fund results for a minimum of the most recent 10 years (unless the life of the fund is shorter) and for a maximum of the life of the fund so long as periods in excess of 10 years but less than the life of the fund are in multiples of five years. (For a further explanation, see the appendix.)

REQUIRED USE OF SAMPLE CHART E

The Commission has determined that Sample Chart E need not accompany any of the Sample Charts in the Statement except Sample Chart F. Thus, Sample Charts A, B, C, D, and G can be presented without also using Sample Chart E. However, Sample Chart E must accompany Sample Chart F in the same piece of sales literature as is currently required by the Statement. In order to avoid duplication if both Sample Charts E and F are used, the Statement is amended so that the percentages tabulated at the base of Sample Chart E can be eliminated because these same percentages are also shown on Sample Chart F.

[1] Such charts and tables can portray periods of time up to the life of the fund provided that periods in excess of 10 years (the minimum amount of time that can be portrayed) are in multiples of 5 years.

Even though the Commission has determined that Sample Chart E need not accompany most other charts illustrated in the Statement, the Commission recognizes that the staff may require that Sample Chart E accompany certain novel presentations of investment results approved under the interpretive letter procedure which was added to the Statement in the recent amendment.

MODIFICATIONS OF TOTAL RETURN CHARTS AND TABLES

While not requested in the Release, several commentators suggested certain technical modifications to the total return charts and tables which would appear to make the tables more useful and provide sufficient information to enable readers to make certain rate of return calculations. The Commission has considered these suggestions and amends the charts and tables in the following manner.

1. The year-by-year summary of results in dollars at the base of Sample Chart E is expanded so as to show the following amounts:

a. The actual amount of dividends paid during each year assuming that all such dividends are reinvested in fund shares.

b. The actual amount of capital gains distributions paid during each year assuming that all such distributions are reinvested in fund shares.

In addition to these two sets of numbers, the dollar summary at the base of Sample Chart E will continue to show, for the end of each year, the value of the investment on a total return basis and the value of the investment assuming dividends were taken in cash.

2. The heading of the ten year average column on Sample Chart E is changed to read: "10 Year Average Compound Rate of Return." Several numbers in this column on both Sample Charts E and F were changed to correct a computational error. The appendix to this Release contains a new section which explains in some detail how the compound rate of return calculations should be made.

3. A footnote is added on both Sample Charts E and F in order to explain more fully that the last line of percentages reflecting fund expenses is provided for informational purposes only, that the income return already reflects fund expenses, and that the expense percentages should not be subtracted from any other number on the charts.

4. The explanation of Chart E is modified to provide that if Sample Chart F is also used, the percentages tabulated at the base of Chart E can be omitted because these same percentages are tabulated at the base of Chart F.

5. In order to make the total return charts and tables illustrated in the Statement internally consistent, the paragraph describing the 7¼ percent sales charge on reinvested dividends in Sample Table 5 has been eliminated. If a fund does, however, impose a sales charge on reinvested dividends, a paragraph describing the reinvestment sales charge must be included in Sample Table 5.

For additional details on the above five points, see the appendix.

STAFF CONSIDERATON OF COMMENTS CONCERNING AFTER-TAX RATES OF RETURN

The compound average returns shown on Sample Charts E and F were calculated before deducting any income taxes that may be payable on the dividends and distributions paid and capital gains realized. Footnote one to the charts expresses this fact. One commentator noted that, in effect, the results shown could be attained only by a tax-free entity. The writer also noted that with the recent introduction of municipal bond and index funds there can be significantly different tax implications to the individual as between different funds. To show such differences he suggested that one or two tax rates, such as 20 percent and 50 percent, be used to compute what the after-tax compound rate of return would be for the sample investment illustrated after giving appropriate consideration to the time value of all of the investor's cash inflows and outflows resulting from the investment. The staff intends to consider the writer's suggestion during its review of the entire Statement as announced in Release IC-9931 dated September 14, 1977.

RESPONSIBILITY OF USERS OF CHARTS

Sample Charts E, F, and G, approved for use by the Commission's amendment to the Statement on September 1, 1977 (and modified in the amendment adopted herewith), should be considered experimental and subject to review by the Commission and its staff. Accordingly, the Commission may, if experience with their use so warrants, modify the requirements for the use of these charts or eliminate them from the Statement.[3] Further, users of these charts as well as other charts approved by the Statement are reminded that their responsibility is not discharged merely by complying with the technical requirements for construction of the charts. Paragraph (j) of the Statement includes the statement that "Charts or tables which conform to the 'Approved Charts and Tables' * * * will not be regarded by the Commission as false and misleading *in the absence of facts or circumstances which make such charts or tables or their use in fact false and misleading in a particular use.*" (Emphasis supplied.) Users are cautioned that such facts and circumstances could include, among other things, a change of an investment adviser, a material change in investment objectives or policies, a very substantial change in the size of the fund over a very brief period of time, or a material change in performance occurring subsequent to the period covered by the chart. Depending on the particular case, a user might be required, in order to make the use of a chart not misleading, to add explanatory notes or text to the chart, to limit the period covered by the chart, or to discontinue the use of the chart altogether.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 18, 1978.

APPENDIX—AMENDMENT TO THE STATEMENT OF POLICY

* * * * *

(j) * * *

(4) * * *

(i) The period covered by that charts should be a minimum of the most recent ten years or life of the fund if shorter and a maximum of the life of the fund provided that periods in excess of ten years but less than the life of the fund are in multiples of five years.

* * * * *

(viii) * * *

A. The growth of the investment in dollars on a total return basis showing both the growth due to net investment income (after fund expenses) and the growth due to capital appreciation, plotted on a semi-logarithmic scale on an annual fund-price-high to fund-price-low basis.

* * * * *

D. A year-by-year tabular summary of results in dollars, showing:

(a) The actual amount of dividends paid during each year assuming all such dividends and capital gains distributions are reinvested;

(b) The actual amount of capital gains distributions paid during each year assuming all such distributions and dividends are reinvested;

(c) The value of the investment at the end of each year on a total return basis; and

(d) The value of the investment at the end of each year assuming dividends are taken in cash.

E. A year-by-year and a period average tabular summary of results in percentages disclosing:

a. The year-by-year total return and the average, annually compounded total return after expense deductions for the period shown expressed as the sum of the returns

[3] Attention is also directed to the Commission's Release 33-5864, IC-9931 (42 FR 47563) of September 14, 1977 announcing a general reconsideration of the entire statement. Such reconsideration may, of course, include the entire area of approved charts and tables included in the Statement.

due to net investment income before deduction of any sales charges on reinvested dividends and capital appreciation before deduction of any initial sales charge and any withdrawal charge;

* * * * *

d. The effect of any withdrawal charge on the final year's total return;

e. The effect of any sales and/or withdrawal charges on the compound average total return;

f. The annual return and the compound average total return after deduction of all sales charges; and

g. The fund expenses applicable to the investment expressed as a percentage. By appropriate markings and footnote it should be made clear that the expense percentages are for information only, that the income return already reflects fund expenses, and that the expense percentage is not to be subtracted from any other figure.

(ix) The annual and the compound average annual rate of total return on a single investment of $10,000 in a mutual fund may be portrayed on a semi-logarithmic chart substantially similar to Chart F which contains the following information:

A. A bar graph presentation of the total returns after sales charges and expense deductions for each year portrayed, side-by-side with the value on a total return basis, of an appropriate index. The use of a comparative index is optional. If an index is used, it should comply with the guidelines enumerated in paragraph (viii)C of this section. If indices are used in both Sample Charts E and F, the same index must be used on both charts.

B. A bar graph presentation of the average (for the period covered by the chart) annually compounded total return expressed as the sum of the average compound return due to capital appreciation and the average compound return due to investment income, indicating the effects of fund expenses and any sales charges on the initial investment and reinvested dividends (and any withdrawal charge) on the average compound return and highlighting the return after expenses and after the sales (and/or withdrawal) charges.

* * * * *

(x) If Sample Chart F is used, it should be accompanied in the same piece of literature by Sample Chart E. If Sample Charts E and F are both used, the percentages tabulated at the base of Sample Chart E may be omitted because the identical percentages are tabulated at the base of Sample Chart F.

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(xi) * * *

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C. Actual Investment Results Scale is a logarithmic scale which is used to measure changes in the dollar value of the sample investment on Chart E. The Actual Investment Results Scale can be constructed using natural logarithms. Alternatively, the logarithmic scale on semi-log graph paper may be used to construct the Actual Investment Results Scale.

a. * * *

D. The Percentage Change Scale on Chart F is a logarithmic scale which is used to measure the annual percentage change in the value of the sample investment. The Percentage Change Scale can be constructed using natural logarithms. Alternatively, the logarithmic scale on semi-log graph paper may be used to construct the Percentage Change Scale.

E. The annual percentage changes shown on Sample Chart E or on Chart F, if used, should be calculated in the following manner:

* * * * *

F. The average compound returns on Sample Chart E, or on Chart F, if used, should be computed in such a way that the components of the return are additive. In order for the income and appreciation returns to add to the total return before the sales charge, the difference between the total return computed directly and the sum of the income and appreciation return components computed separately should be prorated to the component returns. The compound effect of the sales charge should be computed as the difference between the total return before and after the sales charge. The following paragraphs explain how the compound returns shown on Sample Charts E and F were computed.

(a) The unadjusted compound average appreciation and income returns should be computed as follows. The unadjusted compound average appreciation return is computed by taking the "x" root of the number computed by dividing the value of the investment at the end of the period shown in the chart assuming dividends were taken in cash by the net amount initially invested and subtracting 1 where "x" is the number of years for which the average compound rate is being computed. For sample charts E and F, the unadjusted appreciation return is computed as follows: $10\sqrt{14,774/9,150}-1=4.91$ percent. The unadjusted income return should be computed as the "x" root of the total value of the investment at the end of the period shown in the chart divided by the ending value of the investment assuming dividends were taken in cash, minus 1. For sample charts E and F, the unadjusted income return was computed as follows: $10\sqrt{21,249/14,774}-1=3.70$ percent. Multiplying the unadjusted income return plus 1 by the unadjusted appreciation return plus 1 and subtracting 1 from the product gives a total return before the sales charge (gross total return) of 8.79 percent [$(1.0491\times1.0370)-1=8.79$ percent]. The gross total return can also be computed as follows: $10\sqrt{21,249/9,150}-1=8.79$ percent.

(b) However, adding the unadjusted income and appreciation returns results in an unadjusted total return of only 8.61 percent. The difference between 8.61 percent and 8.79 percent, 0.18 percent, should be prorated to the unadjusted income and appreciation returns based upon their relative magnitude. The adjusted income return is 3.78 percent and the adjusted appreciation return is 5.01 percent for a gross total return of 8.79 percent.

(c) The compound effect of the sales charge should be determined by comparing the gross total return with the total return after the sales charge (net total return). For sample charts E and F, the compound effect of the sales charge is determined by comparing the gross total return of 8.79 percent with the net total return which is computed as the "x" root of the ending value of the investment on a total return basis divided by the initial amount invested minus 1. For sample charts E and F, the net total return is computed as follows: $10\sqrt{21,249/10,000}-1=7.83$ percent. The effect of the sales charge is the difference between 8.79 percent and 7.83 percent, or 0.96 percent. The net total return should be the bottom line of the compound growth rate computation as follows:

	Percent
Income return	3.78
Appreciation return	5.01
Total return before sales charge	8.79
Sales charge	.96
Total return after sales charge	7.83

On the sample charts, the compound growth rates may be rounded to one decimal place.

(d) The compound effect of fund expenses should be computed by comparing the unadjusted income return computed before and after deduction of fund expenses.

(j)(5) * * *

(i) The period covered by the charts and tables should be a minimum of the most recent 10 years or life of the fund if shorter and a maximum of the life of the fund provided that periods in excess of 10 years but less than the life of the fund are in multiples of 5 years.

(ii) The investment results portrayed may be based on either a calendar or fiscal year so long as the calendar or fiscal year base is used consistently.

(iii) Distributions of both net investment income and capital gains that are to be reinvested in fund shares should be assumed to be reinvested at the net asset value per share on the date such distributions took place. If a sales charge is levied on reinvested net investment income, such charge should be considered in computing the number of new shares purchased.

(iv) If the sales charge for a fund has changed, the most recent charge, if any, applicable to an investment of $10,000 and the reinvestment of dividends should be used.

(v) The value at the end of each year of a single investment of $10,000 in a mutual fund on a total return basis may be portrayed on a chart substantially similar to Sample Chart G which contains the following information:

A. A column for each year during the period covered showing the total value of the $10,000 investment at the end of the year in which the investment was assumed to have been made and at the end of every successive year thereafter up to the end of the most current year.

B. A row for each of the periods included in the chart with the rows constructed in such a way that the dollar amount shown at the intersection of each row and column would represent the value of $10,000 invested at the beginning of the year listed at the top of the column and invested for the number of years indicated by the number of the row.

C. Appropriate explanations of the rows and columns and how the rows and columns are to be used in interpreting the chart.

(vi) Where a chart patterned after Sample Chart G is used, the chart should be accompanied in the same piece of literature by a table substantially similar to Sample Table 5 described in subparagraph (viii) of this subsection.

(vii) As an alternative to using Sample Chart G which shows investment results at a maximum for every possible successive period during the life of the fund, a table or tables may be presented which show total

investment results for only selected successive periods. Such successive periods may be any period such as every 5-year period or every 10-year period or 15-year period. Any whole number of years may be used at the length of the successive periods. All successive period total return charts should conform to the following requirements.

* * * * *

(viii) * * *
A. * * *

* * * * *

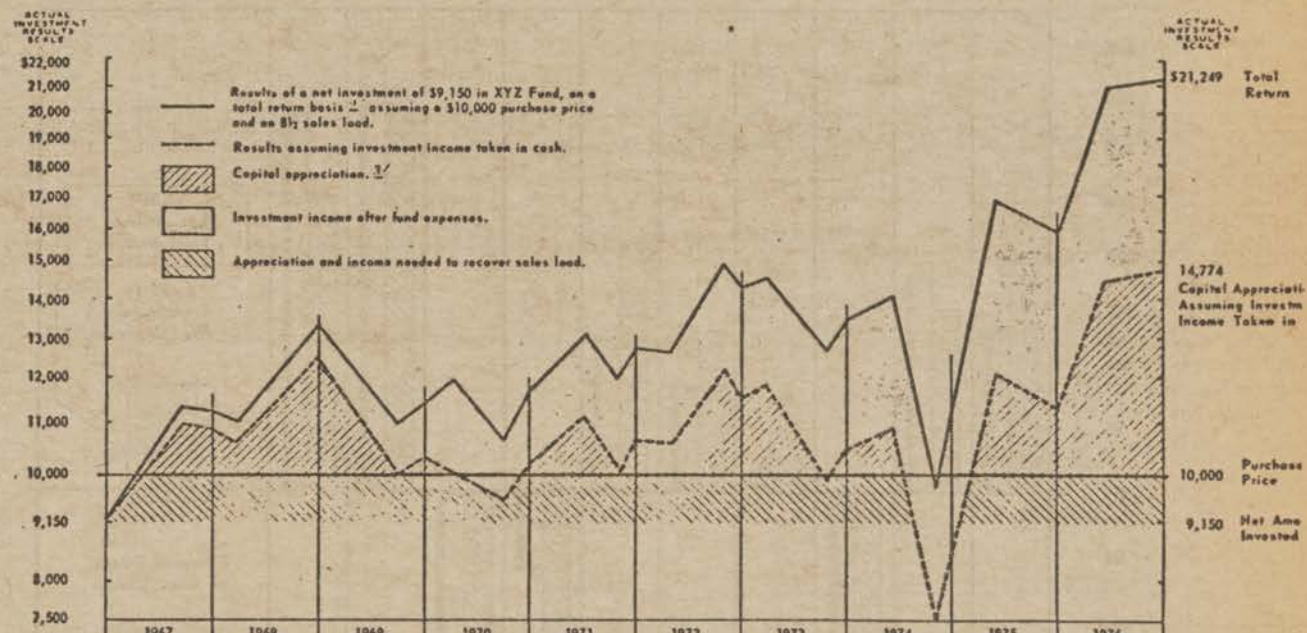
E. If the table is used alone, it should show at a minimum the most recent 10 years or life of the fund if shorter and a maximum of the life of the fund provided that periods in excess of 10 years but less than the life of the fund are in multiples of 5 years.

SAMPLE CHART E

RESULTS OF A $10,000 INVESTMENT IN XYZ FUND

With Dividends and Capital Gains Distributions Reinvested, before Taxes 1/

NOTE: Results shown assume reinvestment of capital gains and dividends. If capital gains and dividends are not reinvested, results would be less than depicted.



YEAR BY YEAR SUMMARY OF RESULTS

	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976
Dividends paid and reinvested during year	$ 384	$ 423	$ 463	$ 491	$ 489	$ 523	$ 595	$ 658	$ 568	$ 773
Capital gains paid and reinvested during year	785	906	608	240	407	363	329	63	265	507
Value of investment at year end assuming reinvestment of dividends and capital gains	11,273	13,328	11,459	11,713	12,711	14,235	13,467	11,412	15,899	21,249
Value of investment at year end assuming dividends taken in cash	10,889	12,496	10,348	10,157	10,652	11,550	10,506	8,403	11,359	14,774

PERCENTAGES

	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	10 YEAR AVERAGE COMPOUND RATE OF RETURN
Income Return	3.8%	3.8%	3.5%	4.3%	4.2%	4.1%	4.2%	4.9%	5.0%	4.9%	3.8%
Appreciation	17.4	14.5	(17.5)	(2.1)	4.3	7.9	(9.6)	(20.1)	34.3	28.8	5.0
Total Return Before Sales Charges	21.2%	18.3%	(14.0%)	2.2%	8.5%	12.0%	(5.4%)	(15.2%)	39.3%	33.7%	8.8%
Sales Charges on Initial Investment	(8.5)										(1.0)
Total Return After Sales Charges	12.7%										7.8%
Fund Expenses 4/	.3%	.3%	.3%	.3%	.4%	.3%	.4%	.4%	.4%	.4%	.5%

1/ Results shown do not take into account personal income and capital gains taxes.

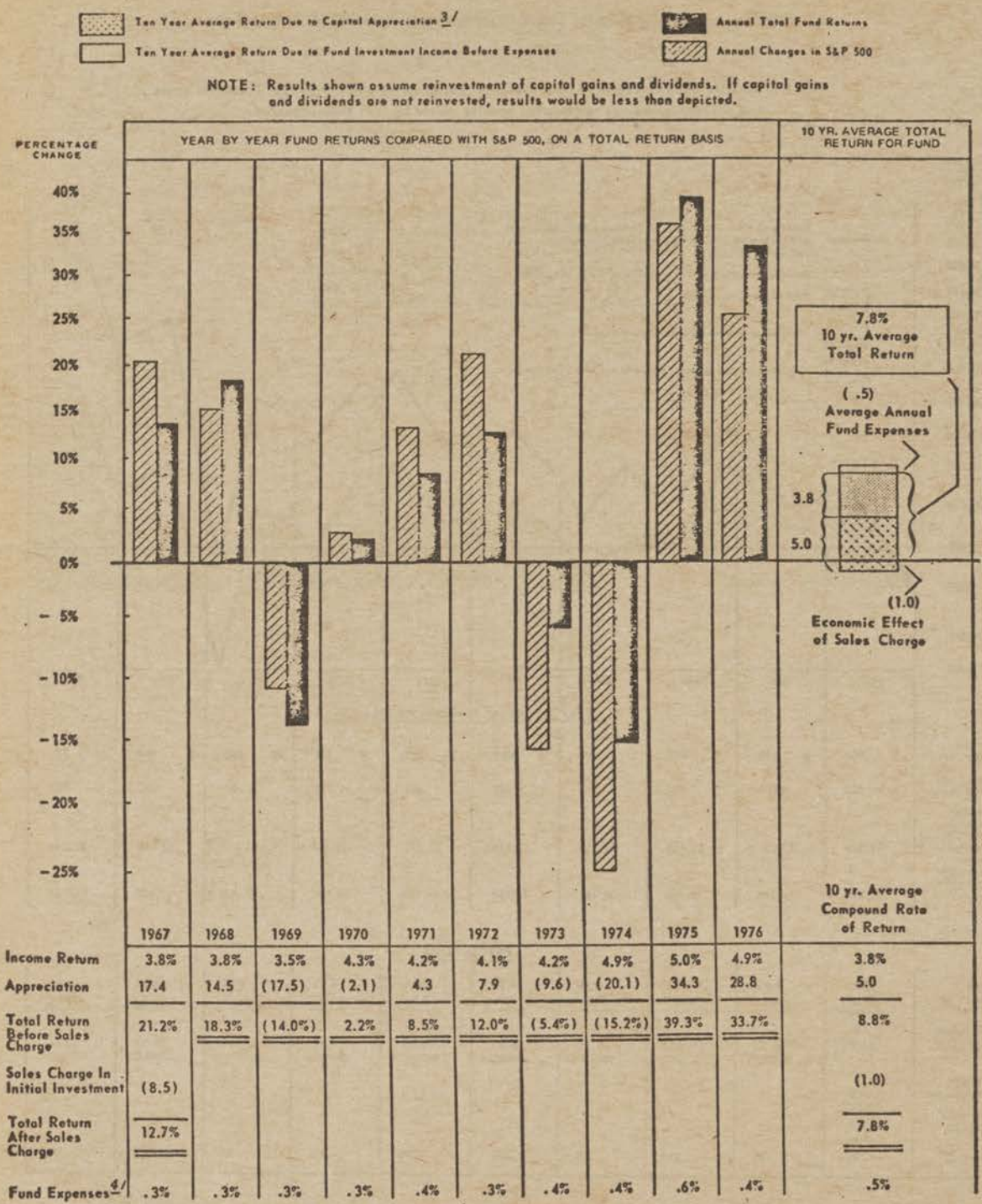
2/ Total return refers to the results available when dividends and capital gains distributions are reinvested.

3/ Capital appreciation includes reinvested capital gains distributions.

4/ The fund expense percentages are provided as additional information. They should not be subtracted from any other number on the chart because the income return percentage already reflects the effect of fund expenses.

SAMPLE CHART F

ILLUSTRATION OF TEN YEAR AVERAGE 7.8% TOTAL RETURN FOR XYZ FUND 1/ 2/



	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	10 yr. Average Compound Rate of Return
Income Return	3.8%	3.8%	3.5%	4.3%	4.2%	4.1%	4.2%	4.9%	5.0%	4.9%	3.8%
Appreciation	17.4	14.5	(17.5)	(2.1)	4.3	7.9	(9.6)	(20.1)	34.3	28.8	5.0
Total Return Before Sales Charge	21.2%	18.3%	(14.0%)	2.2%	8.5%	12.0%	(5.4%)	(15.2%)	39.3%	33.7%	8.8%
Sales Charge In Initial Investment	(8.5)										(1.0)
Total Return After Sales Charge	12.7%										7.8%
Fund Expenses 4/	.3%	.3%	.3%	.3%	.4%	.3%	.4%	.4%	.6%	.4%	.5%

1/ *Results shown do not take into account personal income and capital gains taxes.*

2/ *Total return refers to the results available when dividends and capital gains distributions are reinvested.*

3/ *Capital appreciation includes reinvested capital gains distributions and appreciation/depreciation on reinvested income dividends.*

4/ *The fund expense percentages are provided as additional information. They should not be subtracted from any other number on the chart because the income return percentage already reflects the effect of fund expenses.*

SAMPLE TABLE 5

ILLUSTRATION OF AN ASSUMED INVESTMENT OF $10,000
with Dividends Reinvested and Capital Gains
Distributions Accepted in Shares

The table below covers the period from January 1, 1967 to December 31, 1976. This period was one in which common stock prices fluctuated severely and were generally at the same level at the end of the period as they were at the beginning. The results shown should not be considered as a representation of the dividend income or capital gain or loss which may be realized from an investment made in the fund today.

	Value of Shares by Component			
Year ended December 31	Value of $10,000 Investment	Value of Capital gains Distributions	Value of Reinvested Dividends	Total Value of Shares
1967	$10,104	$ 785	$ 384	$11,273
1968	10,725	1,771	832	13,328
1969	8,360	1,988	1,111	11,459
1970	8,012	2,145	1,556	11,713
1971	8,082	2,570	2,059	12,711
1972	8,488	3,062	2,685	14,235
1973	7,479	3,027	2,961	13,467
1974	5,937	2,466	3,009	11,412
1975	7,838	3,521	4,540	15,899
1976	9,844	4,930	6,475	21,249
Cost plus actual amounts available for distributions and dividends	$10,000	$ 4,473	$ 5,367	$20,274

No adjustment has been made for any income taxes payable by shareholders on capital gains distributions and dividends.

[FR Doc. 78-2169 Filed 1-24-78; 8:45 am]

[4810-22]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 78-28]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Guyana; Supplies and Equipment From Aircraft

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adds Guyana to the list of countries whose aircraft are exempt from the payment of Customs duties and internal revenue taxes on supplies and equipment to be used in certain circumstances. It has been determined that the Government of Guyana allows substantially the same privileges to aircraft registered in the United States engaged in foreign trade. Based on this determination and U.S. law, a reciprocal exemption from duties and taxes has been granted to aircraft registered in Guyana.

EFFECTIVE DATE: This exemption was effective on September 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Benjamin H. Mahoney, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5778.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Sections 309 and 317 of the Tariff Act of 1930, as amended (19 U.S.C. 1309, 1317), provide that foreign-registered aircraft engaged in foreign trade may withdraw articles of foreign or domestic origin from Customs or internal revenue custody without the payment of Customs duties and/or internal revenue taxes, for supplies (including equipment), ground equipment, maintenance, or repair of aircraft. This privilege is granted if the Secretary of Commerce finds, and advises the Secretary of the Treasury that the country in which the foreign aircraft is registered allows substantially reciprocal privileges to United States-registered aircraft. Section 10.59(f) of the Customs Regulations (19 CFR 10.59(f)) lists those countries whose aircraft have been found to be entitled to these privileges.

In accordance with section 309(d) of the Tariff Act, the Secretary of Commerce has found, and by letter dated September 22, 1977, has advised the Secretary of the Treasury, that Guyana allows privileges substantially reciprocal to those provided in sections 309 and 317 to aircraft registered in the United States and engaged in foreign trade. Corresponding privileges accordingly are extended to aircraft registered in Guyana and engaged in foreign trade, effective as of September 22, 1977.

Because the subject matter of this document does not constitute a departure from established policy or procedures but merely announces the granting of an exemption for which there is a statutory basis, notice and public procedure thereon are found to be unnecessary and good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553.

DRAFTING INFORMATION

The principal author of this document was Sanford J. Parnes, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices of the Customs Service and the Department of Commerce participated in developing the document, both on matters of substance and style.

AMENDMENTS TO THE REGULATIONS

To reflect the granting of reciprocal privileges to aircraft of Guyana, paragraph (f) of § 10.59, Customs Regulations (19 CFR 10.59(f)), is amended by the insertion of "Guyana" in appropriate alphabetical order and the number of this Treasury Decision in the opposite column headed "Treasury Decision(s)," in the list of countries in that paragraph.

(Secs. 309, 317, 624, 46 Stat. 690, as amended 696, as amended, 759 (19 U.S.C. 1309, 1317, 1624).)

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: January 12, 1978.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[FR Doc. 78-2119 Filed 1-24-78; 8:45 am]

[6560-01]

Title 21—Food and Drugs

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

SUBCHAPTER E—ANIMAL FEEDS, DRUGS, AND RELATED PRODUCTS

[FR L 847-4; FAP 6H5125/T32]

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Glyphosate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule renews a feed additive regulation permitting the experimental use of the herbicide glyphosate in soybean hulls. The renewal was requested by Monsanto Co. This rule will permit the marketing of soybean hulls while further data is collected on the subject pesticide.

EFFECTIVE DATE: January 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. James G. Touhey, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460, 202-755-4851.

SUPPLEMENTARY INFORMATION: On September 17, 1976, the EPA announced (41 FR 40100) that in response to a petition (FAP 6H5125) submitted by Monsanto Co., 800 North Lindbergh Blvd., St. Louis, Mo. 63116. 21 CFR 561.253 was being amended to permit the use of the herbicide glyphosate (*N*-(phosphonomethyl)glycine) in a proposed experimental program involving application of the herbicide to growing soybeans with a tolerance limitation of 20 parts per million (ppm) for combined residues of the herbicide and its metabolite aminomethylphosphonic acid in soybean hulls in accordance with an experimental use permit that was being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.). This experimental program expired September 7, 1977.

Monsanto Co. has requested a one-year renewal of this temporary tolerance both to permit continued testing to obtain additional data and to permit the marketing of food commodities affected by the application of the herbicide to the growing raw agricultural commodity soybeans.

The scientific data reported and other relevant material have been evaluated, and it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit which is being issued concurrently under FIFRA. It has further been determined that since residues of the pesticide may result in soybean hulls from the agricultural use provided for in the experimental use permit, the feed additive regulation should be renewed along with the tolerance limitation. (A related document concerning the renewal of temporary tolerances for residues of the subject pesticide in or on cottonseed; soybean grain, forage, and hay; cotton forage; and the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep appears elsewhere in today's FEDERAL REGISTER.)

Accordingly, a feed additive regulation is renewed as set forth below.

Any person adversely affected by this regulation may, on or before February 24, 1978, file written objections with the Hearing Clerk, EPA, Rm. M-3706, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on January 25, 1978, 21 CFR 561.253 is amended as set forth below.

Dated: January 17, 1978.

(Sec. 409(c)(1), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(1)).)

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

Section 561.253 *Glyphosate* is amended as follows:

§ 561.253 [Amended]

In § 561.253, the date at the end of the last line in paragraph (a)(2) is changed from "September 7, 1977" to "January 17, 1979."

[FR Doc. 78-2035 Filed 1-24-78; 8:45 am]

[4410-01]

CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Placement of Phencyclidine in Schedule II

AGENCY: Drug Enforcement Administration.

ACTION: Final Rule.

SUMMARY: This rule is issued as a result of the Drug Enforcement Administration's request that the Assistant Secretary for Health, Department of Health, Education, and Welfare, provide DEA with a scientific and medical evaluation of phencyclidine regarding its transfer from Schedule III to Schedule II of the Act, the Assistant Secretary's transmittal of the requested evaluation and recommendation, DEA's review thereof, subsequent publication in the FEDERAL REGISTER (42 FR 63647, Dec. 19, 1977) of a Notice of Proposed Rulemaking to transfer phencyclidine to Schedule II, and receipt and review by DEA of comments submitted in response to the published Notice. This rule requires that the manufacture, distribution, dispensing, importation, exportation of phencyclidine be subject to controls for Schedule II controlled substances.

EFFECTIVE DATE OF SCHEDULE II CONTROL: February 24, 1978, except as otherwise provided in Supplementary Information section of this order.

FOR FURTHER INFORMATION CONTACT:

Howard McClain, Jr., Chief, Regulatory Control Division, Drug Enforcement Administration, telephone 202-633-1366.

SUPPLEMENTARY INFORMATION: A Notice was published in the FEDERAL REGISTER on Monday, December 19, 1977 (42 FR 63647-48) proposing that phencyclidine be transferred from Schedule III to Schedule II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801-966), and that 21 Code of Federal Regulations, §§ 1308.12 and 1308.13 (Schedules II and III, respectively) be amended accordingly. All interested persons were given until January 18, 1978 to submit their comments or objections in writing regarding this proposal.

Two comments were received in response to the proposal from the State of Rhode Island Department of Health, Division of Drug Control and from the North Carolina State Drug Commission, which supported the proposed rescheduling of phencyclidine from Schedule III to Schedule II.

No further comments nor objections were received, nor were there any requests for a hearing, and in view thereof, and based upon the investigations and review of the Drug Enforcement Administration and upon the scientific and medical evaluation and recommendation of the Assistant Secretary for Health in behalf of the Secretary of Health, Education, and Welfare, received pursuant to section 201(a) and 201(b) of the Act (21 U.S.C. 811(a) and 811(b)), the Administrator of the Drug Enforcement Administration finds that:

1. Phencyclidine has a high potential for abuse;
2. Phencyclidine has a currently accepted medical use in veterinary treatment in the United States; and
3. Abuse of phencyclidine may lead to severe psychological dependence.

Therefore, under the authority vested in him by the Act and by regulations of the Department of Justice, the Administrator of the Drug Enforcement Administration hereby orders that §§ 1308.12(e) and 1308.13(c) of Title 21 of the Code of Federal Regulations (CFR) be amended to read as follows:

§ 1308.12 Schedule II.

* * * * *

(e) *Depressants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Amobarbital	2125
(2) Methaqualone	2565
(3) Pentobarbital	2270
(4) Phencyclidine	7471
(5) Secobarbital	2315

* * * * *

§ 1308.13 Schedule III.

* * * * *

(c) *Depressants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any compound, mixture or preparation containing:

(i) Amobarbital	2125
(ii) Secobarbital	2315
(iii) Pentobarbital	2270

or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.

(2) Any suppository dosage form containing:

(i) Amobarbital	2125
(ii) Secobarbital	2315
(iii) Pentobarbital	2270

or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository.

(3) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof	2100
(4) Chlorhexadol	2510
(5) Glutethimide	2550
(6) Lysergic acid	7300
(7) Lysergic acid amide	7310
(8) Methyprylon	2575
(9) Sulfondiethylmethane	2600
(10) Sulfonethylmethane	2605
(11) Sulfonmethane	2610

* * * * *

OTHER EFFECTIVE DATES

1. *Registration.* Any person who manufactures, distributes, dispenses, imports or exports phencyclidine or who proposes to engage in such activities, shall submit an application for registration to conduct such activities in accordance with Parts 1301 and 1311 of Title 21 of the Code of Federal Regulations on or before April 25, 1978.

2. *Security.* Phencyclidine must be manufactured, distributed, and stored in accordance with §§ 1301.71, 1301.72 (a), (c), and (d), 1301.73, 1301.74 (a)-(f), 1301.75(b)(c) and 1301.76 of Title 21 of the Code of Federal Regulations on or before July 24, 1978. From now

until the effective date of this provision, it is expected that manufacturers and distributors of phencyclidine will initiate whatever preparations as may be necessary, including undertaking handling and engineering studies and construction programs, in order to provide adequate security for phencyclidine in accordance with DEA regulations so that substantial compliance with this provision can be met by July 24, 1978. In the event that this imposes special hardships, the Drug Enforcement Administration will entertain any justified requests for extensions of time.

3. *Labeling and packaging.* All labels on commercial containers of, and all labeling of phencyclidine packaged after July 24, 1978, shall comply with the requirements of §§ 1302.03-1302.05 and 1302.08 of Title 21 of the Code of Federal Regulations. In the event this effective date imposes special hardships on any manufacturer, as defined in section 102(14) of the Controlled Substances Act (21 U.S.C. 802(14)), the Drug Enforcement Administration will entertain any justified requests for an extension of time.

4. *Inventory.* Every registrant required to keep records who possess any quantity of phencyclidine shall take an inventory pursuant to §§ 1304.11-1304.19 of Title 21 of the Code of Federal Regulations, of all stocks of such substance on hand on February 24, 1978.

5. *Records.* All registrants required to keep records pursuant to §§ 1304.21-1304.27 of Title 21 of the Code of Federal Regulations shall maintain such records on phencyclidine commencing on the date on which the inventory of such substance is taken.

6. *Order Forms.* The order form requirements of §§ 1305.01-1305.16 of Title 21 of the Code of Federal Regulations shall be in effect on the date which the initial inventory of this Schedule II controlled substance is taken, February 24, 1978.

7. *Prescriptions.* All prescriptions for products containing phencyclidine shall comply with §§ 1306.01-1306.06 and §§ 1306.11-1306.15 of Title 21 of the Code of Federal Regulations, beginning February 24, 1978. All prescriptions for products containing such substances issued before February 24, 1978, if authorized for refilling, shall not be refilled on or after February 24, 1978.

8. *Importation and exportation.* All importation and exportation of phencyclidine shall, on or after April 25, 1978, be required to be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

9. *Criminal liability.* The Administrator, Drug Enforcement Administration, hereby orders that any activity with respect to phencyclidine as a Schedule II controlled substance not authorized by, or in violation of, the Controlled Substances Act or the Controlled Substances Import and Export Act, conducted after February 24, 1978, shall be unlawful, except that any person who is not now registered to handle phencyclidine as a Schedule II controlled substance but who is entitled to registration under such Acts may continue to conduct normal business or professional practice with phencyclidine between the date on which this order is published and the date on which he obtains or is denied registration: *Provided*, That application for such registration is submitted on or before April 25, 1978.

10. *Other.* In all other respects, this order is effective February 24, 1978.

Dated: January 23, 1978.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc. 78-2239 Filed 1-24-78; 8:45 am]

[4310-70]

Title 36—Parks, Forests, and Public Properties

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 17—CONVEYANCE OF FREEHOLD AND LEASEHOLD INTERESTS ON LANDS OF THE NATIONAL PARK SYSTEM

Criteria

AGENCY: National Park Service, Interior.

ACTION: Amendment to final rule.

SUMMARY: This document amends the regulations governing the criteria for conveyance to private parties of freehold or leasehold interests in land within units of the National Park System. The amendment provides the Advisory Council on Historic Preservation with opportunity to comment on conveyances affecting properties listed or eligible for listing on the National Register of Historic Places. The amendment is necessary to comply with the National Historic Preservation Act.

EFFECTIVE DATE: December 15, 1977.

FOR FURTHER INFORMATION, CONTACT:

C. Allen Harpine, 202-523-5252.

SUPPLEMENTARY INFORMATION: On September 15, 1977, there was published in the FEDERAL REGISTER (42 FR 46303-46305) a notice of final rulemaking. This final rule did not provide the Advisory Council on Historical Preservation with an opportunity for comment mandated by the National Historic Preservation Act. Therefore, this rule is amended by adding the following sentences at the end of § 17.3.

§ 17.3 Land subject to disposition.

* * * Any conveyances affecting properties listed or eligible for listing on the National Register of Historic Places must be reviewed by the Advisory Council on Historic Preservation. Procedures for obtaining the Council's comments appear at 36 CFR Part 800, "Procedures for the Protection of Historic and Cultural Resources."

WILLIAM J. WHALEN,
Director, National
Park Service.

JANUARY 16, 1978.

[FR Doc. 78-2113 Filed 1-24-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 846-7]

NEW SOURCE REVIEW

Delegation of Authority to the Commonwealth of Kentucky

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The amendments below institute certain address changes for reports and applications required from operators of new sources. EPA has delegated to the Commonwealth of Kentucky authority to review new and modified sources. The delegated authority includes the reviews under 40 CFR Part 52 for the prevention of significant deterioration. It also includes the review under 40 CFR Part 60 for the standards of performance for new stationary sources and reviewed under 40 CFR Part 61 for national emission standards for hazardous air pollutants. A notice announcing the delegation of authority was published in the Notices section of a previous issue of the FEDERAL REGISTER. These amendments provide that all reports, requests, applications, submittals, and communications previously required for the delegated reviews will now be sent to the Division of Air Pollution Control, Department for Natural Resources and Environmental Protection, West Frankfort Office Complex, U.S. 127, Frankfort, Ky. 40601, instead of EPA's Region IV.

EFFECTIVE DATE: January 25, 1978.

FOR FURTHER INFORMATION, CONTACT:

John Eagles, Air Programs Branch, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308, phone 404-881-2864.

SUPPLEMENTARY INFORMATION: The Regional Administrator finds

good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective on April 12, 1977, and it serves no purpose to delay the technical change of this addition of the state address to the Code of Federal Regulations.

(Secs. 101, 110, 111, 112, 301, Clean Air Act, as amended, (42 U.S.C. 7401, 7410, 7411, 7412, 7601).)

Dated: January 10, 1978.

JOHN C. WHITE,
Regional Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart S—Kentucky

1. Section 52.920(c) is amended by adding a new paragraph (c)(11) as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

(11) Letters requesting delegation of Federal authority for the administrative and technical portions of the Prevention of Significant Deterioration program were submitted on May 5 and July 13, 1976 by the Secretary of the Department for Natural Resources and Environmental Protection.

2. Section 52.931 is amended by adding a new paragraph (c) as follows:

§ 52.931 Significant deterioration of air quality.

* * * * *

(c) All applications and other information required pursuant to § 52.21 from sources located in the Commonwealth of Kentucky shall be submitted to the Division of Air Pollution Control, Department for Natural Resources and Environmental Protection, West Frankfort Office Complex, U.S. 127, Frankfort, Ky. 40601, instead of the EPA Region IV office.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

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

3. In § 60.4, paragraph (b)(S) is added as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(S) Division of Air Pollution Control, Department for Natural Resources and Environmental Protection, U.S. 127, Frankfort, Ky. 40601.

* * * * *

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

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

4. In § 61.04, paragraph (b)(S) is added as follows:

§ 61.04 Address.

* * * * *

(b) * * *

(S) Division of Air Pollution Control, Department for Natural Resources and Environmental Protection, U.S. 127, Frankfort, Ky. 40601.

* * * * *

[FR Doc. 78-2032 Filed 1-24-78; 8:45 am]

[6730-01]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

[General Order 39, Docket No. 77-22]

PART 507—ACTIONS TO ADJUST OR MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE FOREIGN TRADE OF THE UNITED STATES

Suspension

AGENCY: Federal Maritime Commission.

ACTION: Suspension of rule.

SUMMARY: This document suspends shipping regulations recently adopted by the Commission which required Guatemalan-flag carriers and their associates to pay an Equalization Fee designed to eliminate the discriminatory diversion of cargo to those carriers caused by Guatemalan laws. This Fee amounting to 50 percent of the freight charges is calculated to offset the penalties imposed under certain Guatemalan laws for the transportation of cargo on carriers other than Guatemalan carriers or associated carriers. The Commission is suspending the regulations because of certain assurances that waivers will be granted and no penalties will be imposed under such laws with respect to any U.S./Guatemalan commerce.

EFFECTIVE DATE: January 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573, 202-523-5740.

SUPPLEMENTARY INFORMATION: On January 16, 1978, officials of Flomerca Line, Armagua Line and Lineas Maritimas de Guatemala, S.A., advised the Commission by telex that Guatemalan flag lines will issue the necessary waivers to all exonerated cargoes moving through U.S. ports to Guatemala during the period January 13 through February 20, 1978. Guatemalan Decree 26-77 becomes effective February 21, 1978. Based on Guatemalan flag assurances that waivers will be granted and no penalties will be imposed under Decree 41-71 with respect to any U.S./Guatemalan commerce, the Commission will suspend 46 CFR Part 507 until further Notice. The rules contained in 46 CFR Part 507 promulgated at 42 FR 62914, December 14, 1977 are suspended until further Notice.

By the Commission.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc. 78-2089 Filed 1-24-78; 8:45 am]

[6730-01]

[General Order 39, Amdt. 2]

PART 507—ACTIONS TO ADJUST OR MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE FOREIGN TRADE OF THE UNITED STATES

"Favored Carriers" Status; Revocations

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The list of "favored carriers" provided in 46 CFR 507.1 is amended by the deletion of Pan American Mail Line, Inc., d.b.a. Flomerca Trailer Service and Coordinated Caribbean Transport, Inc. These carriers have certified by affadavit that their relations with Guatemalan-flag carriers have been severed and that they do not have national flag preference or associated carriers statute under the laws of Guatemala. Therefore it has been determined that these carriers should be deleted from the list of "favored carriers."

EFFECTIVE DATE: January 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573, 202-523-5725.

SUPPLEMENTAL INFORMATION: 46 CFR 507.1 Provides that the Com-

mission will modify the list of "favored carriers," subject to Part 507, as circumstances warrant. This authority was delegated to the Managing Director (Commission Order No. 1, Amendment 5, Subsection 7.21.)

Pan American Mail Line, Inc. (PAML) and Coordinated Caribbean Transport Inc. (CCT) have certified by affidavits that their relations with the Guatemalan-flag carriers have been severed and that they do not have national flag preference or associated carrier status under the laws of Guatemala. Based upon these certified affidavits it has been determined by the Managing Director that neither PAML nor CCT are Guatemala-flag or associated carriers and should be deleted from the list of "favored carriers."

Therefore, pursuant to section 19(1)(6) of the Merchant Marine Act, 1920, (46 U.S.C. 876 (1)(b)) and section 43 of the Shipping Act, 1916, (46 U.S.C. 841a), the Commission amends § 507.1, Title 46 CFR to read as follows:

§ 507.1 Conditions unfavorable to shipping in foreign trade with Guatemala.

The Federal Maritime Commission has determined that the Government of Guatemala has created conditions unfavorable to shipping in the foreign trade of the United States by precluding vessels of United States and third flag registry from competing in the ocean trade between the United States and Guatemala on the same basis as Guatemalan carriers or non-Guatemalan carriers which are associated with the former, and by discriminating thereby against vessels of United States and third flag registry in favor of Guatemalan carriers and their associated carriers. For the purposes of this part, the term "favored carriers" will be used to indicate the following Guatemalan carriers or their associated carriers receiving preferential treatment as a result of Republic of Guatemala Decree No. 41-71: (a) Armagua Line; (b) Flota Mercante Gran Centroamericana, S.A. (Flomerca); and (c) Lineas Maritimas de Guatemala, S.A. The Commission will modify this list of "favored carriers" by notice in the FEDERAL REGISTER, as circumstances warrant.

By the Commission.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc. 78-2041 Filed 1-24-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19833; RM-2088]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Beaufort, S.C.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action herein assigns a Class A FM channel to Beaufort, S.C., as that community's second FM assignment. The channel would provide for a station which could provide a third local nighttime aural service to a growing community.

EFFECTIVE DATE: March 1, 1978.

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

FOR FURTHER INFORMATION, CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—PROCEEDING TERMINATED

Adopted: January 13, 1978.

Released: January 20, 1978.

In the matter of Amendment of § 73.202(b), *Table of Assignments* FM Broadcast Stations (Beaufort, S.C.), Docket No. 19833, Rm-2088.

1. The Commission has before it a Notice of Proposed Rule Making, adopted September 26, 1973, 38 FR 27844, proposing the assignment of FM Channel 285A as a second FM assignment to Beaufort, S.C. The Notice was issued in response to a petition filed on behalf of Sea Island Broadcasting Corp. ("Sea Island"), licensee of Station WSIB, a class IV AM station at Beaufort. Sea Island responded to the Notice reiterating its intent to seek broadcast authority if the assignment was made as requested.

2. On November 28, 1973 (approximately 2 months after the issuance of the Notice in this proceeding), the Commission initiated a license revocation proceeding and issued an Order to Show Cause and Notice of Apparent Liability to the petitioner, Sea Island, in connection with its operation of AM Station WSIB. By action of June 24, 1976, the Commission revoked the license of Sea Island for Station WSIB, effective October 1, 1976. On August 12, 1976, the Commission's decision was appealed (D.C. Cir. Case No. 76-1735), and the appeal is still pending.

3. On October 18, 1977, Kenneth Van Polan ("Van Polan"), filed comments[1] in which he expresses his interest in the proposed channel assignment and states he will immediately prepare and file with the Commission an application for the proposed channel (285A), if it is assigned.

4. Although Van Polan's comments were filed several years after the deadline for filing comments specified in the Notice, we believe they should be accepted for consideration. Because Sea Island was the only party expressing an interest in the channel, it was necessary for the Commission to defer action in this case for over 4 years in order to await the resolution of the case concerning the qualifications of Sea Island to be a licensee of an AM station.[2] Now that another interest has been shown for the proposed channel, further action can be taken on the proposal to assign Channel 285A to Beaufort, S.C., without having to await the final resolution of that case. Under these circumstances, we believe that Van Polan's comments should be acccepted even though they were late.

5. Beaufort (pop. 9,435), seat of Beaufort County (pop. 51,135),[3] is located on the southeastern coast of South Carolina approximately 24 kilometers (15 miles) from the Atlantic Ocean, 121 kilometers (75 miles) south of Charleston, S.C., and 72 kilometers (45 miles) north of Savannah, Ga. Beaufort is presently served by AM Station WSIB (class IV), daytime-only AM Station WBEU and class C FM Station WBEU-FM (Channel 254).

6. The Notice indicated that Beaufort, the largest city in Beaufort County, was a fast growing recreational center which had almost a 50 percent increase in permanent residents between 1960-1970. It also stated that Beaufort was the educational and civic center of the county, in addition to having the Beaufort Regional Technical Center and the regional branch of the University of South Carolina located there.

7. Channel 285A could be assigned to Beaufort in conformance with all minimum distance separation requirements without affecting existing assignments. The proposed assignment would foreclose future assignments only on Channels 285A and 288A in areas along the narrow Atlantic coastline in and near Beaufort and extend-

[1] Polan acknowledges that his comments are filed several years after the due date specified by the Commission in the Notice. He requests that in the event it is determined by the Commission that the comments cannot be treated as such, the Commission then consider them to be an informal request for action pursuant to section 1.41 of the Rules.

[2] 60 F.C.C. 2d 146.

[3] Population figures are taken from the 1970 U.S. Census.

ing north to the Charleston area which presently has six AM and four commercial class C FM stations in operation. Communities of over 2,500 population without FM assignments in the Channel 285A "precluded" area include Capehart (pop. 4,490); Parris Island (8,868) and Port Royal (2,864), in Beaufort County. However, since they are all within 10 miles of Beaufort, a Beaufort Channel 285A assignment would be available to them for application and use under the "10-mile" rule (§ 73.203(b) of the rules). While Hilton Head is within the small precluded area for Channel 288A, Channel 292A, (Station WHHR) is assigned to that community, and it does not appear to warrant another FM channel assignment.

8. The assignment of Channel 285A to Beaufort would result in intermixing a class A with a class C channel (254). Although it is the usual policy not to intermix class A channels and class C channels in the same community, we have deviated from this policy where there is no other class C channel available, where there is a demand for a class A channel, and there is someone willing to compete under such circumstances. Yakima, Washington, 42 F.C.C. 2d 548 (1973). This case meets those requirements. The proposed channel would provide for a third local nighttime aural service in a growing community. Thus, it would be in the public interest to assign Channel 285A to Beaufort. This action should not be interpreted as prohibiting Sea Island from filing an application for the channel assigned herein. However, the disposition of any such application would necessarily have to give recognition to the outcome of the AM revocation proceeding.

9. Authority for the adoption of the amendment contained herein appears in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

10. In view of the foregoing: *It is ordered*, That effective March 1, 1978, § 73.202(b) of the Commission's rules, the FM Table of Assignments, with respect to Beaufort, South Carolina, is amended, to read as follows:

City and Channel No.
Beaufort, S.C.—254, 285A.

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

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

For the Federal Communications Commission.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-2093 Filed 1-24-78; 8:45 am]

[6712-01]

[Docket No. 20033; RM-2200]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Stations in Monahans and Odessa, Tex., Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This action reassigns VHF TV Channel 9 from Monahans, Tex., to Odessa-Monahans, Tex., on a hyphenated basis, in order to permit further evaluation of the need for an additional Odessa TV station in connection with the filing of an application.

EFFECTIVE DATE: March 1, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mark N. Lipp, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—PROCEEDING TERMINATED

Adopted: January 13, 1978.

Released: January 20, 1978.

In the matter of amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations. (Monahans and Odessa, Tex.), Docket No. 20033, RM-2200.

1. The Commission has before it a *Notice of Proposed Rule Making*, 39 FR 15317, proposing to reassign VHF TV Channel 9 from Monahans, Tex., to Odessa-Monahans, Tex., on a hyphenated basis. This *Notice* was issued in response to a petition by Grayson Enterprises, Inc. ("petitioner"), licensee of Station KMOM-TV (Channel 9), Monahans. Petitioner filed supporting comments and replies. Oppositions to the *Notice* were submitted by Forward Communications of Texas, Inc., licensee of Station KOSA-TV (Channel 7), Odessa, Tex.; Midland Telecasting Co., licensee of Station KDCD-TV (Channel 18), Midland, Tex.; the Monahans Chamber of Commerce; and the Association of Maximum Service Telecasters, Inc. ("AMST").

2. Grayson seeks a hyphenated assignment so that it may seek a modification of its license to specify Odessa, Tex., as its community of license, a step which would permit it to move its main studio to Odessa, approximately 59 kilometers (37 miles), northeast of Monahans. Petitioner states that this move will enable its station to become a viable competitive outlet in the Odessa-Midland market in which it now competes[1] and thereby provide better service. The transmitter site for Station KMOM-TV is located approximately 43 kilometers (27 miles) north of Monahans and 48 kilometers (30 miles) west of Odessa. It already provides a city grade signal to both communities, and no change in the site or service area is proposed by petitioner.

3. The *Notice* proposed to hyphenate the assignment, noting that Odessa is the much larger community and that its size and economic base could better foster the development of an economically viable local station. It also stated that a fully competitive third network service in the Odessa-Midland market[2] was an important public interest objective which made this proposal worth pursuing in a rule making proceeding. It was thought that by using the hyphenation technique, a further and more extensive evaluation of a specific proposal to move the assignment from the smaller to the larger community could be undertaken in an application context. To lessen the effects of a possible loss in local service to Monahans, petitioner was asked to respond to the desirability of our requiring that an auxiliary studio be maintained in Monahans if Odessa were to ultimately become the city of license.

4. In its comments, petitioner states that it supports the Commission's proposal as set forth in the *Notice*. It reiterates that Channel 9 should be reassigned to Odessa-Monahans because of the great disparity in growth between the two communities and its own difficulty competing with two other network stations in the market. In this connection petitioner argues that Odessa has a greater need for and ability to sustain an additional channel since it is a thriving community of 78,380 in population whereas Monahans (pop. 8,333)[3] is a dying town. Opponents disagree with this assessment, citing what are essentially isolated examples of growth in Monahans. In addition, one opponent expressed a concern that Monahans will lose service if the reassignment is made. Another opponent warns that this proposal could seriously affect further development of UHF broadcasting in the Odessa-Midland market. AMST does not oppose the reassignment as such; rather, it urges that a short spacing

[1] Midland, which is part of this hyphenated television market, lies approximately 91 kilometers (57 miles) northeast of Monahans.

[2] This region is presently served by two other network affiliates—Station KMID-TV (Ch. 2) (NBC), Midland, and Station KOSA-TV (Ch. 7) (CBS), Odessa. Petitioner's Station KMOM-TV is affiliated with the ABC network.

[3] Population data are taken from the 1970 U.S. Census.

not be created with Channel 9, Abilene, Texas.[4] Since no change in coverage is proposed, however, these questions present matters which are more appropriately considered in the specific context of an application for a station at Odessa.[5] Looking towards adoption of its proposal, petitioner states that it would maintain a studio at Monahans from which at least 1 hour of local live programing would originate.

5. Hyphenation is an assignment tool used in those instances where it appears best to postpone until the application stage any unresolved questions as to which community warrants the assignment.[6] Thus, the use of hyphenation permits the filing of an application to utilize the assigned channel at a choice of communities;[7] it does not actually change an existing city of license.

6. In light of the growth patterns of the various communities in the area and the development of competitive factors over a 20 year period,[8] hyphenation now appears appropriate. In our view, Monahans does not appear to be of sufficient size to warrant a TV station under normal circumstances,[9] let alone in these circumstances where its local outlet must compete in this market with two other network stations both of which are licensed to much larger communities. However, to insure that the loss of service to Monahans be kept at a minimum, we have suggested, and petitioner has agreed, that an auxiliary studio should be maintained in Monahans. Therefore, we shall impose a condition that any application for Channel 9 to serve Odessa must include a provision for an auxiliary studio at Monahans. We note that under the action taken here, the station will continue to be licensed to Monahans until such time as favorable action would be taken on an application for a license to serve Odessa.

7. Mexican concurrence in the action taken here has been obtained.

8. *Accordingly, it is ordered,* That § 73.606(b) of the Commission's rules, is amended, effective March 1, 1978, insofar as the listed communities are concerned, as follows:

City:	Channel No.
Monahans, Tex.	—,
Monahans-Odessa, Tex.	9-

9. Authority for the adoption of the amendment contained herein appears in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

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

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

For the Federal Communications Commission.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-2092 Filed 1-24-78; 8:45 am]

[4] The present transmitter location is already short-spaced to Channel 9, Abilene, Tex., by 5.5 miles. Since no change in transmitter site is proposed, no short-spacing problem is presented at this stage.

[5] Midland Telecasting Co. complained that its own chances of obtaining an ABC affiliation would be hampered by the proposal and asked that a petition to deny the renewal of petitioner's TV station, filed November 4, 1974, be incorporated herein. But this filing, since it concerns issues of an economic nature, including its chances for a network affiliation, are matters which should more appropriately be considered in connection with the application.

[6] See *Hay Springs-Scottsbluff, Neb.*, Docket No. 20065, 42 Fed. Reg. 41123.

[7] It is now settled, that if a reassignment of the channel is warranted, a new application for license rather than a modification of an existing license must be filed so that other interested persons may have the opportunity to apply for the new community. *Santa Ana, Cal.*, 65 F.C.C. 2d 920 (1977). See also *Hay Springs-Scottsbluff, Neb., supra.*

[8] Monahans has had a TV station in operation on Channel 9 since 1958.

[9] When the Monahans channel was assigned in the original Table, the city, although small, was expected to grow. However the anticipated growth has not occurred.

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 293; Sub. No. 2]

PART 1125—STANDARDS FOR DETERMINING RAIL SERVICES CONTINUATION SUBSIDIES

Extension of Comment Period

AGENCY: Rail Services Planning Office, Interstate Commerce Commission.

ACTION: Extension of comment period.

SUMMARY: The Rail Service Planning Office restated the Regional Subsidy Standards on January 11, 1978 (43 FR 1692) to conform with the ICC's new Uniform System of Accounts (USOA). Comments are invited on substantive changes and whether in light of the new USOA, the formulas for apportioning common costs may be refined. Due to delays in publication and distribution, and in order to allow adequate time for interested persons to review the reissued rules, the comment period has been extended to February 27, 1978.

DATE: Comments may be filed on or before February 27, 1978.

ADDRESS: An original and six copies should be submitted to: Rail Services Planning Office, 1900 L Street NW., Washington, D.C. 20036. Attn: Regional Subsidy Standards.

FOR FURTHER INFORMATION CONTACT:

James Wells, Chief, Cost Evaluation Branch, Rail Services Planning Office, 202-254-7552.

SUPPLEMENTARY INFORMATION: RSPO invites comments on those areas in which substantive changes were made or a party believes substantive changes may have been made. Interested parties are also asked to consider whether the formulas for apportioning costs (§ 1125.8) may be refined in light of the new USOA.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Accordingly, it is ordered, that comments on the reissued Regional Subsidy Standards (Part 1125 of Chapter X of Title 49 of the Code of Federal Regulations) will be accepted until February 27, 1978. Issued January 18, 1978, by Alan M. Fitzwater, Director, Rail Services Planning Office.

By the Commission.

H. GORDON HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-2070 Filed 1-24-78; 8:45 am]

[7035-01]

[Ex Parte No. 293; Sub. No. 8]

PART 1127—STANDARDS FOR DETERMINING COMMUTER RAIL SERVICE CONTINUATION SUBSIDIES AND EMERGENCY OPERATING PAYMENTS

Extension of Comment Period

AGENCY: Rail Services Planning Office, Interstate Commerce Commission.

ACTION: Extension of comment period.

SUMMARY: The Rail Services Planning Office restated the Commuter Standards on January 11, 1978 (43 FR 1715) to conform with the ICC's new Uniform System of Accounts (USOA). Comments were invited on substantive changes and whether in light of the new USOA, the formulas for apportioning common costs may be refined. Due to delays in publication and distribution and in order to allow adequate time for interested persons to review the reissued rules, the comment period has been extended to February 27, 1978.

DATE: Comments may be filed on or before February 27, 1978.

ADDRESS: An original and six copies should be submitted to: Rail Services

Planning Office, 1900 L Street NW., Washington, D.C. 20036. Attn: Commuter Standards.

FOR FURTHER INFORMATION CONTACT:

David S. Rind, Cost Evaluation Branch, Rail Services Planning Office, 202-254-7552.

SUPPLEMENTARY INFORMATION: RSPO invites comments on those areas in which substantive changes were made or a party believes substantive changes may have been made. Interested parties are also asked to consider the appropriateness of the formulae for apportioning common costs in relationship to the new USOA.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Accordingly, it is ordered, that comments on the reissued commuter standards (Part 1127 of Chapter X of Title 49 of the Code of Federal Regulations) will be accepted until February 27, 1978. Issued January 18, 1978, by Alan M. Fitzwater, Director, Rail Services Planning Office.

By the Commission.

H. GORDON HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-2071 Filed 1-24-78; 8:45 am]

[7035-01]

[Docket No. 36366]

PART 1201—UNIFORM SYSTEM OF ACCOUNTS

Subpart B—Branch Line Accounting System

REVISION TO THE BRANCH LINE ACCOUNTING SYSTEM; EXTENSION OF COMMENT PERIOD

AGENCY: Rail Services Planning Office, Interstate Commerce Commission.

ACTION: Extension of comment period.

SUMMARY: The Rail Services Planning Office restated the Branch Line Accounting System regulations on January 11, 1978 (43 FR 1732) to conform with the ICC's new Uniform System of Accounts (USOA). Comments are invited on sustantive changes. Due to delays in publication and distribution and in order to allow adequate time for interested persons to review the reissued rules, the comment period has been extended to February 27, 1978.

DATE: Comments may be filed on or before February 27, 1978.

ADDRESS: An original and six copies should be submitted to: Rail Services Planning Office, 1900 L Street, NW., Washington, D.C. 20036. Attn: Branch Line Accounting System.

FOR FURTHER INFORMATION CONTACT:

James Wells, Chief, Cost Evaluation Branch, Rail Services Planning Office, 202-254-7552.

SUPPLEMENTARY INFORMATION: RSPO invites comments on those areas in which substantive changes were made or a party believes substantive changes may have been made.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Accordingly, it is ordered, That comments on the reissued Branch Line Accounting System (Part 1201 of Chapter X of Title 49 of the Code of Federal Regulations) will be accepted until February 27, 1978.

Issued January 18, 1978, by Alan M. Fitzwater, Director, Rail Services Planning Office.

By the Commission.

H. GORDON HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-2072 Filed 1-24-78; 8:45 am]

[7035-01]

SUBCHAPTER D—TARIFFS AND SCHEDULES
[Docket No. 35867[1]]

PART 1310—FREIGHT RATE TARIFFS AND CLASSIFICATIONS OF MOTOR COMMON CARRIERS

Revision of Regulations for the Construction, Filing, and Posting of Tariffs of Common Carriers of Property by Motor Vehicle and Tariffs of Certain Common Carriers by Water

AGENCY: Interstate Commerce Commission, Washington, D.C. 20423.

ACTION: Clarification.

SUMMARY: FR Doc. 77-25737, published at 42 FR 44236, September 2, 1977, showed an effective date of October 5, 1977, for the regulations published in Part 1310 which were adopted in the above-entitled proceeding. This notice is to clarify that the regulations in Part 1310, as amended, became effective in their entirety on that date, as provided in the order of the Commission served August 23, 1977. This order thereby discontinued the stay order served March 17, 1977, and all the regulations in Part 1310, as amended, became effective October 5, 1977.

This document is therefore amended to read as follows:

Under "EFFECTIVE DATES" change the sentence now reading: "The effective date of the regulations is October 5, 1977." to read "The effective date of Part 1310 is October 5, 1977."

EFFECTIVE: October 5, 1977.

FOR FURTHER INFORMATION CONTACT:

William P. Geinsenkotter, Chief, Section of Tariffs, Bureau of Traffic, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7739.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-2163 Filed 1-24-78; 8:45 am]

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[1] This proceeding is consolidated with Docket No. 35867 (Sub-No. 1), standard headings and standard item numbers for commonly published rules in tariffs of class I motor common carriers of property and of agents.

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

National Wildlife Refuges in Florida, Georgia and South Carolina

AGENCY: Fish and Wildlife Service.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to sport fishing of certain National Wildlife Refuges is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. These special regulations describe the condition under which sport fishing will be permitted on portions of certain National Wildlife Refuges in Florida, Georgia, and South Carolina.

DATES: Effective on January 25, 1978, for duration of calendar year 1978.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate Refuge Manager at the address or telephone number listed below:

Donald J. Hankla, Area Office Manager, U.S. Fish and Wildlife Service, 900 San Marco Boulevard, Jacksonville, Fla. 32207. Telephone: 904-791-2267.

John P. Davis, Refuge Manager, Savannah (and Blackbeard Island) National Wildlife Refuge, P.O. Box 8487, Savannah, Ga. 31402. Telephone: 912-232-4321, Ext. 415.

Bruce Blihovde, Refuge Manager, Lake Woodruff National Wildlife Refuge, P.O. Box 488, DeLeon Springs, Fla. 32028. Telephone: 904-985-4673.

Thomas W. Martin, Refuge Man-

ager, Loxahatchee National Wildlife Refuge, Route 1, Box 278, Boynton Beach, Fla. 33437. Telephone: 305-732-3684.

Stephen Vehrs, Refuge Manager, Merritt Island National Wildlife Refuge, P.O. Box 6504, Titusville, Fla. 32780. Telephone: 305-867-4820.

John R. Eadie, Refuge Manager, Okefenokee National Wildlife Refuge, P.O. Box 117, Waycross, Ga. 31501. Telephone: 912-283-2580.

Ronnie L. Shell, Refuge Manager, Piedmont National Wildlife Refuge, Round Oak, Ga. 31080. Telephone: 912-986-3651.

Joe D. White, Refuge Manager, St. Marks National Wildlife Refuge, Box 68, St. Marks, Fla. 32355. Telephone: 904-925-6280.

Harry T. Stone, Refuge Manager, St. Vincent National Wildlife Refuge, P.O. Box 447, Apalachicola, Fla. 32320. Telephone: 904-653-8808.

SUPPLEMENTARY INFORMATION:

GENERAL

Sport fishing on portions of the following refuges shall be in accordance with applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Portions of refuges which are open to sport fishing are designated by signs and/or delineated on maps. Special conditions applying to individual refuges and maps are available at refuge headquarters or from the Office of the area Manager (addresses listed above).

§ 33.5 Special regulations; sport fishing for individual wildlife refuge areas.

FLORIDA

LAKE WOODRUFF NATIONAL WILDLIFE REFUGE

Sport fishing on the Lake Woodruff National Wildlife Refuge, DeLeon Springs, Fla. is permitted on approximately 650 acres. The sport fishing season is open year-round on delineated refuge waters west of Norris Dead River, Lake Woodruff, Spring Garden Creek, Highland Park Canal, and the canal bordering the east side of Norris Dead River. Refuge waters east of Norris Dead River Canal, Lake Woodruff, and Spring Garden Creek will be open to fishing and access March 15 to October 15, 1978. Fishing and access on refuge waters are permitted during daylight hours only. Air thrust boats are prohibited.

LOXAHATCHEE NATIONAL WILDLIFE REFUGE

Sport fishing is permitted in all waters (61,352 acres) of the Loxahatchee National Wildlife Refuge, Delray Beach, Fla., except those marked by signs as being closed. All public entry onto the refuge for any purpose is limited to the following points: (a) S-5A (Twenty-Mile Bend) boat ramp; (b) Headquarters area; (c) Loxahatchee Recreation Area. Sport fishing is permitted year-round. Fishing is restricted to 1½ hours before sunrise until 1 hour after sunset. Boats must enter or leave the refuge through the three public ramps: (a) S-5A (Twenty-Mile Bend) boat ramp; (b) Headquarters boat ramp; (c) S-39 (Loxahatchee Recreation Area) boat ramps. Method of fishing allowed is with attended rod and reel and/or pole and line. Air thrust boat use is authorized only by special permit issued by the refuge manager. Speed boats and racing craft are prohibited.

MERRITT ISLAND NATIONAL WILDLIFE REFUGE

Sport fishing on the Merritt Island National Wildlife Refuge, Titusville, Fla., is permitted on designated areas. Sport fishing is permitted during daylight hours, year-round, except when posted as closed. Sport fishing is permitted from boats at night by those persons possessing a refuge special use permit under the following conditions: (a) Subject to the payment of an annual fee ($5); (b) Refuge boat launching is permitted only at Beacon 42 Fish Camp. Air thrust boats are not allowed on refuge waters. Coast Guard approved life preservers shall be worn by persons in small craft less than 20 feet in length while these boats are in motion in the Indian River, Banana River, and Mosquito Lagoon within refuge boundaries.

ST. MARKS NATIONAL WILDLIFE REFUGE

Sport fishing on the St. Marks National Wildlife Refuge, St. Marks, Fla., is permitted on approximately 50,000 acres. The sport fishing season on the refuge extends from March 15 through October 15, 1978. Fishing is permitted ½ hour before sunrise until ½ hour after sunset during open season. Boats with electric motors and gasoline engines up to and including 4 horsepower are permitted. Trotlines shall be taken up daily prior to closing hours of fishing.

ST. VINCENT NATIONAL WILDLIFE REFUGE

Sport fishing on the St. Vincent National Wildlife Refuge, Franklin County, Apalachicola, Fla., is permitted on 360 acres. The sport fishing season extends from March 1 through October 30, 1978. Fishermen are permitted on the refuge from 1 hour before sunrise to 1 hour after sunset. No motors of any type may be used. Boats may be left on the island at designated points during the open season provided they are identified with their owner's name and address. Boats must be removed from the refuge no later than October 30, 1978. Use of live minnows as bait is prohibited.

GEORGIA

BLACKBEARD ISLAND NATIONAL WILDLIFE REFUGE

Fresh water sport fishing on the Blackbeard Island National Wildlife Refuge, McIntosh County, Townsend, Ga., is permitted only on two areas totaling 350 acres. The sport fishing season extends from March 15 through October 25, 1978. Fishing is permitted in daylight hours only. Boats with electric motors permitted. Gasoline powered motors prohibited. Use of live minnows as bait prohibited.

OKEFENOKEE NATIONAL WILDLIFE REFUGE

Sport fishing is permitted on the Okefenokee National Wildlife Refuge, Waycross, Ga., in the designated open water areas connected by established boat runs. Fishing permitted during posted hours only. Boats with motors not larger than 10 horsepower, canoes, and rowboats permitted. Use of live minnows as bait prohibited. Trotlines, limb lines, nets, or other set tackle prohibited. Persons entering refuge from main access points must register with the respective concessioner. Persons using the sill access ramp on the pocket and Kingfisher Landing access ramp are required to sign the respective registers when they enter the swamp and again when they leave.

PIEDMONT NATIONAL WILDLIFE REFUGE

Sport fishing on the Piedmont National Wildlife Refuge, Round Oak, Ga., is permitted on approximately 32 acres, during daylight only. Open Season: March 11 through September 16, 1978—The Falling Creek Bridge Area on Round Oak-Juliette Road and the Little Falling Creek Area at County Line Bridge; April 29 through September 16, 1978—Allison Lake; July 15 through September 16, 1978—Five Points Lake. Boats permitted in Allison Lake only. Electric motors permitted; all other motors prohibited. Boats may not be left on the refuge overnight. Bank fishing permitted within posted areas only.

GEORGIA AND SOUTH CAROLINA

SAVANNAH NATIONAL WILDLIFE REFUGE

Sport fishing on the Savannah National Wildlife Refuge is permitted only in designated impounded waters, tidal creeks, ditches and canals in an area comprising 26,000 acres. The sport fishing season extends from March 15 through October 25, 1978. Fishing is permitted from sunrise to 1 hour past sunset. Outboard motors are prohibited in impounded waters. Tidal creeks may be fished from boats only from February 1 through October 25,

1978. Rod and reel, pole and line, artificial and live baits are permitted. All areas posted with "closed area" signs are closed to all activities including fishing. Private boats may not be left on the refuge overnight.

SOUTH CAROLINA

SAVANNAH NATIONAL WILDLIFE REFUGE

Sport fishing on the Savannah National Wildlife Refuge, Jasper County, Hardeeville, S.C., is permitted only on designated impounded waters, tidal creeks, ditches and canals in an area comprising 26,000 acres. The sport fishing season extends from March 15 through October 25, 1978 for all impounded waters. Fishing is permitted from sunrise to 1 hour past sunset. Outboard motors are prohibited in impounded waters. Tidal creeks may be fished from boats only from February 1 through October 25. Rod and reel, pole and line, artificial and live baits are permitted. All areas posted with "closed area" signs are closed to all activities including fishing. Private boats may not be left on the refuge overnight.

The provisions of these special regulations supplement the regulations set forth in Title 50 Code of Federal Regulations, Part 33, which govern sport fishing on wildlife refuge areas generally. The public is invited to offer suggestions and comments at any time.

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

Dated: January 17, 1978.

JOHN C. OBERHEU,
Acting Area Manager.

[FR Doc. 78-2083 Filed 1-24-78; 8:45 am]

proposed rules

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

[7590-01]

NUCLEAR REGULATORY COMMISSION

[10 CFR Parts 71 and 73]

RADIOACTIVE MATERIAL

Packaging and Transportation by Air, Environmental Statement

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Issuance of a Final Environmental Statement on Transportation of Radioactive Material by Air and other Modes.

SUMMARY: A final environmental statement on transportation of radioactive material has been issued and will be considered in deciding the disposition of the present transportation rule making proceeding.

DATES: Comments must be received on or before March 15, 1978.

ADDRESS: Comments should be filed with the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention, Director, Office of Standards Development.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald R. Hopkins, phone: 301-443-6910.

SUPPLEMENTARY INFORMATION: In its advance notice initiating a rulemaking proceeding to reevaluate the Commission's regulations concerning the transportation of radioactive material by air published in the FEDERAL REGISTER on June 2, 1975, (40 FR 23768), the Nuclear Regulatory Commission noted that a generic environmental impact statement would be prepared and related ground transportation. Although the statement was to be directed at air transportation, other transportation modes—land and water—were to be considered in light of the requirement of the National Environmental Policy Act of 1969 (NEPA) that the relative cost and benefit of alternatives to certain proposed federal actions be fully considered. The statement was to be generic in nature, assessing the impact from all transportation, not just that associated with a particular rule change.

Pursuant to the National Environmental Policy Act of 1969 and the Commission's regulations in 10 CFR Part 51 "Licensing and Regulatory Policy and Procedures for Environmental Protection," the Commission's Office of Standards Development issued a draft environmental statement on transportation in March, 1976. After consideration of the 28 letters of comment received from the public and from Federal, state and local agencies, a Final Environmental Statement on the Transportation of Radioactive Material by Air and Other Modes, dated December 1977, and designated NUREG-0170, has been issued.

Taking into account the conclusions of the final environmental statement, public comments received on the proceeding, and other information, the Nuclear Regulatory Commission will consider the disposition of the rule making proceeding announced on June 2, 1975. Persons with views on the content or conclusions of the final environmental statement which may be helpful to the Commission in its deliberations should file such comments by March 15, 1978, with the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Office of Standards Development. If sufficient need for clarification of the final environmental statement becomes apparent, the Office of Standards Development will consider holding one or more public meetings for this purpose.

The final environmental statement is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Single copies of the statement (NUREG-0170) may be obtained by written request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Copies can also be obtained from the National Technical Information Service, Springfield, Va. 22161.

(5 U.S.C. 552(a).)

Dated at Silver Spring, Md., this 29th day of December 1977.

CLIFFORD V. SMITH, Jr.,
Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 78-2040 Filed 1-24-78; 8:45 am]

[4810-33]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Part 24]

PROCEDURES AND STANDARDS APPLICABLE TO SUSPENSIONS AND PROHIBITIONS WHERE FELONY IS CHARGED

Proposed Rulemaking

AGENCY: Comptroller of the Currency.

ACTION: Proposed regulations.

SUMMARY: The procedures and standards set forth in these proposed regulations would be applicable to proceedings by the Comptroller of the Currency to suspend and/or prohibit from participation any officer or director or other person participating in the affairs of a national bank, where such person is charged with a felony involving dishonesty or breach of trust. These proposed regulations are also intended to make available to such persons a hearing at which they may present such facts as will aid the Comptroller in determining whether any existing suspension should continue in effect.

DATE: Comments must be received on or before February 24, 1978.

ADDRESS: Interested parties are invited to submit written data, views or arugments in connection with these proposed regulations to Mr. John E. Shockey, Chief Counsel, Comptroller of the Currency, 490 L'Enfant Plaza, Washington, D.C. 20219. All written comments submitted will be made available for public inspection at the above address.

FOR FURTHER INFORMATION, CONTACT:

Robert S. Pasley, Attorney, Office of the Comptroller of the Currency, Washington, D.C. 20219, Tel. No. 202-447-1989.

SUPPLEMENTARY INFORMATION: Substantially identical regulations were adopted by the Federal Deposit Insurance Corporation on November 18, 1977 (42 FR 59491) and have been proposed by the Federal Home Loan Board on June 23, 1977 (42 FR 31803).

DRAFTING INFORMATION

The principal drafter of this document was Robert S. Pasley, Attorney.

PROPOSED AMENDMENT

Accordingly, the Comptroller hereby proposes to adopt 12 CFR Part 24, to read as follows:

PART 24—PROCEDURES AND STANDARDS APPLICABLE TO SUSPENSIONS AND PROHIBITIONS WHERE FELONY IS CHARGED

Sec.
24.1 Suspension and prohibition where a felony is charged.
24.2 Notice of hearing.
24.3 Hearing.
24.4 Waiver of hearing.
24.5 Decision of the Comptroller.
24.6 Reconsideration by the Comptroller.
24.7 Relevant considerations.

AUTHORITY: 12 U.S.C. 1818(g)(1).

§ 24.1 Suspension and prohibition where a felony is charged.

Whenever a director or officer of a national bank, or any other person participating in the conduct of the affairs of such bank, is charged in any State, Federal or territorial information or indictment, or in any complaint authorized by a United States Attorney, with the commission of or participation in a felony (or a misdemeanor under State or territorial law which, because of the length of the maximum sentence that may be imposed, is equivalent to a felony under Federal law) involving dishonesty or breach of trust, the Comptroller, upon a preliminary determination that the offense alleged in the information, indictment or complaint is, or may be, within any or all of the criteria established in § 24.7, shall, by written notice served upon such director, officer, or other person by registered United States mail, suspend him from office or prohibit him from further participation in any manner in the affairs of the bank, or both. A copy of the notice of suspension shall also be served upon the bank.

§ 24.2 Notice of hearing.

(a) Any notice of suspension issued pursuant to § 24.1 shall be accompanied by a further notice to the individual that he may request in writing a hearing, at which he may present evidence and argument as to why the suspension and/or prohibition should not continue in effect. Any notice of the opportunity for a hearing shall be accompanied by a description of the hearing procedure and the criteria to be considered.

(b) A petition filed pursuant to paragraph (a) of this section shall state with particularity the relief desired, the grounds therefor, and shall include, when available, supporting evidence. Such petition and supporting evidence shall be filed with the Comptroller.

(c) If an individual fails to request a hearing, or fails to appear at a hearing, either in person or through an attorney, or fails to submit a written argument where a hearing has been waived pursuant to § 24.4, the suspension and/or prohibition shall remain in effect until such information, indictment or complaint is finally disposed of, or until terminated by the Comptroller.

§ 24.3 Hearing.

(a) After the receipt of a petition complying with § 24.2(b), the Comptroller will order a hearing to commence within 30 days, to be held in Washington, D.C., or in such other place as is designated by the Comptroller, before a panel designated by the Comptroller to conduct said hearing.

(b) The Notice of Hearing shall be served by the Comptroller upon the party or parties afforded the hearing, and shall set forth the time and place of the hearing, and the names and business addresses of the members of the hearing panel.

(c) The subject individual may appear at the hearing personally, through counsel, or personally with counsel. The individual shall have the right to introduce relevant and material evidence, and to present an oral argument before the panel. Members of the Comptroller's legal staff may also attend the hearing, and may participate as a party. Neither the formal rules of evidence nor the adjudicative procedures of the Administrative Procedure Act (5 U.S.C. 551, et seq.) shall apply to the hearing. The proceedings shall be recorded and a transcript will be furnished to the subject individual, upon request and after the payment of the cost thereof. Witnesses may be presented so long as a list of the witnesses is furnished to the panel prior to the hearing. Witnesses shall not be sworn, unless specifically requested by either party, or by the panel. The panel may ask questions of any witness, and every party shall have the opportunity to cross-examine any witness presented by a participating party. Upon the request of either the subject individual or a representative of the Comptroller's legal staff, the record shall remain open for a period of five (5) business days following the hearing, during which time the parties may make any additional, relevant submissions to the record. Thereafter, the record shall be closed.

(d) The panel will make its recommendations to the Comptroller within ten (10) business days following the closing of the record, except that such period may be extended by the Comptroller.

§ 24.4 Wavier of hearing.

The subject individual may, in writing, waive an oral hearing, and elect instead to have the matter determined by the Comptroller on the basis of written submissions alone.

§ 24.5 Decision of the Comptroller.

(a) Within thirty (30) days following receipt of the panel's recommended decision, or receipt of the subject individual's written submissions where a hearing has been waived pursuant to § 24.4, the Comptroller shall render his decision. The decision shall include a statement of the basis for the decision, and such statement shall be provided to the subject individual and to the bank.

(b) The Comptroller may extend this thirty (30) day time period for good cause, but in no instance shall the extension be greater than sixty (60) days after the close of the hearing, or after the receipt of written submissions if the hearing has been waived. Where an extension is required, the individual will be notified of the reason for the extension and of the expected date upon which a final decision will be rendered.

§ 24.6 Reconsideration by the Comptroller.

(a) The subject individual shall have ten (10) business days following receipt of the decision of the Comptroller in which to petition the Comptroller for reconsideration.

(b) The subject individual shall also be entitled to petition the Comptroller for reconsideration of his decision any time after the expiration of a one-year period from the date of the Comptroller's decision; *Provided, however,* that no petition for reconsideration may be made within one year of a previous petition.

(c) A petition for reconsideration shall state with particularity the basis for reconsideration, the relief sought, and any exceptions the individual takes to the Comptroller's finding. A petition may be accompanied by a memorandum of points and authorities in support of the petition, and any supporting documentation the individual may wish to have considered.

(d) No hearing need be granted on any such petition for reconsideration. The Comptroller shall promptly render his decision following receipt of the petition.

§ 24.7 Relevant considerations.

(a) In deciding the question of suspension under this section, the Comptroller will consider the following:

(1) Whether the alleged offense: (i) Is a felony (or a misdemeanor under State or territorial law which, because of the length of the maximum sentence that may be imposed, is equivalent to a felony under Federal law), and (ii) involves dishonesty or breach of trust;

(2) Whether the continued presence of the subject individual in his position constitutes a possible danger to the safety of deposits or the soundness of the national bank because of: (i) The nature and extent of the individ-

ual's participation in the affairs of the national bank; or (ii) the nature of the offense with which the individual has been charged;

(3) Whether there is cause to believe that there may be an erosion of public confidence in the integrity, safety, or soundness of the particular bank or the national banking system (either generally or in the particular locality in which the bank is situated) if the subject individual is permitted to remain in his position in that bank; and

(4) Whether the individual is covered by the bank's fidelity bond, and, if so, whether the bonding company is likely to revoke the bond, or coverage under the bond is likely to be adversely affected, as a result of the charge.

(b) The Comptroller may consider any other factors which, in the specific case appear relevant to the continuation of a suspension order.

(d) In deciding whether a notice of suspension and/or prohibition shall continue in effect or shall terminate, the Comptroller shall not consider the ultimate question of the guilt or innocence of the subject individual with regard to the offense with which he has been charged.

Dated: January 6, 1978.

JOHN G. HEIMANN,
Comptroller of the currency.

[FR Doc. 78-2117 Filed 1-24-78; 8:45 am]

[6210-01]

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[12 CFR Ch. II]

[4810-33]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Ch. I]

[6714-01]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Ch. III]

[6720-01]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Ch. V]

[FRB Docket No. R-0139]

COMMUNITY REINVESTMENT ACT OF 1977

Joint Hearing

AGENCY: Federal Reserve System, Comptroller of the Currency, Federal Deposit Insurance Corporation, and Federal Home Loan Bank Board.

ACTION: Notice of joint hearing.

SUMMARY: The Community Reinvestment Act of 1977 (the "CRA") requires each appropriate Federal financial supervisory agency to use its authority when examining financial institutions, to encourage such institutions to help meet the credit needs of the local communities in which they are chartered consistent with the safe and sound operation of such institutions. This document announces a joint hearing to be held to aid these agencies in the preparation of regulations prescribed by the "CRA". The document also sets forth questions the agencies are especially interested in having addressed in written and oral submissions.

DATES: Hearing: March 15 and 16, 1978, at 10 a.m. Comments: Due on or before March 8, 1978. The agencies also expect to hold hearings in the following cities between March 20 and April 20, 1978: Atlanta, Boston, Chicago, Dallas, and San Francisco. Details regarding exact times and places will be announced later.

ADDRESSES: Hearing location: Conference Room E, Terrace Level, Federal Reserve Martin Building Annex, 20th and C Street NW., Washington, D.C. Comments: Send to Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FOR FURTHER INFORMATION CONTACT:

Robert J. Lawrence, Deputy Staff Director for Management, Federal Reserve System, Washington, D.C. 20551, phone 202-452-3766.

SUPPLEMENTARY INFORMATION: On October 12, 1977, the President signed into law the Housing and Community Development Act of 1977 (Pub. L. 95-128). Title VIII of that Act is the Community Reinvestment Act of 1977 ("the CRA"). The CRA requires that, in connection with its examination of a financial institution within its jurisdiction, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corportion, and the Federal Home Loan Bank Board (collectively referred to as "the agencies") shall assess the institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the institution, and that the appropriate agency take that record into account in its evaluation of any application by the institution for a charter, deposit insurance, branch or other deposit facility, office relocation, merger, or acquisition of bank or savings institution shares. Pursuant to the authority contained in section 806 of the CRA, the agencies will prescribe regulations to carry out the purposes of the CRA to take effect no later than November 6, 1978.

On behalf of the four agencies, notice is hereby given that, to aid in the preparation of those regulations, a hearing will be held before representatives of the agencies in conference room E on the terrace level of the Federal Reserve's Martin Building Annex, 20th and C Streets NW., Washington, D.C., on March 15 and 16, 1978. The proceedings will commence at 10 a.m. on both dates and will consist of presentations of statements in oral or written form. Interested persons are invited, however, to submit written comments regardless of whether they intend to participate in the hearing.

The agencies also expect to hold hearings in the following cities between March 20 and April 20, 1978: Atlanta, Boston, Chicago, Dallas, and San Francisco. Details regarding exact times and places will be announced later.

Any person desiring to submit written comments, give testimony, present evidence, or otherwise participate in the proceedings should file with the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, on or before March 8, 1978, four copies of their written comments or a written request containing a statement of the nature of the petitioner's interest in the proceedings, the city in which petitioner wishes to testify, the length of time requested for oral presentation, a summary of the matters concerning which the petitioner wishes to give testimony or submit evidence, and the names and identify of witnesses who propose to appear. Copies of all written submissions will be distributed by the Board of Governors to each of the other agencies and will be made available for public inspection and copying upon request in accordance with the agencies' respective rules regarding availability of information. All material submitted should refer to Docket No. R-0139.

To aid persons in preparing written comments and testimony, the text of the CRA is reprinted below, followed by questions that the agencies are especially interested in having addressed in written and oral submissions.

TITLE VIII—COMMUNITY REINVESTMENT

SEC. 801. This title may be cited as the "Community Reinvestment Act of 1977."

SEC. 802. (a) The Congress finds that—

(1) Regulated financial institutions are required by law to demonstrate that their deposit facilities serve the convenience and needs of the communities in which they are chartered to do business;

(2) The convenience and needs of communities include the need for credit services as well as deposit services; and

(3) Regulated financial institutions have continuing and affirmative obligation to

help meet the credit needs of the local communities in which they are chartered.

(b) It is the purpose of this title to require each appropriate Federal financial supervisory agency to use its authority when examining financial institutions, to encourage such institutions to help meet the credit needs of the local communites in which they are chartered consistent with the safe and sound operation of such institutions.

SEC. 803. For the purposes of this title—

(1) The term "appropriate Federal financial supervisory agency" means—

(A) The Comptroller of the Currency with respect to national banks;

(B) The Board of Governors of the Federal Reserve System with respect to State-chartered banks which are members of the Federal Reserve System and bank holding companies;

(C) The Federal Deposit Insurance Corporation with respect to State-chartered banks and savings banks which are not members of the Federal Reserve System and the deposits of which are insured by the Corporation; and

(D) The Federal Home Loan Bank Board with respect to institutions the deposits of which are insured by the Federal Savings and Loan Insurance Corporation and to savings and loan holding companies;

(2) The term "regulated financial institution" means an insured bank as defined in section 3 of the Federal Deposit Insurance Act or an insured institution as defined in section 401 of the National Housing Act; and

(3) The term "application for a deposit facility" means an application to the appropriate Federal financial supervisory agency otherwise required under Federal law or regulations thereunder for—

(A) A charter for a national bank or Federal savings and loan association;

(B) Deposit insurance in connection with a newly chartered State bank, savings bank, savings and loan association, or similar institution;

(C) The establishment of a domestic branch or other facility with the ability to accept deposits of a regulated financial institution;

(D) The relocation of the home office or a branch office of a regulated financial institution;

(E) The merger or consolidation with, or the acquisition of the assets, or the assumption of the liabilities of a regulated financial institution requiring approval under section 18(e) of the Federal Deposit Insurance Act or under regulations issued under the authority of title IV of the National Housing Act; or

(F) The acquisition of shares in, or the assets of, a regulated financial institution requiring approval under section 3 of the Bank Holding Company Act of 1956 or section 408(e) of the National Housing Act.

SEC. 804. In connection with its examination of a financial institution, the appropriate Federal financial supervisory agency shall—

(1) Assess the insitution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of such institution; and

(2) Take such record into account in its evaluation of an application for a deposit facility by such institution.

SEC. 805. Each appropriate Federal financial supervisory agency shall include in its annual report to the Congress a section outlining the actions it has taken to carry out its responsibilities under this title.

SEC. 806. Regulations to carry out the purposes of this title shall be published by each appropriate Federal financial supervisory agency, and shall take effect no later than 390 days after the date of enactment of this title.

QUESTIONS

A. *Community.* Section 804 of the Act requires the Agencies to assess an institution's record of meeting the credit needs "of its entire community, including low- and moderate-income neighborhoods * * *"

1. How should the terms "entire community" and "low- and moderate-income neighborhoods" be defined?

2. Should the geographic determination of community vary for different types of credit needs, such as mortgage, agricultural, business, or consumer credit needs?

3. Should identical community measurement criteria be used for urban, suburban, and rural communities?

4. Should the definitions take into account the size, location, or branch structure of an insitution?

5. Should the geographic criteria for these definitions be framed in terms of political boundaries, such as city limits, counties and metropolitan areas; or should the criteria relate to economic bases such as trading areas, areas from which deposits are obtained, or banking market areas?

B. *Credit needs.* Section 804 of the Act requires the agencies to assess an institution's record of meeting the "credit needs" of its community.

1. How should "credit needs" be defined and measured? What is the difference, if any, between needs for credit and demands for credit? To what extent should the lenders' creditworthiness standards influence the definition and measurement of credit needs?

2. Do community credit needs include financing needs of State and local governments and other local public agencies?

3. How should the credit needs of those who have access to regional or national credit markets, and those who do not have such access, be taken into account in determining community credit needs?

4. To what extent do community credit needs include the credit needs of borrowers operating within many communities such as the Federal government and large manufacturing and retail firms?

C. *Assessing an institution's record.* Section 804 of the Act requires the agencies "to assess" an institution's record in meeting community credit needs.

1. What reporting or record keeping by financial institutions is necessary to carry out the purposes of the Act?

2. To what extent should the agencies consider lending policy statements of a financial insitution?

3. In the assessment process, should the same standards be applied to national banks; State-chartered banks which are members of the Federal Reserve System; bank holding companies; State-chartered banks which are not members of the Federal Reserve System and the deposits of which are insured by the Federal Deposit Insurance Corporation; savings banks which are not members of the Federal Reserve System and the deposits of which are insured by the Federal Deposit Insurance Corporation; institutions the deposits of which are insured by the Federal Savings and Loan Insurance Corporation; and savings and loan holding companies?

4. Should the agencies apply the same standards in assessing the records of large and small institutions? Urban, suburban, and rural institutions? Institutions that may lawfully open branches and those that may not?

5. For what period of time should an institution's record be assessed?

6. In determining whether the credit needs of a community are being met, should the credit extended by all financial institutions in that community be combined and compared to the community's total credit needs? Should a particular institution be considered to have a satisfactory record if it is contributing a proportionate share of the total credit extended in the community?

7. Should an institution's efforts in meeting specific types of local credit needs be weighed equally in assessing whether it is helping to meet the credit needs of its entire community?

8. In making assessments, how should the agencies take into account specialization in meeting certain types of credit needs (for example, agricultural loans, business loans, mortgage loans, investments in municipal securities) by an institution being assessed or by other institutions in the community?

9. What criteria should be used in determining whether an institution is helping to meet community credit needs "consistent with the safe and sound operation" of that institution?

10. How should the agencies assess the record of institutions with branch offices, of affiliated institutions within a holding company, or of affiliated institutions not in a holding company? How should the records of individual offices be taken into account in assessing the parent or affiliated company?

11. In making the assessment, what consideration, if any, should be given to the institution's costs and sources of funds? To its rate of return on investment? To its liquidity?

12. For institutions with foreign offices, how should the extent of foreign loans and foreign deposits be taken into account, if at all, in the assessment?

D. *Evaluating applications.* Section 804 of the Act requires the agencies to take an institution's record into account in evaluating its applications.

1. What weight should be given to the record of the institution in meeting community credit needs compared to the weight given other factors such as competition, safety and soundness, and other managerial and financial factors?

2. Under what circumstances, if any, should the agencies deny an application? Approve an application on the condition that the institution improve its record? Grant unconditional approval?

E. *Other administrative matters.* 1. Section 802(b) of the Act indicates that its purpose is to require the agencies to "encourage" institutions to help meet community credit needs. In addition to decisions on applications, how may or should the agencies use their authority to "encourage" institutions?

2. If an agency believes that an institution's record in meeting community credit needs is unsatisfactory, what action, if any, may or should the agency take when there is not a pending application?

3. What are the specific policies or regulatory requirements, other than those stated in response to the previous questions, which you believe the agencies are required to follow or should follow in fulfilling their responsibilities under the Act?

This notice is published pursuant to section 553(b) of Title 5 United States Code.

THEODORE E. ALLISON,
Secretary of the Board.

GAIL W. POHN,
Associate Deputy Comptroller.

ALAN R. MILLER,
Executive Secretary, Federal Deposit Insurance Corporation.

J. J. FINN,
Secretary,
Federal Home Loan Bank Board.

JANUARY 19, 1978.

[FR Doc. 78-2231 Filed 1-24-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR PART 1917]

[Docket No. FI-3796]

CITY OF AVALON, LOS ANGELES COUNTY, CALIF.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Avalon, Los Angeles County, Calif. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at the City Planner's Office, Santa Catalina Island, Avalon, Calif. Send comments to Mr. Charles Wagner, City Manager, City of Avalon, City Hall, 209 Metropole Avenue, Avalon Calif. 90704.

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 (100-year) flood elevations for the City of Avalon, Calif., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Avalon Canyon.....	Intersection of Tremont St. and Claressa Ave.	32
	Intersection of Beacon St. and Catalina Ave.	19
	Intersection of Third St. and Catalina Ave.	15
	Intersection of Sumner Ave. and Crescent 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: December 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1705 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3797]

CITY OF NEWARK, ALAMEDA COUNTY, CALIF.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Newark, Alameda County, Calif. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations

are available for review at City Hall, Newark, Calif. Send comments to: Mr. Will Wolbertus, Assistant Civil Engineer, City of Newark, City Hall, 37101 Newark Boulevard, Newark, Calif. 94560.

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 (100-year) flood elevations for the City of Newark, Calif., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Line B	Birch St.*	26
	Cherry Rd	22
	Mowry Ave.*	10
Line I	Sycamore St	17
	Southern Pacific RR.	16
	Spruce St	11
	Thorton Ave	10
Line H	Haley St	15
	Southern Pacific RR.	15
	Bettencourt St	10
	Thornton Ave	10
Line F-1	Cedar St	32
	Birch St	26
	Cherry St	22
	Magnolia St	20
	Southern Pacific RR.	18
	Filbert St	11
	Elm St	10
	Hickory St	8
Line D	Cedar St	24
	Southern Pacific RR.	12
	Tidal gate at mouth.	9

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: December 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1706 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3798]

CITY OF THOUSAND OAKS, VENTURA COUNTY, CALIF.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) Flood elevations listed below for selected locations in the City of Thousand Oaks, Ventura County, Calif. These base (100-year) 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 (NDIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at City Hall, 401 West Hillcrest Drive, Thousand Oaks, Calif. Send Comments to: Mayor Alex Fiore, City Hall, 401 West Hillcrest Drive, Thousand Oaks, Calif. 91360.

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 (100-year) flood elevations for the City of Thousand Oaks, Calif., 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 1917. 4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
South Branch Arroyo Conejo.	Vent-Tu Park Rd.	621
	U.S. Highway 101 (Rancho Conejo Blvd. Overpass).	641
	Kimber Rd.	684
	West Lynn Rd.	736
	Briar Rd. (upstream side).	757
Tributary to South Branch Arroyo Conejo.	Reno Rd.	663
Lang Creek	Wilbur Rd.	750
	Combes Ave	761
	Gainsborough Rd..	763

(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: December 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.78-1707 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3799]

TOWN OF ERIE, WELD AND BOULDER COUNTIES, COLO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Erie, Weld and Boulder Counties, Colo. These base (100-Year) flood elevations are the basis for the flood plan 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 (90) days following the second publication of this proposed rule 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 (100-Year) flood elevations are available for review at Town Hall, Erie, Colo. Send comments to: Mayor Harlan Brock, P.O. Box 98, Erie, Colo. 80516.

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 (100-year) flood elevations for the Town of Erie, Colo., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Coal Creek	Briggs, St	5011
	Cheesman St	5016
	Moffat St	5020
	Anderson St	5023

(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: December 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1708 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3536]

TOWN OF OLD SAYBROOK, MIDDLESEX COUNTY, CONN.

Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 55709 of the FEDERAL REGISTER of October 18, 1977.

EFFECTIVE DATE: October 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The following corrections are made:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fishing Brook	Upstream private drive off Schoolhouse Rd., upstream side.	18
	Downstream private drive off Schoolhouse Rd., upstream side.	17
	Old Back Rd	16
	I-95-Connecticut Turnpike, upstream side.	16
Long Island Sound	I-95-Connecticut Turnpike, downstream side.	11
	Oyster River Estuary.	11
	Waterfront from Lynde Point to Chapman Point.	11

(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: December 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1709 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3612]

TOWN OF MILTON, SUSSEX COUNTY, DEL.

Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 59197 of the FEDERAL REGISTER of November 15, 1977.

EFFECTIVE DATE: November 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270 451 Seventh Street SW., Washington, D.C. 20410.

The following elevation should be added:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Waggoms Pend.....	Shoreline.....	11

(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: December 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1710 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3800]

CITY OF APOPKA, ORANGE COUNTY, FLORIDA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Apopka, Orange County, Fla.

These base (100-year) 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).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at City Hall, Apopka, Fla. Send comments to: Mayor John J. Laud, P.O. Drawer 1229, Apopka, Fla. 32703.

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 (100-year) flood elevations for the City of Apopka, Fla., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Francis.....	From a point on Francis Dr. which is 970 ft west along the road from the intersection with Kilean Court, flooding exists from 120 ft south of this point to the shoreline.	68
Lake Alden.....	From a point on Errol Parkway which is 3,900 ft south along the road from the intersection with Francis Dr., flooding exists from 150 ft east of this point to the shoreline.	70
Lake Marion.....	East of Schopke Lester Rd.	66
Dream Lake.....	The intersection of Laurel St. and Central Ave.	117
Lake McCoy.....	Votaw Road Bridge.	65
Buchan Pond.....	West side of Lake Ave. from Nightingale St. to Grossenbacher Dr.	140
Upper Doe Lake....	At north, south, and west corporate limits.	70
Marshall Lake.....	Along the corporate limits along the south side of the lake.	70
Pike Lake.....	Along the corporate limits which extend east through the lake.	67
Unnamed lake I.....	From the southern point on the shoreline and extending south 130 ft.	87
Unnamed lake II...	The northern edge of 5th St., 230 ft east from the intersection of 5th St. and Washington Ave.	150
Unnamed lake III.	North of 6th St....	81
Unnamed lake IV..	From the eastern edge of the lake extending east to the corporate limits.	75

(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: December 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1711 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3801]

TOWN OF EATONVILLE, ORANGE COUNTY, FLA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Eatonville, Orange County, Fla.

These base (100-year) 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 (90) days following the second publication of this proposed

rule 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 (100-year) flood elevations are available for review at Town Hall, Eatonville, Fla.

Send comments to: Mayor Nathaniel Vereen, P.O. Box 2163, Eatonville, Fla. 32751.

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 (100-year) flood elevations for the Town of Eatonville, Fla., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Hungerford ..	Ark Pl. from a point 210 ft east from the center of the intersection of Ark Pl. and Bethune Dr. to the lake.	97
Lake Bell	From the corporate limits north to a point 20 ft south of Fitzgerald St.	92
Lake King.....	From the northeast corner of Sunnyview Circle, east to the lake.	97
	Starting 20 ft from the east side of Amador Circle, east to the lake.	97

(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: December 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR DOC.78-1712 Filed 1-24-78; 8:45 a.m.]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3802]

CITY OF EDGEWOOD, ORANGE COUNTY, FLA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Edgewood, Orange County, Fla. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at City Hall, Edgewood, Fla. Send comments to: Mayor Craig Andrews, P.O. Box 13548, Orlando, Fla. 32809.

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 (100-year) flood elevations for the City of Edgewood, Fla., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Lake Conway.	Mandalay Rd. extended from corporate limits to a point 80 ft southwest.	89
Lake Gatlin.....	On Prescott Dr. from corporate limits to a point 40 ft west.	89
Lake Jennie Jewell.	At a point 1,600 ft east along Gatlin Ave. from the center of the intersection of Gatlin Ave. and Orange Ave., the flooding exists 170 feet north of this point, north to the corporate limits.	92
Lake Jessamine	Jamaica Lane extended to corporate limit, 600 feet north and 400 feet south from this point.	94

(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: December 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1713 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3803]

CITY OF WINTER GARDEN, ORANGE COUNTY, FLA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Winter Garden, Orange County, Fla. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at City Hall, Winter Garden, Fla. Send comments to: Mayor Ray S. Pears, P.O. Box 1005, Winter Garden, Fla. 32787.

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 (100-year) flood elevations for the City of Winter Garden, Fla., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Winter Garden co-op ditch.	Fuller's Crossing Highway—72 in culvert (upstream side).	76
	Seaboard Coast Line RR (downstream side).	91
Lake Apopka.....	From a point 530 ft west along Division St. from the center of the intersection of Division St. and Lakeview Ave west to the shoreline.	69

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: December 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1714 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3804]

COBB COUNTY, GEORGIA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-base) flood elevations listed below for selected locations in Cobb County, Ga.

These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at Cobb County Courthouse, 10 East Park Square, Marietta, Georgia. Send comments to: Mr. Ernest W. Barrett, Chairman, Cobb County Commission, P.O. Box 649, Marietta, Ga.

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 (100-year) flood elevations for Cobb County, Ga., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Chattahoochee River.	I-20	760
	I-75	774
	Johnson Ferry Rd.I28808.	
Sweetwater Creek.	Lithia Springs Rd..	898
	Brownsville Rd	905
Gordon Creek	South Gordon Dr. (upstream side).	953
	Kenneth Lane	986
Gordon Branch	South Dillon Rd	923
Pine Creek	Cardell Rd. (upstream side).	896
	Jewell Dr	947
Davis Branch	Old Alabama Rd	935
Pine Branch	Thunderwood Rd.	943
Buttermilk Creek	U.S. Highway 278.	898
	Clay Rd	932
Clay Branch	Brookwood Dr	935
	Green Valley Rd	983
Olley Creek	Flinthill Rd.[1]	902
	Hurt Rd	919
	Cunningham Rd	977
	Carruth Dr[1]	1,038
Noses Creek	Clay Rd	891
	Macadonia Rd.[1]	907
	Mt. Calvary Rd	964
Wildhorse Creek	Old Villa Rica Rd	926
Mud Creek	Malland Rd.[1]	914
	West Sandtown Rd.	940
Luther Ward Branch.	Castell Rd.[1]	937
		Luther Ward Rd 955
Ward Creek	John Ward Rd	945
	Cheatham Hill Rd.	951
Powder Springs Creek.	Oglesby Rd.[1]	898
		Macland Rd[1] 939
Florence Branch	U.S. Highway 278[1].	914
	Macland Rd[1]	958
Mill Creek No. 1	Wright Rd[1]	954
Lost Mountain Creek.	Forest Hills Rd	919
Gothards Creek	Brownsville Rd	902
Nickajack Creek	Felker Rd	762
	Buckner Rd	779
	Cooper Lake Dr[1]	815
	Seaboard Coast Line RR[1].	893
	Church Rd	923
	Pat Mell Rd[1]	1,012
Queen Creek	Queen Mill Rd	770
	Dodgen Rd[1]	969
Liberty Hill Branch.	Queen Mill Rd	776
Milam Branch	Sheraton Way[1]	958
	Garner Rd	996
Laurel Creek	Southern RR	800
	Park Bridge[1]	879
	Forest Dr	959
Cooper Lake Creek.	Seaboard Coastline RR[1].	834
Concord Creek	South Hurt Rd[1]	925
Mill Creek No. ?	Cyndys Lake Dam[1].	922
Favor Creek	Church Rd[1]	933
	Smyrna-Powder Springs Rd.	946
Theater Branch	Old Concord Rd[1].	929
Smyrna Branch	South Cobb Dr	941
Gilmore Creek	Woodland Brook Dr.	776
Vinings Branch	do	771
Powers Branch	Columns Dr	798
Terrell Branch	do	802
Rottenwood Creek	I-285 southbound.	835
	Windy Hill Rd[1]	886
	Terrell Mill Rd	908
	U.S. Highway 41	955
Poplar Creek	Bethel Rd[1]	894
	Spring Rd[1]	953
Poorhouse Creek	U.S. Highway 41[1].	949
Powers Creek	Powers Ferry Dr	935
Sope Creek	South Roswell Rd.	905
	Holt Rd	933
	Barnes Mill Rd	989
Bishop Creek	Indian Hills Trail.	907
	Addie Lane	974
Eastside Creek	Lake Dam[1]	927
Sewell Mill Creek	Robinson Rd	921
	Karen Dr	1,083
Robertson Creek	Old Canton Rd	931
	Benson Dr	1,012
Thompson Creek	Liberty Lane[1]	943
Piney Grove Creek.	Castel Rd	983
		Hembree Rd 1,026
Campground Creek.	Sope Creek Dr	928
		Robinson Rd 994
Wildwood Branch.	Amanda Dr[1]	1,025
Blackjack Creek	Merritt Rd[1]	999
	Allgood Rd	1,029
Elizabeth Branch	Overbrook Circle	1,032
Willeo Creek	Willeo Rd. near the mouth of Timber Ridge Branch.[1].	859
	Childers Rd	939
Timber Ridge Branch.	Timber Ridge Dam[1].	871
Harmony Grove Creek.	Mountain Creek Dr.	953
	Johnson Ferry Rd.	1,053
Sweat Mountain Creek.	Loch Highland Parkway[1].	995
Rubes Creek	Jamerson Rd[1]	909
	Blackwell Rd	952
	Bryant Lane[1]	1,018
Trickum Creek	Jamerson Rd[1]	913
	Steinhauer Rd	985
	Pete Shaw Rd	1,050
Procktor Creek	Power line crossing.	898
Butler Creek	U.S. Highway 41[1].	876
	Pine Mountain Rd.	986
Allatoona Creek	Old Stilesboro Rd.	861
	Stilesboro Rd	883
	Due West Rd	935
	Holland Rd[1]	1,055
Little Allatoona Creek.	Old Stilesboro Rd.	861
		County line Rd 868
	Burnt Hickory Rd[1].	908
Pitner Creek	do	931
Due West Creek	Rolling Oaks Rd[1].	898
	Paul Samuel Rd	941
Allatoona Branch.	Holland Rd[1]	1,017
Noonday Creek	Shallow Ford Rd.	900
	Bells Ferry Rd	920
	Duncan Rd	947
	Jones St	971
Tate Creek	Bells Ferry Rd	951
Noonday Creek tributary No. 1.	Hawkins Store Rd[1].	937
Little Noonday Creek.	Canton Rd[1]	913
		Liberty Hill Rd 979
Noonday Creek tributary 3.	Rock Bridge Rd	928
		Mark Ave 997
Little Noonday Creek tributary 4.	Roberts Rd[1]	934
Little Noonday Creek tributary 6.	I-75 southbound	942
Little Noonday Creek tributary 7.	Big Shanty Rd[1]	971
Hope Creek	I-75	963
Tanyard Creek	Cowan Rd[1]	890

[1] 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: December 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1715 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3805]

CITY OF NEWNAN, COWETA COUNTY, GA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Newnan, Coweta County, Ga.

These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at City Hall, 25 Jefferson Street, Newnan, Ga.

Send comments to: Mayor Joe P. Norman or City Planner George D. Robinson, P.O. Box 1193, Newnan, Ga. 30264.

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 (100-year) flood elevations for the City of Newnan, Coweta County, Ga., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 930234), 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Wahoo Creek	Just downstream of Atlanta and West Point Railroad.	851
	Approximately 150 feet upstream of Bullsboro Dr. (State Highway 34).	874
	Approximately 75 feet upstream of East Broad St.	890
Tributary 1	Phillips Street (extended).	930
Tributary 2	Approximately 100 feet upstream of lower crossing of Bullsboro Dr. (State Highway 34).	871
	Just upstream of Jefferson St.	909
Tributary 3	Just upstream of Bullsboro Dr.	871
Tributary 4	Approximately 630 feet upstream of confluence with Tributary 3.	872
Tributary 5	Approximately 120 feet upstream of confluence with Tributary 2.	875
Tributary 6	Approximately 200 feet upstream of confluence with Tributary 2.	881
Tributary 7	Just upstream of American Avenue Approximately 100 feet downstream of Church St.	880
Tributary 8	Just downstream of Greison Trail.	896
Tributary 9	Approximately 660 feet upstream of confluence with Wahoo Creek.	875
Tributary 10	Approximately 160 feet downstream of Greison Trail.	930
Tributary 11	Just upstream of Roberts Rd.	893
Tributary 12	Just downstream of Pinson St.	915
	Just upstream of Calhoun St.	930
Snake Creek	Just upstream of Christian Dr.	859
	Just upstream of Willow Dr.	890
	Just downstream of Atkinson St.	925
Tributary 13	Approximately 180 feet upstream of confluence with Snake Creek.	875
Tributary 14	Just downstream of Willow Dr.	890
Mineral Springs Branch.	Just upstream of Boone Drive.	885
	Approximately 75 feet downstream of Fourth St.	890
Tributary 15	Southern corporate limits.	841
Tributary 16	Western corporate limits.	835
	Just downstream of Washington St.	870
Sandy Creek	Just upstream of Water Works Rd.	835
	Just upstream of Sewell Rd.	860
	Just upstream of Alpine Dr.	901

(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: December 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1716 Filed 1-24-78; 8:45 am]

[4120-01]

[24 CFR Part 1917]

[Docket No. FI-3806]

UNINCORPORATED AREAS OF ROCKDALE COUNTY, GA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the unincorporated areas of Rockdale County, Ga.

These base (100-year) 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 (90) days following the second publication of this proposed rule in a newspaper of local cirulcation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Planning and Inspection office, 922 Court Street, Conyers, Ga.

Send comments to: Mr. Hayward Woodward, Chairman of the County Commissioners, or Mr. Raymond G. Davis, Jr., Director of Community Development, P.O. Box 289, Conyers, Ga. 30207.

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 (100-year) flood elevations for the unincorporated areas of Rockdale County, Ga., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood evaluations for selected locations are:

Source of flooding	Location	Elevation, in feet, national geodetic vertical datum
Yellow River	Just upstream Gees Mill Rd.	650
	Just upstream Georgia Highway 138.	660
	Just downstream Irwin Bridge Rd.	709
Carr Branch	Just upstream of Hi-Roc Rd.	675
Carr Branch Tributary.	Just upstream of Hi-Roc Rd.	676
Boar Tusk Creek	Just downstream of Boar Tusk Rd.	670
	Norton Rd	763
North Conyers Tributary.	Approximately 50 feet upstream Sigmund Road Bypass.	756
Mark Branch	Almand Rd	784
Lake Capri Tributary.	Lake Capri Dr	727
Snapping Shoals Creek.	Approximately 150 feet upstream Honey Creek Rd.	706
	Approximately 100 feet upstream Old Salem Rd.	752
Almand Creek	Approximately 100 feet upstream McDonough Highway (Route 20).	729
	Just upstream Stockbridge Highway (Route 138).	756
Snapping Shoals Creek Tributary.	Confluence with Snapping Shoals Creek.	750
Snapping Shoals Creek Tributary No. 2.	Confluence with Snapping Shoal Creek Tributary.	763
South River	Confluence of Bailey Creek.	622
	Approximately 100 feet upstream Oglesby Bridge.	634
	Approximately 300 feet downstream Georgia Highway 138.	651
Honey Creek	Just upstream Georgia Highway 212.	642
	Confluence with Rowan Rd. tributary.	653
	Approximately 100 feet upstream Tucker Mill Rd.	680
	Just upstream Smyrna Rd.	710
	Just upstream Turner Rd.	777
McLane Creek	Approximately 100 feet upstream Troupe Smith Rd.	663
McLane Creek Tributary.	Confluence of McLane Creek Tributary No. 2.	681
McLane Creek Tributary No. 2.	Hall Road (Extended).	700
Cowan Lake Tributary.	Old Honey Creek Rd.	659
	Ebenezer Rd	693
Goodard Road Tributary.	Northeastern Corporate Limit.	747
Bailey Creek	Wendwood Rd	654
Scott Creek	East Shore Dr	640

(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: December 27, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1717 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR PART 1917]

[Docket No. FI-3807]

CITY OF DEKALB, DEKALB COUNTY, ILL.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of DeKalb, DeKalb County, Ill.

These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year Flood elevations are available for review at the DeKalb City Hall, 200 South Fourth Street, DeKalb, Ill. Send comments to: Honorable Judy King, Mayor of DeKalb, DeKalb City Hall, 200 South Fourth Street, DeKalb, Ill. 60115.

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 (100-year) flood elevations for the City of DeKalb, DeKalb County Ill., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
South Branch Kishwaukee River.	North corporate limit.	837
	Hillcrest Dr	842
	Lucinda Ave	846
	Chicago and Northwestern Railroad.	848
	Taylor St	850
	South corporate limit.	851
Unnamed tributary to Kishwaukee River.	Confluence with South Branch Kishwaukee River.	847
	Castel St	847
	Normal Rd	850
	Carroll Ave	852
	Lucinda Ave	855
	Downstream of Glidden Ave.	859
	Upstream of Glidden Ave.	863
	Upstream of Grant Dr. (East).	870

(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: December 27, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1718 Filed 1-24-78; 8:45 a.m.]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3808]

VILLAGE OF EAST CHICAGO HEIGHTS, COOK COUNTY, ILL.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of East Chicago Heights, Cook County, Ill.

These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at Village Hall, 1327 Ellis Avenue, East Chicago Heights, Ill. Send comments to: Honorable Saul Beck, Mayor of East Chicago Heights, 1327 Ellis Avenue, East Chicago Heights, Ill. 60411.

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 (100-year) flood elevations for the Village of East Chicago Heights, Cook County, Ill., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Deer Creek	East Chicago Heights corporate limits upstream.	641
	Lincoln Highway	636
	East Chicago Heights corporate limits downstream.	629

(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: December 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1719 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3809]

VILLAGE OF ELK GROVE, COOK COUNTY, ILL.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Elk Grove, Cook County, Ill. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at the Elk Grove Village Hall, 901 Wellington Street, Elk Grove, Ill. Send comments to: Honorable Charles Zettek, Mayor of Elk Grove, 901 Wellington Street, Elk Grove, Ill. 60007.

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 (100-year) flood elevations for the Village of Elk Grove, Cook County, Ill. 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Salt Creek	Downstream corporate limits.	683
	J. F. Kennedy Blvd.	685
	Upstream corporate limits.	687
Elk Grove Blvd. drainage ditch.	J. F. Kennedy Blvd.	684
	Elk Grove Blvd	684
	Ridge Ave	684
	Victoria La	685
	Crest Ave	685
	Love St	685

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Tonne Rd	685
Unnamed creek	Downstream corporate limits.	711
	Nerge Rd. (downstream).	712
	Nerge Rd. (upstream).	716
West branch of Salt Creek.	Downstream corporate limits.	709
	Confluence with Tributary D.	710
	Upstream corporate limits.	711
Tributary D of west branch Salt Creek.	Confluence with west branch Salt Creek.	710
	Elk Grove corporate limits.	722

(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: December 27, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1720 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3810]

CITY OF SATSUMA, MOBILE COUNTY, ALABAMA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Satsuma, Mobile County, Calif. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at City Hall, Satsuma, Ala. Send comments to: Mayor W. A. Winters, P.O. Box 517, Satsuma, Ala. 36572.

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 (100-year) flood elevations for the City of Satsuma, Ala., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Steele Creek	Old Highway 43	11
	Southern RR	12
Spat Creek	Orange Ave	10
	Corporate limits, 1,760' upstream from Orange Ave.	10
Tributary to Spat Creek.	Tajaucha Dr. North.	10
	Corproate limits, 720' upstream from Tajaucha Dr. North.	11
Sweet Gum Creek.	Juniper Ave	11
	Northeast corporate limits.	11
Gunnison Creek	East corporate limits.	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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1721 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3811]

CITY OF DOUGLAS, COCHISE COUNTY, ARIZ.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Douglas, Cochise County, Ariz. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at the Office of Public Works, City Hall, Douglas, Ariz. Send comments to: Mayor Ray D. Wilcox, 425 10th Street, Douglas, Ariz. 85607.

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 (100-year) flood elevations for the City of Douglas, Cochise County, Ariz., 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 1917.4(a).

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 buldings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Palm Grove Wash.	Just upstream of 16th St.	3,963
	Intersection of "J" Ave. and 17th St.	3,968
Palm Grove branch.	Intersection of 20th St. and Pan American Ave.	3,990
Airport Rd. Channel.	Just downstream of Airport Ave.	4,120
Major floodwater collection area within southwest section of city.	Just upstream of Pan American Avenue Bridge.	3,950

		Depth of flooding in feet above ground surface
Shallow flooding in southwest-southcentral portion of town.	Intersection of "C" Ave. and 3d St.	1
	Intersection of Dolores Ave. and 4th St.	1
Pan American Ave. Channel.	Intersection of Pan American Ave. Channel and 10th St.	2
Rose Ave. Channel.	West of intersection of Rose Ave. and 6th St.	3
Washington Ave. Channel.	Intersection of Washington Ave. and 7th St.	3
Louis Ave. Channel.	West of intersection of Louis Ave. and 17th St.	2

(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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1722 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3812]

CITY OF BANNING, RIVERSIDE COUNTY, CALIF.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Banning, Riverside County, Calif. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at the Public Works Department, City Hall, Banning, Calif. Send comments to: Mr. Norman C. Rubel, Director of Public Works, City of Banning, P.O. Box 998, Banning, Calif. 92220.

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 (100-year) flood elevations for the city of Banning, Calif., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Gilman Home Channel.	Confluence with Smith Creek.	2,209
	George St	2,455
	12th St	2,460
	Wilson St	2,520
Highland Spring Channel.	8th St	2,601
Montgomery Creek (below Southern Pacific RR).	Confluence with Smith Creek.	2,218
	Westward Ave	2,347
	Southern Pacific RR	2,394
	Southern Pacific RR.	2,403
Montgomery Creek, improved channel.	Williams St	2,465
	Nicolet St[1]	2,490
	Sunrise Ave[1]	2,507
	Wilson St[1]	2,556
	Sunset Ave[1]	2,634
San Gorgonio River.	Downstream corporate limits.	2,426
	Corporate limits 87,360 ft above confluence with Whitewater River.	2,600
	Upstream corporate limits.	2,671
Smith Creek	Panoramic Highway[1].	2,205
	Confluence with Pershing Channel.	2,237
Smith Creek (West Tributary).	Southern Pacific RR[1].	2,504
	Interstate 10[1]	2,507
	Wilson St[1]	2,570
West Pershing Channel.	Southern Pacific RR[1].	2,501
	Ramsey St[1]	2,507
	Wilston St[1]	2,550

[1] 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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1723 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3813]

CITY OF BEAUMONT, RIVERSIDE COUNTY, CALIF.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Beaumont, Riverside County, Calif. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at the Building Department, Beaumont City Hall, Beaumont, Calif. Send comments to: Mr. Don R. Long, Chief Building Inspector, City of Beaumont, Beaumont City Hall, 550 East 6th Street, Beaumont, Calif. 92223.

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 (100-year) flood elevations for the city of Beaumont, Calif., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Marshall Creek	14th St	2,609
Highland Springs Channel.	8th St	2,601

(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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1724 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3814]

CITY OF FILLMORE, VENTURA COUNTY, CALIF.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Fillmore, Ventura County, Calif. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 based (100-year) flood elevations are available for review at Building Department, City Hall, Fillmore, Calif. Send comments to: Mr. R. W. Nichols, City Manager, City of Fillmore, P.O. Box 487, Fillmore, Calif. 93015.

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 (100-year) flood elevations for the city of Fillmore, Calif., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pole Creek	Highway 126	472
	Main St	483
	Sespe Ave	498
	Second St	534
	Fourth St	580
Santa Clara River	Highway 23 (upstream side).	424
	Confluence with Pole Creek.	439
Sespe Creek	Highway 126, West Fork (upstream side).	394
	Southern Pacific RR, East Fork.	438
	Southern Pacific RR, West Fork.	443

(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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1725 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR PART 1917]

[Docket No. FI-3815]

CITY OF NEWPORT BEACH, ORANGE COUNTY, CALIF.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Newport Beach, Orange County, Calif.

These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at City Hall, 330 Newport Boulevard, Newport Beach, Calif.

Send comments to: Mr. Robert Wynn, City Manager, City of Newport Beach, City Hall, 330 Newport Boulevard, Newport Beach, Calif. 92660.

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 (100-year) flood elevations for the City of Newport Beach, Calif., 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 1917.4(a).

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 esbablished 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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Big Canyon	Backbay Dr	7
	Jamboree Rd[1]	55
San Diego Creek	Jamboree Rd[1]	12
Newport Bay	Intersection of Emerald Ave. and Park Ave.	6
	Intersection of Topaz Ave. and Park Ave.	6
	Intersection of Jade Ave. and Park Ave.	6
	Intersection of Balboa Boulevard and 39th St.	6
Santa Anna River	Intersection of Prospect St. and Newport Shores Dr.	10
	Intersection of Neptune Ave. and 52nd St.	9

[1] 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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.78-1726 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3816]

CITY OF OJAI, VENTURA COUNTY, CALIF.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Ojai, Ventura County, Calif.

These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at City Hall, Ojai, Calif.

Send comments to: Mr. Barry Lockton, director of Public Works, City of Ojai P.O. Box 5067, Ojai, Calif. 93023.

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 (100-year) flood elevations for the City of Ojai, Calif., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation, feet, National Geodetic Vertical Datum
Fox Canyon Storm Drain.	Creek Rd	684
	Southern Pacific Railroad.	727
	Upstream Corporate Limits.	926
San Antonio Creek.	Creek Rd. (Country Club Dr.).	614
	Private Rd. (Dip Crossing).	644
	Ojai Avenue (State Highway 150).	768
	Grand Ave	815
Stewart Canyon Storm Channel.	Southern Pacific Railroad (upstream side).	726
	Matilija St	757
	Eucayptus St	783
	McKee St	820
Thatcher Creek	Confluence with San Antonio Creek.	712
	Boardman Rd	771

(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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1727 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR PART 1917]

[Docket No. FI-3817]

CITY OF SONOMA, SONOMA COUNTY, CALIF.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Sonoma, Sonoma County, Calif. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at City Hall, Sonoma, Calif. Send comments to: Mr. Richard Rowland, Director of Public Works, City of Sonoma, City Hall, Sonoma, Calif. 95476.

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 (100-year) flood elevations for the city of Sonoma, Calif., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sonoma Creek	Confluence with Dowdell Creek.	58
	Riverside Dr	75
Nathanson Creek	Napa Rd	51
	East MacArthur St.	68
	Patten St	79
	Sebastiani Bridge.	96
Fryer Creek	MacArthur St (upstream side).	64
	Andrieux St	68

(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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1728 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3818]

CITY OF UNION CITY, ALAMEDA COUNTY, CALIF.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Union City, Alameda County, Calif. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at City Hall, Union City, Calif. Send comments to: Mr. William Zaner, City Manager, City of Union City, City Hall, 1154 Whipple Road, Union City, Calif. 94587.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insur-

ance, 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 (100-year) flood elevations for the City of Union City, Calif., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dry Creek	Alvarado-niles Rd	35
	Railroad Ave	69
	Mission Blvd	100
Union City "M" Line.	Decoto Rd	35
	Union Square	39
	Gregory Ave	47
Old Alameda Creek and A and D Line.	Hesperian Blvd	9
	State Highway 17.	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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1729 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3819]

ARCHULETA COUNTY, COLO.

Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Archuleta County, Colo. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at Archuleta County Courthouse Planning Office, Pagosa Springs, Colo. Send comments to: Mr. W. H. Diestelkamp, Archuleta County Chairman, Board of Commissioners, Archuleta County Courthouse Planning Office, Pagosa Springs, Colo. 81147.

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., D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Archuleta County, Colo., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
San Juan River	U.S. Highway 160.	7,308
	Adrian Bridge	7,345
McCabe Creek	4 Mile Rd	7,117
North Fork	Confluence with McCabe Creek.	7,114
Rio Blanco River	Bridge No. 1	6,855
	Bridge No. 2*	6,972
	Bridge No. 3*	6,984
	Bridge No. 4*	7,033
	Bridge No. 5*	7,099

*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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1730 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3125]

CITY OF AURORA, ARAPAHOE COUNTY, COLO.

Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 42 FR 55828 of the FEDERAL REGISTER of October 19, 1977 (42 FR 55828).

EFFECTIVE DATE: October 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line

800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The following corrections are made:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Toll Gate.....	At the confluence with West Toll Gate Tributary.	5,522

(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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1731 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3820]

TOWN OF BAYFIELD, LA PLATA COUNTY, COLO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Bayfield, La Plata County, Colo. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at Town Hall, Bayfield, Colo. Send comments to: Mayor E. W. Ranta, Town Hall, Bayfield, Colo. 81122.

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 (100-year) flood elevations for the town of Bayfield, Colo., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Los Pinos River.....	U.S. Highway 160 (alternate).	6,865

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective 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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1732 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3821]

TOWN OF ESTES PARK, LARIMER COUNTY, COLO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Estes Park, Larimer County, Calif. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at Office of the Director of Public Works, Town Hall, Estes Park, Colo. Send comments to: Mayor Harry Tregent, Town Hall, P.O. Box 1200, Estes Park, Colo. 80517.

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 (100-year) flood elevations for the town of Estes Park, Colo., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Big Thompson River.	Crags Dr.[1]	7,538
	Ivy St.[1]	7,525
	East Riverside Dr.[2].	7,522
	St. Vrain Ave.[2]	7,505
	Footbridge at station 318230.	7,491
	Footbridge at station 317570.	7,484
Big Thompson River overflow channel No. 1.	Footbridge at station 1310.	7,491
Big Thompson River overflow channel No. 2.	Corporate limit from confluence.[1].	7,549
	70 ft upstream with Big Thompson River.	7,541
Fall River	Private road at station 15730.	7,805
	Private road at station 14810.[1].	7,784
	Private road at station 13650.	7,760
	James McIntryre Rd.[1].	7,733
	Pine Rd	7,708
	Private road at station 9910.	7,675
	Fall River Lane[1]	7,647
	Old Ranger Dr	7,593
	Elkhorn Ave. at station 3730.	7,573
	Spruce Dr.[2]	7,550
	Moraine Ave.[1]	7,527
	Footbridge at station 110.	7,523
Fish Creek	Brook Dr.[2]	7,593
	Country Club Dr.[2].	7,576
	Private road at station 3190.	7,521
	Brodie Ave.[2]	7,499
Black Canyon Creek.	Elkhorn Ave	7,512

[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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1733 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3822]

TOWN OF GEORGETOWN, CLEAR CREEK COUNTY, COLO.

Proposed Flood Elevation Determinations

Agency: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Georgetown, Clear Creek County, Colo. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at Town Hall, Georgetown, Colo. Send comments to: Mayor Dwight Graham, P.O. Box 426, Georgetown, Colo. 80444.

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 (100-year) flood elevations for the town of Georgetown, Colo., 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 1917.4(a).

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 aslo 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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Clear Creek	Bridge over Georgetown Lake.	8,446
	15th St	8,466
	11th St	8,483
	6th St	8,511
South Clear Creek	Rose St	8,492
	9th St	8,499
	Taos St	8,503
	Main St	8,522

(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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1734 Filed-1-24-78; 8:45 a.m.]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3480]

TOWN OF PALMER LAKE, EL PASO COUNTY, COLO.

Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 54363 of the FEDERAL REGISTER of October 5, 1977.

EFFECTIVE DATE: October 5, 1977.

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.

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Monument Creek bypass.	Cloven Hoof Rd. and private driveway.	6,956

The above elevation should be deleted.

(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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1735 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3823]

TOWN OF SILVER PLUME, CLEAR CREEK COUNTY, COLO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Silver Plume, Clear Creek County, Colo. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at Town Hall, Silver Plume, Colo. Send comments to: Mayor Peter Kenney, Box 457, Silver Plume, Colo. 80476.

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 (100-year) flood elevations for the town of Silver Plume, Colo., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Clear Creek	U.S. Interstate 70 (upstream side).	9,905
	Cherokee St	9,108
	Woodward Ave	9,114
	Garland St	9,123

(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' delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1736 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3824]

TOWN OF MADISON, NEW HAVEN COUNTY, CONN.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Madison, New Haven County, Conn.

These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at the Planning and Zoning Office, Town Hall, Madison, Conn.

Send comments to: Mrs. Vera Dallas, First Selectman, or Mr. Edward Eilertson, Planning and Zoning Officer, 8 Meeting House Lane, Madison, Conn. 06443.

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 (100-year) flood elevations for the Town of Madison, New Haven County, Conn., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hammonasset River.	Approximately 100 feet upstream of Chestnut Hill Rd.	52
Hammonasset River.	Approximately 100 feet upstream of confluence of Camp Laurelwood Brook.	121
Hammonasset River.	Route 80 (Old Toll Rd.).	214
Camp Laurelwood Brook.	Just upstream of Summer Hill Rd.	184
Bailey Creek	Approximately 100 feet upstream of Sandlewood Rd.	11
Bailey Creek	Approximately 100 feet of Salem Rd.	12
Neck River	Approximately 100 feet upstream of Fort Path Rd.	17
Neck River	Approximately 200 feet downstream of Route 95 (Connecticut Turnpike).	21
Neck River	Approximately 100 feet downstream of Warpass Rd.	31
Long Island Sound	Entire shoreline	11

(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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1737 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3825]

CITY OF BELLE ISLE, ORANGE COUNTY, FLA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Belle Isle, Orange County, Fla.

These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at City Hall, Belle Isle, Fla.

Send comments to: Mayor W. C. Hand, P.O. Box 13135, Orlando, Fla. 32809.

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 (100-year) flood elevations for the City of Belle Isle, Fla., 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 1917.4(a).

These evaluations, 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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Conway	Shoreline	89
Little Lake Conway.	Shoreline	89

(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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1738 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3537]

INDIAN RIVER COUNTY, FLA.

Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 55709 of the FEDERAL REGISTER of October 18, 1977.

EFFECTIVE DATE: October 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The following corrections are made:

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. William Wodtke, Chairman, Board of County Commissioners, Indian River County Courthouse, 14th Avenue, Vero Beach, Fla. 32960.

(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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1739 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3484]

TOWN OF JUNO BEACH, PALM BEACH COUNTY, FLA.

Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 54365 of the FEDERAL REGISTER of October 5, 1977.

EFFECTIVE DATE: October 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The following corrections are made:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Atlantic Ocean	Shoreline from northern corporate limit to southern corporate limit.	7.0
	Celestial Way to Galaxy Pl.	7.0

(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 Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1740 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3826]

RICHMOND COUNTY, GA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Richmond County, Ga. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at City-County Building, Augusta, Ga. Send comments to: Mr. Harrell Tiller, Chairman, Richmond County Commissioners, Room 605, City-County Building, Augusta, Ga. 39003.

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 (100-year) flood elevations for Richmond County, Ga., 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 1917.4(a).

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 their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Savanah River.....	Seaboard Coastline RR *.	134
	Lester S. Moody Bridge.	136
Spirit Creek	Central of Georgia RR—downstream crossing.	126
	Georgia Highway 56 *.	128
	Goshen Rd.*	146
	Old Waynesboro Rd.*.	155
	Central of Georgia RR—upstream crossing *.	195
	Windsor Spring Rd.*.	199
	Willis Foreman Rd.*.	205
	Birbwell Dr.*.....	244
Spirit Creek Tributary 1.	McDade Farm Rd	159
Horsepen Branch..	Willis Foreman Rd.*.	242
Butler Creek.....	Loop of Georgia Highway 56 *.	125
	Central of Georgia RR.	135
	Old Savannah Rd. and Georgia Highway 56 *.	153
	Georgia and Florida RR *.	161
	U.S. Highway 25 *	163
	Windsor Spring Rd.*.	189
	U.S. Highway 1.....	209
	Old U.S. Highway 1.	210
	Old McDuffie Rd.	223
	Abandoned railroad.	271
	U.S. Highways 78 and 278.	275
Butler Creek Tributary 1.	Morgan Rd.*	232
Butler Creek Tributary 2.	Fort Gordon Highway *.	281
	Georgia RR *	294
Rocky Creek	New Savannah Rd.*.	128
	Central of Georgia RR *.	129
	Georgia and Florida RR *.	133
	Old Savannah Rd.*.	139
	Georgia Highway 21 and U.S. Highway 25 *.	148
	Deans Bridge Rd.*.	162
	Wheeless Rd.*	177
	Milledgeville Rd.*	186
	Old McDuffie Rd.*.	213
	Bobby Jones Expressway.	249
	Fort Gordon Highway.	294
	Barton Chapel Rd.*.	311
	Georgia RR.....	318
Rocky Creek Tributary 1.	New Savannah Rd.*.	126
	Central of Georgia RR.	126
Rocky Creek Tributary 2.	Nixon Rd.....	129
Rocky Creek Tributary 3.	Nixon Rd.....	128
Rocky Creek Tributary 4.	Central of Georgia RR *.	131

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Old Savannah Rd.*	136
	Lumpkin Rd.*	144
	Kings Grant Dr.*	150
	Durham Court	151
	Wonder Springs Rd.	152
Rocky Creek Tributary 5.	Virginia Ave.*	139
	Coleman Ave.*	141
	Peach Orchard Rd.*	148
Rocky Creek Tributary 6.	Milledgeville Rd.*	180
	Gordon Highway *.	190
Rocky Creek Tributary 7.	Wyld Rd.—downstream crossing *.	200
	Gordon Highway *.	206
	North Leg Rd.*	248
	Georgia RR *	285
	Wyld Rd.—upstream crossing *.	299
	Bobby Jones Expressway *.	332
	Sharon Rd.*	334
Rocky Creek Tributary 8.	Fort Gordon Highway *.	229
	Bobby Jones Expressway *.	266
	Georgia RR *	297
	Barton Chapel Rd.*.	311
Rocky Creek Tributary 9.	Confluence with Rocky Creek.	335
Oates Creek	Fort Gordon Highway *.	126
	New Savannah Rd.*.	127
	Central of Georgia RR.	136
	Old Savannah Rd.*.	141
	Athens St	142
	Boykin St	142
	Grand St.*	142
	Dyer St *	142
	15th St	143
	Milledgeville Rd.*	147
	Olive Rd	147
Oates Creek Tributary 1.	White Rd.*	154
	Olive Rd	154
Raes Creek	Old Broad Street Bridge.	160
	Foot bridge—downstream crossing.	173
	Foot bridge—upstream crossing.	173
	Berkman Rd.*	181
	Boy Scout Rd.*	208
	Ramsgate Rd	221
	Scott Way *	228
	Wheeler Rd.*	242
	West Lake Forest Dr.*.	266
	Jackson Rd.*	288
	Marks Church Rd.*.	304
	Bobby Jones Expressway.	309
	Wrightsboro Rd.—downstream crossing *.	337
	Wrightsboro Rd.—upstream crossing *.	340
	Maddox Rd	376
No Name Creek	Ingleside Dr	188
	Henderson Dr.*	190
	Ashland Dr.*	208
	Boy Scout Rd	208
	Wheeler Rd	229
	Oberlin Rd	250
Crane Creek	Skinner Mill Rd.*.	243
	U.S. Interstate 20 East.	250
	U.S. Interstate 20 West.	254
	Warren Rd	255
	Pleasant Home Rd.*.	292
	Bobby Jones Expressway.	293
	Frontage Rd	293
	Scott Nixon Rd.*	307
Raes Creek Tributary 1.	Wrightsboro Rd.*	342
Raes Creek Tributary 2.	Confluence with Raes Creek.	337
Raes Creek Tributary 3.	Maddox Rd.*	406

* Upstream side.
* Upstream crossing.

(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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1741 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR part 1917]

[Docket No. FI-3827]

VILLAGE OF WHEELING, COOK COUNTY, ILL.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Wheeling, Cook County, Ill. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at Village Hall, Wheeling, Ill. Send comments to: Mr. Gregory J. Peters, Acting Village President, Village of Wheeling, Village Hall, Wheeling, Ill. 60090.

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 (100-year) flood elevations for the Village of Wheeling, 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 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are reqired. 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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Des Plaines River	Dan No. 1	640
	Dundee Rd	641
Wheeling Drainage Ditch.	Hintz Rd	641
	Jeffery Ave	645
	Dundee Rd	646
	12th St	648
	Soo Line RR.	650
	Wheeling Rd	652
Buffalo Creek	Elmurst Rd	654
	Aptakisic Rd	668
	Buffalo Grove Rd..	679
McDonald Creek	Camp McDonald Rd.	647
	Wheeling Rd	651
	Cornell Rd	668

(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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1742 Filed 1-24-78; 8:45 a.m.]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3828]

CITY OF ELLINWOOD, BARTON COUNTY, KANS.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Ellinwood, Barton County, Kans.

These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at City Hall, Ellinwood, Kans. Send comments to: Mr. Ken Bittel, City Administrator, City of Ellinwood, City Hall, Ellinwood, Kans. 67526.

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 (100-year) flood elevations for the city of Ellinwood, 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected location are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Arkansas River.....	950 feet upstream from County Road Bridge.	1,786
	2000 feet upstream from County Road Bridge.	1,787
	0.86 mile upstream from County Road Bridge.	1,790

(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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1743 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3829]

CITY OF HALSTEAD, HARVEY COUNTY, KANS.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Halstead, Harvey County, Kans. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at City Hall, Halstead, Kans. Send comments to: Mr. Ken Pfeifer, City Administrator, City of Halstead, City Hall, Halstead, Kans. 67056.

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 (100-year) flood elevations for the City of Halstead, 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Arkansas River.	1900 feet Upstream from County Rd. (6th Street Extended) Bridge.	1,393
	50 feet Downstream from Atchison Topeka Santa Fe Railroad Bridge.	1,394
	Upstream of Atchison Topeka Santa Fe Railroad Bridge.	1,396
	530 feet Upstream from Main Street Bridge.	1,397
	1160 feet Downstream from County Road FAS 307.	1,398
Black Kettle Creek.	350 feet Downstream from Main Street.	1,397
	County Road	1,398
Halstead Slough....	1100 feet Upstream from Tenth Street Bridge.	1,392

(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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1744 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3830]

CITY OF IOLA, ALLEN COUNTY, KANS.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Iola, Allen County, Kans. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at City Hall, Office of City Engineer, 2 West Jackson, Iola, Kans. 66749. Send comments to: Mayor Jack E. Hasting, 2 West Jackson, Iola, Kans. 66749.

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 (100-year) flood elevations for the city of Iola, Allen County, Kans., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Neosho River	Riverside Park.....	953
Elm Creek	Washington St	952
	Intersection of Third and Vine Sts.	953
Rock Creek	Neosho St.....	957
Coon Creek	State St. (U.S. 169).	962
	Jefferson St	965
	Buchanan St.....	971
	Just downstream Kentucky Stream.	988

(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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1745 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3831]

CITY OF SEDGWICK, HARVEY AND SEDGWICK COUNTIES, KANS.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Sedgwick, Harvey and Sedgwick Counties, Kans. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at City Building, 316 Washington Street, Sedgwick, Kans. Send Comments to: Mayor Donald K. DeHaven, P.O. Box 131, Sedgwick, Kans. 67135.

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 (100-year) flood elevations for the city of Sedgwick, Harvey and Sedgwick Counties, Kans., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Arkansas River.	Just downstream of 4th St.	1,377
Sand Creek (backwater from Little Arkansas River).	Approximately 100 ft upstream of Madison Ave. Bridge.	1,379
Sedgwick Ditch	Fifth St. (extended).	1,378

(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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1746 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3832]

TOWN OF ABBOT, PISCATAQUIS 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 (100-year) flood elevations listed below for selected locations in the town of Abbot, Piscataquis County, Maine. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at the Town Office, Abbot, Maine 04406. Send comments to: Mr. Erwin McAllister, Chairman of the Board of Selectmen, RFD, Abbot, Maine 04406.

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 (100-year) flood elevations for the town of Abbot, Piscataquis 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Piscataquis River ..	Just upstream of Upper Abbot Bridge (Government Farm Rd.).	419
	Just downstream of Back Guilford Rd.	401
Brown Brook	Approximately 200 ft downstream of the abandoned railroad bridge.	403
Kingsbury Stream.	Approximately 150 ft upstream of Abbot Village Bridge (Perkins Rd., Route 15).	433

(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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1747 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3833]

TOWN OF EAST LONGMEADOW, HAMPDEN COUNTY, MASS.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of East Longmeadow, Hampden County, Mass. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at the Department of Public Works, Town Hall, 60 Center Square, East Longmeadow, Mass. 01028. Send comments to: Mr. Alfred A. Melien, Town Engineer, Town of East Longmeadow, Town Offices, 60 Center Square, East Longmeadow, Mass. 01028.

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 (100-year) flood elevations for the town of East Longmeadow, 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Watchaug Brook...	Corporate limit with Somers.	205
	At Elm Crest Country Club golf course bridge.	207
	105 ft downstream of Somers Rd culvert.	214
	105 ft upstream of Somers Rd culvert.	219
	105 ft downstream of Meadow Brook Rd culvert.	219
	105 ft upstream of Meadow Brook Rd culvert.	222
	At Hampden corporate limits.	222
South Branch Mill River.	At Springfield corporate limits.	221
	100 ft upstream of Porter Rd.	223
	3,540 ft upstream of Porter Rd.	224
	At Hampden corporate limits.	226
Tributary A, confluence with Watchaug Brook 2,000 ft north of Somers corporate limits.	At confluence with Watchaug Brook.	207
	1,110 ft downstream of Pease Rd.	214
	At Pease Rd.....	219
	100 ft downstream of culvert (1,850 ft upstream of Pease Rd.).	223
	100 ft upstream of culvert (1,850 ft upstream of Pease Rd.).	225
	100 ft downstream of Somers Rd.	235
	100 ft upstream of Somers Rd.	238
	1,850 ft upstream of Somers Rd.	239

(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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1748 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3542]

TOWN OF LEXINGTON, MIDDLESEX COUNTY, MASS.

Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 42 FR 55712 of the FEDERAL REGISTER of October 18, 1977, (42 FR 55712)

EFFECTIVE DATE: October 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll-free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The following corrections are made:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Beaver Brook.....	Barrett Rd.....	202
Mill Brook.....	Bow St	158
	Fottler Ave.....	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 (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1749 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3834]

TOWN OF LONGMEADOW, HAMPDEN COUNTY, MASS.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Longmeadow, Hampden County, Mass. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at Planning Board's Office, Town Hall, 20 Williams

Street, Longmeadow, Mass. 01106. Send comments to: Mr. Clifford Zundell, Chairman, Board of Selectmen, Town Hall, 20 Williams Street, Longmeadow, Mass. 01106. Attention: Mr. Joseph Coty, Town Engineer.

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 (100-year) flood elevations for the town of Longmeadow, 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Connecticut River.	At southern corporate limit.	56
	10,000 ft upstream of confluence of Longmeadow Brook.	58
Longmeadow Brook.	Confluence with Connecticut River.	57
	400 ft downstream of Route 91.	58
	300 ft upstream of Route 91.	63
	150 ft downstream of Longmeadow St.	64
	Upstream end of Longmeadow St. culvert.	78
	800 ft upstream of Mill Rd.	78
	325 ft downstream of Old Shaker Rd.	82
	50 ft downstream of Old Shaker Rd.	86
	50 ft upstream of Shaker Rd.	101

(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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1750 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3835]

CITY OF DAVISON, GENESEE COUNTY, MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Davison, Genesee County, Mich. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at City Hall, Davison, Mich. Send comments to: Mr. Jack Abernathy, City Superintendent, City of Davison, City Hall, 200 East Flint Street, Davison, Mich. 48423.

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 (100-year) flood elevations for the City of Davison, Mich., 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 1917.4(a).

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 building and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Black Creek.....	Private bridge at upstream corporate limits.	785
	Main St.*	782
	Michigan Route15*.	780
	Dayton St.*	777

*Downstream 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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1751 Filed 1-24-78; 8:45 a.m.]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3836]

VILLAGE OF GOODRICH, GENESEE COUNTY, MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the village of Goodrich, Genesee County, Mich. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at Village Hall, 10237 Hegel Road, Goodrich, Mich. Send comments to: Mr. Douglas Pierson, Village President, Village of Goodrich, Village Hall, 10237 Hegel Road, Goodrich, Mich. 48438.

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 (100-year) flood elevations for the Village of Goodrich, Mich., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kearsley Creek.....	Dutch Rd.....	858
	Erie St.....	864
	Rhodes Rd	882

(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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1752 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3837]

CITY OF HOLLAND, OTTAWA COUNTY, MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Holland, Ottawa County, Mich. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at City Hall, Holland, Mich. Send comments to: Mr. Terry Hofmeyer, City Manager, City of Holland, City Hall, 270 River Avenue, Holland, Mich. 49423.

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 (100-year) flood elevations for the city of Holland, Mich., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Macatawa River	River Ave. Butternut Dr.	584
	U.S. Highway 31...	587
	120th Ave	588
	Paw Paw Dr	592
	American Legion golf course foot bridge.	593
Lake Macatawa	Pine Ave	584
	East End.....	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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1753 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3572]

CITY OF IRONWOOD, GOGEBIC COUNTY, MICH.

Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 56237 of the FEDERAL REGISTER of October 21, 1977.

EFFECTIVE DATE: October 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll-free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The following source, elevation and location corrections should be made and the previous data deleted:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Montreal River.....	U.S. Route 2[1].....	1,426
	Silver St.[1].....	1,476
	Oma St.[1].....	1,485

[1] 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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1754 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3838]

TOWNSHIP OF MENOMINEE, MENOMINEE COUNTY, MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Menominee, Menominee County, Mich. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at Township Hall, Menominee, Mich. Send comments to: Mr. Art Ostrenga, Township Supervisor, Township of Menominee, RA 392, Menominee, Mich. 49858.

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 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Menominee, Mich., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Menominee River..	Riverbank at downstream corporate limits.	611
	Riverbank at upstream corporate limits.	615
Green Bay.....	Shoreline.....	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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1755 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3839]

CITY OF NEW BALTIMORE, MACOMB COUNTY, MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of New Baltimore, Macomb County, Mich. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at City Hall, 6535 Green Street, New Baltimore, Mich. Send comments to: Mayor Herman Staffhorst, City Hall, 6535 Green Street, New Baltimore, Mich. 48047.

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 (100-year) flood elevations for the city of New Baltimore, Mich., 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 1917.4(a).

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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Crapaud Creek	Main St	578
	Green St	578
	Perren St	579
	Base Rd	580
	Washington Rd	581
	Bedford Rd	582
	Ashley Rd	584
Lake St. Clair	Shoreline	578.5

(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: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-1756 Filed 1-24-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 55]

[ERL 846-6]

ENERGY RELATED AUTHORITY: KANSAS

Proposed Withdrawal of Compliance Date Extension

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Administrator of the U.S. Environmental Protection Agency proposes to withdraw the Compliance Date Extension previously issued to the Kansas City, Kansas Board of Public Utilities, Kaw Station, Unit K-3, Kansas City, Kans. The Compliance Date Extension was promulgated in the FEDERAL REGISTER of October 5, 1976, (41 FR 43904), pursuant to § 119 of the Clean Air Act of 1970, as amended (42 U.S.C. 1857c-10), setting out compliance by September 1, 1977.

DATE: Comments must be received on or before February 24, 1978.

ADDRESS: Comments should be sent to Director, Enforcement Division, U.S. Environmental Protection Agency, Region VII, 1735 Baltimore, Kansas City, Mo. 64108. Information on which this proposal is based is available for public inspection at the Environmental Protection Agency, Region VII Office, 1735 Baltimore, Kansas City, Mo. 64108.

FOR FURTHER INFORMATION CONTACT:

Gale A. Wright or Henry F. Rompage, Legal Branch, EPA, Region VII, 1735 Baltimore, Kansas City, Mo. 64108, 816-374-2576.

SUPPLEMENTARY INFORMATION: This withdrawal of the Compliance Date Extension is made necessary by the failure of the source to meet the September 1, 1977, date for compliance, due to an inability to upgrade the original control equipment to the necessary efficiency to achieve compliance, as originally planned. New equipment must be installed under a new compliance schedule. The Compliance Date Extension for Unit K-1 issued at the same time remains in effect.

This proposed rulemaking is issued under the authority of sections 110, 113(d) and 301 of the Clean Air Act.

Dated January 16, 1978.

EARL J. STEPHENSON,
Acting Regional Administrator.

In part 55 of Chapter I, Title 40 of the Code of Federal Regulations, § 55.872 is amended by revising the introductory text of paragraph (a) and by revising paragraph (a)(1) to read as follows:

Subpart R—Kansas

§ 55.872 Compliance date extension.

(a) The Administrator issues a Compliance Date Extension to the Kansas City Board of Public Utilities, Kaw Station, Unit K-1, 2015 Kansas, Kansas City, Kansas (the source) upon the following conditions:

(1) *Regional Limitation.* Unit K-1 shall comply with KAPEC 28-19-31A by December 31, 1978, in accordance with the approved compliance plan.

* * * * * *

[FR Doc. 78-2034 Filed 1-24-78; 8:45 am]

[6560-01]

[FRL 847-3]

[40 CFR Part 162]

PESTICIDE PROGRAMS

Special Packaging of Pesticides

AGENCY: Office of Pesticide Programs, Environmental Protection Agency.

ACTION: Notice of availability of list of registrants.

SUMMARY: A list is being made available of registrants who may have pesticide products that will be affected by the proposed regulations for the special packaging of pesticides.

DATES: This list will be available as of January 25, 1978.

ADDRESS: Requests for the list should be addressed to: Maureen J. Grimmer, Project Leader, (WH-566), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Maureen J. Grimmer, 202-755-8030 or at the above address.

SUPPLEMENTARY INFORMATION: Since the publication of the proposed regulations for the special packaging of pesticides (42 FR 55235, Oct. 14, 1977; 42 FR 63437, Dec. 16, 1977) the Agency has received several requests for a list of affected pesticide manufacturers. The packaging industry would use such information to discover the packaging needs of the pesticide industry. Registrants would be contacted on the numbers, sizes and types

of containers needed. The sooner the flow of this information begins, the quicker and more smoothly the special packaging regulations will be implemented.

For this reason the Agency is making available a list of pesticide registrants who may have products affected by the proposed special packaging regulations. The list is not intended as a complete list. There may be registrants not on the list who have products which will be affected, and there may be registrants on the list who do not have products affected. However, this is as complete a list as the agency can compile at this time. Requests should specify the list entitled "Registrants who may have products affected by the proposed regulations for the Special Packaging of Pesticides.

Dated: January 18, 1978.

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

[FR Doc. 78-2033 Filed 1-24-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR PARTS 1, 73]

[Docket No. 21473]

AM BROADCAST STATIONS

Conversion of Radiation Patterns for Inquiry; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the dates for filing comments and reply comments in a rulemaking proceeding concerning rules governing the conversion of radiation patterns for AM broadcast stations. Petitioner, Association of Federal Communications Consulting Engineers, states that the additional time is needed so that an ad hoc committee which it has established can review and respond to the questions outlined in the Notice of Inquiry in addition to obtaining suggestions from its members.

DATES: Comments must be filed on or before April 24, 1978, and reply comments on or before May 24, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION: Adopted: January 11, 1978.

Released: January 18, 1978.

In the matter of amendment of rules governing the conversion of radiation patterns for AM Broadcast Stations, Docket No. 21473.

1. On November 9, 1977, the Commission adopted a *Notice of Inquiry*, 42 F.R. 59889, in the above-entitled proceeding. The dates for filing comments and reply comments are January 23, and February 22, 1978, respectively.

2. On January 9, 1978, the Association of Federal Communications Consulting Engineers ("AFCCE"), requested a 90-day extension of time in which to file comments. In support of its request, AFCCE states that at its meeting in December an ad-hoc committee was set up to review and respond to the questions outlined in the *Notice of Inquiry*, to obtain suggestions from members and to prepare comments to be submitted to the Executive Committee and to the outstanding membership of the AFCCE. AFCCE notes that the comments must then be approved by the membership before filing with the Commission.

3. We are of the view that the public interest would be served by this extension so that the Association of Federal Communications Consulting Engineers may file any information which could well be helpful to the Commission in reaching a decision in this proceeding.

4. *Accordingly, it is ordered*, That the dates for filing comments and reply comments in Docket No. 21473 are extended to and incuding April 24, and May 24, 1978, respectively.

5. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

For the Federal Communications Commission.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-2095 Filed 1-24-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-18; RM-2928]

TELEVISION BROADCAST STATION IN OPELIKA, ALA.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Action herein proposes the assignment of a first UHF television channel to Opelika, Alabama. Petitioner, Wardean, Inc., states the proposed channel could bring a first local television service to the community.

DATES: Comments must be filed on or before March 17, 1978, and reply comments on or before April 6, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION: Adopted: January 13, 1978.

Released: January 20, 1978.

In the matter of amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations. (Opelika, Alabama), BC Docket No. 78-18, RM-2928.

1. The Commission has under consideration a petition for rulemaking[1] seeking amendment of § 73.606(b) of the Commission's rules, the Table of Television Assignments. The petition was filed on behalf of Wardean, Inc. ("petitioner") requesting the assignment of UHF TV Channel 66 to Opelika, Alabama.

2. Opelika (pop. 19,027),[2] seat of Lee County (pop. 66,100), is located in the central eastern part of Alabama, approximately 24 kilometers (15 miles) west of the border between Alabama and Georgia.

3. According to estimates in a population study of Lee County by James Wright Associates of Atlanta, Opelika will have a population of 31,100 by 1995. We are told that Opelika is a growing community with a balance of industry, agriculture, commerce and trade. Petitioner notes that Opelika's industries are diversified and number over fifty. It adds that its agricultural products are beef, cotton, dairy products and poultry.

4. Opelika does not have a local television broadcast station nor is there one elsewhere in Lee County.

5. In view of the above, the Commission is persuaded that a sufficient public interest showing has been made to warrant further consideration of petitioner's proposal in a rule making proceeding. Channel 66 could be assigned in conformity with the Commission's distance separation requirements and other technical criteria and could bring the community its first local television service.

6. Accordingly, the Commission proposes to amend § 73.606(b) of the Commission's rules, the Television Table of Assignments, with regard to Opelika, Alabama, as follows:

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[1] Public Notice of the petition was given on July 29, 1977 (Report No. 1068).

[2] Population figures are taken from the 1970 U.S. Census unless otherwise indicated.

City and Channel No.
Opelika, Ala., Present —, Proposed 66.

7. The Commission's authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix below and are incorporated herein.

NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before March 17, 1978, and reply comments on or before April 6, 1978.

For the Federal Communications Commission.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the TV Table of Assignments § 73.606(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules).

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-2096 Filed 1-24-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[Docket No. 19784; RM-2036; RM-2835]

FM BROADCAST STATIONS IN LEONARDTOWN AND LEXINGTON PARK, MD. AND FALMOUTH, VA.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order and Further Notice of Proposed Rulemaking.

SUMMARY: The FCC proposes to add FM Channel 240A at Leonardtown, Maryland, or in the alternative to add Channel 240A at Falmouth, Virginia. The channel can only be used in one of those places. It also proposes to delete FM Channel 249A at Leonardtown and add it at nearby Lexington Park, Maryland, since the station using Channel 249A is actually located at Lexington Park.

DATES: Comments are due on or before March 20, 1978, and reply comments on or before April 10, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Carol P. Foelak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTAL INFORMATION:

MEMORANDUM OPINION AND ORDER AND FURTHER NOTICE OF PROPOSED RULE MAKING

Adopted: January 17, 1978.

Released: January 24, 1978.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Leonardtown and Lexington Park, Md., and Falmouth, Va., Docket No. 19784, RM-2036, RM-2835.

1. We are considering here (1) a "Supplement to Petition for Rule Making: Order to Show Cause" ("Supplement") filed by Sound Media, Inc. ("Sound Media"), on October 26, 1976; (2) a Response to the "Supplement" filed by Key Broadcasting Corporation ("Key"), on December 10, 1976; (3) an Opposition to the "Supplement" filed by Vincent L. Carr ("Carr"), on January 19, 1977; and (4) Sound Media's Reply to Carr's Opposition filed on January 28, 1977.

2. *Background:* Since this proceeding has involved several parties and several requests for different FM assignments, a brief history is in order. Originally, Sound Media and Key were mutually exclusive applicants for FM Channel 249A, Leonardtown, Md., which Key proposed to use at nearby Lexington Park, Md., under the 10 mile rule.[1] The applications were designated for hearing in 1972, and a final Commission decision granting Key's application was released August 11, 1976. *Key Broadcasting Corporation*, 60 F.C.C. 2d 575 (1976). Both applicants were found qualified, but Key prevailed on a Section 307(b) (of the Communications Act) issue since its proposal would provide a first aural outlet at night to Lexington Park, while Sound Media's would provide a second aural outlet at night to Leonardtown, and Key's would provide a first nighttime aural service to more persons than Sound Media's. Since then Key has built its station, WMDM-FM, at Lexington Park, and has been on the air since December 10, 1976.

3. At an earlier stage in this proceeding, while the hearing between Sound Media and Key was still going on, we decided between conflicting proposals involving Sound Media and a third party, Edward Mason De Maso ("De Maso"). De Maso had proposed assigning Channel 276A at Grasonville, Md., while Sound Media, in an attempt to resolve the conflict between it and Key by providing both of them with assignments, proposed Channel 276A at Leonardtown and Channel 249A at Lexington Park. We granted De Maso's request and assigned Channel 276A at Grasonville, so De Maso is no longer a party in this proceeding. At the same time we declined to decide on an alternative proposal, to assign Channel 240A at Lexington Park, while leaving Channel 249A at Leonardtown, until after the end of the hearing between Sound Media and Key. *Grasonville, Maryland*, 35 R.R. 2d 614 (1975). Key was the only applicant interested in Lexington Park, and if its application were denied because of adverse findings on disqualifying issues, there would be no need for an assignment there.

[1] 47 CFR Sec. 203(b) provides, "A [Class A] channel assigned to a community listed in the Table of Assignments is available upon application in any unlisted community which is located within 10 miles of the listed community * * *."

4. The pleadings now under consideration were filed after the decision in the Sound Media-Key hearing became final, and relate to the proposal we had declined to decide while the hearing was going on: Whether Channel 240A should be assigned at Lexington Park, leaving Channel 249A at Leonardtown. However, there is now an additional conflicting proposal, that of Carr, to assign Channel 240A to Falmouth, Va. Sound Media asks that Channel 240A be assigned to Lexington Park, and Key be required to change to 240A, leaving Channel 249A vacant at Leonardtown. Key opposes this since it has already built its station on Channel 249A and could not change to 240A at its existing site because it would be short spaced to WISZ-FM, Glen Burnie, Md. Carr wishes Channel 240A to be assigned at Falmouth, Virginia, which conflicts with assigning it at Lexington Park. Sound media, however, argues that Carr's proposal cannot be entertained because it is untimely, by several years.

5. The first issue we must decide is whether Carr's proposal should be dismissed as untimely since it was not filed at the time that the original proposal for Leonardtown and Lexington Park were made. If so, we need only to decide on the proposals for Lexington Park and Leonardtown. If not, we must also consider whether we should propose assigning Channel 240A at Falmouth.

6. *Timeliness of Carr's proposal.* Sound Media argues that the cut-off provision of §1.420(d)[2] of the rules precludes consideration of Carr's proposal, since the original proposal and comments, which should have embodied all counterproposals, were filed in 1973, while Carr's proposal was filed in 1977. Carr, however, argues that the purpose of Section 1.420(d) is to facilitate orderly processing of FM proposals, and since in this case the Commission deferred deciding on the Channel 240A proposal until after the end of the comparative hearing, consideration of his proposal will not disrupt orderly processing.

7. We agree with Carr. We halted this proceeding in our decision in *Grasonville, Maryland, supra,* and announced we would consider the Channel 240A proposal later, after the comparative hearing was over. Since the facts are likely to have changed over a period of several years, it is only natural that a new round of pleadings would be filed after the hearing was over. (In fact the new round was started by Sound Media, although it was careful to phrase its request as a supplement to the original proposal rather than making a new or different proposal.) Carr's proposal is timely in reference to the new round of pleadings now before us. The purpose of the cut-off rule is to provide orderly processing of proposals taking into account the petitioner's interest in avoiding unnecessary delay and uncertainty as well as the public interest in having assignments to provide the most fair, efficient, and equitable distribution of service. Cf. Broadcast Applications (adopting cut-off rules for FM and TV applications), 53 F.C.C. 2d 1089, 1092 (1975). Carr's proposal, did not delay consideration of the Channel 240 proposal; the Sound Media-Key hearing caused the delay. Carr filed his proposal in a timely fashion after Sound Media's "Supplement" reviving the earlier proposal, and the public interest in assuring the best distribution of service will be better served by at least considering it.

8. *Sound Media's request.* Sound Media wishes us to adopt the proposal on which we did not act in 1975, to assign Channel 240A to Lexington Park, leaving Channel 249A at Leonardtown, and also asks us to require Key to change from operating on Channel 249A to Channel 240A. This would leave Channel 249A vacant for Sound Media to use at Leonardtown. However, Key's Station WMDM-FM presently operates from the site of its AM station at Lexington Park, and it could not operate from this site on Channel 240A since it is short spaced to WISZ-FM, Glen Burnie, Maryland. Anticipating this problem, Sound Media states that it has found and even obtained FAA clearance for a site from which Key could operate and that it will pay the expenses of moving to the new site.

9. In response, Key says it has already built at its AM site and details unexpected difficulties and expenses which it encountered in so doing. For instance, after installing the FM antenna on one of its AM towers, it learned that the tower was not structurally sound, so that it had to be torn down and rebuilt. It states that zoning clearances might not be obtained for Sound Media's proposed site and notes that even if Sound Media paid all expenses of moving, it would cost more in operating expenses to operate from two sites. Key suggests adding Channel 240A at Leonardtown, instead, or in the alternative, it says it would accept a change to Channel 240A if it were simultaneously granted a waiver for the short spacing so that it could operate from its present site.

10. Carr also comments adversely on Sound Media's request that we adopt the proposal to add Channel 240A at Lexington Park and require Key to change channels. He states that circumstances have changed since the proposal was originally made, noting that Sound Media's "Supplement" refers to "documents heretofore filed" in the earlier stages of this proceeding to show "the public interest factor involved in the allocation of a channel at Leonardtown." In its earlier comments in response to the Notice in 1973, Sound Media had supported its proposal by saying Leonardtown had no nighttime AM service; that a Leonardtown FM station would provide a first FM service to 21,273 persons, a first aural service to 19,035, and a second aural service to 13,000. All of these facts have changed, Carr asserts, since Sound Media was granted full-time authority for its AM station, WKIK, Leonardtown, on November 14, 1973, WMDM-FM is now on the air in Lexington Park, and there have been changes in the facilities of FM stations in other communities.

11. Concerning Sound Media's request to require Key to change channels, Carr points out that Sound Media probably also wants to operate the FM station it hopes to build from its AM site, which is also short spaced to WISZ. As to waiving the short spacing for Key on Channel 240A, Carr argues that such waivers are granted on the basis of applications, not as part of the assignment process.

12. We will not assign Channel 240A to Lexington Park, and will reject Sound Media's request that Key be required to change to Channel 240A. We will, however, propose to add Channel 240A at Leonardtown. It is apparent that both Key and Sound Media want to operate from their AM sites, which they cannot do on Channel 240A without being short spaced to WISZ-FM. However, Key should be favored. It, after all, won the comparative hearing between it and Sound Media. Also, the inconvenience to Key which would be occasioned by changing to Channel 240A would be greater since it has already built and would have to move. The disruption to its audience, which is accustomed to Channel 249A, would not be felt by Sound Media. Accordingly, we will propose to assign Channel 240A to Leonardtown, and if the proposal is adopted, Sound Media will be able to apply for Channel 240A. We will also propose to delete Channel 249A from Leonardtown and add it at Lexington Park, since Key's station is actually at Lexington Park.

13. *Carr's request.* Carr proposes to assign Channel 240A to Falmouth, Va., which conflicts with assigning it to Leonardtown/Lexington Park. Sound Media filed a reply questioning the timeliness of Carr's proposal, as discussed above in paragraphs 6-7, but did not comment substantively. Key did not comment.

14. Carr states that Falmouth, Va., is an unincorporated community which

[2] Section 1.420(d) provides, "Counterproposals [in proceedings to amend the FM or TV Table of Assignments] shall be advanced in initial comments only and will not be considered if they are advanced in reply comments."

had a 1970 population of 2,139, and has no local transmission service. He says that Stafford County, in which it is located, had a 1970 population of 24,587, and has no radio station. We note that Falmouth is adjacent to Fred- ericksburg, Virginia (pop. 14,450), which has two Class B FM stations and two AM stations, one of which is fulltime, WFVA-AM/FM and WFIS AM/FM. Carr states that Falmouth is the largest community within the Channel 240A preclusion area with no local radio station. According to his engineering study, the precluded communities with no AM or FM station assignment are Shenandoah, Virginia (pop. 1,714), Elkton, Virginia (pop. 1,511), Stanley, Virginia (pop. 1,208), and Colonial Beach, Virginia (pop. 2,058). Carr made some estimates of persons which his proposed assignment would provide with second and third aural service at night, but these were made on the basis of presently available service and not on a proper *Roanoke Rapids/Anamosa* showing.[3] In light of the stations at Fredericksburg, his proposal obviously would not provide second aural of FM services to Falmouth.

15. While we are proposing assignment of Channel 240A at Falmouth as an alternative to proposing it at Leonardtown, there are some specific questions on which we would like comment. Is Falmouth a community? While Carr provided a list of businesses, churches, and other organizations located in Falmouth, we would like comment on whether it really is a community. We must also point out that the reasoning behind the "suburban community" *Policy Statement,*[4] which applied to applications for new and changed AM facilities, has been applied to FM applications, *Berwick Broadcasting Corporation,* 20 F.C.C. 2d 393 (1969). Thus, under *Berwick,* an applicant could not specify a small town to meet the priority of bringing a first service to it while really intending to serve a nearby larger town.

16. Carr should make a *Roanoke Rapids* showing if he wishes to support his estimates of second and third services at night. For purposes of comparing Falmouth and Leonardtown, parties may wish to update the showings filed previously in this proceeding to take account of new or changed service.

17. *It is ordered* That, the proposal to assign FM Channel 240A at Lexington Park, Maryland, is denied.

18. *Conclusion:* The Commission proposes to amend the FM Table of Assignments, 47 CFR 73.202(b), as follows:

City and Channel No.
Leonardtown, Md., Present 249A, Proposed 240A.
Lexington Park, Md., Present — Proposed 249A.
Or, in the alternative.
Leonardtown, Md., Present 249A, Proposed —.
Lexington Park, Md., Present —, Proposed 249A.
Falmouth, Va., —, Proposed 240A.

19. The Commission's authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix and are incorporated herein.

NOTE:—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

20. Interested parties may file comments on or before March 20, 1978, and reply comments on or before April 10, 1978.

For the Federal Communications Commission.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person fiing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-2097 Filed 1-24-78; 8:45 am]

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[3] *Roanoke Rapids, N.C.,* 9 F.C.C. 2d 672 (1967), sets forth assumptions to be used in calculating the extent of service which an FM proposal would provide, and under *Anamosa, Iowa,* 40 F.C.C. 2d 520 (1974), a petitioner must take into account nighttime AM service.

[4] *Policy Statement on Section 307(b) Considerations for Standard Broadcast Facilities Involving Suburban Communities,* 2 F.C.C. 2d 190 (1965). Although "suburban community" was subsequently limited to apply only in comparative hearing, the Commission's concern that applicants intend to serve the communities they specify remains. *AM Assignment Standards,* 54 F.C.C. 2d 1, 21-22.

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-21; RM-2932]

FM BROADCAST STATION IN RONAN, MONT.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes to assign a first class C FM channel to Ronan, Mont. Petitioner, KDMR, Inc., states that the proposed channel could bring first and second FM, as well as first and second nighttime aural service to Ronan and the surrounding area.

DATES: Comments must be received on or before March, 17, 1978, and reply comments on or before April 6, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 16, 1978.

Released: January 23, 1978.

In the matter of amendment of § 73.202(b), table of Assignments, FM broadcast stations (Ronan, Mont.), BC Docket No. 78-21, RM-2932.

1. *Petitioner, comments, proposal.*—(a) Notice of proposed rulemaking is given concerning amendment of the FM table of assignments (§ 73.202(b) of the Commission's rules) as it relates to Ronan, Mont.

(b) Petition for rulemaking[1] was filed on behalf of KDMR, Inc., ("petitioner"), licensee of AM station KERR, Polson, Mont., seeking the assignment of class C FM channel 222 to Ronan, Mont. No responses to the petition have been received.

(c) Petitioner states that it will file an application for a construction permit to operate on the proposed channel, if assigned, and if granted, will promptly construct the station and commence operation.

2. *Community data.*—(a) *Location.* Ronan is located in Lake County in northeastern Montana, 216 kilometers (135 miles) west of Great Falls, Mont., and 248 kilometers (155 miles) east of Spokane, Wash. It is located in the Flathead Indian Reservation which extends through several counties.

(b) *Population.* Ronan—1,347; Lake County—14,445.[2]

(c) *Local aural broadcast service.* None.

(d) *Economic data.* Petitioner states that Lake County has had a 10 percent increase in population between 1960-1970. It notes that the county is essentially rural and is situated in the heart of the Flathead Indian Reservation. The principal industry in the area surrounding the reservation is related to forestry. Petitioner adds that natural recreation attractions of the reservation and its proximity to Glacier Park makes the entire Flathead Valley a potentially important tourist center. Petitioner has submitted detailed information which demonstrates a need for a first local full-time broadcast service in Ronan and Lake County.

3. *Preclusion studies.* Preclusion will be caused on noncommercial educational channels (219A, 220A, 220C) to Kalispell (population 10,526), Columbia Falls (2,652), Missoula (29,497), Polson (2,464), and Whitefish (3,349). All of the above, plus nine additional communities over 1,000 population will sustain preclusions on one or more commercial channels. A total of nine communities[3] are without commercial FM assignments and will sustain commercial channel preclusion. However, petitioner states that other class A and class C channels (educational or commercial as the case may be) are available for the communities in the precluded areas.

4. *Additional considerations.* Petitioner states that there is no FM broadcast service in Ronan or Lake County. It asserts that Ronan is centrally located in a large, sparsely populated area and, because of its importance to the area and the Indian population in and around the Flathead Reservation, as well as the general population, granting of the proposed assignment is warranted. In its Roanoke Rapids-Anamosa study if shows that a class C station operating with effective radiated power of 74 kilowatts and antenna height of 152 meters (500 feet) would provide a first FM service to 3,046 persons in a 2,800 square kilometer (1,050 square miles) area and a second FM service to 5,104 persons in a 4,000 square kilometer (1,580 square miles) area. The same figures would apply to a first and second nighttime aural service.

5. Based on an examination of petitioner's proposal there appears to be a basic for considering an exception to our general policy of assigning class C channels only to larger communities. The proposed assignment of an FM channel to this small isolated community could provide for an aural broadcast service to people residing in the sparsely populated areas.

6. Accordingly the Commission proposes to amend the FM table of assignments (§ 73.202(b) of the Commission's rules) with regard to Ronan, Mont., as follows:

City and Channel No.
Ronan, Mont., present: —; proposed: 222.

7. The Commission's authority to institute rulemaking proceedings; showings required; cutoff procedures; and filing requirements are contained in the attached appendix and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the appendix before a channel will be assigned.

8. Interested parties may file comments on or before March 17, 1978, and reply comments on or before April 6, 1978.

For the Federal Communications Commission.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM table of assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cutoff procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's public reference room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-2098 Filed 1-24-78; 8:45 am]

[1] Public notice of the petition was given on August 8, 1977 (report No. 1069).

[2] Population figures are taken from the 1970 U.S. Census.

[3] Montana: Thompson Falls (population 1,536), Plains, (1,046), Choteau (1,586), Browning (1,700), Columbia Falls (2,652), Whitefish (3,349), Polson (2,464); Idaho: Mullan (1,279), Kellogg (3,811).

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-20; RM-2925]

FM BROADCAST IN CLOVIS, N. MEX.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assigment of a third FM channel to Clovis, N. Mex. Petitioner, Zia Broadcasting Co., states that additional areas would be provided with first and second FM as well as first and second aural nighttime service as a result of the proposed assignment.

DATES: Comments must be filed on or before March 14, 1978, and reply comments on or before April 3, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 13, 1978.

Released: January 23, 1978.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM broadcast stations (Clovis, N. Mex.), BC Docket No. 78-20, RM-2925.

1. *Petitioner, proposal, and comments.* (a) Notice of proposed rulemaking is hereby given concerning amendment to the FM table of assignments, § 73.202(b) of the Commission's rules, regarding the assignment of class C channel 298 to Clovis, N. Mex., as that community's third FM assignment.

(b) The petition was filed on behalf of Zia Broadcasting Co. ("petitioner") and was given public notice on July 26, 1977 (report No. 1066). No responses to the petition were received.

(c) Petitioner states that, if the channel is assigned, it will file an application for its use.

2. *Demographic data.* (a) *Location.* Clovis, the seat of Curry County, is situated in eastern New Mexico, 152 kilometers (95 miles) southwest of Amarillo, Tex.

(b) *Population.* Clovis—28,495; Curry County—39,517.[1]

(c) *Present aural services.* FM stations: KMTV-FM (channel 256) and KTQM-FM (channel 260). Full-time AM stations: KCLV, KICA, and KWKA.

3. *Community data.* Petitioner states that the Clovis Chamber of Commerce estimated the population of Clovis to be 32,864 in 1976, as compared to 28,495 in 1970. We are told that the city's economy is dominated by agriculture, grain storage, ranching, cattle raising, and meat packing. In addition there are said to be several significant manufacturing concerns in the area consisting of sash and door factories, concrete, dairy products, steel pipe, feed mills, etc. Petitioner notes that Clovis is the center of a large trading area and the hub of transportation for eastern New Mexico.

4. *Preclusion considerations.* Assignment of channel 298 to Clovis would cause preclusion on seven channels for 49 communites with populations greater than 1,000. Twenty-five of these communites have no commercial FM channel assignments. Of the 25, 7 have populations over 2,500. All are in Texas. They are: Wellington (2,884), Abernathy (2,625), Post (3,854), Tahoka (2,956), Friona (3,111), Dimit (4,327), and Littlefield (6,738). Post, Dimit, and Littlefield have AM stations. Petitioner also states that channels 296A and 244A could be assigned to Post and Friona. Petitioner did not indiate whether FM channels are available for assignment to Abernathy, Tahoka, Dimit, Littlefield, and Wellington, and it should provide this information in its comments.

5. *Additional considerations.* Petitioner submitted a Roanoke Rapids-Anamosa study which indicates that a first FM service would be provided to 1,007 persons in a 550 square kilometer (204 square mile) area and a second FM service to 1,610 persons in a 850 square kilometer (324 square mile) area. The same figures would hold true for first and second nighttime aural service. Petitioner asserts that on this basis Clovis needs a third FM assignment and it asserts that it could support an additional station.

6. The request for a third FM assignment to a community of 28,495 persons exceeds the FM population guidelines. However, in view of petitioner's showing that the proposed assignment would provide additional areas and populations with a first and second FM and first and second nighttime aural service, we believe consideration of the proposal described above is warranted.

7. In light of the foregoing, the Commission proposes to amend the FM table of assignments, § 73.202(b) of the Commission's rules, with regard to Clovis, N. Mex., as follows:

City and Channel No.
Clovis, N. Mex., Present: 256, 260; Proposed: 256, 260, 298.

8. The Commission's authority to institute rulemaking proceedings; showings required; cutoff procedures; and filing requirements are contained in the attached appendix and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the appendix before a channel will be assigned.

9. Interested parties may file comments on or before March 14, 1978, and reply comments on or before April 3, 1978.

For the Federal Communications Commission.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM table of assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cutoff procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflicts with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for

[1] Population figures are taken from the 1970 U.S. Census.

examination by interested parties during regular business hours in the Commission's public reference room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-2099 Filed 1-24-78; 8:45 am]

[6712-01]

[47 CFR Part 87]

[SS Docket No. 78-9; FCC 78-3]

AVIATION SERVICES

Permitting Authorization of an Additional Aeronautical Advisory Station at a Landing Area To Separate Helicopter and Fixed-Wing Aircraft Communications

AGENCY: Federal Communications Commission.

ACTION: Proposed Rulemaking.

SUMMARY: The Commission is proposing to amend the rules to permit the authorization of an additional Aeronautical Advisory station at a landing area to separate communications for helicopters and fixed wing aircraft. Present rules provide for separate frequencies for this, but limit their use to one station. Where the service and landing facilities for these two types of aircraft are widely separated at one location, it is practical to permit a separate station to be installed at each facility. This will enable both to operate simultaneously and independent of each other, thus providing a more efficient use of the spectrum.

DATES: Comments must be received on or before February 24, 1978, and reply comments must be received on or before March 6, 1978.

ADDRESSES: Send Comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John E. Jacobs, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

Adopted: January 11, 1978.

Released: January 23, 1978.

In the matter of amendment of Part 87 of the FCC rules and regulations to permit the authorization of an additional Aeronautical Advisory Station at a landing area to separate helicopter and fixed-wing aircraft communications, SS Docket No. 78-9.

1. Notice of proposed rulemaking in the above entitled matter is hereby given.

2. The Commission rules provide that only one aeronautical advisory (Unicom) station may be authorized at any one landing area. The reason for such a limitation is safety. Since the primary purpose of these Unicom stations is to provide advisory information necessary to the safe and expeditious operation of private aircraft, but not traffic control a definite safety hazards would exist were two stations to give conflicting information to two different aircraft. For the most part, the information exchanged between the aircraft and the Unicom station consists of airport information (services available, etc.) and, where permitted, wind, weather and runway conditions.

3. In futher interests of safety, only one frequency is normally authorized to each station. Because of the differences in the types and methods of operation, separate and discrete frequencies are available for those landing areas used primarily for fixed-wing aircraft and those used exclusively as heliports. Many stations combine both types of operations on the one frequency, but where a licensee can show a need, an additional, specified frequency can be authorized to separate the communications. In instances such as this, multiple control points may be authorized for the station with each separate operation having the ability to communicate over the station facility for its own purpose.

4. During the past several years, there has been a substantial growth in the use of both helicopters and fixed-wing aircraft for business and pleasure. The number of helicopters in use has grown at a rate of 12.5 percent per year for the past ten years and in 1976 the number increased at a rate almost double that of fixed-wing aircraft. Quite naturally, this has resulted in an increase in activities at many airports. The facilities providing service to these aircraft have expanded accordingly in many areas and the airports have become rather large complexes. As a result of this expansion and because of the inherent differences in their needs and methods of operation, the fixed-wing and helicopter facilities have become widely separated physically, even though still located at one location classified as a landing area. In many instances, helicopters and fixed-wing aircraft operate in separate patterns safely. Although separate frequencies can be authorized for the two operations to separate their communications, it still remains under current rules that they both must be operated from one station. Additionally, the characteristically normal short flight operations and the numerous short transmissions of helicopters have a tendency to heavily load the channel being used. This presents an operational problem in that, although separate frequencies are available, only one person can be the licensee and it often become impossible for the Unicom station operator to provide adequate and timely communications to both types of aircraft. This is especially true during peak periods of activity at the landing area. Further, if the Unicom operator's main business is fixed-wing aircraft he will naturally tend to render better services to these aircraft as they represent his livelihood.

5. In order to relieve this situation, we propose to amend the rules to permit the authorization of an additional Unicom station for separation of fixed-wing and helicopter communications. Obviously, the mixture of aircraft types does not present a problem at most airports, but our concern here is to facilitate the safe and efficient operation at those airports where not only frequency, but traffic congestion is a problem. Our intent is not to subvert the original valid reasons for the "one station" limitation; nor is it to give the impression that additional air traffic control, with its inherent element of danger, is available. Rather, we wish to relieve any frequency congestion which might be caused by combining fixed-wing and helicopter operations in one station and to relieve the station licensees of the necessity to communicate for two diverse functions from the same station. We believe that, even though traffic at a busy airport may be heavy, it is possible to separate helicopters and fixed-wing aircraft and have them conduct their affairs within the same environment without including a safety hazard.

6. Accordingly, we propose to amend Rule § 87.251 to permit the authorization of an additional aeronautical advisory station for the specific purpose of separating the helicopter and fixed-wing communications where a need is determined. Any applicant for the additional station must show conclusively that the radio traffic on the existing Unicom station is such that authorization of an additional station will relieve the congestion and, further, that the available facilities serving the two types of aircraft are separated to the point that the proximity of the stations will not present an interference or a safety problem. We do not intend to make a second station available, per se, but to provide a more efficient means of communicating with two different types of aircraft activities. Therefore, where such authorizations are granted, the communications from each station must be limited to that purpose for which application was made.

7. Additionally, we will amend § 87.253(b) to continue to permit the authorization of a second frequency where and in the manner presently permitted when a second physical installation cannot be justified.

8. The proposed amendments to the rules as set forth below are issued pursuant to the authority contained in sections 4(i), 303(b), (d), (f) and (r) of the Communications Act of 1934, as amended.

9. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before February 24, 1978, and reply comments on or before March 6, 1978. All relevant and timely comments will be considered by the Commission before final action is taken in the proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

10. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

For the Federal Communications Commission.

WILLIAM J. TRICARICO,
Secretary.

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

1. In § 87.251 paragraph (a) is amended, new paragraphs (b) and (c) are added to read as follows; and present paragraphs (b), (c), (d), and (e) are redesignated as paragraphs (d), (e), (f) and (g) to read as follows:

§ 87.251 Special conditions.

(a) Except as provided in paragraphs (b) and (c) of this section, only one aeronautical advisory station may be authorized to operate at a landing area.

(b) Where the Commission has good cause to believe that an existing station has been abandoned or ceased operation, another station may be authorized to provide service at the landing area on an interim basis while the original station is not operating and pending final determination of the status of the original station.

(c) Upon showing of need, an additional aeronautical advisory station may be authorized at a landing area for the specific purpose of separating the communications pertaining to helicopters and fixed wing aircraft. Such showing must clearly demonstrate to the Commission the need for the additonal station and why the anticipated communications cannot be accommodated from one station. Further, it must be clearly demonstrated that the facilities for helicopters and fixed wing aircraft are sufficiently separated physically at the landing area that operation of both types of aircraft at the same time will not introduce a safety hazard.

* * * * *

2. In § 87.253 paragraphs (a)(3) and (b) are amended to read as follows:

§ 87.253 Frequency assignment.

(a) * * *

* * * * *

(3) Landing area that is used (i) exclusively as a heliport or (ii) for helicopters when a second station is justified pursuant to § 87.251(c); 123.050 or 123.075 MHz.

(b) Upon a showing of need, and where a second station cannot be justified in accordance with § 87.251(c), stations authorized to operate on 123.050 or 123.075 MHz also may be assigned 122.700, 122.800 or 123.000 MHz for communications primarily with fixed wing aircraft, and stations authorized use of 122.700, 122.800, 122.950 or 123.000 MHz may also be assigned 123.050 or 123.075 MHz for communications primarily with helicopters.

* * * * *

[FR Doc. 78-2094 Filed 1-24-78; 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.

[3410-07]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation No. A559]

LOUISIANA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in certain Louisiana Parishes as a result of various adverse weather conditions shown in the following chart.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 Subpart C, Exhibit B, Paragraph V B, including the recommendation of Governor Edwin Edwards that such designation be made.

Applications for emergency loans must be received by this Department no later than July 19, 1978, for physical losses and January 18, 1979, 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 areas 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 19th day of January 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

10 PARISHES

Parish	Drought	Excessive rainfall	Flooding
Calcasieu	May 1 through July 14, 1977.	Aug. 3 through Dec. 10, 1977.	
Cameron	do	do.	
East Baton Rouge	May 4 through June 27, 1977.	July 26 through Dec. 16, 1977.	
Evangeline	Apr. 30 through July 15, 1977.	July 20 through Nov. 30, 1977.	
Grant	May 1 to June 16, 1977.	June 16 through Dec. 31, 1977.	
Iberia	Apr. 1 through June 30, 1977.	Aug. 1 through Sept. 30, 1977 and Nov. 1 through Nov. 30, 1977.	
Morehouse	May 1 through Oct. 1, 1977.		
Pointe Coupee	May 4 through June 30, 1977.	July 28 through Sept. 14, 1977.	Apr. 17 through Apr. 22, 1977.
Ouachita	May 1 through Oct. 1, 1977.		
St. Mary	Apr. 1 to June 30, 1977.	Aug. 1 to Dec. 15, 1977.	

[FR Doc. 78-2164 Filed 1-24-78; 8:45 am]

[3410-07]

[Notice of Designation Number A554]

NEW YORK

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following New York Counties as a result of flooding, severe low temperatures, frost and/or freezing conditions, drought, excessive rainfall, snow, wind, and hail during the period March 13 throug'. October 25, 1977: Delaware, Montgomery, Schoharie, Tioga.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR Part 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Hugh L. Carey that such designation be made.

Applications for emergency loans must be received by this Department no later than July 17, 1978, for physical losses and January 16, 1979, 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 18th day of January 1978.

GORDON CAVANUAGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-2165 Filed 1-24-78; 8:45 am]

[3410-07]

[Notice of Designation Number A557]

NORTH CAROLINA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following North Carolina Counties as a result of excessive rainfall September 1, 1977, through November 15, 1977, in Tyrrell County and drought June 1, 1977, through September 15, 1977, and excessive rainfall September 16, 1977, through October 15, 1977, in Hertford County.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR Part 1904 Subpart C, Exhibit D, Paragraph V 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 July 17, 1978, for physical losses and January 16, 1979, for production losses, except that quali-

fied 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 18th day of January 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-2166 Filed 1-24-78; 8:45 am]

[3410-07]

[Notice of Designation Number A555]

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, and aquaculture operations have been substantially affected in the following Texas Counties as a result of drought during the period ranging from April 1 through November 29, 1977: Anderson, Kaufman, Lamar, San Saba, Shackelford.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the Provisions of 7 CFR Part 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department no later than July 17, 1978, for physical losses and January 16, 1979, 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 18th day of January, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-2167 Filed 1-24-78; 8:45 am]

[3410-07]

[Notice of Designation Number A558]

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Texas Counties as a result of drought June 1 through December 12, 1977, in Baylor and Stonewall Counties; and hailstorms May 22, 1977, in Floyd County.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR Part 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department no later than July 17, 1978, for physical losses and January 16, 1979, for production losses, except for 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 18th day of January, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-2168 Filed 1-24-78; 8:45 am]

[3410-11]

Forest Service

VOLUME I, MOUNT ROGERS NATIONAL RECREATION AREA UNIT PLAN, AND EIS VOLUME II, MOUNT ROGERS SCENIC HIGHWAY EIS

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Mount Rogers national recreation area, Jefferson National Forest, Va., USDA-FS-R8-DES (Adm.) 78-02 and in cooperation with the Federal Highway Administration an environmental statement on the Mount Rogers Scenic Highway, Jefferson National Forest, Va. FHWA-VA-EIS-77-03-D.

The volume I environmental statement concerns the proposed environmental impacts of proposed activities in each project component and are discussed in relation to each component of the environment. The unit contains 107,660 acres of national forest land in Carroll, Grayson, Smyth, Washington, and Wythe Counties, Va. Volume II environmental statement summarizes and expands on the direct or physical impacts of the scenic highway.

These draft environmental statements were transmitted to EPA on January 20, 1978. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3210, 12th Street and Independence Avenue SW., Washington, D.C. 20013.

USDA, Forest Service, 1720 Peachtree Road NW., Room 804, Atlanta, Ga. 30309.

USDA, Forest Service, Jefferson National Forest, 210 Franklin Road SW., Roanoke, Va. 24011.

USDA, Forest Service, Jefferson National Forest, Mount Rogers NRA District Office, Route 1, Box 303, Marion, Va. 24354.

A limited number of single copies are available upon request to Forest Supervisor Michael J. Penfold, Jefferson National Forest, 210 Franklin Road SW., Roanoke, Va. 24011.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically. Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Michael J. Penfold, Jefferson National Forest, 210 Franklin Road SW., Roanoke, Va. 24011. Comments must be received by April 3, 1978, in order to be considered in the preparation of the final environmental statement.

Dated: January 20, 1978.

ROBERT F. WILLIAMS,
Regional Environmental Coordinator.

[FR Doc. 78-2118 Filed 1-24-78; 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

CCNY RESEARCH FOUNDATION

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of

Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00349. Applicant: City College of New York Research Foundation, 138 Street and Convent Avenue, New York, N.Y. 10031. Article: Spin Lock CPS-2 NMR Pulse Spectrometer and Accessories. Manufacturer: Spin-Lock Electronics Co., Canada. Intended use of article: The article will provide capabilities for detecting and quantitating the formation of each of the ternary enzyme-metal PRPP complexes and the quaternary enzyme-metal PRPP-nitrogeneous substrate complexes using water-proton relazation rate enhancement techniques.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the U.S. Customs Service received this application (August 29, 1977).

Reasons: The foreign article provides for a combination of pulsed operation and the capability of operation at 30 megahertz (MHz). The Department of Health, Education, and Welfare advises in its memorandum dated November 26, 1977 that: (1) The combination of capabilities described above is pertinent to the applicant's intended use and (2) it knows of no domestic instrument which provides this combination of pertinent features.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the U.S. Customs Service received this application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-2049 Filed 1-24-78; 8:45 am]

[3510-25]

COLORADO STATE UNIVERSITY

Decision on Application for Duty-free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89—651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 77-00332. Applicant: Colorado State University, Fort Collins, CO 80523. Article: FX-100 NMR Spectrometer. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for a variety of studies of the molecular structure type, utilizing ^{13}C and ^{3}H nuclear magnetic resonance (NMR) in the fourier transform (FT) mode. Specific research will include studies of the following.

(1) Geometrical dependence of substituent effects on ^{13}C chemical shifts,

(2) ^{13}C signal intensities in hydrocarbons,

(3) The synthesis of complex organic systems,

(4) Structural characterizations of natural products,

(5) Biosynthesis of toxic plant nitro compounds, and

(6) Polymer chemistry.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capability for making T_{1rho} measurements. The National Bureau of Standards advises in its memorandum dated November 30, 1977 that (1) the capability of the article described above is pertinent to the applicant's intended research and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-2050 Filed 1-24-78; 8:45 am]

[3510-25]

ERDA—RICHLAND, WASHINGTON

Decision on Application for Duty-free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00325. Applicant: United States Energy Research and Development Administration, P.O. Box 550, Richland, Wash. 99325. Article: Camera, Image Converter Imacon Model 790/520 and Accessories. Manufacturer: Hadland Photonics Ltd., United Kingdom. Intended use of article: The article is intended to be used for the investigation of recording photographic images of transient events in experiments to see if laser heated solenoid will provide energy. The article and accessories will be attached to the laser beam tube in such a way as to allow them to be used to photograph the events which occur during the experiments.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. REASONS: The foreign article provides capability of operation at framing rates of at least 10^6 per second and up to 16 frames per period. the most closely comparable domestic instrument, the Model ID3-5-20, manufactured by Quantrad Corporation provides capability of operation at framing rates of at least 10^6 per second and up to 5 frames per period. The National Bureau of Standards advises in its memorandum dated December 1, 1977 that the capability of the articles to provide the maximum possible frames per period (up to 16) and a framing rate of at least 10^6 per second is pertinent to the applicant's intended use. NBS also advises that it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-2051 Filed 1-24-78; 8:45 am]

[3510-25]

GEOPHYSICAL INSTITUTE

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-Free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00173. Applicant: Geophysical Institute, C.T. Elvey Bldg., University of Alaska, Fairbanks, Alaska 99701. Article: Recording Current Meter, Model 4 and Pressure and Conductivity Sensors. Manufacturer: Aanderaa Instruments, Norway. Intended use of article: The article is intended to be used to measure the basic water circulation parameters for the first time under arctic conditions on the Alaskan coastal shelf.

Comments: No comments have been received with respect to this application.

Decision: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (March 18, 1977). REASONS: In response to Question 8, the applicant alleges the foreign article provides the following pertinent features:

(1) Ability to operate instrument under Arctic Conditions,

(2) Ability to measure current speed and direction at the same place that the water quality parameters are measured (conductivity, temperature and depth),

(3) Ability to operate at temperatures below 0 degrees C.,

(4) Small compact size of instrument, and

(5) Long term reliable operation under cold water conditions.

The National Oceanic and Atmospheric Administration (NOAA) advises is its memorandum dated May 20, 1977 that features (1), (2), (3), and (4) are provided by the article and are pertinent to the applicant's intended uses within the meaning of Subsection 301.2(n) of the regulations. In addition, NOAA advises that two domestic instruments, the Model 9021 and the Model Sea Trak, manufactured by Plessey Environmental Systems (Plessey) and Hydro Products (Hydro) respectively, provide all the features cited above found to be pertinent. As to the specific allegations of the applicant in reply to Question 8.c.(2), in the order listed above, the following is noted:

(1) The Plessey Model 9021 and Hydro Sea Trak both provide the ability to operate under Arctic conditions. The Model 9021 provides a temperature range of −5° to +40° centigrade (°C) and the Sea Trak provides −5 to +35°C. NOAA advises that these instruments both provide the ability to operate at temperatures below 0°C and based on their temperature specifications are designed for Arctic operations. The Department notes that the article provides an operational range of −2.46C to 24.60°C as its standard range and that the domestic instruments are designed to operate at lower temperatures than the article.

(2) NOAA advises and we concur, that both the Model 9021 and the Sea Trak provide this pertinent feature.

(3) As noted in (1) above, both domestic instruments provide the ability to operate at temperatures below zero degrees centigrade.

(4) The applicant states that the foreign article is to be used in shallow water. The size/weight specifications of the shallow water versions of domestic instruments are similar to those of the article. The Model 9021 has a weight in air of 51 pounds (lbs.), a housing diameter of 5.5 inches (in.), a guard frame width of 8 in., an instrument and fin height of 24 in. and an instrument and fin length of 51.8 in. The Sea Trak has a weight in air of the recording unit and vane of 67.9 lbs., and a recording unit height of 26.1 in. with a 6 in. diameter. The foreign article has a weight in air of 56.1 lbs. for recorder and vane assembly, an overall length of 53.9 in., an overall height of 29.5 in. and a recording unit height of 20 in. with a diameter of 5 in. NOAA has compared the size/weight specifications of the domestic instruments with those of the foreign article and advises and we find that both of the domestic instruments meet the applicant's requirement for small compact size.

(5) The applicant states he requires long term reliable operation under cold water conditions. In this connection, the Department notes that both domestic instruments are designed to provide for operation in cold water to a lower limit of −5°C whereas the article is designed to operate in cold water to a lower limit of −2.46°C. We note that the domestic instruments are capable of operation at lower temperatures than the article. Further we find that reliability which is associated with the level of maintenance and hence, cost of ownership, is not a pertinent specification within the meaning of § 301.2(n) of the regulations. In general, information which can lead to a direct quantitative comparison of the reliability (i.e., ability to conform to specifications without excessive breakdown) of two instruments is almost never available. When a specification is "guaranteed" the manufacturer is stating, in effect, that the necessary steps have been taken to verify ability to meet this obligation. Thus a guaranteed specification presupposes a determination of reliability to some "engineered-in" degree. Customarily, manufacturers neither issue quantitative specifications on reliability nor guarantee reliability. Moreover, the reliability of a single instrument can, and frequently does, improve abruptly with time (for example, as the manufacturer gains experience and makes minor modifications dictated by such experience). No two instruments of the same model supplied by the same manufacturer will have identical records insofar as reliability is concerned and a documented history of poor reliability does not mean that such performance will not vastly improve with the very next instrument (and subsequent instruments) produced. Without strong and substantive supporting evidence in the record that the reliability of two instruments were measurably different and the difference in reliability precluded performance of the work intended, reliability could not be considered a justifiable basis for duty-free entry under Pub. L. 89-651. While reputations with respect to reliability which are derived from subjective, word-of-mouth allegations or even personal experience may, reasonably or otherwise, enter into a person's decision to buy a particular instrument, such a yardstick could not serve as a clear-cut objective basis for duty-free entry. Moreover, we would reemphasize that reliability is considered a cost-related consideration for duty-free entry purposes which by regulation and by Congressional intent is not a sufficient basis for the granting of duty-free entry.

Thus, based on NOAA advice, our own review of the application as well as factual information in our possession (specifications, textbooks, etc.), we find that the Model 9021 and Sea Trak recording current meters were of equivalent scientific value to the foreign article for such purposes as the article is intended to be used at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-2052 Filed 1-24-78; 8:45 am]

[3510-25]

IOWA STATE UNIVERSITY AND UNIVERSITY OF FLORIDA

Consolidated Decision on Applications for Duty-Free Entry of Ultramicrotomes

The following is a consolidated decision on applications for duty-free entry of ultramicrotomes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00010. Applicant: Iowa State University, College of Veterinary Medicine, Ames, Iowa 50011. Article: LKB 8800A Ultrotome III Ultramicrotome complete and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to prepare tissues and cells taken from animals involved in a variety of research projects, including studies of nutritional, metabolic, toxicological, infectious, and parasitic diseases for ultramicrotomy and electron microscopic examination. Research projects will include studies of changes in cell organelles and membrane in response to nutritional deficiencies, evaluation of cell reactions to parasitism and bacterial infections, studies of parasite ultrastructure, determinations of the presence and precise location of viruses in tissues, observations in subcellular responses to toxicological agents and drugs and histochemical localizations in emzymes within cells. The article will also be used to prepared specimens for demonstrations of pathological changes in animal tissues in various graduate and undergraduate courses in Vet. Pathology. Application received by Commissioner of Customs: October 12, 1977. Advice submitted by the Department of Health, Education, and Welfare on: December 13, 1977.

Docket No. 78-00018. Applicant: University of Florida, College of Dentistry, Box J-424, J. Hillis Miller Health Center, Gainesville, Fla. 32610. Article: LKB 8800A Ultrotome III Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to support research studies related to dental research including the following: (a) Electron microscopy of fibril purification from Actinomyces viscosus, (b) comparative ultrastructure of various strains of Actinomyces viscosus, (c) effects of carbohydrate and nutrient of the ultrastructure of Actinomyces viscosus, (d) electron microscopy of osteoclasts in studies on stress related bone resorption, (e) electron microscopy studies on the effect of pharmacologic agents on salivary gland cells, and (f) electron microscopy of obligated anaerobic microorganisms in the oral cavity. The overall objective of this research is further basic knowledge and understanding of the ultrastructure of cells and tissues and microorganisms found in the oral cavity, the reaction of such cells and tissues to the introduction of foreign objects such as implants, and to gain insight into the mechanisms leading to periodontal disease. In addition the article will be used in the courses "Introduction to Electron Microscopy" and "Electron Microscopy in Dental Research" for the instruction of dental students. Application received by Commissioner of Customs: October 18, 1977. Advice submitted by the Department of Health, Education, and Welfare on: December 13, 1977.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved.

No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, is being manufactured in the United States. Reasons: Each of the foreign articles provides a range of cutting speeds 0.1 to 20 millimeters per second. The most closely comparable domestic instrument is the Model MT-2B ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Model MT-2B has a range of cutting speeds from 0.09 to 3.2 millimeters per second. The conditions for obtaining high-quality sections that are uniform in thickness, depend to a large extent on the hardness, consistency, toughness and other properties of the specimen materials, the properties of the embedding materials, and geometry of the block. In connection with a prior application (Docket Number 69-00665-33-46500), which relates to the duty-free entry of an article that is identical to those to which the foregoing applications relate, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such (other) factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned.

The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section. In connection with another prior application (Docket Number 70-00077-33-46500) which also relates to an article that is identical to those described above, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that the "production of ultrathin serial sections of specimens that have a great variation in physical properties is very difficult." Accordingly, HEW advises in its respectively cited memoranda, that cutting speeds in excess of 4 millimeters per second are pertinent to the satisfactory sectioning of the specimen materials and the relevant embedding materials that will be used by the applicants in their respective experiments.

For these reasons, we find that the Sorvall Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-2057 Filed 1-24-78; 8:45 am]

[3510-25]

LONG ISLAND UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 73-00406-01-77040. Applicant: Long Island University, Chem-

istry Department, 385 Flatbush Avenue Extension, Brooklyn, N.Y. 11201. Article: Mass Spectrometer, Model CH-7. Manufacturer: Varian MAT, West Germany. Intended use of article: The article will be used as both a teaching and research tool. Studies concern quantitative analysis of trace amounts of material, measurement of molecular weight, scanning of ion fragmentation spectra, determination of appearance potentials and determination of isotope abundance ratio. The research programs involve inorganic, organic, biological, physical, and nuclear chemistry.

Comments: No comments have been received with respect to this application.

Decision: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (August 18, 1969).

Reasons: This application is a resubmission of Docket No. 71-00413-01-77040 which was denied without prejudice to resubmission on September 25, 1972 for information deficiencies.

In response to Question 8, the applicant alleges that the foreign article provides certain features which are pertinent to the purposes for which the foreign article is intended to be used that are unmatched in comparable domestic instruments. However, the National Bureau of Standards in its memoranda dated February 2, 1977 and May 18, 1977 (which references and reaffirms the findings of its memoranda of August 15, 1972, March 12, 1975, and September 9, 1976) advises that these features are either not pertinent within the meaning of § 301.2(n) of the regulations or were matched by features available at the time of order in Nuclide's Model 12-90-G mass spectrometer. A description of the features listed in the response to Question 8 and our discussion thereof follows.

1. Sensitivity—The foreign article yields well evaluable mass spectra at a rate of sample consumed of only 0.01 nanograms per second. The detection limit is 0.001 nanograms of sample consumed per second. All sensitivity values are referred to resolving power M/ΔM of 1000 on the 10 percent valley definition. (Alternate definition: 10^{-12}g/sec cholesterol will produce S/N of 3 to 1 or better at parent peak). Ionizing current 300 μ^a accelerating voltage 2 kV (kilovolts).

Discussions. In the notice of denial without prejudice to resubmission of the original application, the applicant was referred to Section 701.4 of the regulations then in force (15 CFR 301.4 in current regulations) which requires that the specifications of the foreign article which are alleged to be pertinent to the applicant's intended purposes must be in a form that permits comparison with the specifications of domestic instruments. This is especially important in the comparison of mass spectrometers because the specification for any given parameter (resolution, sensitivity, mass range, etc.), is functionally related to the substance used as a reference sample and to the values of other relevant parameters that are correspondingly attained. For example, the specification for resolution is meaningful only if the corresponding value for sensitivity, scan speed, the mass range over which the specified resolution is attainable and the basis for measuring the resolution—i.e., 10 percent valley definition, 50 percent valley definition, one percent cross contribution, etc.—are also given. A basic factor in determining sensitivity is the substance used as the reference sample, the minimum quantity of the sample which provides a useable spectrum, signal-to-noise ratio, the corresponding accelerating voltage and the ionizing current. In this resubmitted application, however, the applicant did not comply with § 301.4 of the applicable regulations.[1]

NBS states and we concur that it is difficult to make a comparison of sensitivity for a given resolution of a mass spectrometer, for various instruments because many sensitivity definitions are employed rendering such comparisons meaningless. NBS notes, for example, that (a) the applicant claims a required sensitivity for the foreign article of: 10^{-12} g/s cholesterol will produce a S/N of 3 to 1 or better at the patent peak with resolution m/m 1000 (10 percent valley), (b) the normal sensitivity of Consolidated Electrodynamic Corporation (CEC; now doing business as DuPont Instruments) is given as: 3×10^{-17} amperes per micron-microampere for mass charge ratio (m/e) 58 of normal butane at a leak rate of 0.2 cubic centimeters per second and a resolving power of 2500, and (c) Nuclide states that the sensitivity in terms of nitrogen partial pressure is less than 5×10^{-14} torr with a standard source; further the Nuclide 12-90-G is capable of detecting above background signals of 10^{-17} amperes or less. In addition, the Department notes that Nuclide's 12-90-G brochure (effective at the time the foreign article was ordered) also states that (1) with the direct insertion probe, 10 nanograms of cholesterol (or similar material) can readily be identified and (2) with a gas chromatograph and single stage glass frit helium separator, 2 nanograms of benzene injected into the column can be detected at a signal-to-noise ratio of *500 to 1* for the parent peak at a *sample flow rate of* 1×10^{-11} *gm/sec* into the separator [Emphasis added to show capability of the 12-90-G after the sample has passed through the gas chromatograph]. Thus NBS feels, and we concur, that the comparison of the sensitivity of various instruments must be done within the same parameters in order to be considered relevant.

Although Nuclide provides sensitivity which, with respect to S/N at a flow rate of 1×10^{-11} g/s, appears superior to that of the foreign article and the applicant makes no claim that the Nuclide 12-90-G is not equivalent with respect to sensitivity, we find that the sensitivity specification of the foreign article is not presented in a form that affords a direct comparison with the same specification of the domestic Nuclide instrument as required by Section 301.4 of the regulations. NBS advises, however, that sensitivity better than that provided by the Nuclide 12-90-G is not pertinent to the applicant's intended purposes. It is noted in this connection, that Nuclide, in a letter to the Department dated June 30, 1969 stated that both its 12-90-G and its smaller 6-60-G could meet the sensitivity specifications of the foreign article.

2. Resolving Power—On the 10 percent valley definition, a resolving power of M/Δ M=1000 is standard; M/Δ M=3000 is the upper limit. With the mechanical slit option the resolution guaranteed is M/Δ M=7000. This resolution over the mass range from 18 to 2500 at scan rate of one mass decade/sec, sensitivity 0.1 nanogram/sec.

[1] In fact the various definitions for sensitivity used by the applicant proved to be very confusing. In the initial submission the specifications of the foreign article cited by the applicant in response to Question 13 (identification of pertinent specifications and comparison with similar characteristics of available domestic instruments) of the application form applicable at the time of submission did not identify the sample, the signal to noise ratio (S/N), accelerating voltage or ionizing current. Although these specifications were in agreement with manufacturer's literature attached to the application, they did not agree fully with specifications provided in response to Question 8 and Question 11. In this, the second, submission the applicant submitted typed undated specifications in response to Question 5 expressing the article's sensitivity as follows: 10^{-12} g/s [grams per second] cholesterol will produce a S/N of 3 to 1 or better at the parent peak with resolution m/m (sic) 1000 (10 percent valley). However, the applicant's purchase specifications and the foreign manufacturer's quotation (no. 187484) express sensitivity as follows: 1×10^{-11} grams/sec flow of cholesterol will give S/N=100:1 with wide slits, at an scan rate of 10 sec/mass decade at resolution 600:1 on the 10 percent valley definition; detection limit of 1×10^{-12} gram/sec of cholesterol under the same conditions with S/N=3:1. In view of the multiplicity of specifications to be considered confusion is to be expected. In this connection, we note that NBS addresses itself to sensitivity specifications claimed for the foreign article which exceed the specifications actually guaranteed.

Discussion. NBS notes in its memorandum of February 2, 1977 that the resolving power with the mechanical slit was not guaranteed by the foreign manufacturer to be M/Δ M=7000. NBS points out not only that the manufacturer quoted a resolving power of only M/Δ M=5000 (10 percent valley) but also that the applicant provided no information indicating that this option was even ordered. In this connection, the Department notes that the mechanical slit option is described in Quotation No. 111169 which is dated November 11, 1969, i.e., after the foreign article was ordered. Pursuant to § 301.6(a)(3) this option cannot be a factor in the Department's decision because it is not an accompanying accessory. The slit option will be discussed further below.

Regarding resolving power without the mechanical slit option, NBS notes that the applicant no longer claims a resolving power of M/Δ M=5000 without the mechanical slit option (e.g., in reply to Question 8 of the initial submission), but changed the specification to correspond to that of the foreign article M/Δ M=3000 (10 percent valley) as the upper limit resolving power (as indicated on the purchase order). The Department notes that, at the time of order, Nuclide provided a guaranteed resolving power of M/Δ M=5000 (10 percent valley) which exceeds the resolving power of the foreign article. The Department further notes that the applicant makes no claim that the 12-90-G is not equivalent to the foreign article with respect to resolution. Accordingly, we find that the Nuclide 12-90-G is scientifically equivalent to the foreign article for the applicant's intended purposes where resolving power is concerned. Moreover, NBS advises that resolving power is not a pertinent issue. ½ North Atlantic).

3. Mass range—The foreign article covers masses one to 1200 at 3 kV and 2-3600 at 1 kV.

Discussion. NBS finds this feature to be pertinent but matched by Nuclide because the 12-90-G provided a mass range of from one to 6500 to satisfy the pertinent aspects of specification 3 at the time of order. In this connection, we note that, at the time of order, Nuclide provided mass ranges of 1-1300 at 5 kV, 1-2600 at 2.5 kV and 1-6500 at 1 kV which compares favorable with the mass ranges of the article.

4. Mass Scale—Both logarithmic and linear mass readout are standard.

Discussion. Although the Department would consider any matching feature that a domestic manufacturer would be willing and able to provide as an option, we note that this feature was a standard item in the 12-90-G at the time of order. Moreover, NBS advises that this feature is a convenience which is not pertinent. Based on the foregoing, we find that the Nuclide 12-90-G is scientifically equivalent to the foreign article with respect to mass scale.

5. Ionizing Voltage—Continuously variable from 5 to 105 volts [v]. Resettable to 0.1 percent, regulated to better than 5×10^{-3} with line voltage fluctuation to 10 percent.

Discussion. The applicant states in both submissions that this work requires a wide range of ionizing voltages "(up to at least 100v, resettable to better than 1 percent)". The applicant also states that he specifically requires for his work the ionizing voltage ranges: 0-20v, 5-25v, and 50-100v. NBS advises that an ionizing voltage of 5 to 100v is pertinent to the applicant's intended purposes. NBS also advises that Nuclide provides an ionizing voltage range variable from 0-100v satisfying the pertinent aspects of this specification. In addition, the Department notes that ionizing voltages of 5 to 105v, resettability to 0.01 percent, and stability of better than 5×10^{-3} as described above is a special order variant of the ionizing voltage specifications not listed in the foreign manufacturer's literature available at the time of order. A Nuclide brochure for the 12-90-G which was received by the Department in August 1969 states: ". . . The electron energy can be varied from 0 to 100 e.v. The potential selected will remain constant to within ±0.02 percent ±0.01 volts. Resettability of the voltage is approximately 20 millivolts hour-to-hour and 50 millivolts day-to-day. Automatic switching between two pre-set levels can be provided." These specifications match the requirement of 0 to 100v, provide resettability ranging from 0.4 percent to 0.02 percent and provide regulations ranging from 2×10^{-3} to 3×10^{-4}.

The applicant makes no claim that feature 5 as described in the foreign manufacturer's quotation could not be provided by Nuclide and Nuclide was not afforded an opportunity to bid on this or any other specification. Accordingly, we find that Nuclide could provide the pertinent aspects of feature 5.

6. Reproducibility—In measuring the ratio of the peaks 43 and 35 amu, reproducibility of ratio to a precision of one percent with a resolution of 600, when measured at 20 minute intervals over a period of 2 hours. In addition, Varian guaranteed accuracy of 0.01 percent on ratio of 1:100 such as H_2/D_2 and C_{12}/C_{13}.

Accuracy of 0.1 percent on ratio of 1:100 such as H_2/D_2 and C_{12}/C_{13} is dependent on a double collector accessory which the applicant did not order as part of the foreign article. Therefore, pursuant to §§ 301.2(d) and 301.6(a)(3) of the regulations, this aspect of feature 6 cannot be a factor in our decision. The balance of feature 6, relating to reproducibility of ratio to a precision of one percent, is a special order variant which was not listed in the specifications of the article available at the time of order but is a part of the foreign manufacturer's quotation (187484) and the applicant's purchase order. Nuclide was not given an opportunity to bid on this specification. Further, the applicant, in the denial without prejudice to resubmission of the initial application, was asked to compare the pertinent specifications of the foreign article with similar pertinent specifications of the 12-90-G and has made no claim that Nuclide could not match feature 6. Moreover, NBS advises that feature 6 could have been satisfied by the domestically manufactured 12-90-G. Accordingly, we find that the 12-90-G is scientifically equivalent to the article with respect to feature 6.

7. Three Separate Entry Devices—These are available, independent from one another with respect to temperature and operation. Each may be connected to the instrument in operational form at any time.

Discussion. We note that Nuclide could provide three or four separate entry devices which can be attached to the source for simultaneous use at the time of order. Therefore, Nuclide could match this feature at the time of order. In addition, NBS advises this feature is a convenience which is not pertinent.

8. Direct Entry—The entry device ESV allows an inlet temperature range from ambient to +300° C in 2 seconds. The ESV can maintain a sample at any intermediate temperature regulated to ±0.5° C.

Discussion. According to §§ 301.2(d) and 301.6(a)(3) of the regulations features not ordered with the article cannot be considered in the Department's determination. Since this feature was not ordered with the article as an accompanying accessory in August 1969 but was ordered in March 1971 the capabilities that it might confer on the article cannot become a factor in our decision.

9. Vacuum System Cooling—The vacuum system may be cooled electrically with a Peltier baffle system.

Discussion. We note that Peltier cooled baffles could have been supplied by Nuclide at the time the article was ordered. Therefore, Nuclide could have matched this feature at the time the article was ordered. Moreover, NBS advises that this feature is not pertinent for the intended purposes.

10. The instrument is very simple to operate, requiring only two manual operations for recording a spectrum (injection and mass scan start).

Discussion. The applicant's program is research oriented with education at a relatively sophisticated level. Although, in response to Question 7, the applicant identifies 5 courses for ad-

vance undergraduate and graduate students involving some use of the foreign article (including one entitled "undergraduate research" and one consisting of "research toward masters degree"), only one student activity is discussed in response to Question 8 (wherein the need for simplicity must be related to the purposes described in response to Question 7). That activity is research by advanced undergraduate students (Chemistry 186). For such research the applicant states that a mass spectrometer must be simple enough for such students to learn to operate in a short time, sufficiently uncomplicated for them to handle without constant supervision, and rugged enough to withstand the wear and tear that relatively untrained personnel may put upon it.

The applicant states that the 12-90-G is a research instrument which is not suited for student use and quotes, in part, undated Nuclide literature entitled "Modular Mass Spectrometers for the Analysis of Gases, Liquids, and Volatile Solids" which describes the 12-90-G as the "ideal basic instrument for both research and control laboratories." The applicant did not attach the quoted literature to the application but the Department found a very similar quotation in specifications for the 12-90-G received in 1966. Section "J" of these specifications terms the 12-90-G the "ideal instrument for both research and control laboratories." But it also states, "The 12-90-G is nevertheless relatively easy to operate, so that experimenters who are not specialists in mass spectrometry can use the instrument with complete confidence."

NBS advises that the applicant's rejection of the Nuclide 12-90-G as unacceptable for teaching purposes is based, not on fact, but on a description (quoted by the applicant above) extracted from promotional literature. The Department cannot regard the comparison of such promotional literature as the comparison of instruments which was requested of the applicant in the denial without prejudice to resubmission of the initial application and which is a requirement of § 301.11(a) of the regulations. For this reason, NBS advises that the applicant's outright rejection of the Nuclide instrument is not justified.

NBS further advises that (a) for the applicant's use "in courses for advanced undergraduates and graduate students" instrument sophistication should pose no significant problem to them or the lecturer and (b) the foreign article is no less complex than the domestic instruments (including the 12-90-G) referred to for comparison purposes by the applicant. Accordingly, NBS advises that feature 10 is not pertinent to the applicant intended purposes. The Department concurs with NBS and moreover finds that such matters as ruggedness are cost-related matters which are not pertinent within the meaning of Subsection 301.2(n) of the regulations.

11. Variable Slit System—Adjustment of a single knob allows variation of the resolution from 0 to 7000 M/ΔM.

Discussion. According to §§ 301.2(d) and 301.6(a)(3) of the regulations, features not ordered with the article cannot be considered in the Department's determination of scientific equivalency. This feature was not ordered with the foreign article. NBS further notes that applicant is quoting specifications in 1969 that are only now being made available by the foreign manufacturer, and in the case of the variable slit system, the foreign manufacturer today does not guarantee M/ΔM=7000 or better as a standard available option. Moreover, the Department notes that Nuclide could have provided a matching variable slit option at the time of order.

In connection with the foregoing discussion of the features listed by the applicant in response to Question 8, we note that Nuclide was not afforded an opportunity to bid on the applicant's technical requirements (although the applicant did request literature from Nuclide and received a response dated May 22, 1968—a full 15 months before the article was ordered). We note further that the Department requested the applicant to compare the pertinent specifications of the foreign article with similar pertinent specifications of Nuclide's 12-90-G in the Denial Without Prejudice to Resubmission of the applicant's initial application for the foreign article. On resubmission, the only reason given for rejecting the 12-90-G was the claim that it was not suited for student use. The balance of the features listed in reply to Question 8 were not compared with similar ones in the 12-90-G, presumably because the applicant considered the 12-90-G, scientifically equivalent to the foreign article in these respects.

Based on the foregoing considerations, NBS advice, our own review of the application as well as other information in our possession (specifications, textbooks, etc.) we find that the Nuclide Model 12-90-G mass spectrometer was of equivalent scientific value to the foreign article for such purposes as this article is intended to be used at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-2503 Filed 1-24-78; 8:45 am]

[3510-25]

NATIONAL INSTITUTES OF HEALTH

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00364. Applicant: DHEW, National Institutes of Health, National Cancer Institute, 9000 Rockville Pike, Building 37, Room 2B23, Bethesda, Md. 20014. Article: LKB 8800A Ultrotome III Ultramicrotome. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of tumor cells and tumor tissues following treatments with various agents (e.g., enzymes, hormones, metabolic inhibitors, etc.). Investigations will involve cyto- and histochemical studies on tumor cells and tumor tissues treated with various chemical and physical agents. The studies will include (a) localization of antigen and complement binding sites, (b) fine structure analysis of membranes, and (c) subcellular changes in the cells. The objectives pursued in the course of the investigations is to understand the alterations which take place in tumor cells following various treatments and to correlate these changes with susceptibility to immune attack.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a cutting speed range of 0.1 to 50 millimeters/second (mm/sec). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec. We are advised by the National Bureau of Standards in its memorandum dated December 6, 1977 that (1) cutting speeds in the excess of 4mm/sec. are pertinent to the applicant's research studies and (2) the domestic instrument does not provide the pertinent feature. We, therefore, find that the

Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Division.

[FR Doc. 78-2054 Filed 1-24-78; 8:45 am]

[3510-25]

STEVENS INSTITUTE OF TECHNOLOGY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00329. Applicant: Stevens Institute of Technology, Castle Point Station, Hoboken, N.J. 07030. Article: PLM-3 Platinum NMR Thermometer and Accessories. Manufacturer: Instruments for Technology, Finland. Intended use of article: The article is intended to be used for studying experimentally low temperature properties of helium-three with the objective of furthering the conceptual understanding of the phenomenon of superfluidity.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides temperature measurements of Helium-Three in its superfluid phases (0.1 to 100 millikelvins). The National Bureau of Standards advises in its memorandum dated December 6, 1977 that (1) the specification of the article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-2055 Filed 1-24-78; 8:45 am]

[3510-25]

UNIVERSITY OF CALIFORNIA—LOS ALAMOS

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Consititution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00338. Applicant: University of California, Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, N. Mex. 87545. Article: Image Converter Camera System with S-20 image tube. Manufacturer: Hadland Photonics, Ltd., United Kingdom. Intended use of article: The article is intended to be used to photograph the behavior of a high velocity (up to 10^8 cm/sec) plasma stream emerging from a coaxial plasma gun. The phenomena to be studied will include the initial gas breakdown and subsequent behavior inside the gun (gun barrel phase) and the behavior of the plasma as it is injected into appropriate magnetic fields. Specific experiments to be conducted include the following:

A. Studies of the initial gas breakdown in the gun.

B. Study of the formation and subsequent behavior of the plasma stream in front of the gun nozzle.

C. The injection of this plasma into a magnetic field.

D. The measurement of the plasma properties such as axial velocity, transverse energy, temperature, impurity content, total energy.

E. Experiments to optimize gun parameters for production of thermonuclear plasmas.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the combination of streak and framing capability with a framing rate of at least 10^6 per second and up to 20 frames per run. The National Bureau of Standards advises in its memorandum dated December 5, 1977, that: (1) The combination of capabilities of the article described above is pertinent to the applicant's intended purposes, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-2056 Filed 1-24-78; 8:45 am]

[3510-25]

COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (1976 ed.), notice is hereby given that a meeting of the Computer Systems Technical Advisory Committee will be held on Thursday, February 16, 1978, at 9:30 a.m. in Room 3817, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Committee advises the Office of Export Administration, Bureau of Trade Regulation, with respect to questions involving: (A) technical matters, (B) Worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls

applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has four parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.
(2) Presentation of papers or comments by the public.
(3) Report on the work programs of the Subcommittees: a. Technology Transfer; b. Foreign Availability; c. Hardware; and d. Licensing Procedures.

EXECUTIVE SESSION

(4) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Acting Assistant Secretary of Commerce for administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10 (d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer Room 3012, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6374).

Dated: January 20, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, Department of Commerce.

[FR Doc. 78-2076 Filed 1-24-78; 8:45 am]

[3510-25]

FOREIGN AVAILABILITY SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (1976 ed.), notice is hereby given that a meeting of the Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, February 14, 1978, at 1:30 p.m. in Room 5611, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975, with the approval of the Director, Office of Export Administration, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving: (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

The Subcommittee meeting agenda has five parts:

GENERAL SESSION

(1) Opening remarks by the Subcommittee Chairman.
(2) Presentation of papers or comments by the public.
(3) Review of RYAD II draft report.
(4) Discussion of other areas to be considered for future reports.

EXECUTIVE SESSION

(5) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5) the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Subcommittee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Industry and Trade Administration, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202-377-4196.

The Complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Ad-

visory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6374).

Dated: January 20, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, Department of Commerce.

[FR Doc. 78-2074 Filed 1-24-78; 8:45 am]

[3510-25]

LICENSING PROCEDURES SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (1976 ed.), notice is hereby given that a meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, February 14, 1978, at 9:30 a.m. in Room 5611, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee was initially established on February 4, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this Subcommittee, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

The Subcommittee meeting agenda has six parts:

GENERAL SESSIONS

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Discussion of proposed modifications to Part 379 (Technical Data) of the Export Administration Regulations.

(4) Discuss current regulations with respect to proposals, documentation, and training.

(5) Discussion of the future work program for the Subcommittee.

EXECUTIVE SESSION

(6) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (6) the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Subcommittee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Industry and Trade Administration, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any Subcommittees thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6374).

Dated: January 20, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, Department of Commerce.

[FR Doc. 78-2075 Filed 1-24-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

FOREIGN FISHING

Proposed Amendment to Schedule of Fees

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Proposed amendment to schedule of fees for foreign fishing.

SUMMARY: This proposed amendment would add sharks and certain species of billfish, and the "ex-vessel" price for each, to the list of species which was published in the FEDERAL REGISTER on October 7, 1977 (42 FR 54588).

DATES: Public comments concerning this proposed amendment must be received no later than midnight, February 15, 1978.

ADDRESS: Comments may be addressed to the Assistant Administrator for Fisheries, NOAA, 3300 Whitehaven Street NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard H. Schaefer, Chief, Fishery Management Operations Division, National Marine Fisheries Service, Washington, D.C. 20235. Telephone: 202-634-7454.

SUPPLEMENTARY INFORMATION: Section 204 of the Fishery Conservation and Management Act requires that certain fees be charged foreign fishermen who desire to participate in fisheries over which the United States exercise exclusive fishery management authority.

A schedule of species together with their "ex-vessel" values from which the fees are derived was published on October 7, 1977. (42 FR 54588).

This proposed amendment would add the following to that list of species:

Species	Average ex-vessel value (per metric ton)
Swordfish, Pacific	$4,040
Striped marlin, Pacific	1,579
Other billfish, Pacific[1]	875

Species	Average ex-vessel value (per metric ton)
Sharks, Atlantic (except dogfish)	140
Sharks, Pacific (except dogfish)	134

[1] Includes blue marlin, black marlin, and sailfish.

Prices are based on U.S. commercial landings in 1976 (source: Data Management and Statistics Division, National Marine Fisheries Service).

Signed at Washington, D.C., this 19th day of January 1978.

WINFRED H. MEIBOHM,
Associate Director.

[FR Doc. 78-2081 Filed 1-24-78; 8:45 am]

[3510-22]

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Public Meeting With Partially Closed Session

Notice is hereby given of a meeting of the Gulf of Mexico Fishery Management Council established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The meeting will be held, Tuesday, Wednesday, and Thursday, February 7, 8, and 9, 1978, in the Fortress Room of the Fort Brown Motor Hotel, 1900 East Elizabeth Street, Brownsville, Tex. The meeting will convene at 1:30 p.m. on February 7, and adjourn at about noon on February 9, 1978. The daily sessions will start at 8:30 a.m. and adjourn at 5 p.m. except as otherwise noted. The meeting may be extended or shortened depending on progress on the agenda.

Proposed Agenda: February 7; (1) Management plans; (2) Personnel and administration categories; (3) Review of foreign fishing applications, if any; *February 8;* (1) Closed session to discuss proposals by potential contractors in a negotiated procurement for the preparation of a draft fishery management plan; (2) Other fishery management business. *February 9;* (1) Other fishery management business.

With the exception of the first agenda item on February 8 the meeting is open to the public. For information on seating arrangements, changes to the agenda, and/or written comments, contact: Mr. Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Fla. 33609; Telephone: 813-228-2815.

The closed session is planned for 8:30 a.m. until 12 noon, but may continue into the afternoon on February 8, 1978, to discuss proposals by potential contractors in a negotiated procurement for the preparation of a draft fishery management plan.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of the General Counsel, formally determined on January 18, 1978 pursuant to section 10(d) of Federal Advisory Committee Act, that the agenda item covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein because these items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c) (4), (6), and (9)(B). (A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce.)

Dated: January 18, 1978.

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

[FR Doc. 78-2017 Filed 1-24-78; 8:45 am]

[3510-25]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

TEXTILE CATEGORY SYSTEM

Correlation; Correction

JANUARY 20, 1978.

AGENCY: Committee for the Implementation of Textile Agreement.

ACTION: Corrections and changes in the Correlation: Textile and apparel categories with tariff schedules of the United States Annotated.

SUMMARY: A notice, published in the FEDERAL REGISTER on January 4, 1978, Part VI, announced adoption of a new textile category system to be effective January 1, 1978. There is published below a list citing corrections and changes in the textile category system. These corrections and changes are identified by page numbers in the correlation which was reproduced in the FEDERAL REGISTER on January 4, 1978.

EFFECTIVE DATE: January 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Leonard A. Mobley, Director, Trade Analysis Division, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-4212.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development, U.S. Department of Commerce.

CORRECTION AND CHANGE SHEET—TEXTILE CATEGORY SYSTEM

Page	Item	Action
Title	Last line	Change officer to office.
V.	Heading	Change conversation to conversion.
1	Conversion factor for category 300.	Change 3.1 to 4.6.
1	Conversion factor for category 301.	Change 3.2 to 4.6.
4	Conversion factor for category 602.	Change 5.3 to 11.6.
5	Conversion factor for category 603.	Change 3.8 to 3.4.
5	Conversion factor for category 604.	Change 5.1 to 4.1.
5	604 310.5050	Eliminate.
5	604 310.5046	Add.
5	604 310.5047	Add.
5	604 310.5048	Add.
61	359 380.3980	Eliminate.
62	359 382.3380	Do.
89	659 372.7000	Add.
91	659 372.7520	Add.
91	659 372.7540	Add.
93	363 366.1860	Eliminate.
93	363 366.1865	Add.
97	369 358.0610	Eliminate.
99	369 366.1855	Add.
101	369 380.3980	Add.
101	369 382.3380	Add.
101	369 385.5520	Eliminate.
101	369 385.6020	Do.
101	369 385.8020	Do.
101	369 385.5500	Add.
101	369 385.6000	Add.
101	369 385.8000	Add.
102	369 727.8210	Eliminate.
102	369 727.8220	Do.
102	369 727.8200	Add.
111	669 358.5020	Eliminate.
111	669 358.5040	Do.
113	2d column, 310.5050	Change to 310.5046, 5047, 5048.
114	Last column, lines 4, 7 and 12.	Change 629 to 627.
114	Last column 358.5020, 358.5040; category 669.	Eliminate.
114	Last column 358.2600; category 369.	Do.
115	3d column, 372.7000—659.	Add.
115	3d column, 372.7520—659.	Add.
115	3d column, 372.7540—659.	Add.
116	1st column, TSUSA 380.3980.	Change 359 to 369.
116	Last column, TSUSA 382.3380.	Do.
116	Last column, 382.3912	Change 312 to 342.

[FR Doc. 78-2048 Filed 1-24-78; 8:45 am]

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

JANUARY 19, 1978.

The USAF Scientific Advisory Board Electronic Systems Division Advisory Group, Air Force Systems Command, will hold meetings on February 9, 1978, from 8:30 a.m. to 5 p.m., and February 10, 1978, from 8:30 a.m. to 12 p.m., at Hanscom Air Force Base, Massachusetts, in the Command Management Center, Building 1606.

The group will receive classified briefings and hold classified discussions on selected Air Force Command, control and communications programs.

The meetings concern matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly the meetings will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at 202-697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 78-2187 Filed 1-24-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. E-9605]

BLACK HILLS POWER & LIGHT CO.

Order of Authorizing Transfer of Electric Facilities

JANUARY 18, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

On September 27, 1977, the Black Hills Power & Light Co. (BHP&L) filed with the Federal Power Commission (predecessor to the Federal Energy Regulatory Commission), pursuant to section 203 of the Federal Power Act, an application seeking authorization for the sale by BHP&L and the purchase by the city of Gillette, Wyo. (city), of a 1-mile section of 69 kV single pole transmission line and a 10,500 kVA substation.

Black Hills Power & Light is incorporated under the laws of the State of South Dakota with its principal place of business in Rapid City, S. Dak. The company is engaged in the generation, transmission, distribution, and sale of electric power in a territory comprising 19 incorporated communities, certain unincorporated communities, and rural areas located in western South Dakota, eastern Wyoming and southeastern Montana utilizing an interconnected transmission network. During 1976, BHP&L generated at its system plants 710,249 MWh; purchased 667,250 MWh, and delivered to other systems 570,970 MWh. The resulting net energy from its system after energy transfers and losses was 743,003 MWh which the company supplied to 40,483 customers.

The city of Gillette operates a small municipally owned electric system without generation. It purchases all of its energy requirements from BHP&L. In 1976, the city purchased 51,948 MWh which it delivered to 4,176 customers all of which are located within the city limits. The city's system is presently experiencing considerable growth requiring it to expand its distribution facilities. As an example, the city's 1972 energy requirements were 28,394 MWh. It expects continued growth resulting from the increased mining of nearby coal deposits.

BHP&L has agreed to sell the facilities in question to the city for $62,482. This amount is stated by BHP&L to be equal to the original cost of the transmission line and substation amounting to $18,070 and $60,049, respectively, minus $15,637 for the accumulated depreciation as of March 1, 1977.

The city has been leasing the substation facilities for $741 per month from BHP&L pursuant to a rental agreement filed with this Commission and designated supplemental No. 1 to FPC rate schedule No. 17, effective December 3, 1969. As a result of the sale, supplement No. 1 should be amended to reflect the sale and a description of the delivery point.

The application states that the city has agreed to purchase the facilities involved in this instant proceeding, and in addition, to provide additional substation facilities when necessary to meet its contemplated load growth.

BHP&L states that the sale of the subject facilities will not affect its ability to provide electric energy at wholesale to the city.

Public notice of the application was issued by the Secretary on September 29, 1977, and published in the FEDERAL REGISTER on October 6, 1977 (42 FR 54457). The notice provided that any protest or petition for intervention in this application should be filed on or before October 11, 1977. No petition or request to be heard has been received.

The Commission finds: (1) The Black Hills Power & Light Co., a corporation, is a public utility within the meaning of section 203 of the Federal Power Act, and, as such, it is subject to the jurisdiction of the Federal Energy Regulatory Commission.

(2) The proposed sale of the electric facilities owned by the Black Hills Power & Light Co. as described above, will constitute a transaction within the purview of section 203 of the Federal Power Act.

(3) The proposed transaction, as described above, upon the terms and conditions of this order, will be consistent with the public interest as expressed in section 203 of the Federal Power Act.

(4) The period of public notice given in this matter is reasonable.

The Commission orders: (A) The proposed transaction, as described above, is authorized and approved upon the terms and conditions and for the purposes set forth in the application, subject to the provisions of this order.

(B) The applicant, Black Hills Power & Light Co., shall record the proposed transaction related to the facilities described above in accordance with the Commission's uniform system of accounts.

(C) This authorization shall expire unless the transaction herein authorized and approved is consummated within 90 days from the date of this order.

(D) The foregoing authorization is without prejudice to the authority to this Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates, or determinations of cost, or any matter

whatsoever now pending or which may come before this Commission.

(E) Nothing in this order shall be construed to imply acquiescence by this Commission is any estimate or determination of cost or any valuation of property claimed or asserted.

(F) Pursuant to this authorization of sale of the described facilities, Black Hills Power & Light Co. is advised that the change in ownership requires a change in supplement No. 1 to rate schedule FPC No. 17 to reflect the sale and a description of the new delivery point which applicant should file within 60 days from the date of this order.

(G) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-2126 Filed 1-24-78; 8:45 am]

Economic Regulatory Administration

CASES FILED WITH THE OFFICE OF ADMINISTRATIVE REVIEW

Week of January 6 through January 13, 1978

Notice is hereby given that during the week of January 6 through January 13, 1978, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be January 25, 1978, or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Administrative Review, Economic Regulatory Administration, Department of Energy, Washington, D.C. 20461.

MELVIN GOLDSTEIN,
Director, Office of Administrative Review.

JANUARY 18, 1978.

APPENDIX—*List of cases received by the Office of Administrative Review*

Week of Jan. 6, 1978 through Jan. 13, 1978

Date	Name and location of applicant	Case No.	Type of submission
Jan. 10, 1978	Buck's Butane & Propane Service San Jose, Calif. If granted: The Nov. 15, 1977 decision and order issued to Buck's Butane & Propane Service would be modified to provide the acting director of enforcement, DOE Region IX an additional period of time in which to prepare remedial orders regarding the level of refunds and payments of interest to be required of Buck's.	DRX-0025	Supplemental order.
Do	Clarke County Supply, Inc., Berryville, Va. If granted: Clarke County Supply, Inc. would be required to file only 1 of 2 monthly survey reports: Form EIA-9 "No. 2 Heating Oil Supply/Price Monitoring Report" or Form EIA-2 "Monthly Coal Report—Retail Dealers—Upper Lake Docks".	DEE-0452	Exception to reporting requirements.
Do	Howmet Aluminum Corp., Lancaster, Pa. If granted: The Howmet Aluminum Corp. would be supplied propane by Suburban Propane Gas, Inc. rather than its base period supplier, Ugite Gas Co.	DEE-0453	Exception to change suppliers..
Do	Jacobus Co. (Quickflash), Milwaukee, Wis. If granted: Jacobus Co (Quickflash) would be permitted to compute retroactively its cost of product in inventory on a separate inventory basis.	DEE-0454	Price exception (pt. 212, subpt. f).
Do	Arizona Fuels Corp., Salt Lake City, Utah. If granted: Arizona Fuels Corp. would receive a reduction of its entitlement purchase obligations pending a final determination on its application for exception.	DEX-0027	Supplemental order.
Do	Charter Oil Co., Jacksonville, Fla. If granted: Charter Oil Co. would receive an exception from the provisions of sec. 212.83 which pertain to the pass through of increased costs for the production levels attained by the firm in December 1977.	DEE-0456	Price exception (§ 212.83).
Do	Coastal States Gas Corp., Houston, Tex. If granted: Coastal States Gas Corp. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Lakin plant.	DEE-0458	Price exception (§ 212.165).
Do	Dorchester Gas Corp.; American Petrofina, Washington, D.C. If granted: The Nov. 22, 1977 decision and order issued to Dorchester Gas Corp. and American Petrofina would be modified with respect to the assignment of certain base period supply obligations.	DEX-0028	Supplemental order.
Do	Doric Petroleum, Inc., Washington, D.C. If granted: Doric Petroleum, Inc. would receive an extension of the exception relief granted in the July 22, 1977 decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Enid plant.	DXE-0457	Extension of the relief granted in *Doric Petroleum, Inc.*, case No. FXE-4353 (decided July 22, 1977) (unreported decision).
Do	Great Souther Oil & Gas Co., Inc., Lafayette, La. If granted: Great Southern Oil & Gas Co., Inc. would be permitted to sell the crude oil produced from the St. Martin No. 1 and Tipton No. 1 wells located in the Anse LaButte Field in St. Martin Parish, La. at upper tier ceiling prices.	DEE-0455	Price exception (§ 212.73).
Do	Phillips-Good Oil Co., Enid, Okla. If granted: The remedial order issued by DOE Region VI on Dec. 20, 1977 would be rescinded and Phillips-Good Oil Co. would not be required to refund overcharges made on its sales of crude oil.	DRA-0108 and DRS-0108	Appeal of remedial order issued by DOE Region VI. Stay request.

Date	Name and location of applicant	Case No.	Type of submission
Jan. 10, 1978	Southland Oil Co./VGS Corp. Jackson, Miss. If granted: The Office of Administrative Review would reduce the level of entitlements exception relief which was granted the Southland Oil Co./VGS Corp. in a decision and order issued on Dec. 20, 1977 on the basis of revised data made available to the DOE.	DEX-0026	Supplemental order.
Do	Common Carrier Pipelines, Washington, D.C. If granted: The Federal Trade Commission would receive access to the confidential material developed by the Interstate Commerce Commission in its investigation of the common carrier pipeline.	DOP-0002	Application for review of ICC confidential information determination.
Do	Lunday-Thagard Oil Co., Washington, D.C. If granted: Lunday-Thagard Oil Co. would receive a stay of its entitlement purchase obligations for December 1977 and January 1978 pending a final determination on its Application for Exception.	DES-0023	Stay request.

NOTICES OF OBJECTION RECEIVED

Week of Jan. 6 through Jan. 13, 1978

Date	Name and location of applicant	Case No.
Jan. 10, 1978	Fountain & Associates Oil & Gas, San Antonio, Tex.	FEE-4436
Do	Polaris Production Corp., Midland, Tex	FMR-0119
Do	B.D.O. Petroleum Corp., New York, N.Y.	DRC-0010

[FR Doc. 78-2082 Filed 1-24-78; 8:45 am]

[1505-01]

Federal Energy Regulatory Commission

[Docket Nos. G-2889, et al.]

APPLICATIONS FOR CERTIFICATES, ABANDONMENT OF SERVICE, AND PETITIONS TO AMEND CERTIFICATES

Correction

In FR Doc. 77-35501 appearing at page 62968 in the issue for Wednesday, December 14, 1977, the following changes should be made to that portion of the table which appears on the right side of page 62969:

1. In the left column, fourth entry from the bottom, add "CI78-179" above "CI72-709".

2. In the left column, third entry from the bottom, add "CI78-180" above "A 11/25/77".

3. In the left column, second entry from the bottom, add "CI78-181" above "A 11/25/77".

4. In the left column, bottom entry, add "CI78-182" above "A 11/25/77".

[1505-01]

[Docket Nos. G-10012, et al.]

APPLICATIONS FOR CERTIFICATES, ABANDONMENT OF SERVICE, AND PETITIONS TO AMEND CERTIFICATES

Correction

In FR Doc. 77-37226 appearing at page 790 in the issue for Wednesday, January 4, 1978, on page 792, add "CI78-227" above "B 12-12-77" in the last entry in the left column of the table.

[6740-02]

SUPRON ENERGY CORP. (FORMERLY SOUTHERN UNION PRODUCTION CO.)

[Docket Nos. CI61-1265, et al.]

Redesignation

JANUARY 17, 1978.

On May 11, 1977, as amended, May 17 and June 2, 1977, the Commission was advised that effective April 18, 1977, the Certificate of Incorporation of Southern Union Production Co. (Southern) was amended to change the name to Supron Energy Corp. (Supron). Supron requests amendment of the certificates and redesignation of the related rate schedules, as listed in the attached Appendix A to reflect the change in name. In addition, Supron is being substituted in the proceedings listed in the attached Appendix B.

Accordingly, the rate schedules listed on the attached Appendix A are redesignated, and the related notices of change in name dated May 5, 1977, are accepted for filing to be effective April 18, 1977, and the certificates issued in the dockets shown on Appendix A are amended to reflect the change in name from Southern to Supron, and Supron is substituted as a party in the proceedings listed in the Appendix B in lieu of Southern.

LOIS D. CASHELL,
Acting Secretary.

APPENDIX B

NATIONAL RATE PROCEEDINGS

Docket Nos. RM75-14, and RM77-13.

RATE SUSPENSION PROCEEDINGS

Docket Nos. RI74-134, RI74-151, RI74-209, RI75-100, RI75-102, RI75-105, and RI76-93.

APPENDIX A.—*Rate schedule designation*

Southern Union Production Co. gas rate schedule No. (former)	Supron Energy Corp. FERC gas rate schedule No. (new)	Certificate docket No.
1	1	CI61-1265
2	2	CI61-1265
3	3	CI61-1265
5	5	CI61-1267
6	6	CI61-1265
7	7	CI61-1268
8	8	CI61-1266
10	10	CI64-282
11	11	CI64-935
12	12	CI65-26
13	13	CI65-263
14	14	CI65-472
15	15	CI65-767
16	16	CI65-846
17 [1]	[1] 17	CI66-403
18	18	CI66-772
19	19	CI66-1003
20	20	CI66-1346
21	21	CI67-304
22	22	CI67-195
24	24	CI68-679
25	25	CI68-1107
26 [1]	[1] 26	CI69-1163
32	32	CI73-605
33	33	CI65-767
34	34	CI75-136
35	35	CI77-314

[1] Operator, et al.

[FR Doc. 78-1941 Filed 1-24-78; 8:45 am]

[6740-02]

[Docket No. CP74-192]

FLORIDA GAS TRANSMISSION CO.

Settlement Conference

JANUARY 18, 1978.

Take notice that on January 25, 1978, at 10 a.m., in a room at the Federal Energy Regulatory Commission, a further settlement conference will be held in the above-referenced proceeding.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2127 Filed 1-24-78; 8:45 am]

[6740-02]

[Docket No. E-9588]

FLORIDA POWER CORP.

Order Authorizing Sale of Certain Electric Facilities

JANUARY 18, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46467 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

On April 8, 1977, Florida Power Corp. (Applicant) filed an application pursuant to section 203 of the Federal Power Act for authority to sell 2.1 miles of transmission facilities to Gulf Power Co. (Gulf).

Applicant is a public utility incorporated in the State of Florida with its principal office in St. Petersburg, Fla., and is engaged in the generation, transmission, distribution, and sale of electricity wholly within the State of Florida.

The transmission facilities to be sold are the westernmost 2.1 miles of applicant's 115 kV transmission line extending from applicant's Port St. Joe substation 37 miles westward to Gulf's Wewa Road substation. The facilities connect the Wewa Road substation to a tap serving Gulf's Parker Road substation, and they are used, and will continue to be used, to supply Gulf's Parker Road substation from its Wewa Road substation as well as part of the interconnection between the Parker Road substation and applicant's Port St. Joe substation.

Applicant has agreed to sell the subject facilities to Gulf for consideration of $146,090. The original cost of the facilities was $274,377, and the accumulated depreciation attributable to the facilities is $44,763. Applicant states that the proposed sale of the subject facilities will provide Gulf with control over its power source to its Parker Road substation, and thereby, will avoid Gulf having to construct an additional transmission line, or to obtain transmission services from applicant, in order to supply this substation.

By letter of May 17, 1977, the Commission Secretary told Gulf that it too must submit an application in accordance with Part 33 of the Commission's regulations under the Act requesting authorization to purchase the above-described facilities from applicant. In a letter to the Commission dated July 25, 1977, Gulf stated that it concurs in Florida Power Corp.'s application, but, Gulf argued, it is not required to file its own application with the Commission in this proceeding because, inter alia, Gulf has previously filed an application with the Securities and Exchange Commission pursuant to the Public Utility Holding Company Act of 1935. Section 318 of the Federal Power Act states that if the acquisition of facilities is subject to a requirement of the Public Utility Holding Company Act and to a requirement of the Federal Power Act, then the acquisition is subject to the requirements of the Public Utility Holding Company Act and not the requirements of the Federal Power Act. In view of section 318, Gulf is not required to file an application in this proceeding with this Commission.

Notice of the proposed sale was given by publication in the FEDERAL REGISTER, stating that any person desiring to be heard or to make any protest with reference to said application should, on or before April 27, 1977, file petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR, 1.8, 1.10), with the Federal Power Commission, Washington, D.C. 20426. No protest or petition to be heard in opposition to the granting of the application has been received.

The Commission finds: (1) Florida Power Corp. is a public utility within the meaning of section 203 of the Federal Power Act, and subject to the jurisdiction of the Commission.

(2) The proposed sale of electric facilities, as described above, will constitute a transaction within the purview of section 203 of the Federal Power Act.

(3) The proposed transaction, as described above, upon the terms and conditions and for the purposes set forth in this order, will be consistent with the public interest as expressed in section 203 of the Federal Power Act.

(4) The period of public notice given in this matter is reasonable.

The Commission orders: (A) The proposed transaction, as described above, is authorized and approved upon the terms and conditions and for the purposes set forth in the application subject to the provisions of this order.

(B) Applicant shall record the proposed transaction related to the facilities and properties described above in accordance with the Commission's uniform system of accounts.

(C) This authorization shall expire unless the transaction herein authorized and approved is consummated within 90 days from the date of issuance of this order.

(D) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates, or determinations of cost, or any matter whatsoever now pending or which may come before this Commission.

(E) Nothing in this order shall be construed to imply acquiescence by this Commission in any estimate or determination of cost or any valuation of property claimed or asserted.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-2128 Filed 1-24-78; 8:45 am]

[6740-02]

[Docket Nos. CP75-104, *et al.*]

HIGH ISLAND OFFSHORE SYSTEM

Notice of Gas Tariff Filing

JANUARY 18, 1978.

Take notice that on December 28, 1977, High Island Offshore System (HIOS) filed its FERC Gas Tariff consisting of Original Volume Nos. 1 and 2.

HIOS requests that the Commission waive the notice requirements of section 154.51 of the Regulations in order to permit the tariff to become effective on January 10, 1978. HIOS states that it is anticipated that gas will be available for transportation in the HIOS system early in January 1978. HIOS states that the requested waiver is necessary in order to avoid a possible delay in the delivery of gas to HIOS from shippers having gas available for transportation in the High Island offshore area.

HIOS states that the Interim Transportation Rate specified in the Schedule of Rates is the same as that approved by the Commission in its order issued December 6, 1977, in this proceeding.

HIOS further states that the demand and commodity rates have not been set forth in the tariff as these rates will be determined in accordance with HIOS' certificate issued in this docket and will be submitted to the Commission prior to the termination of the Interim Transportation Rate. According to HIOS, the demand charge for short haul shippers will be based upon the percentage of capacity which is actually utilized in transporting the maximum daily volumes to be received from such shippers. For long haul shippers, the percentage will be shown as 100 percent. HIOS also enclosed as Original Volume No. 2, conformed copies executed transportation agreements between HIOS of the shippers.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filings of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before January 25, 1978, file with the Federal Energy Regulatory 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 Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2129 Filed 1-24-78; 8:45 am]

[6740-02]

[Docket No. ER77-90]

HOLYOKE WATER POWER CO. AND HOLYOKE POWER & ELECTRIC CO.

Order Approving Settlement Agreements

JANUARY 18, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act) Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 56267 (September 15, 1977) the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC), which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsibile for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On August 3, 1977, the Holyoke Water Power Co. and the Holyoke Power & Electric Co. (hereinafter collectively referred to as "HWP") filed with the Federal Power Commission an executed Settlement Agreement, dated as of July 21, 1977. The Settlement Agreement was executed by HWP, the city of Chicopee and the town of South Hadley, being all of the parties rendering or receiving service under the rate schedule which is the subject of the Commission's proceeding in the above-captioned docket. The Commission finds that the Settlement Agreement is in the public interest and accepts and approves it as hereinafter ordered and conditioned.

Proceedings in this docket were initiated on December 1, 1976, when the HWP tendered for filing a proposed increase in rates to its wholesale customers, the city of Chicopee and the town of South Hadley, Mass. The proposed rates would yield additional revenues from jursidictional sales of $3,202,000 based on the estimated (Period II) test year ended December 31, 1977.

By order issued December 27, 1976, in the above-captioned docket, the Federal Power Commission determined that the contracts between the parties are most reasonably interpreted as requiring prospective relief from the date of a final decision by the appropriate regulatory agency.

Settlement discussions were held by the parties, including the Staff and an executed settlement was reached. As noted previously, the executed Settlement Agreement and a motion for acceptance and approval were filed with the Federal Power Commission on August 3, 1977. Public notice of the filing of the Settlement Agreement was issued on August 15, 1977, with comments, protests and petitions to be filed on or before October 12, 1977. Both Staff and the Intervenor Cities filed comments in support of the proposed settlement which would reduce the originally requested increase of $3,202,000 by $1,399,200. On November 14, 1977, HWP and the Intervenor Cities filed a joint motion for expedited action on the Settlement Agreement. No other comments were received.

In particular, the Settlement Agreement provides for a Period II test year dollar increase of $1,802,800 ($1,157,105 from the city of Chicopee and $645,659 from the town of South Hadley, such revenue level being achieved by reducing the originally proposed demand charges to each customer) and includes an August 1, 1977 effective date. In addition, the Agreement provides that upon Commission approval, HWP agrees to withdraw its petition for review of the Federal Power Commission's December 27, 1976, order which held that the contracts between the parties are most reasonably interpreted as requiring prospective relief from the date of a final decision. Such petition is currently pending before the United States Court of Appeals for the District of Columbia Circuit. Further, the Agreement provides that no principles are being established which would be binding in future cases.

The proposed Settlement Agreement would yield additional revenues from jurisdictional sales of $1,802,800 based on the estimated test year ending December 31, 1977. Staff's analysis indicates that the settlement rate will not produce revenues in excess of Staff's recommended rate of return of 8.74

percent, including 12.20 percent return on common equity with a 50.60 percent common equity ratio.

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.[1] Accordingly, the proposed Settlement Agreement shall be incorporated herein by reference and shall be approved and adopted.

The Commission finds: The Settlement Agreement submitted for the Federal Power Commission approval in this docket on August 3, 1977, should be approved and made effective as hereinafter ordered.

The Commission orders: (A) The Settlement Agreement submitted to the Federal Power Commission on August 3, 1977, in this proceeding is hereby accepted as of August 1, 1977, incorporated herein by reference and approved subject to the following conditions.

(B) HWP is hereby ordered to file within 30 days of the issuance of this order, rate schedules appropriate to reflect terms of the proposed Settlement Agreement.

(C) This order is without prejudice to any findings 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 HWP or any person or party.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-2130 Filed 1-24-78; 8:45 am]

[1] Consonant with the provisions of ordering paragraph (F) of the Federal Power Commission's Order of December 27, 1976, HWP shall file a fuel adjustment clause which conforms to § 35.14 of the Regulations within 30 days of the issuance of this order.

[6740-02]

[Docket No. ER77-511]

NEW YORK POWER POOL

Order Establishing Procedures; Electric Rates

JANUARY 18, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

On July 11, 1977, the New York Power Pool (Pool) tendered for filing a proposed superseding New York Power Pool Agreement containing increased rates and charges for Pool members.[1] By order issued August 1, 1977, the Commission accepted the submittal for filing, suspended the rates and charges for 1 day, to become effective April 5, 1977, subject to refund,[2] and called for a public hearing.

Notice of the Pool submittal was issued on August 1, 1977, with protests or petitions due on or before August 12, 1977. No protests or petitions have been filed.

It is in the public interest to set a date for a prehearing conference in this docket. At the conference, a date shall be set for the Pool's submission of its Case-In-Chief as well as for the service of Staff's top sheets.

The Commission finds: Good cause exists to set a prehearing conference date in this docket.

The Commission orders: (A) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see, Delegation of Authority, 18 CFR 33.5(d)), shall convene a prehearing conference in this proceeding at 10 a.m. on February 7, 1978, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Law Judge is authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure, and is specifically directed to set the dates for the Pool's submission of its Case-In-Chief and Staff's top sheets in this proceeding.

(B) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to § 1.18 of the Commission's Rules of Practice and Procedure.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[1] See Attachment for rate designations and descriptions.

[2] The Pool requested a retroactive effective date of April 4, 1977, the date of initiation of Pool-wide central dispatching of generating units.

NEW YORK POWER POOL DOCKET NO. ER 77-511 RATE SCHEDULE DESIGNATIONS

Filing date: July 11, 1977

Description: Superseding New York Power Pool Agreement

Other party	Rate schedule FPC No.	Supersedes as supplemented FPC No.
Central Hudson Gas & Electric Co.	54	54
Consolidated Edison Co of N.Y.	43	36
Long Island Lighting Co.	26	21
New York State Electric & Gas Corp.	68	66
Niagara Mohawk Power Corp.	99	93
Orange & Rockaldn Utilities.	38	35
Rochester Gas and Electric Corp.	23	20

NON-JURISDICTIONAL.—*Power Authority of the State of New York*

Supplements to all the above Rate Schedules

Supplement No. 1.	Schedule A—reserve factor.
Supplement No. 2.	Schedule B—Capability deficiency charge.
Supplement No. 3.	Schedule C-1—Supplemental capability and energy.
Supplement No. 4.	Schedule C-2—Assured economy capability and economy energy.
Exhibit A.....	Interconnection points.
Exhibit B.....	Methods and procedures No. 1-2. (Method of determining fossil fuel costs.)
Exhibit C.....	Methods and procedures No. 8-0. (Methods for determining operating capability costs.)

NON-JURISDICTIONAL.—*Power Authority of the State of New York*—Continued

Supplements to all the above Rate Schedules

Exhibit D.....	Methods and procedures No. 9-1. (Method for determing incremental and decremental energy production costs for fossil fueled steam generating units.)
Exhibit E.....	Methods and procedures No. 12-1. (Method of determining maintenance costs for fossil fueled steam generating units.)

[FR Doc. 78-2125 Filed 1-24-78; 8:45 am]

[6740-02]

[Docket No. RP76-52, *et al.*]

NORTHERN NATURAL GAS CO.

Technical Conference

JANUARY 18, 1978.

Take notice that on January 24, 1978, at 9 a.m. in a room at the Federal Energy Regulatory Commission, a technical conference will be held on Staff's Draft Environmental Impact Statement in the above-referenced proceeding. The Staff environmental team will be present to answer questions concerning the data contained in the DEIS.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2131 Filed 1-24-78; 8:45 am]

[6740-02]

[Docket Nos. CI77-701, CI77-703]

PENNZOIL LOUISIANA AND TEXAS OFFSHORE, INC. AND PENNZOIL OFFSHORE GAS OPERATORS, INC.

Application for Certificate Pursuant To Optional Procedure

JANUARY 18, 1978.

Take notice that on July 25, 1977, Pennzoil Louisiana and Texas Offshore, Inc. (PLATO) and Pennzoil Offshore Gas Operators, Inc. (POGO), P.O. Box 2967, Houston, Tex. 77001 filed respectively in Docket No. CI77-702 and CI77-703, applications for certificates of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act and section 2.75 of the Commission's General Policy and Interpretations (18 CFR § 2.75). Each applicant requests authorization to sell to Sea Robin Pipe Line Co. (Sea Robin) its gas interests underlying 7 offshore Louisiana blocks, namely, West Cameron Blocks 563, 609, and 617 and Eugene Island Blocks 261, 262, 312, and 333. PLATO requests an initial rate of $3.30/Mcf and POGO asks for approval of a $2.54/Mcf initial rate. Both Applicants request Commission approval of the periodic price escalation methodology which, if approved, would allow the company to recalculate its price based on the most current reserve and cost data. Each Applicant has depth limitation clauses in its contracts with Sea Robin there are approximately 169 Bcf of reserves involved in the 7 blocks which if approved to be sold at the initial rates proposed would result in total charges to the purchasing pipeline of about $477 million over the life of the reserves.

Any person desiring to be heard or to make any protest with reference to said petition should on or before February 9, 1978, file with the Federal Energy 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 therein, must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2132; Filed 1-24-78; 8:45 am]

[Dockets Nos. CP71-264, CP71-276]

SOUTHERN ENERGY CO. AND SOUTHERN NATURAL GAS CO.

Order Granting Further Extension of Time

JANUARY 18, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsibilities for the function under the DOE Act and regulations promulgated thereunder.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

In Opinion No. 622, issued June 28, 1972, 47 FPC 1624 the Federal Power Commission issued certificates of public convenience and necessity authorizing construction and operation of an LNG terminal at Elba Island, Georgia (Docket No. CP71-264) and construction and operation of certain pipeline and related facilities (Docket No. CP71-276) to be utilized in conjunction with a program to import natural gas from Algeria. December 31, 1975, was set as the original deadline for completing construction and placing the facilities in operation. By motion dated November 12, 1975, the Applicants requested a two year extension, alleging delays in foreign and domestic construction, which motion was granted by Commission order issued December 27, 1975. Owing to additional delays, the Commission has been presented with a request for an additional extension which is authorized herein.

On August 8, 1977, the Applicants filed a motion for an extension of the construction completion date alleging additional delays in both foreign and domestic construction. At the time this motion was filed the Applicants' best estimate for completion and testing of the certificated facilities was during the first half of 1978. The Applicants accordingly sought extension until June 30, 1978. On November 22, 1977, the Applicants filed a supplemental motion requesting an extension until December 31, 1978. They cite further unspecified delays, and note that certain appurtenant facilities necessary to accomplish reverse flow of regassified LNG west of the Wrens Station will not be completed until sometime after the start-up of the other LNG facilities. No answers to either of these motions have been received.

The Commission finds: It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the previous orders in the above-captioned dockets be amended as hereafter ordered.

The Commission orders: The order issued December 22, 1975, in Docket Nos. CP71-264 and CP71-276 is amended to provide that the facilities authorized in these dockets be completed and placed in service by December 31, 1978. In all other respects this order shall remain in full force and effect.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-2133 Filed 1-24-78; 8:45 am]

[6740-02]

[Docket Nos. RP73-3 (PGA76-2), RP73-69 and RP72-99 (EPGA76-3)]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Order Disapproving Retroactive Increase in Frozen Rates, and Directing Refunds

JANUARY 18, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

SUMMARY

The Federal Power Commission, by order issued April 5, 1974 (51 FPC 1243, at page 1246), found that the Article IV of a settlement agreement pertaining to the rates of Transcontinental Gas Pipe Line Corp. (Transco) in Docket No. RP73-69 was reasonable and should be approved "[t]o the extent jurisdiction rests with this Commission," but the Commission[1] left for future decision questions pertaining to whether Article IV was consistent with the Economic Stabilization Act of 1970, as amended. Today, we find that Article IV has resulted in a retroactive increase in Transco's rates for natural gas service rendered from July 1, 1973, through August 12, 1973, while those rates were subject to a price freeze, and, therefore, that Article IV is inconsistent with the Economic Stabilization Program. Accordingly, we are ordering a refund of a surcharge which Transco has collected thereunder.

BACKGROUND

On December 15, 1972, Transco tendered for filing in Docket No. RP73-69 certain revised tariff sheets by which it proposed general increases in its rates. After notice, the Commission, by order issued January 31, 1973, among other matters, suspended the use of the revised tariff sheets and consequently, the rate increases, until July 1, 1973, and permitted the intervention, among others, of the Public Service Commission of the State of New York (New York).

The rate increases were subject to Phase III of the President's Economic Stabilization Program. 6 CFR § 130.80 then provided, in this connection, that the regulatory subpart pertaining to increase in rates of public utilities applied "to each rate increase authorized under law to be placed into effect after January 10, 1973." But on June 13, before Transco's suspended rate increases went into effect, the President issued Executive Order 11723 which initiated "pre-Phase IV", as it was called, and imposed "a comprehensive freeze for a maximum period of 60 days on the prices of all commodities and services offered for sale except the prices charged for raw agricultural products." And the Commission, on June 19, 1973 (but effective as of June 13, 1973), issued Order No. 437-B in which it reaffirmed its Statement of General Policy To Implement the Economic Stabilization Act of 1970, as Amended, and Executive Orders 11615 and 11627 (18 CFR §§ 2.90 and 2.90a) and promulgated § 2.90b of its General Policy and Interpretations (18 CFR § 2.90b), which said, among other matters, that the Commission would continue to carry out its responsibilities under the Natural Gas Act and the Federal Power Act by establishing just and reasonable rates.

> With a view toward consistency of those rates with the Economic Stabilization Act of 1970, as amended.

On or about June 13, 1973, the Cost of Living Council adopted regulations to implement the pre-Phase IV price freeze. 6 CFR § 140.40(a) provided, in this connection,

> Any practice which constitutes a means to obtain a price higher than is permitted by this regulation is a violation of this regulation. Such practices include, but are not limited to, devices making use of . . . retroactive increases . . .[2]

The Economic Stabilization Program entered Phase IV on August 13, 1973, at which time the Cost of Living Council's regulations provided, 6 CFR § 150.56,

> Rate increases for commodities or services provided by a public utility are exempt.

On January 4, 1974, the presiding Administrative Law Judge certified to the commission a proposed agreement for settlement of Docket No. RP73-69. Article IV of that agreement utilized a technique which in the past was utilized with so-called "tracking" rate increases for increased costs of purchased gas, and is now utilized with purchased gas adjustment providisons. The technique, simply stated, is to charge (debit) a deferral account with the increased costs associated with sales during one period of time, and to reduce (credit) that account against an adjusted rate (or surcharge) applied to sales during a later period of time. Thus, Article IV provides,

> The settlement agreement herein is based upon a recognition of costs incurred and settlement rates to be collected effective July 1, 1973. However, in compliance with the President's freeze order and in an effort to stabilize Transco's rates for a period of time beyond the freeze period, Transco hereby agrees that it will not place into effect prior to September 1, 1973 the settlement rates provided in Article III hereof; provided, however, in recognition of the legitimate costs to be incurred by Transco during period from July 1, 1973 to September 1, 1973, it is agreed that from after July 1, 1973 until September 1, 1973, Transco shall accumulate and charge to Account No. 186, Miscellaneous Deferred Debits, *an amount of costs represented by the difference between the rates in effect as of April 1, 1973 (the currently effective rates) and the settlement rates provided in Article III hereof based upon actual sales and services rendered during such period.* [viz., July 1, 1973, to September 1, 1973, most of which was included in the pre-phase IV price freeze]; provided, further, that such accumulated amount shall, for rate purposes, be treated in the same manner as a blance in the Unrecovered Purchased Gas Cost Account. . . . Accordingly, any such amount would be included in the determination of the amount of rate adjustment by Transco for the next subsequent effective date occurring at least thirty (30) days from September 1, 1973. . . ." (Emphasis added.)

Article IV also provides,

> It is understood and agreed that the foregoing rate treatment shall be subject to the approval of the Cost of Living Council or any successor agency under the Economic Stabilization Act of 1970, as amended and extended, either by specific ruling or by general rules and regulations as are applicable. It is further agreed and understood that such rate treatment shall not be effectuated by Transco unless the Cost of Living Coun-

[1] As used herein, the term "Commission" means the Federal Power Commission in contexts prior to October 1, 1977, and the Federal Energy Regulatory Commission in contexts on and after that date.

[2] Similar language appears in 6 CFR § 150.20 applicable to Phase IV.

cil or successor agency, either by specific approval or by general rules and regulations as are applicable, permits such increased rates to be reflected in the rates of Transco's customers.

The Commission, by order issued April 5, 1974 (51 FPC 1243), approved the settlement agreement with certain modifications. It said, beginning at page 1245, that New York, among others, filed comments in opposition to Article IV:

The commenting parties express the view that Article IV of the settlement would, in effect, result in circumvention of the price freeze by Transco, and would be contrary to the policy and regulations of the Cost of Living Council. Transco replies that pursuant to Article IV it would not be collecting increased rates for sales made during the price freeze period, but rather simply deferring costs incurred during the price freeze period for collection at a later date. The disagreement between the parties appears to be one purely of semantics.

Article IV provides that the specified procedures shall be subject to approval by the Cost of Living Council or 'successor agency'. Transco, in its motion for approval of the settlement, argues that this Commission is in a position to approve the proposed procedures as the 'successor agency', referring to the fact that on August 7, 1973, the Cost of Living Council published its final Phase IV regulations to be effective from and after August 13, 1973. These regulations provide, in Section 150.56, that 'Rate increases for commodities or services provided by a public utility are exempt.' Transco argues that the effect of this exemption of utilities was to give this Commission full power to approve rates in accordance with the standards of the Natural Gas Act, and, therefore, the power to approve Article IV of the Settlement.

We are unable to determine on the record before us whether authority to approve Article IV resides with this Commission or with the Cost of Living Council. The Phase IV regulations under which we would have authority in this matter, apply only from and after August 13, 1973, and it is true that Transco's collection of the deferred amount will occur under Article IV subsequent to August 13, 1973. Yet the amounts to be collected are clearly applicable to sales made by Transco during the price freeze. To the extent the Cost of Living Council retains jurisdiction to approve the provisions of Article IV of the settlement, we defer to that jurisdiction. To the extent jurisdiction rests with this Commission, we find that Article IV is reasonable, and should be approved. The amounts to be recovered represent costs which we have found justified and approved to be included in the settlement cost of service and related rates. Article IV is specifically approved as to all amounts related to the period from August 13, 1973, to September 1, 1973.

In light of the foregoing we shall require Transco, as a condition to approval of the proposed settlement, to make application to the Cost of Living Council for approval of the procedures set forth in Article IV as it applies to amounts deferred during the period July 1, 1973, through August 12, 1973. At such time as Transco applies to this Commission for authorization to track these deferred amounts, it shall submit a statement outlining its efforts to obtain Cost of Living Council approval, and the results of such efforts. We shall consider such representations by Transco in determining the action to be taken.

Transco applied for such approval by letter dated April 11, 1974; and the Cost of Living Council, on April 18, 1974, replied that it would be inappropriate to approve or disapprove Article IV, explaining that " 'costs' do not include revenues lost or foregone because of Stabilization Regulations":

It is the opinion of the Council that, while the FPC is free to judge the reasonableness of rate increases based on all the facts and circumstances and without adherence to Economic Stabilization pricing rules, the FPC should not approve any rate increase which is specifically based upon the principle of retroactive recovery of revenues which were not permissible prior to August 12, 1973, and which could not have been recovered under the Phase IV rules. To permit such rate increases would be to nullify the purposes of the Economic Stabilization Act and the results achieved thereunder.

Transco sought clarification by letter dated April 26, 1974. (The Economic Stabilization Act of 1970, as amended, expired at midnight, April 30, 1974.) And the Cost of Living Council replied again on June 4, 1974, stating,

During the meeting held on May 28, 1974, at your request, you advised me that your proposed rate increase does in fact include a temporary 'surcharge' designed to recoup revenues lost because cost-justified price increases had to be deferred during the 1973 price freeze.

The Cost of Living Council takes the general position that any action taken after the end of controls to recover specific revenues which were prohibited during the Economic Stabilization Program is unlawful.

The Cost of Living Council thereby equated the procedures set forth in Article IV to the unlawful practice of "back billing", and reaffirmed its prior position.

On or about June 28, 1974, Transco sought reconsideration, and by letter dated August 13, 1974, the Office of Economic Stabilization of the Department of the Treasury, as successor to the Cost of Living Council, reaffirmed the prior decisions.

Transco, on or about September 20, 1974, filed a Complaint against the Department of the Treasury and others in the United States District Court for the District of Columbia, Civil Action No. 74-1389, seeking an order which would vacate and set aside the Office of Economic Stabilization's disapproval of Article IV. On October 17, 1975, the parties entered into a Stipulation to the effect that (1) the litigation was moot[3], (2) because the litigation was moot, the determinations by the Cost of Living Council and the Office of Economic Stabilization did not prohibit implementation of Article IV, and (3) because the litigation was moot, the implementation of Article IV was subject to the exclusive jurisdiction of the Commission under the Natural Gas Act. And by order also dated October 17, 1975, the Honorable Joseph C. Waddy dismissed the litigation for mootness.

On March 31, 1976, Transco tendered for filing in the captioned dockets certain revised tariff sheets embodying, among other matters, a proposed rate increase of 2.0 cents per Mcf to recover costs incurred by Transco during the pre-Phase IV price freeze. New York, on April 21, 1976, filed a Protest asking the Commission to "reject so much of the rate filing as purports to provide for recovery over a six months period of the increased revenues which Transco was required to forego as a result of the . . . price freeze in effect between June 13, 1973 and August 12, 1973 . . . or to suspend this part of the proposed increase for such period of time as may be necessary for the Commission to receive and consider briefs from all interested parties on the legal and factual issues involved." Transco filed a response on April 27, 1976. And the Commission, by order issued April 30, 1976, among other matters, accepted the revised tariff sheets for filing and suspended their use until May 2, 1976, and ordered briefing of the price freeze issues.

In the case before us, Transco and others agreed to Article IV while the Economic Stabilization Act was still in effect and, in the eyes of the Cost of Living Council and the Office of Economic Stabilization, the implementation of Article IV after the expiration of price controls would operate to violate both the Economic Stabilization Act and the regulations thereunder. While we therefore have reservations with respect to the legal basis for the Stipulation, it would appear that Transco and the Department of the Treasury are bound by it.

Position of the Parties

Initial and reply briefs were filed by Transco, New York and the Commission staff.

Transco argues that under the terms of the Stipulation by which the District Court litigation was dismissed for

[3] The stipulation of mootness relied principally upon *United States* v. *State of California, et al.*, 504 F. 2d 750 (1974), cert. denied, 421 U.S. 1015 (1975), wherein Judge Estes said, speaking for the Temporary Emergency Court of Appeals, at page 755,

The second exception to the general expiration provision of Section 218 [of the Economic Stabilization Act of 1970, as amended] is that 'such expiration shall not affect . . . any action or proceeding based upon any act committed prior to May 1, 1974.' This provision is clearly designed to allow the initiation of proceedings after the expiration date of the Act, so long as such proceedings are based upon an act committed before expiration.

mootness, the implementation of Article IV is subject to the *exclusive* jurisdiction of the Commission, and the rulings of the Cost of Living Council and the Office of Economic Stabilization do not prohibit implementation of Article IV. Transco argues, additionally, that in its order of April 5, 1974, approving the settlement agreement, the Commission approved as just and reasonable the costs incurred by Transco from July 1, 1973, through August 31, 1973, and, as a result, "the only lawful action which the Commission can now take is approval of the specific tracking filing here involved."

The Commission staff supports Transco, stating,

> There can be no question that the Commission in its order of April 5, 1974, gave full approval to Article IV by stating "To the extent jurisdiction rests with this Commission, we find that Article IV is reasonable, and should be approved".

And the staff characterizes the "essential issue raised by New York's protest" as

> . . . whether the Commission can now vacate or revoke its prior approval of Article IV, and whether, in light of the representations of the Cost of Living Council and the Office of Economic Stabilization, it should do so,

concluding that, "In the staff's judgment the Commission should not and cannot." And, finally, the staff points out that Transco made refunds to its customers in reliance upon the Commission's approval of the settlement agreement and, therefore, "the Commission should not now revoke the prior approval."

New York, on the other hand, characterizes the "underlying issue before the Commission" as

> . . . whether Transco . . . should now be permitted to recoup from its customers the increased revenues foregone during the freeze through a temporary surcharge on its currently effective rates.

New York asserts, in this connection, that it was not the intent of the parties to the settlement agreement that Transco be permitted to charge its customers for the increased revenues foregone as a result of the freeze unless it was affirmatively determined by the Cost of Living Council, or its successor under the Economic Stabilization Program, that such charges would be lawful under the Economic Stabilization Act; that the Cost of Living Council and the Office of Economic Stabilization specifically rejected Article IV as being unlawful; and the fact that *United States* v. *California, supra,* precluded judicial review of those agencies' determinations does not transform the Commission into a "successor agency" within the meaning of Article IV. New York asserts that the parties could not reach a substantive agreement with respect to the foregone revenues and, therefore, negotiated a procedural agreement by which, in the words of New York, "Transco would accumulate and charge to Account 186 an amount reflecting the difference between the previously effective rates and the settlement rates."

In reply, Transco asserts,

> New York's principal argument . . . boils down to the simple proposition that, whatever may be the actual lawfulness of this Commission's approval of the collection by Transco of its legitimate freeze period costs, Transco did not receive a specific piece of paper from the Cost of Living Council . . . or successor agency which states that such approval is lawful and, therefore, the terms of Article IV have not been complied with and the Commission may not approve the collection. New York also argues that, even if this interpretation of Article IV is incorrect, the Commission should still regard the [Cost of Living Council] letters as governing.

Transco points out, in this connection, that Article IV provides that its approval by the Cost of Living Council may be "by general rules and regulations as are applicable"; and it argues that 6 CFR § 150.56, which exempted public utility rate increases from Phase IV "exempted Transco from the scope of the Economic Stabilization Act and restored full authority to the Commission to sanction rates in accordance with the standards of the Natural Gas Act." And Transco repeats its position that the Stipulation in the District Court is lawful and binding and, therefore, the Commission "is exclusively empowered to rule on the instant surcharge proposal" and must authorize it in conformance with its previous finding.

The staff claims, in reply, that New York's arguments must be rejected because they conflict with the Stipulation in the District Court. The staff claims, additionally, that the Commission agreed to be bound by the ruling of the Cost of Living Council only if that body had jurisdiction in the matter:

> In light of the rulings of the Cost of Living Council it is clear that if the Council had jurisdiction over the matter, it would reject Article IV. The . . . Commission, however, does have jurisdiction in the matter, and has approved Article IV.[4]

And the staff concludes that no facts or circumstances have been shown which would warrant any change in the Commission's prior approval of the settlement agreement.

New York, in reply, disagrees with the staff's formulation of the "essential issue", asserting that New York "seeks not the abrogration of the terms of Article IV of the Settlement Agreement approved by the Commission[,] but its enforcement." Article IV precludes the presently proposed surcharge, New York asserts, because the rate treatment therein was not approved by the Cost of Living Council or the Office of Economic Stabilization, which office was the Cost of Living Council's only successor "under the Economic Stabilization Act of 1970, as amended and extended", within the meaning of that phrase in Article IV. And finally, New York asserts, since the Commission conditioned its approval of Article IV upon Transco's applying to the Cost of Living Council for approval of the procedures set forth therein, Transco knew, when it made refunds based on the settlement rates, that it was assuming the risk that it might never be permitted to impose the surcharge which is now before the Commission.

[4] The staff thereby implies that the Cost of Living Council did not have jurisdiction, but does not explain why.

Discussion

Transco's surcharge was permitted to go into effect, subject to refund, on May 2, 1976, and in view of its temporary character, it has expired. Transco claims that the amounts which it collected thereunder are "costs". New York, on the other hand, contends that those amounts are "foregone revenues". In view of this difference in terminology, which the Commission characterized on April 5, 1974, as "one purely of semantics," it is appropriate to begin our analysis by focusing upon the nature of the accumulations in Account No. 186 which were recovered by Transco's surcharge.

As appears from Article IV of the settlement agreement, Transco was to accumulate in Account No. 186 an amount of costs which was to be measured by the difference between the rates in effect on July 1, 1973 (the date within the pre-Phase IV price freeze on which its then-proposed suspended rates would have gone into effect), and the settlement rates which went into effect on September 1, 1973[5], "based upon actual sales and services rendered during such period" (viz., July 1, 1973, to September 1, 1973). Account No. 186 entitled "Miscellaneous Deferred Debits" is an asset account which includes "all debits not elsewhere provided for, such as . . . unusual or extraordinary expenses not included in other accounts which are in process of amortization. . . ." 18 CFR, Part 201.

The process of rate-making practiced by this Commission allows a public utility to set rates which will cover its

[5] The $3,932,252 in issue is limited to the accumulation from July 1, 1973, through August 12, 1973, after which Phase IV went into effect. Conversely, New York does not take issue with respect to the accumulation beginning August 13, 1973, through August 31, 1973.

operating costs and result in a reasonable rate of return on the property devoted to its business. The utility's costs are, therefore, to be recovered dollar for dollar, and are said to be "flowed through" in setting its rates. When Article IV is considered in the light of this flow-through concept, and in the light of what may be debited to Account No. 186, it becomes apparent that Transco is referring to the costs which enter the rate-making formula, and that New York is referring to the equal amount of revenues which must be collected to recover those costs. In other words, the difference in terminology is one of perspective.

The same difference in perspective appears within Article IV of the settlement agreement. While Transco could not accumulate foregone revenues in Account No. 186, it could accumulate costs and later amortize them. But the amounts of accumulations were measured by the revenues which were foregone by Transco during the pre-Phase IV price freeze. And Transco would amortize the accumulations, or at least credit them, against the surcharge in question.

Turning to the issues involving the Economic Stabilization Act of 1970, as amended, we would observe that the Commission was not a party to the District Court litigation and, therefore, we believe that we are not bound by the terms of the Stipulation. Nonetheless, we believe that the Stipulation binds Transco and the Department of the Treasury and, as a result, that it precludes judicial review of the Office of Economic Stabilization's affirmation of the Cost of Living Council's determination that Article IV is inconsistent with the Economic Stabilization Program.[6] As a further result, the Stipulation leaves the implementation or final rejection of Article IV to our exclusive jurisdiction. But we, and not the Stipulation, will decide upon the appropirate statutory standard; and we, and not the Stipulation, will decide upon the weight to be given to the Cost of Living Council and Office of Economic Stabilization decisions.

The Economic Stabilization Act of 1970, as amended, did not establish rate-making machinery to supersede the areas of economic activity regulated by the Commission. Instead, it supplemented the Federal Power Act and the Natural Gas Act in much the same way that the Environmental Policy Act of 1969 supplements those statutes. In furtherance of that concept, the Commission issued a statement of policy in Order No 437 on August 18, 1971, effective as of August 15, 1971, implementing the Economic Stabilization Act of 1970, as amended, and Executive Order 11615 which stabilized prices, rents, wages and salaries for a period of 90 days from August 15, 1971, and established the Cost of Living Council which was specifically authorized to utilize the services of other agencies, such as the Federal Power Commission. On November 16, 1971, the Commission issued Order No. 437-A which reaffirmed Order No. 437 and promulgated further regulations to implement Executive Order 11627 which, in turn, authorized certain increases in rates during Phase II of the Economic Stabilization Program (effective November 14, 1971) if found to be consistent with the Economic Stabilization Act of 1970, as amended.

The Economic Stabilization Program entered Phase III, a period of price, rent, wage and salary reporting and monitoring, as a result of Executive Order 11695 issued January 11, 1973. And finally, it entered pre-Phase IV, as noted, as a result of Executive Order 11723, issued June 13, 1973, which order was superseded in part by Executive Order 11730 issued July 18, 1973, establishing Phase IV effective August 13, 1973. Executive Order 11730 confirmed and ratified all other orders which were in effect on July 18, 1973, including Executive Orders 11615, 11627 and 11695.

No party contends that the matter which is before us is not "saved" by Section 218 of the Economic Stabilization Act of 1970, as amended.[7] Indeed, the Commission's order of April 5, 1974, indicates that Article IV was drafted during the pre-Phase IV price freeze (as the prospective language therein confirms), during which period Cost of Living Council approval of the rate treatment therein would clearly have been required. But the settlement agreement was not finally certified to the Commission for approval until Phase IV had gone into effect; and although rate increases of public utilities were then exempt from stabilization, the provision in Article IV requiring Cost of Living Council approval had not been eliminated or modified. The Commission could, of course, have conditioned its approval of the settlement agreement upon Transco's receipt of approval of the rate treatment in Article IV from the Cost of Living Council, which approval is required by the terms of Article IV, but the Commission appears to have been concerned that the Cost of Living Council might not issue a ruling on the merits in the light of 6 CFR § 150.56. Accordingly, the Commission conditioned its approval of the settlement agreement upon Transco's *applying* to the Cost of Living Council for approval (which condition was subsequently fulfilled), stating in Ordering Paragraph (C), among other matters,

> At such time as Transco applies to this Commission for authorization to track the deferred amounts under said Article IV, it shall submit, as part of its application, a statement outlining its efforts to obtain Cost of Living Council approval, and the results of such efforts.

And the Commission said that when Transco applied for such tracking authorization it would consider Transco's representations "in determining the action to be taken." The Commission thereby left for future decision questions pertaining to Transco's possible failure to obtain Cost of Living Council approval of the then-proposed rate treatment in Article IV, whether through outright rejection of Article IV or failure to obtain a ruling on the merits. These issues have been pending in Docket No. RP73-69 at least since April 5, 1974, prior to the expiration of the Economic Stabilization Act, and they are now ripe for decision.

Since we have before us questions which were left unresolved by the Commission's order of April 5, 1974, we believe that Order Nos. 437, 437-A and 437-B continue to reflect the policy of the Commission in carrying out our regulatory duties under the Natural Gas Act with respect to such questions. Under that policy, we are required by 18 CFR § 2.90b, as noted, to establish just and reasonable rates under the Natural Gas Act "with a view toward consistency of those rates with the Economic Stabilization Act of 1970 as amended." A rate which would be "just and reasonable" within the meaning of Section 4 of the Natural Gas Act, but which would violate the Economic Stabilization Act of 1970, as amended, and/or its implementing orders and/or regulations, would in turn be unjust and unreasonable within the meaning of the Natural Gas Act to the extent of such violation. In other words, the Cost of Living Council, and later the Office of Economic Stabilization, were delegated the authority to determine the extent to which natural gas rates subject to the Commission's jurisdiction might violate the economic stabilization law, orders and/or regulations and, consequently, also the Natural Gas Act.[8] But they were not delegated

[6] This assumes, of course, that judicial review is not precluded under the principles of *United States* v. *California*, *supra*.

[7] 12 U.S.C. § 218 provided, "The authority to issue and enforce orders and regulations under this title expires at midnight April 30, 1974, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to May 1, 1974."

[8] We find, in this connection, the Cost of Living Council and the Office of Economic Stabilization acted within the scope of their authority in considering, on the merits, Transco's application for approval of the procedures set forth in Article IV. But, as noted, we believe that the stipulation in the District Court precludes the Office of Economic Stabilization from acting further.

authority to determine the extent to which such rates might violate the Natural Gas Act other than in an economic stabilization context.

We find, therefore, that the Economic Stabilization Act of 1970, as amended, has continued viability with respect to the matter which is before us and, as a result, that the appropriate legal standard to apply is the "just and reasonable" standard of the Natural Gas Act to the extent that such standard is not inconsistent with the policies of the Economic Stabilization Act. 18 CFR § 2.90b. We find, additionally, that while 6 CFR § 150.56 exempted public utility rate increases from Phase IV, it did not exempt public utilities from Phase IV generally.[9] And we find incorrect Transco's position in its brief opposing exceptions that 6 CFR § 150.56 "exempted Transco from the scope of the Economic Stabilization Act and restored full authority to the Commission to sanction rates in accordance with the standards of the Natural Gas Act."

We conclude, therefore, that 6 CFR § 150.1(d) was applicable to public utilities, including Transco, during Phase IV:

> Price renegotiation provisions in price or rent contracts which depend for their operation upon the modification of or termination of the Economic Stabilization Program, were previously declared to be inoperative as unreasonably inconsistent with the goals of the Economic Stabilization Program. Such renegotiation provisions continue to be inoperative on the same ground. This part shall not operate to permit:
>
> (1) A retroactive increase in prices or rents for goods or services sold or leased while those prices or rents were subject to past or present provisions of this title, or
>
> (2) A prospective increase in prices or rents under the terms of a contract subject to a decision and order issued at any time pursuant to this title, except to the extent consistent with such decision and order.

Indeed, one of the policies of the Economic Stabilization Program throughout its various phases was the prohibition of practices by which prices which were frozen or otherwise stabilized during one phase might be raised retroactively in a subsequent phase or after decontrol, thereby nullifying the effects of the prior freeze or other stabilization. Such a practice was specifically prohibited by Executive Order 11695 in essentially the same language as 6 CFR § 150.1(d). The Commission specifically provided in Order No. 437-A that increases retroactive to Phase I would not be allowed, and the Commission in fact prohibited such a retroactive increase in its order issued February 14, 1977, in *Tennessee Gas Pipeline Company, a Division of Tenneco, Inc.*, Docket Nos. RP71-6, *et al.*[10]

Although the Federal Power Commission on April 5, 1974, approved Article IV "[t]o the extent jurisdiction rests with this Commission", we read such approval in context as being an exercise of its authority under the Natural Gas Act without also considering possible inconsistencies with the Economic Stabilization Act: First, the Commission was unsure of its jurisdiction under the Economic Stabilization Act, as Transco concedes. Second, the Finding Paragraph states that the settlement agreement (which includes Article IV) "is reasonable and proper and in the public interest in carrying out the provisions of the Natural Gas Act", without also mentioning the Economic Stabilization Act. And third, the Commission appears to have deferred any decisions under the Economic Stabilization Act by directing Transco to file an application with the Cost of Living Council and stating that it would later consider the results of such action.

Furthermore, we find that the Federal Power Commission did not have exclusive authority to act in the premises because the Cost of Living Council then had the primary responsibility under the Economic Stabilization Act of 1970, as amended, for determining whether Article IV was consistent with the Economic Stabilization Program. And we reject the staff's position that the Commission "gave full approval to Article IV."

Although Transco's surcharge was applied to natural gas service which was rendered for a limited period of time beginning May 2, 1976, we find that it clearly resulted in a retroactive increase in Transco's rates for natural gas service rendered from July 1, 1973, through August 12, 1973. We agree, in this connection, with the similar findings of the Cost of Living Council and the Office of Economic Stabilization that implementation of Article IV would have such a result. In the context of the Economic Stabilization Program, the "foregone revenues" perspective of the ratemaking formula is the significant one. And since the revenues (and costs) foregone by Transco were measured, in the words of Article IV, by the "actual sales and services rendered during such period" (viz., July 1, 1973, to September 1, 1973, but limited for present purposes through August 12, 1973), Transco's surcharge accomplished precisely what was forbidden by 6 CFR § 150.1(d). Transco, New York and others negotiated a settlement rate in Docket No. RP73-69 which, insofar as concerns the period from July 1, 1973, through August 12, 1973, depended for its effectiveness upon the modification or termination of the Economic Stabilization Program. We find that such rate is inoperative for that period as being unreasonably inconsistent with the goals of the Economic Stabilization Program. And we find that Article IV is unjust and unreasonable insofar, but only insofar, as it is inconsistent with the Economic Stabilization Program and, therefore, violative of 18 CFR § 2.90b. And, lastly, we find that the revenues which were collected by Transco thereunder should be refunded with interest.

Finally, we agree with New York's basic position that Transco was not authorized by the terms of Article IV to have collected the surcharge because of a condition precedent to its collection—approval by the "Cost of Living Council or successor agency"—has not occurred. Assuming *arguendo* that the Federal Power Commission, and this Commission as its successor, is a "successor agency under the Economic Stabilization Act, as amended and extended", within the meaning of Article IV,[11] Transco agreed in Article IV not to impose a surcharge "unless the Cost of Living Council or successor agency, either by specific approval or by general rules and regulations as are applicable, authorized Transco to charge the increased rates. Today, we join the Cost of Living Council and the Office of Economic Stabilization in rejecting the procedures described

[9] 6 CFR § 140.2, which was applicable to the pre-Phase IV price freeze, defines the term "exemption" as meaning "a general waiver of the requirements of all rules, regulations, and orders issued pursuant to the Act." Since that provision was superseded by the Phase IV regulations, and since the Phase IV regulations did not include a similar definition, we believe that we are justified in concluding that the exemption of public utility rate increases from Phase IV did not also exempt public utilities, as such, from Phase IV.

[10] A petition for review was filed on June 7, 1977, in the United States District Court for the District of Columbia, sub nom *Tennessee Gas Pipeline Company* v. *Federal Power Commission, No. 77-1511.*

[11] The Federal Power Commission was not, and this Commission as its successor is not, a "successor agency under the Economic Stabilization Act, as amended and extended," because neither agency was formally designated as such by an Executive Order. The authority which we exercise today was possessed by the Federal Power Commission from the beginning of economic stabilization, and is possessed by this Commission as its successor, but was subservant to the dominant authority of the Cost of Living Council and other bodies under the Executive Orders which implemented the Economic Stabilization Act. The Office of Economic Stabilization, which was the last successor to possess the dominant authority, was legally disabled by the Stipulation in the District Court litigation from acting further in the premises, thereby leaving the Federal Power Commission, and this Commission as its successor, with the exclusive authority in the premises under the Economic Stabilization Act.

in Article IV and, as a result, the condition precedent will not occur.[12]

The Commission orders: (A) Within 60 days from the date of issuance of this order, Transcontinental Gas Pipe Line Corporation shall refund, with interest at 9% per annum from May 2, 1976, the revenues collected based on charges to its Miscellaneous Deferred Debits Account in Docket No. RP73-69 during the period from and including July 1, 1973, through August 12, 1973.

(B) The refunds mandated by Ordering Paragraph (A) shall be based upon the sales of Transcontinental Gas Pipe Line Corporation from and including July 1, 1973, through August 12, 1973, and shall be reported to the Commission in accordance with 18 CFR § 154.67(c). One copy of each such refund report shall be transmitted concurrently to each State Commission having jurisdiction over the customers of Transcontinental Gas Pipe Line Corporation to receive the refunds.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-2134 Filed 1-24-78; 8:45 am]

[12] That part of the Stipulation in the District Court litigation which states that the determinations of the Cost of Living Council and the Office of Economic Stabilization "do not prohibit the implementation of Article IV" is not a "specific approval" of the surcharge. Nor is 6 CFR § 150.56 a general regulatory approval in the light of 6 CFR § 150.1(d)(1).

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 847-5; PP 6G1757/T137]

GLYPHOSATE

Renewal of Temporary Tolerances

On September 17, 1976, the Environmental Protection Agency (EPA) gave notice (41 FR 40220) that in response to a pesticide petition (PP 6G1757) submitted to the Agency by Monsanto Co., 800 N. Lindbergh Blvd., St. Louis, Mo. 63166, temporary tolerances were established for combined residues of the herbicide glyphosate (*N*-(phosphonomethyl) glycine) and its metabolite aminomethylphosphonic acid in or on the raw agricultural commodities cottonseed at 5 parts per million (ppm), soybean grain, soybean forage, and soybean hay at 10 ppm, cotton forage at 20 ppm, and the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep at 0.1 ppm. These temporary tolerances expired September 7, 1977.

Monsanto Co. has requested a one-year renewal of these temporary tolerances both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of an experimental use permit that is being extended concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 69 Stat. 751; 7 U.S.C. 136(a) et seq.).

The scientific data reported and all other relevant material have been evaluated, and it has been determined that a renewal of the temporary tolerances will protect the public health. (A related document renewing a feed additive regulation for residues of glyphosate in soybean hulls appears elsewhere in today's FEDERAL REGISTER). Therefore the temporary tolerances are renewed on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Monsanto Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the Food and Drug Administration.

These temporary tolerances expire January 17, 1979. Residues not in excess of 5 ppm remaining in or on cottonseed; 10 ppm remaining in or on soybean grain, forage, and hay; 20 ppm remaining in or on cotton forage; and 0.1 ppm remaining in the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These Temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Special Registrations Branch, Registration Division (WH-567), Office of Pesticide Programs, Room 315, East Tower, 401 M Street SW., Washington, D.C. 20460 202-755-4851.

(Sec. 408(j), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j).)

Dated: January 13, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-2036 Filed 1-24-78; 8:45 am]

[6560-01]

[FRL 847-2; PF86]

PESTICIDE PROGRAMS

Filing of Pesticide Petition

BASF Wyandotte Corp., 100 Cherry Hill Road, P.O. Box 181, Parsippany, N.J. 07054, has submitted a petition (PP 8F2033) to the Environmental Protection Agency (EPA) which proposes that 40 CFR 180.355 be amended by establishing a tolerance of 0.50 part per million for the combined residues of the herbicide bentazon (3-Isopropyl-1H-2,1,3-benzothiadiazine-4(3H)-one 2,2-dioxide) and its 6- and 8-hydroxy metabolites in or on the raw agricultural commodities beans and peas (succulent). The proposed analytical method for determining residues is gas chromatography using a flame photometric detector in the sulfur specific mode. Notice of this submission is given pursuant to the provisions of Section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the FEDERAL REGISTER section, Technical Services Division, (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning this petition may be directed to Product Manager (PM)25, Registration Division (WH-567), Office of Pesticide Programs, at the above address or by telephone at 202-426-2456. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the FEDERAL REGISTER Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: January 17, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-2037 Filed 1-24-78; 8:45 am]

[6560-01]

[FRL 847-1; OTS-040002]

REPORT BY TSCA INTERAGENCY TESTING COMMITTEE

Extension of Comment Period; Availability of Documents

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period; availability of documents.

SUMMARY: On October 12, 1977, EPA published a notice in the FEDERAL

REGISTER inviting all interested persons to submit comments within 90 days on a report by the Toxic Substances Control Act (TSCA) Interagency Testing Committee (ITC). The report also appeared in the October 12, 1977 FEDERAL REGISTER. This notice extends the deadline for comments on the ITC report from January 12 to March 12, 1978. Written comments shall bear the identifying notation OTS-040002 and should be submitted in triplicate to the U.S. Environmental Protection Agency, Office of Toxic Substances (WH-557), 401 M Street SW., Washington, D.C. 20460, Attention: Joan Urquhart. All written comments will be available for public inspection in Room 623 East Tower, at the same address, between 8:30 a.m. and 4:30 p.m., weekdays.

Also in the October 12, 1977 FEDERAL REGISTER notice, EPA announced that dossiers for specific chemicals, containing references used in developing the ITC report, would be available within a few weeks. The dossiers are now available. Copies may be obtained by ordering from the National Technical Information Service (NTIS), Springfield, Va. 22161, 703-557-4650. Reference should be made to document number PB-275-367. Price per printed copy is $13 for those copies mailed to addressees in the United States and $26 for those copies mailed to addressees outside the United States. Microfiche copies are $3 for those copies mailed to addressees within the United States and $4.50 for those copies mailed to addressees outside the United States. To facilitate review, a limited number of copies will be available at no cost for associations, societies, and other membership groups, and single copies will be available to individual firms, from the Director, Industry Assistance Office, OTS (TS-788), Environmental Protection Agency, Washington, D.C. 20460, 202-755-0535).

Dated: January 17, 1978.

STEVEN D. JELLINEK,
Assistant Administrator for Toxic Substances.

[FR Doc. 78-2038 Filed 1-24-78; 8:45 am]

[6560-01]

[FRL 846-8; OPP-42005E]

WYOMING

Final Approval of State Plan for the Certification of Pesticide Applicators

Section 4(a)(2) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.), and the implementing regulations of 40 CFR Part 171, require each State desiring to certify applicators of restricted use pesticides to submit a plan for such purpose to the Environmental Protection Agency. On January 9, 1976, the Wyoming State Plan was approved by EPA contingent upon promulgation of necessary regulations under the Wyoming Environmental Pesticide Control Act. Notice of contingent approval was published in the FEDERAL REGISTER on January 29, 1976 (41 FR 4359).

Subsequently, on May 26 and September 29, 1977, Wyoming submitted final regulations to implement the Plan and to meet the terms of the contingent approval. These final regulations differed substantially from the draft regulations upon which the contingent approval was based. On November 18, 1977 (42 FR 59548), EPA published its intent to approve the Wyoming Plan as amended and allowed thirty days for public comment on the changes in the Plan. No comments were received. Therefore, the Regional Administrator, EPA Region VIII, gives notice that the Wyoming State Plan is now a fully approved state plan.

Dated: January 13, 1978.

ALAN MERSON,
Regional Administrator, Region VIII.

[FR Doc. 78-2039 Filed 1-24-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

CABLE SIGNAL LEAKAGE ADVISORY COMMITTEE

Establishment of a Federal Advisory Committee

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the Federal Communications Commission is establishing a new advisory committee, the Advisory Committee for Cable Signal Leakage, for an initial period of one year. The Commission has determined that establishment of this committee is in the public interest and necessary in order for the FCC and other participating Federal agencies to properly discharge their responsibilities.

The purpose of the Advisory Committee for Cable Signal Leakage is to assist in the design of a research program necessary to protect against interference to aeronautical and marine navigation and communications from cable television systems. The committee will also monitor progress of the research and recommend areas for additional study. The committee will consist of representatives of the Federal Communications Commission, the Federal Aviation Administration, the U.S. Department of Commerce (Office of Telecommunications), the National Cable Television Association, and other interested parties.

Individuals desiring to participate in the work of the committee may contact Robert Powers, Cable Television Bureau, 2025 M Street NW., Washington, D.C. 20554, telephone 632-9797, for further information.

For the Federal Communications Commission.

WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-2079 Filed 1-24-78; 8:45 am]

[6712-01]

FCC SETS NEW SYSTEM FOR ASSIGNING DOCKET NUMBERS

DECEMBER 30, 1977.

Effective January 3, the Commission will institute a new system for assigning docket numbers. The new docket designation will include reference to the type of service, the year in which the docket was established and the number assigned. The docket numbers will follow in sequence, regardless of the service involved. The following examples illustrate the new numbering system:

BC Docket No. 78-1 (first docket established in 1978; Broadcast proceeding)
CC Docket No. 78-2 (second docket established in 1978; Common Carrier proceeding)
SS Docket No. 78-3 (Safety and Special proceeding)
BC Docket No. 78-4 (second Broadcast docket of the year)
CT Docket No. 78-5 (Cable Television proceeding)
GEN Docket No. 78-6 (a proceeding involving two or more Bureaus)

When reference is made to a docket established under the new numbering system the entire designator (BC Docket No. 78-4) should be used. The new numbering system will not affect in any way the numbers previously assigned for existing dockets.

For the Federal Communications Commission.

William J. Tricarico,
Secretary.

[FR Doc. 78-2080 Filed 1-24-78; 8:45 am]

[6712-01]

[Report No. 1097]

PETITIONS FOR RECONSIDERATION OF ACTIONS IN RULEMAKING PROCEEDINGS FILED

JANUARY 18, 1978.

Docket or RM No.	Rule No.	Subject	Date received
20548	Secs. 73.35, 73.240, 73.636.	Amendment of §§ 73.35, 73.240 and 73.636 of the Commission's rules relating to multiple ownership of standard, FM, and television broadcast stations.	

Docket or RM No.	Rule No.	Subject	Date received
20548	Secs. 73.35, 73.240, 73.636.	Filed by Alan Y. Naftalin, attorney for Great Trails Broadcasting Corp.	Jan. 6, 1978.

NOTE.—Oppositions to petitions for reconsideration must be filed on or before February 9, 1978. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

For the Federal Communications Commission.

WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-2078 Filed 1-24-78; 8:45 am]

[6712-01]

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

JANUARY 18, 1978.

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

To: RTCM Officers, Executive Committee Representatives and Alternates, and Special Committee Chairman.
Subject: Executive Committee Meeting, Thursday, February 16, 1978.

The next Executive Committee Meeting will be on Thursday, February 16, at 9:30 a.m. in Conference Room 847, 1919 M Street NW., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Introduction of Attendees; Adoption of Agenda.
3. Acceptance of the Minutes of Executive Committee Meetings.
4. Committee Reports—SC-65: "Ship Radar"; SC-66: "Receiver Standards for the Maritime Mobile Service"; SC-69: "WARC Advisory Committee"; SC-70: "Minimum Performance Standards (MPS)—Marine Loran-C Receiving Equipment"; SC-71: "VHF Automated Radiotelephone Systems"; and SC-72: "Numerical Identification of Stations in Maritime Telecommunications Systems."
5. New Membership Applications for Executive Committee Approval.
6. Approval of SC-65 "Ship Radar" papers.
7. Approval of SC-66 "Receiver Standards" paper.
8. Approval of establishment of SC-73 "Minimum Performance Standards (MPS)—Marine Omega Receiving Equipment."
9. Report of Nominating Committee for RTCM officers.
10. Acceptance of First Quarter FY-78 Financial Statement
11. Acceptance of FY-1977 Audit Report
12. Discussion on Establishment of RTCM Award for Outstanding Technical Papers.
13. Report on 1978 Assembly Meeting.
14. Summary Reports and Announcements.
15. New business.
16. Establishment of next meeting date.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat, phone: 202-632-6490.

For the Federal Communications Commission.

WILLIAM J. TRICARICO,
Secretary.

[FR DOC. 78-2077 Filed 1-24-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

[Amdt. No. 5 to Commission Order No. 1 (Revised)]

SECTION 7. SPECIFIC AUTHORITIES DELEGATED TO THE MANAGING DIRECTOR

Organization and Functions

Subsection 7.21 of the Revised Order is amended to give the Managing Director additional authority to carry out certain provisions of 46 CFR Part 507. The new subsection is amended to read:

7.21 Authority pursuant to section 19 of the Merchant Marine Act of 1920 and 46 CFR Part 507 to (1) issue orders of the Commission requiring a "favored carrier" to show cause why such carrier is not in violation of 46 CFR Part 507 and why it should not be ordered to cease and desist such violations whenever the Commission receives notification from the U.S. Customs Service or is otherwise aware that a vessel owned, operated, controlled by, or carrying cargo for such "favored carrier" has departed a U.S. port while carrying cargo destined for Guatemala and such carrier does not have an Equalization Fee Payment Guarantee on file with the Commission or such carrier does not file an Equalization Fee or Summary Report of Cargo Carryings within four days of his departure from the last U.S. port of call; (2) to reject any Surety Bond (FMC Form 128), Equalization Fee Payment Guarantee (FMC Form 129) or Summary Report of Cargo Carryings (FMC Form 147) whenever such forms are incomplete, inaccurate or incorrectly filed or completed as required by 46 CFR Part 507; (3) receive any payment of money due under 46 CFR Part 507; (4) to return any Equalization Fee whenever it is determined that (a) the particular shipment is not receiving benefits under the Guatemalan industrial development laws or the Central American Agreement on Tax Incentives for Industrial Development, (b) the Government of Guatemala is waiving the imposition of Decree 41-71 penalties on all cargo carried by non-favored carriers, or (c) the Government of Guatemala is waiving the imposition of Decree 41-71 penalties on the same class of cargo for which the refund is requested (commodity, container, etc.,) carried by non-favored carriers; (5) return any amount received as a guarantee for the payment of Equalization Fees upon a showing that the carrier has withdrawn from the U.S./Guatemalan trade and that all Equalization Fees and Summary Reports have been filed; and (6) amend, by appropriate notice in the FEDERAL REGISTER, the list of "favored carriers" designated in 46 CFR 507.2 whenever the Managing Director determines that (a) an unlisted carrier is a Guatemalan-flag or associated carrier, or (b) that a listed carrier is not a Guatemalan-flag or associated carrier.

JANUARY 13, 1978.

By the Commission.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc. 78-2090 Filed 1-24-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

CHEMICAL NEW YORK CORP.

Proposed Expansion of Activities of Sun States Life Insurance Co. and Great Lakes Insurance Co.

Chemical New York Corp., New York, N.Y., has applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to expand the activities of its subsidiaries, Sun States Life Insurance Co., Cleveland Ohio, and Great Lakes Insurance Co., Cleveland, Ohio. Notice of the application was published on November 22, 1977, in The New York Times, a newspaper circulated in New York, N.Y., and on November 17, 1977, in The Plain Dealer, a newspaper circulated in Cleveland, Ohio.

Applicant states that by the proposed expansion, the two subsidiaries would engage in the activity of reinsuring credit life and credit accident and health insurance written in connection with extensions of credit by Applicant's indirect subsidiaries in Arizona, Indiana, Kentucky, Mississippi, and Oklahoma. Such activities have

been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 17, 1978.

Board of Governors of the Federal Reserve System, January 19, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-2156 Filed 1-24-78; 8:45 am]

[6210-01]

CHILTON BANCSHARES, INC.

Formation of Bank Holding Company

Chilton Bancshares, Inc., Thorsby, Ala., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 84 per cent of the voting shares of Chilton County Bank, Thorsby, Ala. The factors that are considered in acting on the application are set forth in § 3(c) of the act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than February 14, 1978.

Board of Governors of the Federal Reserve System, January 18, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-2157 Filed 1-24-78; 8:45 am]

[6210-01]

DESHLER STATE CO.

Formation of Bank Holding Company

Deshler State Co., Deshler, Nebr., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The Nebraska Security Bank, Deshler, Nebr. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 9, 1978.

Board of Governors of the Federal Reserve System, January 19, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-2158 Filed 1-24-78; 8:45 am]

[6210-01]

GROOM BANCSHARES, INC.

Formation of Bank Holding Company

Groom Bancshares, Inc., Groom, Tex., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of The State National Bank of Grooms, Grooms, Tex. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 22, 1978.

Board of Governors of the Federal Reserve System, January 19, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-2159 Filed 1-24-78; 8:45 am]

[6210-01]

MERCANTILE BANCORPORATION, INC.

Proposed Acquisition of Thorp Credit Co. of Charleston

Mercantile Bancorporation, Inc., St. Louis, Mo., has applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire, through its subsidiary, Franklin Finance Co., Clayton, Mo., the assets of Thorp Credit Co. of Charleston, Charleston, W. Va. Notice of the application was published on November 5, 1977, in the Charleston Gazette, a newspaper circulated in Charleston, W. Va.

Applicant states that the proposed subsidiary would engage in the activities of making direct consumer loans under the West Virginia Industrial Loan Act (operating as an industrial loan company) and of selling credit related life and disability insurance. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consumation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 14, 1978.

The Board of Governors of the Federal Reserve System, January 18, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-2160 Filed 1-24-78; 8:45 am]

[6210-01]

FEDERAL OPEN MARKET COMMITTEE

Domestic Policy Directive of December 19-20, 1977

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on December 19-20, 1977.[1]

[1] The Record of Policy Actions of the Committee for the meeting of December 19-20, 1977, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

The information reviewed at this meeting suggests that real output of goods and services is growing in the current quarter at about the pace in the third quarter. The dollar value of total retail sales, which had increased sharply in October, rose considerably further in November. Industrial production continued to expand, and employment increased substantially. However, the unemployment rate, at 6.9 per cent, remained in the narrow range prevailing since April. The wholesale price index for all commodities rose sharply in November for the second successive month, reflecting another large increase in average prices of farm products and foods. However, the rise in average prices of industrial commodities was less rapid than in the preceding 2 months. The index of average hourly earnins has advanced at a somewhat faster pace so far this year than it had on the average during 1976.

The dollar has been under considerable pressure in foreign exchange markets in recent weeks, and its trade-weighted value against major foreign currencies has declined more than 3 per cent further since mid-November. In October the U.S. foreign trade defict widened sharply, primarily as a result of the dock strike at many U.S. ports.

M-1—which had expanded substantially in October—declined slightly in November, and M-2 increased relatively little. The total of savings deposits and small-denomination time deposits at commercial banks declined somewhat, but growth in large-denomination time deposits accelerated sharply further as credit demands remained strong. Inflows to nonbank thrift institutions slowed further in November. Market interest rates have changed relatively little since mid-November.

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster bank reserve and other financial conditions that will encourage continued economic expansion and help resist inflationary pressures, while contributing to a sustainable pattern of international transactions.

At its meeting on October 18, 1977, the Committee agreed that growth of M-1, M-2, and M-3 within ranges of 4 to 6½ percent, 6½ to 9 percent, and 8 to 10½ percent, respectively, from the third quarter of 1977 to the third quarter of 1978 appears to be cnsistent with these objections. These ranges are subject to reconsideration at any time as conditions warrant.

At this time, the Committee seeks to maintain about the prevailing money market conditions during the period immediately ahead, provided that monetary aggregates appear to be growing at approximately the rates currently expected, which are believed to be on a path reasonably consistent with the longer-run ranges for monetary aggregates cited in the preceding paragraph. Specifically, the Committee seeks to maintain the weekly-average Federal funds rate at about the current level, so long as M-1 and M-2 appear to be growing over the December-January period at annual rates within ranges of 2½ to 8½ percent and 6 to 10 percent, respectively.

If, giving approximately equal weight to M-1 and M-2, it appears that growth rates over the 2-month period are approaching or moving beyond the limits of the indicated ranges, the operational objective for the weekly-average Federal funds rate shall be modified in an orderly fashion within a range of 6¼ to 6¾ percent. In the conduct of day-to-day operations, account shall be taken of emerging financial market conditions, including the unsettled conditions in foreign exchange markets.

If it appears during the period before the next meeting that the operating constraints specified above are proving to be significantly inconsistent, the Manager is promptly to notify the Chairman who will then decide whether the situation calls for supplementary instructions from the Committee.

NOTE.—On January 9, 1978, the Committee modified the domestic policy directive adopted at its meeting of December 19-20, 1977, by raising the range for the Federal funds rate to 6½ to 7 percent and by instructing the Manager to raise the rate to 6¾ percent over the next few days.

By order of the Federal Open Market Committee, January 20, 1978.

ARTHUR L. BROIDA,
Secretary.

[FR Doc. 78-2161 Filed 1-24-78; 8:45 am]

[6210-01]

ROYAL TRUSTCO LTD.

Acquisition of Bank

Royal Trustco Ltd., Ottawa, Ontario, Canada, a wholly-owned subsidiary of the Royal Trust Co., Quebec, Canada, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to indirectly acquire, through Royal Trust Bank Corp., Miami, Fla., 51 percent or more of the voting shares of the American Bank of Orange County, Orlando, Fla. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 7, 1978.

Board of Governors of the Federal Reserve System, January 23, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-2264 Filed 1-24-78; 8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on January 19, 1978. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FEC and ICC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before February 13, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL ELECTION COMMISSION

In a Decision dated April 20, 1977 (File B-130961), the Comptroller General considered whether 44 U.S.C. 3512 applies to the Federal Election Commission (FEC) and concluded that it does and that, accordingly, FEC's information-gathering activities are subject to review and clearance by GAO. The FEC's Form 3 and supporting schedules, which are discussed in this notice, represent FEC's first submission to GAO under the Federal Reports Act.

The Federal Election Commission (FEC) requests clearance of revisions to its Form 3 and supporting schedules. Included in the revision are FEC Form 3, Report of Receipts and Expenditures for a Candidate or Committee Supporting Candidate(s) for Nomination or Election to Federal Office; Schedule A, Itemized Receipts; Schedule B, Itemized Expenditures; Schedule C, Debts and Obligations; Schedule D, Itemized Receipts, Sales and Collections; Schedule E, Itemized Independent Expenditures; and a new schedule, Schedule F, Itemized Coordinated Expenditures Made by Political Party Committees. Most revisions are simply clarification of what information needs to be reported and greater detail has been provided concerning reporting of contributions in-kind, transfers and primary and general receipts.

Any candidate for Federal Office who has not been granted a waiver or any political committee which receives contributions or makes expenditures in excess of $1,000 in any calendar quarter during an election year (or the combined total of $5,000 of receipts and expenditures in the case of a can-

didate or authorized committees in a non-election year) must file reports of receipts and expenditures on FEC Form 3. Political committees not receiving or expending more than $1,000 in a calendar quarter of any election year (or the combined total of $5,000 of receipts and expenditures in the case of a candidate or an authorized committee in a non-election year) may file on FEC Form 3a except that a pre-election, a post-election and an annual report must be filed by all reporting candidates and committees on FEC Form 3.

The FEC estimates that respondents to Form 3 are comprised of four categories as follow: approximately 1,400 candidates whose reporting time averages 2.5 hours each report; 3,200 candidate committees whose reporting time averages 4.5 hours each report; 800 political party committees whose reporting time averages 12 hours per response; and other party committees whose reporting time averages 10 hours per report.

INTERSTATE COMMERCE COMMISSION

The ICC requests an extension without change clearance of Quarterly Report of Revenues, Expenses and Statistics, Form QFF, which is required to be filed by some 146 Class A freight forwarders purusant to Section 412 of the Interstate Commerce Act. Data collected by the form are used for economic regulatory purposes. Reports are mandatory and available for use by the public. The ICC estimates that reporting time averages 9 hours per report.

The ICC requests an extension without change clearance of Quarterly Report of Revenues, Expenses and Statistics, Form QWS, which is required to be filed by some 90 carriers by water having average annual revenues of $100,000 or more pursuant to Section 313 of the Interstate Commerce Act. Reports are mandatory and available for use by the public. Data collected by Form QWS are used for economic regulatory purposes. The ICC estimates that reporting time averages 3½ hours per report.

JOHN M. LOVELADY,
Assistant Director,
Regulatory Reports Review.

[FR Doc. 78-1996 Filed 1-24-78; 8:45 am]

[4110-08]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Assistant Secretary for Health

NATIONAL COMMISSION FOR THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

Notice of Meeting

The National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research will meet on February 10 and 11, 1978, in Conference Room 6, C Wing, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. The meeting will convene at 9 a.m. each day and will be open to the public, subject to the limitations of available space. Topics included in the mandate to the Commission under the National Research Act (Pub. L. 93-348), as amended, including the performance of institutional review boards, the basic ethical principles that should underlie the conduct of research on human subjects, delivery of health services under programs conducted or supported by the Department of Health, Education, and Welfare (including comments on proposed regulations applicable to sterilizations) and other matters identified in the legislative mandate to the Commission, will be the agenda for this meeting.

Written materials of any length may be submitted to the Commission at any time. Requests for information should be directed to Ms. Betsy Singer, Information Officer, 301-496-7776, Westwood Building, Room 125, 5333 Westbard Avenue, Bethesda, Md. 20016.

Dated: January 18, 1978.

MICHAEL S. YESLEY,
Staff Director, National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

[FR Doc. 78-2064 Filed 1-24-78; 8:45 am]

[4110-02]

Office of Education

GUARANTEED STUDENT LOAN PROGRAM

Special Allowance for Quarter Ending December 31, 1977

The Commissioner announces that for the 3-month period ending December 31, 1977, and under the statutory formula of section 438(b) of the Higher Education Act of 1965, a special allowance at the annual rate of 2⅞ percent will be paid to holders of eligible loans in the guaranteed student loan program.

Using the statutory formula, the special allowance for this 3-month period was computed by determining the average of the bond equivalent rates of the 91-day Treasury bills for this period (6.32 percent), by subtracting 3.5 percent from this average, by rounding the resultant percent (2.82) upward to the nearest one-eight of 1 percent (2.875), and by dividing the resultant percent by 4 (0.71875 percent). Thus the special allowance to be paid for this period will be 0.71875 percent of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by lenders.

(20 U.S.C. 1087-1(b).)

Dated: January 19, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-2063 Filed 1-24-78; 8:45 am]

[4110-12]

Office of Human Development Services

[Program Announcement No. 13629-782]

REHABILITATION LONG-TERM TRAINING

Announcement of Grants for FY 1978

The Rehabilitation Services Administration, Office of Human Development Services, announces that applications will be accepted from State vocational rehabilitation agencies and other public or nonprofit agencies and organizations, including institutions of higher education, wishing to compete for grants in fiscal year 1978 under the Rehabilitation Long-Term Training Grant Program authorized by section 203 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 762).

Applications in the areas of "Rehabilitation Medicine," "Rehabilitation Counseling," "Prosthetics and Orthotics," "Rehabilitation Continuing Education," and "Experimental and Innovative Training Projects" will be accepted until March 24, 1978.

Applications in all other areas of rehabilitation long-term training will be accepted until April 21, 1978.

All applications received by these closing dates which are complete and conform to the requirements of this program announcement will be accepted for review and considered for an award.

Regulations governing rehabilitation long-term training were published in the FEDERAL REGISTER in Subpart A and Subpart E, Part 1362 of Chapter XIII of Title 45 of the Code of Federal Regulations (45 CFR Part 1362) on November 25, 1975.

Scope of this Program Announcement: This program announcement identifies the general program objectives of the Rehabilitation Long-Term Training Program for Fiscal Year 1978.

A. *Program purpose.* Long-term training grants in vocational rehabilitation are made for the purpose of paying part of the costs of projects designed to increase the supply of personnel available for employment in public and private agencies involved in the rehabilitation of physically and mentally handicapped individuals, especially those who are the most severely disabled. Long-term training projects include: Training projects in established rehabilitation disciplines, experimental and innovative training projects; and rehabilitation continuing education programs.

B. *Eligible applicants.* Applications may be submitted by State vocational rehabilitation agencies and other public or nonprofit agencies or organizations, including institutions of higher education.

C. *Available funds.* An estimated $28 million will be available for rehabilitation long-term training grants during the 1978—1979 academic year beginning July 1, 1978. Of the 425 rehabilitation long-term training projects funded during the 1977-1978 academic year, 130 new and competing extension applications were approved and funded. The size of the individual grants is variable and may range from approximately $10,000 to approximately $200,000.

D. *Program objectives and priorities for funding.* Grants are made to provide a balanced program of assistance to meet the medical, vocational and other personnel training needs of both public and private rehabilitation programs and institutions. In awarding long-term training grants, priority will be given to the support of ongoing training projects which are eligible for continuation grants and which have been determined to be making satisfactory progress toward achieving established objectives. In addition, special priority will be assigned to training in those professional fields which directly support and enhance the vocational rehabilitation service delivery activities of the State vocational rehabilitation agencies.

E. *Grantee Share of Project.* It is expected that grantees will provide some of the total project costs. Grantee contributions must be project-related and allowable under the Department's applicable cost principles in 45 CFR Part 74, Subpart Q. Institutions of higher learning and other nonprofit institutions may consider actual indirect costs in excess of the 8 percent allowed on training grants as part of the grantee contribution to the project.

F. *The application process—OMB Circular A-95 Clearinghouse Notice.* Applicants for rehabilitation long-term training grants are not routinely required to notify the State and Areawide A-95 Clearinghouse of the intent to apply for Federal assistance. States are authorized to extend the project notification and review procedures of OMB Circular A-95 to include training grants. If the applicant's State has extended the coverage of OMB Circular A-95 to this program, however, the Clearinghouse procedures must be observed.

State vocational rehabilitation agency review. Applicants are advised to consult with their State vocational rehabilitation agency in the initial stages of application development. Applications submitted under this program are not expected to have State vocational rehabilitation agency approval before submission to the Rehabilitation Services Administration. State vocational rehabilitation agencies are requested to review and comment on the application after formal submission.

Application submission. In order to be considered for a rehabilitation long-term training grant, all applications must be submitted on standard forms provided for this purpose by the Commissioner, Rehabilitation Services Administration, in accordance with guidelines established by the Commissioner. The application shall be executed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award, including the regulations for the Rehabilitation Long-Term Training Program.

One signed original and two copies of the grant application, including all attachments, are required.

1. Applications for the support of special long-term training projects of national scope including experimental and innovative training projects, should be addressed as follows: Division of Grants and Contracts Management, Office of Human Development Services, Room 1427, 330 C Street SW., Washington, D.C. 20201.

Special long-term training projects of national scope are those projects which are designed to: (a) have a direct impact on vocational rehabilitation programs throughout the country; (b) have objectives which, if achieved, could result in an improved delivery system for vocational rehabilitation services, especially as it relates to those with the most severe handicaps; and which could affect national policies or standards established for the rehabilitation training program; (c) encompass participants from all sections of the country and do not necessarily relate to a single rehabilitation field of practice; and (d) be conducted by an institution, agency or organization with the capapcity to offer training in more than one geographical location.

2. Applications for the support of long-term training projects of Regional scope should be addressed to the appropriate Director, Office of Rehabilitation Services as follows:

REGION I

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, John F. Kennedy Federal Building, Room 2011, Government Center, Boston, Mass. 02203.

REGION II

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, 26 Federal Plaza, Room 4106, New York, N.Y. 10007.

REGION III

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, 3535 Market Street, P.O. Box 13716, Philadelphia, Pa. 19101.

REGION IV

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, 101 Marietta Street NW., Suite 903, Atlanta, Ga. 30323

REGION V

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, 300 South Wacker Drive, 31st Floor, Chicago, Ill. 60606.

REGION VI

Direcor, Office of Rehabilitation Services, Department of Health, Education, and Welfare, Fidelity Union Life Building, Room 340, 1511 Bryan Street, Dallas, Tex. 75201.

REGION VII

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, 601 East 12th Street, Room 384, Kansas City, Mo. 64106.

REGION VIII

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, Federal Office Building, Room 11037, 19th and Stout Streets, Denver, Colo. 80294.

REGION IX

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, Federal Office Building, 50 United Nations Plaza, San Francisco, Calif. 94102.

REGION X

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, Arcade Building, 1321 Second Avenue (MS 622), Seattle, Wash. 98101.

Application consideration. The Commissioner, Rehabilitation Services Administration determines the final action to be taken with respect to each grant application.

All grant applications are subject to a competitive review and evaluation conducted by qualified non-Federal consultants experienced in the training of rehabilitation personnel. The Commissioner takes into account the competitive review by the non-Federal consultants, and the comments of the State vocational rehabilitation agencies, the HEW Regional Offices and the Rehabilitation Services Administration Central Office program office, in reaching a decision on each competing application.

After the Commissioner has reached a decision either to disapprove or not to fund a competing grant application, the unsuccessful applicant is notified of that decision.

Grant Awards. The Commissioner makes grant awards consistent with the purposes of the Act, the regulations, and program announcements within the limits of Federal funds available. The official grant award

document is the Notice of Grant Awarded which sets forth in writing the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the total grantee participation. The initial award also specifies the project period for which support is contemplated.

G. *Criteria for review and evaluation of grant applications.* All applications received in response to this announcement will receive a technical review by qualified experts. Applications are evaluated against the following criteria:

1. The relevance of the purpose of the content and the training project to the administratively established objectives of the public rehabilitation program and the Rehabilitation Act of 1973, as amended;

2. The methodology to be employed in implementing the project and its feasibility for the achievement of the established educational objectives;

3. The adequacy of the plan for the evaluation of the effectiveness of project activities;

4. The existence of a working relationship with the State vocational rehabilitation agency and other agencies and rehabilitation facilities providing vocational rehabilitation services;

5. The extent to which the training projects holds promise of increasing the supply of personnel or improving the skill competence of personnel trained to deliver vocational rehabilitation services to physically or mentally handicapped persons, especially those with the most severe handicaps, or other groups of handicapped persons, such as handicapped persons from minority groups;

6. The extent to which other training programs in the same field are available in the State or Region;

7. The utilization, for clinical, field, or instructional experiences, of a "rehabilitation setting": Which means an agency or institution operating an organized program of vocational rehabilitation services designed to help severely physically or mentally handicapped persons function optimally in society within their capacities and limitations.

8. Evidence that the supervised clinical practice will be educationally focused and that standards to assure the competence of those staff persons supervising students have been established and will be maintained by the training institution;

9. Designation of a project director qualified in a professional field which contributes to the vocational rehabilitation of the disabled, who is able to devote sufficient time to the project to ensure its proper direction;

10. The financial resources of the applicant for accomplishing the objectives of the training project, how much the applicant plans to contribute to the total cost of the project, and the extent to which the estimated cost to the government is reasonable and necessary to accomplish the project objectives.

11. The personnel and facility resources available to the applicant for accomplishing the objectives of the training project;

12. The criteria to be used for the selection of students to whom traineeships are to be awarded;

13. Evidence that the training institution and all clinical and field instruction settings are free of architectural and other barriers to the training of handicapped students;

14. Where appropriate, evidence of current accreditation by the designated accrediting agency;

15. Information on the employment outlook for graduates of the training program including reports from potential employers, job vacancies in the geographical area served by the educational institution, and records of positions held by students who have completed the training program; and

16. Extent to which application instructions are adequately addressed, including both the narrative statement and budget justification.

H. *Closing Date for Receipt of Applications.* 1. Applications in the areas of "Rehabilitation Medicine", "Rehabilitation Counseling" "Prosthetics and Orthotics", "Rehabilitation Continuing Education", and "Experimental and Innovative Rehabilitation Long-Term Training Projects" will be accepted until March 24, 1978.

2. Applications in all other areas of rehabilitation long-term training will be accepted until April 21, 1978.

3. Applications will be judged on time if: a. The application was sent by registered or certified mail not later than the date specified above as evidenced by the U.S. Postal Service postmark or the original receipt from the U.S. Postal Service;

b. The application is sent by mail and received on or before the closing date in the appropriate Department of Health, Education, and Welfare, the Office of Human Development Services of the Rehabilitation Services Administration mailrooms as evidenced by the time date stamp or other documentary evidence of receipt maintained by such mailroom, or

c. The application is hand delivered to the office designated to receive the application in the application instructions. Hand delivered applications will be accepted no later than close of business on the date specified above in any case.

I. *Late Applications.* Applications received after the closing date are not accepted and applicants are notified accordingly.

J. *Availability of application forms.* Application kits which contain the prescribed application forms and other appropriate information for the applicant will be mailed to grantees who have been conducting long-term training projects during the 1977–1978 academic year. Other eligible applicants may request application materials from the appropriate Regional Office of the Rehabilitation Services Administration.

(29 U.S.C. 763.)

(Catalog of Federal Domestic Assistance Number 13.629, Rehabilitation Training.)

Dated: December 29, 1977.

ROBERT R. HUMPHREYS,
Commissioner, Rehabilitation Services Administration.

Approved: January 20, 1978.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

[FR Doc. 78-2124 Filed 1-24-78; 8:45 am]

[78-2214]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

COMMITTEE ON CANCER IMMUNOTHERAPY

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Committee on Cancer Immunotherapy, National Cancer Institute, February 9, 1978, Building 10, Room 4B14, National Institutes of Health. The meeting will be open to the public on February 9, 1978, from 1:15 p.m. to 1:45 p.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 9, 1978, from 1:45 p.m. to adjournment, for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal personal information concerning individuals associated with the proposals.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014, 301-496-5708 will provide summaries of the meeting and a roster of committee members.

Dr. George M. Steinberg, Executive Secretary, National Cancer Institute, Building 10, Room 4B09, National Institutes of Health, Bethesda, Maryland 20014 (301/496-1791) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.395, National Institutes of Health)

Dated; January 12, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-2214 Filed 1-24-78; 8:45 am]

[4110-08]

GENERAL CLINICAL RESEARCH CENTERS COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the General Clinical Research Centers Committee, Division of Research Resources, on February 6 and 7, 1978, at the LaPlaya Hotel, Camino Real at 8, Carmel-by-the-Sea, Calif.

The meeting will be open to the public on February 6, 1978, from 9 a.m. to 11 a.m., to discuss administrative matters. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10 (d) of Pub. L. 92-463, the meeting will be closed to the public on February 6 from 11 a.m. to 5 p.m., and on February 7 from 9 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the application.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Room 5B13, Building 31, Bethesda, Md. 20014, telephone 301-496-5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Ephraim Y. Levin, Executive Secretary of the General Clinical Research Centers Committee, Room 5B51, Building 31, National Institutes of Health, Bethesda, Md. 20014, telephone 301-496-6595, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.333, National Institutes of Health.)

Dated: January 12, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-2213 Filed 1-24-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

TASK FORCE ON HOUSING COSTS

Advisory Committee Meetings

AGENCY: Department of Housing and Urban Development.

ACTION: Notice is given of meetings of Committees established by the Task Force on Housing Costs, whose functions were published at 42 FR 42383.

SUMMARY: Meetings of the Task Force on Housing Costs' Committees on (1) Building and Technology, (2) Land Supply, Acquisition and Development, and (3) Financing, Money Markets and Marketing. Each of these three committees will meet in the New Communities Confernece Room, Seventh Floor (Room 7106), Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, on the following dates and times: The Committee on Building and Technology will convene at 9 a.m. on February 8, 1978. The Committee on Land Supply, Acquisition and Development will convene at 9 a.m. on February 9, 1978. The Committee on Financing, Money Markets and Marketing will convene at 9 a.m. on February 10, 1978.

SUPPLEMENTARY INFORMATION: The purpose of and agendas for each of these meetings may include, but are not limited to, the following:

1. Review of the minutes of the last committee meeting,
2. Review of draft committee recommendations,
3. Testimony from members of the general public,
4. Discussion of other issues and ideas not previously considered, and
5. Consideration of other committee business.

ADDRESS: Task Force on Housing Costs, Staff Chairman Edward J. Cachine, Room 7110, U.S. Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Edward J. Cachine, 202-755-7362 (substantive inquiries), Thomas Bacon, 202-755-5277 (press inquiries), or Donald K. McLain, 202-755-5333.

These committee meetings will be open to the public.

Issued at Washington, D.C., January 23, 1978.

WILLIAM J. WHITE,
Chairman, Task Force on
Housing Costs.

[FR Doc. 78-2202 Filed 1-24-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-14909-A2]

ALASKA NATIVE CLAIMS SELECTION

On November 15, 1973, Kuugpik Corp., Inc., for the Native village of Nooiksut (Nuiqsut, Nuiqsat), filed selection application F-14909-A2 under the provisions of section 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (Supp. V, 1975)), for the surface estate of certain lands in the Nooiksut area.

As to the lands described below, the application, as amended is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with Federal laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(b), aggregating approximately 7,637 acres, is considered proper for acquisition by Kuugpik Corp., Inc. and is hereby approved for conveyance pursuant to section 14(a) of the Alaska Native Claims Settlement Act:

UMIAT MERIDIAN, ALASKA (UNSURVEYED)

T. 12 N., R. 2 E.
Secs. 2 to 12, inclusive, all.
Containing approximately 6,917 acres.
T. 14 N., R. 2 E.
Secs. 19 and 20 (fractional), all; Secs. 28 to 32 (fractional), inclusive, all.
Containing approximately 720 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

A right-of-way thereon for ditches and canals constructed by the authority of the United States, as prescribed and directed by the act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945;

2. A right-of-way thereon for the construction of railroads, telegraph, and telephone lines, as prescribed and directed by the act of March 12, 1914, 38 Stat. 305, 43 U.S.C. 975d;

3. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (Supp. V, 1975)); and

4. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification under (EIN) on the easement maps in case file F-14909-EE are reserved to the United States and subject to further regulation thereby:

a. (EIN 1 C3, D1) An easement for an existing access trail fifty (50) feet in width from section 36, T. 13 N., R. 2 E., Umiat Meridian, southerly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

b. (EIN 5 C3, C5, D1, D9) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide access to and along the marine coastline and use of such shore for purposes such as beaching of watercraft or aircraft, travel along the shore, recreation, and other similar uses. Deviations from the waterline are permitted when specific conditions so require, e.g., impassable topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline easement is to be obstructed, the owner of the servient estate will be obligated to convey to the United States an acceptable alternate access route, at no cost to the United States, prior to the creation of such obstruction.

c. (EIN 11 C) The right of the United States to enter upon the lands hereinabove granted for cadastral, geodetic, or other survey purposes is reserved, together with the right to do all things necessary in connection therewith.

d. (EIN 12C) Easements for the transportation of energy, fuel, and natural resources which are the property of the United States or which are intended for delivery to the United States or which are produced by the United States. These easements also include the right to build any related facilities necessary for the exercise of the right to transport energy, fuel, and natural resources, including those related facilities necessary during periods of planning, locating, constructing, operating, maintaining, or terminating transportation systems. The specific location of these easements shall be determined only after consultation with the owner of the servient estate. Whenever the use of such easements will require removal or relocation of any structure owned or authorized by the owner of the servient estate, such use shall not be initiated without the consent of the owner of such improvement: *Provided, however,* That the United States may exercise the right of eminent domain if such consent is not given. Only those portions of these easements that are actually in use or that are expressly authorized on March 3, 1996, shall continue to be in force.

e. In addition to the foregoing, the United States incorporates by reference the agreement of May 14, 1974, between the United States Department of the Navy, Arctic Slope Regional Corp., Kuugpik Corp., Inc., and three other Arctic Slope village corporations, and reserves those easements necessary to implement said agreement. A copy of the agreement is located in Bureau of Land Management file F-14909-EE.

The grant of land shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him;

3. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V, 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section; and

4. The terms and condition of the agreement dated August 6, 1976 between the Secretary of the Interior, Arctic Slope Regional Corporation, Kuugpik Corp., Inc., and the seven other Arctic Slope village corporations. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement case file for Kuugpik Corp., Inc., serialized F-14909-EE. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

Arctic Slope Regional Corporation has reallocated 8,403 acres to Kuugpik Corporation, Inc., for selection pursuant to section 12(b) of the Alaska Native Claims Settlement Act. Upon this initial conveyance of 7,637 acres, a total of approximately 766 acres will remain to be conveyed to the corporation before the village reaches full 12(b) entitlement.

Conveyance of the remaining entitlement to Kuugpik Corporation, Inc. will be made at a later date. It should be noted that no interim conveyance will be issued to the Arctic Slope Regional Corp. for the subsurface estate of the lands hereinabove described since they lie within the National Petroleum Reserve in Alaska. Section 12(a)(1) of the Alaska Native Claims Settlement Act provides that when a village corporation selects the surface estate of lands within this reserve, the regional corporation may make in lieu selections of the subsurface estate, in an equal acreage, from other lands withdrawn by subsection 11(a) of the act; therefore, Arctic Slope Regional Corp. is entitled to approximately 7,637 acres in lieu subsurface estate.

No determination of navigability or tidal influence affecting the inland water bodies within the lands herein described is necessary as the lands were withdrawn by Public Land Order No. 82 (43 FR 1796, February 3, 1943) when the Alaska Statehood Act of July 7, 1958 was passed (see 72 Stat. 339, 343; 48 U.S.C., Ch. 2, Sec. 6(m) (1970)); therefore, the lands beneath tidal or navigable water bodies did not vest in the State pursuant to the Submerged Lands Act of May 22, 1953 (67 Stat. 29, 32, Sec. 5; 43 U.S.C. Ch. 29, 1313(a) (1970)).

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until February 24, 1978, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of, and requirements for, filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

If an appeal is taken, the adverse parties to be served are:

Kuugpik Corp., Inc., Nooiksut (Nuiqsut), Alaska 99724.

Arctic Slope Regional Corp., P.O. Box 129, Barrow, Alaska 99723.

ROBERT E. SORENSON,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-2123 Filed 1-24-78; 8:45 am]

[4310-70]

National Park Service

CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK COMMISSION

Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held Saturday, February 18, 1978, at 10 a.m. at the Williamsport Municipal Building (second floor council chambers), Williamsport, Md.

The Commission was established by Pub. L. 91-664 to meet and consult with the Secretary of the Interior on

general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical park.

The members of the Commission are as follows:

Mr. Donald R. Frush (chairman), Hagerstown, Md.
Mrs. Bonnie Troxell, Cumberland, Md.
Miss Nancy Long, Glen Echo, Md.
Mrs. Constance Morella, Bethesada, Md.
Mr. Kenneth Rollins, Brookmont, Md.
Mr. Vladimir A. Whabe, Baltimore, Md.
Mr. Edwin F. Wesely, Jr., Brookmont, Md.
Mr. John D. Millar, Cumberland, Md.
Mr. James B. Coulter, Annapolis, Md.
Mrs. Dorothy Grotos, Arlington, Va.
Miss Margaret Diets, Lovettsville, Va.
Mr. James H. Gilford, Frederick, Md.
Mr. Lorenzo W. Jacobs, Jr., Washington, D.C.
Mr. Dayton C. Casto, Jr., Great Cacapon, W. Va.
Mr. Silas F. Starry, Shepherdstown, W. Va.
Mr. Rockwood H. Foster, Washington, D.C.
Mr. R. Lee Downey, Williamsport, Md.
Mr. John C. Frye, Gapland, Md.

The matters to be discussed at this meeting include:

1. On-site inspections of various areas in the Williamsport vicinity.
2. Call to order and roll call.
3. Approval of minutes, November 19, 1977.
4. Widewater area construction project.
5. Access to Town of Brunswick campground.
6. State of Maryland study on the Potomac River by the Department of Natural Resources.
7. Water pollution report.
8. Interpretive signs and status report on Interpretive Planning on the Palisades District.
9. Construction program and priorities through 1981.
10. Abner Cloud House site plans.
11. Harpers Ferry Road improvements.
12. Turning basin, Williamsport.
13. Western Maryland Railroad abandonment (Roundtop to Cumberland).
14. District of Columbia Planning Office report on Georgetown planning activities.
15. B&O Railroad line abandonment in Washington County.
16. Water intake structures, WSSC and Fairfax County.
17. Potomac River Safety program.
18. Committee reports.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited and it is expected that not more than 30 persons will be able to attend the sessions. Any member of the public may file with the Committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact William R. Failor, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Md. 21782, telephone area code 301-432-2231. Minutes of the meeting will be available for public inspection 2 weeks after the meeting at park Headquarters, Sharpsburg, Md.

Dated: January 16, 1978.

MANUS J. FISH, Jr.,
Regional Director,
National Capital Region.

[FR Doc. 78-2061 Filed 1-24-78; 8:45 am]

[4310-70]

Office of the Secretary

[INT-DES 77-35]

BISCAYNE NATIONAL MONUMENT, FLA.

Notice of Availability and Notice of Public Meetings on Draft Environmental Statement on General Management Plan

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Draft Environmental Statement on the proposed General Management Plan for Biscayne National Monument.

The statement discusses proposals for the management, development and operation of Biscayne National Monument.

Copies are available from or for inspection at the following locations:

Southeast Regional Office, National Park Service, 1895 Phoenix Boulevard, Atlanta, Ga. 30349.
Superintendent, Everglades National Park, P.O. Box 279, Homestead, Fla. 33030.
Superintendent, Biscayne National Monument, P.O. Box 1369, Homestead, Fla. 33030.

In addition, as part of the Service's program for public participation in planning, public meetings to consider the material in the assessment will be held at the following locations and times:

January 25, 1978 at 7 p.m.:
Vizcaya Museum Auditorium, 3251 South Miami Avenue, Miami, Fla.
January 26, 1978 at 7 p.m.:
Dade County Agricultural Center, 18710 Southwest 288 Street, Homestead, Fla. (Biscayne Drive at Redlands Road).

Public comments on the proposed General Management Plan and Environmental Statement are solicited. Written and oral comments on the statement and its contents will be received for consideration at the meetings. In addition written comments will be received at the offices listed above for a period of 30 days following the public meetings.

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

Dated: December 6, 1977.

DAVID USHIO,
Acting Deputy Assistant
Secretary of the Interior.

[FR Doc. 78-2060 Filed 1-24-78; 8:45 am]

[6820-35]

LEGAL SERVICES CORPORATION

GRANTS AND CONTRACTS

JANUARY 19, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by: Greater Boston Legal Services, Inc. in Boston, Mass. to serve Brookline, Malden, Medford and environs and the Quincy/South Shore area, Massachusetts.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Boston Regional Office, 84 State Street, Room 520, Boston, Mass. 02101.

THOMAS EHRLICH,
President.

[FR Doc. 78-2111 Filed 1-24-78; 8:45 am]

[6820-35]

GRANTS AND CONTRACTS

JANUARY 19, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant application sub-

mitted by: Prairie State Legal Services, Inc. in Rockford, Ill. to serve LaSalle, Lee, Bureau, Grundy, Livingston, DeKalb, and Kendall counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Ill.

THOMAS EHRLICH,
President.

[FR Doc. 78-2112 Filed 1-24-78; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

LONG-TERM ECOLOGICAL MEASUREMENTS

Conference

The Biological Research Resources Program of the National Science Foundation is sponsoring a meeting to be held at the Marine Biological Laboratory, Woods Hole, Mass., on February 6, 7, 8, 9, and 10th, 1978.

The objective of the conference is to formulate an integrating system for collection of long-time series ecological data.

While this meeting is not considered to be a meeting of an "advisory committee" as defined in Section 3 of the Federal Advisory Committee Act (Pub. L. 91-463), the meeting is believed to be of sufficient importance and interest to the general public to be announced in the FEDERAL REGISTER as a meeting open to the public.

The conference will be coordinated by Daniel B. Botkin of the Marine Biological Laboratory.

Copies of the final report of the conference will be available through William E. Sievers, Biological Research Resources Program, NSF, Washington, D.C. 20550.

WILLIAM E. SIEVERS,
Program Director, Biological Research Resources Program.

[FR Doc. 78-2084 Filed 1-24-78; 8:45 am]

[7555-01]

SYSTEMATICS/ECOLOGY COMMUNITY

Symposium on the Impact of Federal Wildlife Regulations

The Biological Research Resources Program of the National Science Foundation is sponsoring a symposium to be held at the National Academy of Sciences, Washington, D.C. on February 14 and 15th, 1978.

The symposium will be devoted to the impact of federal wildlife regulations on the work of systematists and ecologists. It is the intent to explore the histories and intents of various wildlife laws, to inform the scientific community of its responsibilities, and to initiate a balanced dialogue between the regulators and the regulated.

While this meeting is not considered to be a meeting of an "advisory committee" as defined in Section 3 of the Federal Advisory Committee Act (Pub. L. 91-463), the meeting is believed to be of sufficient importance and interest to the general public to be announced in the FEDERAL REGISTER as a meeting open to the public.

Dr. Peter Raven, of the Missouri Botanical Garden will act as moderator.

Copies of the final report of the symposium will be available through William E. Sievers, Biological Research Resources Program, NSF, Washington, D.C. 20550.

WILLIAM E. SIEVERS,
Program Director, Biological Research Resources Program.

[FR Doc. 78-2085 Filed 1-24-78; 8:45 am]

[7555-01]

SUBCOMMITTEE ON HUMAN CELL BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

NAME: Subcommittee on Human Cell Biology of the Advisory Committee for Physiology, Cellular, and Molecular Biology.

DATE AND TIME: February 10 and 11, 1978—9 a.m. to 6 p.m. each day.

PLACE: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

TYPE OF MEETING: Closed.

CONTACT PERSON:

Dr. Herman W. Lewis, Program Director, Human Cell Biology Program, Room 326, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4200.

PURPOSE OF SUBCOMMITTEE: To provide advice and recommendations concerning support for research in Human Cell Biology.

AGENDA: To review and evaluate research proposals as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

JANUARY 20, 1978.

[FR Doc. 78-2086 Filed 1-24-78; 8:45 am]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on February 9-11, 1978, in Room 1046, 1717 H Street N.W., Washington, D.C.

The agenda for the subject meeting will be as follows:

THURSDAY, FEBRUARY 9, 1978

8:30 A.M.-9:30 A.M.—EXECUTIVE SESSION (OPEN)

The committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities. The committee will hear and discuss the report of the ACRS subcommittee and consultants who may be present regarding the request for an operating license for Arkansas nuclear one, unit 2. Portions of this session will be closed if necessary to discuss proprietary information applicable to this facility and provisions for physical protection of this plant.

9:30 A.M.-12:30 P.M.—ARKANSAS NUCLEAR ONE, UNIT 2 (OPEN)

The committee will hear and discuss presentations by representatives of the NRC staff and the applicant related to the request for operation of this unit. Portions of this session will be closed if necessary to discuss proprietary information applicable to this facility and provisions for physical protection of this plant.

1:30 P.M.-2 P.M.—EXECUTIVE SESSON (OPEN)

The committee will hear and discuss the report of the ACRS subcommittee and consultants who may be present regarding proposed operation of the Maine Yankee atomic power station at increased power. Portions of this session will be closed if required to discuss proprietary information related to this plant and provisions for physical protection of this facility.

2 P.M.-3:30 P.M.—MAINE YANKEE ATOMIC POWER STATION (OPEN)

The committee will hear and discuss presentations by representatives of

the NRC staff and the applicant related to the request for a power level increase for this plant. Portions of this session will be closed if required to discuss proprietary information related to this plant and provisions for physical protection of this facility.

3:30 P.M.–4 P.M.—EXECUTIVE SESSION (OPEN)

The committee will hear and discuss the report of tha ACRS subcommittee and consultants who may be present on the La Crosse boiling water reactor. Portions of this session will be closed if required to discuss proprietary information related to this plant.

4 P.M.–5:30 P.M.—LA CROSSE BOILING WATER REACTOR (OPEN)

The committee will hear presentations by and hold discussions with representatives of the NRC staff and the Dairyland Power Cooperative regarding operation of the La Crosse boiling water reactor specifically related to performance of the reactor fuel and proposed operation with replacement fuel. Portions of this session will be closed if required to discuss proprietary information related to this plant.

5:30 P.M.–6:30 P.M.—EXECUTIVE SESSION (OPEN)

The committee will hear and discuss reports of subcommittees, working groups, and members on a number of generic matters related to reactor safety including proposed regulatory guides, program plans for resolution of generic matters, and calculation of control room doses following postulated accidents.

FRIDAY, FEBRUARY 10, 1978

8:30 A.M.–9:30 A.M.—MEETING WITH NRC STAFF (OPEN)

The committee will hear presentations from and hold discussions with members of the Nuclear Regulatory Commission staff regarding recent licensing actions and operating experience including seismic reevaluation of the Vallecitos boiling water reactor, combination of seismic and other loadings in the design of nuclear plants, requirements for key-card security systems for nuclear facilities.

The future schedule for ACRS activities will also be discussed including consideration of a request for information regarding the seismic design of the North Anna power station.

9:30 A.M.–10 A.M.—EXECUTIVE SESSION (OPEN)

The committee will hear and discuss the report of the ACRS subcommittee and consultants who may be present related to the request for an operating license for the Edwin I. Hatch nuclear plant, unit 2. Portions of this session will be closed if required to discuss proprietary information related to this plant and provisions for physical protection of this facility.

10 A.M.–12:30 P.M.—EDWIN I. HATCH NUCLEAR PLANT, UNIT 2 (OPEN)

The committee will hear presentations by and hold discussions with representatives of the NRC staff and the applicant related to the request for an operating license for this plant. Portions of this session will be closed if required to discuss proprietary information related to this plant and provisions for physical protection of this facility.

1:30 P.M.–2 P.M.—EXECUTIVE SESSION (OPEN)

The committee will hear and discuss the report of its subcommittee and consultants who may be present on the design of containers for the air shipment of plutonium.

2 P.M.–4 P.M.—CONTAINERS FOR AIR SHIPMENT OF PLUTONIUM (OPEN)

The committee will hear presentations by and hold discussions with representatives of the NRC staff and the Sandia Laboratory regarding the design and qualification testing of containers to be used for the air shipment of plutonium.

4 P.M.–4:30 P.M.—EXECUTIVE SESSION (OPEN)

The committee will hear and discuss the report of its subcommittee and consultants who may be present on plans and procedures for the decommissioning of nuclear facilities.

4:30 P.M.–6:30 P.M.—MEETING ON DECOMMISSIONING OF NUCLEAR FACILITIES (OPEN)

The committee will hear presentations by and hold discussions with representatives of the NRC staff, the Department of Energy, and the nuclear industry regarding procedures and practices related to the decommissioning of nuclear facilities. Portions of this session will be closed if required to discuss proprietary information related to this matterr.

SATURDAY, FEBRUARY 11, 1978

8:30 A.M.–4 P.M.—EXECUTE SESSION (OPEN/CLOSED)

The committee will prepare its reports to the Nuclear Regulatory Commission on the Edwin I. Hatch nuclear plant, unit 2; Arkansas nuclear one, unit 2; Maine Yankee atomic power station; and the La Crosse boiling water reactor.

The committee will complete the preparation of comments and positions discussed during this meeting including comments regarding the design of containers for air shipment of plutonium and procedures for decommissioning of nuclear facilities.

Portions of this session will be closed as necessary to discuss matter involved in adjudicatory proceedings.

I have determined in accordance with subsection 10(d) of Pub. L. 92-463 that it is necessary to close portions of the meeting as noted above to protect proprietary information (5 U.S.C. 552b(c)(4)), and to preserve the confidentiality of information related to safeguarding of special nuclear material and the physical protection of nuclear facilities (5 U.S.C. 552b(c) (1) and (4)). The portions of the meeting during which ACRS comments on matters involved in adjudication are prepared will be held in closed session pursuant to exemption (10) of 5 U.S.C. 552b(c). Separation of factual information from information considered exempt from disclosure during closed portions of the meeting is not considered practical.

Procedures for the conduct of and participation in this meeting were outlined in the FEDERAL REGISTER on October 31, 1977, page 56972. In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the committee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

Background information concerning items to be considered during this meeting can be found in documents on file and available for public inspection in the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the following public document rooms:

ARKANSAS NUCLEAR ONE, UNIT 2

Arkansas Polytechnic College, Russellville, Ark. 72801.

MAINE YANKEE ATOMIC POWER STATION

Wiscasset Public Library, High Street, Wiscasset, Maine 04578.

LA CROSSE BOILING WATER REACTOR

La Crosse Public Library, 800 MAIN STREET, LA CROSSE WIS. 54601.

E. I. HATCH NUCLEAR PLANT, UNIT 2

Appling County Public Library, Parker Street, Baxley, Ga. 31513.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the chairman's ruling on requests for the opportunity to present oral statements and the time alloted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley, telephone 202-634-1371, between 8:15 a.m. and 5 p.m. e.s.t.

Dated: January 19, 1978.

JOHN C. HOYLE,
Advisory Committee, Management Officer.

[FR Doc. 78-2042 Filed 1-24-78; 8:45 am]

[7590-01]

[Docket No. STN 50-560]

FLUOR PIONEER, INC.

Notice of Receipt of Amendment to Standard Safety Analysis Report

Fluor Pioneer, Inc., in accordance with the provisions of Appendix O to 10 CFR Part 50 of the Nuclear Regulatory Commission's (Commission) rules and regulations, filed with the Commission a document entitled, "Balance of Plant Standard Safety Analysis Report" (BOPSSAR), which was docketed on January 27, 1976. A Notice of Receipt of Standard Safety Analysis Report was published in the FEDERAL REGISTER on February 6, 1976 (41 FR 5640).

The original BOPSSAR application describes the balance of plant design for a pressurized water reactor standard nuclear power plant utilizing the Westinghouse Electric Corp.'s RESAR-41 nuclear steam supply system standard design for which the Commission staff issued a Preliminary Design Approval on August 17, 1977.

On October 31, 1977, Fluor Pioneer, Inc. filed Amendment No. 15 to the BOPSSAR application which revised the application to reflect changes to the balance of plant design for a plant utilizing the Babcock & Wilcox Company's BSAR-205 nuclear steam supply system standard design. Certain portions of the Fluor Pioneer, Inc. application which utilizes the RESAR-41 design previously reviewed by the staff, are proposed to be the same for utilization of the BSAR-205 design. Therefore, the staff review of BOPSSAR/BSAR-205 will be directed toward the differences from the previous approved design.

Upon completion of the review of BOPSSAR/BSAR-205 the Commission's staff will publish a Safety Evaluation Report (SER) documenting the results of the review. Moreover, BOPSSAR/BSAR-205 will be referred to the Advisory Committee on Reactor Safeguards (ACRS) for its review and a report thereon. Copies of the SER and ACRS report will be made available to the public. A notice relating to the availability of these documents will be published in the FEDERAL REGISTER.

All interested persons who desire to submit written comments for consideration by the staff and ACRS should send them to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Section by March 27, 1978.

A copy of the BOPSSAR/BSAR-205 application and amendments thereto and other related documents are available for public inspection at the Commission's Public Document Room 1717 H Street NW., Washington, D.C. 20555. When available, the SER and ACRS report will also be made available for public inspection at the Commission's Public Document Room.

Dated at Bethesda, Md., this 18th day of January 1978.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc. 78-2043 Filed 1-24-78; 8:45 am]

[7590-01]

[Docket Nos. 50-282 and 50-306]

NORTHERN STATES POWER CO.

Notice of Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 25 and 19 to Facility Operating License Nos. DPR-42 and DPR-60, issued to the Northern States Power Co. (the licensee), which revised the licenses and their appended Technical Specifications for operation of Unit Nos. 1 and 2 of the Prairie Island Nuclear Generating Plant (the facilities) located in Goodhue County, Minn. The amendments are effective as of their date of issuance.

The amendments consisted of miscellaneous changes in the Technical Specifications to (1) revise the diesel generator testing, (2) revise the sampling tests for Boron and I-131, (3) clarify the dual role of the Residual Heat Removal system, and (4) make miscellaneous administrative changes to correct typographical errors, clarify the intent of the Technical Specifications and relocate the Spent Fuel Pool Special Ventilation System limiting conditions for operation and surveillance requirements. In addition, we have deleted from the Technical Specifications any reference to respiratory protection equipment since it is now specifically addressed by section 20.103 of 10 CFR Part 20 of the Commission's regulations.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see: (1) The application for amendments dated July 8, 1977, (2) Amendment Nos. 25 and 19 to License Nos. DPR-42 and DPR-60, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at The Environmental Conservation Library of the Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minn. 55401. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 18th day of January 1978.

For the Nuclear Regulatory Commission.

MARSHALL GROTENHUIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-2044 Filed 1-24-78; 8:45 am]

[7590-01]

[Docket No. 50-285]

OMAHA PUBLIC POWER DISTRICT

Notice of Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 35 to Facility Operating License No. DPR-40 issued to Omaha Public Power District which revised Technical Specifications for operation of the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebr. The amendment is effective as of its date of issuance.

The amendment modifies portions of the Administrative Controls section and portions of the Environmental Technical Specifications dealing with Planktonic and Larval Organisms and the chemical and thermal discharge limits.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act

of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated August 1972.

For further details with respect to this action, see (1) The applications for amendment dated January 21, March 14 (which was superseded in its entirety by letter dated October 11), September 16, and October 31, 1977, (2) Amendment No. 35 to License No. DPR-40, (3) the Commission's related Safety Evaluation and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., washington, D.C. and at the Blair Public Library, 1665 Lincoln Street, Blair, Nebr. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 16th day of January 1978.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-2045 Filed 1-24-78; 8:45 am]

[7590-01]

[Docket No. PRM-20-10]

CITIZENS UNITED FOR RESPONSIBLE ENERGY

Filing of Petition for Rule Making

Notice is hereby given that Citizens United for Responsible Energy, by letter dated December 27, 1977, has filed with the Nuclear Regulatory Commission a petition for rule making to amend the Commission's regulation "Standards for Protection Against Radiation", 10 CFR Part 20.

The petitioner requests the Commission to amend § 20.403 Notifications of incidents, of 10 CFR Part 20, to require that all abnormal incidents be reported immediately (within ½ hour) to the Director of the appropriate Nuclear Regulatory Commission Inspection and Enforcement Regional Office. The petitioner defines "Abnormal incident" as an incident which involves the release of radioactive products to either the air or water. The petitioner requests also that the amendment of § 20.403 require the utility involved to report immediately (within ½ hour) to the director of a designated state agency responsible for public health and safety which is within 200 miles of such incident.

The petitioner states that the basis for the requested amendment is the provision in § 20.403 which allows up to 24 hours in certain instances for reporting abnormal occurrences in nuclear power plants, and the absence of rules requiring any communications with State agencies within close geographic proximity. The petitioner states also that the petition is prompted by numerous incidents occurring in close proximity to Iowa, as well as in other sections of the country, which have not been reported promptly to State officials.

A copy of the petition for rule making is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All persons who desire to submit written comments or suggestions concerning the petition for rule making should send their comments to the Secretary of the Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by March 27, 1978.

Dated at Washington, D.C. this 18th day of January 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-1940 Filed 1-24-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on January 16, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF ENERGY

Distillate Fuel Oil Weekly Status Monitoring Telephone Questionnaire, EIA-47, weekly, distillate refiners and bulk terminal operators, C. Louis Kincannon, 395-3211.

Weekly Propane Status Monitoring Telephone Questionnaire, EIA-48, weekly, propane storage operators, C. Louis Kincannon, 395-3211.

Weekly Telephone Survey of Prime Suppliers, weekly, prime suppliers of distillate fuel oil and propane, C. Louis Kincannon, 395-3211.

DEPARTMENT OF AGRICULTURE

Extension Service, Headboat Survey, North Carolina, single-time, operators of recreational headboats, Ellett, C. A., Office of Federal Statistical Policy and Standard, 395-6132.

DEPARTMENT OF DEFENSE

Department of the Navy, Enlistee Financial Statement, NAVCRUIT, 1130-13, on occasions, prospective enlistees, Marsha Traynham, 395-3773.

DEPARTMENT OF LABOR

Employment and Training Administration, Summary of the Public's Views of the Problem of Unemployement, ETA-281, single-time, U.S. population 18 years or older, Strasser, A., Housing, Veterans and Labor Division, 395-6132.

REVISIONS

VETERANS' ADMINISTRATION

Notice of Eligibility, Application and Enrollment Certification, 22-1990V, on occasions, veterans, Lowry, R. L., 395-3772.

Application for Dependency and Indemnity Compensation by Parent(s), 21-535, on occasions, parent(s), Lowry, R. L., 395-3772.

DEPARTMENT OF COMMERCE

Bureau of Census, Quality Control Sample Listing Sheet, single time, retail and selected service firms, Lowry, R. L., 395-3772.

DEPARTMENT OF LABOR

Bureau of Labor Statistics, Monthly Report on Employment, Plant Man-Hours, and

Straight-Time Payrolls in Selected Shipyards, BLS-1360, monthly, shipyards selected naval sea system command, Strasser, A., 395-6132. Office of Federal Statistical Policy and Standard.

Employment Standards Administration, Application for Handicapped Worker Certificate, WH-222., on occasion, employers of all types, Strasser, A., 395-6132.

DEPARTMENT OF THE TREAURY

Departmental and Other "Short Term" Liquid Claims on "Foreigners," C/3, monthly, nonbanking business concerns, C. Louis Kincannon, 395-3211. Office of Federal Statistical Policy and Standard.

Departmental and Other Liabilities to, and Claims on, Foreigners, ICAP form C-1/2, quarterly, nonbanking business concerns, C. Louis Kincannon, 395-3211, Office of Federal Statistical Policy and Standard.

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, *Application for Grants to Strengthen Developing Institutions (Title III, Public Law 89-329), OE-1049, on occasion, institutions of higher education, Laverne V. Collins, 395-3214, Budget Review Division.*

DEPARTMENT OF LABOR

Bureau of Labor Statistics, Sample Refinement—FLSA Exemption Studies, BLS 3064, single time, business firms, Strasser, A., 395-6132.

VELMA N. BALDWIN,
Assistant to the Director For Administration.

[FR Doc. 78-2207 Filed 1-24-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-14386; File No. SR-Amex-77-40]

AMERICAN STOCK EXCHANGE, INC.

Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on January 3, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission (the "SEC") a proposed rule change as follows:

TEXT OF THE PROPOSED RULE CHANGE

The American Stock Exchange, Inc. (the "Amex") proposed to amend paragraph (c) of Rule 5, which pertains to over-the-counter transactions in equity securities admitted to dealings on the Amex. Words to be added are italicized and words to be deleted are bracketed[].

Rule 5

* * *

(c) The provisions of paragraph (a) of this Rule shall not apply to any of the following transactions:

* * *

(vii) any purchase or sale of any security trading in which [has been suspended by the Exchange pending review of the listing status of such security] *is currently subject to (i) a suspension by the Exchange, or (ii) a halt by the Exchange which has been in effect in excess of thirty days;*

Commentary .50 to Rule 5 is proposed to be added, as follows:

Members and member organizations making markets over-the-counter in securities exempt pursuant to paragraph (c)(vii) of this Rule are subject to the requirements of Rule 15c2-11 under the Securities Exchange Act of 1934.

AMEX'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

When a security is suspended or has been subject to a halt for over 30 days, but where the SEC permits trading to continue, the interests of investors are served by permitting Exchange members to participate in over-the-counter trading of such securities.

The Amex believes that the proposed amendment will enhance competition among market makers consistent with section 6(b)(5) of the Act. Section 6(b)(5) requires, among other things, that the rules of a national securities exchange be designed to facilitate securities transactions, to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Amex states that no comments were solicited or received with respect to the proposed rule change.

In addition the Amex has determined that no burden on competition will be imposed by the proposed rule change.

On or before March 1, 1978 or within such longer period (i) as the Commission may designated up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 15, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS
Secretary.

JANUARY 17, 1978.

[FR Doc. 78-2154 Filed 1-24-78; 8:45 am]

[8010-01]

[Release No. 34-14367; File No. SR-Amex-77-36]

AMERICAN STOCK EXCHANGE, INC.

Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s (b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 27, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

AMERICAN STOCK EXCHANGE, INC. ("AMEX'S") STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The American Stock Exchange, Inc. (the "Amex") proposes to amend certain Constitutional and rule provisions relating to record-keeping and certain other matters. The terms of substance of the proposed rule changes are summarized in the following section of this notice.

AMEX'S STATEMENT OF BASIS AND PURPOSE

In December 1976, the Commission informed the Exchange by letter that in its view certain Exchange rules appeared not to comply with the amended Exchange Act. Discussions were subsequently held between the Exchange and Commission staffs. The proposed rule changes outlined below are designed to bring these rules into compliance with the Act.

A. AMEX RECORDKEEPING RULES

The Commission indicated that a number of Amex record-keeping and reporting rules could be interpreted as being less restrictive than corresponding requirements imposed by the SEC under section 17(a) of the Exchange Act, and suggested that members

might be misled into believing that the SEC requirements do not apply to them. The Exchange therefore proposes to amend the following Amex provisions to make clear that SEC requirements are applicable to Exchange members:

Article XI, Section 3—general requirement concerning the keeping of accurate books and records.
Rules 153 and 180—preservation of records of orders.
Rule 192—records and reports of commission income and dealer profit and loss.
Rule 317 (Commentary .23)—books and records of corporate affiliates.
Rule 340 (Commentary .02)—information relating to prospective employees.
Rule 441—financial statements of certain member organizations.
Rule 442—reporting financial condition to customers of member organizations.
Rule 443—annual audit of sole Amex member organizations.
Rule 447—filing of financial information with Exchange.
Rule 448—periodic securities counts of certain member organizations.

B. AMEX RULE 7 ("SHORT SALES")

SEC Rule 10a-1 and Amex Rule 7 both prohibit a member from executing a short sale on the Exchange on a minus or zero-minus tick. However, the Commission pointed out that the exemptions contained in Rule 7 do not completely conform to exemptions contained in Rule 10a-1 and suggested that Rule 7 be amended to achieve conformity.

The proposed amendment would provide that transactions exempted from the SEC rule are also exempt from the Amex rule and would reproduce the full text of SEC Rule 10a-1 in a commentary for the convenience of the membership.

C. AMEX RULE 418 ("BUCKET SHOPS")

Amex Rule 418 prohibits a member, member organization or employee thereof from transacting business, or being in any way connected, with (1) any bucket shop, (2) any organization which falsely purports to offer exchange quotations, and (3) any organization which purports to handle customer orders on an agency basis, but instead deals as principal from its own inventory.

The Commission staff stated that paragraph (2) of this rule was unnecessary because the practice it was intended to prohibit no longer exists today, and, moreover, would be sufficiently protected against by the antifraud provisions of the Exchange Act. The Commission stated that the practice covered by paragraph (3) is also dealt with adequately by federal regulation.

In view of the Commission's comments and since conduct in violation of these provisions would, in many cases, be violative of the Amex Constitutional provision prohibiting conduct inconsistent with just and equitable principles of trade, the Exchange proposes to delete both paragraphs (2) and (3) of Rule 418.

The basis under the Act for the proposed rule changes is as follows:

A. AMEX RECORDKEEPING RULES

The amendments to the Amex recordkeeping and reporting rules, which would make clear that SEC requirements are applicable to Exchange members, would enable the Exchange to enforce compliance by its members with Section 17(a) of the Exchange Act and are consistent with Section 6(b)(1) of the Act.

B. AMEX RULE 7 ("SHORT SALES")

The amendment to Rule 7 would facilitate the Exchange's enforcement of compliance with the Exchange Act and Rule 10a-1 thereunder and would eliminate an Exchange provision that is not related to the purposes of the Act or the administration of the Exchange. The amendment is consistent with Sections 6(b)(1) and 6(b)(7) of the Act, respectively.

C. AMEX RULE 418 ("BUCKET SHOPS")

The proposed amendment to Rule 418 is consistent with Section 6(b)(7) of the Act in that it eliminates an Exchange provision that is not related to the purposes of the Act or the administration of the Exchange.

Amex states that no comments were solicited or received with respect to the proposed rule changes.

The Exchange has determined that no burden on competition will be imposed by the proposed rule changes.

On or before March 1, 1978 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 15, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE FITZSIMMONS,
Secretary.

JANUARY 11, 1978.

[FR Doc. 78-2155 Filed 1-24-78; 8:45 am]

[8010-01]

[File No. 500-1]

CHICAGO MILWAUKEE CORP.

Suspension of Trading

DECEMBER 30, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Chicago Milwaukee Corp. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 10 a.m. (e.s.t.) on December 30, 1977 through January 6, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-2150 Filed 1-24-78; 8:45 am]

[8010-01]

[File No. 500-1]

HALLCRAFT HOMES, INC.

Suspension of Trading

DECEMBER 30, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Hallcraft Homes, Inc. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 10 a.m. (e.s.t.) on December 30, 1977 through January 8, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-2151 Filed 1-24-78; 8:45 am]

[8010-01]

[Rel. No. 10094; 811-2227]

HARTFORD VARIABLE ANNUITY LIFE INSURANCE CO. SEPARATE ACCOUNT NO. 2

Notice of Filing of Application for Order Pursuant to Section 8(f) of the Act Declaring That Company Has Ceased To Be an Investment Company

JANUARY 18, 1978.

Notice is hereby given that Hartford Variable Annuity Life Insurance Co. Separate Account No. 2 ("Applicant"), Hartford Plaza, Hartford, Conn. 06115, a separate account of Hartford Variable Annuity Life Insurance Co., a Connecticut stock life insurer, which is registered as a unit investment trust under the Investment Company Act of 1940 ("Act"), filed an application on November 23, 1977, pursuant to Section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein, which are summarized below.

Applicant registered under the Act on September 3, 1971. On November 12, 1971, Applicant filed a Registration Statement under the Securities Act of 1933 pursuant to which Applicant proposed to make a public offering of $5,000,000 of individual variable annuity contracts. The Registration Statement was never declared effective and no public offering was ever made. On January 9, 1978, the Commission by Order consented to the withdrawal of the Registration Statement.

On November 7, 1977, the Board of Directors of Hartford Variable Annuity Life Insurance Co., Applicant's depositor, approved the immediate abandonment of the Applicant. As of that date Applicant's existence under Connecticut law was terminated.

The Applicant has always been completely inactive, has never had any assets, liabilities or shareholders. No public offering of Applicant's securities is being made presently and no such public offering is proposed for the future.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than February 13, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact, or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following February 13, 1978, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-2152 Filed 1-24-78; 8:45 am]

[8010-01]

[Rel. No. 10095, 811-2370]

HARTFORD VARIABLE ANNUITY LIFE INSURANCE CO. SEPARATE ACCOUNT NO. 3

Filing of Application for Order Pursuant to Section 8(f) of the Act Declaring That Company Has Ceased To Be an Investment Company

JANUARY 18, 1978.

Notice is hereby given that Hartford Variable Annuity Life Insurance Co. Separate Account No. 3 ("Applicant"), Hartford Plaza, Hartford, Conn. 06115, a separate account of Hartford Variable Annuity Life Insurance Co., a Connecticut stock life insurer, which is registered as an open-end management investment company under the Investment Company Act of 1940 ("Act"), filed an application on November 23, 1977, pursuant to section 8(f) of the act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein, which are summarized below.

Applicant registered under the act on April 3, 1973. No registration statement was ever filed by the Applicant under the Securities Act of 1933.

On November 7, 1977, the Board of Directors of Hartford Variable Annuity Life Insurance Co., approved the immediate abandonment of the Applicant. As of that date Applicant's existence under Connecticut law was terminated.

The Applicant has always been completely inactive, has never had any assets, liabilities or contractholders. No public offering of Applicant's securities is being made presently and no such public offering is proposed for the future.

Section 8(f) of the act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than February 13, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the Rules and Regulations promulgated under the act, an order disposing of the application herein will be issued as of course following February 13, 1978, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-2153 Filed 1-24-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

COLUMBIA VENTURES, INC.

[License No. 03/02-0021]

Approval of Transfer of Control of Licensed Small Business Investment Company

On December 16, 1977, a Notice of filing of application for transfer of

control was published in the FEDERAL REGISTER (Vol. 42, No. 242). This Notice stated that an application had been filed with the Small Business Administration (SBA) pursuant to Section 107.701 of the Regulations governing Small Business Investment Companies (13 CFR 107.701 (1977)), for the transfer of control of Colubmia Ventures, Inc. (Columbia), 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.

The application stated that three individuals would each purchase ⅓ of a total of 327,242 shares of the outstanding stock of Columbia from Intermediate Credit Corp., 1701 Pennsylvania Avenue NW., Washington, D.C. 20006. The three individuals are George J. Darneille, 502 South Post Oaklane, Houston, Tex. 77056; Maurcie T. Reed, Jr., 4042 Pinehill Drive, Jackson, Miss. 39206; and Stradco Trading Co., Ltd., P.O. Box N4743, Nassau, Bahamas.

Interested parties were invited to submit to SBA by December 27, 1977 their comments relative to the transfer of control. No comments were received.

Notice is hereby given that, after having considered the application and all other relevant information, SBA approved this application for transfer of control effective December 28, 1977.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: January 18, 1978.

JOHN M. TRASK, Jr.,
Associate Administrator for Finance and Investment.

[FR Doc. 78-2144 Filed 1-24-78; 8:45 am]

[8025-01]

REGION I—REGIONAL ADVISORY COUNCILS EXECUTIVE BOARD

Public Meeting

The Small Business Administration Region I Regional Advisory Councils Executive Board will hold a public meeting at 1 p.m., Monday, February 13, 1978 in the Conference Room, 60 Batterymarch Street, Tenth Floor, Boston, Mass., to discuss such matters as may be presented by members, the staff of the Small Business Administration, or others attending. For further information, write or call John J. McNally, 60 Batterymarch Street, Boston, Mass. 02110, 617-223-4495.

Dated: January 16, 1978.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-2138; Filed 1-24-78; 8:45 am]

[8025-01]

REGION II—REGIONAL ADVISORY COUNCILS EXECUTIVE BOARD

Public Meeting; Correction

AGENCY: Small Business Administration.

ACTION: Correction.

SUMMARY: This corrects notice of meeting for Region II—Regional Executive Board—Public Meeting published in the FEDERAL REGISTER on January 12, 1978 (43 FR 1863).

DATES: Effective January 25, 1978.

FOR FURTHER INFORMATION CONTACT:

K. Drew, Deputy Advocate for Advisory Councils, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, 202-653-6748.

In FR Doc. 78-800 (8025-01) appearing at page 1863 in the issue for Thursday, January 12, 1978, title of meeting should have read, "Region II—Regional Advisory Councils Executive Board—Public Meeting".

Dated: January 18, 1978.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-2143; Filed 1-24-78; 8:45 am]

[8025-01]

REGION III—REGIONAL ADVISORY COUNCILS EXECUTIVE BOARD

Public Meeting; Correction

AGENCY: Small Business Administration.

ACTION: Correction.

SUMMARY: This corrects notice of meeting for Region III—Regional Executive Board—Public Meeting published in the FEDERAL REGISTER on January 12, 1978 (43 FR 1863).

DATE: Effective January 25, 1978.

FOR FURTHER INFORMATION CONTACT:

K. Drew, Deputy Advocate for Advisory Councils, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, 202-653-6748.

In FR Doc. 78-801 (8025-01) appearing at page 1863 in the issue for Thursday, January 12, 1978, title of meeting should have read, "Region III—Regional Advisory Councils Executive Board—Public Meeting".

Dated: January 18, 1978.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-2142; Filed 1-24-78; 8:45 am]

[8025-01]

REGION IV—REGIONAL ADVISORY COUNCILS EXECUTIVE BOARD

Public Meeting; Correction

AGENCY: Small Business Administration.

ACTION: Correction.

SUMMARY: This corrects notice of meeting for Region IV—Regional Executive Board—Public Meeting published in the FEDERAL REGISTER on January 12, 1978 (43 FR 1863).

DATES: Effective January 25, 1978.

FOR FURTHER INFORMATION CONTACT:

K. Drew, Deputy Advocate for Advisory Councils, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, 202-653-6748.

In FR Doc. 78-797 (8025-01) appearing at page 1863 in the issue for Thursday, January 12, 1978, title of meeting should have read, "Region IV—Regional Advisory Councils Executive Board—Public Meeting".

Dated: January 18, 1978.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-2141 Filed 1-24-78; 8:45 am]

[8025-01]

REGION VI—REGIONAL ADVISORY COUNCILS EXECUTIVE BOARD

Public Meeting; Correction

AGENCY: Small Business Administration.

ACTION: Correction.

SUMMARY: This corrects notice of meeting for Region VI—Regional Executive Board—Public Meeting published in the FEDERAL REGISTER on January 12, 1978 (43 FR 1863).

DATES: Effective January 25, 1978.

FOR FURTHER INFORMATION CONTACT:

K. Drew, Deputy Advocate for Advisory Councils, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, 202-653-6748.

In FR Doc. 78-799 (8025-01) appearing at page 1863 in the issue for Thursday, January 12, 1978, title of meeting should have read, "Region VI—Regional Advisory Councils Executive Board—Public Meeting".

Dated: January 18, 1978.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-2140 Filed 1-24-78; 8:45 am]

[8025-01]

REGION VII—REGIONAL ADVISORY COUNCILS EXECUTIVE BOARD

Public Meeting; Correction

AGENCY: Small Business Administration.

ACTION: Correction.

SUMMARY: This corrects notice of meeting for Region VII—Regional Executive Board—Public Meeting published in the FEDERAL REGISTER on January 12, 1978 (43 FR 1863).

DATES: Effective January 25, 1978.

FOR FURTHER INFORMATION CONTACT:

K. Drew, Deputy Advocate for Advisory Councils, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, 202-653-6748.

In FR Doc. 78-798 (8025-01) appearing at page 1863 in the issue for Thursday, January 12, 1978, title of meeting should have read, "Region VII—Regional Advisory Councils Executive Board—Public Meeting".

Dated: January 18, 1978.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-2139; Filed 1-24-78; 8:45 am]

[8025-01]

REGION IX—REGIONAL ADVISORY COUNCILS EXECUTIVE BOARD

Public Meeting

The Small Business Administration Region IX Regional Advisory Councils Executive Board will hold a public meeting at 1 p.m., Wednesday, February 8, 1978, in Room 15343, U.S. Federal Building, 450 Golden Gate Avenue, San Francisco, Calif., to discuss such matters as may pe presented by members, the staff of the Small Business Administration, or others attending. For further information, write or call Marx L. Cazenave II, 450 Golden Gate Avenue, Box 36044, San Francisco, Calif. 94102, 415-556-7487.

Dated: January 16, 1978.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-2137 Filed 1-24-78; 8:45 am]

[8025-01]

REGION X—REGIONAL ADVISORY COUNCILS EXECUTIVE BOARD

Public Meeting

The Small Business Administration Region X Regional Advisory Councils Executive Board will hold a public meeting at 1 p.m., Tuesday, February 7, 1978, in Room 1042, Federal Building, 915 Second Avenue, Seattle, Wash., to discuss such business as may be presented by members, the staff of the Small Business Administration, or others attending. For further information, write or call Larry C. Gourlie, Regional Director, U.S. Small Business Administration, Dexter Horton Building, 5th Floor, 710 Second Avenue, Seattle, Wash. 98104, 206-399-5676.

Dated: January 16, 1978.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-2136 Filed 1-24-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

OPTIC LIQUID LEVEL SENSING SYSTEMS FROM CANADA

Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and that a countervailing duty investigation has been initiated for the purpose of determining whether or not benefits are granted by the Goverment of Canada to manufacturers/exporters of optic liquid level sensing systems which constitute the payment of a bounty or grant within the meaning or the U.S. Countervailing Duty Law. A preliminary determination will be made no later than May 14, 1978 and a final determination no later than November 14, 1978.

EFFECTIVE DATE: January 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Vincent Kane, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: A petition was received in satisfactory form on November 14, 1977, alleging that payments or bestowals conferred by the Government of Canada upon the manufacture, production or exportation of optic liquid level sensing systems constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

Optic liquid level sensing systems are classifiable under item 711.84 of the Tariff schedules of the United States (TSUS).

Pursuant to section 303(a)(4) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of the statute within 6 months of the receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant and a final determination within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than May 14, 1978 as to whether or not alleged payments or bestowals conferred by the Government of Canada upon the manufacture, production, or exportation of the above-described merchandise constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than November 14, 1978.

The payments involved in his case were made under a program adiministered by the Canadian Government which provides funds for the research and development of new products. There is no stipulation under this program that the product under development must be export oriented. In determining whether assistance of this kind constitutes a bounty or grant, the Treasury intends to consider, among other factors, the ad valorem benefits involved as well as whether a preponderance of the production which benefits from such assistance is exported. Information regarding Canadian sales of this product is not presently available although sufficient information regarding exports of optic liquid level sensing devices to the U.S. has been received to warrant a formal investigation.

This notice is published pursuant to section 303(a)(3), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 14), July 1, 1977, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), insofar as they pertain to the initiation of a countervailing duty investigation by the Commissioner of Customs, are hereby waived.

HENRY C. STOCKELL, JR.,
Acting General Counsel of the Treasury.

JANUARY 19, 1978.

[FR Doc. 78-2047 Filed 1-24-78; 8:45 am]

[4830-01]

Office of the Secretary

ISSUANCE OF NEW BOYCOTT GUIDELINES

JANUARY 20, 1978.

The Treasury Department today issued new guidelines, consisting of questions and answers, relating to the provisions of the Tax Reform Act of 1976 which deny certain tax benefits for participation in or cooperation with international boycotts.

The new guidelines supersede earlier sets of guidelines issued November 4, 1976 (Treasury news release WS-1156), December 30, 1976 (WS-1239), and August 12, 1977 (B-390), and published in the FEDERAL REGISTER on November 11, 1976, January 5, 1977, and August 17, 1977, respectively. The guidelines issued today generally are effective for operations occurring after, requests received after, and agreements made after November 3, 1976. As qualified by the following exceptions, this effective date affords a retroactive benefit to taxpayers who can claim the advantage of any rule in today's guidelines which is more favorable than previous guidelines. There are five exceptions to this general effective date:

First: Until February 13, 1978, affected persons will be entitled to the benefits of any previously published Treasury guidelines with respect to any specific issue covered in parts H through M of the guidelines.

Second: In the case of binding contracts entered into before October 25, 1977, operations that do not constitute participation in or cooperation with an international boycott under any previously published Treasury guideline will not constitute participation in or cooperation with an international boycott until July 1, 1978.

Third: In the case of binding contracts entered into before February 13, 1978, but after October 24, 1977, operations that do not constitute participation in or cooperation with an international boycott under the August 12, 1977, guidelines will not constitute participation in or cooperation with an international boycott until January 1, 1979.

Fourth: In the case of binding contracts entered into before February 13, 1978, guidelines H-1B, H-8, H-29A, H-29B, I-8, J-11, and K-5 of today's guidelines will not be effective until July 1, 1978.

Fifth: If a particular guideline in parts A through G or N through O of today's guidelines results in an increase in the reporting burden or tax liability of a person, that answer will be effective for taxable years ending after January 20, 1978.

Although the guidelines issued today differ in many respects from earlier guidelines, substantial revisions are reflected in guidelines A-3, A-10B, A-14A, A-14B, A-23, D-3, D-4, D-5, F-2, H-1B, H-2B, H-29A, H-29B, H-32, H-33, H-34, I-8, J-2A, J-2B, J-5, J-11, K-5, M-5, N-1A, N-1B, and N-2.

The principal authors of these guidelines were John C. Holberton, Russell L. Munk, and Leonard E. Santos of the Office of the Secretary of the Treasury.

Contact: Robert E. Nipp, 202-566-5328.

DEPARTMENT OF THE TREASURY GUIDELINES

BOYCOTT PROVISIONS (SECTION 999) OF THE INTERNAL REVENUE CODE

Table of Contents

A. Boycott reports.
B. Definition of "operations."
C. Definition of "reason to know" of official requirement of boycott participation.
D. Definition of "clearly separate and identifiable operations."
E. Effective date provisions.
F. International boycott factor and specifically attributable taxes and income.
G. Determinations.
H. Definition of an agreement to participate in or cooperate with a boycott (section 999 (b)(3)).
I. Refraining from doing business with or in a boycotted country (section 999(b)(3)(A)(i)).
J. Refraining from doing business with any U.S. person engaged in trade in a boycotted country (section 999(b)(3)(A)(ii)).
K. Refraining from doing business with any company whose ownership or management in made up, in whole or in part, of individuals of a particular nationality, race, or religion (section 999(b)(3)(A)(iii)).
L. Refraining from employing individuals of a particular nationality, race, or religion (section 999(b)(3)(A)(iv)).
M. As a condition of the sale of a product, refraining from shipping or insuring that product on a carrier owned, leased, or operated by a person who does not participate in or cooperate with an international boycott (section 999(b)(3)(B)).
N. Reduction of foreign tax credit.
O. Subpart F income.

In the questions and answers:

(a) Company A and company B are companies organized under the laws of one of the States of the United States;

(b) Company C, company D, and company E (and bank C and bank D), unless otherwise stated in the question, are companies organized under the laws of any country, including the United States;

(c) Country X is a boycotting country, which, inter alia, boycotts country Y;

(d) Country Y is a country boycotted by county X;

(e) Country Z is any country and may be the United States; a boycotting country, or a boycotted country;

(f) All references to "sections" are to sections of the Internal Revenue Code of 1954, as amended;

(g) In parts H-M in instances where the action described in the question by itself does not, according to the answer, provide sufficient evidence to support an inference that an agreement under section 999(b)(3) exists, an overall course of conduct which includes such action in addition to other factors could support such an inference; whether an agreement can be inferred from a given course of conduct is an evidentiary question which turns on the probative value of particular facts and circumstances; the examples offered in parts H-M are illustrative, not comprehensive; and

(h) In many questions in part H-M, a person deals with either country X or the government, a compnay or a national of country X. The result reached in the answer to each of those questions would be the same irrespective of whether the person is an individual, a company or any other type of person, and whether the person dealt with is country X or the government, a company or a national of country X.

BOYCOTT REPORTS

A-1. Q. Who must report as required by section 999(a)?

A. Generally, a U.S. person (within the meaning of section 7701(a)(30)) is required to report under section 999(a) if it—

1. Has operations; or

2. Is a member of a controlled group (within the meaning of section 993(a)(3)), a member of which has operations; or

3. Is a U.S. shareholder (within the meaning of section 951(b)) of a foreign corporation that has operations, but only if the U.S. shareholder owns (within the meaning of section 958(a)) stock of that foreign corporation; or

4. Is a partner in a partnership that has operations (see, however, answer A-17); or

5. Is treated under section 671 as the owner of a trust that has operations.

in or related to a boycotting country (or with the government, a company, or a national of a boycotting country). A person (within the meaning of section 7701(a)(1)) that is not a U.S. person is required to report under section 999(a) if it satisfies any one of the five conditions specified above and it either claims the benefit of the foreign tax credit under section 901 or owns stock of a DISC. For purposes of section 999(a), a foreign corporation engaged in a trade or business in the United States is not a U.S. person.

If a person controls a corporation within the meaning of section 304(c) and that person is required to report under section 999(a), then under section 999(e) that person must report whether the corporation participated in or cooperated with the boycott. If the corporation is required to report under section 999(a), then under section 999(e) the corporation must report whether the person participated in or cooperated with the boycott.

A boycotting country is—

(i) Any country that is on the list maintained by the Secretary under section 999(a)(3), or

(ii) Any country not on the list maintained by the Secretary under section 999(a)(3), in which the person required to file the report (or a member of the controlled group that includes that person) has operations, and which that person knows or has reason to know requires any person to participate in or cooperate with an international boycott that is not excepted by section 999(b)(4) (A), (B), or (C). Thus, even if the boycott participation required of the person reporting the operation is excepted by section 999(b)(4) (A) (B), or (C), if that person knows or has reason to know that boycott participation not excepted by section 999(b)(4) (A), (B), or (C) is required of any other person, the country is a boycotting country.

If the person required to file the report (or a member of the controlled group that includes that person) has operations related to a country, but not operations in that country, that country is not a boycotting country with respect to that person unless it is on the list maintained by the Secretary under section 999(a)(3). (For the definition of operations in or related to a country, see the questions and answers under part B.)

A-2. Q. Do the reporting requirements of section 999(a) that refer to "U.S. shareholders" of foreign corporations require U.S. minority shareholders to report the operations of such foreign corporations?

A. Yes. Under section 951(b) the term "U.S. shareholder" includes any U.S. person who owns (within the meaning of section (958(a)), or is considered as owning (by the application of the rules of ownership of section 958(b)), 10 percent or more of the total combined voting power of all classes of stock entitled to vote of such foreign corporation. The reporting requirement applies even if the U.S. shareholder is a minority shareholder and even if the foreign corporation is not a controlled foreign corporation within the meaning of section 957(a). However, as stated in answer A-1, the reporting requirement applies only to minority shareholders that actually own some stock within the meaning of section 958(a).

A-3 Q. If one member of a controlled group of corporations (within the meaning of section 993(a)(3)) files a report under section 999(a) with respect to the reportable operations of all members of that group, is this sufficient to discharge the reporting obligation of all members of the group?

A. Generally, every member of a controlled group of corporations (within the meaning of section 993(a)(3)) is required to report under section 999(a) if any member of the controlled group has operations in or related to a boycotting country. There are, however, two exceptions to this rule. First: A common parent (as defined in the regulations under section 1504) may file the report under section 999(a) on behalf of all the members of a controlled group that join with the common parent in the filing of a consolidated income tax return, and thereby discharge the obligation of each such member to file the report. Second: The requirement that each member of the controlled group file a report under section 999(a) is waived for each such member who, for its own taxable year:

1. Had no operations (other than those that meet the requirements of Answer A-20) in or related to a boycotting country (or with the government, a company, or a national of a boycotting country) and owned no stock, directly or indirectly, of any corporation having such operations; and

2. Received no request to participate in or cooperate with an international boycott and owned no stock, directly or indirectly, of any corporation receiving such a request; and

3. Is not entitled to (or forfeits) any benefits of deferral, DISC, or the foreign tax credit; and

4. Attaches to its income tax return a certificate signed by a person authorized to sign the tax return of the common parent certifying that the common parent filed a form 5713 on behalf of such member.

A-4. Q. If one U.S. shareholder of a foreign corporation files a report under section 999(a) in respect of the reportable operations of the foreign corporation, is this sufficient to discharge the reporting obligations of all U.S. shareholders of the foreign corporation in respect of that corporation's operations?

A. No. Each U.S. shareholder of a foreign corporation must file the section 999(a) report in respect of the activities of that corporation. However, if two or more U.S. shareholders of a foreign corporation are included in the same consolidated return, only one report need be filed with respect to all U.S. shareholders included in the return.

A-5. Q. How will the reporting requirements under section 999(a) be satisfied?

A. A taxpayer required to file an international boycott report under section 999(a) will fulfill this requirement by filing IRS Form 5713, "International Boycott Report," and all applicable supporting schedules and forms contained in the taxpayer's income tax returns that indicate the amounts and computations of benefits denied under sections 908(a), 952(a)(3), and 995(b)(1)(F) of the Internal Revenue Code.

A-6. Q. What degree of confidentiality will the international boycott reports submitted by taxpayers receive?

A. The reports by taxpayers will be submitted as part of the income tax return and, therefore, will be accorded the same degree of confidential treatment under section 6103 as any other information contained in an income tax return.

A-7. Q. Where and how should the Form 5713 be filed?

A. The Form 5713 should be filed in duplicate by all reporting taxpayers. One copy of Form 5713 should be sent to the Internal Revenue Service, 11601 Roosevelt Blvd., Philadelphia, Pa. 19155, and the other copy of Form 5713 should be attached to the taxpayer's income tax return that is filed with the taxpayer's customary Internal Revenue Service Center.

A-8. Q. Do individuals as well as corporations use Form 5713?

A. Yes. All taxpayers required to file a report under section 999(a) use IRS Form 5713. However, some parts of the form apply to corporations only; individual taxpayers can ignore these parts and complete only the parts relevant to individuals.

A-9. Q. Section 999(b)(4) permits a person to agree to comply with certain laws without being treated as having agreed to participate in or cooperate with an international boycott. In the course of its operations in or related to a boycotting country, a person agrees to comply with a prohibition on importation and exportation that is described in section 999(b)(4)(B) and section 999(b)(4)(C). Is that person required to report the operations on Form 5713?

A. Yes, although agreements described in section 999(b)(4) (B) and (C) do not constitute participation in or cooperation with an international boycott, the operations in or related to a boycotting country must be reported on Form 5713.

A-10A. Q. Section 999(b)(4)(A) permits a person to meet requirements imposed by a foreign country with respect to an international boycott if U.S. law or regulations, or an Executive order, sanctions participation in or cooperation with that international boycott. If a person's operations fall within this exception, is the person required to report such operations?

A. No. The reporting requirements with respect to operations under such international boycotts are waived.

A-10B. Q. Certain types of conduct that would otherwise be covered under section 999 of the Internal Revenue Code are not covered by, or are excepted from the penalties of, the Export Administration Amendments of 1977. Are those types of conduct permitted under section 999(b)(4)(A) of the Internal Revenue Code and thereby exempt from the coverage of section 999?

A. No. Both the reporting requirements of section 999 and the sanctions of sections 908(a), 952(a)(3), and 995(b)(1)(F) apply to those types of conduct. The exception of section 999(b)(4)(A) applies to an international boycott such as the embargo against Rhodesia in which the United States participates or with which the United States cooperates pursuant to U.S. law or regulations or to an Executive order.

A-11. Q. Company C sells goods or services outside a boycotting country to a person that is not a boycotting country, or the government, a company, or a national of a boycotting country. Company C knows or has reason to know that person in turn will either use the goods or services in a boycotting country, or will sell the goods or services for use in a boycotting country. Is company C required to report its sale of goods or services to that person?

A. Although the sale of the goods or services by company C constitutes an operation of company C related to a boycotting country (see answer B-1), the requirement that company C report the sale is waived, provided that in connection with the operation company C does not receive a request to participate in or cooperate with an international boycott (within the meaning of section 999(b)(3)), company C does not participate in or cooperate with an international boycott, and facilitation of participation in or cooperation with an international boycott was not one of the principal purposes for company C's entering into either the relationship or the transaction between company C and the other person. If facilitation of boycott participation or cooperation is a principal purpose of the relationship or the transaction, then company C's failure to report the sale of the goods or services to the other person is a willful failure to report within the meaning of section 999(f). The result in this answer would be the same were company C an individual or any other type of person, or if company C did other business with the other person outside a boycotting country.

A-12. Q. Company A is a U.S. shareholder (within the meaning of section 951(b)) of company C, a foreign corporation that is not a member of a controlled group that includes company A. Company A has a taxable year ending January 31, and company C has a taxable year ending June 30. Both companies have operations in country X, which is on the list maintained pursuant to section 999(a)(3). Who should file Form 5713 and for what period?

A. As indicated in answer A-1, company C need not file Form 5713 unless it claims the benefit of the foreign tax credit under section 901 or owns stock of a DISC. Company A must file Form 5713 for its taxable year ending January 31, and must report operations of company C during company C's taxable year ending within the period covered by company A's report.

A-13. Q. In the case of a Form 5713 filed by a member of a controlled group, what period of time should be reflected in the report, and when should the report be filed?

A. Each person described in Answer A-1 ("reporting person") is required to report all reportable operations, requests and participation or cooperation of each member of

the controlled group for each member's taxable year that ends with or within the common taxable year of the controlled group that ends with or within the taxable year of the reporting person.

In addition, each reporting person is required to report all reportable operations, requests and participation or cooperation of each foreign corporation having a United States shareholder that is a member of the controlled group. Such operations, requests and participation or cooperation of a foreign corporation are reported for the foreign corporation's taxable year that ends with or within the taxable year of the United States shareholder that ends with or within the common taxable year of the controlled group that ends with or within the taxable year of the reporting person.

In general, the common taxable year of the controlled group is the taxable year of the common parent of the controlled group. However, the members of the controlled group may elect the taxable year of one of the members of the controlled group to serve as the common taxable year of the controlled group. In the event that no common parent exists and that no common taxable year election has been made, the common taxable year of the controlled group will be the taxable year of the member of the controlled group whose taxable year ends latest in the calendar year.

In general, if a common taxable year election is made, it must be consented to in writing by each member of the controlled group. A common parent may, however, consent to the common taxable year election on behalf of all members of the controlled group that join with the common parent in the filing of a consolidated income tax return. In addition, foreign corporations that are members of the controlled group need not sign the consent if they are not required to report under Answer A-1. (However, if a foreign corporation is required to report in a year subsequent to the year in which a common taxable year election is made by the domestic members of the controlled group, it will be bound by the common taxable year election previously made by the group.) The consents must be attached to each member's Form 5713 filed during the first taxable year of such member to which the common taxable year election applies. The common taxable year election is a binding election and is made only once. Approval of the Secretary of the Treasury or his delegate is required for any changes in the common taxable year.

Each reporting person will use its normal taxable year for making adjustments required under sections 908(a), 952(a)(3) and 995(b)(1)(F), and for all purposes other than reporting and computing the international boycott factor. For example, if the reporting person uses the international boycott factor, the international boycott factor will be applied to the reporting person's normal taxable year for determining the reporting person's adjustments under sections 908(a), 952(a)(3) and 995(b)(1)(F).

More details concerning the time period covered in the international boycott report are contained in the instructions to Form 5713. Details concerning the time period covered in the international boycott factor are contained in the instructions to Form 5713 and in Temp. Regs. § 7.999-1 and Proposed Regs. § 1.999-1.

As stated in Answer A-7, the reporting person's Form 5713 is filed at the time the reporting person files its income tax return.

A-14A. Q. Company A is a U.S. corporation and is required to report under section 999(a). Company A is also a subsidiary or a sister of a foreign corporation that is not required to report under section 999(a). Is Company A required to report the operations, requests and participation or cooperation of the foreign parent or sister corporation?

A. Generally, under section 999(a) and Answer A-1, a person required to report must report the operations, requests and participation or cooperation of all members of the controlled group of which it is a member. However, if the foreign parent or sister corporation is not otherwise required to report, the requirement that Company A report the operations, requests and participation or cooperation of the foreign parent or sister corporation will be waived if Company A—

1. Is not entitled to any benefits of deferral, DISC, or the foreign tax credit, or

2. Applies the international boycott factor, and forfeits all the benefits of deferral, DISC and the foreign tax credit to which it is entitled (i.e., applies an international boycott factor of one under sections 908(a), 952(a)(3), and 995(b)(1)(F)), or

3. Identifies specifically attributable taxes and income, and forfeits all the benefits of deferral, DISC, and the foreign tax credit attributable to: (a) operations related to boycotting countries in connection with which there was participation in or cooperation with an international boycott; or (b) operations in boycotting countries which have not been clearly demonstrated to be clearly separate and identifiable from operations in connection with which there was participation in or cooperation with an international boycott.

Although the requirement that Company A report operations, requests and the participation or cooperation of its foreign parent or sister corporations may be waived, Company A must report all operations, requests and participation or cooperation—

(i) Of itself, and

(ii) Of all United States members of each controlled group of which Company A is a member, and

(iii) Of all foreign corporations of which Company A is a United States shareholder within the meaning of section 951(b), but only if Company A owns (within the meaning of section 958(a)) stock of the foreign corporation.

If Company A is required to report on behalf of a foreign corporation under (iii) above, it must report all operations, requests and participation or cooperation of the foreign corporation, even if conducted or received by the foreign corporation in connection with operations that are not effectively connected with a United States trade or business.

A-14B. Q. Company C, a foreign corporation engaged in operations in the United States through U.S. Branch A, is required to report under section 999(a). Company C may also have a parent, subsidiaries or sister corporations that are not United States persons. Is Company C required to report either the operations, requests and participation or cooperation of its non-U.S. parent, subsidiaries or sister corporations or its own operations, requests and participation or cooperation that do not relate to Branch A?

A. Generally, under section 999(a) and Answer A-1, a person required to report must report the operations, requests and participation or cooperation of all members of the controlled group of which it is a member. However, the requirement that Company C report the operations, requests and participation or cooperation of its non-U.S parent, subsidiaries or sister corporations and its own operations, requests and participation or cooperation that do not relate to Branch A will be waived if Company C—

1. Is not entitled to any benefits of deferral, DISC, or the foreign tax credit, or

2. Applies the international boycott factor, and forfeits all the benefits of deferral, DISC and the foreign tax credit to which it is entitled (i.e., applies an international boycott factor of one under sections 908(a), 952(a)(3), and 995(b)(1)(F)), or

3. Identifies specifically attributable taxes and income, and forfeits all the benefits of deferral, DISC, and the foreign tax credit attributable to: (a) operations related to boycotting countries in connection with which there was participation in or cooperation with an international boycott; or (b) operations in boycotting countries which have not been clearly demonstrated to be clearly separate and identifiable from operations in connection with which there was participation in or cooperation with an international boycott.

Although there may be a waiver of the requirement that Company C report the operations, requests and participation or cooperation of its non-U.S. parent, subsidiaries, or sister corporations and of itself to the extent that the operations, requests and participation or cooperation do not relate to Branch A, Company C must report all operations, requests and participation or cooperation—

(i) Of Branch A, and

(ii) Of all United States members of each controlled group of which Company C is a member.

Company C is, moreover, required to report all the operations, requests and participation or cooperation of Branch A, even if conducted or received by Branch A in connection with operations that are not effectively connected with a United States trade or business. In addition, if Company C or any member of a controlled group of corporations that includes Company C engages in operations in the United States directly (i.e. not through Branch A), and those operations are also operations in or related to a boycotting country, then those operations, as well as all requests and participation or cooperation relating to those operations, must be reported by Company C.

A-15. Q. Company C receives an unsolicited invitation to tender for a contract for the construction of an industrial plant in Country X. The tender documents contain a provision stating that the person inviting the tender will not enter into the contract unless the successful tenderer makes an agreement described in section 999(b)(3). Company C does not respond to the unsolicited invitation. Is Company C required to report the invitation under section 999(a)(2) as a request to participate in or cooperate with an international boycott?

A. No. The section 999(a)(2) reporting requirement will be waived provided that Company C neither solicited the invitation to tender nor responded to the invitation. This answer would be the same were Company C an individual or any other type of person.

A-16. Q. Before May 13, 1977, Company C received requests to comply with interna-

tional boycotts. Company C preserved the requests that were evidenced in writing and preserved the notations it made concerning the details of oral requests. When Form 5713 was issued on May 13, 1977, it required more details concerning the requsts made of Company C than were preserved, and many of those details can no longer be ascertained. Will Company C's report under section 999(a)(2) be deemed deficient?

A. On October 4, 1976, Company C was put on notice that it would be required to document boycott requests received after November 3, 1976. Form 5713 does not require any details that would not have been preserved by a prudent person having such notice. In addition, under Answer A-15, the reporting requirements of section 999(a)(2) have been waived for certain unsolicited boycott requests. If Company C does not supply the required information with respect to the remaining requests that were either solicited or responded to, its report will be deficient. This answer would be the same were Company C an individual or any other type of person.

A-17. Q. A United States partnership consisting of 100 United States partners has operations in or related to a boycotting country, or with the government, a company, or a national of a boycotting country. Is each partner required to file Form 5713?

A. Generally, if a partnership has operations in or related to a boycotting country, or with the government, a company, or a national of a boycotting country, each partner is required to file Form 5713. However, if the partnership files Form 5713 with its information return and has no operations for the taxable year that constitute participation in or cooperation with an international boycott, then the requirement that each partner file Form 5713 will be waived for each partner that has no operations in or related to a boycotting country, or with the government, a company, or a national of a boycotting country other than operations that are reported on the Form 5713 filed by the partnership.

A-18. Q. A United States shareholder (within the meaning of section 951(a)) owns stock of Company C, a foreign corporation that has operations in Country X, but the United States shareholder does not have effective control over Company C. The United States shareholder is required to report under section 999(a). The United States shareholder requests information from Company C in order to meet its reporting obligations under section 999(a). Company C refuses to provide (or is prevented by local law, regulation, or practice from providing) that information. Will the United States shareholder be subject to the section 999(f) penalties for willful failure to report the activities of Company C?

A. The United States shareholder must report on the basis of that information that is reasonably available to it. For example, in most cases it will be aware that Company C has operations in or related to Country X, even though it is not aware of the operational details. The United States shareholder must report on Form 5713 that Company C has operations in or related to Country X. The United States shareholder should also describe in a statement attached to Form 5713 the good faith efforts that it has made to obtain all the information required under section 999(a). Although each case must be resolved on the basis of the particular facts and circumstances, the United States shareholder will not be subject to the section 999(f) penalties for willful failure to provide the information relating to Company C if it can demonstrate that it made good faith efforts to obtain the information but was denied the information by Company C.

A-19. Q. The facts are the same as in Question A-18 except that the United States shareholder owns less than 50 percent of the stock of Company C and Company C is not a controlled foreign corporation. What are the tax sanctions to which the United States shareholder will be subject?

A. Since Company C is neither a controlled foreign corporation nor a DISC, the sanctions of section 952(a)(3) and 995(b)(1)(F) are not relevant. However, the United States shareholder will be subject to the sanctions of section 908(a). Thus, if the United States shareholder applies an international boycott factor, that factor is applied to its foreign tax credits in accordance with Answers F-5, N-1A and N-2. If the United States shareholder identifies specifically attributable taxes and income under section 999(c)(2), it will lose its section 902 indirect foreign tax credit for those taxes paid by Company C that the United States shareholder cannot demonstrate are attributable to Company C's operations that are:

(a) Not in or related to a boycotting country;

(b) Related to a boycotting country and in connection with which there was no participation in or cooperation with an international boycott; or

(c) In a boycotting country and have been clearly demonstrated to be clearly separate and identifiable from operations in connection with which there was participation in or cooperation with an international boycott.

(To determine whether Company A will lose its section 901 direct foreign tax credit for income tax withheld by Country X on dividends paid by Company C to Company A, see Answer N-3.)

A-20. Q. Individual G is a national of Country X, which is on the list maintained by the Secretary. G engages in an operation with Company C. For example, if Company C were a bank, the operation might involve a deposit by G, or if Company C were an automobile dealer, the operation might involve the purchase of a car, or if Company C were a stockbroker, the operation might involve the purchase or sale of a security, or if Company C were a hotel, the operation might involve the letting of a room. Irrespective of the specific nature of the operation, the agreement under which the operation is consummated is the same agreement that Company C requires of all other customers. Company C is aware of G's nationality, but participation in or cooperation with an international boycott is neither contemplated nor required as a condition of G's willingness to enter into the operation with Company C. Under section 999(a), what are the reporting obligations of Company C with respect to these operations?

A. In many business operations, there will be incidental contacts between the nationals or business enterprises of boycotting countries and persons from other countries. Company C's obligation to report these incidental contacts under section 999(a) will be waived provided that the contacts satisfy the following criteria:

1. All aspects of the operation contemplated by the parties are carried on outside a boycotting country; and

2. No request for an agreement described in section 999(b)(3) is made or received by any party to the operation; and

3. There is no such agreement in connection with the operation; and

4. a. The operation does not involve the importation of property, funds or services from or produced in a boycotting country and Company C does not know or have reason to know that the property, funds or services involved in the operation will be used, consumed or disposed of in a boycotting country, or

b. The value of the property, funds or services involved in the operation does not exceed $5,000.

The answer to the question would be the same if Company C were an individual or any other type of person and if G were a corporation or any other type of person.

A-21. Q. Individual G, a U.S. citizen, owns 15 percent of the stock of Company A. Company A has operations in Country X. Is Individual G required to report the operations of Company A?

A. An individual generally is not required to report the operations of a domestic corporation of which the individual is a shareholder. However, if Individual G controls (within the meaning of section 304(c)) Company A and if Individual G is required to report under section 999(a), then under section 999(e) Individual G must report whether Company A participated in or cooperated with an international boycott.

A-22. Q. Companies C, D, and E are all U.S. or foreign corporations reporting on a calendar year basis. Companies C, D, and E each had operations in Country X during the calendar year and were each required to file Form 5713. From January 1 to June 1, Company C owned more than 50 percent of the stock of Company D. On June 1, Company E acquired more that 50 percent of the stock of Company D. What operations must be reflected in the Forms 5713 filed by Companies C, D, and E for the calendar year?

A. The Form 5713 filed by Company C must reflect the operations of Company C for the entire calendar year and the operations of Company D for the period January 1-May 31. The Form 5713 filed by Company E must reflect the operations of Company E for the entire calendar year and the operations of Company D for the period June 1-December 31. The Form 5713 filed by Company D must reflect the operations of Company D for the entire calendar year, the operations of Company C for the period January 1-May 31 and the operations of Company E for the period June 1-December 31. If the sale of stock had occurred during the first 30 days of the calendar year, the requirement that Company C report the operations of Company D and that Company D report the operations of Company C for the period of 30 days or less would be waived unless under Reg. § 1.1502-76(b)(5) Company D is included in the consolidated return filed by Company C for that period. The requirement that Company D report the operations of Company E, and that Company E report the operations of Company D for the period of 30 days or less would also be waived unless under Reg. § 1.1502-76(b)(5) Company D is included in the consolidated return filed by Company E for that period. Similarly, if the sale of stock had occurred during the last 30 days of the calendar year, the requirement that Company C report the operations of Company D and that Company D report the operations of Company C for the period of 30

days or less would be waived unless under Reg. § 1.1502-76(b)(5) Company D is included in the consolidated return filed by Company C for that period, and the requirement that Company D report the operations of Company E and that Company E report the operations of Company D for the period of 30 days or less would be waived unless under Reg. § 1.1502-76(b)(5) Company D is included in the consolidated return filed by Company E for that period.

A-23. Q. In 1977, Company A owns more that 10 percent and up to 50 percent of the stock of Company C, a foreign corporation that has operations in Country X that constitute participation in or cooperation with an international boycott. Company C is not a controlled foreign corporation. Company A reports on a calendar year basis and computes its loss of tax benefits using the section 999(c)(2) specific attribution of taxes and income method. Company C pays no dividend in 1977, but pays a dividend in 1978 attributable to its 1977 earnings.

In 1978 neither Company A nor Company C has operations in any boycotting country. Company A claims a foreign tax credit under section 902 in 1978 in respect of the taxes paid by Company C. For which year, 1977 or 1978, must Company A report the operations of Company C, and for which year is the sanction of section 908(a) applicable?

A. Company C's operations are reported by Company A in 1977. The sanction of section 908(a) is applicable to Company A's foreign tax credits in 1978. Accordingly, in 1978 Company A will lose that portion of the section 902 foreign tax credits specifically attributable to Company C's 1977 boycott operations. In this case, even though in 1978 Company A and Company C have no operations that are required to be reported by Company A on Form 5713, Company A must nevertheless file Form 5713 in 1978 (which will show no reportable operations) and complete Schedules B and C to Form 5713, on which Company A will show the loss of the section 902 foreign tax credits attributable to Company C's boycott operations for 1977.

Had Company C been a controlled foreign corporation, section 952(a)(3) would have applied to require Company A to take into income in 1977 its pro rata share of Company C's income attributable to boycotting operations. In addition, under section 908(a), Company A would lose in 1977 the section 960 foreign tax credits accompanying Company C's income included in Company A's income under section 952(a)(3).

B. Definition of "Operations"

B-1. Q. Under what circumstances does a person have operations in, or related to, a boycotting country (or with the government, a company, or a national of that country)?

A. A person has operations in, or related to, a boycotting country (or with the government, a company, or a national of that country) if the operation in which it engages:

1. Is carried on in whole or part in a boycotting country ("in a boycotting country");

2. Is carried on outside a boycotting country either for or with the government, a company, or a national of a boycotting country ("with the government, a company, or a national of a boycotting country"); or

3. Is carried on outside a boycotting country for the government, a company, or a national of a non-boycotting country if the person having the operation knows or has reason to know that the specific goods, services or funds produced by the operation are intended for use in a boycotting country, for use by or the benefit of the government, a company, or a national of a boycotting country, or use in forwarding or transporting to a boycotting country ("related to a boycotting country").

For purposes of applying the presumption of section 999(b)(1) and the sanctions of sections 908(a), 952(a)(3), and 995(b)(1)(F), and for purposes of computing the international boycott factor, operations "with the government, a company, or a national of a boycotting country" that are carried out in whole or in part in a boycotting country are deemed to be operations "in a boycotting country", and operations with such governments, companies and nationals that are not carried out in whole or in part in a boycotting country are deemed to be operations "related to a boycotting country."

The term "operation" encompasses all forms of business or commercial activities and transactions (or parts of transactions), whether or not productive of income, including, but not limited to, selling; purchasing; leasing; licensing; banking, financing and similar activities; extracting; processing; manufacturing; producing; constructing; transporting; performing activities ancillary to the foregoing (e.g., contract negotiating, advertising, site selecting, etc.); and performing services, whether or not ancillary to the foregoing.

Operations described in principles 2 and 3 above are illustrated in the following two examples:

(a) Company C engages in a joint venture manufacturing operation in a non-boycotting country with Company D, a company incorporated under the laws of Country X. Alternatively, Company C sells goods or services to Company D in a non-boycotting country. In both cases, Company C has operations "with" a company of a boycotting country.

(b) D, a national of a non-boycotting country, has a contract to construct a dam in Country X. D subcontracts to Company C for the manufacture of a generator for the dam. The contract between D and Company C and the generator specifications indicate that the generator is for use in Country X. The contract specifies delivery of the generator to D f.o.b. New York. Company C has operations "related to" a boycotting country.

B-2. Q. Individual G is a U.S. citizen living in Country X. G is retired. G receives social security payments and a pension, but has no business activities. Does G have "operations" in, or related to, Country X?

A. No. G is not engaged in any business or commercial activities.

B-3. Q. Individual H is a U.S. citizen living in Country X and working there as an employee. H earns a salary and has passive investment income, but has no business income. Does H have "operations" in or related to Country X?

A. No. The performance of personal services as an employee does not constitute an "operation."

C. Definition of "Reason to Know" Requirement of Boycott Participation

C-1. Q. Under what circumstances, in the absence of a Treasury listing of a country under section 999(a)(3), will it be deemed under section 999(a)(1)(B) that a person knows or has reason to know that participation in or cooperation with an international boycott is required as a condition of doing business within such country or with the government, a company, or a national of such country?

A. A person will be deemed to know or have reason to know that a country requires participation in or cooperation with an international boycott as a condition of doing business within a country or with the government, a company, or a national of a country, if that person receives what could be interpreted as an official request of that country to participate in or cooperate with an international boycott or if that person knows that others have received such requests. Whether a request could be interpreted as an official request of a country depends on an analysis of the facts and circumstances surrounding the request. However, the request need not be made directly by a government official or representative in order to be interpreted as an official request. For example, assume that Company C has a contract with the government of a boycotting country to build a dam in that country and is required under the contract to require its subcontractors to agree to participate in or cooperate with the boycott. Assume further that Company C requires Subcontractor D to make such an agreement as a condition of receiving the subcontract to build a generator for the dam. Subcontractor D will be deemed to have reason to know that participation in or cooperation with an international boycott is a condition of doing business within the boycotting country or with the government, a company, or a national of such country.

D. Definition of "Clearly Separate and Identifiable Operations"

D-1. Q. If a person or a member of a controlled group (within the meaning of section 993(a)(3)) enters into an agreement that constitutes participation in or cooperation with an international boycott (within the meaning of section 999(b)(3)), what operations of that person or group will be considered to be operations in connection with which such participation or cooperation occurred?

A. All operations of that person or any member of that group in—

(a) The country in connection with which the agreement is made; and

(b) Any other country that requires participation in or cooperation with the boycott with respect to which the agreement is made

will be presumed to be operations in connection with which there was participation in or cooperation with an international boycott. (See, however, Answer D-4 for an exception to the presumption in the case of agreements that are unintentional and unauthorized and that relate to a minor aspect of an operation.)

This presumption may be rebutted, however, if the person (or, if applicable, the U.S. shareholder of a foreign corporation) or member of the group clearly demonstrates that a particular operation is a clearly separate and identifiable operation from the operation in connection with which the agreement was made, and that no agreement constituting participation in or cooperation with an international boycott applied to, or was made in connection with, such separate and identifiable operation.

The presumption of participation in or cooperation with the boycott will not apply

with respect to operations outside the countries described in (a) and (b) above, but such operations will be considered to be operations in connection with which there was participation in or cooperation with an international boycott if so warranted by the facts.

D-2. Q. Who has the burden of proof of clearly demonstrating that a particular operation is a "clearly separate and identifiable operation" and that there was no participation in or cooperation with an international boycott in connection with that operation?

A. If a person or a member of a controlled group has participated in or cooperated with an international boycott in connection with one or more of its operations, that person (or, if applicable, the U.S. shareholder of a foreign corporation) or that group bears the burden of proof of clearly demonstrating that any other operation is clearly separate and identifiable from the operation in connection with which such participation or cooperation occurred and that no such participation or cooperation occurred in connection with the separate and identifiable operation.

D-3. Q. How can a taxpayer determine what constitutes a "clearly separate and identifiable operation"?

A. The determination whether an operation constitutes a clearly separate and identifiable operation must be based on an examination of all the facts and circumstances. The following factors are among those that may be considered in determining whether an operation is clearly separate and identifiable from an operation in connection with which participation in or cooperation with an international boycott occurred:

1. Were the two operations conducted by different corporations, partnerships, or other business entities?

2. Were the operations, whether conducted by separate entities or not, supervised by different management personnel?

3. Did the operations involve distinctly different products or services?

4. Were the operations undertaken pursuant to separate and distinct contracts?

5. If business operations in the counties conducting the international boycott in question were not continuous over time, was each transaction separately negotiated and performed?

The factors listed above are not intended to represent all the factors that will be considered in determining whether an operation is a clearly separate and identifiable operation. Additional factors will be considered if so warranted by the facts. No relative weight is assigned to any specific factor; instead, the weight to be given to any factor will depend on the facts and circumstances of each individual case. In addition, a positive answer to all the listed factors will not necessarily result in a determination that an operation is a clearly separate and indentifiable operation if a contrary conclusion is warranted by the facts.

The application of the five factors is illustrated by the following examples:

(a) Company C contracts to build several major buildings in Country X. Company C has never engaged in any business in Country X prior to such contract. Nine months later Company C enters into a second contract to build a large dock facility in Country X. Construction of the dock facility will constitute an operation separate and identifiable from construction of the buildings.

(b) Company C contracts, as general contractor, to build a pipeline in County X. In connection with the construction of the pipeline, Company C must retain engineering consultants. Company D, a member of the same controlled group of which Company C is a member, is engaged in the business of providing engineering consulting services to both related and unrelated parties. Company C is not headquartered in the same city as Company D, and does not share any management personnel with Company D. Company C retains Company D to provide such services with respect to the pipeline construction. The engineering consulting services provided by Company D will constitute operations separate and identifiable from the construction of the pipeline by Company C.

(c) Company C markets electronic computers and medical diagnostic equipment in Country X and Country Z. The two product lines, computers and medical equipment, are handled by representatives of two separate divisions which are located in different offices. The managers of each division report to different superiors in the United States. The activities of Company C with respect to sales of computers will constitute operations separate and identifiable from Company C's activities in connection with the sales of medical equipment.

(d) Company C imports and sells motor vehicles in Country X. Company C maintains a national office and import depot at a major port in Country X and has five sales offices located in various cities in Country X. The managers of the sales offices are authorized to handle local matters relating to maintaining the offices and are subject to the close supervision and inspection of national office personnel. For internal accounting purposes, Company C treats each sales office as a profit center, charging each office for its inventory and a proportional share of corporate overhead. The marketing activities of the various sales offices do not constitute operations separate and identifiable from each other, nor do the marketing activities of Company C as a whole constitute operations separate and identifiable from the import and distribution activities of Company C.

(e) Company C markets appliances, such as refrigerators, washers and dryers, and home entertainment equipment, such as televisions and tape recorders, in Country X. The appliances are manufactured in Country X by Company D, a company wholly-owned by Company C, and the home entertainment equipment is manufactured in Country X by Company E, also wholly-owned by Company C. Company C purchases the production of Company D and Company E for resale to independent retailers who generally handle both lines of products. Company C's resales to the various independent retailers are made pursuant to separate and distinct contracts, each of which is separately negotiated. The boards of directors of Companies C, D, and E are composed of the same individuals and the same individual serves as president of each company. The products of Companies D and E are manufactured in the same plant, and the executive offices of Companies C, D, and E are all located in a building adjacent to that plant. Company C's various resale operations are not separate and identifiable from one another, and the respective operations of Companies C, D, and E do not constitute operations that are clearly separate and identifiable from each other.

(f) Bank C provides international banking and financing services throughout the world through its home office and foreign branches and subsidiaries. The services include wholesale lending, retail lending, deposit gathering and letter of credit services. The letter of credit services involve the opening, confirming and advising of letters of credit and the negotiation, payment and acceptance of drafts by beneficiaries under letters of credit. The letter of credit services are performed by specialized bank personnel that are organized into separate sections in the respective offices of Bank C and of its subsidiaries. These letter of credit services are supervised by management personnel different from the personnel responsible for the other banking and financing services provided by Bank C. The letter of credit services of Bank C, conducted through the respective offices of Bank C and of its subsidiaries, constitute operations that are separate and identifiable from the other international banking and financing services provided by Bank C and its subsidiaries.

D-4. Q. Company C has operations in or related to County X. In connection with a minor aspect of those operations, an employee of Company C enters into an unintentional and unauthorized boycott agreement. For example, a clerk of Company C signs an invoice for office supplies. On the reverse side of the invoice, a boycott clause is printed in fine print or in a foreign language. Will that agreement give rise to the presumption that all the operations of C ompany C in boycotting countries are operations in connection with which there is participation in or cooperation with an international boycott? Will that agreement trigger the application of the sanctions of 908(a), 952(a)(3), or 995(b)(1)(F)?

A. An agreement to participate in or cooperate with an international boycott made in connection with a minor aspect of Company C's operations will not taint the operations of Company C in boycotting countries and will not trigger the application of the sanctions of sections 908(a), 952(a)(3), or 995(b)(1)(F) if the agreement was unintentional, Company C has not authorized the employee to agree to participate in or cooperate with the international boycott and Company C does not comply with the terms of the unauthorized boycott clause.

D-5. Q. The facts are the same as in example (c) of Answer D-3 with the following additional facts:

Company C's computer sales, each made pursuant to a separately negotiated contract, are as follows:

(a) Sales in Country X with boycott agreements	10
(b) Sales in Country X without boycott agreements	15
(c) Sales in Country Z related to Country X with boycott agreements	20
(d) Sales in Country Z related to Country X without boycott agreements	25
(e) Sales in Country Z not related to Country X	30
(f) Total sales of computers	100

Company C's medical equipment sales, each made pursuant to a separately negotiated contract, are as follows:

(g) Sales in Country X with boycott agreements	0
(h) Sales in Country X without boycott agreements	35
(i) Sales in Country Z related to Colountry X with boycott agreements	0

(j) Sales in Country Z related to Country X without boycott agreements	40
(k) Sales in Country Z not related to Country X	45
(l) Total sales of computers	120

To which sales does the section 999(b)(1) presumption apply, and to which sales do the sanctions of section 908(a), 952(a)(3), and 995(b)(1)(F) apply?

A. Since Company C has participated in an international boycott in connection with at least one sale, the presumption of section 999(b)(1) applies to Company C's 60 sales in Country X (a+b+g+h). The presumption does not apply top the 85 sales related to Country X (c+d+i+j) or to the 75 sales that are not in or related to Country X (e+k). The sanctions of 908(a), 952(a)(3) and 995(b)(1)(F) apply to Company C's 20 sales related to Country X that involve boycott participation or cooperation (c+i) and also to Company C's 25 computer sales in Country X that Company C has not clearly demonstrated are clearly separate and identifiable from sales in connection with which there was participation in or cooperation with an international boycott (a+b). Had Company C not been able to clearly demonstrate that the 35 sales of medical equipment in Country X (g+h) were clearly separate and identifiable from the tainted sales of computers in Country X (a+b), then the sanctions of 908(a), 952(a)(3), and 995(b)(1)(F) would also have applied to those 35 sales.

E. Effective Date Provisions

E-1. Q. What are the effective dates of the reporting requirements and sanctions of the international boycott provisions?

A. Generally, the reporting requirements and the sanctions of the international boycott provisions apply to agreements to participate in or cooperate with an international boycott made after November 3, 1976, and to agreements made on or before November 3, 1976, that continue in effect thereafter. However, there are two exceptions to this general rule. First, the reporting requirements of section 999(a) apply to all *operations* referred to in section 999(a)(1) or (2) after November 3, 1976, whether or not there has been an agreement to participate in or cooperate with an international boycott, and whether or not the operations are carried out in accordance with the terms of a binding contract entered into before September 2, 1976. All operations on or before November 3, 1976, are reportable if there has been participation in or cooperation with the boycott during the taxable year after November 3, 1976, in connection with any operation (see Answer E-2). Second, in the case of an operation carried out in accordance with the terms of a binding contract entered into before September 2, 1976, the sanctions of the international boycott provisions apply only to agreements to participate in or cooperate with an international boycott made on or after September 2, 1976, and to agreements made before that date that continue in effect after December 31, 1977. More details concerning reporting requirements and the application of sanctions for years affected by the effective date of the international boycott provisions are contained in the instructions to Form 5713, in Temp. Regs. § 7.999-1 and in Proposed Regs. § 1.999-1.

E-2. Q. If a person who reports tax liability on a calendar year basis makes an agreement on November 20, 1976, to participate in or cooperate with an international boycott, which of that person's operations conducted during the taxable year are reportable, which operations are included in the international boycott factor calculations, and how are the sanctions applied?

A. All operations of the person during the entire 1976 taxable year (including pre-November 20, 1976, operations) in or related to a boycotting country or with the government, a company, or a national of such country must be reported under section 999(a) and will be considered in calculating the international boycott factor (or the amount of taxes or income specifically attributable to operations in which there was participation in or cooperation with an international boycott) for the taxable year. However, under section 999(c)(1), those operations that are—

(1) related to boycotting countries and in connection with which there was no boycott participation or cooperation, and

(2) in boycotting countries and that are clearly demonstrated to be clearly separate and identifiable from operations in connection with which there was boycott participation or cooperation.

need not be reflected in the numerator of the international boycott factor. In addition, under section 999(c)(2) the tax benefits specifically attributable to such operations will not be denied. See also Temp. Regs. § 7.999-1 and Proposed Regs. § 1.999-1.

The sanctions are applied to the year 1976 on a pro rata basis. If a person uses the international boycott factor for 1976, the factor is applied under sections 908(a), 952(a)(3), and 995(b)(1)(F) after it has been multiplied by the fraction 58/366, representing the number of days after the November 3, 1976, effective date remaining during the calendar year. If a person identifies specifically attributable taxes and income, the tax benefits denied under sections 908(a), 952(a)(3), and 995(b)(1)(F) are computed by first ascertaining the tax benefits of the foreign tax credit, deferral, and DISC, respectively, for the taxable year attributable to all operations that are—

(1) related to boycotting countries and in connection with which there was boycott participation or cooperation, and

(2) in boycotting countries and that are not clearly demonstrated to be clearly separate and identifiable from operations in connection with which there was boycott participation or cooperation

and then multiplying those amounts by 58/366.

E-3. Q. If a person having a July 1–June 30 taxable year carries out an operation or operations in accordance with the terms of a binding contract entered into before September 2, 1976, and, in furtherance of that contract, makes an agreement on February 15, 1978, to participate in or cooperate with an international boycott, which of the person's operations conducted during the taxable year July 1, 1977–June 30, 1978, are reportable, which operations are included in the international boycott factor calculations, and how are the sanctions applied?

A. All operations of the person during the entire July 1, 1977–June 30, 1978, taxable year (including pre-February 15, 1978 operations) in or related to a boycotting country or with the government, a company, or a national of such country must be reported under section 999(a) and will be considered in calculating the international boycott factor (or the amount of taxes or income specifically attributable to operations in which there was participation in or cooperation with an international boycott) for the taxable year. However, under section 999(c)(1), those operations that are—

(1) related to boycotting countries and in connection with which there was no boycott participation or cooperation, and

(2) in boycotting countries and that are clearly demonstrated to be clearly separate an identifiable from operations in connection with which there was boycott participation or cooperation

need not be reflected in the numerator of the international boycott factor. In addition, under section 999(c)(2) the tax benefits specifically attributable to such operations will not be denied. See also Temp. Regs. § 7.999-1 and proposed Regs § 1.999-1.

The sanctions are applied to the July 1, 1977–June 30, 1978, taxable year on a pro rata basis. If a person uses the international boycott factor for the taxable year, the factor is applied under sections 908(a), 952(a)(3), and 995(b)(1)(F) after it has been multiplied by the fraction 183/365, representing the number of days after the December 31, 1977, effective date remaining during the taxpayer's taxable year. (See also Temp. Regs. § 7.999-1 and Proposed Regs. § 1.999-1.) If a person identifies specifically attributable taxes and income, the tax benefits denied under sections 908(a), 952(a)(3), and 995(b)(1)(F) are computed by first ascertaining the tax benefits of the foreign tax credit, deferral, and DISC, respectively, for the taxable year attributable to all operations that are—

(1) related to boycotting countries and in connection with which there was boycott participation, or cooperation, and

(2) in boycotting countries and that are not clearly demonstrated to be clearly separate and identifiable from operations in connection with which there was boycott participation or cooperation

and then multiplying those amounts by 183/365.

E-4. Q. What is a binding contract for purposes of the binding contract rule?

A. A binding contract with respect to a person, a member of a controlled group that includes that person, or a foreign corporation of which that person is a United States shareholder is a contract that was, on September 1, 1976, and is at all times thereafter, binding on that person, foreign corporation or member, and under which all material terms are fixed or are ascertainable with reference to an objectively determinable standard.

E-5. Q. If, under a binding contract existing before September 2, 1976, a person made an agreement described in section 999(b)(3), will the operation or operations that are the subject of the contract be subject to the international boycott provisions in years after 1977?

A. Yes, unless the person establishes that, on or before December 31, 1977, the agreement to participate in or cooperate with the boycott was renounced, the renunciation was communicated to the government or person with which the agreement was made, and the agreement was not reaffirmed after 1977.

E-6. Q. If, under a contract made in 1979, a person who reports tax liability on a calendar year basis makes an agreement described in section 999(b)(3), but does not comply with the agreement after 1980, will the operation or operations that are the subject of the contract be subject to the in-

ternational boycott provisions in years after 1980?

A. Yes, unless the person establishes that, on or before December 31, 1980, the agreement to participate in or cooperate with the boycott was renounced, the renunciation was communicated to the government or person with which the agreement was made, and the agreement was not reaffirmed after 1980.

E-7. Q. If, under a contract made after January 1, 1977, a person makes an agreement described in section 999(b)(3), and later renounces the agreement and communicates such renunciation to the government or person with which the agreement was made, which operations of such person during the taxable year of the renunciation are reportable, which operations are included in the international boycott factor calculations, and how are the sanctions applied?

A. All operations of the person during the entire taxable year within which the agreement was renounced (including post-renunciation operations) in or related to a boycotting country or with the government, a company, or a national of such country must be reported under section 999(a) and will be considered in calculating the international boycott factor (or the amount of taxes or income specifically attributable to operations in which there was participation in or cooperation with an international boycott) for the taxable year. However, under section 999(c)(1), those operations that are—

(1) related to boycotting countries and in connection with which there was no boycott participation or cooperation, and

(2) in boycotting countries and that are clearly demonstrated to be clearly separate and identifiable from operations in connection with which there was boycott participation or cooperation

need not be reflected in the numerator of the international boycott factor. In addition, under section 999(c)(2) the tax benefits specifically attributable to such operations will not be denied. See also Temp. Regs. § 7.999-1 and Proposed Regs. § 1.999-1. There is no proration between the pre-renunciation and post-renunciation portions of the taxable year of either the boycott factor or the specifically attributable taxes and income.

E-8. Q. Before September 2, 1976, Company A entered into a binding contract that did not contain an agreement to boycott or by itself support an inference of the existence of an agreement to boycott. However, Company A's course of conduct in carrying out the operation or operations in accordance with the terms of the contract evidences that there is an implied agreement that constitutes participation in or cooperation with an international boycott. Will the sanctions of sections 908(a), 952(a)(3) and 952(b)(1)(F) be applied to such participation or cooperation that takes place prior to January 1, 1978?

A. If the course of conduct from which the existence of the implied agreement was inferred took place before September 2, 1976, then the sanctions of sections 908(a), 952(a)(3) and 952(b)(1)(F) will not be applied to such participation in or cooperation with an international boycott that takes place prior to January 1, 1978. However, if the inference of the existence of the implied agreement would depend on conduct on or after September 2, 1976, then those sanctions will be applied to participation in or cooperation with the international boycott after November 3, 1976. See section 1066(a)(1) of the Tax Reform Act of 1976.

E-9. Q. Company C entered into a binding contract prior to September 2, 1976, to manufacture and deliver equipment to a customer located in Country X. The contract requires Company C to use no components that are manufactured by blacklisted United States companies. The contract also requires that the vessel on which the equipment is shipped not be blacklisted. On January 15, 1977, Company C is able to have the contract amended to eliminate the requirement regarding components, but is unable to secure any change regarding vessels. Will the amendment regarding components remove the binding contract protection otherwise afforded until December 31, 1977, that Company C has regarding vessels?

A. No. Since Company C could have waited to abrogate or renegotiate its contract until the end of 1977 and since it is in accord with the legislative purpose for Company C to accelerate elimination of the provision regarding components, it will remain protected until December 31, 1977, from the consequences of its continuing to refrain from shipping the goods on blacklisted vessles.

E-10. Q. If before December 31, 1977, a person carries out several different operations in boycotting countries and the only operation of that person that constitutes participation in or cooperation with an international boycott is carried out in accordance with the terms of a binding contract entered into before September 2, 1976, will the existence of that one boycotting operation trigger the section 999(b)(1) presumption that the other operations of that person in boycotting countries are also operations in connection with which boycott participation or cooperation occurred?

A. No. Operations carried out before December 31, 1977, in accordance with the terms of a binding contract entered into before September 2, 1976, will not trigger the section 999(b)(1) presumption. However, if the boycott agreements are not renounced on or before December 31, 1977, those operations will trigger the section 999(b)(1) presumption after December 31, 1977.

E-11. Q. Are operations of a person that constitute participation in or cooperation with an international boycott reflected in the numerator of a person's international boycott factor before December 31, 1977, if those operations are carried out in accordance with the terms of a binding contract entered into before September 2, 1976?

A. No. Boycotting operations carried out before December 31, 1977, in accordance with the terms of a binding contract entered into before September 2, 1976, are not reflected in the numerator of the international boycott factor. They are reflected in the denominator, however. See Temp. Regs. § 7.999-1 and Proposed Regs. § 1.999-1.

E-12. Q. On June 30, 1976, Company A, a domestic corporation that reports its operations on a calendar year basis, disposed of all of its stock in Company C, a foreign corporation. Will Company A be required to report any operations, requests or participation or cooperation of Company C for calendar year 1976? Will the operations of Company C be included in Company A's international boycott factor for 1976?

A. No. Since Company A did not own any stock of Company C after the effective date of the boycott provisions, Company A is not required to report any operations, requests or participation or cooperation of Company C in 1976 and will exclude Company C's operations from its international boycott factor computations.

E-13. Q. Are operations, requests or participation in or cooperation with an international boycott of a person for that person's taxable year that ends before November 4, 1976, required to be reported, either by that person or by any other person?

A. No. Operations, requests and participation in or cooperation with an international boycott of a person for that person's taxable year that ends before November 4, 1976, need not be reported by any person. However, as stated in Answers E-1 and E-2, operations, requests and participation in or cooperation with an international boycott before November 4, 1976, during a taxable year that ends on or after that date are reportable if there has been participation in or cooperation with an international boycott during that taxable year but on or after that date.

F. International Boycott Factor and Specifically Attributable Taxes and Income

F-1. Q. How is the international boycott factor computed?

A. Section 999(c)(1) provides that the international boycott factor is determined under regulations prescribed by the Secretary. The international boycott factor is a fraction the numerator of which reflects boycotting operations in or related to countries associated in carrying out an international boycott and the denominator of which reflects worldwide foreign operations. Temporary and proposed regulations setting forth the method of determining the international boycott factor were issued in February, 1977. See Temp. Regs. § 7.999-1 and Proposed Regs. § 1.999-1.

F-2. Q. In the case of a controlled group (within the meaning of section 993(a)(3)), is a single international boycott factor computed for the entire group?

A. Yes. All members of a controlled group share a single, common international boycott factor. Currently, the international boycott factor regulations provide that the international boycott factor of a controlled group reflects the operations of all members of the controlled group, regardless of whether all members of the group choose to compute their loss of tax benefits using the international boycott factor. It is anticipated that those regulations will be changed to provide that the international boycott factor of a controlled group will reflect the operations of only those members of the controlled group that choose to compute their loss of tax benefits using the international boycott factor.

F-3. Q. Once an international boycott factor has been computed for a controlled group (within the meaning of section 993(a)(3)), how is the factor applied to individual members of the group?

A. The international boycott factor of a controlled group is applied separately under sections 908(a), 952(a)(3), and 995(b)(1)(F) to each individual member of the controlled group that chooses to compute its loss of tax benefits using the international boycott factor.

F-4. Q. If a person applies the international boycott factor to some operations during the taxable year, must the factor be applied to all operations of that person for the taxable year?

A. Yes. If a person applies the international boycott factor to one operation during the taxable year, the factor must be applied

to all operations during the taxable year under each of sections 908(a), 952(a)(3), and 995(b)(1)(F). If a person identifies specifically attributable taxes and income under section 999(c)(2), that method must be applied to all operations during the taxable year and must be applied under each of sections 908(a), 952(a)(3), and 995(b)(1)(F).

F-5. Q. In the case of a controlled group (within the meaning of section 993(a)(3)), may one member use the international boycott factor under section 999(c)(1) and another member identify specifically attributable taxes and income under section 999(c)(2)?

A. Yes. Each member may independently choose either to apply the international boycott factor under section 999(c)(1) or to identify specifically attributable taxes and income under section 999(c)(2). The method chosen by each member for determining the loss of tax benefits must be applied consistently to determine all loss of tax benefits of that member. For example, if one member of a controlled group, Company A, chooses to use the international boycott factor, then it must apply the international boycott factor to determine its loss of the section 902 indirect foreign tax credit in respect of a dividend paid to it by another member of the controlled group, Company C, even if Company C determines its loss of tax benefits by identifying specifically attributable taxes and income. Company A would also determine the amount deemed distributed to it under sections 995(b)(1)(F) and 952(a)(3) by applying its international boycott factor to the otherwise deferrable earnings of its DISCs or controlled foreign corporations. In addition, if an affiliated group of corporations files a consolidated return, then the affiliated group must determine its loss of tax benefits either by applying the international boycott factor to the consolidated return, or by having each member determine its loss of tax benefits by identifying specifically attributable taxes and income.

F-6. Q. If a person chooses to determine its loss of tax benefits by applying the specifically attributable taxes and income method set forth in section 999(c)(2), may it demonstrate the amount of foreign taxes paid and income earned attributable to the specific operations by applying an overall effective rate of foreign taxes and an overall profit margin to each operation?

A. No. A person must clearly demonstrate foreign taxes paid and income earned attributable to specific operations by analyzing the profit and loss data of each separate and identifiable operation. The principles of Regs. § 1.861-8 are applicable in determining income and taxes attributable to specific operations.

F-7. Q. A United States partnership has operations in a boycotting country. Is the international boycott factor computed at the partnership level?

A. No. The international boycott factor is computed separately by each partner based on information submitted by the partnership and on other activities of that partner. Of course, if the partner can meet the conditions of section 999(c)(2) of the Code, he need not use the international boycott factor.

F-8. Q. A person desires to determine its loss of tax benefits by applying the specifically attributable taxes and income method set forth in section 999(c)(2). That person is able to clearly demonstrate that some of its operations in boycotting countries constitute clearly separate and identifiable operations in connection with which there was no participation in or cooperation with an international boycott. That person is also able to clearly demonstrate the taxes and income attributable to those operations. With respect to the remainder of its operations in boycotting countries, that person is either unable to clearly demonstrate that those operations are clearly separate and identifiable from operations in connection with which there was participation in or cooperation with an international boycott or is unable to identify taxes and income specifically attributable to separate and identifiable operations in connection with which there was such participation or cooperation. Under these facts, will that person be required to determine its loss of tax benefits by applying the international boycott factor?

A. No. That person may compute its loss of tax benefits by applying the specifically attributable taxes and income method if it forfeits the benefits of deferral, DISC and the foreign tax credit attributable to all its operations that are in boycotting countries and which it cannot clearly demonstrate are operations that are clearly separate and identifiable from operations in connection with which there was participation in or cooperation with an international boycott.

F-9. Q. If a person choses to compute its loss of tax benefits in one year by applying the international boycott factor, may that person compute its loss of tax benefits in another year using the specifically attributable taxes and income method?

A. Yes. The election to use the international boycott factor or the specifically attributable taxes and income method is an annual election. The election is made by completing the appropriate Schedule A or B to Form 5713.

F-10. Q. In 1978 a person computes its loss of tax benefits using the international boycott factor. On audit, it is determined that adjustments are to be made to the international boycott factor. May that person then recompute its loss of tax benefits for 1978 using the specifically attributable taxes and income method?

A. Yes. A person may change its method of computing loss of tax benefits under the international boycott provisions at any time for any open taxable year.

G. Determinations

G-1. Q. What degree of confidentiality will determinations, and requests for determinations, under section 999(d) receive?

A. A determination under section 999(d) will be treated as a "written determination" within the meaning of section 6110(b)(1). Therefore, the determination and any background file document related thereto will be subject to public inspection in accordance with the rules set forth in section 6110, and subject to the deletions set forth in section 6110(c).

G-2. Q. What procedures are applicable to requests for, and the issuance of, determinations under section 999(d)?

A. The procedures applicable to requests for, and the issuance of, determinations under section 999(d) are set forth in Revenue Procedure 77-9, 1977-10 IRB 12.

H. Definition of an Agreement to Participate in or Cooperate With a Boycott (Section 999(b)(3))

H-1A. Q. Company C enters into a written contract to export goods to Country X. The contract requires Company C not to obtain any of the goods from any person blacklisted by Country X. Does Company C's action constitute an agreement under section 999(b)(3)?

A. Generally, any express agreement (written or oral) providing that a person will refrain from doing business with a person blacklisted by Country X (or by a group of countries associated with Country X in carrying out an international boycott) constitutes participation in or cooperation with an international boycott within the meaning of section 999(b)(3). Blacklists are normally maintained to provide a convenient list of persons that engage in activities that are inconsistent with the boycott.

However, such an agreement does not constitute participation in or cooperation with an international boycott if it is established that the blacklist is maintained for reasons other than furtherance of the boycott as, for example, to exclude persons who have previously supplied defective goods.

H-1B. Q. Company C enters into a contract to export goods to Country X. The contract requires Company C to obtain goods from Company D, which is specified in the contract, and to pass on to the purchaser a certificate from Company D that Company D is not blacklisted by Country X. Does Company C's action constitute an agreement under section 999(b)(3)?

A. Yes, if Company D is a company organized under the laws of Country Y or is a U.S. person within the meaning of section 7701(a)(30).

The result would be the same if Company C had reason to know that it would not be able to obtain the required certificate because of the nationality, race or religion of Company D's ownership, management or directors.

However, if Company D is neither a company organized under the laws of Country Y nor a U.S. person and if Company C does not have reason to know that it will not be able to obtain the certificate because of the nationality, race or religion of Company D's ownership, management or directors, Company C's action in entering into such a contract would not constitute participation in or cooperation with an international boycott under section 999(b)(3).

H-2. Q. During negotiations concerning a contract for the export of goods to Country X, Company C and Country X agree orally that Company C will not purchase any of the goods from any blacklisted company. They also agree that this agreement will not be reflected in the written contract for the export of the goods or in any other writing. Does Company C's action constitute an agreement under section 999(b)(3)?

A. Generally, yes. See Answer H-1A.

H-3. Q. Company C signs a contract to construct an industrial plant in Country X. The contract states that the laws, regulations, requirements or administrative practices of Country X will apply to Company C's performance of the contract in Country X. The laws, regulations, requirements or administrative practices of Country X prohibit the importation into Country X of goods manufactured by any company engaged in trade in Country Y or with the government, companies or nationals of Country Y. Does Company C's action constitute an agreement under section 999(b)(3)?

A. No. An agreement under section 999(b)(3) will not be inferred solely from the inclusion in a contract of a provision stating that the laws, regulations, require-

ments or administrative practices of Country X will apply to the performance of the contract in that country. However, an overall course of conduct which includes the signing of a contract with such a provision in addition to other factors could support such an inference. Examples of other factors which could give rise to such an inference include the termination or lessening of business relationships with blacklisted firms or with Country Y (in the absence of compelling non-boycott considerations) or the refusal to enter into such business relationships where there are opportunities and compelling business reasons for doing so (apart from boycott considerations). On the other hand, repeated inclusion of such a provision in contracts does not give rise to such an inference.

H-4. Q. The facts are the same as in Question H-3, except that the contract states that Company C will comply with the laws, regulations, requirements or administrative practices of Country X in its performance of the contract in Country X. Does Company C's action constitute an agreement according to section 999(b)(3)?

A. Yes. Entering into a contract that requires compliance with the laws, regulations, requirements or administrative practices of Country X constitutes an agreement under section 999(b)(3), if some of those laws, regulations, requirements or administrative practices prohibit the importation into Country X of goods manufactured by any company engaged in trade in Country Y or with the government, companies or nationals of Country Y.

H-5. Q. Company C signs a contract to export goods to Country X. The contract contains no clause concerning a boycott. The laws, regulations, requirements or administrative practices of Country X include prohibitions on the importation into Country X of goods manufactured by persons engaged in trade in Country Y. Company C does not purchase any goods with which to fulfill its obligations under the contract from any U.S. company engaged in trade in Country Y or with the government, companies or nationals of Country Y. Does Company C's action constitute an agreement under section 999(b)(3)?

A. Where there is no express agreement, the existence of an agreement will not be inferred solely from the fact that Company C, consistent with the laws, regulations, requirements or administrative practices of Country X, has not purchased goods with which to fulfill its obligations under the contract from any U.S. company engaged in trade in Country Y or with the government, companies or nationals of Country Y. An agreement under section 999(b)(3) will not be inferred solely from the absence of a business relationship. But an overall course of conduct which includes such an absence of business relationships in addition to other factors could support such an inference. See Answer H-3.

H-6. Q. Questions and answers H-1A, H-1B, H-2, and H-5 all involve contracts for the export of goods by company C to country X. Would the issue of whether an agreement exists under section 999(b)(3) be resolved in the same way as in each of the above answers if the contract were for (a) the supply of services to country X or (b) a construction project in country X.

A. Yes.

H-7. Q. (a) Company C incorporates a subsidiary in country X. In the documents submitted by company C relating to the incorporation of the subsidiary there is a general acknowledgment that the subsidiary is subject to the laws, regulations, requirements, and administrative practices of country X.

(b) Company C establishes a branch in country X. In the documents relating to the registration of the branch there is a general acknowledgment that the laws, regulations, requirements, and administrative practices of country X apply to the branch.

Included in the laws, regulations, requirements, or administrative practices of country X is a requirement that companies incorporated in country X and branches registered in country X refrain from doing business with any person engaged in trade in country Y or with the government, companies, or nationals of country Y. Does either the acknowledgment of the subsidiary or the undertaking of the branch constitute an agreement under section 999(b)(3)?

A. The mere acknowledgment in incorporation or registration documents of the general applicability of the laws, regulations, requirements, or administrative practices of a boycotting country will not give rise to the inference of the existence of an agreement under section 999(b)(3). However, such an acknowledgment in addition to other factors could support such an inference. See answer H-3. Moreover, if the incorporation or registration documents state that the subsidiary or branch will comply with the laws, regulations, requirements, or administrative practices, there is an agreement under section 999(b)(3).

H-8. Q. Company C signs a contract to export goods to country X. The contract contains no clause concerning a boycott. Payment is made by means of a letter of credit that requires, as a condition of payment, that company C provide bank D with a certificate that the goods were not manufactured by a person blacklisted by country X. Company C provides the required certificate to bank D. Does company C's action constitute an agreement under section 999(b)(3)?

A. Generally, yes. See answer H-1A. The terms of a letter of credit upon which payment is made are part of the agreement made by company C.

H-9. Q. Company C signs a contract to carry out a construction project in country X. The contract says nothing about the nationality, race, or religion of the individuals who are to be employed to carry out the contract within country X. However, company C is aware that the laws, regulations, requirements, or administrative practices of country X may prohibit the issuances of visas by country X to individuals of religion R to work on projects in that country. Company C excludes individuals of that religion from consideration for employment on the project in country X. Does company C's action constitute an agreement under section 999(b)(3)?

A. Where there is no express agreement, the existence of an agreement under section 999(b)(3) will not be inferred solely from the fact that a person's action is apparently consistent with boycott requirements of country X, provided that there appear to be valid business reasons for such action. In the absence of valid business reasons, such an action could support the inference of an agreement under section 999(b)(3). It is highly unlikely here that there are valid business reasons for company C's action.

H-10. Q. Company C signs a contract to carry out a construction project in country X. The contract says nothing about the nationality, race, or religion of the individuals who are to be employed to carry out the contract within country X. However, company C is aware that the laws, regulations, requirements, or administrative practices of country X may prohibit the issuance of visas to individuals of religion R. Company C, in hiring people for the project, informs all such people that if they cannot obtain a visa to enter country X, their employment will be terminated. Several individuals of religion R are unsuccessful in obtaining visas and their employment is subsequently terminated. Does company C's action constitute an agreement under section 999(b)(3)?

A. No. The existence of an agreement under section 999(b)(3) will not be inferred from company C's action.

H-11. Q. The facts are the same as in question H-10, except that company C enters into employment contracts with individuals for work on the project in country X subject to the condition that such individuals obtain visas from country X that will permit them to work in country X. Few, if any, individuals of religion R are successful in obtaining visas. Does company C's action constitute an agreement under section 999(b)(3)?

A. No. The existence of an agreement under section 999(b)(3) will not be inferred from company C's action.

H-12. Q. The facts are the same as in question H-10, except that no individuals of religion R are willing to accept employment on the terms offered by company C. Does company C's action constitute an agreement under section 999(b)(3)?

A. No.

H-13. Q. Company C signs a contract with country X to carry out a construction project in country X. The contract says nothing about who may or may not be a subcontractor to do certain work in country X other than that country X has the right of prior approval of all subcontractors. Does company C's action constitute an agreement under section 999(b)(3)?

A. The contract provision giving the project owner a right of prior approval does not itself constitute an agreement under section 999(b)(3). However, an overall course of conduct which includes the signing of a contract with such a provision in addition to other factors could give rise to such an inference. Examples of other factors which could give rise to such an inference include: Company C's supplying of boycott information relating to possible subcontractors and the compilation by company C of lists of subcontractors from which blacklisted companies are excluded for no valid business reasons. On the other hand, repeated inclusion of such a provision in contracts does not give rise to such an inference.

H-14. Q. Company C signs a contract to carry out a construction project in country X. The contract specifies a number of permissible subcontractors. All the subcontractors, in the view of company C, are capable of carrying out the work, but none of them appears on a list of companies that are blacklisted by country X. Company C has previously done business with each of the specified companies, but it has also done business with certain of the blacklisted companies with which it has had satisfactory relations. Does company C's action constitute an agreement under section 999(b)(3)?

A. A contract that on its face indicates a pattern of exclusion of certain companies, including companies with which company C has no particular reason not to do business,

gives rise to an inference that company C has agreed to refrain from doing business with the blacklisted companies, unless company C is able to show that the excluded companies were not specified as permissible subcontractors for reasons not related to the boycott. See answer H-1A.

H-15. Q. Company C signs a contract to carry out a construction project in country X. The contract provides that country X is to engage all the subcontractors that are to be engaged from outside country X but that are to perform all or part of their services in country X. Company C, however, is given the right to disapprove any company that country X proposes to engage for a subcontract. While the contract is being carried out, none of the companies that country X proposes to prequalify or invite to bid are included on a list of companies blacklisted by country X. Does company C's action constitute an agreement under section 999(b)(3)?

A. Under the contract, company C has not agree to refrain from doing business with companies that are on the blacklist. The contract, moreover, does not give company C the right to select subcontractors other than those nominated by country X. Therefore, company C's action does not constitute an agreement under section 999(b)(3). Nevertheless, an agreement may be inferred from an overall course of conduct which includes the signing of a contract with such a provision in addition to other factors. See answer H-13 for examples of such other factors. On the other hand, the repeated signing of contracts with such provisions would not give rise to such an inference.

H-16. Q. Company C signs a contract to carry out a construction project in country X. The contract states that any disputes arising under the contract will be resolved in accordance with country X's laws. The laws of country X contain boycott provisions. Does company C's action constitute an agreement under section 999(b)(3)?

A. No. The provision that disputes will be resolved in accordance with country X's laws does not constitute an agreement by company C to comply with country X's boycott laws with respect to the carrying out of the contract.

H-17. Q. Company C receives an inquiry from country X about certain goods that company C manufactures. The inquiry also requests company C to furnish information about the following matters: Whether it does business with country Y and whether it does business with any U.S. person engaged in trade in country Y. Company C furnishes the requested information to country X. Later company C signs a contract with country X to export goods to country X. Does company C's action constitute an agreement under section 999(b)(3)?

A. By furnishing such information company C has not agreed to take any action, as a condition of doing business with country X, that is described in section 999(b)(3). Nevertheless, an agreement under section 999(b)(3) could be inferred from an overall course of conduct that includes the furnishing of such information in addition to other factors. An example of another factor which could give rise to such an inference is any contemporaneous termination or lessening in company C's relationships with country Y or with U.S. persons engaged in trade with country Y for no valid business reason. On the other hand, the repeated furnishing of such information would not give rise to such an inference.

H-18. Q. Company C signs a contract to export goods to country X. The contract contains a clause requiring company C not to obtain any of the goods from any company blacklisted by country X. Company C, however, purchases some of the goods from one of the blacklisted companies. Does company C's action constitute an agreement according to section 999(b)(3)?

A. Yes. An agreement to refrain from doing business with persons blacklisted by country X generally constitutes participation in or cooperation with an international boycott within the meaning of section 999(b)(3), even if company C, fully or partially, does not abide by, or intend to abide by, such agreement. See answer H-1A.

H-19. Q. Company C signs a contract with country X to export goods to country X. Included in the contract is a provision that company C will refrain from doing business with country Y. Company C has done considerable business with country Y in the past, but soon after it concludes the contract with country X its distributor in country Y, learning of the contract with country X, refuses to continue to handle company C's products and company C tries but is unable to conclude any other satisfactory distribution arrangement in country Y. Does company C's action constitute an agreement under section 999(b)(3)?

A. Yes, for the reason stated in answer H-18.

H-20. Q. Company C has been unable to do business with country X because company C has been on a blacklist of companies maintained by an organization of countries to which country X belongs. As a condition of being removed from the list, company C agrees to refrain from doing business with country Y. Does company C's action constitute an agreement under section 999(b)(3)?

A. Yes. Even though company C has not yet entered into a contract to do business with any boycotting country, it has agreed, as a condition of being in a position to do business with one or more of the countries maintaining the blacklist, to refrain from doing business with country Y. This action constitutes an agreement under section 999(b)(3).

H-21. Q. The facts are the same as in question H-20, except that company C does several different types of business with country Y. It is requested to, and agrees to, refrain from doing one of those types of business with country Y, but it continues to do the other types of business with country Y. Does company C's action constitute an agreement under section 999(b)(3)?

A. Yes. An agreement to refrain from some, but not all, business with a boycotted country constitutes an agreement under section 999(b)(3).

H-22. Q. Company C is doing business in country X. It contracts with company D, which is not related to company C, for company D to build an office building for company C's use in country X. In the course of constructing the building, company D participates in or cooperates with an international boycott imposed by country X. Does company C's action constitute an agreement under section 999(b)(3)?

A. Unless company C directs or requires company D to take action that constitutes participation in or cooperation with the boycott by company D, or unless company C's relationship with company D is established to facilitate participation in or cooperation with the boycott, company D's action will not be attributed to company C under section 999(b)(3), and company C will not be deemed to be participating in or cooperating with an international boycott.

H-23. Q. Company C signs a contract with country X to export goods to country X. The contract does not contain any provision as to which ships should be used for shipping the goods to country X or which insurance companies should be used. The laws, regulations, requirements or administrative practices of country X do not permit the importation of goods carried on a ship owned by companies that trade in country Y or goods insured by companies that trade in country Y. Company C is aware of these laws, regulations, requirements, or administrative practices and ships the goods on the ships of a company, and insures the goods with a company, that does not trade in country Y. Does company C's action constitute an agreement under section 999(b)(3)?

A. No. See Answer H-5.

H-24. Q. Company C is competing for an industrial plant construction contract for which country X is inviting international tenders. The tender documents contain a provision to the effect that country X will not enter into the contract unless the successful tenderer certifies that in carrying out the contract it will refrain form doing business with companies blacklisted by country X. Company C does not win the contract, but in its tender it indicates that it would be prepared to sign a contract in the form indicated in the tender documents, and gives country X a tender bond to that effect. Does company C's action constitute an agreement under section 999(b)(3)?

A. Since its offer was not accepted, company C has not made an agreement under section 999(b)(3). Nevertheless, an agreement may be inferred, in other direct or indirect business transactions of company C in boycotting countries or with the governments, companies, or nationals of boycotting countries, from an overall course of conduct which includes company C's stated willingness to cooperate with country X's boycott in addition to other factors.

H-25. Q. Company C successfully prequalifies to tender for a contract for the construction of an industrial plant in country X. At the time it attempts to prequalify, company C is required to state that it understands that the successful tenderer for the contract will have to agree not to do business in connection with the project with any company blacklisted by country X or with the government, companies, or nationals of country Y. After it prequalifies, company C decides not to tender for the contract. Does company C's action constitute an agreement under section 999(b)(3)?

A. No. But see answer H-24.

H-26. Q. Company C competes for an industrial plant construction contract for which country X is inviting international tenders. The tender documents contain a provision to the effect that country X will not enter into a contract unless the successful tenderer certifies that in carrying out the contract it will refrain from doing business with any company blacklisted by country X. Company C wins the tender and successfully convinces country X that the boycott clause should be deleted from the final contract. Does company C's action constitute an agreement under section 999(b)(3)?

A. No. Company C has not made an agreement under section 999(b)(3). However, if the deletion of the boycott clause is not accomplished in good faith or is a subterfuge to mask an unstated understanding to par-

ticipate in or cooperate with an international boycott, there is an agreement under section 999(b)(3).

H-27. Q. Company D charters a vessel to company C to be used by company C in carrying its goods to country X. At the request of company D, company C agrees in the charter agreement not to issue any orders to, or take any action with respect to, the vessel that would result in limiting the vessel's ability to call at ports in country X or subject the vessel to arrest or confiscation in country X. Does company C's action constitute an agreement under section 999(b)(3)?

A. No. Company C's agreement to take actions enumerated in section 999(b)(3) is not as a condition of doing business directly or indirectly within a boycotting country or with the government, a company, or a national of a boycotting country.

H-28. Q. Company D charters a vessel to company C to be used by company C in carrying its goods to or from specifically named ports, or a range of ports within a specified geographical area. Company D and company C agree on a charter agreement which precludes that vessel from calling at a number of countries, including country Y. Does company C's action constitute an agreement under section 999(b)(3)?

A. No.

H-29A. Q. Company A signs a contract to export goods to country X. The contract provides that payment will be made by means of a letter of credit confirmed by bank C. The letter of credit requires company A to provide to bank C a certificate that it is not blacklisted before it can be paid by bank C. Bank C confirms the letter of credit and later makes payment to company A after determining that all documents, including the boycott certificate, are in order. Does bank C's action constitute an agreement under section 999(b)(3)?

A. Yes. Bank C's action constitutes an agreement to refrain from doing business with a U.S. person and therefore constitutes an agreement under section 999(b)(3)(A)(ii). The answer would be the same under section 999(b)(3)(A)(i) if the beneficiary of the letter of credit were organized under the law of country Y and under section 999(b)(3)(A)(iii) if company C had reason to know that it will not be able to obtain the required certificate because of the nationality, race, or religion of the beneficiary's ownership, management, or directors. The answer would also be the same were bank C merely to confirm, pay, honor, negotiate, open, or otherwise implement the letter of credit. However, merely advising company A of the letter of credit does not constitute an agreement under section 999(b)(3).

Bank C's action would not constitute participation in or cooperation with an international boycott under section 999(b)(3) if the beneficiary were neither a country Y person nor a U.S. person and if bank C did not have reason to know that it would not be able to obtain the required certification because of the nationality, race, or religion of the beneficiary's ownership, management, or directors. See answer H-1B. If bank C has reason to know that a person has been inserted as the beneficiary of the letter of credit solely for the purpose of funnelling payment to another person, the letter of credit will be viewed as also having that other person as a beneficiary.

H-29B. Q. The facts are the same as in H-29A, except that company A is required to provide to bank C a certificate that none of the goods for which it is to be paid under the letter of credit is produced by a blacklisted person. Does bank C's action constitute an agreement under section 999(b)(3)?

A. Yes, for the same reasons and with the same qualifications as in Answer H-29A.

H-30. Q. Company C signs a contract to supply goods to Country X. The contract provides that Company C will not trade with Country Y, and that payment will be made by means of a letter of credit confirmed by Bank D provided that Bank D certifies to Country X that it will not confirm letters of credit relating to the export of goods to Country Y. Bank D confirms the letter of credit, after issuing the requested certificate. Does Bank D's action constitute an agreement under section 999(b)(3)?

A. Yes, regardless of Company C's nationality.

H-31. Q. Company C signs a contract to export goods to Country X. The contract, consistent with the laws, regulations, requirements or administrative practices of Country X, provides that the goods may not be produced in whole or in part in Country Y or contain any parts, raw materials or labor originating in Country Y. The contract also provides that payment will be made by means of a letter of credit confirmed by Bank D. The letter of credit requires Company C to provide to Bank D a certificate that the goods are not produced in whole or in part in Country Y and contain no parts, raw materials or labor originating in Country Y before it can be paid by Bank D. Bank D confirms the letter of credit and later makes payment to Company C after determining that all documents, including the certificate, are in order. Does Bank D's action constitute an agreement under section 999(b)(3)?

A. No. Bank D's action constitutes an agreement in furtherance of a prohibition on the importation of goods produced in whole or in part in a country that is the object of an international boycott. According to section 999(b)(4)(B), agreeing to such a prohibition does not constitute participation in or cooperation with an international boycott. (Similarly, Company C's action does not constitute participation in or cooperation with an international boycott. See Answer I-1.)

H-32. Q. Company C signs a contract to export goods to Country X. The contract contains no clause concerning a boycott. The laws, regulations, requirements or administrative practices of Country X prohibit the importation into Country X of goods manufactured by persons engaged in trade with Country Y and require import licenses. In order to obtain an import license, Company C provides a certificate indicating that the goods were not manufactured by a person engaged in trade in Country Y or with the government, companies or nationals of Country Y and that they were not shipped on a blacklisted ship. Does Company C's action constitute an agreement under section 999(b)(3)?

A. No. Merely providing at the time of import a certificate as to the content and shipper of goods, as is required to obtain an import license, does not by itself constitute an agreement under section 999(b)(3). Nor does the repetitive supplying of such certificates at the time or import by itself constitute an agreement under section 999(b)(3). However, an agreement to provide such a certificate would constitute an agreement under section 999(b)(3).

H-33. Q. Country X deposits money in a foreign branch of Bank C, a U.S. bank. As a condition of making the deposit, Country X requires that all loans by the branch be made only to companies which can supply certificates that they are not blacklisted. The branch agrees to this condition. Does Bank C's action constitute an agreement under section 999(b)(3)?

A. Yes. Bank C's action constitutes an agreement under section 999(b)(3), which is made as a condition of doing business with Country X.

H-34. Q. Company C enters into an agreement with Country X to manufacture airplanes for Country X. The contract between Company C and Country X provides that no components in the airplane may be produced by blacklisted companies. Company C enters into an agreement with Company D pursuant to which Company D agrees to manufacture the seats and to provide Company C with a certificate that no components in the seats were produced by blacklisted companies. Company D knows or has reason to know that the seats are being incorporated in the airplanes being sold to Country X. Does Company D's action constitute an agreement under section 999(b)(3)?

A. Yes. Company D has agreed to refrain from doing business with blacklisted persons as a condition of doing business indirectly with Country X.

I. Refraining From Doing Business With or in a Boycotted Country (Section 999(b)(3)(A)(i)).

I-1. Q. Company C signs a contract to export goods to Country X. In that contract, consistent with the laws, regulations, requirements or adminstrative practices of Country X, there is a provision that none of the goods to be provided shall be produced in whole or in part in Country Y or contain any parts, raw materials or labor from Country Y. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(i)?

A. No. Company C is complying with Country X's prohibition on the importation of goods produced in whole or in part in a country which is the object of an international boycott. Such action, according to section 999(b)(4)(B), does not constitute participation in or cooperation with an international boycott.

I-2. Q. Company C owns a number of ships. It understands that if one of its ships visits Country Y, that ship will thereafter be unable to visit Country X. Company C has some ships that visit Country Y but not Country X and other ships that visit Country X but not Country Y. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(i)?

A. No. Company C has not agreed to refrain from doing business with Country Y. Therefore Company C's action does not constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(i).

I-3. Q. Company C signs a contract licensing a company in Country X to use to certain of its patents and trademarks in Country X. The contract provides that Company C will not enter into any agreement with any national of Country Y with respect to the use in Country Y of patents and trademarks. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(i)?

A. Yes. Company C has agreed to refrain from doing business with nationals of Country Y and such action constitutes participation in or cooperation with an international boycott under section 999(b)(3)(A)(i).

I-4. Q. The facts are the same as in Question I-3, except that Company C has a number of licensing agreements with Country Y and enters into still more such agreements after it signs the contract with Country X. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(i)?

A. Yes, for the reasons stated in Answer I-3. Answer H-18 is also relevant in this context.

I-5. Q. Company C signs a contract to export products from Country X. The contract, consistent with the laws, regulations, requirements or administrative requirements of Country X, requires Company C to certify that the goods will not be sent to Country Y. Company C so certifies. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(i)?

A. No. Company C's compliance with Country X's prohibition on the exportation of products of Country X to Country Y does not constitute participation in or cooperation with an international boycott under section 999(b)(4)(C).

I-6. Q. Company C signs a contract to export goods to Country X. The contract provides that no capital of Country Y origin will be used in the production or manufacture of the goods. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(i)?

A. Yes. Company C has agreed to refrain from doing business with the government, a company or a national of Country Y.

I-7. Q. Company C enters into a contract for the manufacture and sale of goods to Country X and the provision of customer support services. The contract provides that Company C may assign its rights and obligations under the contract, but that such rights and obligations cannot be assigned to a company incorporated under the laws of Country Y without the express approval of Country X. There is no similar requirement with respect to companies incorporated under the laws of other countries. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(i)?

A. The contract provision requiring company C to obtain the approval of Country X prior to an assignment of the rights and obligations to a company incorporated under the laws of Country Y constitutes sufficient evidence from which to infer the existence of an agreement under section 999(b)(3)(A)(i) unless Company C can establish valid business reasons for this provision apart from the boycott.

I-8. Q. Company C, incorporated under the laws of any country other than Country Y, signs a contract to export goods to Country X. The contract provides that payment will be made by means of a letter of credit confirmed by Bank D. The letter of credit requires Company C to provide to Bank D a certificate that it is not organized under the laws of Country Y before it can be paid by Bank D. Bank D confirms the letter of credit and later makes payment to Company C after determining that all documents, including the boycott certificate, are in order. Does Bank D's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(i)?

A. No. Because Company C is not a Country Y company, Bank D's action does not constitute an agreement to refrain from doing business with a person described in section 999(b)(3)(A)(i).

J. Refraining From Doing Business With Any United States Person Engaged in Trade in a Boycotted Country (Section 999(b)(3)(A)(ii)).

J-1. Q. Company C signs a contract with Country X for the turn-key construction of an industrial plant in Country X. The contract provides that Company C will not use as subcontractors a number of named U.S. firms whose past performance on contracts in Country X has been unsatisfactory, according to Country X, for reasons unrelated to the boycott. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A. No. The exclusion of subcontractors based on performance is not covered by section 999(b)(3).

J-2A. Q. Company C enters into a contract to export goods to Country X. The contract provides that Company C will not use any goods manufactured by Company A in performing the contract since Company A is blacklisted by Country X even though Company A does not engage in any kind of trade in Country Y or with the government, companies, or nationals of that country. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A. Yes. An agreement providing that a person will refrain from doing business with a blacklisted U.S. person constitutes participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii), even if that person is not engaged in trade with Country Y, unless Company C can establish that the blacklist is maintained for reasons other than the furtherance of the boycott. See Answer H-1A.

J-2B. Q. The facts are the same as in Question J-2A, except that the contract provides that Company C will not use any goods manufactured by Company D, a company incorporated under the laws of any country other than the United States or Country Y. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A. No, because Company D is not a United States person. In addition, since Company D is not organized under the laws of Country Y, Company C's action does not constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii). However, if Company C had reason to know that Company D was blacklisted because of the nationality, race or religion of Company D's ownership, management or directors, Company C's action would constitute participation in or cooperation with an international boycott under section 999(b)(3)(a)(iii). See Answer H-1B.

J-3. Q. Company C competes for an industrial plant construction contract for which Company P of Country W is inviting international tenders. The contract is to be financed by Country X, which maintains a blacklist of companies. Country X requires contracts for projects which it finances to state that the contractor is required to refrain from making any purchase for the project from any blacklisted company. Country W does not boycott those companies. Company C wins the tender and signs the contract with Company P with the blacklist provision. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A. Generally, yes. See Answer H-1A. Although the boycott is not implemented by Country W, but by Country X, and the project is being carried out in Country W, Company C has agreed not to do business with blacklisted U.S. companies as a condition of doing business indirectly with Country X.

J-4. Q. Company C signs a contract to export goods to Country X. The contract provides that Company C will not do business with any company blacklisted by Country X. Company C establishes that although a number of the blacklisted companies are foreign subsidiaries of U.S. companies, no U.S. companies are on the list. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A. Yes. For purposes of this particular section, "United States person" does not include foreign subsidiaries of a United States person. However, since the blacklist may be changed to add U.S. persons between the time when Company C enters into the agreement and when it completes performance, Company C has agreed not to do business with any U.S. person that may be added to the blacklist.

J-5. Q. Bank C advises Country X on its investments in the United States. Country X instructs Bank C not to recommend for investment any shares of certain companies that are blacklisted by Country X. Bank C follows these instructions. Does Bank C's action constitute participation in or cooperation with an international boycott according to section 999(b)(3)(A)(ii)?

A. No. The recommendation of shares of certain companies by Bank C does not constitute "doing business" with those companies. Therefore Bank C's action does not constitute participation in or cooperation with an international boycott under section 999(b)(3).

J-6A. Q. Bank C manages Country X's investment portfolio in the United States. Bank C has been given certain powers to act for Country X pursuant to instructions that, among other things, require Bank C not to invest Country X's funds in stocks and bonds issued by certain blacklisted United States companies. Bank C is authorized by Country X to purchase and sell stocks and bonds only through recognized exchanges, over the counter markets, or the so-called third market. Does Bank C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A. No. Purchasing stocks or bonds of any company on recognized exchanges, over the counter markets, or the so-called third market does not constitute "doing business" with that company, and an agreement to refrain from such purchases does not constitute an agreement to refrain from doing business with that company. Accordingly, Bank C's action does not constitute participation in or cooperation with an international boycott under section 999(b)(3).

J-6B. Q. The facts are the same as in Question J-6A, except that Bank C is also authorized to purchase original issues of stocks and bonds directly from the issuing company. Does Bank C's action constitute

participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A. Generally, yes. An agreement not to purchase original issues of stocks or bonds directly from a U.S. company blacklisted by Country X constitutes participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii). If, however, Bank C can establish that the blacklist is maintained for reasons other than the furtherance of the boycott, Bank C's action does not constitute participation in or cooperation with an international boycott under section 999(b)(3). See Answer H-1A:

J-7. Q. Company C signs a contract to construct an industrial plant in Country X. The laws, regulations, requirements or administrative practices of Country X prohibit the importation into Country X of goods produced by blacklisted companies. The contract states that the laws, regulations, requirements or administrative practices of Country X will apply to company C's performance of the contract in Country X. In carrying out the project, Company C invites bids to furnish all goods and equipment on a delivered-in-Country X basis. No company on the blacklist maintained by Country X bids. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A. No. By the terms of the agreement Company C has not agreed to refrain from doing business with any of the blacklisted companies. The fact that blacklisted companies are unable to meet the conditions that Company C establishes is not due to any agreement by Company C with Country X, but is due to Country X's laws, regulations, requirements or administrative practices.

J-8. Q. The facts are the same as in Question J-7, except that Company C's purchase contracts require vendors to reimburse Company C for the purchase price and transportation costs, plus interest, of any goods that Company C cannot import into Country X because of Country X's import restrictions. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A. No, for the reasons given in Answer J-7.

J-9. Q. Company C signs a contract to produce goods in Country X for export. The contract requires Company C to certify that, consistent with the laws, regulations, requirements or administrative practices of Country X, the goods will not be sent to Country Y and that Company C will require any purchaser of the products to certify that the goods will not be sent to Country Y if they are substantially unaltered at the time of resale by the purchaser. Company C thereafter sells these goods to Company A, requiring the certification. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A. No. Company C's agreement to refrain, and to require Company A to refrain, from sending Country X's unaltered products to Country Y does not constitute participation in or cooperation with an international boycott under section 999(b)(4)(C).

J-10. Q. Company C signs a contract to export goods to Country X. The contract requires that the goods be produced by Company A and that a certain component in the goods be produced by Company B. The laws, regulations, requirements or administrative practices of Country X prohibit the importation into Country X of goods manufactured by any company blacklisted by Country X. Company A and Company B are not blacklisted by Country X. Does Company C's action constitute an agreement under section 999(b)(3)(ii)?

A. No. The existence of an agreement to refrain from doing business with a person blacklisted by Country X will not be inferred solely from a provision in a contract that goods or components must be produced by a specific company that does not in fact appear on the blacklist. Accordingly, Company C's action does not constitute an agreement under section 999(b)(3).

J-11. Q. Company C, incorporated under the laws of any country other than the United States, signs a contract to export goods to Country X. The contract provides that payment will be made by means of a letter of credit confirmed by Bank D. The letter of credit requires Company C to provide to Bank D a certificate that it is not engaged in trade with Country Y before it can be paid by Bank D. Bank D confirms the letter of credit and later makes payment to Company C after determining that all documents, including the boycott certificate, are in order. Does Bank D's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A. No. Banks D's confirmation represents its agreement to refrain from doing business with a person that is not a United States person. Such an agreement does not come within the coverage of section 999(b)(3)(A)(ii).

K. Refraining From Doing Business With Any Company Whose Ownership or Management is Made Up, in Whole or in Part, of Individuals of a Particular Nationality, Race or Religion (Section 999(b)(3)(A)(iii))

K-1. Q. Company C signs a contract to export goods to Country X. The contract provides that the goods will not bear any mark symbolizing Country Y or religion R. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(iii)?

A. No. Section 999(b)(3)(A)(iii) prohibits agreements to refrain from doing business on the basis of the nationality, race or religion of the owners or management of an organization and to refrain from selecting (or to remove) directors of a particular nationality, race or religion. It does not prohibit agreements not to import goods bearing certain marks into a country. No part of section 999(b)(3) concerns refusals to purchase goods bearing marks symbolizing a certain country or religion.

K-2. Q. As a condition of doing business in Country X, Company C's subsidiary in Country X agrees that the board of directors of the subsidiary must consist of a specified number of nationals of Country X. Does such action constitute participation in or cooperaiton with an international boycott under section 999(b)(3)(A)(iii)?

A; No.

K-3. Q. Company C is the leader of a syndicate of U.S. and foreign banks that is underwriting a public bond issue of Country X. Company D is a member of that syndicate. During the loan negotiations Country X indicates that Company E, which is not a U.S. company, should be excluded from the syndicate because of the religion of some of its directors. Company C and Company D did not contemplate that Company E would be a member of the syndicate in any event and they agree to comply with the request of Country X. Does the action of Company C and Company D constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(iii)?

A. Yes. The action of Company C and Company D is an agreement to refrain from doing business with a company whose management consists of individuals of a particular religion. Under section 999(b)(3)(A)(iii) this constitutes participation in or cooperation with an international boycott.

K-4. Q. The facts are the same as in Question K-3, except that Country X indicates that Company E may be included only if it removes several of its directors who are of nationality Y. Does the action of Company C and Company D in agreeing to the request of Country X constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(iii)?

A. Yes. The action of Company C and Company D is an agreement to obtain the removal of corporate directors of a partuicular nationality as a condition of including Company E. This constitutes an agreement under section 999(b)(3)(A)(iii)?

K-5. Q; Company C signs a contract to export goods to Country X. The contract provides that payment will be made by means of a letter of credit confirmed by Bank D. The letter of credit requires Company C to provide to Bank D a certificate that its board of directors does not contain any Country Y nationals before it can be paid by Bank D. Bank D confirms the letter of credit and later makes payment to Company C after determining that all documents, including the boycott certificate, are in order. Does Bank D's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(iii)?

A. Yes. Bank D's action constitutes an agreement to refrain from doing business with companies whose management includes individuals of a particular nationality. This constitutes participation in or cooperation with an international boycott under section 999(b)(3)(A)(iii).

L. Refraining From Employing Individuals of a Particular Nationality, Race or Religion (Section 999(b)(3)(A)(iv))

L-1. Q. Company C signs a construction contract that provides that Company C is not to employ individuals of religion R to work on the project in Country X. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(iv)?

A. Yes.

L-2. Q. Company C signs a contract for a construction project in Country X. The contract specifies that only indivduals who are nationals of the United States or Country X will be allowed to work on the project. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(iv)?

A. No. There is no evidence of an attempt to specifically exclude persons of a particular nationality. Persons of a number of different nationalities, including those from both friendly and unfriendly countries, have been evenhandedly excluded.

L-3. Q. As a condition of doing business in Country X, Company C agrees to employ a specified percentage of nationals of Country X or to employ increasing numbers of nationals of Country X. Does such action con-

stitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(iv)?

A. No.

L-4. Q. Company C, incorporated under the laws of Country Z, signs a contract for the engineering and construction of an industrial plant in Country X. The contract excludes from working in Country X nationals of Country Z who are also nationals of Country Y. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(iv)?

A. Yes. Any agreement to differentiate among citizens of Country Z on the basis of dual nationality for employment on a project constitutes participation in or cooperation with an international boycott under section 999(b)(3)(A)(iv).

L-5. Q. Company C signs a contract for the engineering and construction of an industrial plant in Country X. The contract provides that Company C is not to employ in its home office any individuals who are nationals of Country Y to work on the design of the plant. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(iv)?

A. Yes.

M. As a Condition of the Sale of a Product, Refraining From Shipping or Insuring That Product on a Carrier Owned, Leased, or Operated by a Person Who Does Not Participate in or Cooperate With an International Boycott (Section 999(b)(3)(B)

M-1. Q. Company C enters into a c.i.f. contract to export goods to Country X. The contract states that the goods are not to be shipped on a ship blacklisted by Country X. The blacklist contains the names of vessels that have called at ports in Country Y, vessels that are owned, leased or operated by the government, a company or a national of Country Y, and vessels that are owned, leased or operated by persons who engage in activities that are inconsistent with the boycott. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)?

A. Yes. Company C has entered into an agreement described in section 999(b)(3)(B), as well as section 999(b)(3)(A). The answer would be the same if the contract stated that the goods were not to be insured by a company backlisted by County X.

M-2. Q. Company C enteres into a f.a.s. Port of New York contract for the sale of goods to Country X. While no overseas shipping or insurance provisions are contained in the contract, Company C has reason to believe that arrangements will be made by the purchaser to see that the goods are not shipped on a carrier owned, leased or operated by a person who does not participate in or cooperate with Country X's boycott of Country Y and that the goods are not insured by a person who does not participate in or cooperate with the boycott. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(B)?

A. No. Company C has not agreed as a condition of sale to refrain from shipping on a carrier owned, leased or operated by a person who does not participate in or cooperate with an international boycott or to refrain from insuring the goods with a person who does not participate in or cooperate with an international boycott. It has not agreed to any shipping or insurance arrangements. Its action thus does not constitute participation in or cooperation with an international boycott according to section 999(b)(3)(B).

M-3. Q. Company C, having its place of business in Country Z, is requested by Country X to enter into a c.i.f. contract to export goods to Country X. However, to avoid participating in or cooperating with an international boycott, Company C successfully convinces Country X that the contract should specify shipment f.a.s. port of Country Z. The remainder of the circumstances are as described in Question M-2. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(B)?

A. No, for the reasons given in Answer M-2.

M-4. Q. Company C, a freight forwarding company having its place of business in Country Z, has a contract with Country X to make, as an agent of Country X, shipping and insurance arrangements for goods which Country X purchases in Country Z on a f.a.s. port of Country Z basis. The contract provides that no shipments will be made on a carrier owned, leased or operated by a person who does not participate in or cooperate with Country X's boycott of Country Y and that the goods will not be insured by a person who does not participate in or cooperate with the boycott. Company C makes shipping and insurance arrangements on that basis. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(B)?

A. Company C's agreement is not made as a condition of the sale of a product to Country X. Therefore, Company C's action does not constitute participation in or cooperation with an international boycott under section 999(b)(3)(B). However, Company C's agreement may constitute participation in or cooperation with an international boycott under section 999(b)(3)(A).

M-5. Q. Company C enters into a contract to export goods to or from Country X. As a precaution to protect against war risk or confiscation, the contract requires Company C not to ship the goods on a Country Y flag vessel or on a vessel owned, controlled, operated or chartered by Country Y or by companies or nationals of Country Y, or on a ship which during the voyage calls at Country Y enroute to or from Country X. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)?

A. No. The requirement in the contract is not a restrictive boycott practice. Rather, the contract provision is presumed to arise from the need to protect goods from damage or loss. However, this answer would not cover a restriction on the choice or route of a vessel when it carries no goods destined for or originating in Country X.

M-6. Q. Company C enters into a contract to export goods to Country X. The contract requires Company C to ship the goods only on a ship registered in Country X. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(B)?

A. No. An agreement to ship goods only on a ship registered in Country X does not constitute an agreement to refrain from shipping or insuring those goods on a carrier owned, leased, or operated by a person who does not participate in or cooperate with an international boycott. Therefore, Company C's action does not constitute participation in or cooperation with an international boycott under section 999(b)(3).

M-7. Q. Company A signs a contract to export goods to Country X. The contract provides that the goods may not be shipped on a vessel that has been blacklisted by Country X because it has called at Country Y in the past. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(B)?

A. Yes.

M-8. Q. Company C signs a contract to export goods to Country X. The contract contains no requirement that the seller refrain from shipping the goods on a vessel that has been blacklisted by Country X. Company C does not ship the goods on a blacklisted vessel. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(B)?

A. No. See Answers H-5 and H-23.

M-9. Q. Company C signs a c.i.f. contract to export goods to Country X to be paid for by means of a letter of credit. The letter of credit for this transaction requires, as a condition of payment, that Company C certify as to the identity of the vessel and the identity of the insurer. Company C provides such a certificate to the paying bank. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)?

A. An agreement under section 999(b)(3) will not be inferred solely from Company C's certification. However, an overall course of conduct which includes the furnishing of such a certificate in addition to other factors could give rise to such an inference. Repeatedly furnishing such certificates does not constitute such a course of conduct.

N. Reduction of Foreign Tax Credit

N-1A. Q. In the case of a taxpayer applying the international boycott factor under section 999(c)(1), how is the reduction of foreign tax credits for the current year computed under section 908, and how are the foreign taxes carried from the current year to other years treated?

A. 1. *Treatment of foreign tax credits available after applying the limitations of sections 904 and 907.* The international boycott factor is applied to the foreign tax credits available after the application of the limitations of sections 904 and 907 (determined without regard to section 908) in accordance with the following rules:

a. *Foreign tax credits attributable to current year sections 901, 902, and 960 taxes.* The foreign tax credits attributable to foreign taxes paid in the current year or deemed paid in the current year under sections 902 or 960 are multiplied by the taxpayer's international boycott factor for the current year. Foreign tax credits in the amount of this product are disallowed in the current year under section 908(a).

b. *Foreign tax credits attributable to section 904(c) and 907(f) taxes carried from a boycott factor year.* The foreign tax credits attributable to foreign taxes deemed paid in the current year under sections 904(c) and 907(f) that are carried from a year in which the taxpayer applied the international boycott factor are multiplied by the taxpayer's international boycott factor for the year from which the foreign taxes were carried. Foreign tax credits in the amount of this product are disallowed in the current year under section 908(a).

c. *Other section 904(c) and 907(f) taxes.* There is no disallowance in the current year under section 908(a) for foreign tax credits attributable to foreign taxes deemed paid in the current year under section 904(c) and 907(f) that are carried from a year: (i) in which the taxpayer did not participate in or cooperate with an international boycott; or (ii) in which the taxpayer applied the specific attribution of taxes and income method under section 999(c)(2); or (iii) ending before November 4, 1976.

If Answers E-2 or E-3 are applicable, the disallowance of foreign tax credits may be computed on a pro rata basis in accordance with those Answers.

After the amount of disallowed foreign tax credits has been determined, the taxpayer determines the amount of the disallowed foreign tax credits that may be deducted under Answers N-4 and N-5. No adjustment is made under sections 901, 904 or 908 to reflect the deduction for disallowed credits. Thus, the allowable foreign tax credits for the current year equals the foreign tax credits available (after applying sections 904 and 907 without regard to section 908) less the foreign tax credits disallowed under a. and b. above.

2. *Treatment of foreign taxes not available as a credit by reason of the limitations of sections 904 and 907.* There is no reduction or disallowance in the current year for foreign taxes paid or deemed paid that are not available as credits solely by reason of the limitations of sections 904 and 907. Instead, those foreign taxes remain available for carrying-over and will be disallowed in the year to which they are carried in accordance with the following rules:

a. If the foreign taxes are carried to a year in which the taxpayer applies the international boycott factor, there will be a disallowance (after applying the limitations of sections 904 and 907) of foreign tax credits attributable to the carried-over foreign taxes in an amount equal to the product of those credits multiplied by the taxpayer's international boycott factor for the year from which the taxes were carried.

b. If the foreign taxes are carried to a year in which the taxpayer applies the specific attribution of taxes and income method, there will be a disallowance (after applying the limitations of sections 904 and 907) of foreign tax credits attributable to the carried-over foreign taxes in an amount equal to the product of those credits multiplied by the taxpayer's international boycott factor for the year from which the taxes were carried. (See Answer N-1B.)

c. If, the foreign taxes are carried either to a year in which there was no participation in or cooperation with an international boycott or to a year ending before November 4, 1976, there will be a disallowance (after applying the limitations of sections 904 and 907) of foreign tax credits attributable to the carried-over foreign taxes in an amount equal to the product of those credits multiplied by the taxpayer's international boycott factor for the year from which the taxes were first carried.

If Answers E-2 or E-3 are applicable, the disallowance of the credits attributable to the carried-over taxes may be computed on a pro rata basis in accordance with those Answers. No adjustment is made under sections 901, 904 or 908 to reflect any deduction that may be allowed under Answers N-4 and N-5 for the disallowed credits.

N-1B. Q. In the case of a taxpayer applying the specific attribution of taxes and income method under section 999(c)(2), how is the reduction of foreign taxes or foreign tax credits computed for the current year under section 908, and how are foreign taxes carried from the current year to other years treated?

A. 1. *Treatment of foreign taxes other than foreign taxes carried from a boycott factor year.* The taxpayer first reduces the amount of all foreign taxes paid or deemed paid in the current year, other than foreign taxes deemed paid in the current year under sections 904(c) and 907(f) that are carried from a year in which the taxpayer applied the international boycott factor, by the sum of those foreign taxes that are attributable to specific operations that are—

(a) related to boycotting countries and in connection with which there was boycott participation or cooperation, or

(b) in boycotting countries and have not been clearly demonstrated to be clearly separate and identifiable from operations in connection with which there was boycott participation or cooperation.

There is, of course, no reduction for foreign taxes that are deemed paid in the current year but are attributable to operations completed before November 4, 1976, or to operations completed before December 31, 1977 if the operations are carried out in accordance with the terms of a binding contract entered into before September 2, 1976. Additionally, if Answers E-2 or E-3 are applicable, the reduction of foreign taxes may be computed on a pro rata basis in accordance with those Answers.

After the amount of the reduction of foreign taxes has been determined, the taxpayer determines which of the disallowed foreign taxes are deductible under Answers N-4 and N-5. The taxpayer then computes its section 904 limitation, which will reflect a reduction in both taxable income from sources without the the United States and entire taxable income for the entire amount of the disallowed foreign taxes that are deducted under Answers N-4 and N-5.

2. *Treatment of foreign taxes carried from an international boycott factor year.* After the taxpayer has determined the reduction in foreign taxes (other than taxes carried from an international boycott factor year) and after the limitations of sections 904 and 907 have been applied in accordance with 1. above, the taxpayer multiplies the foreign tax credits that are attributable to foreign taxes carried from a year in which the taxpayer applied the international boycott factor by the international boycott factor for the year from which the taxes were carried. Foreign tax credits in this amount are disallowed. If Answers E-2 or E-3 are applicable, the disallowance of these credits may be computed on a pro rata basis in accordance with those Answers. No adjustment is made at this point under sections 901, 904 or 908 to reflect any deduction that may be allowed under Answers N-4 and N-5 for the disallowed credits attributable to foreign taxes carried from a year in which the taxpayer applied the international boycott factor.

3. *Treatment of foreign taxes carried from a specific attribution of taxes and income year.* Since, in a year in which the taxpayer uses the specific attribution of taxes and income method, the reduction in foreign taxes is made before the determination of the section 904 limitation (see 1. above), no "tainted" foreign taxes will be available for carrying-over to another year. Thus, there will be no reduction in foreign taxes and no disallowance of credits in another year for taxes carried from a year in which the taxpayer used the specific attribution of taxes and income method.

N-2. Q. After the reduction of foreign taxes or the disallowance of foreign tax credits has been determined in accordance with the processes described in Answers N-1A and N-1B, some of the disallowed taxes or credits may be deductible under section 908(b). If the disallowed taxes or credits are deducted, is a new limitation under section 904, a new section 901 amount or a new section 908(a) amount computed to reflect the reduction in income by reason of the deduction?

A. See Answers N-1A and N-1B.

N-3. Q. Company A owns 20 percent of the stock of Company C, a corporation organized under the laws of Country Z, a foreign country. Company C participates in an international boycott in connection with all its operations. Company C pays a dividend to Company A and Country Z withholds income tax on the dividend paid to Company A. Company A computes its loss of tax benefits by identifying specifically attributable taxes and income under section 999(c)(2). Will Company A be denied its section 901 direct foreign tax credit in respect of the income tax withheld by Country Z on the dividend paid by Company C?

A. If Company A can clearly demonstrate that its investment in Company C is a clearly separate and identifiable operation in connection with which Company A did not participate in or cooperate with an international boycott, Company A will not be denied its section 901 direct foreign tax credit in respect of the withholding tax on the dividend paid by Company C. On the other hand, even if Company C had not participated in an international boycott, if Company A participated in or cooperated with an international boycott in connection with its investment in Company C, Company A would lose its foreign tax credit in respect of the withholding tax on the dividend. Thus, whether Company C participates in an international boycott is not relevant to the determination of Company A's loss of foreign tax credit under the facts of this question. (To determine the denial of the section 902 indirect foreign tax credit for foreign income taxes paid by Company C, see Answer A-19.)

N-4. Q. As a result of participation in or cooperation with an international boycott and the application of section 908(a), Company A loses a portion of its foreign tax credit under both sections 901 and 902. Are the foreign taxes denied creditability under both sections 901 and 902 deductible under section 908(b)?

A. The section 901 taxes denied creditability by reason of section 908(a) are deductible, but the section 902 taxes are not. Section 908(b) merely renders sections 275(a)(4) and 78 inapplicable to taxes denied creditability under section 908(a). Since section 902 taxes are not otherwise deductible under the Code, and since no section 78 gross-up is required in respect of section 902 taxes denied creditability, no deduction is allowed for those section 902 taxes.

N-5. Q. Company A has foreign tax credits under both sections 901 and 902. Company A applies the international boycott factor to determine its loss of foreign tax credits under section 908(a). What portion of the taxes denied creditability will be deductible under section 908(b)?

A. Since the section 901 taxes denied creditability under section 908(a) are deductible

but the section 902 taxes are not, Company A may deduct that portion of the total taxes denied creditability under section 908(a) that the total section 901 taxes (before application of section 908(a)) bear to the total section 901 and 902 taxes (before application of section 908(a)).

O. SUBPART F INCOME

O-1. Q. In determining the amount of subpart F income included in gross income by reason of section 952(a)(3), may any deductions be taken into account?

A. Yes. In computing subpart F income included in gross income under section 952(a)(3), a reasonable allowance may be made for deductions (including foreign taxes) properly allocable to that income. See Regs. sections 1.861-8 and 1.954-1(c) for guidance in this regard.

Dated: January 20, 1978.

W. MICHAEL BLUMENTHAL,
Secretary.

[FR Doc. 78-2171 Filed 1-24-78; 8:45 am]

[4810-22]

NYLON YARN FROM FRANCE

Antidumping Proceeding Notice

AGENCY: U.S. Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether nylon yarn is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less that the prices in the home market or to third countries.

EFFECTIVE DATE: January 25, 1978.

FOR FURTHER INFORMATION CONTACT:

David P. Mueller, Operations Officer, United States Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: On December 15, 1977, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from E. I. duPont de Nemours & Company, Inc., Wilmington, Del., indicating the possibility that the subject merchandise from France is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

For purposes of this investigation, the term "nylon yarn" means nylon yarn and grouped nylon filaments, not textured, provided for in items 309.3030, 309.3130, 310.0149, and 310.0249, Tariff Schedules of the United States, Annotated.

Pricing information thus far obtained indicates that imports of nylon yarn from France may be sold up to 40 percent below French home market prices for such or similar merchandise.

There is evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an industry in the United States. This information indicates that imports of nylon yarn from France are underselling prices of domestic nylon yarn by approximately 10 percent. This underselling is fully accounted for by the alleged dumping margins. In addition, petitioner's production of nylon yarn which had previously been returning profits has now declined to a loss position. Employment in petitioner's plants producing nylon yarn have declined approximately 21 percent between 1975 and 1977, accompanied by a decline in production of similar proportions. Capacity utilization and capital investment have also declined.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

This notice is being published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

HENRY C. STOCKELL, Jr.,
Acting General Counsel of the Treasury.

JANUARY 19, 1978.

[FR Doc. 78-2102 Filed 1-24-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 241, Rule 19; 35th Rev. Exemption No. 90]

50-FT. PLAIN BOXCARS

Exemption Under Mandatory Car Service Rules

To all railroads:

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 unnecessary 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. 405 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).

Apalachicola Northern Railroad Co., reporting marks: AN.
Camino, Placerville & Lake Tahoe Railroad Co., reporting marks: CPLT.
City of Prineville, reporting marks: COP.
The Clarendon and Pittsford Railroad Co., reporting marks: CLP.
[1]Duluth, Missabe and Iron Range Railway Co., reporting marks: DMIR.
Greenville and Northern Railway Co., reporting marks: GRN.
Greenwich & Johnsonville Railway Co., reporting marks: GJ.
Lake Erie, Franklin & Clarion Railroad Co., reporting marks: LEF.
Louisville and Wadley Railway Co., reporting marks: LW.
Louisville, New Albany & Corydon Railroad Co., reporting marks: LNAC.
McCloud River Railroad Co., reporting marks: MR.
[1]Middletown and New Jersey Railway Co., Inc., reporting marks: MNJ.
Minneapolis, Northfield and Southern Railway, reporting marks: MNS.
Missouri-Kansas-Texas Railroad Co., reporting marks: BKTY-MKT.
Municipality of East Troy, Wisconsin, reporting marks: METW.
New Orleans Public Belt Railroad, reporting marks: NOPB.
North Louisiana & Gulf Railroad Co., reporting marks: NLG.
Pearl River Valley Railroad Co., reporting marks: PRV.
The Pittsburgh and Lake Erie Railroad Co., reporting marks: P&LE.
Providence and Worcester Co., reporting marks: PW.
Raritan River Rail Road Co., reporting marks: RR.
Sacramento Northern Railway, reporting marks: SN.
St. Johnsbury & Lamoille County Railroad, reporting marks: SJL.
St. Lawrence Railroad, reporting marks: NSL.
Sierra Railroad Co., reporting marks: SERA.
Terminal Railway, Alabama State Docks, reporting marks: TASD.
Tidewater Southern Railway Co., reporting marks. TS.
Toledo, Peoria & Western Railroad Co., reporting marks: TPW.
Vermont Railway, Inc., reporting marks: VTR.
WCTU Railway Co., reporting marks: WCTR.
Yreka Western Railroad Co., reporting marks: YW.

[1]Addition.

Effective January 15, 1978, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., January 10, 1978.

For the Interstate Commerce Commission.

JOEL E. BURNS,
Agent.

[FR Doc. 78-2146 Filed 1-24-78; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATIONS FOR RELIEF

JANUARY 20, 1978.

These applications for long-and-short-haul relief have been filed with the ICC.

Protests are due at the ICC on or before February 9, 1978.

FSA No. 43492, The East Asiatic Company's No. 102, on intermodal rates on general commodities, from ports in Japan and Korea, to rail terminals on the U.S. Atlantic and Gulf Coasts by way of U.S. Pacific Coast interchanges, in Trans-Pacific Freight Conference of Japan/Korea, Agent, tariff No. 1, ICC No. 1, to become effective February 16, 1978. Grounds for relief—water competition.

FSA No. 43493, Seaspeed Services' No. 4, on intermodal rates on general commodities, from rail terminals at U.S. Pacific Coast ports, by way of Houston, Tex., to ports in the Middle East, in its tariff No. 1, ICC No. 1, to become effective February 17, 1978. Grounds for relief—water competition.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-2147 Filed 1-24-78; 8:45 am]

[7035-01]

[Notice No. 6]

SPECIAL PROPERTY BROKERS

JANUARY 19, 1978.

The following applicants seek to participate in the property broker special licensing procedure under 49 CFR 1045A authorizing operations as a broker at any location, in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of property (except household goods), between all points in the United States including Alaska and Hawaii. Any interested person shall file an original and (1) copy of a verified statement in opposition limited in scope to matters regarding applicant's fitness on or before February 24, 1978. Statements must be mailed to:

Broker Entry Staff, Room 2379, Interstate Commerce Commission, Washington, D.C. 20423.

Opposing parties shall serve (1) copy of the statement in opposition concurrently upon applicant's representative, or applicant if no representative is named.

If an applicant is not otherwise informed by the Commission, it may commence operation March 13, 1978.

REPUBLICATION

B-77-10, filed October 20, 1977. Applicant: BEKINS DISTRIBUTION SERVICES CO., a California corporation, 910 Grand Central, Glendale, Calif. 91201. Applicant's representative: Norman S. Marshall, 1335 South Figueroa Street, Los Angeles, Calif. 90015.

B-77-14, filed October 30, 1977. Applicant: BEKINS MOVING & STORAGE CO. OF HAWAII, INC., a California corporation, 777 Flower Street, Glendale, Calif. 91202. Applicant's representative: Norman S. Marshall, 1335 South Figueroa Street, Los Angeles, Calif. 90015.

B-77-16, filed October 30, 1977. Applicant: BEKINS MOVING & STORAGE CO. OF MARYLAND, INC., a Maryland corporation, 777 Flower Street, Glendale, Calif. 91202. Applicant's representative: Norman S. Marshall, 1335 South Figueroa Street, Los Angeles, Calif. 90015.

B-77-17, filed October 30, 1977. Applicant: BEKINS MOVING & STORAGE CO., INC., a Massachusetts corporation, 777 Flower Street, Glendale, Calif. 91202. Applicant's representative: Norman S. Marshall, 1335 South Figueroa Street, Los Angeles, Calif. 90015.

B-77-22, filed October 30, 1977. Applicant: BEKINS MOVING & STORAGE CO., INC., a New Mexico corporation, 777 Flower Street, Glendale, Calif. 91202. Applicant's representative: Norman S. Marshall, 1335 South Figueroa Street, Los Angeles, Calif. 90015.

B-77-23, filed October 30, 1977. Applicant: BEKINS MOVING & STORAGE CO., INC., a New York corporation, 777 Flower Street, Glendale, Calif. 91202. Applicant's representative: Norman S. Marshall, 1335 South Figueroa Street, Los Angeles, Calif. 90015.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-2145 Filed 1-24-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Home Loan Bank Board	1
Federal Home Loan Mortgage Corporation	2
Federal Maritime Commission	3
Federal Reserve System (Board of Governors)	4
Federal Trade Commission	5, 6
National Mediation Board	7
Nuclear Regulatory Commission	8
Renegotiation Board	9, 10

[6720-01]

1

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 14, Pg. 3010, Friday, January 20, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. January 25, 1978.

PLACE: 1700 G. Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-377-6679.

CHANGES IN THE MEETING: The following item has been added to the open portion of the meeting: Appointment of Director, Office of Community Investment, No. 129, January 20, 1978.

[S-177-78 Filed 1-23-78; 3:57 pm]

[6720-02]

2

FEDERAL HOME LOAN MORTGAGE CORPORATION.

TIME AND DATE: 2:30 p.m., January 26, 1978.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Henry Judy, 202-624-7107.

MATTERS TO BE CONSIDERED: Consideration of Status Report on FHLMC moved to the New FHLBB Building. Discussion of Loan-to-Value Ratio on Refinance Loans.

Announcement is being made at the earliest practicable time.

RONALD A. SNIDER,
Assistant Secretary.

[S-169-78 Filed 1-23-78; 9:36 am]

[6730-01]

3

FEDERAL MARITIME COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: January 12, 1978, 43 FR 1883.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: January 18, 1978, 10 a.m.

CHANGES IN THE MEETING: Addition of the following item to the open session:

9. Docket No. 77-22—Action to Adjust or Meet Conditions Unfavorable to Shipping in the Foreign Trade of the United States with Guatemala—Petition for Postponement of Effective Date.

[S-170-78 Filed 1-23-78; 2:14 pm]

[6210-01]

4

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Monday, January 30, 1978:

The closed portion of the meeting will commence at the conclusion of the open discussion.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Part of the meeting will be open; part will be closed.

MATTERS TO BE CONSIDERED:

Open portion: (1) Proposed guide to conduct for directors of Federal Reserve Banks and regulation to be issued, pursuant to 18 U.S.C. 208, regarding specific actions by such directors.

(2) Possible amendments to Regulation H (Membership of State Banking Institutions in the Federal Reserve System) to require that State member banks that effect certain transactions for customers provide confirmations of and maintain certain records with respect to such transactions. Consideration will also be given to seeking comments on the need for regulations involving obtaining the best execution of securities transactions and the establishment of competency and testing requirements for bank employees.

(3) Any agenda items carried forward from a previously announced meeting.

Closed portion: (1) Appointment of new members to the Consumer Advisory Council.

(2) Proposed negotiation of a competitive purchase of computer equipment at the Federal Reserve Bank of Cleveland.

(3) Request by the Federal Reserve Bank of Dallas for approval of a refurbishment program, many aspects of which will involve competitive purchases.

(4) Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

JANUARY 20, 1978.

[S-168-78 Filed 1-23-78; 9:36 am]

[6750-01]

5

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Friday, January 27, 1978.

PLACE: Room 432, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Review of first quarter fiscal year 1978 budget and consideration of fiscal year 1979 budget request to Congress for the following three missions: Maintaining Competition, Consumer Protection, and Economic Activities.

CONTACT PERSON FOR MORE INFORMATION:

Wibur T. Weaver, Office of Public Information, 202-523-3830; recorded message, 202-523-3806.

[S-175-78 Filed 1-23-78; 3:29 pm]

[6750-01]

6

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 and 11:30 a.m., and 2 p.m., Thursday, January 26, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed/open.

MATTERS TO BE CONSIDERED:

Closed Session: 10 a.m. and 2 p.m.:
Monthly policy review session.
(a) (10 a.m.) Discussion of current Commission activities concerning energy, including non-public Part II matters, energy surveys, ad substantiation and Section 205 (Magnuson-Moss) enforcement programs.
(b) (2 p.m.) Discussion of certain future Commission activities relating to energy, including initiation of non-public investigations and intervention in civil proceedings.
Open Session: 11:30 a.m.
Monthly policy review session—Focus on energy; disussion of general Commission responsibilities under the Energy Policy and Conservation Act and proposed National Energy Act, and of the proposed trade regulation rule on labeling and advertising of thermal insulation materials.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information, 202-523-3830; recorded message, 202-523-3808.

[S-176-78 Filed 1-23-78; 3:29 pm]

[7550-01]

7

NATIONAL MEDIATION BOARD.

TIME AND DATE: 2 p.m., Wednesday, February 1, 1978.

PLACE: Board Hearing Room, 8th floor, 1425 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:
(1) Ratification of Board actions taken by notation voting during the month of January 1978.
(2) Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rowland K. Quinn, Jr., Executive Secretary, telephone, 202-523-5920.

(Date of Notice: January 23, 1978.)

[S-173-78 Filed 1-23-78; 3:24 pm]

[7590-01]

8

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of January 23, 1978 (Changes).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED:

Schedule of Meetings for the week has been changed to the following:

Monday, January 23

(11 a.m.)

1.—Proposals for Settlement of Sheffield Waste Disposal Case. Approximately ½ hour, public meeting, as announced.

(1:30 p.m.)

1.—Discussion of Appellate Review in Midland. Approximately 1 hour, closed—Exemptions 6 and 10. Replaces Briefing on Safeguards Contingencies, which is cancelled.
2.—Discussion of Notification of Congress with Regard to International Safeguards Matters. As announced, approximately 1 hour, public meeting.
3.—Briefing on MBO on Decommissioning. As announced, approximately 1 hour, public meeting.

Tuesday, January 24

(9:30 a.m.)

1.—Oral Arguments in St. Lucie (ALAB-420). As announced, approximately 1 hour, public meeting.
2.—Discussion of St. Lucie (ALAB-420). As announced, approximately 1 hour, public meeting.

(1:30 p.m.)

1.—Briefing by Department of State Representatives on Export Matters. As announced, approximately 1 hour, closed—Exemption 1.
2.—Staff Notification to Boards of Relevant and Material New Information. Approximately 1 hour, public meeting. Previously announced as "Briefing on NRC Policy on Notifying Boards and Panels"; rescheduled from January 23, 1978.
3.—Affirmations items, approximately 5 minutes, public meeting, as announced.

Wednesday, January 25

(2 p.m.)

Briefing on Supergrade Study. Approximately 1 hour, public meeting, portions may be closed. Postponed from January 24, 1978.

Thursday, January 26

(11 a.m.)

Discussion of FOIA Appeal for EICSB Report. Approximately 1 hour, postponed from January 24, 1978, public meeting, portions may be closed.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

JANUARY 20, 1978.

[S-171-78 Filed 1-23-78; 3:24 pm]

[7910-01]

9

RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, January 31, 1978; 10 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1 through 5 are open to the public. Matter 6 is closed to the public. Status is not applicable to matters 7 and 8.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of meeting held January 24, 1978 and other Board meetings, if any.
2. Claim for Partial Mandatory Exemption of New Durable Productive Equipment:

Leeds & Northrup Co. fiscal year ended May 30, 1976.

3. Special Accounting Agreement:

A. Security Pacific National Bank, fiscal years ended December 31, 1971 through 1975.
B. Security Pacific Leasing Co., fiscal year ended December 31, 1975.
C. Security Pacific National Leasing, Inc., fiscal years ended December 31, 1973, 1974 and 1975.

4. Recommendation for Clearance:

Timex Corp. fiscal year ended December 31, 1971.

5. Recommended Clearances Without Assignment (List No. 1893):

A. Foster Wheeler Corp., fiscal year ended December 31, 1974.
A-1 Forney Engineering Co., fiscal year ended December 31, 1974.
A-2 Glitsch, Inc., fiscal year ended December 31, 1974.
A-3 Atwood & Morrill Co., Inc., fiscal year ended December 31, 1974.
A-4 Foster Wheeler Energy Corp., fiscal year ended December 31, 1974.
B. Foster Wheeler Energy Corp., fiscal year ended December 31, 1975.
B-1 Glitsch, Inc., fiscal year ended December 31, 1975.
B-2 Forney Engineering Co., fiscal year ended December 31, 1975.

B-3 Atwood & Morrill Co., Inc., fiscal year ended December 31, 1975.
C. Adams-Russell Co., Inc., fiscal year ended September 30, 1976.
D. Cooper Industries Inc., fiscal year ended December 31, 1974.
E. Cooper Airmotive Inc., fiscal year ended December 22, 1974.

6. Special Accounting Agreement:

AMF Inc., fiscal years ended December 31, 1969 and 1970.

7. Approval of Agenda for meeting to be held February 14, 1978.
8. Approval of Agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, Washington, D.C. 20446, 202-254-8277.

Dated: January 20, 1978.

GOODWIN CHASE,
Chairman.

[S-172-78 Filed 1-23-78; 3:24 pm]

[7910-01]

10

THE RENEGOTIATION BOARD.

DATE AND TIME: Friday, February 3, 1978; 10 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Open to public observation.

MATTER TO BE CONSIDERED: Special board meeting concerning: MB Associates, fiscal year ended April 1, 1973.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated January 20, 1978.

GOODWIN CHASE,
Chairman.

[S-174-78 Filed 1-23-78; 3:24 pm]

federal register

WEDNESDAY, JANUARY 25, 1978
PART II

ENVIRONMENTAL PROTECTION AGENCY

■

PRIVACY ACT OF 1974

Systems of Records;
Annual Publication

[6560-01]

U.S. ENVIRONMENTAL PROTECTION AGENCY

[FRL 845-2]

PRIVACY ACT OF 1974

Systems of Records; Annual Compilation

Pursuant to 5 U.S.C. 522a(e)(4), the U.S. Environmental Protection Agency hereby publishes the systems of records as currently maintained by the Agency. EPA has added four systems of records to the compilation since the previous annual publication in FEDERAL REGISTER Vol. 41, No. 180, pages 39689-39692, Wednesday, September 15, 1976. Additionally corrections have been made at reference EPA-2 (addresses for system locations in the regions) and at EPA-4 (authority citation for maintenance of the system).

Dated: January 8, 1978.

WILLIAM DRAYTON, Jr.,
Assistant Administrator
for Planning and Management.

EPA—1 Payroll System (Departmental Integrated Payroll System; Payroll Accounting Master File; and Detail History File).
EPA—2 General Personnel Records.
EPA—3 Health Unit and Stress Lab Medical Records.
EPA—4 Inspection Branch Reports.
EPA—5 Personnel Secruity File System.
EPA—6 Security Computer Program System.
EPA—7 Travel Voucher Folders.
EPA—8 Confidential Statement of Employment and Financial Interest Files.
EPA—9 Freedon of Information Act Record.
EPA—10 Parking Permits File System.
EPA—11 Professional Expertise Inventory.

EPA—1

System name: Payroll System (Departmental Integrated Payroll System; Payroll Accounting Master File; and Detail History File)—EPA

System location: U.S. Geological Survey Computer Facility, Reston, Virginia, 20244, HSMA Computer Facility, DHEW, Parklawn Bldg., Rockville, Maryland, 20203; Financial Management Division, EPA, 401 M Street, S.W., Washington, D.C. 20460.

Categories of individuals covered by the system: EPA employees.

Categories of records in the system: Salary and related payroll cost data and reports.

Authority for maintenance of the system: 5 U.S.C. 301; 44 U.S.C. 3301; Title 6, GAO Policy and Procedures Manual, pursuant to 31 U.S.C. 66(a) and sections of 112(a) and 113 of Budget and Accounting Procedures Act of 1950.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To conduct all necessary and appropriate intra-agency payroll activities. To furnish information U.S. Treasury requires to issue paychecks and distribute pay according to employees' directions. To report tax withholding to IRS and appropriate State and local taxing authorities; FICA deductions to SSA; dues deductions to labor unions; withholdings for health and life insurance to insurance carriers and U.S. C.S.C.; charity contribution deductions to agents of charitable institutions; annual W-2 statements to taxing authorities and the individual. Also see routine use paragraphs in Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer records maintained on tape, others on paper.

Retrievability: Name and employee number.

Safeguards: Paper records in locked metal file cabinets and automated filing banks within locked room.

Retention and disposal: Retained and disposed of according to (proposed) EPA Records Control Schedules, Appendix B, Records Management Manual.

System manager(s) and address: Chief, Payroll Accounts Office, EPA, 401 M St., S.W., Washington, D.C. 20460.

Notification procedure: Inquiries may be addressed to system manager.

Record access procedures: Requests should be addressed to system manager.

Contesting record procedures: Requests should be addressed to system manager.

Record source categories: Individuals, supervisors, timekeepers, official personnel records, IRS.

EPA—2

System name: General Personnel Records—EPA

System location: (a) Personnel Management Division, EPA, 401 M St., S.W., Washington, D.C. 20460.
(b) EPA, Rm. 2211, John F. Kennedy Federal Bldg., Boston, MA 02203
(c) EPA, Rm. 1032, 26 Federal Plaza, New York, NY 10007
(d) EPA, Curtis Bldg., 6th and Walnut Sts., Philadelphia, PA 19106
(e) 345 Courtland Street N.W., Atlanta, Georgia 30308
(f) EPA, 230 S. Dearborn, Chicago, IL, 60604
(g) 1201 Elm Street, First International Building, Dallas, Texas 72570
(h) EPA, 1735 Baltimore Ave., Kansas City, MO 64108
(i) EPA, Lincoln Tower Bldg., 1860 Lincoln St., Denver CO 80203
(j) EPA, 100 California St., San Francisco, CA 94111
(k) EPA, 1200 Sixth St., Seattle, WA 98101
(l) EPA Laboratory, P.O. Box 15027, Las Vegas, NV 89114
(m) EPA Laboratory, 26 West St. Clair Street, Cincinnati, Ohio 45268
(n) EPA, Research Triangle Park, NC 27711
(o) EPA, Office of Mobile Source Air Pollution Control, 2565 Plymouth Rd., Ann Arbor, MI 48105

Categories of individuals covered by the system: Employees of EPA and applicants for EPA employment.

Categories of records in the system: Nonpermanent personnel records not required to be maintained by the CSC.

Authority for maintenance of the system: 5 U.S.C. 301, implemented by 5 CFR Parts 293 and 297.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records and the information in the records are used to carry out authorized personnel programs. Routine uses include: Review of employment histories of employees and applicants. Identification of high potential employees designated under the Agency executive development program. Review of developmental needs of high potential employees and current managers GS-15 and above, Review of status of employees participating in special counseling or developmental programs. Identification of candidates for job vacancies.

The records system may include files covering employee relations, individual development plans for high potential employees, individual development plans for current managers GS-15 and above, ACCENT program, Academic Career Advancement program, counseling programs, exit interviews, and voluntary applications. All of the above files are not maintained at each Headquarters/field location. Also see routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in file folders and generally, in locked cabinets.

Retrievability: Indexed by name.

Safeguards: Access to and use of is limited to those persons whose official duties require such access.

Retention and disposal: Records of employees are kept manually and are generally maintained until the individual terminates his employment with EPA. Records of applicants are kept manually and are destroyed or returned after one year.

System manager(s) and address: For records at location (a)—Director, personnel Management Division, (address as given in Systems location above). For records located at (b) to (o)—Personnel Officers (address as given in Systems location above).

Notification procedure: Inquiries may be addressed to system manger.

Record access procedures: Requests should be addressed to system manager.

Contesting record procedures: Requests should be addressed to system manager.

Record source categories: Information in this system comes from the individual to whom it applies or is derived from information provided by Agency officials.

Systems exempted from certan provisions of the act: Pursuant to 5 U.S.C. 522a(k)(5), all information and material in the record which meets the criteria of these subsections are or may be exempted from the notice, access, and contest requirements.

EPA—3

System name: Health Unit and Stress Lab Medical Records—EPA

System location: EPA Health Unit, Room 3228, WSM, and EPA Stress Lab, Room 2915, WSM, 401 M Street, S.W., Washington, D.C. 20460.

Categories of individuals covered by the system: EPA employees, contract employees, and EPA visitors requiring or requesting medical attention and full-time EPA employees participating in Stress Lab.

Categories of records in the system: Medical histories and treatment records.

Authority for maintenance of the system: OMB Circular No. A-78, EPA Contract for Health Care.

Routine uses of records maintained in the system including categories of users and the purposes of such uses: To document single incidences of walk-in patients, symptoms and treatment, and to maintain a continuing history file on each patient. To document the treatment of those patients requiring the recurring administration of allergy shots and other shots, such as travel immunizations. To document physicals, complete with histories and lab reports, of those 500 employees so examined annually. (Physicals limited to those in grades 14 and above and those over age 40 in grades 11, 12, and 13.) To document requested screenings of patients for various illnesses and conditions through the use of diagnostic tools and tests. For referral of patients to private doctors for treatment, as indicated. To evaluate cardiac status of exercise program participants and the individual desirability of such a program. To detail for patient and personnel specifics and exercise treatment program.

Users of the system are restricted to contracted health personnel, patients, and, upon patient approval, to the patient's private doctor. Also see routine use paragraphs in Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records, primarily handwritten or typed cards, forms, files, and EKG graphs, are stored in locked file cabinets.

Retrievability: Indexed by name.

Safeguards: Access to and use of system is limited to Health Unit and Stress Lab personnel, patients, and, upon patient approval, the patient's doctor. All materials are under lock and key. (Records relating to psychiatric matters may not be made available to a patient, if the physician deems it imprudent, but may be released upon patient approval to the patient's designated physician.)

Retention and disposal: Records maintained until employee leaves Agency, when employee may take permanent possession of same. Should employee not take possession, sealed records are sent to Personnel Office for inclusion in official personnel folder, which is sent to Federal Records Center in St. Louis for retention or to new Federal employer, as appropriate.

System manager(s) and address: Assistant Director for Operations, Personnel Management Division, EPA, 401 M St., S.W., Washington, D.C. 20460.

Notification procedure: Inquiries may be addressed to system manager.

Record access procedures: Requests should be addressed to system manager.

Contesting record procedures: Requests should be addressed to systems manager.

Record source categories: Patients, patient's doctors, on approval of patient, accident/incidence of illness witnesses, family members of patients, and past Federal employer medical records.

EPA—4

System name: Inspection Branch Reports—EPA

System location: Security and Inspection division, EPA, 401 M St., S.W., Washington, D.C. 20460.

Categories of individuals covered by the system: EPA employees, or persons or firms under contract to EPA or receiving grants from EPA, suspected of having committed illegal or unethical acts.

Categories of records in the system: Contains investigative case file of any person or firm suspected of having committed illegal or unethical acts.

Authority for maintenance of the system: Title 28, U.S. Code, Section 535(b), and EPA Order 3120.1A, dated November 29, 1976.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records reviewed and cases investigated within EPA for illegal or unethical acts. Also see routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In individual case files.

Retrievability: Indexed by name or type of violation.

Safeguards: Records are maintained in a vault room secured by a Class 6 manipulation proof three-way combination lock on the vault door, an ultrasonic space alarm, and contact points on the door.

Retention and disposal: Held 10 years after investigation is completed and then destroyed by fire.

System manager(s) and address: Chief, Inspection Branch, Security and Inspection Division, EPA, 401 M St., S.W., Washington, D.C. 20460.

Notification procedure: Inquiries may be addressed to system manager.

Record access procedures: Requests should be addressed to system manager.

Contesting record procedures: Requests should be addressed to system manager.

Record source categories: Individual on whom the record is maintained, fellow workers, aquaintances, concerned citizens, phone calls, letters, law enforcement agencies.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 522a(k)(5), all information and material in the record which meets the criteria of these subsections are or may be exempted from the notice, access, and contest requirements.

EPA—5

System name: Personnel Security File System—EPA

System location: Security and Inspection Divison, EPA, 401 M St., S.W., Washington, D.C. 20460.

Categories of individuals covered by the system: EPA employees and consultants in sensitive and nonsensitive positions and applicants for sensitive positions within EPA.

Categories of records in the system: Full field investigations, national agency checks and inquiries from prior employers, credit checks, and local police checks on the individual and any other checks necessary to further develop questionable suitability/security information. May contain copies of the SF-85, SF-86, and the SF-171, furnished by the individual depending on the sensitivity of the position the individual occupies or will occupy.

Authority for maintenance of the system: E.O. 10450, E.O. 11652, and Atomic Energy Act of 1954, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information used with E.O. 11652, E.O. 10450, Civil Service Regulations, and the Federal Personnel Manual to issue a security clearance and/or to make suitability determinations on hiring or retention of EPA employees. Also see routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By name.

Safeguards: When not in use, within a vault room which has a three-way combination locked door with a contact alarm and an ultrasonic alarm system. Within the vault room, the files are also stored within either a key-locked or three-way combination power file or security cabinet. Access to this vault room is limited to EPA Security and Inspection Division personnel.

Retention and disposal: Procedures require a one-year retention after the employee terminates employment with EPA. Upon termination,

the Civil Service Commission investigative reports are destroyed by shredding as is the remainder of the file unless the personnel security file contains derogatory information. If the file contains derogatory information, it is forwarded to the Federal Record Center for retention for 20 years.

System manager(s) and address: Director, Security and Inspection Division, EPA, 401 M St., S.W., Washington, D.C. 20460.

Notification procedure: Inquiries may be addressed to system manager.

Record access procedures: Direct written requests to the system manager. The request should include requester's full name, date and place of birth, and social security number and signature to preclude erroneous identification. A comparison of the signature of the requester and those in the record will be made to determine identity prior to any release.

Contesting record procedures: Requests should be addressed to system manager.

Record source categories: Sources vary, but normally could include information furnished by the subject, background data furnished through investigations by authorized Federal investigatory agencies; local police department checks; former employers' inquiries; credit inquiries; and educational institutions inquiries.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5), all information and material in the record which meets the criteria of these subsections are or may be exempted from the notice, access, and contest requirements.

EPA—6

System name: Security Computer Program System—EPA

System location: Security and Inspection Division, EPA, 401 M St., S.W., Washington, D.C. 20460.

Categories of individuals covered by the system: Security clearance status of EPA employees or consultants and terminated employees who have been processed through the Security and Inspection Division.

Categories of records in the system: Security computer programs are a subsystem of the Personnel Computer System. Security data is entered into the system as follows: social security number, type of investigation requested, position sensitivity, type security clearance requested, place of birth, type of clearance granted, date of clearance, agency conducting investigation, ERDA clearance, date of ERDA clearance and ERDA file number. Only security clearance information applicable to the individual in his EPA position is lifted. Other data listed on the Personnel Computer System is retrievable under the security computer programs, such as name, date of birth, organization, geographical location, etc., and is retrievable through matching of the social security number.

Authority for maintenance of the system: E.O. 10450 and E.O. 11652.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Internal use is limited to exchanges between EPA offices requiring clearance data prior to release of classified information. Records of this system of records may be disclosed as 'routine use' to security representatives of Federal, State, or local agencies or to Government contractors performing classified work where security clearance information is required under a statute, or by regulation, rule or order issued pursuant thereto, to permit EPA employees access to classified national security information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Disc-pack on line with the computer contractor with a backup file stored off line.

Retrievability: By Security and Inspection Division personnel via a low-speed remote terminal utilizing IRS Alpha computer language and is printed out on a remote printer. Access to security computer program is gained by using account names, initials, and key words known only to personnel working directly with the system.

Safeguards: Printouts obtained from the system are stored, when not in use, within a vault room which has a three-way combination locked door and an ultrasonic alarm system. Access to the printout information is limited to EPA Security and Inspection Division Personnel.

Retention and disposal: Clearance information is maintained in an active file until the employee terminates. Subsequent to the employee's termination, the clearance information is removed from the active file, placed in a terminated file, and maintained for archival purposes.

System manager(s) and address: Director, Security and Inspection Division, EPA, 401 M St., S.W., Washington, D.C. 20460.

Notification procedure: Inquiries should be addressed to system manager as above.

Record access procedures: Direct written requests to system manager. Request should include subject's full name, date and place of birth, and social security number to preclude erroneous identification. A comparison of the signature of the requester and those of record will be made to determine identity prior to any release.

Contesting record procedures: Requests should be addressed to the system manager as above.

Record source categories: Sources for this information are obtained from the Personnel Security File and the Personnel Computer System maintained on subject.

EPA—7

System name: Travel Voucher Folders, Advance Cards, and Payee Files—EPA

System location: Financial Management Division, EPA, 401 M St., S.W., Washington, D.C. 20460.

Categories of individuals covered by the system: Employees of EPA, consultants, and private citizens who travel or perform services for EPA.

Categories of records in the system: Travel vouchers with reimbursable details for specific trips. Travel advance cards with details of advances received and trip expenses applied. Payee files with itemized invoices.

Authority for maintenance of the system: Travel Expense Amendments Act of 1975 (P.L. 94–22); Budget and Accounting Act of 1921; Accounting and Auditing Act of 1950; Federal Claim Collection Act of 1966.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Subgroups of files are used to determine amounts due an individual for authorized and official travel for EPA, and conduct other payee-related activities. Transmittal to U.S. Treasury for payment. Also see routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual

Retrievability: Name

Safeguards: Voucher files are kept in locked room. Advance cards in lockable metal file cabinets. Payee files in locked cabinets.

Retention and disposal: Retained and disposed of according to (proposed) EPA Records Control Schedules, Appendix B, Records Management Manual.

System manager(s) and address: Accountant-In-Charge, Financial Management Division, EPA, 401 M St., S.W., Washington, D.C. 20460.

Notification procedure: Inquiries may be addressed to system manager.

Record access procedures: Requests should be addressed to system manager.

Contesting record procedures: Requests should be addressed to system manager.

Record source categories: Individual, supervisors, and finance (or accounting) office standard references.

EPA—8

System name: Confidential Statements of Employment and Financial Interest Files

System location: (a) Agency Counselor and Deputy Counselors; EPA, 401 M St., S.W., Washington, DC 20460.

(b) EPA, John F. Kennedy Federal Bldg., Boston, MA 02203

(c) EPA, 26 Federal Plaza, New York, NY 10007

(d) EPA, 6th & Walnut Sts., Philadelphia, PA 19106

(e) EPA, 345 Courtland Street, N.W., Atlanta, GA 30308

(f) EPA, 230 S. Dearborn, Chicago, IL 60604

(g) EPA, 1201 Elm Street, First International Bldg., Dallas, TX 75270

(h) EPA, 1735 Baltimore Avenue, Kansas City, MO 64108

(i) EPA, Lincoln Tower Bldg., 1860 Lincoln Street, Denver, CO 80203

(j) EPA, 215 Fremont St., San Francisco, CA 94105
(k) EPA, 1200 Sixth Street, Seattle, WA 98101
(l) EPA, Research Triangle Park, NC 27711
(m) EPA Laboratory, 26 West St. Clair Street, Cincinnati, OH 45268

Categories of individuals covered in the system: EPA employees at the GS-13 and above grade level or receiving equivalent pay, consultants and experts, Public Health Commissioned Officers.

Categories of records covered in the system: Contains EPA Form 1320.1.

Authority for maintenance of the system: 40 CFR 3, Section 3.304, EPA Conduct and Discipline Manual, Chapter 4, dated 10/18/76, and E.O. 11222.

Routine uses of records maintained in the system; including categories of users and the purpose of such use: Records are evaluated for possible conflict of interest in accordance with law 18 U.S.C. 208 prohibiting Federal employees participation in official activities where there is conflicting interest and Agency regulation in 40 CFR Part 3.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By name.

Safeguards: Records are maintained in locked limited access file cabinets.

Retention and disposal: Records maintained until employee leaves the Agency then destroyed.

System manager(s) and address: For records at (a) Agency Counselor and Deputy Counselors (address as given in system location above). For records located at (b) to (m) Regional Administrators (address as given in system location above).

Notification procedure: Inquiries may be addressed to system manager.

Record access procedures: Requests should be addressed to system manager.

Contesting record procedures: Requests should be addressed to system manager.

Record source categories: Information in this system comes from the individual to whom it applies.

Systems exempted from certain provisions of the Act: Pursuant to 5 U.S.C. 522a(k)(5), all information and material which meets the criteria of these subsections are or may be exempted from notice, access, and contest requirements.

EPA—9

System name: Freedom of Information Act Requests File

System location:

(a) Freedom of Information Section, Office of the Administrator, EPA, 401 M St., S.W., Washington, DC 20460.
(b) EPA, Region I, Room 2303, John F. Kennedy Federal Building, Boston, MA 02203
(c) EPA, Region II, Room 1005, 26 Federal Plaza, New York, NY 10007
(d) EPA, Region III, Curtis Building, 6th & Walnut Sts., Philadelphia, PA 19106
(e) EPA, Region IV, 345 Courtland Street, N.E., Atlanta, GA 30308
(f) EPA, Region V, 230 S. Dearborn St., Chicago, IL 60604
(g) EPA, Region VI, First International Building, 1201 Elm St., Dallas, TX 75201
(h) EPA, Region VII, 1735 Baltimore Ave., Kansas City, MO 64108
(i) EPA, Region VIII, Suite 900, 1860 Lincoln Street, Denver, CO 80203
(j) EPA, Region IX, 215 Fremont St., San Francisco, CA 94105
(k) EPA, Region X, 1200 Sixth Ave., Seattle, WA 98101
(l) EPA, Office of General Counsel, 401 M St., S.W., Washington, DC 20460

Categories of individuals covered by the system: All persons requesting information under the Freedom of Information Act.

Categories of records in the system: Copy of each Freedom of Information Act request received and a copy of the Agency's response and other pertinent correspondence and records.

Authority for maintenance of the system: EPA Order 1550.1B, dated 5/31/75 and 40 CFR Part dated September 1, 1976.

Routine uses of records maintained in the system; including categories of users and the purposes of such uses: To conduct all necessary and appropriate intra-agency Freedom of Information activities. To compile the reports required by 5 U.S.C. 522(d).

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage: These records are maintained in file folders and in locked cabinets (Duplicate copies of FOI requests and agency responses are filed in binders and are available for public inspection).

Retrievability: Name and request identification control number.

Retention: Records are maintained in accordance with EPA Record Control Schedules.

System manager(s) and address: For records at (a) through (k) Freedom of Information Office (address as given in system location. For records at (l) Contracts and General Administration Branch (address as given in system location above).

Notification procedure: Inquiries may be addressed to system manager.

Record access procedures: Requests should be addressed to system manager.

Contesting record procedures: Requests should be addressed to system manager.

Record source categories: Information in this system comes from the individual to whom it applies.

System exempted from certain provisions of the Act: Pursuant to 5 U.S.C. 522a(k)(5), all information and material which meets the criteria of these subsections are or may be exempted from notice, access, and contest requirements.

EPA—10

System name: EPA Parking Control Office File

System location: General Services Branch, Facilities and Support Division, EPA, 401 M St., S.W., Washington, DC 20460.

Categories of individuals covered by the system: Persons in existing carpool with principal member being an EPA employee other members may be employed by other Federal agencies or private industry.

Categories of records in the system: Permit applications, EPA Form 5160.1.

Authority for maintenance of the system: EPA Administrative Services Manual, Chapter 11, dated April 23, 1975.

Routine uses of records maintained: To maintain control of numbers of vehicles authorized to use EPA Waterside Mall Garage.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage: These files are maintained in file folder.

Retrievability: Filed by name and permit number.

Retention: Records are maintained until carpool is disbanded or employee leaves the Agency.

System manager(s) and address: Parking Control Office, General Services Branch, address same as given in system location.

Notification procedure: Inquiries may be addressed to system manager.

Record access procedures: Requests should be addressed to system manager.

Contesting record procedures: Requests should be addressed to system manager.

Record source categories: Information in this system comes from the individual to whom it applies.

EPA—11

System name: Professional Expertise Inventory

System location:

(a) Office of Research and Development; EPA, 401 M St., S.W. Washington, DC 20460
(b) EPA, Office of Administration, 26 West St. Clair Street, Cincinnati, OH 45268
(c) EPA Laboratories, Research Triangle Park, NC 27711
(d) EPA Laboratories, 26 West St. Clair Street, Cincinnati, OH 45268
(e) EPA, P.O. Box 15027, Las Vegas, NV 89114
(f) EPA, College Station Road, Athens, GA 30605
(g) EPA, P.O. Box 1198, Ada, OK 74820
(h) EPA, 200 S.W. 35th St., Corvallis, OR 97330
(i) EPA, 6201 Congdon Blvd., Duluth, MN 55804
(j) EPA, P.O. Box 277, Narragansett, RI
(k) EPA, Sabine Island, Gulf Breeze, FL 32561

Categories of records covered in the system: Name of individual, current organization, title, educational background, disciplines, specialty areas, specific subject knowledge, specific chemical substance experience, names of government organizations with which the individual has worked with or for, names of countries with which the individual has a technical or environmental awareness, specific language skills, membership in professional societies and working group affiliations, publication references, and professional history (includes period of employment, name of employer, position title, and description of significant projects).

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system: Information will be used internally by EPA to identify individuals with appropriate expertise for appointment or nomination to working groups and task forces, provision of consultation support on projects, and contact on collaborative studies.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage: Maintained in file folders in cabinets and on computer disk.

Retrievability: By any data item included in a record.

Safeguards: Access and use of information is limited to those persons whose official duties require access.

Retention and disposal: Records maintained until employee leaves the Agency, then destroyed.

System manager(s) and addresses: For records at (a) Assistant Administrator for Research and Development (address as given in system location in (a) and (b) above). For records located at (b) Laboratory Directors (address as given in system location for (c) through (k) above).

Notification procedure: Inquiries may be addressed to system manager.

Record access procedures: Requests should be addressed to system manager.

Contesting record procedures: Requests should be addressed to system manager.

Record source categories: Information in this system comes from the individual to whom it applies.

[FR Doc. 78-1702 Filed 1-24-78; 8:45 am]

federal register

WEDNESDAY, JANUARY 25, 1978
PART III



DEPARTMENT OF COMMERCE

Industry and Trade Administration

■

RESTRICTIVE TRADE PRACTICES OR BOYCOTTS

[3510-25]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, BUREAU OF TRADE REGULATION, DEPARTMENT OF COMMERCE

PART 369—RESTRICTIVE TRADE PRACTICES OR BOYCOTTS

AGENCY: Industry and Trade Administration (formerly Domestic and International Business Administration), Bureau of Trade Regulation, Department of Commerce.

ACTION: Final Rules.

SUMMARY: The agency is amending the Restrictive Trade Practices or Boycotts part of the Export Administration Regulations (Part 369, Title 15, Code of Federal Regulations). The changes are being made to implement Title II of the Export Administration Amendments of 1977 (Pub. L. 95-52), signed into law on June 22, 1977. In general, these regulations prohibit United States persons from complying with specified foreign boycott requirements, including the furnishing of boycott-related information.

DATE: These rules are effective January 18, 1978, as required by Pub. L. 95-52, upon filing with the Federal Register. The promulgation of these boycott regulations is exempt from Administrative Procedure Act rulemaking procedures.

FOR ADDITIONAL INFORMATION CONTACT: Vincent J. Rocque (telephone 202-377-5491) or Kent N. Knowles (telephone 202-377-2512).

SUPPLEMENTARY INFORMATION: Pursuant to Section 4A(a)(5) of the Export Administration Act of 1969, as amended (the "Act") (50 U.S.C. App. 2403-1a(a)(5)), the Department of Commerce published proposed rules concerning restrictive trade practices or boycotts in the FEDERAL REGISTER dated September 23, 1977 (42 FR 48556).

More than 7,000 copies of the proposed rules were mailed to members of Congress, state government officials, exporters, business and trade associations, special interest groups, law firms, and all persons requesting a copy. Interested parties were invited to provide comments on or before noon, November 21, 1977. Department officials have carefully considered all comments received and revised the proposed regulations as appropriate.

DISCUSSION OF COMMENTS

On September 20, 1977 the Department invited interested persons to submit comments on its proposed regulations to implement Title II of the Export Administration Amendments of 1977. Comments were to be delivered by noon, November 21, 1977. In response, the Department received 178 submissions containing comments and suggestions totalling over 1,000 pages. Earlier, in response to its July 13, 1977 advance notice of proposed rulemaking in this matter, the Department received 152 submissions containing comments totalling over 1,750 pages. Included in these totals are written summaries of meetings between officials of the Department and numerous persons who requested such meetings in order to make comments and suggestions on the regulations to implement the Act. All these comments are on the public record and have been carefully considered by the Department.

The principal issues raised by the comments and the Department's response to them are described below.

"CONTROLLED IN FACT"

Title II of the Export Administration Amendments of 1977 applies only to United States persons. The statute defines "United States person" to include any domestic concern's foreign subsidiary or affiliate which is controlled in fact by such domestic concern as determined by the regulations.

Under the proposed regulations, the presence of certain factors (such as ownership or control of more than 50 percent of a subsidiary's voting stock) would have created a conclusive presumption that a foreign subsidiary was controlled in fact by its domestic parent. Other factors (such as ownership or control of more than 25 percent of a subsidiary's voting stock) would have created a rebuttable presumption of control. In addition, a presumption of control would have existed where a United States person had authority to appoint both a majority of the members of the board of directors and the chief operating officer of its foreign subsidiary or affiliate.

A number of those commenting argued that there should be no *conclusive* presumptions of control and that the presumptions set forth as rebuttable presumptions were invalid presumptions. They further argued that a foreign subsidiary or affiliate should be presumed not to be controlled by its domestic parent where the parent owns or controls 50 percent or less of the subsidiary's or affiliate's voting securities.

Others contended that the regulations should not require that the authority to appoint *both* a majority of the subsidiary's board and its chief operating officer be present in order to raise a presumption of control. Either authority, it was argued, should be sufficient.

The final regulations provide that all presumptions of control are rebuttable; none are conclusive. Conclusive presumptions leave no scope for the wide variety of factors which bear on the question of control. It is possible, for example, to own well over 50% of a foreign subsidiary's voting securities and not possess effective control. Under the regulations as modified, presumptions of control still exist; however, they may be rebutted by competent evidence showing that despite the existence of certain factors evidencing control, control does not in fact exist.

The final regulations establish a rebuttable presumption of control where the domestic concern owns or controls more than 50 percent of the voting securities of the foreign subsidiary of affiliate. In addition, they establish a rebuttable presumption of control where the domestic concern owns or controls more than 25 percent of the voting securities of the foreign subsidiary or affiliate and no other person owns or controls an equal or larger percentage.

Finally, the final regulations provide for a presumption of control if the domestic concern has the authority to appoint either a majority of the board of directors *or* the chief operating officer of the foreign subsidiary of affiliate. The first power presumes the authority or ability to establish the general policies of the subsidiary or affiliate. The second power presumes the authority or ability to control the subsidiary's or affiliate's day-to-day operations.

All these presumptions of control may be rebutted by competent evidence showing that control does not in fact exist.

The final regulations establish no presumptions regarding the absence of control. Control in fact consists of the authority or ability to establish a subsidiary's or affiliate's general policies or control its day-to-day operations. Control in practice does not necessarily require ownership of a particular proportion of a subsidiary's voting securities, nor does it necessarily require any other particular relationship between parent and subsidiary to the exclusion of all others. Hence, it would be illogical to presume that any particular factor indicated the absence of control.

ACTIVITIES IN THE INTERSTATE AND FOREIGN COMMERCE OF THE UNITED STATES

Disposition of U.S.-origin goods by controlled foreign subsidiaries or affiliates. The proposed regulations provided that a controlled foreign subsidiary's or affiliate's activities with respect to U.S.-origin goods are in United States commerce if the goods are acquired for incorporation into or manufacture of another product for purposes of filling an order from or completing a transaction with a boycotting country. They further provided that the activities of such sub-

sidiary or affiliate with respect to U.S.-origin goods are in United States commerce if the goods are ultimately used, without substantial alteration or modification, in filling an order from or completing a transaction with a boycotting country.

The final regulations remain essentially unchanged.

Several persons argued for adoption of a "come to rest" theory whereby United States commerce would end at the point where U.S.-origin goods reach the foreign subsidiary. Under that theory, the subsidiary's subsequent disposition of the goods would not constitute an activity in United States commerce.

The final regulations do not adopt this "come to rest" theory. The legislative history makes it clear that Congress intended the Act to apply to dispositions by a controlled foreign subsidiary of U.S.-origin goods and services. Under the "come to rest" theory, such dispositions would not be subject to this Part.

The regulations give the term "activities in the interstate or foreign commerce of the United States" a scope sufficiently broad to accomplish the Congressional purpose without unduly interfering in the interest of foreign countries in regulating the conduct of persons subject to their jurisdiction.

Ancillary services. The proposed regulations provided that if any part of a transaction were in U.S. commerce, the entire transaction would be in U.S. commerce. For example, a U.S. bank's financing (other than through a letter of credit) of a U.S.-controlled foreign subsidiary's transaction with a boycotting country would bring the subsidiary's transaction into U.S. commerce even though the transaction was otherwise wholly outside U.S. commerce.

A number of persons commented that a foreign subsidiary's receipt from the United States of ancillary services such as financial assistance, insurance, or legal counsel should not, in and of itself, bring the subsidiary's transaction with a third party into U.S. commerce.

The final regulations provide that the furnishing of such U.S.-source "ancillary" services is itself an activity in U.S. commerce. However, they further provide that a foreign subsidiary's receipt of such services does not, in and of itself, bring the subsidiary's otherwise foreign transaction into U.S. commerce.

Ancillary services are provided primarily for the subsidiary's own use rather than that of a third person. They include financial, accounting, legal, transportation or other services (whether provided by the subsidiary's parent or an unrelated entity).

Such ancillary services are typically interchangeable with those furnished by non-U.S. persons and could be obtained from non-U.S. sources with relative ease. A rule which discourages the use of U.S.-source ancillary services would have little if any positive anti-boycott effect. Indeed it could have adverse anti-boycott consequences by driving U.S.-controlled foreign subsidiaries into the hands of foreign companies which have little if any compunction about complying with foreign boycotts opposed by the United States.

Thus, the provision of project financing by a U.S. bank or legal services by a U.S. law firm to a U.S.-controlled foreign subsidiary is an ancillary service which, in and of itself, will not cause the subsidiary's transaction to be in U.S. commerce. By contrast, where a domestic concern, on behalf of its controlled foreign subsidiary, gives a guaranty of performance to a boycotting country customer, that is a service provided to the customer, and, as such, brings the subsidiary's transaction with the customer into U.S. commerce. Similarly, architectural or engineering services provided by a U.S. company in connection with a U.S.-controlled foreign subsidiary's construction project in a third country are typically passed through to the subsidiary's customers and, as such, bring the subsidiary's transaction in the third country into U.S. commerce.

Direction to a Foreign Subsidiary. The proposed regulations provided that the activities of a U.S. parent corporation in specifically directing the activities of its controlled foreign subsidiary or affiliate are activities in U.S. commerce. The proposed regulations further provided that such activities brought the foreign subsidiary's otherwise wholly foreign transaction into U.S. commerce.

Several of those who commented argued that it is an impermissible extension of the concept of U.S. commerce to bring within its framework otherwise wholly foreign activities simply because they were taken at the direction of a U.S. person. Furthermore, it was pointed out that jurisdiction over the person making the specific direction is sufficient to accomplish the anti-boycott objectives of the statute.

The final regulations agree with this view. The activities of a U.S. parent corporation in specifically directing prohibited boycott compliance by its controlled foreign subsidiary or affiliate are activities in U.S. commerce. In and of themselves they do not bring into U.S. commerce activities which are otherwise wholly outside U.S. commerce. From the point of view of U.S. anti-boycott policy, this distinction is immaterial. From the point of view of conformity with permissible notions of U.S. commerce, this distinction is essential.

Furnishing Publicly Available Boycott-Related Information

The statute prohibits a U.S. person from furnishing or knowingly agreeing to furnish information relating to its own or any other person's past, present or proposed business relationships with a boycotted country or any person who is known or believed to be blacklisted. However, the law permits the furnishing of normal business information in a commercial context.

The proposed regulations provided that no information could be furnished in response to a boycott request even if the information is publicly available—such as through a company's annual report.

A number of persons submitted comments arguing that the regulations permit a subtle form of "international blackmail." They expressed the fear that competitors would prompt boycotting countries to send American companies boycott questionnaires to which a law-abiding company will refuse to respond and, thus, result in the company being blacklisted. They contend, therefore, that this potential harm should be mitigated by permitting companies to respond to boycott requests with information which is publicly available.

The final regulations carry forward the provision in the proposed regulations. No information about business relationships with blacklisted persons or boycotted countries may be furnished—with intent to comply with, further, or support a foreign boycott. It makes no difference whether the information is publicly available. The statute creates no exception for such circumstances. So long as the necessary intent exists, the furnishing of such information is a violation of the law.

"Intent"

In order for there to be a violation of the law, the statute requires that a person take action with intent to comply with, further or support an unsanctioned foreign boycott.

The proposed regulations provided a definition of intent under which a person would be presumed to have the necessary intent when the boycott was "a motivating factor" in its decision.

Some persons urged that no regulations on intent be issued and that the matter of intent be left entirely to the courts to decide. Others argued that a person must specifically intend to comply with, further, or support a boycott before a violation can be proven. Still others took the position that the use of the term "motivating factor" in defining intent created an unnecessary and difficult standard for the Government in proving the requisite intent.

The final regulations provide that a person has the necessary intent when

compliance with, furthering, or supporting an unsanctioned foreign boycott is at least one of the reasons for his action. So long as that is at least one of the reasons for his action, a violation occurs regardless of whether the action is also taken for non-boycott reasons. Stated differently, the fact that an action is taken for legitimate business reasons does not remove that action from the scope of these regulations if compliance with a boycott is also a reason for the action.

So far as the meaning of intent is concerned, the statute makes it clear that intent is a necessary element of any violation. It is not sufficient that one take action that is specifically prohibited under the statute. It is essential that one take such action with intent to comply with, further, or support a foreign boycott. Intent in that context means the reason or purpose for one's behavior. It does not mean that one has to agree with the boycott in question or desire that it succeed or that it be furthered or supported. But it does mean that the reason why a particular action was taken must be established.

Reason or purpose can be proved by circumstantial evidence. For example, if a person receives a request to supply certain boycott information which the statute proscribes and he knowingly supplies that information in response, he clearly intends to comply with that boycott request. It is irrelevant that he may disagree with or object to the boycott itself. On the other hand, if he refuses to do business with someone who happens to be blacklisted, but the reason is because that person produces an inferior product, the requisite intent does not exist.

This view of intent is consistent with the Congressional intent, as evidenced by the statute and its legislative history, to require that action be punishable only if its reason or purpose was to comply with, further, or support an unsanctioned foreign boycott.

Unilateral Selection

The statute allows an exception for compliance 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 suppliers of specifically identifiable goods to be imported into a boycotting country.

Pre-selection services. Under the proposed regulations, a person's selection of goods or services is "unilateral" even if he has been provided pre-selection services so long as such services are not in any way boycott based.

Pre-selection services might consist of a general contractor supplying his client with a list of qualified architects or competent engineers from which the customer may make his selection. Under the proposed regulations, so long as such services are provided wholly without reference to boycott considerations (e.g., so long as the contractor does not exclude an architect from his list of qualified architects because he is blacklisted), they do not destroy the unilateral character of the customer's or client's subsequent selection.

Some of those who commented took the position that the provision of *any* pre-selection services destroys the "unilateral" character of the selection subsequently made by the client, and, thus, no such selection may be complied with by a person subject to the Act where pre-selection services have been provided.

As in the proposed regulations, the final regulations provide that the provision of so-called "pre-selection" services does not, in and of itself, destroy the unilateral character of another person's selection so long as such services are not boycott-based. However, the final regulations also require that such services be of a type customarily provided in similar transactions by the firm (or industry of which the firm is a part) as measured by the practice in non-boycotting as well as boycotting countries. If such services are not customarily provided in similar transactions or are provided in such a way as to exclude blacklisted persons from participating in a transaction or diminish their opportunity for such participation, then they may not be provided without destroying the unilateral character of any subsequent selection.

These additional constraints are imposed in the final regulations in order to ensure that pre-selection services are not used as a device to facilitate boycott-based decisions by boycotting country buyers. But pre-selection services, in and of themselves, do not destroy the unilateral character of another person's selection so long as that other person in fact is the one that makes the selection and so long as those services are not provided in order to help that other person make a boycott-based selection.

To conclude otherwise would effectively bar U.S. persons, principally those engaged in general contracting, from providing in boycotting countries services which they customarily provide elsewhere, and there is no evidence of Congressional intent to do so. Indeed, such an absolute bar would be counter-productive from the point of view of U.S. anti-boycott policy, since it would drive boycotting country buyers into the hands of foreign suppliers of pre-selection services who might have no compunction about excluding blacklisted suppliers from lists of qualified suppliers or otherwise discriminating against blacklisted persons. By permitting U.S. persons to supply pre-selection services and by insisting that they be provided wholly without reference to any boycott, the opportunity for blacklisted persons to participate in boycotting country transactions is likely to be enhanced.

Services to be performed within the boycotting country. The proposed regulations permitted a person to comply with a unilateral selection of a supplier of services so long as some portion of the services were to be performed within the boycotting country.

Several persons urged the Department to permit use of the exception for the selection of services only if the services are to be performed exclusively or almost exclusively within the boycotting country. Others took the position that the exception should be permitted only if most of the services are to be performed within the boycotting country. Many urged that the provision be retained as proposed.

Neither the statute nor its legislative history restrict the availability of this exception to services which are performed totally or primarily within the boycotting country. However, in order to prevent use of this exception as a device for complying with foreign boycotts in circumstances where it was not intended, the final regulations provide that services are "to be performed within the boycotting country" for the purposes of this exception only if they are of a type which would customarily be performed within the boycotting country and the part performed within the country is a necessary and not insignificant part of the total service performed.

What is "customary" and "necessary" for these purposes depends on the practice of the supplier of the service or the industry of which it is a part as measured by the practice in non-boycotting as well as boycotting countries insofar as the practice in boycotting countries is not the result of accommodation to these regulations.

These constraints will permit use of the exception for the selection of suppliers of services which in good faith must be performed within the boycotting country while ensuring that it is not used as a mechanism for unrestrained compliance with foreign boycotts in the selection of suppliers of services.

Specifically identifiable goods. The statute contains two exceptions—for "unilateral selections" and compliance with local law—which, under certain conditions, permit the boycott-based importation of products into a boycotting country. In order for the exceptions to be available, the statute requires that the origin of the products be specifically identifiable at the time of their entry into the boycotting country.

Under the proposed regulations, identifiability is measured by the abili-

ty to identify the source of the product either by physical inspection of the goods themselves or their packaging.

Several persons who commented argued that the proposed regulations construe the exceptions too narrowly and that identifiability should also be measurable by what an inspection of the import or shipping documents accompanying the goods would disclose. Others took the position that the proposed regulations construe this exception too broadly and that identifiability must be measured only by what a physical inspection of the items themselves would disclose and not by what an inspection of their packaging would disclose.

The final regulations adopt neither view and are retained as proposed. The legislative history of the statute makes it clear that the test for "identifi- ability" is whether it is generally possible, in the normal course of business, for the buyer or customs agent or similar official to identify the supplier or manufacturer of a particular product or component by inspection of the product itself. The "product" necessarily includes both the items and their packaging. For example, a product such as ready-to-eat breakfast cereal clearly consists of both the cereal itself as well as the box in which it is contained. On the other hand, to permit identifiability to be measured by what the shipping documents would disclose would vitiate virtually all limitations on the notion of specific identifiability.

Regardless of whether an inspection is in fact made, the test is whether an inspection of the items, including their packaging but excluding their shipping documentation, would disclose the source of the product. If so, it is "specifically identifiable" for purposes of these exceptions; if not, it does not qualify. This view is consistent with legislative purpose and intent.

Compliance With Local Law

The statute contains an exception to the prohibitions to permit a U.S. person resident in a boycotting country to comply with that country's boycott laws with respect to his activities exclusively within the country and with respect to the importation of products "for his own use, including the performance of contractual services."

"For his own use, including the performance of contractual services." The proposed regulations interpreted the phrase "for his own use, including the performance of contractual services," to include goods imported for turnkey and general retail merchandising operations.

Several of those who commented took the position that the phrase was construed too broadly. They argued that the exception should be available only with respect to goods intended for a person's own use in the sense of consumption or permanent possession and not where the goods might subsequently be transferred directly or indirectly to another person's possession. Under that view, the exception would not be available for goods imported for resale in a retail operation or for goods, such as cement, nails, steel, etc., which were incorporated into a building being constructed for another.

Under the final regulations, the importation of goods that are to be placed in inventory for subsequent resale without further manufacture or incorporation into another product are excluded from the coverage of this exception. In addition, the final regulations restrict the availability of the exception to situations where goods are imported for further manufacture or incorporation into a project, such as a construction project, whether on a turnkey basis or otherwise. Moreover, under the final regulations, goods imported for such purposes are not for one's own use if they are not customarily incorporated into, or do not customarily become permanently affixed as a functional part of, the project.

These limitations are intended to ensure that this exception is not utilized for import transactions which are akin to import for resale operations. The legislative history of this exception makes it clear that it was not intended to be used for simple resale operations or where the person making the imports acts as a procurement agent for another. By limiting its availability to circumstances where the goods are incorporated as a functional part of another product or project, the final regulations will help ensure that the exception is not used in a manner unintended by the Congress.

Importation of services. The exception which permits a U.S. person who is a bona fide resident of another country to comply with the import laws of that country with respect to the importation of products for his own use, makes no mention of services.

A number of persons who commented contended that the exception should be available for compliance with laws or regulations relating to the import of services as well as goods. A principal party to the negotiations that led to the drafting of the statutory language has characterized the omission of an express reference to services in this exception as "an inadvertent error in draftsmanship."

The final regulations have not been modified to bring services within this exception. However forceful the arguments the other way, the language of the statute is simply not susceptible of such a construction. In other provisions of the statute (e.g. the exceptions for unilateral selection and compliance with import requirements) the Congress made express reference to services. It could have done so under this provision as well but did not.

Scope of the exception. The proposed regulations provide that the exception governing compliance with local import law would be available for *all* United States persons qualifying as bona fide residents of a foreign country in order to avoid serious adverse economic and political consequences for the United States.

Some of those who commented took the position that the exception should be available not through regulations, but only through individual applications for case-by-case waivers. Others urged that the exception should be available only in limited circumstances, but they did not specify which circumstances.

The final regulations governing the scope of this exception have not been substantively changed. The legislative history of the Act clearly demonstrates Congressional intent that this exception be available through regulations and not through a case-by-case waiver system advocated in some of the comments. Under such a system, the exception would be available for a company only after its waiver application was approved by the Department. The result would be inherent unfairness for those whose applications awaited approval. In addition, it would impose on the Department an administrative burden which it could not possibly meet.

Congress intended this exception not as an avenue for general boycott compliance but rather as a means to permit limited boycott compliance by U.S. persons resident in a boycotting country. Accordingly, the final regulations place careful limits on its scope.

A resident must be a bona fide resident before the exception is available. Nine criteria are set out for determining whether a United States person is a bona fide resident. In addition, the regulations limit the exception's coverage to products that are both "specifically identifiable" and for the importing person's own use with stringent tests of what constitutes "own use."

Use of this exception will be monitored and continually reviewed to determine whether its continued availability is consistent with the national interest. Its availability may be limited or withdrawn as appropriate.

"Risk of Loss" Contractual Provisions

The statute prohibits boycott-based refusals to do business. Under the proposed regulations, use of a contractual clause requiring a person to assume the risk of loss for non-delivery of his products in a boycotting country would not, in and of itself, constitute a

refusal to do business. The rationale for that position is that a person insisting on such a provision stands ready to do business with anyone. His insistence that the supplier of goods bear any loss arising from the inability of the goods to gain entry into a boycotting country is not a refusal to do business with anyone who will not agree to such a provision.

Some of those commenting took the position that use of the "risk of loss" provision constitutes a refusal to do business, because it would inhibit anyone on a blacklist from bidding to supply a product destined for a boycotting country. At the very least, they argued, its use should constitute evasion. Others who commented agreed with the proposed regulations on this point.

The final regulations recognize that various devices, including risk of loss provisions, may be employed in such a way as to place a person at a commercial disadvantage because he is blacklisted and thereby effect discrimination against him because of his blacklisted status. Accordingly, use of any artifice, device, or scheme which is intended to place a person at a commercial disadvantage or imposes on him special burdens because he is blacklisted or otherwise restricted from having a business relationship with or in a boycotting country will be regarded as evidence of evasion for purposes of these regulations. Among the factors which will be considered in determining whether a particular arrangement is employed for purposes of evasion are customary practice and usage.

Unless permitted under one of the exceptions, use of risk of loss provisions which expressly impose a financial risk on another because of the import laws of a boycotting country may constitute evasion. If they are introduced after the effective date of these regulations, there is a rebuttable presumption that they are used for purposes of evasion. If used by a U.S. person prior to the effective date of these regulations, there is a presumption that his use does not constitute evasion.

The Department recognizes that it is not possible to deal categorically with the variety of contractual or other arrangements that may be employed in transactions with boycotting countries. But unusual arrangements which have the effect of limiting the economic opportunities of blacklisted persons because of their blacklisted status will be carefully scrutinized to determine whether they are employed for purposes of evading these regulations.

EVASION

The anti-evasion section of the statute provides that the law applies to any transaction or activity undertaken with intent to evade the provisions of the law.

The proposed regulations gave some examples of what constitutes evasion and also expressly stated that repeated use of the exceptions would not constitute or give rise to an inference of evasion.

Some persons commented that repeated use of the exceptions should be evidence of, or should raise a presumption of, an intent to evade the Act. They urged that the regulations spell out the type of activity that will constitute evidence of intent to evade.

Others took the position that the interpretation of evasion should be limited to the use of contrivances or artifices to accomplish what would otherwise be an unlawful act.

Still others argued that the matter of evasion should be left to the courts. However, they suggested that the regulations clarify that restructuring one's business relationships in an effort to comply with the Act should not be considered evasion.

The final regulations on evasion make it clear that the exceptions do not permit activities or agreements (express or implied by a course of conduct, including a pattern of responses) which are otherwise prohibited and which are not within the intent of the exceptions. However, activities within the coverage and intent of the exceptions do not constitute evasion regardless of how often the exceptions are utilized. The rationale for this position is that repeated lawful actions cannot be treated as violations of the law just because they are repeated. The creation of these exceptions would have been a futile gesture by the Congress if their use were itself a violation of the law.

Under the final regulations, use of any artifice, device or scheme which is intended to place a person at a commercial disadvantage or impose on him special burdens because he is blacklisted will be regarded as evasion unless permitted by one of the exceptions. In addition, unless permitted under one of the exceptions, use of risk of loss provisions which expressly impose a financial risk on another because of the import laws of a boycotting country may constitute evasion. If they are introduced after the effective date of these regulations, there will be a rebuttable presumption that they are used for purposes of evasion. If used by a U.S. person prior to the effective date of these regulations, there is a presumption that such use does not constitute evasion. Furthermore, use of dummy corporations or other devices to mask prohibited activity will also be regarded as evasion. Similarly, it is evasion to divert specific boycotting country orders from United States parent companies to their foreign subsidiaries for purposes of complying with prohibited boycott requirements. However, alteration of a person's structure or method of doing business will not constitute a violation of this section so long as the alteration is based on legitimate business considerations and is not undertaken solely to avoid the application of the prohibitions of this Part.

In all potential cases of evasion, the facts and circumstances of an arrangement or transaction will be carefully scrutinized to see whether appearances conform to reality.

DRAFTING INFORMATION: The principal authors of these rules were Stanley J. Marcuss, Deputy Assistant Secretary for Trade Regulation; Homer E. Moyer, Jr., Deputy General Counsel; Kent N. Knowles, Deputy Assistant General Counsel for Industry and Trade; Vincent J. Rocque, Special Assistant to the Director, Bureau of Trade Regulation; and Pamela P. Breed, Office of General Counsel.

The old sections 369.1, 369.2, and 369.3 of Part 369 of Title 15 of the Code of Federal Regulations are revoked, and new sections 369.1, 369.2, 369.3, 369.4 and 369.5 of this Part 369 are issued as set forth below. The old section 369.4 of this Part is redesignated as section 369.6, to remain in effect until later revised. (Proposed regulations to revise old section 369.4 were published for comment in the FEDERAL REGISTER on December 30, 1977 (42 FR 65592).)

Issued in Washington, D.C., on January 18, 1978.

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

§ 369.1 Definitions.

(a) *Definition of "Person".* For purposes of this Part, the term "person" means any individual, or any association or organization, public or private, which is organized, permanently established, resident, or registered to do business, in the United States or any foreign country. This definition of "person" includes both the singular and plural and, in addition, includes:

(1) any partnership, corporation, company, branch, or other form of association or organization, whether organized for profit or non-profit purposes;

(2) any government, or any department, agency, or commission of any government,

(3) any trade association, chamber of commerce, or labor union;

(4) any charitable or fraternal organization; and

(5) any other association or organization not specifically listed above.

(b) *Definition of "United States Person".* (1) Part 369 applies to United States person. For purposes of this Part, the term "United States person"

means any person who is a United States resident or national, including individuals, domestic concerns, and controlled in fact foreign subsidiaries, affiliates, or other permanent foreign establishments of domestic concerns. This definition of "United States person" includes both the singular and plural and, in addition, includes:

(i) the government of the United States or any department, agency, or commission thereof;

(ii) the government of any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any subdivision, department, agency, or commission of any such government;

(iii) any partnership, corporation, company, association, or other entity organized under the laws of (i) or (ii) above;

(iv) any foreign concern's subsidiary, partnership, affiliate, branch, office, or other permanent establishment in any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States; and

(v) any domestic concern's foreign subsidiary, partnership, affiliate, branch, office, or other permanent foreign establishment which is controlled in fact by such domestic concern. (See section 369.1(c) on "Definition of 'Controlled in Fact'.")

(2) The term "domestic concern" means any partnership, corporation, company, association, or other entity of, or organized under the laws of, any jurisdiction named in (i) or (ii) above, or any permanent domestic establishment of a foreign concern.

(3) The term "foreign concern" means any partnership, corporation, company, association, or other entity of, or organized under the laws of, any jurisdiction other than those named in (i) or (ii) above.

(4) The term "United States person" does not include an individual United States national who is resident outside the United States and who is either (a) employed permanently or temporarily by a non-United States person or (b) assigned to work as an employee for, and under the direction and control of, a non-United States person.

EXAMPLES OF "UNITED STATES PERSON"

The following examples are intended to give guidance in determining whether a person is a "United States person". They are illustrative, not comprehensive.

(i) U.S. bank A has a branch office in foreign country P.

Such branch office is a United States person, because it is a permanent foreign establishment of a domestic concern.

(ii) Ten foreign nationals establish a manufacturing plant, A, in the United States, incorporating the plant under New York law.

A is a United States person, because it is a corporation organized under the laws of one of the states of the United States.

(iii) A, a foreign corporation, opens an office in the United States for purposes of soliciting U.S. orders. The office is not separately incorporated.

A's U.S. office is a United States person, because it is a permanent establishment, in the United States, of a foreign concern.

(iv) A, a U.S. individual, owns stock in foreign corporation B.

A is a United States person. However, A is not a "domestic concern", because the term "domestic concern" does not include individuals.

(v) A, a foreign national resident in the United States, is employed by B, a foreign corporation.

A is a United States person, because he is resident in the United States.

(vi) A, a foreign national, who is resident in a foreign country and is employed by a foreign corporation, makes occasional visits to the United States, for purposes of exploring business opportunities.

A is not a United States person, because he is not a United States resident or national.

(vii) A is an association of U.S. firms organized under the laws of Pennsylvania for the purpose of expanding trade.

A is a United States person, because it is an association organized under the laws of one of the states of the United States.

(viii) At the request of country Y, A, an individual employed by U.S. company B, is transferred to company C as an employee. C is a foreign company owned and controlled by country Y. A, a U.S. national who will reside in Y, has agreed to the transfer provided he is able to retain his insurance, pension, and other benefits. Accordingly, company B has agreed to keep A as an employee in order to protect his employee benefits, and company C has agreed to pay for A's salary. At all times while he works for C, A will be under C's direction and control.

A is not a United States person while under C's direction and control, because he will be resident outside the United States and assigned as an employee to a non-United States person. The arrangement designed to protect A's insurance, pension, and other benefits does not destroy his status as an employee of C so long as he is under the direction and control of C.

(ix) A, a U.S. citizen, has resided in Europe for three years, where he is a self-employed consultant for United States and foreign companies in the communications industry.

A is a United States person, because he is a U.S. national and because he is not a resident outside the United States who is employed by other than a United States person.

(c) *Definition of "Controlled in Fact".* (1) Part 369 applies to any domestic concern's foreign subsidiary, partnership, affiliate, branch, office, or other permanent foreign establishment which is "controlled in fact" by such domestic concern. "Control in fact" consists of the authority or ability of a domestic concern to establish the general policies or to control day-to-day operations of its foreign subsidiary, partnership, affiliate, branch, office, or other permanent foreign establishment.

(2) A foreign subsidiary or affiliate of a domestic concern will be presumed to be controlled in fact by that domestic concern, subject to rebuttal by competent evidence, when:

(i) the domestic concern beneficially owns or controls (whether directly or indirectly) more than 50 percent of the outstanding voting securities of the foreign subsidiary or affiliate;

(ii) the domestic concern beneficially owns or controls (whether directly or indirectly) 25 percent or more of the voting securities of the foreign subsidiary or affiliate, if no other person owns or controls (whether directly or indirectly) an equal or larger percentage;

(iii) the foreign subsidiary or affiliate is operated by the domestic concern pursuant to the provisions of an exclusive management contract;

(iv) a majority of the members of the board of directors of the foreign subsidiary or affiliate are also members of the comparable governing body of the domestic concern;

(v) the domestic concern has authority to appoint the majority of the members of the board of directors of the foreign subsidiary or affiliate; *or*

(vi) the domestic concern has authority to appoint the chief operating officer of the foreign subsidiary or affiliate.

(3) A brokerage firm or other person which holds simple record ownership of securities for the convenience of clients will not be deemed to control the securities.

(4) A domestic concern which owns, directly or indirectly, securities that are immediately convertible at the option of the holder or owner into voting securities is presumed to own or control those voting securities.

(5) A domestic concern's foreign branch office or other unincorporated permanent foreign establishment is deemed to be controlled in fact by such domestic concern under all circumstances.

EXAMPLES OF "CONTROLLED IN FACT"

The following examples are intended to give guidance in determining the circumstances in which a foreign subsidiary, affiliate, or other permanent foreign establishment of a domestic concern is "controlled in fact". They are illustrative, not comprehensive.

(i) Company A is incorporated in a foreign country. Fifty-one percent of the voting stock of A is owned by U.S. company B.

A is presumed to be controlled in fact by B. This presumption may be rebutted by competent evidence showing that control does not, in fact, lie with B.

(ii) Company A is incorporated in a foreign country. Ten percent of the voting stock of A is owned by U.S. company B. A has an exclusive management contract with B pursuant to which A is operated by B.

As long as such contract is in effect, A is presumed to be controlled in fact by B. This presumption may be rebutted by competent evidence showing that control does not, in fact, lie with B.

(iii) Company A is incorporated in a foreign country. Ten percent of the voting

stock of A is owned by U.S. company B. A has 10 persons on its board of directors. Six of those persons are also members of the board of directors of U.S. company B.

A is presumed to be controlled in fact by B. This presumption may be rebutted by competent evidence showing that control does not, in fact, lie with B.

(iv) Company A is incorporated in a foreign country. Thirty percent of the voting securities of A is owned by U.S. company B and no other person owns or controls an equal or larger share.

A is presumed to be controlled in fact by B. This presumption may be rebutted by competent evidence showing that control does not, in fact, lie with B.

(v) Company A is incorporated in a foreign country. In A's articles of incorporation, U.S. company B has beeen given authority to appoint A's board of directors.

A is presumed to be controlled in fact by B. This presumption may be rebutted by competent evidence showing that control does not, in fact, lie with B.

(vi) Company A is a joint venture established in a foreign country, with equal participation by U.S. company B and foreign company C. U.S. Company B has authority to appoint A's chief operating officer.

A is presumed to be controlled in fact by B. This presumption may be rebutted by competent evidence showing that control does not, in fact, lie with B.

(vii) Same as (vi), except that B has no authority to appoint A's chief operating officer.

B is not presumed to control A, absent other facts giving rise to a presumption of control.

(viii) Company A is incorporated in a foreign country. U.S. companies B, C, and D each own 20 percent of A's voting securities and regularly cast their votes in concert.

A is presumed to be controlled in fact by B, C, and D, because these companies are acting in concert to control A.

(ix) U.S. bank B located in the United States has a branch office, A, in a foreign country. A is not separately incorporated.

A is deemed to be controlled in fact by B, because A is a branch office of a domestic concern.

(x) Company A is incorporated in a foreign country. Fifty-one percent of the voting stock of A is owned by company B, which is incorporated in another foreign country. Fifty-one percent of the voting stock of B is owned by C, a U.S. company.

Both A and B are presumed to be controlled in fact by C. The presumption of C's control over B may be rebutted by competent evidence showing that control over B does not, in fact, lie with C. The presumption of B's control over A (and thus C's control over A) may be rebutted by competent evidence showing that control over A does not, in fact, lie with B.

(xi) B, a U.S. individual, owns 51 percent of the voting securities of A, a manufacturing company incorporated and located in a foreign country.

A is not "controlled in fact" under this Part, because it is not controlled by a "domestic concern."

(d) *Definition of "Activities in the Interstate or Foreign Commerce of the United States".*

ACTIVITIES INVOLVING UNITED STATES PERSONS LOCATED IN THE UNITED STATES

(1) For purposes of this Part, the activities of a United States person located in the United States are in the interstate or foreign commerce of the United States if they involve the sale, purchase, or transfer of goods or services (including information) between:

(i) two or more of the several States (including the District of Columbia);

(ii) any State (including the District of Columbia) and any territory or possession of the United States;

(iii) two or more of the territories or possessions of the United States; *or*

(iv) a State (including the District of Columbia), territory or possession of the United States and any foreign country.

(2) For purposes of this Part, the export of goods or services from the United States and the import of goods or services into the United States are activities in United States commerce. In addition, the action of a domestic concern in specifically directing the activities of its controlled in fact foreign subsidiary, affiliate, or other permanent foreign establishment is an activity in United States commerce.

(3) Activities of a United States person located in the United States may be in United States commerce even if they are part of or ancillary to activities outside United States commerce. However, the fact that an ancillary activity is in United States commerce does not, in and of itself, mean that the underlying or related activity is in United States commerce.

(4) Hence, the action of a United States bank located in the United States in providing financing from the United States for a foreign transaction that is not in United States commerce is nonetheless itself in United States commerce. However, the fact that the financing is in United States commerce does not, in and of itself, make the underlying foreign transaction an activity in United States commerce, even if the underlying transaction involves a foreign company that is a "United States person" within the meaning of this Part.

(5) Similarly, the action of a United States person located in the United States in providing financial, accounting, legal, transportation, or other ancillary services to its controlled in fact foreign subsidiary, affiliate, or other permanent foreign establishment in connection with a foreign transaction is in United States commerce. But the provision of such ancillary services will not, in and of itself, bring the foreign transaction of such subsidiary, affiliate, or permanent foreign establishment into United States commerce.

ACTIVITIES OF CONTROLLED IN FACT FOREIGN SUBSIDIARIES, AFFILIATES, AND OTHER PERMANENT FOREIGN ESTABLISHMENTS

(6) Any transaction between a controlled in fact foreign subsidiary, affiliate, or other permanent foreign establishment of a domestic concern and a person located in the United States is an activity in United States commerce.

(7) Whether a transaction between such a foreign subsidiary, affiliate, or other permanent foreign establishment and a person located outside the United States is an activity in United States commerce is governed by the following rules.

ACTIVITIES IN UNITED STATES COMMERCE

(8) A transaction between a domestic concern's controlled in fact foreign subsidiary, affiliate, or other permanent foreign establishment and a person outside the United States, involving goods or services (including information but not including ancillary services) acquired from a person in the United States is in United States commerce under any of the following circumstances:

(i) if the goods or services were acquired for the purpose of filling an order from a person outside the United States;

(ii) if the goods or services were acquired for incorporation into, refining into, reprocessing into, or manufacture of another product for the purpose of filling an order from a person outside the United States;

(iii) if the goods or services were acquired for the purpose of fulfilling or engaging in any other transaction with a person outside the United States; *or*

(iv) if the goods were acquired and are ultimately used, without substantial alteration or modification, in filling an order from, or fulfilling or engaging in any other transaction with, a person outside the United States (whether or not the goods were originally acquired for that purpose). If the goods are indistinguishable as to origin from similar foreign-origin goods with which they have been mingled in a stockpile or inventory, the subsequent transaction involving the goods is presumed to be in United States commerce unless, at the time of filling the order, the foreign-origin inventory on hand was sufficient to fill the order.

(9) For purposes of this section, goods or services are considered to be acquired for the purpose of filling an order from or engaging in any other transaction with a person outside the United States where:

(i) they are purchased by the foreign subsidiary, affiliate, or other permanent foreign establishment upon the

receipt of an order from or on behalf of a customer with the intention that the goods or services are to go to the customer;

(ii) they are purchased by the foreign subsidiary, affiliate, or other permanent foreign establishment to meet the needs of specified customers pursuant to understandings with those customers, although not for immediate delivery; *or*

(iii) They are purchased by the foreign subsidiary, affiliate, or other permanent foreign establishment based on the anticipated needs of specified customers.

(10) If any non-ancillary part of a transaction between a domestic concern's controlled foreign subsidiary, affiliate, or other permanent foreign establishment and a person outside the United States is in United States commerce, the entire transaction is in United States commerce. For example, if such a foreign subsidiary is engaged in filling an order from a non-United States customer both with goods acquired from the United States and with goods acquired elsewhere, the entire transaction with that customer is in United States commerce.

ACTIVITIES OUTSIDE UNITED STATES COMMERCE

(11) A transaction between a domestic concern's controlled foreign subsidiary, affiliate, or other permanent foreign establishment and a person outside the United States, not involving the purchase, sale, or transfer of goods or services (including information) to or from a person in the United States, is not an activity in United States commerce.

(12) The activities of a domestic concern's controlled foreign subsidiary, affiliate, or other permanent foreign establishment with respect to goods acquired from a person in the United States are not in United States commerce where:

(i) they were acquired without reference to a specific order from or transaction with a person outside the United States; *and*

(ii) they were further manufactured, incorporated, into, refined into, or reprocessed into another product.

(13) The activities of a domestic concern's controlled foreign subsidiary, affiliate, or other permanent foreign establishment with respect to services acquired from a person in the United States are not in United States commerce where:

(i) they were acquired without reference to a specific order from or transaction with a person outside the United States; or

(ii) they are ancillary to the transaction with the person outside the United States.

(14) For purposes of this section, services are "ancillary services" if they are provided to a controlled foreign subsidiary, affiliate, or other permanent foreign establishment primarily for its own use rather than for the use of a third person. These typically include financial, accounting, legal, transportation, and other services, whether provided by a domestic concern or an unrelated entity.

(15) Thus, the provision of project financing by a United States bank located in the United States to a controlled foreign subsidiary unrelated to the bank is an ancillary service which will not cause the underlying transaction to be in United States commerce. By contrast, where a domestic concern, on behalf of its controlled foreign subsidiary, gives a guaranty of performance to a foreign country customer, that is a service provided to the customer and, as such, brings that subsidiary's transaction with the customer into United States commerce. Similarly, architectural or engineering services provided by a domestic concern in connection with its controlled foreign subsidiary's construction project in a third country are services passed through to that subsidiary's customer and, as such, bring that subsidiary's foreign transaction into United States commerce.

GENERAL

(16) Regardless of whether the subsequent disposition of goods or services from the United States is in United States commerce, the original acquisition of goods or services from a person in the United States is an activity in United States commerce subject to this Part. Thus, if a domestic concern's controlled foreign subsidiary engages in a prohibited refusal to do business in stocking its inventory with goods from the United States, that action is subject to this Part whether or not subsequent sales from that inventory are.

(17) In all the above, goods and services will be considered to have been acquired from a person in the United States whether they were acquired directly or indirectly through a third party, where the person acquiring the goods or services knows or expects, at the time he places the order, that they will be delivered from the United States.

LETTERS OF CREDIT

(18) Implementation of a letter of credit in the United States by a United States person located in the United States, including a permanent United States establishment of a foreign concern, is an activity in United States commerce.

(19) Implementation of a letter of credit outside the United States by a United States person located outside the United States is in United States commerce where the letter of credit (a) specifies a United States address for the beneficiary, (b) calls for documents indicating shipment from the United States, *or* (c) calls for documents indicating that the goods are of United States origin.

(20) See Section 369.2(f) on "Letters of Credit" to determine the circumstances in which paying, honoring, confirming, or otherwise implementing a letter of credit is covered by this Part.

EXAMPLES OF ACTIVITIES IN THE INTERSTATE OR FOREIGN COMMERCE OF THE UNITED STATES

The following examples are intended to give guidance in determining the circumstances in which an activity is in the interstate or foreign commerce of the United States. They are illustrative, not comprehensive.

UNITED STATES PERSON LOCATED IN THE UNITED STATES

(i) U.S. company A exports goods from the United States to a foreign country.

A's activity is in U.S. commerce, because A is exporting goods from the United States.

(ii) U.S. company A imports goods into the United States from a foreign country.

A's activity is in U.S. commerce, because A is importing goods into the United States.

(iii) U.S. engineering company A supplies consulting services to its controlled foreign subsidiary, B.

A's activity is in U.S. commerce, because A is exporting services from the United States.

(iv) U.S. company A supplies consulting services to foreign company B. B is unrelated to A or any other U.S. person.

A's activity is in U.S. commerce even though B, a foreign-owned company located outside the United States, is not subject to this Part, because A is exporting services from the United States.

(v) Same as (iv), except A is a bank located in the United States and provides a construction loan to B.

A's activity is in U.S. commerce even though B is not subject to this Part, because A is exporting financial services from the United States.

(vi) U.S. company A issues policy directives from time to time to its controlled foreign subsidiary, B, governing the conduct of B's activities with boycotting countries.

A's activity in directing the activities of its foreign subsidiary, B, is an activity in U.S. commerce.

FOREIGN SUBSIDIARIES, AFFILIATES, AND OTHER PERMANENT FOREIGN ESTABLISHMENTS OF DOMESTIC CONCERNS

(i) A, a controlled foreign subsidiary of U.S. company B, purchases goods from the United States.

A's purchase of goods from the United States is in U.S. commerce, because A is importing goods from the United States. Whether A's subsequent disposition of these goods is in U.S. commerce is irrelevant. Similarly, the fact that A purchased goods from the United States does not, in and of itself, make any subsequent disposition of those goods an activity in U.S. commerce.

(ii) A, a controlled foreign subsidiary of U.S. company B, receives an order from boycotting country Y for construction materials. A places an order with U.S. company B for the materials.

A's transaction with Y is an activity in U.S. commerce, because the materials are purchased from the United States for the purpose of filling the order from Y.

(iii) A, a controlled foreign subsidiary of U.S. company B, receives an order from boycotting country Y for construction materials. A places an order with U.S. company B for some of the materials, and with U.S. company C, an unrelated company, for the rest of the materials.

A's transaction with Y is an activity in U.S. commerce, because the materials are purchased from the United States for the purpose of filling the order from Y. It makes no difference whether the materials are ordered from B or C.

(iv) A, a controlled foreign subsidiary of U.S. company B, is in the wholesale and retail appliance sales business. A purchases finished air conditioning units from the United States from time to time in order to stock its inventory. A's inventory is also stocked with air conditioning units purchased outside the United States. A receives an order for air conditioning units from Y, a boycotting country. The order is filled with U.S.-origin units in A's inventory.

A's transaction with Y is in U.S. commerce, because its U.S.-origin goods are resold without substantial alteration.

(v) Same as (iv), except that A is in the chemicals distribution business. Its U.S.-origin goods are mingled in inventory with foreign-origin goods.

A's sale to Y of unaltered goods from its general inventory is presumed to be in U.S. commerce unless A can show that at the time of the sale the foreign-origin inventory on hand was sufficient to cover the shipment to Y.

(vi) A, a foreign subsidiary of U.S. company B, receives an order from boycotting country Y for computers. A places an order with U.S. company B for some of the components; with U.S. company C, an unrelated company, for other components; and with foreign company D for the rest of the components. A then assembles the computers and ships them to Y.

A's transaction with Y is an activity in U.S. commerce, because some of the components are acquired from the United States for purposes of filling an order from Y.

(vii) Same as (vi), except A purchases all the components from non-U.S. sources.

A's transaction with Y is not an acitivity in U.S. commerce, because it involves no export of goods from the United States. It makes no difference whether the technology A uses to manufacture computers was originally acquired from its U.S. parent.

(viii) A, a controlled foreign subsidiary of U.S. company B, manufactures computers. A stocks its general components and parts inventory with purchases made at times from the United States and at times from foreign sources. A receives an order from Y, a boycotting country, for computers. A fills that order by manufacturing the computers using materials from its general inventory.

A's transaction with Y is not in U.S. commerce, because the U.S.-origin components are not acquired for the purpose of meeting the anticipated needs of specified customers in Y. It is irrelevant that A's operations may be based on U.S.-origin technology.

(ix) Same as (viii), except that in anticipation of the order from Y, A orders and receives the necessary materials from the United States.

A's transaction with Y is in U.S. commerce, because the U.S.-origin goods were acquired for the purpose of filling an anticipated order from Y.

(x) A, a controlled foreign subsidiary of U.S. company B, manufactures typewriters. It buys typewriter components both from the United States and from foreign sources. A sells its output in various places throughout the world, including boycotting country Y. Its sales to Y vary from year to year, but have averaged approximately 20 percent of sales for the past five years. A expects that its sales to Y will remain at approximately that level in the years ahead although it has no contracts or orders from Y on hand.

A's sales of typewriters to Y are not in U.S. commerce, because the U.S. components are not acquired for the purpose of filling an order from Y. A general expectancy of future sales is not an "order" within the meaning of this section.

(xi) U.S. company A's corporate counsel provides legal advice to B, its controlled foreign subsidiary, on the applicability of this Part to B's transactions.

While provision of this legal advice is itself an activity in U.S. commerce, it does not, in and of itself, bring B's activities into U.S. commerce.

(xii) A, a controlled foreign subsidiary of U.S. company B, is in the general construction business. A enters into a contract with boycotting country Y to construct a power plant in Y. In preparing engineering drawings and specifications, A uses the advice and assistance of B.

A's transaction with Y is in U.S. commerce, because B's services are used for purposes of fulfilling the contract with Y. B's services are not ancillary services, because the engineering services in connection with construction of the power plant are part of the services ultimately provided to Y by A.

(xiii) Same as (xii), except that A gets no engineering advice or assistance from B. However, B's corporate counsel provides legal advice to A regarding the structure of the transaction. In addition, B's corporate counsel draws up the contract documents.

A's transaction with Y is not in U.S. commerce. The legal services provided to A are ancillary services, because they are not part of the services provided to Y by A in fulfillment of its contract with Y.

(xiv) A, a controlled foreign subsidiary of U.S. company B, enters into a contract to construct an apartment complex in boycotting country Y. A will fulfill its contract completely with goods and services from outside the United States. Pursuant to a provision in the contract, B guarantees A's performance of the contract.

A's transaction with Y is in U.S. commerce, because B's guaranty of A's performance involves the acquisition of services from the United States for purposes of fulfilling the transaction with Y, and those services are part of the services ultimately provided to Y.

(xv) Same as (xiv), except that the guaranty of A's performance is supplied by C, a non-U.S. person located outside the United States. However, unrelated to any particular transaction, B from time to time provides general financial, legal, and technical services to A.

A's transaction with Y is not in U.S. commerce, because the services acquired from the United States are not acquired for purposes of fulfilling the contract with Y.

(xvi) A, a foreign subsidiary of U.S. company B, has a contract with boycotting country Y to conduct oil drilling operations in that country. In conducting these operations, A from time to time seeks certain technical advice from B regarding the operation of the drilling rigs.

A's contract with Y is in U.S. commerce, because B's services are sought for purposes of fulfilling the contract with Y and are part of the services ultimately provided to Y.

(xvii) A, a controlled foreign subsidiary of U.S. company B, enters into a contract to sell typewriters to boycotting country Y. A is located in non-boycotting country P. None of the components are acquired from the United States. A engages C, a U.S. shipping company, to transport the typewriters from P to Y.

A's sales to Y are not in U.S. commerce, because in carrying A's goods, C is providing an ancillary service to A and not a service to Y.

(xviii) Same as (xvii), except that A's contract with Y calls for title to pass to Y in P. In addition, the contract calls for A to engage a carrier to make delivery to Y.

A's sales to Y are in U.S. commerce, because in carrying Y's goods, C is providing a service to A which is ultimately provided to Y.

(xix) A, a controlled foreign subsidiary of U.S. company B, has general product liability insurance with U.S. company C. Foreign-origin goods sold from time to time by A to boycotting country Y are covered by the insurance policy.

A's sales to Y are not in U.S. commerce, because the insurance provided by C is an ancillary service provided to A which is not ultimately provided to Y.

(xx) A, a controlled foreign subsidiary of U.S. company B, manufactures automobiles abroad under a license agreement with B. From time to time, A sells such goods to boycotting country Y.

A's sales to Y are not in U.S. commerce, because the rights conveyed by the license are not acquired for the specific purpose of engaging in transactions with Y.

(e) *"Intent".* (1) Part 369 prohibits a United States person from taking or knowingly agreeing to take certain specified actions with intent to comply with, further, or support an unsanctioned foreign boycott.

(2) A United States person has the intent to comply with, further, or support an unsanctioned foreign boycott when such a boycott is at least one of the reasons for that person's decision whether to take a particular prohibited action. So long as that is at least one of the reasons for his action, a violation occurs regardless of whether the prohibited action is also taken for non-boycott reasons. Stated differently, the fact that such action was taken for legitimate business reasons does not remove that action from the scope of this Part if compliance with an unsanctioned foreign boycott was also a reason for the action.

(3) Intent is a necessary element of any violation of this Part. It is not sufficient that one take action that is specifically prohibited by this Part. It is essential that one take such action with intent to comply with, further, or support an unsanctioned foreign boycott. Accordingly, a person who inadvertently, without boycott intent, takes a prohibited action, does not commit any violation of this Part.

(4) Intent in this context means the reason or purpose for one's behavior. It does not mean that one has to agree with the boycott in question or desire that it succeed or that it be furthered or supported. But it does mean that the reason why a particular

prohibited action was taken must be established.

(5) Reason or purpose can be proved by circumstantial evidence. For example, if a person receives a request to supply certain boycott information, the furnishing of which is prohibited by this Part, and he knowingly supplies that information in response, he clearly intends to comply with that boycott request. It is irrelevant that he may disagree with or object to the boycott itself. Information will be deemed to be furnished with the requisite intent if the person furnishing the information knows that it was sought for boycott purposes. On the other hand, if a person refuses to do business with someone who happens to be blacklisted, but the reason is because that person produces an inferior product, the requisite intent does not exist.

(6) Actions will be deemed to be taken with intent to comply with an unsanctioned foreign boycott if the person taking such action knew that such action was required or requested for boycott reasons. On the other hand, the mere absence of a business relationship with a blacklisted person or with or in a boycotted country does not indicate the existence of the requisite intent.

(7) In seeking to determine whether the requisite intent exists, all available evidence will be examined.

EXAMPLES OF "INTENT"

The following examples are intended to illustrate the factors which will be considered in determining whether the required intent exists. They are illustrative, not comprehensive.

(i) U.S. person A does business in boycotting country Y. In selecting firms to supply goods for shipment to Y, A chooses supplier B because B's products are less expensive and of higher quality than the comparable products of supplier C. A knows that C is blacklisted, but that is not a reason for A's selection of B.

A's choice of B rather than C is not action with intent to comply with Y's boycott, because C's blacklist status is not a reason for A's action.

(ii) Same as (i), except that A chooses B rather than C in part because C is blacklisted by Y.

Since C's blacklist status is a reason for A's choice, A's action is taken with intent to comply with Y's boycott.

(iii) U.S. person A bids on a tender issued by boycotting country Y. A inadvertently fails to notice a prohibited certification which appears in the tender document. A's bid is accepted.

A's action in bidding was not taken with intent to comply with Y's boycott, because the boycott was not a reason for A's action.

(iv) U.S. bank A engages in letter of credit transactions, in favor of U.S. beneficiaries, involving the shipment of U.S. goods to boycotting country Y. As A knows, such letters of credit routinely contain conditions requiring prohibited certifications. A fails to take reasonable steps to prevent the implementation of such letters of credit. A receives for implementation a letter of credit which in fact contains a prohibited condition but does not examine the letter of credit to determine whether it contains such a condition.

Although Y's boycott may not be a specific reason for A's action in implementing the letter of credit with a prohibited condition, all available evidence shows that A's action was taken with intent to comply with the boycott, because A knows or should know that its procedures result in compliance with the boycott.

(v) U.S. bank A engages in letter of credit transactions, in favor of U.S. beneficiaries, involving the shipment of U.S. goods to boycotting country Y. As A knows, the documentation accompanying such letters of credit sometimes contains prohibited certifications. In accordance with standard banking practices applicable to A, it does not examine such accompanying documentation. A receives a letter of credit in favor of a U.S. beneficiary. The letter of credit itself contains no prohibited conditions. However, the accompanying documentation, which A does not examine, does contain such a condition.

All available evidence shows that A's action in implementing the letter of credit was not taken with intent to comply with the boycott, because A has no affirmative obligation to go beyond applicable standard banking practices in implementing letters of credit.

(vi) A, a U.S. company, is considering opening a manufacturing facility in boycotted country X. A already has such a facility in boycotting country Y. After exploring the possibilities in X, A concludes that the market does not justify the move. A is aware that if it did open a plant in X, Y might object because of Y's boycott of X. However Y's possible objection is not a reason for A's decision not to open a plant in X.

A's decision not to proceed with the plant in X is not action with intent to comply with Y's boycott, because Y's boycott of X is not a reason for A's decision.

(vii) Same as (vi), except that after exploring the business possibilities in X, A concludes that the market does justify the move to X. However, A does not open the plant because of Y's possible objections due to Y's boycott of X.

A's decision not to proceed with the plant in X is action taken with intent to comply with Y's boycott, because Y's boycott is a reason for A's decision.

(viii) A, a U.S. chemical manufacturer, receives a "boycott questionnaire" from boycotting country Y asking, among other things, whether A has any plants located in boycotted country X. A, which has never supported Y's boycott of X, responds to Y's questionnaire, indicating affirmatively that it does have plants in X and that it intends to continue to have plants in X.

A's responding to Y's questionnaire is deemed to be action with intent to comply with Y's boycott, because A knows that the questionnaire is boycott-related. It is irrelevant that A does not also wish to support Y's boycott.

(ix) U.S. company A is on boycotting country Y's blacklist. In an attempt to secure its removal from the blacklist, A wishes to supply to Y information which demonstrates that A does at least as much business in Y and other countries engaged in a boycott of X as it does in X. A intends to continue its business in X undiminished and in fact is exploring and intends to continue exploring an expansion of its activities in X without regard to Y's boycott.

A may furnish the information, because in doing so it has no intent to comply with, further, or support Y's boycott.

(x) U.S. company A has a manufacturing facility in boycotted country X. A receives an invitation to bid on a construction project in boycotting country Y. The invitation states that all bidders must complete a boycott questionnaire and send it in with the bid. The questionnaire asks for information about A's business relationships with X. Regardless of whether A's bid is successful, A intends to continue its business in X undiminished and in fact is exploring and intends to continue exploring an expansion of its activities in X without regard to Y's boycott.

A may not answer the questionnaire, because, despite A's intentions with regard to its business operations in X, Y's request for completion of the questionnaire is for boycott purposes and by responding, A's action would be taken with intent to comply with Y's boycott.

(NOTE.—Example (ix) is distinguishable from (x), because in (ix) A is not responding to any boycott request or requirement. Instead, on its own initiative, it is supplying information to demonstrate non-discriminatory conduct as between X and Y without any intent to comply with, further, or support Y's boycott.)

§ 369.2 Prohibitions.

(a) *Refusals to do business.*

PROHIBITION AGAINST REFUSALS TO DO BUSINESS

(1) No United States person may:	to do business	when such refusal is pursuant to
refuse, knowingly agree to refuse, require any other person to refuse, *or* knowingly agree to require any other person to refuse,	with or in a boycotted country, with any business concern organized under the laws of a boycotted country, with any national or resident of a boycotted country,*or* with any other person,	an agreement with the boycotting country, a requirement of the boycotting country, *or* a request from or on behalf of the boycotting country.

(2) Generally, a refusal to do business under this section consists of action that excludes a person or country from a transaction for boycott reasons. This includes a situation in which a United States person chooses or selects one person over another on a boycott basis or takes action to carry out another person's boycott-based selection when he knows or has reason to know that the other person's selection is boycott-based.

(3) Refusals to do business which are prohibited by this section include not only specific refusals, but also refusals implied by a course or pattern of conduct. There need not be a specific offer and refusal to constitute a refusal to do business; a refusal may occur when a United States person has a financial or commercial opportunity and declines for boycott reasons to consider or accept it.

(4) A United States person's use of either a boycott-based list of persons with whom he will not deal (a so-called "blacklist") or a boycott-based list of persons with whom he will deal (a so-called "whitelist") constitutes a refusal to do business.

(5) An agreement by a United States person to comply generally with the laws of the boycotting country with which it is doing business or an agreement that local laws of the boycotting country shall apply or govern is not, in and of itself, a refusal to do business. Nor, in and of itself, is use of a contractual clause explicitly requiring a person to assume the risk of loss of non-delivery of his products a refusal to do business with any person who will not or cannot comply with such a clause. (But see section 369.4 on "Evasion".)

(6) If, for boycott reasons, a United States general manager chooses one supplier over another, or enters into a contract with one supplier over another, or advises its client to do so, then the general manager's actions constitute a refusal to do business under this section. However, it is not a refusal to do business under this section for a United States person to provide management, procurement, or other pre-award services for another person so long as (i) the provision of such pre-award services is customary for that firm (or industry of which the firm is a part), without regard to the boycotting or non-boycotting character of the countries in which they are performed, and (ii) the United States person, in providing such services, does not act to exclude a person or country from the transaction for boycott reasons, or otherwise take actions that are boycott-based. For example, a United States person under contract to provide general management services in connection with a construction project in a boycotting country may compile lists of qualified bidders for the client if that service is a customary one and if persons who are qualified are not excluded from that list because they are blacklisted.

(7) With respect to post-award services, if a client makes a boycott-based selection, actions taken by the United States general manager or contractor to carry out the client's choice are themselves refusals to do business if the United States contractor knows or has reason to know that the client's choice was boycott-based. (It is irrelevant whether the United States contractor also provided pre-award services.) Such actions include entering into a contract with the selected supplier, notifying the supplier of the client's choice, executing a contract on behalf of the client, arranging for inspection and shipment of the supplier's goods, or taking any other action to effect the client's choice. (But see section 369.3(c) on "Compliance with Unilateral Selection" as it may apply to post-award services.)

(8) An agreement is not a prerequisite to a violation of this section since the prohibition extends to actions taken pursuant not only to agreements but also to requirements of, and requests from or on behalf of, a boycotting country.

(9) Agreements under this section may be either express or implied by a course or pattern of conduct. There need not be a direct request from a boycotting country for action by a United States person to have been taken pursuant to an agreement with or requirement of a boycotting country.

(10) This prohibition, like all others, applies only with respect to a United States person's activities in the interstate or foreign commerce of the United States and only when such activities are undertaken with intent to comply with, further, or support an unsanctioned foreign boycott. 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 national(s) or resident(s) of the boycotted country, or with any other person does not indicate the existence of the required intent.

EXAMPLES OF REFUSALS AND AGREEMENTS TO REFUSE TO DO BUSINESS

The following examples are intended to give guidance in determining the circumstances in which, in a boycott situation, a refusal to do business or an agreement to refuse to do business is prohibited. They are illustrative, not comprehensive.

REFUSALS TO DO BUSINESS

(i) A, a U.S. manufacturer, receives an order for its products from boycotting country Y. To fill that order, A solicits bids from U.S. companies B and C, manufacturers of components used in A's products. A does not, however, solicit bids from U.S. companies D or E, which also manufacture such components, because it knows that D and E are restricted from doing business in Y and that their products are, therefore, not importable into that country.

Company A may not refuse to solicit bids from D and E for boycott reasons, because to do so would constitute a refusal to do business with those persons.

(ii) A, a U.S. exporter, uses company B, a U.S. insurer, to insure the shipment of its goods to all its overseas customers. For the first time, A receives an order for its products from boycotting country Y. Knowing that B is on the blacklist of Y, A arranges with company C, a non-blacklisted U.S. insurer, to insure the shipment of its goods to Y.

A's action constitutes a refusal to do business with B.

(iii) A, a U.S. exporter, purchases all its liability insurance from company B, a U.S. company that does business in boycotted country X. A wishes to expand its operations into country Y, the boycotting country. Before doing so, A decides to switch from insurer B to insurer C in anticipation of a request from Y that A sever its relations with B as a condition of doing business in Y.

A may not switch insurers for this reason, because doing so would constitute a refusal to do business with B.

(iv) U.S. company A exports goods to boycotting country Y. In selecting vessels to transport the goods to Y, A chooses only from among carriers which call at ports in Y.

A's action is not a refusal to do business with carriers which do not call at ports in Y.

(v) A, a U.S. bank with a branch office in boycotting country Y, sends representatives to boycotted country X to discuss plans for opening a branch office in X. Upon learning of these discussions, an official of the local boycott office in Y advises A's local branch manager that if A opens an office in X it will no longer be allowed to do business in Y. As a result of this notification, A decides to abandon its plans to open a branch in X.

Bank A may not abandon its plans to open a branch in X as a result of Y's notification, because doing so would constitute a refusal to do business in boycotted country X.

(vi) A, a U.S. company that manufactures office equipment, has been restricted from doing business in boycotting country Y because of its business dealings with boycotted country X. In an effort to have itself removed from Y's blacklist. A ceases its business in X.

A's action constitutes a refusal to do business in boycotted country X.

(vii) A, a U.S. computer company, does business in boycotting country Y. A decides to explore business opportunities in boycotted country X. After careful analysis of possible business opportunities in X, A decides, solely for business reasons, not to market its products in X.

A's decision not to proceed is not a refusal to do business, because it is not based on boycott considerations. A has no affirmative obligation to do business in X.

(viii) A, a U.S. oil company with operations in boycotting country Y, has regular-

ly purchased equipment from U.S. petroleum equipment suppliers B, C, and D, none of whom is on the blacklist of Y. Because of its satisfactory relationship with B, C, and D, A has not dealt with other suppliers, including supplier E, who is blacklisted by Y.

A's failure affirmatively to seek or secure business with blacklisted supplier E is not a refusal to do business with E.

(ix) Same as (viii), except U.S. petroleum equipment supplier E, a company on boycotting country Y's blacklist, offers to supply U.S. oil company A with goods comparable to those provided by U.S. suppliers B, C, and D. A, because it has satisfactory, established relationships with suppliers B, C, and D, does not accept supplier E's offer.

A's refusal of supplier E's offer is not a refusal to do business, because it is based solely on non-boycott considerations. A has no affirmative obligation to do business with E.

(x) A, a U.S. construction company, enters into a contract to build an office complex in boycotting country Y. A receives bids from B and C, U.S. companies that are equally qualified suppliers of electrical cable for the project. A knows that B is blacklisted by Y and that C is not. A accepts C's bid, in part because C is as qualified as the other potential supplier and in part because C is not blacklisted.

A's decision to select supplier C instead of blacklisted supplier B is a refusal to do business, because the boycott was one of the reasons for A's decision.

(xi) A, a U.S. general contractor, has been retained to construct a highway in boycotting country Y. A circulates an invitation to bid to U.S. manufacturers of road-building equipment. One of the conditions listed in the invitation to bid is that, in order for A to obtain prompt service, suppliers will be required to maintain a supply of spare parts and a service facility in Y. A includes this condition solely for commercial reasons unrelated to the boycott. Because of this condition, however, those suppliers on Y's blacklist do not bid since they would be unable to satisfy the parts and services requirements.

A's action is not a refusal to do business, because the contractual condition was included solely for legitimate business reasons and was not boycott-based.

(xii) Company A, a U.S. oil company, purchases drill bits from U.S. suppliers for export to boycotting country Y. In its purchase orders, A includes a provision requiring the supplier to make delivery to A's facilities in Y and providing that title to the goods does not pass until delivery has been made. As is customary under such an arrangement, the supplier bears all risks of loss, including loss from fire, theft, perils of the sea, and inability to clear customs, until title passes.

Insistence on such an arrangement does not constitute a refusal to do business, because this requirement is imposed on all suppliers whether they are blacklisted or not. (But see section 369.4 on "Evasion".)

(xiii) A, a U.S. engineering and construction company, contracts with a government agency in boycotting country Y to perform a variety of services in connection with the construction of a large industrial facility in Y. Pursuant to this contract, A analyzes the market of prospective suppliers, compiles a suggested bidders list, analyzes the bids received, and makes recommendations to the client. The client independently selects and awards the contract to supplier C for boycott reasons. All of A's services are performed without regard to Y's blacklist or any other boycott considerations, and are the type of services A provides clients in both boycotting and non-boycotting countries.

A's actions do not constitute a refusal to do business, because, in the provision of pre-award services, A has not excluded the other bidders and because A customarily provides such services to its clients.

(xiv) Same as (xiii), except that in compiling a list of prospective suppliers, A deletes suppliers he knows his client will refuse to select because they are blacklisted. A knows that including the names of blacklisted suppliers will neither enhance their chances of being selected nor provide his client with a useful service, the function for which he has been retained.

A's actions, which amount to furnishing a so-called "whitelist," constitute refusals to do business, because A's pre-award services have not been furnished without regard to boycott considerations.

(xv) A, a U.S. construction firm, provides its boycotting country client with a permissible list of prospective suppliers, B, C, D, and E. The client independently selects and awards the contract to C, for boycott reasons, and then requests A to advise C of his selection, negotiate the contract with C, arrange for the shipment, and inspect the goods upon arrival. A knows that C was chosen by the client for boycott reasons.

A's action in complying with his client's direction is a refusal to do business, because A's post-award actions carry out his client's boycott-based decision. (Note: Whether A's action comes within the unilateral selection exception depends upon factors discussed in section 369.3(c).)

(xvi) Same as (xv), except that A is building the project on a turnkey basis and will retain title until completion. The client instructs A to contract only with C.

A's action in contracting with C constitutes a refusal to do business, because it is action that excludes blacklisted persons from the transaction for boycott reasons. (NOTE: Whether A's action comes within the unilateral selection exception depends upon factors discussed in section 396.3(c).)

(xvii) A, a U.S. exporter of machine tools, receives an order for drill presses from boycotting country Y. The cover letter from Y's procurement official states that A was selected over other U.S. manufacturers in part because A is not on Y's blacklist.

A's action in filling this order is not a refusal to do business, because A has not excluded anyone from the transaction.

(xviii) A, a U.S. engineering firm under contract to construct a dam in boycotting country Y, compiles, on a non-boycott basis, a list of potential heavy equipment suppliers, including information on their qualifications and prior experience. A then solicits bids from the top three firms on its list—B, C, and D—because they are the best qualified. None of them happens to be blacklisted. A does not solicit bids from E, F, or G, the next three firms on the list, one of whom is on Y's blacklist.

A's decision to solicit bids from only B, C, and D, is not a refusal to do business with any person, because the solicited bidders were not selected for boycott reasons.

AGREEMENTS TO REFUSE TO DO BUSINESS

(i) A, a U.S. construction firm, is retained by an agency of boycotting country Y to build a primary school. The proposed contract contains a clause stating that A "may not use goods or services in the project that are produced or provided by any person restricted from having a business relationship with country Y by reason of Y's boycott against country X".

A's action in entering into such a contract would constitute an agreement to refuse to do business, because it is an agreement to exclude blacklisted persons from the transaction. A may, however, renegotiate this clause so that it does not contain terms prohibited by this Part.

(ii) A, a U.S. manufacturer of commercial refrigerators and freezers, receives an invitation to bid from boycotting country Y. The tender states that the bidder must agree not to deal with companies on Y's blacklist. A does not know which companies are on the blacklist, and A's bid makes no commitment regarding not dealing with certain companies. A's bid in response to the tender is accepted.

At the point when A's bid is accepted, A has agreed to refuse to do business with blacklisted persons, because the terms of Y's tender are part of the contract between Y and A.

(iii) A, a U.S. construction firm, is offered a contract to perform engineering and construction services in connection with a project located in boycotting country Y. The contract contains a clause stating that, in the event of a contract dispute, the laws of Y will apply.

A may enter into the contract. Agreement that the laws of boycotting country Y will control in resolving a contract dispute is not an agreement to refuse to do business.

(iv) Same as (iii), except that the contract contains a clause that A and its employees will comply with the laws of boycotting country Y. A knows that Y has a number of boycott laws.

Such an agreement is not, in and of itself, an agreement to refuse to do business. If, however, A subsequently refuses to do business with someone because of the laws of Y, A's action would be a refusal to do business.

(v) Same as (iv) except that the contract contains a clause that A and its employees will comply with the laws of boycotting country Y, "including boycott laws".

A's agreeing, without qualification, to comply with local boycott laws constitutes an agreement to refuse to do business.

(vi) Same as (v), except that A inserts a proviso "except insofar as Y's laws conflict with U.S. laws", or words to that effect.

Such an agreement is not an agreement to refuse to do business.

(vii) A, a U.S. general contractor, is retained to construct a pipeline in boycotting country Y. A provision in the proposed contract stipulates that in purchasing equipment, supplies, and services A must give preference to companies located in host country Y.

A may agree to this contract provision. Agreeing to a "buy local" contract provision is not an agreement to refuse to do business, because A's agreement is not made for boycott reasons.

(viii) A, a U.S. exporter planning to sell retail goods to customers in boycotting country Y, enters into a contract to purchase goods wholesale from B, a U.S. appliance manufacturer. A's contract with B includes a provision stipulating that B may not use components or services of blacklisted companies in the manufacture of its appliances.

A's contract constitutes a refusal to do business, because it would require another

person, B to refuse to do business with other persons for boycott reasons. B may not agree to such a contract, because it would be agreeing to refuse to do business with other persons for boycott reasons.

(ix) Same as (viii), except that A and B reach an implicit understanding that B will not use components or services of blacklisted companies in the manufacture of goods to be exported to Y. In the manufacture of appliances to be sold to A for export to non-boycotting countries B uses components manufactured by blacklisted companies.

The actions of both A and B constitute agreement to refuse to do business. The agreement is implied by their pattern of conduct.

(b) *Discriminatory Actions.*

PROHIBITION AGAINST TAKING DISCRIMINATORY ACTIONS

(1) No United States person may:

(i) refuse to employ or otherwise discriminate against any individual who is a United States person on the basis of race, religion, sex, or national origin;

(ii) discriminate against any corporation or other organization which is a United States person on the basis of the race, religion, sex, or national origin of any owner, officer, director, or employee of such corporation or organization;

(iii) knowingly agree to take any of the actions described in (i) and (ii) above; *or*

(iv) require or knowingly agree to require any other person to take any of the actions described in (i) and (ii) above.

(2) This prohibition shall apply whether the discriminatory action is taken by a United States person on its own or in response to an agreement with, request from, or requirement of a boycotting country. This prohibition, like all others, applies only with respect to a United States person's activities in the interstate or foreign commerce of the United States and only when such activities are undertaken with intent to comply with, further, or support an unsanctioned foreign boycott.

(3) The section does not supersede or limit the operation of the civil rights laws of the United States.

EXAMPLES OF DISCRIMINATORY ACTIONS

The following examples are intended to give guidance in determining the circumstances in which the taking of particular discriminatory actions is prohibited. They are illustrative, not comprehensive.

(i) U.S. construction company A is awarded a contract to build an office complex in boycotting country Y. A, believing that employees of a particular religion will not be permitted to work in Y because of Y's boycott against country X, excludes U.S. persons of that religion from consideration for employment on the project.

A's refusal to consider qualified U.S. persons of a particular religion for work on the project in Y constitutes a prohibited boycott-based discriminatory action against U.S. persons on the basis of religion.

(ii) Same as (i), except that a clause in the contract provides that "no persons of country X origin are to work on this project".

A's agreement constitutes a prohibited boycott-based agreement to discriminate against U.S. persons, among others, on the basis of national origin.

(iii) Same as (i), except that a clause in the contract provides that "no persons who are citizens, residents, or nationals of country X are to work on this project".

A's agreement does not constitute a boycott-based agreement to discriminate against U.S. persons on the basis of race, religion, sex, or national origin, because the clause requires exclusion on the basis of citizenship, residency, and nationality only.

(iv) U.S. construction company A enters into a contract to build a school in boycotting county Y. Y's representative orally tells A that no persons of country X origin are to work on the project.

A may not comply, because to do so would constitute discrimination on the basis of national origin. It makes no difference that A learned of Y's requirement orally. It makes no difference how A learns about Y's discriminatory requirement.

(v) Boycotting country Y tenders an invitation to bid on a construction project in Y. The tender requires that the successful bidder's personnel will be interviewed and that persons of a particular religious faith will not be permitted to work on the project. Y's requirement is based on its boycott of country X, the majority of whose citizens are of that particular faith.

Agreement to this provision in the tender document by a U.S. person would constitute a prohibited agreement to engage in boycott-based discrimination against U.S. persons of a particular religion.

(vi) Same as (v), except that the tender specifies that "women will not be allowed to work on this project".

Agreement to this provision in the tender by a U.S. person does not constitute a prohibited agreement to engage in boycott-based discrimination, because the restriction against employment of women is not boycott-based. Such an agreement may, however, constitute a violation of U.S. civil rights laws.

(vii) A is a U.S. investment banking firm. As a condition of participating in an underwriting of securities to be issued by boycotting country Y, A is required to exclude investment banks owned by persons of a particular faith from participation in the underwriting. Y's requirement is based on its boycott of country X, the majority of whose citizens are of that particular faith.

A's agreement to such a provision constitutes a prohibited agreement to engage in boycott-based discrimination against U.S. persons on the basis of religion. Further, if A requires others to agree to such a condition, A would be acting to require another person to engage in such discrimination.

(viii) U.S. company A is asked by boycotting country Y to certify that A will not use a six-pointed star on the packaging of its products to be imported into Y. The requirement is part of the enforcement effort by Y of its boycott against country X.

A may not so certify. The six-pointed star is a religious symbol, and the certification by A that it will not use such a symbol constitutes a statement that A will not ship products made or handled by persons of that religion.

(ix) Same as (viii), except that A is asked to certify that no symbol of boycotted country X will appear on the packaging of its products imported into Y.

Such a certification conveys no statement about any person's religion and, thus, does not come within this prohibition.

(c) *Furnishing Information About Race, Religion, Sex, or National Origin.*

PROHIBITION AGAINST FURNISHING INFORMATION ABOUT RACE, RELIGION, SEX, OR NATIONAL ORIGIN

(1) No United States person may:

(i) furnish information about the race, religion, sex, or national origin of any United States person;

(ii) furnish information about the race, religion, sex, or national origin of any owner, officer, director, or employee of any corporation or other organization which is a United States person;

(iii) knowingly agree to furnish information about the race, religion, sex, or national origin of any United States person; *or*

(iv) knowingly agree to furnish information about the race, religion, sex, or national origin of any owner, officer, director, or employee of any corporation or other organization which is a United States person.

(2) This prohibition shall apply whether the information is specifically requested or is offered voluntarily by the United States person. It shall also apply whether the information requested or volunteered is stated in the affirmative or the negative.

(3) Information about the place of birth of or the nationality of the parents of a United States person comes within this prohibition, as does information in the form of code words or symbols which could identify a United States person's race, religion, sex, or national origin.

(4) This prohibition, like all others, applies only with respect to a United States person's activities in the interstate or foreign commerce of the United States and only when such activities are undertaken with intent to comply with, further, or support an unsanctioned foreign boycott.

EXAMPLES OF THE PROHIBITION AGAINST FURNISHING DISCRIMINATORY INFORMATION

The following examples are intended to give guidance in determining the circumstances in which the furnishing of discriminatory information is prohibited. They are illustrative, not comprehensive.

(i) U.S. company A receives a boycott questionnaire from boycotting country Y asking whether it is owned or controlled by persons of a particular faith, whether it has any persons on its board of directors who are of that faith, and what the national origin of its president is. The information is sought for purposes of enforcing Y's boycott against country X, and A knows or has reason to know that the information is sought for that reason.

A may not answer the questionnaire, because A would be furnishing information

about the religion and national origin of U.S. persons for purposes of complying with or supporting Y's boycott against X.

(ii) U.S. company A, located in the United States, is asked by boycotting country Y to certify that A has no persons of a particular national origin on its board of directors. A knows that Y's purpose in asking for the certification is to enforce its boycott against country X.

A may not make such a certification, because A would be furnishing information about the national origin of U.S. persons for purposes of complying with or supporting Y's boycott against X.

(iii) U.S. company A believes that boycotting country Y will select A's bid over those of other bidders if A volunteers that it has no shareholders, officers, or directors of a particular national origin. A's belief is based on its knowledge that Y generally refuses, as part of its boycott against country X, to do business with companies owned, controlled, or managed by persons of this particular national origin.

A may not volunteer this information, because it would be furnishing information about the national origin of U.S. persons for purposes of complying with or supporting Y's boycott against X.

(iv) U.S. company A has a contract to construct an airport in boycotting country Y. Before A begins work, A is asked by Y to identify the national origin of its employees who will work on the site. A knows or has reason to know that Y is seeking this information in order to enforce its boycott against X.

A may not furnish this information, because A would be providing information about the national origin of U.S. persons for purposes of complying with or supporting Y's boycott against X.

(v) Same as (iv), except that in order to assemble its work force on site in Y, A sends visa forms to its employees and asks that the forms be returned to A for tansmittal to Y's consulate or embassy. A, itself, furnishes no information about its employees, but merely transmits the visa forms back and forth.

In performing the ministerial function of transmitting visa forms, A is not furnishing information about any U.S. person's race, religion, sex, or national origin.

(vi) Same as (iv), except that A is asked by Y to certify that none of its employees in Y will be women, because Y's laws prohibit women from working.

Such a certification does not constitute a prohibited furnishing of information about any U.S. person's sex, since the reason the information is sought has nothing to do with Y's boycott of X.

(vii) U.S. company A is considering establishing an office in boycotting country Y. In order to register to do business in Y, A is asked to furnish information concerning the nationalities of its corporate officers and board of directors.

A may furnish the information about the nationalities of its officers and directors, because in so doing A would not be furnishing information about the race, religion, sex, or national origin of any U.S. person.

(d) *Furnishing Information About Business Relationships with Boycotted Countries or Blacklisted Persons.*

PROHIBITION AGAINST FURNISHING INFORMATION ABOUT BUSINESS RELATIONSHIPS WITH BOYCOTTED COUNTRIES OR BLACKLISTED PERSONS

(1) No United States person may furnish or knowingly agree to furnish information concerning his or any other person's past, present or proposed business relationships:

(i) with or in a boycotted country;

(ii) with any business concern organized under the laws of a boycotted country;

(iii) with any national or resident of a boycotted country; *or*

(iv) with any other person who is known or believed to be restricted from having any business relationship with or in a boycotting country.

(2) This prohibition shall apply:

(i) whether the information pertains to a business relationship involving a sale, purchase, or supply transaction; legal or commercial representation; shipping or other transportation transaction; insurance; investment; or any other type of business transaction or relationship; and

(ii) whether the information is directly or indirectly requested or is furnished on the initiative of the United States person.

(3) This prohibition does not apply to the furnishing of normal business information in a commercial context. Normal business information may relate to factors such as financial fitness, technical competence, or professional experience, and may be found in documents normally available to the public such as annual reports, disclosure statements concerning securities, catalogues, promotional brochures, and trade and business handbooks. Such information may also appear in specifications or statements of experience and qualifications.

(4) Normal business information furnished in a commercial context does not cease to be such simply because the party soliciting the information may be such simply because the party soliciting the information may be a boycotting country or a national or resident thereof. If the information is of a type which is generally sought for a legitimate business purpose (such as determining financial fitness, technical competence, or professional experience), the information may be furnished even if the information could be used, or without the knowledge of the person supplying the information is intended to be used, for boycott purposes. However, no information about business relationships with blacklisted persons or boycotted countries, their residents or nationals, may be furnished in response to a boycott request, even if the information is publicly available. Requests for such information from a boycott office will be presumed to be boycott-based.

(5) This prohibition, like all others, applies only with respect to a United States person's activities in the interstate or foreign commerce of the United States and only when such activities are undertaken with intent to comply with, further, or support an unsanctioned foreign boycott.

EXAMPLES CONCERNING FURNISHING OF INFORMATION

The following examples are intended to give guidance in determining the circumstances in which the furnishing of information is prohibited. They are illustrative, not comprehensive.

(i) U.S. contractor A is considering bidding for a contract to build a dam in boycotting country Y. The invitation to bid, which appears in a trade journal, specifies that each bidder must state that he does not have any offices in boycotted country X. A knows or has reason to know that the requirement is boycott-based.

A may not make this statement, because it constitutes information about A's business relationships with X.

(ii) U.S. contractor A is considering bidding for a contract to construct a school in boycotting country Y. Each bidder is required to submit copies of its annual report with its bid. Since A's annual report describes A's worldwide operations, including the countries in which it does business, it necessarily discloses whether A has business relations with boycotted country X. A has no reason to know that its report is being sought for boycott purposes.

A, in furnishing its annual report, is supplying ordinary business information in a commercial context.

(iii) Same as (ii), except that accompanying the invitation to bid is a questionnaire from country Y's boycott office asking each bidder to supply a copy of its annual report.

A may not furnish the annual report despite its public availability, because it would be furnishing information in response to a questionnaire from a boycott office.

(iv) U.S. company A is on boycotting country Y's blacklist. For reasons unrelated to the boycott, A terminates its business relationships with boycotted country X. In exploring other marketing areas, A determines that boycotting country Y offers great potential. A is requested to complete a questionnaire from a central boycott office which inquires about A's business relations with X.

A may not furnish the information, because it is information about A's business relationships with a boycotted country.

(v) U.S. exporter A is seeking to sell its products to boycotting country Y. A is informed by Y that, as a condition of sale, A must certify that it has no salesmen in boycotted country X. A knows or has reason to know that the condition is boycott-based.

A may not furnish the certification, because it is information about A's business relationships in a boycotted country.

(vi) U.S. engineering company A receives an invitation to bid on the construction of a dam in boycotting country Y. As a condition of the bid, A is asked to certify that it does not have any offices in boycotted country X. A is also asked to furnish plans for other dams it has designed.

A may not certify that it has no office in X, because this is information about its business relationships in a boycotted country. A may submit plans for other dams it has designed, because this is furnishing normal business information, in a commer-

cial context, relating to A's technical competence and professional experience.

(vii) U.S. company A, in seeking to expand its exports to boycotting country Y, sends a sales representative to Y for a one week trip. During a meeting in Y with trade association representatives, A's representative desires to explain that neither A nor any companies with which A deals has any business relationship with boycotted country X. The purpose of supplying such information is to ensure that A does not get blacklisted.

A's representative may not volunteer this information even though A, for reasons unrelated to the boycott, does not deal with X, because A's representative would be volunteering information about A's business relationships with X for boycott reasons.

(viii) U.S. company A is asked by boycotting country Y to furnish information concerning its business relationships with boycotted country X. A, knowing that Y is seeking the information for boycott purposes, refuses to furnish the information asked for directly, but proposes to respond by supplying a copy of its annual report which lists the countries with which A is presently doing business. A does not happen to be doing business with X.

A may not respond to Y's request by supplying its annual report, because A knows that it would be responding to a boycott-based request for information about its business relationships with X.

(ix) U.S. company A receives a letter from a central boycott office asking A to "clarify" A's operations in boycotted country X. A intends to continue its operations in X, but fears that not responding to the request will result in its being placed on boycotting country Y's blacklist. A knows or has reason to know that the information is sought for boycott reasons.

A may not respond to this request, because the information concerns its business relationships with a boycotted country.

(x) U.S. company A, in the course of negotiating a sale of its goods to a buyer in boycotting country Y, is asked to certify that its supplier is not on Y's blacklist.

A may not furnish the information about its supplier's blacklist status, because this is information about A's business relationships with another person who is believed to be restricted from having any business relationship with or in a boycotting country.

(xi) U.S. company A has a manufacturing plant in boycotted country X and is on boycotting country Y's blacklist. A is seeking to establish operations in Y, while expanding its operations in X. A applies to Y to be removed from Y's blacklist. A is asked, in response, to indicate whether it has manufacturing facilities in X.

A may not supply the requested information, because A would be furnishing information about its business relationships in a boycotted country.

(xii) U.S. bank A plans to open a branch office in boycotting country Y. In order to do so, A is required to furnish certain information about its business operations, including the location of its other branch offices. Such information is normally sought in other countries where A has opened a branch office, and A does not have reason to know that Y is seeking the information for boycott reasons.

A may furnish this information, even though in furnishing it A would disclose information about its business relationships in a boycotted country, because it is being furnished in a normal business context and A does not have reason to know that it is sought for boycott reasons.

(xiii) U.S. architectural firm A responds to an invitation to submit designs for an office complex in boycotting country Y. The invitation states that all bidders must include information concerning similar types of buildings they have designed. A has not designed such buildings in boycotted country X. Clients frequently seek information of this type before engaging an architect.

A may furnish this information, because this is furnishing normal business information, in a commercial context, relating to A's technical competence and professional experience.

(xiv) U.S. oil company A distributes to potential customers promotional brochures and catalogues which give background information on A's past projects. A does not have business dealings with boycotted country X. The brochures, which are identical to those which A uses throughout the world, list those countries in which A does or has done business. In soliciting potential customers in boycotting country Y, A desires to distribute copies of its brochures.

A may do so, because this is furnishing normal business information, in a commercial context, relating to professional experience.

(xv) U.S. company A is interested in doing business with boycotting country Y. A wants to ask Y's Ministry of Trade whether, and is so why, A is on Y's blacklist or is otherwise restricted for boycott reasons from doing business with Y.

A may take this limited inquiry, because it does not constitute furnishing information.

(xvi) U.S. company A is asked by boycotting country Y to certify that it is not owned by subjects or nationals of boycotted country X and that it is not resident in boycotted country X.

A may not furnish the certification about its residency in X, because it is information about A's business relationships with or in a boycotted country. However, A may furnish the information about the nationality of its owners, because it is not information about A's business relationships.

(xvii) U.S. company A, a manufacturer of certain patented products, desires to register its patents in boycotting country Y. A receives a power of attorney form required to register its patents. The form contains a question regarding A's business relationships with or in boycotted country X. A has no business relationships with X and knows or has reason to know that the information is sought for boycott reasons.

A may not answer the question, because A would be furnishing information about its business relationships with or in a boycotted country.

(e) *Information Concerning Association with Charitable and Fraternal Organizations.*

PROHIBITION AGAINST FURNISHING INFORMATION ABOUT ASSOCIATIONS WITH CHARITABLE AND FRATERNAL ORGANIZATIONS

(1) No United States person may furnish or knowingly agree to furnish 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 a boycotted country.

(2) This prohibition shall apply whether:

(i) the information concerns association with or involvement in any charitable or fraternal organization which (a) has, as one of its stated purposes, the support of a boycotted country through financial contributions or other means, or (b) undertakes, as a major organizational activity, to offer financial or other support to a boycotted country;

(ii) the information is directly or indirectly requested or is furnished on the initiative of the United States person; or

(iii) the information requested or volunteered concerns membership in, financial contributions to, or any other type of association with or involvement in the activities of such charitable or fraternal organization.

(3) This prohibition does not prohibit the furnishing of normal business information in a commercial context as defined in section 369.2(d) of this Part.

(4) This prohibition, like all others, applies only with respect to a United States person's activities in the interstate or foreign commerce of the United States and only when such activities are undertaken with intent to comply with, further, or support an unsanctioned foreign boycott.

EXAMPLES OF PROHIBITION AGAINST FURNISHING INFORMATION ABOUT ASSOCIATIONS WITH CHARITABLE OR FRATERNAL ORGANIZATIONS

The following examples are intended to give guidance in determining the circumstances in which the furnishing of information concerning associations with charitable or fraternal organizations is prohibited. They are illustrative, not comprehensive.

(i) U.S. engineering firm A receives an invitation to bid from boycotting country Y. The invitation includes a request to supply information concerning any association which A's officers have with charitable organization B, an organization which is known by A to contribute financial support to boycotted country X. A knows or has reason to know that the information is sought for boycott reasons.

A may not furnish the information.

(ii) U.S. construction company A, in an effort to establish business dealings with boycotting country Y, proposes to furnish information to Y showing that no members of its board of directors are in any way associated with charitable organizations which support boycotted country X. A's purpose is to avoid any possibility of its being blacklisted by Y.

A may not furnish the information, because A's purpose in doing so is boycott-based. It makes no difference that no specific request for the information has been made by Y.

(iii) A, a citizen of the United States, is applying for a teaching position in a school in boycotting country Y. In connection with his application, A furnishes a resume which happens to disclose his affiliation with charitable organizations. A does so completely without reference to Y's boycott and without knowledge of any boycott requirement of Y that pertains to A's application for employment.

The furnishing of a resume by A is not a boycott-related furnishing of information about his association with charitable organizations which support boycotted country X.

(f) *Letters of Credit.*

PROHIBITION AGAINST IMPLEMENTING LETTERS OF CREDIT CONTAINING PROHIBITED CONDITIONS OR REQUIREMENTS

(1) No United States person may pay, honor, confirm, or otherwise implement a letter of credit which contains a condition or requirement compliance with which is prohibited by this Part, nor shall any United States person, as a result of the application of this section, be obligated to pay, honor or otherwise implement such a letter of credit.

(2) For purposes of this section, "implementing" a letter of credit includes:

(i) issuing or opening a letter of credit at the request of a customer;

(ii) honoring, by accepting as being a valid instrument of credit, any letter of credit;

(iii) paying, under a letter of credit, a draft or other demand for payment by the beneficiary;

(iv) confirming a letter of credit by agreeing to be responsible for payment to the beneficiary in response to a request by the issuer;

(v) negotiating a letter of credit by voluntarily purchasing a draft from a beneficiary and presenting such draft for reimbursement to the issuer or the confirmer of the letter of credit; and

(vi) taking any other action to implement a letter of credit.

(3) In the standard international letter of credit transaction facilitating payment for the export of goods from the United States, a bank in a foreign country may be requested by its customer to issue a revocable or irrevocable letter of credit in favor of the United States exporter. The customer usually requires, and the letter of credit provides, that the issuing (or a confirming) bank will make payment to the beneficiary against the bank's receipt of the documentation specified in the letter of credit. Such documentation usually includes commercial and consular invoices, a bill of lading, and evidence of insurance, but it may also include other required certifications or documentary assurances such as the origin of the goods and information relating to the carrier or insurer of the shipment. Banks usually will not accept drafts for payment unless the documents submitted therewith comply with the terms and conditions of the letter of credit.

(4) A United States person is not prohibited under this section from advising a beneficiary of the existence of a letter of credit in his favor, or from taking ministerial actions to dispose of a letter of credit which it is prohibited from implementing.

(5) Compliance with this section shall provide an absolute defense in any action brought to compel payment of, honoring of, or other implementation of a letter of credit, or for damages resulting from failure to pay or otherwise honor or implement the letter of credit. This section shall not otherwise relieve any person from any obligations or other liabilities he may incur under other laws or regulations, except as may be explicitly provided in this section.

LETTERS OF CREDIT TO WHICH THIS SECTION APPLIES

(6) This prohibition, like all others, applies only with respect to a United States person's activities taken with intent to comply with, further, or support an unsanctioned foreign boycott. In addition, it applies only when the transaction to which the letter of credit applies is in United States commerce and the beneficiary is a United States person.

IMPLEMENTATION OF LETTERS OF CREDIT IN THE UNITED STATES

(7) A letter of credit implemented in the United States by a United States person located in the United States, including a permanent United States establishment of a foreign bank, will be presumed to apply to a transaction in United States commerce and to be in favor of a United States beneficiary where the letter of credit specifies a United States address for the beneficiary. These presumptions may be rebutted by facts which could reasonably lead the bank to conclude that the beneficiary is not a United States person or that the underlying transaction is not in United States commerce.

(8) Where a letter of credit implemented in the United States by a United States person located in the United States does not specify a United States address for the beneficiary, the beneficiary will be presumed to be other than a United States person. This presumption may be rebutted by facts which could reasonably lead the bank to conclude that the beneficiary is a United States person despite the foreign address.

IMPLEMENTATION OF LETTERS OF CREDIT OUTSIDE THE UNITED STATES

(9) A letter of credit implemented outside the United States by a United States person located outside the United States will be presumed to apply to a transaction in United States commerce and to be in favor of a United States beneficiary where the letter of credit (a) specifies a United States address for the beneficiary and (b) calls for documents indicating shipment from the United States or otherwise indicating that the goods are of United States origin. These presumptions may be rebutted by facts which could reasonably lead the bank to conclude that the beneficiary is not a United States person or that the underlying transaction is not in United States commerce.

(10) Where a letter of credit implemented outside the United States by a United States person located outside the United States does not specify a United States address for the beneficiary, the beneficiary will be presumed to be other than a United States person. In addition, where such a letter of credit does not call for documents indicating shipment from the United States or otherwise indicating that the goods are of United States origin, the transaction to which it applies will be presumed to be outside United States commerce. The presumption that the beneficiary is other than a United States person may be rebutted by facts which could reasonably lead the bank to conclude that the beneficiary is a United States person. The presumption that the transaction to which the letter of credit applies is outside United States commerce may be rebutted by facts which could reasonably lead the bank to conclude that the underlying transaction is in United States commerce.

GRACE PERIOD

(11) If the underlying transaction to which the letter of credit relates is entitled to grace period treatment under this Part, implementation of the letter of credit is also entitled to such grace period treatment. A letter of credit may be implemented at any time after the end of a grace period regarding the underlying transaction so long as all the prohibited boycott certifications have been given or other boycott-related acts carried out prior to the expiration of a grace period. Similarly, an implementing United States bank may complete implementation of a letter of credit containing prohibited boycott terms after the effective date of this Part provided the beneficiary has complied with all such boycott terms prior to the effective date.

EXAMPLES OF THE PROHIBITION AGAINST IMPLEMENTING LETTERS OF CREDIT

The following examples are intended to give guidance in determining the circumstances in which this section applies to the implementation of a letter of credit and in which such implementation is prohibited. They are illustrative not comprehensive.

IMPLEMENTATION OF LETTERS OF CREDIT IN UNITED STATES COMMERCE

(i) A, a U.S. bank located in the United States, opens a letter of credit in the United States in favor of B, a foreign company located outside the United States. The letter of credit specifies a non-U.S. address for the beneficiary.

The beneficiary is presumed to be other than a U.S. person, because it does not have a U.S. address. The presumption may be re-

butted by facts showing that A could reasonably conclude that the beneficiary is a U.S. person despite the foreign address.

(ii) A, a branch of a foreign bank located in the United States, opens a letter of credit in favor of B, a foreign company located outside the United States. The letter of credit specifies a non-U.S. address for the beneficiary.

The beneficiary is presumed to be other than a U.S. person, because it does not have a U.S. address. The presumption may be rebutted by facts showing that A could reasonably conclude that the beneficiary is a U.S. person despite the foreign address.

(iii) A, a U.S. bank branch located outside the United States, opens a letter of credit in favor of B, a person with a U.S. address. The letter of credit calls for documents indicating shipment of goods from the United States.

The letter of credit is presumed to apply to a transaction in U.S. commerce and to be in favor of a U.S. beneficiary because the letter of credit specifies a U.S. address for the beneficiary and calls for documents indicating that the goods will be shipped from the United States. These presumptions may be rebutted by facts showing that A could reasonably conclude that the beneficiary is not a U.S. person or that the underlying transaction is not in U.S. commerce.

(iv) A, a U.S. bank branch located outside the United States, opens a letter of credit which specifies a beneficiary, B, with an address outside the United States and calls for documents indicating that the goods are of U.S.-origin. A knows or has reason to know that although B has an address outside the United States, B is a U.S. person.

The letter of credit is presumed to apply to a transaction in U.S. commerce, because the letter of credit calls for shipment of U.S.-origin goods. In addition, the letter of credit is presumed to be in favor of a beneficiary who is a U.S. person, because A knows or has reason to know that the beneficiary is a U.S. person despite the foreign address.

(v) A, a U.S. bank branch located outside the United States, opens a letter of credit which specifies a beneficiary with a U.S. address. The letter of credit calls for documents indicating shipment of foreign-origin goods.

The letter of credit is presumed to be in favor of a U.S. beneficiary but to apply to a transaction outside U.S. commerce, because it calls for documents indicating shipment of foreign-origin goods. The presumption of non-U.S. commerce may be rebutted by facts showing that A could reasonably conclude that the underlying transaction involves shipment of U.S.-origin goods or goods from the U.S.

PROHIBITION AGAINST IMPLEMENTING LETTERS OF CREDIT

(i) Boycotting country Y orders goods from U.S. company B. Y opens a letter of credit with foreign bank C in favor of B. The letter of credit specifies as a condition of payment that B certify that it does not do business with boycotted country X. Foreign bank C forwards the letter of credit it has opened to U.S. bank A for confirmation.

A may not confirm or otherwise implement this letter of credit, because it contains a condition with which a U.S. person may not comply.

(ii) Same as (i), except U.S. bank A desires to advise the beneficiary, U.S. company B, of the letter of credit.

A may do so, because advising the beneficiary of the letter of credit (including the term which prevents A from implementing it) is not implementation of the letter of credit.

(iii) Same as (i), except foreign bank C sends a telegram to U.S. bank A stating the major terms and conditions of the letter of credit. The telegram does not reflect the boycott provision. Subsequently, C mails to A documents setting forth the terms and conditions of the letter of credit, including the prohibited boycott condition.

A may not further implement the letter of credit after it receives the documents, because they reflect the prohibited boycott condition in the letter of credit. A may advise the beneficiary and C of the existence of the letter of credit (including the boycott term), and may perform any essentially ministerial acts necessary to dispose of the letter of credit.

(iv) Same as (iii), except that U.S. company B, based in part on information received from U.S. bank A, desires to obtain an amendment to the letter of credit which would eliminate or nullify the language in the letter of credit which prevents A from paying or otherwise implementing it.

Either company B or bank A may undertake, and the other may cooperate and assist in, this endeavor. A could then pay or otherwise implement the revised letter of credit, so long as the original prohibited language is of no force or effect.

(v) Boycotting country Y requests a foreign bank in Y to open a letter of credit to effect payment for goods to be shipped by U.S. supplier B, the beneficiary of the letter of credit. The letter of credit contains prohibited boycott clauses. The foreign bank forwards a copy of the letter of credit to its branch office, A, in the United States.

A may advise the beneficiary but may not implement the letter of credit, because it contains prohibited boycott conditions.

(vi) On November 1, 1977, boycotting county Y orders goods from U.S. company B. U.S. bank A is asked to implement, for the benefit of B, a letter of credit which contains a clause requiring documentation that the goods shipped are not of boycotted country X origin.

A may implement the letter of credit, but after June 21, 1978, may accept only a positive certificate of origin as satisfactory documentation. (See section 369.3(b) on "Import and Shipping Document Requirements".)

(vii) Same as (vi), except that U.S. company B has a contract with Y to supply a certain quantity of goods each month over a two-year period. B's contract was entered into on May 15, 1977, and thus qualifies for grace period treatment until December 31, 1978. Each month, Y causes a letter of credit to be opened in favor of B in order to effect payment. Such letters of credit call for negative certificates of origin.

A may accept negative certificates of origin in fulfillment of the terms of the letter of credit through December 31, 1978, because the underlying contract is entitled to a grace period through that date. (See section 369.5 on "Grace Period".)

(viii) B is a foreign bank located outside the United States. B maintains an account with U.S. bank A, located in the United States. A letter of credit issued by B in favor of a U.S. beneficiary provides that any negotiating bank may obtain reimbursement from A by certifying that all the terms and conditions of the letter of credit have been met and then drawing against B's account. B notifies A by cable of the issuance of a letter of credit and the existence of reimbursement authorization; A does not receive a copy of the letter of credit.

A may reimburse any negotiating bank, even when the underlying letter of credit contains a prohibited boycott condition, because A does not know or have reason to know that the letter of credit contains a prohibited boycott condition.

(ix) Same as (viii), except that foreign bank B forwards a copy of the letter of credit to U.S. bank A, which then becomes aware of the prohibited boycott clause.

A may not thereafter reimburse a negotiating bank or in any way further implement the letter of credit, because it knows of the prohibited boycott condition.

(x) Boycotting country Y orders goods from U.S. exporter B and requests a foreign bank in Y to open a letter of credit in favor of B to cover the cost. The letter of credit contains a prohibited boycott clause. The foreign bank asks U.S. bank A to advise and confirm the letter of credit. Through inadvertence, A does not notice the prohibited clause and confirms the letter of credit. A thereafter notices the clause and then refuses to honor B's draft against the letter of credit. B sues bank A for payment.

A has an absolute defense against the obligation to make payment under this letter of credit. (NOTE: This section does not alter any other obligations or liabilities of the parties under appropriate law.)

(xi) U.S. bank A has confirmed and is in the midst of implementing a letter of credit in favor of a U.S. beneficiary when the rules and regulations of this Part are issued in final form and become effective. Upon examination of this Part, A determines that the letter of credit contains a prohibited boycott clause calling for a negative certificate of origin.

A may accept a negative certificate of origin in fulfillment of the terms of the letter of credit until June 21, 1978, one year from the date of enactment of the Export Administration Amendments of 1977, because negative certificates of origin are not prohibited through that date.

(xii) Boycotting country Y orders goods from U.S. company B. A letter of credit which contains a prohibited boycott clause is opened in favor of B by a foreign bank in Y. The foreign bank asks U.S. bank A to advise and confirm the letter of credit, which it forwards to A.

A may advise B that it has received the letter of credit (including the boycott term), but may not confirm the letter of credit with the prohibited clause.

(xiii) Same as (xii), except U.S. bank A fails to tell B that it cannot process the letter of credit. B requests payment.

A may not pay. If the prohibited language is eliminated or nullified as the result of renegotiation, A may then pay or otherwise implement the revised letter of credit.

(xiv) U.S. bank A receives a letter of credit in favor of U.S. beneficiary B. The letter of credit requires B to certify that he is not blacklisted.

A may implement such a letter of credit, but it may not insist that the certification be furnished, because by so insisting it would be refusing to do business with a blacklisted person in compliance with a boycott.

(xv) A, a U.S. bank located in the U.S., opens a letter of credit in favor of U.S. beneficiary B for B's sale of goods to boycotting country Y. The letter of credit contains no boycott conditions, but A knows that Y cus-

tomarily requires the seller of goods to certify that it has dealt with no blacklisted supplier. A, therefore, instructs B that is will not make payment under the letter of credit unless B makes such a certification.

A's action in requiring the certification from B constitutes action to require another person to refuse to do business with blacklisted persons.

(xvi) A, a U.S. bank located in the U.S., opens a letter of credit in favor of U.S. beneficiary B for B's sale of goods to boycotting country Y. The letter of credit contains no boycott conditions, but A has actual knowledge that B has agreed to supply a certification to Y that it has not dealt with blacklisted firms, as a condition of receiving the letter of credit in its favor.

A may not implement the letter of credit, because it knows that an implicit condition of the credit is a condition with which B may not legally comply.

§ 369.3 Exceptions to Prohibitions.

(a-1) *Import Requirements of a Boycotting Country.*

COMPLIANCE WITH IMPORT REQUIREMENTS OF A BOYCOTTING COUNTRY

(1) A United States person, in supplying goods or services to a boycotting country, or to a national or resident of a boycotting country, may comply or agree to comply with requirements of such boycotting country which prohibit the import of:

(i) goods or services from the boycotted country;

(ii) goods produced or services provided by any business concern organized under the laws of the boycotted country; *or*

(iii) goods produced or services provided by nationals or residents of the boycotted country.

(2) A United States person may comply or agree to comply with such import requirements whether or not he has received a specific request to comply. By its terms, this exception applies only to transactions involving imports into a boycotting country. A United States person may not, under this exception, refuse on an across-the-board basis to do business with a boycotted country or a national or resident of a boycotted country.

(3) In taking action within the scope of this exception, a United States person is limited in the types of boycott-related information he can supply. (See section 369.2(d) on "Furnishing Information About Business Relationships with Boycotted Countries or Blacklisted Persons" and section 369.3(b) on "Import and Shipping Document Requirements".)

EXAMPLES OF COMPLIANCE WITH IMPORT REQUIREMENTS OF A BOYCOTTING COUNTRY

The following examples are intended to give guidance in determining the circumstances in which compliance with the import requirements of a boycotting country is permissible. They are illustrative, not comprehensive.

(i) A, a U.S. manufacturer, receives an order from boycotting country Y for its products. Country X is boycotted by country Y, and the import laws of Y prohibit the importation of goods produced or manufactured in X. In filling this type of order, A would usually include some component parts produced in X.

For the purpose of filling this order, A may substitute comparable component parts in place of parts produced in X, because the import laws of Y prohibit the importation of goods manufactured in X.

(ii) Same as (i), except that A's contract with Y expressly provides that in fulfilling the contract A "may not include parts or components produced or manufactured in boycotted country X."

A may agree to and comply with this contract provision, because Y prohibits the importation of goods from X. (NOTE: After June 21, 1978, A may not furnish negative certifications regarding the origin of components in response to import and shipping document requirements.)

(iii) A, a U.S. building contractor, is awarded a contract to construct a plant in boycotting country Y. A accepts bids on goods required under the contract, and the lowest bid is made by B, a business concern organized under the laws of X, a country boycotted by Y. Y prohibits the import of goods produced by companies organized under the laws of X.

For purposes of this contract, A may reject B's bid and accept another, because B's goods would be refused entry into Y because of Y's boycott against X.

(iv) Same as (iii), except that A also rejects the low bid by B for work on a construction project in country M, a country not boycotted by Y.

This exception does not apply, because A's action is not taken in order to comply with Y's requirements prohibiting the import of products from boycotted country X.

(v) A, a U.S. management consulting firm, contracts to provide services to boycotting country Y. Y requests that A not employ residents or nationals of boycotted country X to provide those services.

A may agree, as a condition of the contract, not to have services furnished by nationals or residents of X, because importation of such services is prohibited by Y.

(vi) A, a U.S. company, is negotiating a contract to supply machine tools to boycotting country Y. Y insists that the contract contain a provision whereby A agrees that none of the machine tools will be produced by any business concern owned by nationals of boycotted country X, even if the business concern is organized under the laws of a non-boycotted country.

A may not agree to this provision, because it is a restriction on the import of goods produced by business concerns owned by nationals of a boycotted country even if the business concerns themselves are organized under the laws of a non-boycotted country.

(a-2) *Shipment of Goods to a Boycotting Country.*

COMPLIANCE WITH REQUIREMENTS REGARDING THE SHIPMENT OF GOODS TO A BOYCOTTING COUNTRY

(1) A United States person, in shipping goods to a boycotting country, may comply or agree to comply with requirements of that country which prohibit the shipment of goods:

(i) on a carrier of the boycotted country; or

(ii) by a route other than that prescribed by the boycotting country or the recipient of the shipment.

(2) A specific request that a United States person comply or agree to comply with requirements concerning the use of carriers of a boycotted country is not necessary if the United States person knows, or has reason to know, that the use of such carriers for shipping goods to the boycotting country is prohibited by requirements of the boycotting country. This exception applies whether a boycotting country or the purchaser of the shipment:

(i) explicitly states that the shipment should not pass through a port of the boycotted country; or

(ii) affirmatively describes a route of shipment that does not include a port in the boycotted country.

(3) For purposes of this exception, the term "carrier of a boycotted country" means a carrier which flies the flag of a boycotted country or which is owned, chartered, leased, or operated by a boycotted country or by nationals or residents of a boycotted country.

EXAMPLES OF COMPLIANCE WITH THE SHIPPING REQUIREMENTS OF A BOYCOTTING COUNTRY

The following examples are intended to give guidance in determining the circumstances in which compliance with requirements regarding shipment of goods to a boycotting country is permissible. They are illustrative, not comprehensive.

(i) A is a U.S. exporter from whom boycotting country Y is importing goods. Y directs that the goods not pass through a port of boycotted country X.

A may comply with Y's shipping instructions, because they pertain to the route of shipment of goods being shipped to Y.

(ii) A, a U.S. fertilizer manufacturer, receives an order from boycotting country Y for fertilizer. Y specifies in the order that A may not ship the fertilizer on a carrier of boycotted country X.

A may comply with this request, because it pertains to the carrier of a boycotted country.

(iii) B, a resident of boycotting country Y, orders textile goods from A, a U.S. distributor, specifying that the shipment must not be made on a carrier owned or leased by nationals of boycotted country X and that the carrier must not pass through a port of country X enroute to Y.

A may comply or agree to comply with these requests, because they pertain to the shipment of goods to Y on a carrier of a boycotted country and the route such shipment will take.

(iv) Boycotting country Y orders goods from A, a U.S. retail merchant. The order specifies that the goods shipped by A "may not be shipped on a carrier registered in or owned by boycotted country X."

A may agree to this contract provision, because it pertains to the carrier of a boycotted country.

(v) Boycotting country Y orders goods from A, a U.S. pharmaceutical company, and requests that the shipment not pass through a port of country P, which is not a country boycotted by Y.

This exception does not apply in a non-boycotting situation. A may comply with

the shipping instructions of Y, because in doing so he would not violate any prohibition of this Part.

(b) *Import and Shipping Document Requirements.*

COMPLIANCE WITH IMPORT AND SHIPPING DOCUMENT REQUIREMENTS OF A BOYCOTTING COUNTRY

(1) A United States person, in shipping goods to a boycotting country, may comply or agree to comply with import and shipping document requirements of that country, with respect to:

(i) the country of origin of the goods;

(ii) the name of the carrier;

(iii) the route of the shipment;

(iv) the name of the supplier of the shipment; and

(v) the name of the provider of other services.

(2) After June 21, 1978, all such information must be stated in positive, non-blacklisting, non-exclusionary terms except for information with respect to the names of carriers or routes of shipment, which may continue to be stated in negative terms in conjunction with shipments to a boycotting country, in order to comply with precautionary requirements protecting against war risks or confiscation. The purpose of this delayed effective date, which is provided by Section 4A(a)(2)(B) of the Export Administration Act of 1969, as amended, is to allow time for persons to adjust their practices to the use of import and shipping documentation stated in positive rather than negative terms.

EXAMPLES OF COMPLIANCE WITH IMPORT AND SHIPPING DOCUMENT REQUIREMENTS

The following examples are intended to give guidance in determining the circumstances in which compliance with import and shipping document requirements of a boycotting country is permissible. They are illustrative, not comprehensive.

(i) Boycotting country Y contracts with A, a U.S. petroleum equipment manufacturer, for certain equipment. Y requires that goods being imported into Y must be accompanied by a certification that the goods being supplied did not originate in boycotted country X.

Until June 21, 1978, A may comply with such import requirements in the terms requested. After June 21, 1978, A may not supply such a certification in negative terms but may identify instead the country of origin of the goods in positive terms only.

(ii) Same as (i), except that Y requires that the shipping documentation accompanying the goods specify the country of origin of the goods.

A may furnish the information.

(iii) On February 1, 1978, A, a U.S. distributor, enters into a two-year contract with boycotting country Y to make monthly shipments of goods to Y. A clause in the contract requires that all shipments into the country must be accompanied by a certification that the goods did not originate in X, a country boycotted by Y.

A may supply such a negative certification until June 21, 1978. After that date, A may state the origin of the goods on the shipping or import documents in positive terms only.

(iv) A, a U.S. apparel manufacturer, has contracted to sell certain of its products to B, a national of boycotting country Y. The form that must be submitted to customs officials of Y requires the shipper to certify that the goods contained in the shipment have not been supplied by "blacklisted" persons.

Until June 21, 1978, A may furnish the information required in the terms requested. After June 21, 1978, A may not furnish the information in negative terms but may certify, in positive terms only, the name of the supplier of the goods.

(v) Same as (iv), except the customs form requires certification that the insurer and freight forwarder used are not "blacklisted".

Until June 21, 1978, A may furnish the information required in the terms requested. After June 21, 1978, A may not comply with the request but may supply a certification stating, in positive terms only, the names of the insurer and freight forwarder.

(vi) A, a U.S. petrochemical manufacturer, executes a sales contract with B, a resident of boycotting country Y. A provision of A's contract with B requires that the bill of lading and other shipping documents contain certifications that the goods have not been shipped on a "blacklisted" carrier.

Until June 21, 1978, A may furnish the information required in the terms requested. After June 21, 1978, A may not agree to supply a certification that the carrier is not "blacklisted" but may certify the name of the carrier in positive terms only.

(vii) Same as (vi), except that the contract requires certification that the goods will not be shipped on a carrier which flies the flag of, or is owned, chartered, leased, or operated by boycotted country X, or by nationals or residents of X.

Such a certification, which is a reasonable requirement to protect against war risks or confiscation, may be furnished at any time.

(viii) Same as (vi), except that the contract requires that the shipping documents certify the name of the carrier being used.

A may, at any time, supply or agree to supply the requested documentation regarding the name of the carrier, either in negative or positive terms.

(ix) Same as (vi), except the contract requires a certification that the carrier will not call at a port in boycotted country X before making delivery in Y.

Such a certification, which is a reasonable requirement to protect against war risks or confiscation, may be furnished at any time.

(x) Same as (vi), except that the contract requires that the shipping documents indicate the name of the insurer and freight forwarder.

A may comply at any time, because the statement is not required to be made in negative or blacklisting terms.

(xi) A, a U.S. exporter, is negotiating a contract to sell bicycles to boycotting country Y. Y insists that A agree to certify that the goods will not be shipped on a veseel which has ever called at a port in boycotted country X.

As distinguished from a certification that goods will not be shipped on a vessel which will call enroute a port of boycotted country X, such a certification is not a reasonable requirement to protect against war risks or confiscation, and hence, may not be supplied.

(xii) Same as (xi), except that Y insists that A agree to certify that the goods will not be shipped on a carrier that is ineligible to enter Y's waters.

Such a certification, which is not a reasonable requirement to protect against war risks or confiscation may not be supplied.

(xiii) A, a U.S. exporter, sells some of its products to boycotting country Y. A foreign bank located in Y opens a letter of credit to pay for the goods. The letter of credit requires that A supply documentation certifying that "the goods are not manufactured in boycotted country X."

A may make the required certification until June 21, 1978, because import and shipping document requirements of a boycotting country may be reflected in letters of credit.

(c) *Compliance with Unilateral Selection.*

COMPLIANCE WITH UNILATERAL AND SPECIFIC SELECTION

(1) A United States person may comply or agree to comply in the normal course of business with the unilateral and specific selection by	of	provided that:
a boycotting country, a national of a boycotting country, or a resident of a boycotting country (including a United States person who is a bona fide resident of a boycotting country)	carriers, insurers, suppliers of services to be performed within the boycotting country, or specific goods,	with respect to services, it is necessary and customary that a not insignificant part of the services be performed within the boycotting country, and with respect to goods, the items, in the normal course of business, are identifiable as to their source or origin at the time of their entry into the boycotting country by (a) uniqueness of design or appearance; or (b) trademark, trade name, or other identification normally on the items themselves, including their packaging.

(2) This exception pertains to what is permissible for a United States person who is the recipient of a unilateral and specific selection of goods or services to be furnished by a third person. It does not pertain to whether the act of making such a selection is permitted; that question is covered, with respect to United States persons, in section 369.3(f) on "Compliance with Local Law". Nor does it pertain to the United States person who is the recipient of an order to supply its own goods or services. Nothing in this Part prohibits or restricts a United States person from filling an order himself, even if he is selected by the buyer on a boycott basis (*e.g.*, because he is not blacklisted), so long as he does not himself take any action prohibited by this Part.

UNILATERAL AND SPECIFIC CHARACTER OF THE SELECTION

(3) In order for this exception to apply, the selection with which a United States person wishes to comply must be unilateral and specific.

(4) A "specific" selection is one which is stated in the affirmative and which specifies a particular supplier of goods or services.

(5) A "unilateral" selection is one in which the discretion in making the selection is exercised by the boycotting country buyer. If the United States person who receives a unilateral selection has provided the buyer with any boycott-based assistance (including information for purposes of helping the buyer select someone on a boycott basis), then the buyer's selection is not unilateral, and compliance with that selection by a United States person does not come within this exception.

(6) The provision of so-called "preselection" or "pre-award" services, such as providing lists of qualified suppliers, subcontractors, or bidders, does not, in and of itself, destroy the unilateral character of a selection, provided such services are not boycott-based. Lists of qualified suppliers, for example, must not exclude anyone because he is blacklisted. Moreover, such services must be of the type customarily provided in similar transactions by the firm (or industry of which the firm is a part) as measured by the practice in non-boycotting as well as boycotting countries. If such services are not customarily provided in similar transactions or such services are provided in such a way as to exclude blacklisted persons from participating in a transaction or diminish their opportunity for such participation, then the services may not be provided without destroying the unilateral character of any subsequent selection.

SELECTION TO BE MADE BY BOYCOTTING COUNTRY RESIDENT

(7) In order for this exception to be available, the unilateral and specific selection must have been made by a boycotting country, or by a national or resident of a boycotting country. Such a resident may be a United States person. For purposes of this exception, a United States person will be considered a resident of a boycotting country only if he is a bona fide resident. A United States person may be a bona fide resident of a boycotting country even if such person's residency is temporary.

(8) Factors that will be considered in determining whether a United States person is a bona fide resident of a boycotting country include:

(i) physical presence in the country;

(ii) whether residence is needed for legitimate business reasons;

(iii) continuity of the residency;

(iv) intent to maintain the residency;

(v) prior residence in the country;

(vi) size and nature of presence in the country;

(vii) whether the person is registered to do business or incorporated in the country;

(viii) whether the person has a valid work visa; and

(ix) whether the person has a similar presence in both boycotting and non-boycotting foreign countries in connection with similar business activities.

No one of these factors is dispositive. All the circumstances will be examined closely to ascertain whether there is, in fact, a bona fide residency. Residency established solely for purposes of avoidance of the application of this Part, unrelated to legitimate business needs, does not constitute bona fide residency.

(9) The boycotting country resident must be the one actually making the selection. If a selection is made by a non-resident agent, parent, subsidiary, affiliate, home office or branch office of a boycotting country resident, it is not a selection by a resident within the meaning of this exception.

(10) A selection made solely by a bona fide resident and merely transmitted by another person to a United States person for execution is a selection by bona fide resident within the meaning of this exception.

DUTY OF INQUIRY

(11) If a United States person receives, from another person located in the United States, what may be a unilateral selection by a boycotting country customer, and knows or has reason to know that the selection is made for boycott reasons, he has a duty to inquire of the transmitting person to determine who actually made the selection. If he knows or has reason to know that the selection was made by other than a boycotting country, or a national or resident of boycotting country, he may not comply. A course or pattern of conduct which a United States person recognizes or should recognize as consistent with boycott restrictions will create a duty to inquire.

(12) If the United States person does not know or have reason to know that the selection it receives is boycott-based, its compliance with such a selection does not offend any prohibition and this exception is not needed.

SELECTION OF SERVICES

(13) This exception applies only to compliance with selections of certain types of suppliers of services—carriers, insurers, and suppliers of services to be performed "within the boycotting country". Services to be performed wholly within the United States or wholly within any country other than the boycotting country are not covered.

(14) For purposes of this Part, services are to be performed "within the boycotting country" only if they are of a type which would customarily be performed by suppliers of those services within the country of the recipient of those services, and if the part of the services performed within the boycotting country is a necessary and not insignificant part of the total services performed.

(15) What is "customary and necessary" for these purposes depends on the usual practice of the supplier of the services (or the industry of which he is a part) as measured by the practice in non-boycotting as well as boy-

cotting countries, except where such practices are instituted to accommodate this Part.

SELECTION OF GOODS

(16) This exception applies only to compliance with selections of certain types of goods—goods that, in the normal course of business, are identifiable as to their source or origin at the time of their entry into the boycotting country. The definition of "specifically identifiable goods" is the same under this section as it is in section 369.3(f) on "Compliance with Local Law".

(17) Goods "specifically identifiable" in the normal course of business are those items which at the time of their entry into a boycotting country are identifiable as to source or origin by (a) uniqueness of design or appearance; or (b) trademark, trade name, or other identification normally on the items themselves, including their packaging. Goods are "specifically identifiable" in the normal course of business if their source or origin is ascertainable by inspection of the items themselves, including their packaging, regardless of whether inspection takes place. Goods are not considered to be "specifically identifiable" in the normal course of business if a trademark, trade name, or other form of identification not normally present is added to the items themselves, including their packaging, to accommodate this Part.

GENERAL

(18) If a unilateral selection meets the conditions described above, the United States person receiving the unilateral selection may comply or agree to comply, even if he knows or has reason to know that the selection was boycott-based. However, no United States person may comply or agree to comply with any unilateral selection if he knows or has reason to know that the purpose of the selection is to effect discrimination against any United States person on the basis of race, religion, sex, or national origin.

EXAMPLES OF COMPLIANCE WITH A UNILATERAL SELECTION

The following examples are intended to give guidance in determining what constitutes a unilateral selection and the circumstances in which compliance with such a selection is permissible. They are illustrative, not comprehensive.

SPECIFIC AND UNILATERAL SELECTION

(i) A, a U.S. manufacturer of road-grading equipment, is asked by boycotting country Y to ship goods to Y on U.S. vessel B, a carrier which is not blacklisted by Y. A knows or has reason to know that Y's selection of B is boycott-based.

A may comply with Y's request, or may agree to comply as a condition of the contract, because the selection is specific and unilateral.

(ii) A, a U.S. contractor building an industrial facility in boycotting country Y is asked by B, a resident of Y, to use C as the supplier of air conditioning equipment to be used in the facility. C is not blacklisted by country Y. A knows or has reason to know that B's request is boycott-based.

A may comply with B's request, or may agree to comply as a condition of the contract, because the selection of C is specific and unilateral.

(iii) A, a U.S. manufacturer of automotive equipment, is asked by boycotting country Y not to ship its goods to Y on U.S. carriers, B, C, or D. Carriers B, C, and D are blacklisted by boycotting country Y. A knows or has reason to know that Y's request is boycott-based.

A may not comply or agree to comply with Y's request, because no specific selection of any particular carrier has been made.

(iv) A, a U.S. exporter shipping goods ordered by boycotting country Y, is provided by Y with a list of eligible U.S. insurers from which A may choose in insuring the shipment of its goods. A knows or has reason to know that the list was compiled on a boycott basis.

A may not comply or agree to comply with Y's request that A choose from among the eligible insurers, because no specific selection of any particular insurer has been made.

(v) A, a U.S. aircraft manufacturer, is negotiating to sell aircraft to boycotting country Y. During the negotiations, Y asks A to identify the company which normally manufactures the engines for the aircraft. A responds that they are normally manufactured by U.S. engine manufacturer B. B is blacklisted by Y. In making the purchase, Y specifies that the engines for the aircraft should be supplied by U.S. engine manufacturer C.

A may comply or agree to comply with Y's selection of C, because Y's selection is unilateral and specific.

(vi) A, a U.S. construction firm, is retained by an agency of boycotting country Y to build a pipeline. Y requests A to suggest qualified engineering firms to be used onsite in the construction of the pipeline. It is customary for A, regardless of where it conducts its operations, to identify qualified engineering firms to its customers so that its customers may make their own selection of the firm to be engaged. Choice of engineering firm is customarily a prerogative of the customer. A provides a list of five engineering firms, B–F, excluding no firm because it may be blacklisted, and then confers with and gives it recommendations to Y. A recommends C, because C is the best qualified. Y then selects B, because C is blacklisted.

A may comply with Y's selection of B, because the boycott-based decision is made by Y and is unilateral and specific. Since A's pre-award services are of the kind customarily provided in these situations, and since they are provided without reference to the boycott, they do not destroy the unilateral character of Y's selection.

(vii) A, a U.S. aircraft manufacturer, has an order to supply a certain number of planes to boycotting country Y. In connection with the order, Y asks A to supply it with a list of qualified aircraft tire manufacturers so that Y can select the tires to be placed on the planes. This is a highly unusual request, since, in A's worldwide business operations, choice of tires is customarily made by the manufacturer, not the customer. Nonetheless, A supplies a list of tire manufacturers, B, C, D, and E. Y chooses tire manufacturer B because B is not blacklisted. Had A, as is customary, selected the tires, company C would have been chosen. C happens to be blacklisted, and A knows that C's blacklist status was the reason for Y's selection of B.

A's provision of a list of tire manufacturers for Y to choose from destroys the unilateral character of Y's selection, because such a pre-selection service is not customary in A's worldwide business operations.

(viii) A, a U.S. aircraft manufacturer, receives an order from U.S. company C, which is located in the United States, for the sale of aircraft to company D, a U.S. affiliate of C. D is a bona fide resident of boycotting country Y. C instructs A that "in order to avoid boycott problems," A must use engines that are manufactured by company B, a company that is not blacklisted by Y. Engines built by B are unique in design and also bear B's trade name.

Since a has reason to know that the selection is boycott-based, he must inquire of C whether the selection was in fact made by D. If C informs A that the selection was made by D, A may comply.

(ix) Same as (viii), except that C initially states that the designation was unilaterally and specifically made by D.

A may accept C's statement without further investigation and may comply with the selection, because C merely transmitted D's unilateral and specific selection.

(x) Same as (ix), except that C informs A that it, C, has selected B on behalf of or as an agent of its affiliated company resident in the boycotting country.

A may not comply with this selection, because the decision was not made by a resident of the boycotting country.

(xi) A, a U.S. management consulting firm, is advising boycotting country Y on the selection of a contracting firm to construct a plant for the manufacture of agricultural chemicals. As is customary in its business, A compiles a list of potential contractors on the basis of its evaluation of the capabilities of the respective candidates to perform the job. A has knowledge that company B is blacklisted, but provides Y with the names of companies B, C, D, and E, listing them in order of their qualifications. Y instructs A to negotiate with C.

A may comply with Y's instruction, because Y's selection is unilateral and specific.

(xii) A, a U.S. exporter, is asked by boycotting country Y not to ship goods on carriers B, C, or D, which are owned by nationals of and are registered in country P, a country not boycotted by Y.

A may comply or agree to comply with Y's request even though the selection is not specific, because A does not know or have reason to know that the request is boycott-based. (NOTE: In example (xii), A has violated no prohibition, because it does not know or have reason to know that Y's instruction is boycott-based. Therefore, A could not act with the requisite intent to comply with the boycott.)

(xiii) A, a U.S. construction company, receives a contract to construct a hotel in boycotting country Y. As part of the contract, A is required to furnish Y with lists of qualified suppliers of various specifically identifiable items. A compiles lists of various qualified suppliers wholly without reference to the boycott, and thereafter Y instructs A to negotiate with, enter into contracts with, and arrange for delivery from each of the suppliers which Y designates. A knows that Y's choices are made on a boycott basis.

A may comply with Y's selections and carry out these post-award services for Y, because Y's selections were unilateral and specific and A's pre-award services were provided without reference to Y's boycott.

EXAMPLES OF BOYCOTTING COUNTRY BUYER

(The factors in determining whether a United States person is a "bona fide resident" of a boycotting country are the same as in section 369.3(f) on "Compliance with Local Law." See also the examples in that section.)

(i) A, a U.S. exporter, is asked by B, a U.S. person who is a bona fide resident of boycotting country Y, to ship goods on U.S. carrier C. C is not blacklisted by Y, and A knows that B has chosen on a boycott basis in order to comply with Y's boycott laws.

A may comply or agree to comply with B's request, because B is a bona fide resident of Y.

(ii) A is a U.S. computer company whose subsidiary, B, is a bona fide resident of boycotting country Y. A receives an order from B for specific, identifiable products manufactured by company C in connection with a computer which B is installing in Y.

A may comply or agree to comply with B's unilateral and specific selection, so long as the discretion was in fact exercised by B, not A. (NOTE: Unilateral selection transactions involving related United States persons will be scrutinized carefully to ensure that the selection was in fact made by the bona fide resident of the boycotting country.)

(iii) A, a U.S. engineering firm, has chief engineer B as its resident engineer on a dam construction site in boycotting country Y. B's presence at the site is necessary in order to ensure proper supervision of the project. In order to comply with local law, B selects equipment supplier C rather than D, who is blacklisted, and directs A to purchase certain specific equipment from C for use in the project.

A may comply with this unilateral selection, because the decision was made by a bona fide resident of Y. (As noted above, unilateral selections involving related United States persons will be scrutinized carefully to ensure that the selection was in fact made by the bona fide resident of the boycotting country.)

(iv) B, a branch of U.S. bank A, is located in boycotting country Y. B is in need of office supplies and asks the home office in New York to make the necessary purchases. A contacts C, a U.S. company in the office supply business, and instructs C to purchase various items from certain specific companies and ship them directly to B. In order to avoid any difficulties for B with respect to Y's boycott laws, A is careful to specify only non-blacklisted companies or suppliers. C know that that was A's purpose.

C may not comply with A's instruction, because the selection of suppliers was not made by a resident of a boycotting country.

(v) Same as (iv), except that A has given standing instructions to B that whenever it needs office supplies, it should specify certain suppliers designated by A. To avoid running afoul of Y's boycott laws, A's designations consist exclusively of non-blacklisted firms. A receives an order from B with the suppliers designated in accordance with A's instructions.

A may not comply with B's selection, because the selection was not in fact made by a bona fide resident of the boycotting country, but by a person located in the United States.

EXAMPLES OF SUPPLIERS OF SERVICES

(i) A, a U.S. manufacturer, is asked by boycotting country Y to ship goods to Y on U.S. vessel B, a carrier which is not blacklisted by Y.

A may comply or agree to comply with Y's request, because compliance with the unilateral and specific selection of carriers is expressly permitted under this exception.

(ii) A, a U.S. exporter shipping goods ordered by C, a national of boycotting country Y, is asked by C to insure the shipment through U.S. insurer B.

A may comply or agree to comply with C's request, because compliance with the unilateral and specific selection of an insurer is expressly permitted under this exception.

(iii) A, a U.S. construction company, is hired by C, an agency of the government of boycotting country Y, to build a power plant in Y. C specifies that A should subcontract the foundation work to U.S. contractor B. Part of the foundation design work will be done by B in the United States.

A may comply or agree to comply with Y's designation, because a necessary and not insignificant part of B's services are to be performed within the boycotting country, and such services are customarily performed on-site.

(iv) A, a U.S. contractor, is engaged by boycotting country Y to build a power plant. Y specifies that U.S. architectural firm B should be retained by A to design the plant. In order to design the plant, it is essential that B's personnel visit and become familiar with the site, although the bulk of the design and drawing work will be done in the United States.

A may comply or agree to comply with Y's unilateral and specific selection of architectural firm B, because a necessary and not insignificant part of B's services are to be performed within Y, and such on-site work is customarily involved in the provision of architectural services. The fact that the bulk of the actual work may be performed in the United States is irrelevant since the part to be performed within Y is necessary to B's effective performance.

(v) Same as (iv), except that Y specifies that the turbine for the power plant should be designed by U.S. engineer C. It is neither customary nor necessary for C to visit the site in order to do any of his work, but C has informed A that he would probably want to visit the site in Y if he were selected for the job.

A may not comply or agree to comply with Y's request, because, in the normal course of business, it is neither customary nor necessary for engineer C's services to be performed in Y.

(vi) A, a U.S. aircraft manufacturer, receives a contract from boycotting country Y to manufacture jet engines for Y's use. Y specifies that the engines should be designed by U.S. industrial engineering firm B.

A may not comply or agree to comply with Y's request, because, in the normal course of business, the services will not be performed in Y.

(vii) U.S. company A has a contract to supply specially designed road graders to boycotting country Y. Y has instructed A that is should engage engineering firm B in the design work rather than engineering firm C, which A normally uses, because C is blacklisted. When A contacts B, B informs A that one of B's personnel customarily visits the location in which any equipment B designs is used after it is in use, in order to determine how good a design job B has done. Such visits are necessary from B's point of view to provide a check on the quality of its work, and they are necessary from Y's point of view because they make it possible for Y to discuss possible design changes should deficiencies be detected.

A may not comply with Y's selection of B, because the services which B would perform in Y are an insignificant part of the total services to be performed by B.

EXAMPLES OF SPECIFICALLY IDENTIFIABLE GOODS

(The test of what constitutes "specifically identifiable goods" under this exception also applies to the term "specifically identifiable goods" as used in section 369.3(f) of "Compliance with Local Law.")

(i) A, a U.S. contractor, is constructing an apartment complex, on a turnkey basis, for boycotting country Y. Y instructs A to use only kitchen appliances manufactured by U.S. company B in completing the project. The appliances normally bear the manufacturer's name and trademark.

A may comply with Y's selection of B, because Y's unilateral and specific selection is of goods identifiable as to source or origin in the normal course of business at the time of their entry into Y.

(ii) Same as (i), except that Y directs A to use lumber manufactured only by U.S. company C. In the normal course of business, C neither stamps its name on the lumber nor identifies itself as the manufacturer on the packaging. In addition, normal export packaging does not identify the manufacturer.

A may not comply with Y's selection, because the goods selected are not identifiable by source or origin in the normal course of business at the time of their entry into Y.

(iii) B, a U.S. contractor who is a bona fide resident of boycotting country Y, is engaged in building roads. B retains the services of A, a U.S. engineering firm, to assist it in procuring construction equipment. B directs A to purchase road graders only from manufacturer C because other road grader manufacturers which A might use are blacklisted. C's road graders normally bear C's insignia.

A may comply with B's selection of C, because the goods selected are identifiable by source or origin in the normal course of business at the time of their entry into Y.

(iv) A, a U.S. company, manufactures computer-operated machine tools. The computers are mounted on a separate bracket on the side of the equipment and are readily identifiable by brand name imprinted on the equipment. There are five or six U.S. manufacturers of such computers which will function interchangeably to operate the machine tools manufactured by A. B, a resident of boycotting country Y, contracts to buy the machine tools manufactured by A on the condition that A incorporate, as the computer drive, a computer manufactured by U.S. company C. B's designation of C is made to avoid boycott problems which could be caused if computers manufactured by some other company were used.

A may comply with B's designation of C, because the goods selected are identifiable by source or origin in the normal course of business at the time of their entry into Y.

(v) A, a U.S. wholesaler of electronic equipment, receives an order from B, a U.S. manufacturer of radio equipment, who is a bona fide resident of boycotting country Y. B orders a variety of electrical components and specifies that all transistors must be purchased from company C, which is not blacklisted by Y. The transistors requested by B do not normally bear the name of the

manufacturer; however, they are typically shipped in cartons, and C's name and logo appear on the cartons.

A may comply with B's selection, because the goods selected by B are identifiable as to source or origin in the normal course of business at the time of their entry into Y by virtue of the containers or packaging used.

(vi) A, a U.S. computer manufacturer, receives an order for a computer from B, a university in boycotting country Y. B specifies that certain integrated circuits incorporated in the computer must be supplied by U.S. electronics company C. These circuits are incorporated into the computer and are not visible without disassembling the computer.

A may not comply or agree to comply with B's specific selection of these components, because they are not identifiable as to their source or origin in the normal course of business at the time of their entry into Y.

(vii) A, a U.S. clothing manufacturer, receives an order for shirts from B, a retailer resident in boycotting country Y. B specifies that the shirts are to be manufactured from cotton produced by U.S. farming cooperative C. Such shirts will not identify C or the source of the cotton.

A may not comply or agree to comply with B's designation, because the cotton is not identifiable as to source or origin in the normal course of business at the time of entry into Y.

(viii) A, a U.S. contractor, is retained by B, a construction firm located in and wholly-owned by boycotting country Y, to assist B in procuring construction materials. B directs A to purchase a range of materials, including hardware, tools, and trucks, all of which bear the name of the manufacturer stamped on the item. In addition, B directs A to purchase steel beams manufactured by U.S. company C. The name of manufacturer C normally does not appear on the steel itself or on its export packaging.

A may comply with B's selection of the hardware, tools, and trucks, because they are identifiable as to source or origin in the normal course of business at the time of entry into Y. A may not comply with B's selection of steel beams, because the goods are not identifiable as to source or origin by trade name, trademark, uniqueness or packaging at the time of their entry into Y.

EXAMPLES OF DISCRIMINATION ON BASIS OF RACE, RELIGION, SEX, OR NATIONAL ORIGIN

(i) A, a U.S. paper manufacturer, is asked by boycotting country Y to ship goods to Y on U.S. vessel B. Y states that the reason for its choice of B is that, unlike U.S. vessel C, B is not owned by persons of a particular faith.

A may not comply or agree to comply with Y's request, because A has reason to know that the purpose of the selection is to effect religious discrimination against a United States person.

(d) *Shipment and Transshipment of Exports Pursuant to a Boycotting Country's Requirements.*

COMPLIANCE WITH A BOYCOTTING COUNTRY'S REQUIREMENTS REGARDING SHIPMENT AND TRANSSHIPMENT OF EXPORTS

(1) A United States person may comply or agree to comply with the export requirements of a boycotting country with respect to shipments or transshipments of exports to:

(i) a boycotted country;

(ii) any business concern of a boycotted country;

(iii) any business concern organized under the laws of a boycotted country; *or*

(iv) any national or resident of a boycotted country.

(2) This exception permits compliance with restrictions which a boycotting country may place on direct exports to a boycotted country; on indirect exports to a boycotted country (*i.e.*, those that pass via third parties); and on exports to residents, nationals, or business concerns of, or organized under the laws of, a boycotted country, including those located in third countries.

EXAMPLES OF COMPLIANCE WITH A BOYCOTTING COUNTRY'S REQUIREMENTS REGARDING SHIPMENT OR TRANSSHIPMENT OF EXPORTS

The following examples are intended to give guidance in determining the circumstances in which compliance with the export requirements of a boycotting country is permissible. They are illustrative, not comprehensive.

(i) A, a U.S. petroleum company, exports petroleum products to 20 countries from boycotting country Y. Country Y's export regulations require that products not be exported from Y to boycotted country X.

A may agree to and comply with Y's regulations with respect to the export of goods from Y to X.

(ii) Same as (i), except that Y's export regulations require that goods not be exported from boycotting country Y to any business concern organized under the laws of boycotted country X.

A may agree to and comply with Y's regulations with respect to the export of goods from Y to a business concern organized under the laws of X, even if such concern is located in a country not involved in Y's boycott of X.

(iii) B, the operator of a storage facility in country M, contracts with A, a U.S. carrier, for the shipment of certain goods manufactured in boycotting country Y. A's contract with B contains a provision stating that the goods to be transported may not be shipped or transshipped to boycotted country X. B informs A that this provision is a requirement of C, the manufacturer of the goods who is a resident of boycotting country Y. Country M is not boycotted by Y.

A may agree to and comply with this provision, because such a provision is required by the export regulations of boycotting country Y in order to prevent shipment of Y-origin goods to a country boycotted by Y.

(iv) A, a U.S. petroleum refiner located in the United States, purchases crude oil from boycotting country Y. A has a branch operation in boycotted country X. Y requires, as a condition of sale, that A agree not to ship or transship the crude oil or products refined in Y to A's branch in X.

A may agree to and comply with these requirements, because they are export requirements of Y designed to prevent Y-origin products from being shipped to a boycotted country.

(v) A, a U.S. company, has a petrochemical plant in boycotting country Y. As a condition of securing an export license from Y, A must agree that it will not ship or permit transshipment of any of its output from the plant in Y to any companies which Y lists as being owned by nationals of boycotted country X.

A may agree to this condition, because it is a restriction designed to prevent Y-origin products from being exported to a business concern of boycotted country X or to nationals of boycotted country X.

(vi) Same as (v), except that the condition imposed on A is that Y-origin goods may not be shipped or permitted to be transshipped to any companies which Y lists as being owned by persons whose national origin is X.

A may not agree to this condition, because it is a restriction designed to prevent Y-origin goods from being exported to persons of a particular national origin rather than to residents or nationals of a particular boycotted country.

(e) *Immigration, Passport, Visa, or Employment Requirements of a Boycotting Country.*

COMPLIANCE WITH IMMIGRATION, PASSPORT, VISA, OR EMPLOYMENT REQUIREMENTS OF A BOYCOTTING COUNTRY

(1) A United States individual may comply or agree to comply with the immigration, passport, visa, or employment requirements of a boycotting country, and with requests for information from a boycotting country made to ascertain whether such individual meets requirements for employment within the boycotting country, provided that he furnishes information only about himself or a member of his family, and not about any other United States individual, including his employees, employers, or co-workers.

(2) For purposes of this section, a "United States individual" means a person who is a resident or national of the United States. "Family" means immediate family members, including parents, siblings, spouse, children, and other dependents living in the individual's home.

(3) A United States person may not funish information about its employees or executives, but may allow any individual to respond on his own to any request for information relating to immigration, passport, visa, or employment requirements. A United States person may also perform any ministerial acts to expedite processing of applications by individuals. These include informing employees of boycotting country visa requirements at an appropriate time; typing, translation, messenger and similar services; and assisting in or arranging for the expeditious processing of applications. All such actions must be undertaken on a non-discriminatory basis.

(4) A United States person may proceed with a project in a boycotting country even if certain of its employees or other prospective participants in a transaction are denied entry for boycott reasons. But no employees or other participants may be selected in advance in a manner designed to comply with a boycott.

EXAMPLES OF COMPLIANCE WITH IMMIGRATION, PASSPORT, VISA, OR EMPLOYMENT REQUIREMENTS OF A BOYCOTTING COUNTRY

The following examples are intended to give guidance in determining the circumstances in which compliance with immigration, passport, visa, or employment requirements is permissable. They are illustrative, not comprehensive.

(i) A, a U.S. individual employed by B, a U.S. manufacturer of sporting goods with a plant in boycotting country Y, wishes to obtain a work visa so that he may transfer to the plant in Y. Country Y's immigration laws specify that anyone wishing to enter the country or obtain a visa to work in the country must supply information about his religion. This information is required for boycott purposes.

A may furnish such information, because it is required by Y's immigration laws.

(ii) Same as (i), except that A is asked to supply such information about other employees of B.

A may not supply this information, because it is not information about himself or his family.

(iii) A, a U.S. building contractor, has been awarded a construction contract to be performed in boycotting country Y. Y's immigration laws require that individuals applying for visas must indicate race, religion, and place of birth. The information is sought for boycott purposes. To avoid repeated rejections of applications for work visas by A's employees, A desires to furnish to country Y a list of its prospective and current employees and required information about each so that Y can make an initial screening.

A may not furnish such a list, because A would be furnishing information about the race, religion, and national origin of its employees.

(iv) Same as (iii), except that A selects for work on the project those of its current employees whom it believes will be granted work visas from boycotting country Y.

A may not make a selection from among its employees in a manner designed to comply with the boycott-based visa requirements of Y, but must allow all eligible employees to apply for visas. A may later substitute an employee who obtains the necessary visa for one who has had his application rejected.

(v) Same as (iii), except that A selects employees for the project and then allows each employee individually to apply for his own visa. Two employees' applications are rejected, and A then substitutes two other employees who, in turn, submit their own visa applications.

A may take such action, because in so doing A is not acting in contravention of any prohibition of this Part.

(vi) Same as (v), except that A arranges for the translation, typing and processing of its employees' applications, and transmits all the applications to the consulate of boycotting country Y.

A may take such ministerial actions, because in so doing A is not itself furnishing information with respect to race, religion, sex, or national origin, but is merely transmitting information funished by its individual employees.

(vii) A, a U.S. contractor, selects U.S. Subcontractor B to perform certain engineering services in connection with A's project in boycotting country Y. The work visa application submitted by the employee B has proposed as chief engineer of this project is rejected by Y because his national origin is of boycotted country X. Subcontractor B thereupon withdraws.

A may continue with the project and select another subcontractor, because A is not acting in contravention of any prohibition of this Part.

(f) *Compliance with Local Law.* (1) This exception contains two parts. The first covers compliance with local law with respect to a United States person's activities exclusively within a foreign country; the second covers compliance with local import laws by United States persons resident in a foreign country. Under both parts of this exception, local laws are laws of the host country, whether derived from statutes, regulations, decrees, or other official sources having the effect of law in the host country. This exception is not available for compliance with presumed policies or understandings of policies unless those policies are reflected in official sources having the effect of law.

(2) Both parts of this exception apply only to United States persons resident in a foreign country. For purposes of this exception, a United States person will be considered to be a resident of a foreign country only if he is a bona fide resident. A United States person may be a bona fide resident of a foreign country even if such person's residency is temporary.

(3) Factors that will be considered in determining whether a United States person is a bona fide resident of a foreign country include:

(i) physical presence in the country;

(ii) whether residence is needed for legitimate business reasons;

(iii) continuity of the residency;

(iv) intent to maintain the residency;

(v) prior residence in the country;

(vi) size and nature of presence in the country;

(vii) whether the person is registered to do business or incorporated in the country;

(viii) whether the person has a valid work visa; and

(ix) whether the person has a similar presence in both boycotting and non-boycotting foreign countries in connection with similar business activities.

No one of these factors is dispositive. All the circumstances involved will be closely examined to ascertain whether there is, in fact, bona fide residency. Residency established solely for purposes of avoidance of the application of this Part, unrelated to legitimate business needs, does not constitute bona fide residency.

EXAMPLES OF BONA FIDE RESIDENCY

The following examples are intended to give guidance in determining the circumstances in which a United States person may be a bona fide resident of a foreign country. For purposes of illustration, each example discusses only one or two factors, instead of all relevant factors. They are illustrative, not comprehensive.

(i) A, a U.S. radio manufacturer located in the United States, receives a tender to bid on a contract to supply radios for a hotel to be built in boycotting country Y. After examining the proposal, A sends a bid from its New York office to Y.

A is not a resident of Y, because it is not physically present in Y.

(ii) Same as (i), except that after receiving the tender, A sends its sales representative to Y. A does not usually have sales representatives in countries when it bids from the United States, and this particular person's presence in Y is not necessary to enable A to make the bid.

A is not a bona fide resident of Y, because it has no legitimate business reasons for having its sales representative resident in Y.

(iii) A, a U.S. bank, wishes to establish a branch office in boycotting country Y. In pursuit of that objective, A's personnel visit Y to make the necessary arrangements. A intends to establish a permanent branch office in Y after the necessary arrangements are made.

A's personnel in Y are not bona fide residents of Y, because A does not yet have a permanent business operation in Y.

(iv) Same as (iii), except A's personnel are required by Y's laws to furnish certain nondiscriminatory boycott information in order to establish a branch in Y.

In these limited circumstances, A's personnel may furnish the non-discriminatory boycott information necessary to establish residency to the same extent a U.S. person who is a bona fide resident in that country could. If this information could not be furnished in such limited circumstances, the exception would be available only to firms resident in a boycotting country before the effective date of this Part.

(v) A, a U.S. construction company, receives an invitation to build a power plant in boycotting country Y. After receipt of the invitation, A's personnel visit Y in order to survey the site and make necessary analyses in preparation for submitting a bid. The invitation requires that otherwise prohibited boycott information be furnished with the bid.

A's personnel in Y are not bona fide residents of Y, because A has no permanent business operation in Y. Therefore, A's personnel may not furnish the prohibited information.

(vi) Same as (v), except that A is considering establishing an office in boycotting country Y. A's personnel visit Y in order to register A to do business in that country. A intends to establish ongoing construction operations in Y. A's personnel are required by Y's laws to furnish certain non-discriminatory boycott information in order to register A to do business or incorporate a subsidiary in Y.

In these limited circumstances, A's personnel may furnish non-discriminatory boycott information necessary to establish residency to the same extent a U.S. person who is a bona fide resident in that country could. If this information could not be furnished in such limited circumstances, the exception would be available only to firms resident in a boycotting country before the effective date of this Part.

(vii) A, a subsidiary of U.S. oil company B, is located in boycotting country Y. A has been engaged in oil explorations in Y for a number of years.

A is a bona fide resident of Y, because of its pre-existing continuous presence in Y for legitimate business reasons.

(viii) Same as (vii), except that A has just been established in Y and has not yet begun operations.

A is a bona fide resident of Y, because it is present in Y for legitimate business reasons and it intends to reside continuously.

(ix) U.S. company A is a manufacturer of prefabricated homes. A builds a plant in boycotting country Y for purposes of assembling components made by A in the United States and shipped to Y.

A's personnel in Y are bona fide residents of Y, because A's plant in Y is established for legitimate business reasons, and it intends to reside continuously.

(x) U.S. company A has its principal place of business in the United States. A's sales agent visits boycotting country Y from time to time for purposes of soliciting orders.

A's sales agent is not a bona fide resident of Y, because such periodic visits to Y are insufficient to establish a bona fide residency.

(xi) A, a branch office of U.S. construction company B, is located in boycotting country Y. The branch office has been in existence for a number of years and has been performing various management services in connection with B's construction operations in Y.

A is a bona fide resident of Y, because of its longstanding presence in Y and its conduct of ongoing operations in Y.

(xii) U.S. construction company A has never done any business in boycotting country Y. It is awarded a contract to construct a hospital in Y, and preparatory to beginning construction, sends its personnel to Y to set up operations.

A's personnel are bona fide residents of Y, because they are present in Y for the purpose of carrying out A's legitimate business purposes; they intend to reside continuously; and residency is necessary to conduct their business.

(xiii) U.S. company A manufactures furniture. All its sales in foreign countries are conducted from its offices in the United States. From time to time A has considered opening sales offices abroad, but it has concluded that it is more efficient to conduct sales operations from the United States. Shortly after the effective date of this Part, A sends a sales representative to boycotting country Y to open an office in and solicit orders from Y. It is more costly to conduct operations from that office than to sell directly from the United States, but A believes that if it establishes a residence in Y, it will be in a better position to avoid conflicts with U.S. law in its sales to Y.

A's sales representative is not a bona fide resident of Y, because the residency was established to avoid the application of this Part and not for legitimate business reasons.

(xiv) Same as (xiii), except that it is in fact more efficient to have a sales office in Y. In fact, without a sales office in Y, A would find it difficult to explore business opportunities in Y. A is aware, however, that residency in Y would permit its sales representative to comply with Y's boycott laws.

A's sales representative is a bona fide resident of Y, because A has a legitimate business reason for establishing a sales office in Y.

(xv) U.S. company B is a computer manufacturer. B sells computers and related programming services tailored to the needs of individual clients. Because of the complex nature of the product, B must have sales representatives in any country where sales are made. B has a sales representative, A, in boycotting country Y. A spends two months of the year in Y, and the rest of the year in other countries. B has a permanent sales office from which A operates while in Y, and the sales office is stocked with brochures and other sales materials.

A is a bona fide resident of Y, because his presence in Y is necessary to carry out B's legitimate business purposes; B maintains a permanent office in Y; and B intends to continue doing business in Y in the future.

(xvi) A, a U.S. construction engineering company, is engaged by B, a U.S. general contracting company, to provide services in connection with B's contract to construct a hospital complex in boycotting country Y. In order to perform those services, A's engineers set up a temporary office in a trailer on the construction site in Y. A's work is expected to be completed within six months.

A's personnel in Y are bona fide residents of Y, because A's on-site office is necessary to the performance of its services for B, and because A's personnel are continuously there.

(xvii) A, a U.S. company, sends one of its representatives to boycotting country Y to explore new sales possibilities for its line of transistor radios. After spending several weeks in Y, A's representative rents a post office box in Y; to which all persons interested in A's products are directed to make inquiry.

A is not a bona fide resident of Y, because rental of a post office box is not a sufficient presence in Y to constitute residency.

(xviii) A, a U.S. computer company, has a patent and trademark registered in the United States. In order to obtain registration of its patent and trademark in boycotting country Y, A is required to furnish certain non-discriminatory boycott information.

A may not furnish the information, because A is not a bona fide resident of Y.

(f-1) *Activities Exclusively Within a Foreign Country.* (1) Any United States person who is a bona fide resident of a foreign country, including a boycotting country, may comply or agree to comply with the laws of that country with respect to his activities exclusively within that country. These activities include:

(i) entering into contracts which provide that local law applies or governs, or that the parties will comply with such laws;

(ii) employing residents of the host country;

(iii) retaining local contractors to perform work within the host country;

(iv) purchasing or selling goods or services from or to residents of the host country; and

(v) furnishing information within the host country.

(2) Activities exclusively within the country do not include importing goods or services from outside the host country, and, therefore, this part of the exception does not apply to compliance with import laws in connection with importing goods or services.

EXAMPLES OF PERMISSIBLE COMPLIANCE WITH LOCAL LAW WITH RESPECT TO ACTIVITIES EXCLUSIVELY WITHIN A FOREIGN COUNTRY

The following examples are intended to give guidance in determining the circumstances in which compliance with local law is permissible. They are illustrative, not comprehensive.

ACTIVITIES EXCLUSIVELY WITHIN A FOREIGN COUNTRY

(i) U.S. construction company A, a bona fide resident of boycotting country Y, has a contract to build a school complex in Y. Pursuant to Y's boycott laws, the contract requires A to refuse to purchase supplies from certain local merchants. While Y permits such merchants to operate within Y, their freedom of action in Y is constrained because of their relationship with boycotted country X.

A may enter into the contract, because dealings with local merchants are activities exclusively within Y.

(ii) A, a banking subsidiary of U.S. bank B, is a bona fide resident of boycotting country Y. From time to time, A purchases office supplies from the United States.

A's purchase of office supplies is not an activity exclusively within Y, because it involves the import of goods from abroad.

(iii) A, a branch of U.S. bank B, is a bona fide resident of boycotting country Y. Under Y's boycott laws, A is required to supply information about whether A has any dealings with boycotted country X. A compiles and furnishes the information within Y and does so of its own knowledge.

A may comply with that requirement, because in compiling and furnishing the information within Y, based on its own knowledge, A is engaging in an activity exclusively within Y.

(iv) Same as (iii), except that A is required to supply information about B's dealings with X. From its own knowledge and without making any inquiry of B, A compiles and furnishes the information.

A may comply with that requirement, because in compiling and furnishing the information within Y, based on its own knowledge, A is engaging in an activity exclusively within Y.

(v) Same as (iv), except that in making its responses, A asks B to compile some of the information.

A may not comply, because the gathering of the necessary information takes place partially outside Y.

(vi) U.S. company A has applied for a license to establish a permanent manufacturing facility in boycotting country Y. Under Y's boycott law, A must agree, as a condition of the license, that it will not sell any of its output to blacklisted foreign firms.

A may not comply, because the agreement would govern activities of A which are not exclusively within Y.

DISCRIMINATION AGAINST UNITED STATES PERSONS

(i) A, a subsidiary of U.S. company B, is a bona fide resident of boycotting country Y. A manufactures air conditioners in its plant in Y. Under Y's boycott laws, A must agree not to hire nationals of boycotted country X.

A may agree to the restriction and may abide by it with respect to its recruitment of individuals within Y, because the recruitment of such individuals is an activity exclusively within Y. However, A cannot abide by this restriction with respect to its recruit-

ment of individuals outside Y, because this is not an activity exclusively within Y.

(ii) Same as (i), except that pursuant to Y's boycott laws A must agree not to hire anyone who is of a designated religion.

A may not agree to this restriction, because the agreement calls for discrimination against U.S. persons on the basis of religion. It makes no difference whether the recruitment of the U.S. persons occurs within or withour Y. (NOTE: The exception for compliance with local law does not apply to boycott-based refusals to employ U.S. persons on the basis of race, religion, sex, or national origin even if the activity is exclusively within the boycotting country.)

(f-2) *Compliance with Local Import Law.* (1) Any United States person who is a bona fide resident of a foreign country, including a boycotting country, may, in importing goods, materials or components into that country, comply or agree to comply with the import laws of that country, provided that:

(i) the items are for his own use or for his use in performing contractual services within that country; *and*

(ii) in the normal course of business, the items are identifiable as to their source or origin at the time of their entry into the foreign country by (*a*) uniqueness of design or appearance; or (*b*) trademark, trade name, or other identification normally on the items themselves, including their packaging.

(2) The factors that will be considered in determining whether a United States person is a bona fide resident of a foreign country are those set forth in section 369.3(f) above. Bona fide residence of a United States company's subsidiary, affiliate, or other permanent establishment in a foreign country does not confer such residence on such United States company. Likewise, bona fide residence of a United States company's employee in a foreign country does not confer such residence on the entire company.

(3) A United States person who is a bona fide resident of a foreign country may take action under this exception through an agent outside the country, but the agent must act at the direction of the resident and not exercise his own discretion. Therefore, if a United States person resident in a boycotting country takes action to comply with a boycotting country's import law with respect to the importation of qualified goods, he may direct his agent in the United States on the action to be taken, but the United States agent himself may not exercise any discretion.

(4) For purposes of this exception, the test that governs whether goods or components of goods are specifically identifiable is identical to the test applied in section 369.3(c) on "Compliance With Unilateral Selection" to determine whether they are identifiable as to their source or origin in the normal course of business.

(5) The availability of this exception for the import of goods depends on whether the goods are intended for the United States person's own use at the time they are imported. It does not depend upon who has title to the goods at the time of importation into a foreign country.

(6) Goods are for the United States person's own use (including the performance of contractual services within the foreign country) if:

(i) they are to be consumed by the United States person;

(ii) they are to remain in the United States person's possession and to be used by that person;

(iii) they are to be used by the United States person in performing contractual services for another;

(iv) they are to be further manufactured, incorporated into, refined into, or reprocessed into another product to be manufactured for another; *or*

(v) they are to be incorporated into, or permanently affixed as a functional part of, a project to be constructed for another.

(7) Goods acquired to fill an order for such goods from another are not for the United States person's own use. Goods procured for another are not for one's own use, even if the furnishing of procurement services is the business in which the United States person is customarily engaged. Nor are goods obtained for simple resale acquired for one's own use, even if the United States person is engaged in the retail business. Likewise, goods obtained for inclusion in a turnkey project are not for one's own use if they are not customarily incorporated into, or do not customarily become permanently affixed as a functional part of, the project.

(8) This part of the local law exception does not apply to the import of services, even when the United States person importing such services is a bona fide resident of a boycotting country and is importing them for his own use. In addition, this exception is available for a United States person who is a bona fide resident of a foreign country only when the individual or entity actually present within that country takes action through the exercise of his own discretion.

(9) Use of this exception will be monitored and continually reviewed to determine whether its continued availability is consistent with the national interest. Its availability may be limited or withdrawn as appropriate. In reviewing the continued availability of this exception, the effect that the inability to comply with local import laws would have on the economic and other relations of the United States with boycotting countries will be considered.

(10) A United States person who is a bona fide resident of a foreign country may comply or agree to comply with the host country's import laws even if he knows or has reason to know that particular laws are boycott-related. However, no United States person may comply or agree to comply with any host country law which would require him to discriminate against any United States person on the basis of race, religion, sex, or national origin, or to supply information about any United States person's race, religion, sex, or national origin.

EXAMPLES OF PERMISSIBLE COMPLIANCE WITH LOCAL IMPORT LAW

The following examples are intended to give guidance in determining the circumstances in which compliance with local import law is permissible. They are illustrative, not comprehensive.

COMPLIANCE BY A BONA FIDE RESIDENT

(i) A, a subsidiary of U.S. company B, is a bona fide resident of boycotting country Y and is engaged in oil drilling operations in Y. In acquiring certain large, specifically identifiable products for carrying out its operations in Y, A chooses only from non-blacklisted firms because Y's import laws prohibit the importation of goods from blacklisted firms. However, with respect to smaller items, B makes the selection on behalf of A and sends them to A in Y.

A may choose from non-blacklisted firms, because it is a U.S. person who is a bona fide resident in Y. However, because B is not resident in Y, B cannot make boycott-based selections to conform with Y's import laws prohibiting the importation of goods from blacklisted firms.

(ii) Same as (i), except that after making its choices on the larger items, A directs B to carry out its instructions by entering into appropriate contracts and making necessary shipping arrangements.

B may carry out A's instructions provided that A, a bona fide resident of Y, has in fact made the choice and B is exercising no discretion, but is acting only as A's agent. (NOTE: Such transactions between related companies will be scrutinized carefully. A must in fact exercise the discretion and make the selections. If the discretion is exercised by B, B would be in violation of this Part.)

(iii) U.S. construction company A has a contract to build a school in boycotting country Y. A's employees set up operations in Y for purposes of commencing construction. A's employees in Y advise A's headquarters in the United States that Y's import laws prohibit importation of goods manufactured by blacklisted firms. A's headquarters then issues invitations to bid only to non-blacklisted firms for certain specifically identifiable goods.

A's headquarters' choice of non-blacklisted suppliers is not a choice made by a U.S. person who is a bona fide resident of Y, because the discretion in issuing the bids was exercised in the United States, not in Y.

(iv) Same as (iii), except that A's employees in Y actually make the decision regarding to whom the bids should be issued.

The choices made by A's employees are choices made by U.S. persons who are bona fide residents of Y, because the discretion in choosing was exercised solely in Y. (NOTE: Choices purportedly made by employees of U.S. companies who are resident in boycott-

ing countries will be carefully scrutinized to ensure that the discretion was exercised entirely in the boycotting country.)

SPECIFICALLY IDENTIFIABLE GOODS

The test and examples as to what constitutes specifically identifiable goods are identical to those applicable under section 369.3(c) on "Compliance With Unilateral Selection".

IMPORTS FOR U.S. PERSON'S OWN USE

(i) A, a subsidiary of U.S. company B, is a bona fide resident of boycotting country Y. A plans to import computer operated machine tools to be installed in its automobile plant in boycotting country Y. The computers are mounted on a separate bracket on the side of the equipment and are readily identifiable by brand name. A orders the tools from U.S. supplier C and specifies that C must incorporate computers manufactured by D, a non-blacklisted company. A would have chosen computers manufactured by E, except that E is blacklisted, and Y's import laws prohibit the importation of goods manufactured by blacklisted firms.

A may refuse to purchase E's computers, because A is importing the computers for its own use in its manufacturing operations in Y.

(ii) A, a subsidiary of U.S. company B, is a bona fide resident of boycotting country Y. To meet the needs of its employees in Y, A imports certain specifically identifiable commissary items for sale, such as cosmetics; and canteen items, such as candy. In selecting such items for importation into Y, A chooses items made only by non-blacklisted firms, because Y's import laws prohibit importation of goods from blacklisted firms.

A may import these items only from non-blacklisted firms, because the importation of goods for consumption by A's employees is an importation for A's own use.

(iii) A, a U.S. construction company which is a bona fide resident of boycotting country Y, has a contract to build a hospital complex for the Ministry of Health in Y. Under the contract, A will be general manager of the project with discretion to choose all subcontractors and suppliers. The complex is to be built on a turnkey basis, with A retaining title to the property and bearing all financial risk until the complex is conveyed to Y. In choosing specifically identifiable goods for import, such as central air conditioning units and plate glass, A excludes blacklisted suppliers in order to comply with Y's import laws. These goods are customarily incorporated into, or permanently affixed as a functional part of, the project.

A may refuse to deal with blacklisted suppliers of specifically identifiable goods, because importation of goods by a general contractor to be incorporated into a construction project in Y is an importation of goods for A's own use.

(iv) Same as (iii), except that, in addition, in choosing U.S. architects and engineers to work on the project, A excludes blacklisted firms, because Y's import laws prohibit the use of services rendered by blacklisted persons.

A may not refuse to deal with blacklisted architectural or engineering firms, because this exception does not apply to the import of services. It is irrelevant that, at some stage, the architectural or engineering drawings or plans may be brought to the site in Y. This factor is insufficient to transform such services into "goods" for purposes of this exception.

(v) Same as (iii), except that the project is to be completed on a "cost plus" basis, with Y making progress payments to A at various stages of completion.

A may refuse to deal with blacklisted suppliers of specifically identifiable goods, because the importation of goods by A to be incorporated in a project A is under contract to complete is an importation of goods for its own use. The terms of payment are irrelevant.

(vi) A, a U.S. construction company which is a bona fide resident of boycotting country Y, has a contract for the construction of an office building in Y on a turnkey basis. In choosing goods to be used or included in the office complex, A orders wallboard, office partitions, and lighting fixtures from non-blacklisted manufacturers. A likewise orders desks, office chairs, typewriters, and office supplies from non-blacklisted manufacturers.

Because they are customarily incorporated into or permanently affixed as a functional part of an office building, the wallboard, office partitions, and lighting fixtures are for A's own use, and A may select non-blacklisted suppliers of these goods in order to comply with Y's import laws. Because they are not customarily incorporated into or permanently affixed to the project, the desks, office chairs, typewriters, and office supplies are not for A's own use, and A may not make boycott-based selections of the suppliers of these goods.

(vii) A, a U.S. company engaged in the business of selling automobiles, is a bona fide resident of boycotting country Y. In ordering automobiles from time to time for purposes of stocking its inventory, A purchases from U.S. manufacturer B, but not U.S. manufacturer C, because C is blacklisted. Retail sales are subsequently made from this inventory.

A's import of automobiles from B is not an import for A's own use, because the importation of items for general inventory in a retail sales operation is not an importation for one's own use.

(viii) A, a U.S. company engaged in the manufacture of pharmaceutical products, is a bona fide resident of boycotting country Y. In importing chemicals for incorporation into the pharmaceutical products, A purchases from U.S. supplier B, but not U.S. supplier C, because C is blacklisted.

A may import chemicals from B rather than C, because the importation of specifically identifiable items for incorporation into another product is an importation for one's own use.

(ix) A, a U.S. management company which is a bona fide resident of boycotting country Y, has a contract with the Ministry of Education in Y to purchase supplies for Y's school system. From time to time, A purchases goods from abroad for delivery to various schools in Y.

A's purchase of goods for Y's school system does not constitute an importation of goods for A's own use, because A is acting as a procurement agent for another. A, therefore, cannot make boycott-based selections of suppliers of such school supplies.

(x) A, a U.S. company which is a bona fide resident of boycotting country Y, has a contract to make purchases for Y in connection with a construction project in Y. A is not engaged in the construction of, or in any other activity in connection with, the project. A's role is merely to purchase goods for Y and arrange for their delivery to Y.

A is not purchasing goods for its own use, because A is acting as a procurement agent for Y. A, therefore, cannot make boycott selections of suppliers of such goods.

(xi) A, a U.S. company which is a bona fide resident of boycotting country Y, imports specifically identifiable goods into Y for exhibit by A at a trade fair in Y. In selecting goods for exhibit, A excludes items made by blacklisted firms.

A's import of goods for its exhibit at a trade fair constitutes an import for A's own use. However, A may not sell in Y those goods it imported for exhibit.

FOR USE WITHIN BOYCOTTING COUNTRY

(i) A is a bona fide resident of boycotting countries Y and Z. In compliance with Y's boycott laws, A chooses specifically identifiable goods for its oil drilling operations in Y and Z by excluding blacklisted suppliers. The good are first imported into Y. Those purchased for A's use in Z are then transshipped to Z.

In selecting those goods for importation into Y, A is making an import selection for its own use, even though A may use some of the imported goods in Z. Further, the subsequent shipment from Y to Z of those goods purchased for use in Z is an import into Z for A's own use.

§ 369.4 Evasion.

(a) No United States person may engage in any transaction or take any other action, either independently or through any other person, with intent to evade the provisions of this Part. Nor may any United States person assist another United States person to violate or evade the provisions of this Part.

(b) The exceptions set forth in Sections 369.3 (a) through (f) of this Part do not permit activities or agreements (express or implied by a course of conduct, including a pattern of responses) which are otherwise prohibited by this Part and which are not within the intent of such exceptions. However, activities within the coverage and intent of the exceptions set forth in this Part do not constitute evasion regardless of how often such exceptions are utilized.

(c) Use of any artifice, device or scheme which is intended to place a person at a commercial disadvantage or impose on him special burdens because he is blacklisted or otherwise restricted for boycott reasons from having a business relationship with or in a boycotting country will be regarded as evasion for purposes of this Part.

(d) Unless permitted under one of the exceptions, use of risk of loss provisions that expressly impose a financial risk on another because of the import laws of a boycotting country may constitute evasion. If they are introduced after the effective date of this Part, their use will be presumed to constitute evasion. This presumption may be rebutted by a showing that such a provision is in customary usage without distinction between boycotting and non-boycotting countries and that there is a legitimate non-boycott reason for its use. On the

other hand, use of such a provision by a United States person subsequent to the effective date of this Part is presumed not to constitute evasion if the provision had been customarily used by that person prior to the effective date of this Part.

(e) Use of dummy corporations or other devices to mask prohibited activity will also be regarded as evasion. Similarly, it is evasion under this Part to divert specific boycotting country orders from a United States parent to a foreign subsidiary for purposes of complying with prohibited boycott requirements. However, alteration of a person's structure or method of doing business will not constitute evasion so long as the alteration is based on legitimate business considerations and is not undertaken solely to avoid the application of the prohibitions of this Part. The facts and circumstances of an arrangement or transaction will be carefully scrutinized to see whether appearances conform to reality.

EXAMPLES

The following examples are intended to give guidance to persons in determining circumstances in which this section will apply. They are illustrative, not comprehensive.

(i) A, a U.S. insurance company, receives a request from boycotting country Y asking whether it does business in boycotted country X. Because furnishing such information is prohibited, A declines to answer and as a result is placed on Y's blacklist. The following year, A's annual report contains new information about A's worldwide operations, including a list of all countries in which A does business. A then mails a copy of its annual report, which has never before contained such information, to officials of the government of country Y.

Absent some business justification unrelated to the boycott for changing the annual report in this fashion, A's action constitutes evasion of this Part.

(ii) A, a U.S. construction firm resident in boycotting country Y, orders lumber from U.S. company B. A unilaterally selects B in part because U.S. lumber producer C is blacklisted by Y and C's products are therefore not importable. In placing its order with B, A requests that B stamp its name or logo on the lumber so that A "can be certain that it is, in fact, receiving B's products." B does not normally so stamp its lumber, and A's purpose in making the request is to appear to fit within the unilateral selection exception of this Part.

Absent additional facts justifying A's action, A's action constitutes evasion of this Part.

(iii) A, a U.S. company, has been selling sewing machines to boycotting country Y for a number of years and routinely supplying negative certificates of origin. A is aware that the furnishing of negative certificates of origin will be prohibited after June 21, 1978 and, therefore, arranges to have all future shipments run through a foreign corporation in a third country which will affix the necessary certification before forwarding the machines on to Y.

A's action constitutes evasion of this Part, because it is a device to mask prohibited activity carried out on A's behalf.

(iv) A, a U.S. company, has been selling hand calculators to boycotting country Y for a number of years and routinely supplies negative certificates of origin. A is aware that the furnishing of such negative certificates will be prohibited after June 21, 1978. A thereupon ceases all direct sales to Y, and instead arranges to make all future sales to distributor B in a third country. A knows B will step in and make the sales to Y which A would otherwise have made directly. B will make the necessary negative certifications. A's warranty, which it will continue to honor, runs to the purchaser in Y.

A's action constitutes evasion, because the diverting of orders to B is a device to mask prohibited activity carried out on A's behalf.

(v) A, a U.S. company, is negotiating a long-term contract with boycotting country Y to meet all Y's medical supply needs. Y informs A that before such a contract can be concluded, A must complete Y's boycott questionnaire. A knows that it is prohibited from answering the questionnaire so it arranges for a local agent in Y to supply the necessary information.

A's action constitutes evasion of this Part, because it is a device to mask prohibited activity carried out on A's behalf.

(vi) A, a U.S. contractor which has not previously dealt with boycotting country Y, is awarded a construction contract by Y. Because it is customary in the construction industry for a contractor to establish an on-site facility for the duration of the project, A establishes such an office, which satisfies the requirements for bona fide residency. Thereafter, A's office in Y takes a number of actions permitted under the compliance with local law exception.

A's actions do not constitute evasion, because A's facility in Y was established for legitimate business reasons.

(vii) A, a controlled foreign subsidiary of U.S. company B, is located in non-boycotting country M. A and B both make machine tools for sale in their respective marketing regions. B's marketing region includes boycotting country Y. After assessing the requirements of this Part, B decides that it can no longer make machines for sale in Y. Instead, A decides to expand its facilities in M in order to service the Y market.

The actions of A and B do not constitute evasion, because there is a legitimate business reason for their actions. It is irrelevant that the effect may be to place sales which would otherwise have been subject to this Part beyond the reach of this Part.

(viii) A, a U.S. manufacturer, from time to time receives purchase orders from boycotting country Y which A fills from its plant in the United States. A knows that it is about to receive an order from Y which contains a request for a certification which A is prohibited from furnishing under this Part. In order to permit the certification to be made, A diverts the purchase order to its foreign subsidiary.

A's diversion of the purchase order constitutes evasion of this Part, because it is a device to mask prohibited activity carried out on A's behalf.

(ix) A, a U.S. company, is engaged in assembling drilling rigs for shipment to boycotting country Y. Because of potential difficulties in securing entry into Y of materials supplied by blacklisted firms, A insists that blacklisted firms take a 15 percent discount on all materials which they supply to A. As a result, no blacklisted firms are willing to transact with A.

A's insistence on the discount for materials supplied by blacklisted firms constitutes evasion of this Part, because it is a device or scheme which is intended to place a special burden on blacklisted firms because of Y's boycott.

(x) Same as (ix), except that shortly after the effective date of this Part, A insists that its suppliers sign contracts which provide that even after title passes from the supplier to A, the supplier will bear the risk of loss and indemnify A if goods which the supplier has furnished are denied entry into Y for boycott reasons.

A's action constitutes evasion of this Part, because it is a device or scheme which is intended to place a special burden on blacklisted persons because of Y's boycott.

(xi) Same as (x), except that A customarily insisted on such an arrangement with its suppliers prior to the effective date of this Part.

A's action is presumed not to constitute evasion, because use of this contractual arrangement was customary for A prior to the effective date of this Part.

(xii) A, a U.S. company, has a contract to supply automobile sub-assembly units to boycotting country Y. Shortly after the effective date of this Part, A insists that its suppliers sign contracts which provide that even after title passes to A, the supplier will bear the risk of loss and indemnify A if goods which the supplier has furnished are denied entry into boycotting country Y for whatever reason.

A's insistence on this arrangement is presumed to constitute evasion, because it is a device which is intended to place a special burden on blacklisted firms because of Y's boycott. The presumption may be rebutted by competent evidence showing that use of such an arrangement is customary without regard to the boycotting or non-boycotting character of the country to which it relates and that there is a legitimate non-boycott business reason for its use.

(xiii) Same as (xii), except that A requires that all suppliers make in-country delivery.

A's action does not constitute evasion, because it is an ordinary commercial practice to require in-country delivery of goods.

(xiv) Same as (xii), except that A requires that title remain with the supplier until delivery in Y has been made.

A's action does not constitute evasion, because it is ordinary commercial practice to require that title remain with the supplier until delivery has been made. This example is distinguishable from example (xii), because in example (xii) A had insisted on an extraordinary arrangement designed to require that the risk of loss remain with the supplier even after title had passed to A.

(xv) U.S. bank A is contacted by U.S. company B to finance B's transaction with boycotting country Y. Payment will be effected through a letter of credit in favor of B at its U.S. address. A knows that the letter of credit will contain restrictive boycott conditions which would bar its implementation by A if the beneficiary were a U.S. person. A suggests to B that the beneficiary should be changed to C, a shell corporation in non-boycotting country M. The beneficiary is changed accordingly.

A's action constitutes evasion of this Part, because the arrangement is a device to mask prohibited activity on A's part.

(xvi) Same as (xv), except that U.S. company B, the beneficiary of the letter of credit, arranges to change the beneficiary to B's foreign subsidiary so that A can implement the letter of credit. A knows that this has been done.

A's implementation of the letter of credit in the face of its knowledge of B's action

constitutes evasion of this Part, because its action is part of a device to mark prohibited activity on A's part.

(xvii) U.S. bank A, located in the United States, is contacted by foreign company B to finance B's transaction with boycotting country Y. B is a controlled subsidiary of a U.S. company. The transaction which is to be financed with a letter of credit payable to B at its foreign address, requires B to certify that none of its board members are of a particular religious faith. Since B cannot legally furnish the certificate, it asks A to convey the necessary information to Y through A's bank branch in Y. Such information would be furnished wholly outside the letter of credit transaction.

A's action constitutes evasion of this Part, because it is undertaken to assist B's violation of this Part.

(xviii) U.S. bank A is asked by foreign corporation B to implement a letter of credit in favor of B so that B might perform under its long-term contract with boycotting country Y. Under the terms of the letter of credit, B is required to certify that none of its suppliers is blacklisted. A knows that it cannot implement a letter of credit with this condition, so it tells B to negotiate the elimination of this requirement from the letter of credit and instead supply the certification to Y directly.

A's suggestion to B that it provide the negative certification to Y directly constitutes evasion of this Part, because A is taking an action through another person to mask prohibited activity on A's part.

§ 369.5 Grace Period.

GRACE PERIOD MECHANISM

(a) For written contracts or other agreements entered into by any United States person on or before May 16, 1977, the application of the rules and regulations issued pursuant to this Part shall be delayed until December 31, 1978. Hence, actions otherwise prohibited by this Part may be taken in compliance with the requirements of such agreements until the expiration of the grace period.

(b) This grace period may be extended on a case-by-case basis for a period or periods totaling not longer than one year (to December 31, 1979) provided that:

(1) good faith efforts are being made to renegotiate the contract or agreement to eliminate provisions which are inconsistent with the rules and regulations of this Part; *and*

(2) application for any extension is made, in writing, to the Deputy Assistant Secretary for Trade Regulation, United States Department of Commerce, Washington, D.C. 20230.

Each application must contain a complete statement of all the facts and circumstances related to the application, as well as a full and precise statement of why the applicant believes his extension should be granted. Any additional evidence or documentation which the applicant believes will support his position should be submitted.

(c) The decision of the Deputy Assistant Secretary for Trade Regulation will be the final decision for the Department, and will be issued to the applicant in writing. In reaching such decision, the Deputy Assistant Secretary may consult with representatives of government agencies and members of the public as he deems appropriate.

(d) For purposes of this section, good faith efforts may include:

(1) ongoing negotiations, even if no actual agreement has been reached, if it appears that the parties are striving for such agreement;

(2) compliance in fact by the United States person with the rules and regulations of this Part, even if the language of the contract or agreement has not yet been changed; or

(3) documentation that efforts are being made to bring the contract or agreement into compliance with the rules and regulations of this Part.

(e) No extensions may be granted past December 31, 1979.

(f) The mere existence of an agreement containing provisions which are prohibited under this Part is not a violation of this Part if entered into on or before the effective date of this Part. However, actions taken pursuant to such provisions after such effective date are in violation of this Part unless the agreement is subject to the grace period. In that event, such actions are in violation of this Part if taken after the expiration of the grace period.

EXAMPLES OF THE GRACE PERIOD MECHANISM

The following examples are intended to give guidance in determining the applicability of the grace period mechanism. They are illustrative, not comprehensive.

(i) A, a U.S. manufacturer, entered into a contract on March 13, 1977, to supply medical equipment not later than June 20, 1978, to B, a state-owned hospital of boycotting country Y. Under the terms of the contract, A is not permitted to purchase electrical componenets for the equipment from supplier C, who is blacklisted by Y.

A may comply with the terms of the contract after the effective date of this Part, because the contract was entered into on or before May 16, 1977, and the otherwise prohibited action would take place during the grace period.

(ii) Same as (i), except that the contract requires annual purchases and deliveries of medical equipment on June 20, 1978, June 20 1979, and June 20, 1980.

If A has made good faith efforts to renegotiate the contract to eliminate the provisions inconsistent with this Part, A may apply for and the Deputy Assistant Secretary for Trade Regulation may grant an appropriate extension of the grace period up to December 31, 1979. However, in no event may the grace period be extended to cover purchases and deliveries made after that date.

(iii) Same as (ii), except that A has been granted an extension of the grace period through December 31, 1979.

A may not receive any further extensions and may not take any action after December 31, 1979, which is inconsistent with this Part.

(iv) A, a U.S. management firm, entered into a services contract on May 1, 1977, with B, a retail chain in boycotting country Y. Subsequent to May 16, 1977, but before December 31, 1978, the payment schedule and other provisions of the contract unrelated to the boycott are amended by the parties.

The applicability of the grace period is not altered by amendments to the contract or agreement which are made for business reasons after May 16, 1977.

(v) Same as (iv), except that subsequent to May 16, 1977, but before December 31, 1978, the parties amend the contract so as to require A to engage in certain boycott activities prohibited by this Part.

Grace period treatment is not applicable to prohibited boycott conditions agreed to after May 16, 1977.

(vi) A, a U.S. aircraft manufacturer, entered into an agreement with boycotting country Y on September 15, 1977, after the May 16, 1977 date for qualifying for the grace period but before the effective date of this Part.

A's contract does not qualify for grace period treatment, and A may not take any action pursuant to the September 15, 1977 contract after the effective date of this Part if such action would be inconsistent with this Part.

(vii) A, a U.S. computer manufacturer, entered into a licensing agreement with boycotting country Y in 1974. Pursuant to that agreement, A agreed not to open a manufacturing plant in boycotted country X for a period of 10 years.

Absent an extension of the grace period, A may not act in compliance with this contract provision after December 31, 1978. Although A has no affirmative obligation to open a plant in X, any decision after December 31, 1978, not to open a plant in X because of A's agreement with Y would constitute a refusal to deal with X.

(viii) A, a U.S. manufacturer of bicycles, has a contract to supply bicycles to boycotting country Y. The contract was entered into on June 1, 1977, and calls for deliveries on June 1, 1978, and June 1, 1979. In the contract, A has agreed that none of the parts of the bicycles will be supplied by blacklisted firms.

The contract, which was entered into after May 16, 1977, is not entitled to grace period treatment. However, the mere existence of the contract on the effective date of this Part is not a violation of this Part, and no violation occurs unless and until A takes action to exclude blacklisted firms from purchases for shipments to Y.

(ix) A, a U.S. distributor, has been negotiating with boycotting country Y since April 1977, over terms of a proposed contract. Final agreement is not reached and a contract is not signed until May 31, 1977.

The contract does not qualify for grace period treatment, and A may not backdate the contract to May 16, 1977, to take advantage of the grace period.

(x) Same as (ix), but although the final agreement is concluded on May 10, 1977, the written instrument is not signed until May 20. The agreement was legally enforceable on May 10.

The agreement qualifies for grace period treatment.

(xi) U.S. company B has a contract with boycotting country Y to supply a certain quantity of air conditioners each month over a two-year period. B's contract was entered into on May 15, 1977, and thus qualifies for grace period treatment. The con-

tract specifies that each shipment be accompanied by a certification that none of the components of the air conditioners were supplied by any company blacklisted by Y. B has asked U.S. freight forwarder A to handle the shipments and make any necessary certifications.

A may make the monthly certifications as long as B's contract with Y qualifies for grace period treatment.

[FR Doc. 78-1921 Filed 1-18-78; 4:39 pm]

federal register

WEDNESDAY, JANUARY 25, 1978
PART IV



DEPARTMENT OF THE INTERIOR

Office of the Secretary

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

■

ANG COAL GASIFICATION CO. ET AL.

Final Environmental Statement

[4310-09]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[INT FES 78-1]

ANG COAL GASIFICATION COMPANY; NORTH DAKOTA PROJECT

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement on a coal gasification project proposed by ANG Coal Gasification Company for Mercer County, N. Dak. The statement covers impacts of construction and operation of the gasification plant and its associated facilities (i.e., coal mine, railroad spur, water intake and pipeline, and product delivery pipeline). It also addresses major cumulative impacts of construction and operation of an 880-MW coal-fired electric generating plant proposed for construction adjacent to the gasification plant.

Copies are available for inspection at the following locations:

Office of Assistant to the Commissioner, Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, Telephone 202-343-4991.

Division of Engineering Support, Technical Services Branch, E&R Center, Denver Federal Center, Denver, Colo. 80225.

Office of the Regional Director, Bureau of Reclamation, P.O. Box 2553, Federal Building, Billings, Mont. 59103, Telephone 406-657-6214.

Missouri-Souris Projects Office, Bureau of Reclamation, P.O. Box 1017, Bismarck, N. Dak. 58501, Telephone 701-255-4011.

Single copies of the final environmental statement may be obtained upon request to the Commissioner of Reclamation or the Regional Director. Please refer to the statement number above.

Dated: January 20, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-2120 Filed 1-24-78; 8:45 am]

[6740-2]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP75-278, et al.]

ANG COAL GASIFICATION CO., NORTH DAKOTA PROJECT

Intent To Partially Adopt the Department of the Interior's Final Environmental Impact Statement

JANUARY 19, 1978.

In the matter of Michigan Wisconsin Pipe Line Co., ANG Coal Gasification Co., Great Lakes Gas Transmission Co., PGC Coal Gasification Co. and Natural Gas Pipeline Company of America.

Notice is hereby given in the above docket that on January 19, 1978, a Final Environmental Impact Statement (FEIS), "ANG Coal Gasification Company (ANGCGC), North Dakota Project," prepared by the Department of the Interior, Bureau of Reclamation (Interior), was made available. Since Interior has the responsibility for permitting ANGCGC to use the 17,000 acre-feet of water required annually from Garrison Reservoir for coal gasification needs through a 40-year water service contract, the Federal Energy Regulatory Commission (FERC) has recognized Interior as the lead agency for the preparation of this environmenatal impact statement (EIS).

The application by ANGCGC and Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin), filed originally with the Federal Power Commission (now FERC) on March 26, 1975, in Docket No. CP75-278, pursuant to section 7(c) of the Natural Gas Act, requested authorization for the sale by ANGCGC to Michigan Wisconsin of synthetic natural gas (SNG) produced from coal commingled with natural gas and for construction and operation by Michigan Wisconsin of pipeline and compressor facilities to enable it to receive and transport such gas to its existing customers. Great Lakes Gas Transmission Co. (Great Lakes) filed an application on March 31, 1975, with the Federal Power Commission (FPC) in Docket No. CP75-283 requesting authorization for transportation of SNG produced from coal commingled with natural gas for the account of ANGCGC and for construction, modification, and operation of facilities to enable it to receive and transport such gas. On August 8, 1977, Peoples Gas Co., through its subsidiaries PGC Coal Gasification Co. (PGC) and Natural Gas Pipeline Company of America (Natural), filed an application with the FPC In Docket No. CP77-556 requesting authorization for the sale by PGC to Natural of SNG commingled with natural gas, pursuant to a co-ownership arrangement between PGC and ANR Gasification Properties Company. Under that agreement, ANGCGC would become the project administrator. The three applications have been consolidated for hearing in Docket Nos. CP75-278, et al.

The overall proposal by ANGCGC, et al., would involve construction of a gasification complex with attendant water intake, railroad, and mining facilities; approximately 365 miles of new 20-inch diameter SNG pipeline to be installed in existing railroad rights-of-way (with a few minor exceptions): two new 7,600-horsepower (hp) SNG compressor stations; an interconnection between the SNG facilities and existing interstate natural gas transportation facilities; approximately 245 miles of 36-inch and 30-inch diameter pipeline looping; and 20,000 horsepower of additional compressor facilities at existing compressor stations. Except for the interconnection, the 36-inch and 30-inch diameter pipeline looping, and the 20,000 horsepower of additional compressor facilities which will be discussed in the FERC hearings,[1] the proposal is described and the environmental impact identified and evaluated in the Interior FEIS.

In order to fulfill the requirements of § 2.82(b) of the Commission's General Policy and Interpretations (18 CFR 2.82(b)) which complies with the National Environmental Policy Act of 1969, it is the intention of the FERC staff to adopt parts of the Interior FEIS in lieu of preparing a separate EIS. Interior's FEIS will be incorporated into the record developed in the FERC proceedings in Docket Nos. CP75-278, et al.

The following parts of Interior's FEIS will be adopted by the FERC staff:

(i) *Chapter 1.—Description of proposed project.* (Except the last paragraph of Section 1.5.2 on Pages 1-18, "Land Requirements," which discusses the 36-inch and 30-inch diameter pipeline looping and the 20,000 horsepower of additional compressor facilities.)

The last paragraph of section 1.5.2, "Land Requirements," states that the 217 miles of 36-inch and 28 miles of 30-inch diameter pipeline looping and the 20,000 horsepower of additional compression mentioned earlier (for which construction authorization has been requested to enable Great Lakes and Michigan Wisconsin to transport SNG commingled with natural gas) "may be required" and that "the impacts of these additional facilities are beyond the scope of this EIS." The analysis is therefore incomplete in that it only assesses the impact of facilities and operations up to the interconnection (gas commingling point), without regard to facilities which would be required to transport the commingled gas to the market area. For this reason, the FERC staff does not adopt this portion of the FEIS.

(ii) *Chapters 2 to 8.—Description of existing environment; environmental impacts of proposed action; mitigating measures and air and water quality aspects; unavoidable adverse effects; the relationship between local short-term uses of man's environment and the maintenance and enhancement of*

[1] Note that only those facilities required to receive the SNG (i.e., the interconnection) and to transport the commingled gas are presently under the jurisdiction of the FERC.

long-term productivity; irreversible and irretrievable commitment of resources; alternatives to the proposed action. (Except the portion of Chapter 8, section 8.2.2 Alternative Product Pipeline Routes, "Connect with Northern Border Pipeline" on Pages 8-18.)

The subsection of Chapter 8, section 8.2.2, "Connect with Northern Border Pipeline," briefly addresses the feasibility of constructing an alternative 25-mile long SNG pipeline between the gasification complex and interstate pipeline facilities proposed by Northern Border Pipeline Co. (Northern Border) in Docket No. CP78-124 (for transporting Alaskan natural gas from the Saskatchewan-Montana border to Dwight, Illinois) in lieu of the 365-mile long SNG pipeline proposed by ANGCGC. Interior dismisses this alternative because of (a) questions as to whether the Northern Border pipeline (NBP) would be built, (b) changes in design capacity which would be required to enable the NBP to transport both Alaskan gas and the SNG, and (c) problems associated with intermixing the lower Btu SNG with the higher Btu Alaskan gas. Since the Northern Border proposal (part of the Alcan Pipeline Project) has received conditional certification by the FERC and since agreements similar to those which would be enacted at the commingling point proposed by ANGCGC could provide for intermixing the SNG and Alaskan gas, the FERC staff disagrees with the conclusion that the alternativer of connecting with the NBP "does not appear viable at this time" and deems the analysis of this alternative inadequate. Furthermore, the FERC staff has chosen to conduct additional analyses which will more substantially support or dismiss this alternative. For these reasons, the FERC staff does not adopt this portion of the FEIS.

(iii) *Chapter 9.—Consultation and coordination.*

(iv) *Appendices.* This section also contains comments which were received by Interior on the DEIS and Interior's responses to those comments.

Because Interior's FEIS does not adequately discuss the environmental impact of and alternatives to the facilities jurisdictional under the Natural Gas Act the FERC staff will prepare a supplemental environmental assessment of these facilities. This assessment, which will be available in the near future, will be incorporated into the record developed in the FERC proceeding in Docket Nos. CP75-278, *et al.* Copies of this assessment will be sent to all parties receiving Interior's FEIS, and other parties upon request.

The FERC is sending copies of the Interior FEIS to all parties in the FERC proceeding and to many Federal, state, and local parties. A list of Federal, state, and local parties to which Interior has sent copies of the DEIS is included in the summary sheet preceding Chapter 1 of the FEIS. Those parties to which Interior is sending copies of the FEIS are indicated on this list by an asterisk. In addition, Interior's FEIS is on file with the Commission and is available for public inspection at its Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426. Copies of Interior's FEIS may be obtained from the Commissioner, Bureau of Reclamation, Attention Code 150, 18th and C Street NW., Washington, D.C. 20240, and from the Regional Director, Bureau of Reclamation, Attention Code 160, Post Office Box 2553, Federal Office Building, 316 North 26th Street, Billings, Mont. 59103. Copies of Interior's FEIS are also available in limited quantiities from the FERC's Office of Public Information, Washington, D.C., and at its regional office located at 230 South Dearborn Street, Chicago, Ill. 60604.

Persons who have not intervened but who wish to present testimony and to argue environmental positions in this proceeding must comply with §§ 2.80 and 2.82(d) and (e) of the Commission's General Policy and Interpretations and § 1.8 of the Commission's Rules of Practice and Procedure. A copy of these regulations is attached.

LOIS D. CASHELL,
Acting Secretary.

FEDERAL POWER COMMISSION—ORDER 415-C

STATEMENT OF GENERAL POLICY TO IMPLEMENT PROCEDURES FOR COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

(Issued December 18, 1972)

Sec. 2.80 Detailed environmental statement.

(a) It shall be the general policy of the Federal Power Commission to adopt and to adhere to the objectives and aims of the National Environmental Policy Act of 1969 (NEPA) in its regulations under the Federal Power Act and the Natural Gas Act. The National Environmental Policy Act of 1969 requires, among other things, all Federal agencies to include a detailed environmental statement in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.

(b) Therefore, in compliance with the National Environmental Policy Act of 1969 the Commission staff shall make a detailed environmental statement when the regulatory action taken by us under the Federal Power Act and Natural Gas Act will have a significant environmental impact. A "detailed statement" prepared in compliance with the requirements of §§ 2.81 through 2.82 shall fully develop the five factors listed hereinafter in the context of such considerations as the proposed activity's direct and indirect effect on the air and water environment of the project or natural gas pipeline facility; on the land, air, and water biota; on established park and recreational areas; and on sites of natural, historic, and scenic values and resources of the area. The statement shall discuss the extent of the conformity of the proposed activity with all applicable environmental standards. The statement shall also fully deal with alternative courses of action to the proposal and, to the maximum extent practicable, the environmental effects of each alternative. Further, it shall specifically discuss plans for future development related to the application under consideration. The above factors are listed to merely illustrate the kinds of values that must be considered in that statement. In no respect is this listing to be construed as covering all relevant factors. The five factors which must be specifically discussed in the detailed statement are:

(1) The environmental impact of the proposed action.

(2) Any adverse environmental effects which cannot be avoided should the proposal be implemented.

(3) Alternatives to the proposed action.

(4) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity,

(5) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

(c)(1) To the maximum extent practicable no final administrative action is to be taken sooner than 90 days after a draft environmental statement has been circulated for comment or 30 days after the final text of an environmental statement has been made available to the Council on Environmental Quality and the public.

(2) Upon a finding that it is necessary and appropriate in the public interest, the Commission may dispense with any time period specified in §§ 2.80-2.82.

Sec. 2.82 Compliance with the National Environmental Policy Act of 1969 under the Natural Gas Act.

* * * * *

(d) In the case of each contested application, the applicant, staff, and all interveners taking a position on environmental matters shall offer evidence for the record in support of their environmental position. The applicant and all such interveners shall specify any differences with the staff's position, and shall include, among other relevant factors, a discussion of their position in the context of the factors enumerated in § 2.80.

(e) In the case of each contested application, the initial and reply briefs filed by the applicant, the staff, and all interveners taking a position on environmental matters must specifically analyze and evaluate the evidence in the light of the environmental criteria enumerated in §2.80. Furthermore, the initial decision of the presiding administrative law judge in such cases, and the final order of the Commission dealing with the application on the merits in all cases, shall include an evaluation of the environmental factors enumerated in §2.80 and the views and comments expressed in conjunction therewith by the applicant and all those making formal comment pursuant to the provisions of this section.

FEDERAL POWER COMMISSION

RULES OF PRACTICE AND PROCEDURE 18 CFR 1.8 INTERVENTION

Sec. 1.8 Intervention.

(a) *Initiation of intervention.* Participation in a proceeding as an intervener may be initiated as follows:

(1) By the filing of a notice of intervention by a State Commission, including any regulatory body of the State or municipality having jurisdiction to regulate rates and charges for the sale of electric energy, or natural gas, as the case may be, to consumers within the intervening State or municipality.

(2) By order of the Commission upon petition to intervene.

(b) *Who may petition.* A petition to intervene may be filed by any person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought. Such right or interest may be:

(1) A right conferred by statute of the United States;

(2) An interest which may be directly affected and which is not adequately represented by existing parties and as to which petitioners may be bound by the Commission's action in the proceeding (the following may have such an interest: Consumers served by the applicant, defendant, or respondent; holders of securities of the applicant, defendant, or respondent; and competitors of the applicant, defendant, or respondent).

(3) Any other interest of such nature that petitioner's participation may be in the public interest.

(c) *Form and contents of petitions.* Petitions to intervene shall set out clearly and concisely the facts from which the nature of the petitioner's alleged right or interest can be determined, the grounds of the proposed intervention, and the position of the petitioner in the proceeding, so as fully and completely to advise the parties and the Commission as to the specific issues of fact or law to be raised or controverted, by admitting, denying or otherwise answering, specifically and in detail, each material allegation of fact or law asserted in the proceeding, and citing by appropriate reference the statutory provisions or other authority relied on. *Provided,* That where the purpose of the proposed intervention is to obtain an allocation of natural gas for sale and distribution by a person or municipality engaged or legally authorized to engage in the local distribution of natural or artificial gas to the public, the petition shall comply with the requirements of Part 156 of this chapter (i.e., Regulations Under the Natural Gas Act). Such petitions shall in other respects comply with the requirements of §§ 1.15 to 1.17, inclusive.

(d) *Filing and service of petitions.* Petitions to intervene and notices of intervention may be filed at any time following the filing of a notice of rate or tariff change, or of an application, petition, complaint, or other document seeking Commission action, but in no event later than the date fixed for the filing of petitions to intervene in any order or notice with respect to the proceedings issued by the Commission or its Secretary, unless, in extraordinary circumstances for good cause shown, the Commission authorizes a late filing. Service shall be made as provided in §1.17. Where a person has been permitted to intervene notwithstanding his failure to file his petition within the time prescribed in this paragraph, the Commission or officer designated to preside may, where the circumstances warrant, permit the waiver of the requirements of §1.26(c)(5) with respect to copies of exhibits for such intervener.

(e) *Answers to petitions.* Any party to the proceeding or staff counsel may file an answer to a petition to intervene, and in default thereof, may be deemed to have waived any objection to the granting of such petition. If made, answers shall be filed within 15 days after the date of service of the petition, but not later than 5 days prior to the date set for the commencement of the hearing, if any, unless for cause the Commission with or without motion shall prescribe a different time. They shall in all other respects conform to the requirements of §§ 1.15 to 1.17, inclusive.

(f) *Notice and action on petitions—*

(1) *Notice and service.* Petitions to intervene, when tendered to the Commission for filing, shall show service thereof upon all participants to the proceeding in conformity with §1.17(b).

(2) *Action on petitions.* As soon as practicable after the expiration of the time for filing anwers to such petitions or default thereof, as provided in paragraph (e) of this section, the Commission will grant or deny such petition in whole or in part or may, if found to be appropriate, authorize limited participation. No petitions to intervene may be filed or will be acted upon during a hearing unless permitted by the Commission after opportunity for all parties to object thereto. Only to avoid detriment to the public interest will any presiding officer tentatively permit participation in a hearing in advance of, and then only subject to, the granting by the Commission of a petition to intervene.

(g) *Limitation in hearings.* Where there are two or more interveners having substantially like interests and positions, the Commission or presiding officer may, in order to expedite the hearing, arrange appropriate limitations on the number of attorneys who will be permitted to cross-examine and make and argue motions and objections on behalf of such interveners.

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