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federal register

FRIDAY, MARCH, 3, 1978

highlights

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

Reservations for March 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.

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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.

federal register

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(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.)

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Secy—Nondiscrimination in federally assisted programs: effectuation of title VI of the Civil Rights Act of 1964 ..... 4259; 2–1–78
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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.

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rules and regulations

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Correction

AGENCY: Civil Service Commission.

ACTION: Correction to final rule.

SUMMARY: This amends the title of the position excepted under schedule C in the U.S. Parole Commission, Department of Justice which was incorrectly given in the document published in the FEDERAL REGISTER of February 17, 1978 on page 6914.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly 5 CFR 213.3310(z)(1) should read as follows:

§ 213.3310 Department of Justice.

* * * * *

(z) *U.S. Parole Commission.*

(1) One Confidential Assistant (Private Secretary) to the Chairman, U.S. Parole Commission.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-5634 Filed 3-2-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare and ACTION

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment to the regulations shows certain positions for Department of Health, Education, and Welfare, and ACTION are excepted under Schedule C because they are confidential in nature.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3316(h)(13) and 213.3359(cc) are added as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(h) *Office of the Assistant Secretary for Health.* * * *

(13) One Confidential Assistant to the Administrator, Health Services Administration.

* * * * *

§ 213.3359 ACTION.

* * * * *

(cc) One Staff Assistant to the Deputy Associate Director for VISTA/ACTION Education Programs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-5635 Filed 3-2-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Energy

NOTE.—This document originally appeared in the FEDERAL REGISTER for Wednesday, March 1, 1978. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See the inside cover of this issue for information about agencies publishing on assigned days of the week.)

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: An additional position of Staff Assistant to the Director, Executive Secretariat, is excepted from the competitive service under Schedule C because it is confidential in nature.

EFFECTIVE DATE: March 1, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3331(s)(1) is amended as set out below:

§ 213.3331 Department of Energy.

* * * * *

(s) *Office of the Director, Executive Secretariat.* (1) Two Staff Assistants to the Director.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-5501 Filed 3-1-78; 8:45 am]

[3410-30]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—CHILD NUTRITION PROGRAMS

PART 247—COMMODITY SUPPLEMENTAL FOOD PROGRAM

Interim Regulations

AGENCY: Food and Nutrition Service, United States Department of Agriculture.

ACTION: Interim rule.

SUMMARY: These regulations promulgate changes, including a change in title of the Supplemental Food Program regulations currently published at 7 CFR 250.14. The major changes concern allocation and use of administrative funds, administration of the Program at the State level, and nutrition education. The changes effectuate recent legislation and ensure Program accountability and operating efficiency.

DATES: This interim rule becomes effective March 3, 1978. Comments will be accepted. To be assured of consideration they should be received by May 3, 1978.

ADDRESSES: Send comments or requests for further information to: Jennifer R. Nelson, Acting Director, Supplemental Food Programs Division,

Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8206.

SUPPLEMENTAL INFORMATION: Pub. L. 95-113, approved September 29, 1977, makes a number of significant changes in the Supplemental Food Program. These changes include redesignating the Program as the "Commodity Supplemental Food Program," extending the Program through fiscal year 1981, providing authority for administrative funding including funding for nutrition education for Program participants, and requiring the Secretary annually to evaluate the food package that is distributed to participants.

Until passage of Pub. L. 95-113, the Department had no authority to fund expenses of State and local agencies for administering the Program. Funds had to be obtained from State and local sources or from other Federal grants, such as the Community Services Administration. Pub. L. 95-113 is specific in directing that the administrative funding be used in connection with operation and administration of the Program at the State and local level, including nutrition education efforts. However, it does not prescribe how these funds are to be apportioned between State and local agencies.

After reviewing several alternatives, the Department determined that the most equitable manner of apportioning these funds between State and local agencies is to permit the State agency to retain a certain portion of the monies allocated based on a prescribed formula, with the remaining funds being distributed to local agencies on the basis of respective needs. The formula selected which prescribes proportionate percentage reductions in the funds allocated to State agencies is based on economies of scale. Each State agency will receive in a Letter of Credit a proportionate share of 15 percent of the total value of commodities made available during that fiscal year to State and local agencies and distributed to participants. Of that 15 percent, the State agency will be authorized to retain 15 percent of the first $50,000, 10 percent of the next $100,000 and 5 percent of the next $100,000. When the State agency also functions as the local agency, all administrative funds will remain at the State level.

This will enable the State agency to meet its ongoing responsibilities of guidance, monitoring, and ensuring nondiscrimination, as well as the new requirements of providing for audits in accordance with Office of Management and Budget Circulars A-102 and A-110, approving the fair hearings procedures, and ensuring nutrition education activities. For fiscal year 1978 administrative funds will be made available for the period beginning October 1, 1977. Only those administrative costs allowable for programs already in operation will be allowable for start-up costs. In no case will the administrative funds made available to a State agency exceed actual expenditures.

The integration of nutrition education into Program operations will emphasize the relationship of proper nutrition to the total concept of good health and assist participants in effecting a positive change in food habits. Nutrition education should provide long-lasting benefits to participants which may be carried over to other family members.

Evaluation of the food package currently being used in the Program has not been completed. The Department has made no change in the food package at this time.

Since administrative funds from other sources are no longer available and in view of the urgent need by State and local agencies for administrative funding to assure continuation of Program benefits, these regulations are being issued as an interim rule.

However, because the Department feels that the public should have an opportunity to comment on this interim rule, public comments will be accepted. To be assured of consideration, comments must be received by May 3, 1978. All comments received will be carefully considered before final regulations are published.

Accordingly, a new Part 247, is issued as set forth below.

Sec.

AUTHORITY: Sec. 32, Pub. L. 74-320, 49 Stat. 774, as amended (7 U.S.C. 612c); Pub. L. 75-165, 50 Stat. 323, as amended (15 U.S.C. 713c); sec. 416, Pub. L. 81-439, 63 Stat. 1058, as amended (7 U.S.C. 1431); sec. 4(a), Pub. L. 93-86, 87 Stat. 249, as amended (7 U.S.C. 612c note); sec. 1304(b), Pub. L. 95-113 (7 U.S.C. 612c note).

§ 247.1 General purpose and scope.

This part announces the policies and prescribes the terms and conditions under which women, infants and children in low-income groups, vulnerable to malnutrition, may obtain supplemental nutritious foods donated by the U.S. Department of Agriculture. The foods will be distributed by States, Indian tribes, bands, groups, or intertribal councils or groups recognized by the Department of the Interior; or by the Indian Health Service (IHS) of the U.S. Department of Health, Education, and Welfare.

§ 247.2 Definitions.

For the purpose of this part and of all contracts, guidelines, instructions, forms, and other documents related hereto, the term:

(a) "A-102" means Office of Management and Budget Circular A-102 which sets forth uniform administrative requirements for grants-in-aid to State and local governments and federally recognized Indian tribal governments.

(b) "A-110" means Office of Management and Budget Circular A-110 which sets forth uniform administrative requirements for grants to, and other agreements with, institutions of higher education, hospitals and other quasi-public and private non-profit organizations.

(c) "Administrative costs" means those direct and indirect costs, allowable under FMC 74-4, which State and local agencies determine to be necessary to support Program operations. Such costs include, but are not limited to, expenses incurred in connection with information and referral, operation, monitoring, nutrition education, local agencies startup costs (during first 3 months or until a Program operation reaches its projected caseload, whichever is first) and administration of the State or local office, including warehousing, transportation, personnel, and insurance.

(d) "Breastfeeding women" means women up to one year postpartum who are breastfeeding their infants.

(e) "Children" means persons who are at least one year of age but have not reached their sixth birthday.

(f) "Department" means the U.S. Department of Agriculture.

(g) "Dual participation" means simultaneous participation by a participant in the Commodity Supplemental Food Program in more than one local agency, or simultaneous participation in the Commodity Supplemental Food Program and in the Special Supplemental Food Program for Women, Infants and Children (7 CFR Part 246).

(h) "Eligible persons" means infants, children and women during and for 12 months after pregnancy.

(i) "Fiscal year" means the period of 12 calendar months beginning October 1 of any calendar year and ending September 30 of the following year.

(j) "FMC 74-4" means Federal Management Circular 74-4, July 18, 1974, which sets forth principles for deter-

mining costs applicable to grants and contracts with State and local governments.

(k) "FNS" means the Administrator of the Food and Nutrition Service of the U.S. Department of Agriculture.

(l) "Infants" means persons under one year of age.

(m) "Local agency" means a health facility which is a public or nonprofit private center or agency which provides free or reduced price health service to low-income persons. It also means an IHS service unit, or an Indian tribe, band or group which is recognized by the Department of the Interior and operates a health clinic or is provided health services by an IHS service unit.

(n) "Nonprofit agency" means a private agency which is exempt from income tax under the Internal Revenue Code of 1954, as amended.

(o) "Participants" means persons receiving supplemental foods under the Program.

(p) "Postpartum women" means women up to 12 months after termination of pregnancy.

(q) "Program" means the Commodity Supplemental Food Program (CSFP) of the Food and Nutrition Service of the U.S. Department of Agriculture.

(r) "Secretary" means the Secretary of the U.S. Department of Agriculture.

(s) "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands and the Northern Mariana Islands.

(t) "State agency" means the State distributing agency or an Indian tribe, band or group recognized by the Department of the Interior; or an intertribal council or group recognized by the Department of the Interior and which has an ongoing relationship with Indian tribes, bands or groups for other purposes and has contracted with them to administer the Program; or the appropriate area office of the Indian Health Service of the Department of Health, Education, and Welfare.

(u) "State Agency Plan of Operation and Administration" means the document which describes the manner in which the State agency intends to implement and operate all aspects of Program administration within its jurisdiction.

(v) "State distributing agency" means a State agency which has entered into an agreement with the Department for the distribution of commodities under 7 CFR Part 250.

(w) "Supplemental foods" means foods donated by the Department for use by eligible persons in low-income groups who are vulnerable to malnutrition.

(x) "Value of commodities" means the cost to the Federal government of purchasing and delivering supplemental foods to areas designated by the State agencies.

§ 247.3 Administration.

(a) Within the Department, FNS shall act on behalf of the Department in the administration of the Program. FNS will provide assistance to State and local agencies and evaluate all levels of Program operations to assure that the goals of the Program are achieved in the most effective and efficient manner possible.

(b) The State agency is responsible for all operations under the Program within its jurisdiction and shall administer the Program in accordance with the requirements of this part, FMC 74-4, A-102 and A-110, where applicable, and FNS guidelines and instructions. The State agency shall provide guidance to local agencies on all aspects of Program operations.

(c) Each State agency desiring to take part under the Program shall annually prior to the beginning of the fiscal year enter into a written agreement with the Department for the administration of the Program within its jurisdiction in accordance with the provisions of this part.

(d) The local agency shall provide Program benefits to participants in the most effective and efficient manner, and shall comply with this part, FMC 74-4, A-102 and A-110, where applicable, and State agency and FNS guidelines and instructions.

§ 247.4 Donation of commodities.

The Department shall donate supplemental foods for use in the Program in accordance with the terms and conditions of this part, and, to the extent they are not inconsistent herewith, in accordance with the terms and conditions applicable to State distributing agencies under 7 CFR Part 250.

§ 247.5 State Agency Plan of Program Operation and Administration.

(a) Effective for fiscal year 1979, and subsequent fiscal years, State agencies shall annually submit a Plan of Program Operation and Administration for approval by the appropiate FNS Regional Office. The Plan shall incorporate the procedures and methods to be used in certifying persons as in need of supplemental foods, in making distribution to persons, and in providing a fair hearing to persons whose claims for supplemental foods under the Plan are denied or are not acted upon with reasonable promptness, or who are aggrieved by a State or local agency's interpretation of any provision of the Plan. State plans will be used to monitor State agency performance against stated program goals.

(b) All State agencies, except Indian State agencies, shall submit the Plan of Program Operation and Administration annually to the State Governor, or his delegated authority, for comment as required by Circular A-95 (38 FR 32874) issued by the Office of Management and Budget, September 13, 1973. A period of 45 days from the date the Governor receives the Plan of Program Operation and Administration shall be afforded for comment prior to submission to FNS. The Governor's comments shall be submitted in the Plan of Program Operation and Administration. If the Governor makes no comment, a statement to that effect shall be attached to the Plan of Program Operation and Administration. Amendments to the Plan of Program Operation and Administration need not be submitted to the Governor unless there is significant change. Although not required, Indian State agencies are encourage to consult area-wide Federal Planning offices in the development of their Plan of Program Operation and Administration.

(c) No amendment to the Plan of Program Operation and Administration of a State agency shall be made without prior approval of the FNS Regional Office and the FNS Regional Office may require amendment of any plan as a condition of continuing approval.

(d) As a minimum, the Plan shall include the following:

(1) The name and location of the local agency or agencies which will be responsible for certification of persons.

(2) The manner in which supplemental foods will be distributed, including, but not limited to, the identity of the agency or agencies that will distribute these foods and the storage and distribution facilities to be used.

(3) The specific criteria to be used in certifying persons as in need of supplemental foods and the period of time covered by certifications in each local agency.

(4) The estimated number of persons from low-income groups, vulnerable to malnutrition, who would be eligible for the Program based on the following categories: (i) infants through 3 months; (ii) infants 4 months through 12 months; (iii) children 1 year through 5 years; and (iv) women during and for 12 months after pregnancy.

(5) The plans of each local agency for nutrition education services for the fiscal year, including the procedures to be used at each local agency to meet the special nutrition education needs of migrants and Indians. The nutrition education portion of the Plan shall include an evaluation component which includes a systematic procedure for participant input. Such evaluation

may be conducted directly by State and local agencies or by a contract for such services, so long as the evaluation is directed by a nutrition professional.

(6) The manner in which the State agency plans to provide for monitoring and auditing of each local agency.

(7) A description of a financial management system which will provide an accurate, current and complete disclosure of the financial status of the Program including an accurate accounting of all administrative funds received and expended.

(8) The amounts and sources of State and local support to the Program.

(9) A plan for detection of dual participation within the jurisdiction of the State agency.

(10) When completing the State Plan of Program Operation and Administration, each State agency shall include a Plan for the conduct of audits. The plan shall (i) State the scope and frequency of audits of the State agency and local agencies and delineate the procedures that assure audit frequency of not less than once every two years; (ii) provide a description of the method used by the State agency to assure timely and appropriate resolution of audit findings and recommendations; and (iii) provide a description of the State agency in sufficient detail to demonstrate the independence of the audit organization.

Local agencies under the State agency's jurisdiction may be required to submit similar information to the State agency for its use in assuring compliance with this section.

§ 247.6 Selection of local agencies.

(a) *Application of local agencies.* The State agency shall require each agency which desires approval as a local agency to submit an application which contains sufficient information to enable the State agency to make a determination as to the eligibility of that agency. Such applications are not necessary when the State agency functions as a local agency.

(b) *Agreements with local agencies.* (1) State agencies shall enter into agreements with local agencies which are approved to participate in the Program. Such agreements shall be in writing and shall contain such terms and conditions as the State agency deems necessary to assure that (i) issuance of prescriptions for supplemental food is in accordance with this part; and (ii) local agencies are responsible to the State agency for any loss resulting from improper or negligent issuance by them of prescriptions for supplemental food. Such agreements are not necessary when the State agency functions as a local agency.

(2) Each agreement with a local agency shall provide that the local agency shall maintain accurate and complete records with respect to its activities under the Program, and shall retain such records for a period of 3 years from the close of the fiscal year to which they pertain.

§ 247.7 Eligibility for supplemental foods.

(a) To be certified as eligible to receive supplemental foods under the Program, infants, children and pregnant, postpartum and breastfeeding women in low-income groups vulnerable to malnutrition, shall meet the following requirements:

(1) After consideration of age and income (location and income of parents in the case of a minor) be eligible for benefits under existing Federal, State or local food, health or welfare programs for low-income persons;

(2) Be determined by a physician or other staff member of the local agency, or his designee, or by physicians serving money-payment participants under public welfare programs, to be in need of the nutrients in the supplemental food.

(b) Eligible persons shall be issued prescriptions for supplemental foods by professional or supervisory personnel of a local agency, or by such other personnel the local agency may designate.

(c) The State agency may allow the local agencies under its jurisdiction to accept evidence of certification from migrant farmworker participants or their dependents, who have been participating in the Special Supplemental Food Program for Women, Infants and Children or the Commodity Supplemental Food Program in another local agency within or outside of the jurisdiction of the State agency. Evidence of certification shall include the date certification was performed, the nutritional need of the participant, the name of the participant, the date the certification period expires, and the signature of the local agency official making the certification.

(d) Distribution of supplemental foods shall not be used as a means for furthering the political interest of any person or party.

(e) The local agency shall certify the person, or notify the person of ineligibility for the Program, within 20 days of the person's first visit to the local agency to apply for participation in the Program. A person who is determined eligible shall receive supplemental foods within 10 days of notification of eligibility.

(f) Citizenship or durational residence requirements shall not be imposed as a condition of eligibility.

(g) Participants shall not be required to make any payments in money, materials or services, for or in connection with the receipt of supplemental foods, nor shall they be solicited in connection with the receipt of supplemental foods for voluntary cash contributions for any purpose.

§ 247.8 Nutrition education.

(a) *General.* Nutrition education shall be thoroughly integrated into Program operations. Nutrition education shall be designed to be easily understood by individual participants and shall bear a practical relationship to their nutritional needs and household situations.

(b) *Goals.* Nutrition education shall be based on the following two broad goals:

(1) To emphasize the relationship of proper nutrition to the total concept of good health, with special emphasis on the nutritional needs of pregnant, postpartum, and breastfeeding women, infants and children under six years of age; and

(2) To assist participants in obtaining a positive change in food habits, resulting in improved nutritional status and in the prevention of nutrition-related problems through maximum use of the supplemental and other nutritious foods. This use is to be within the context of ethnic, cultural and geographic preferences. Consideration should also be given to tailoring nutrition education to meet any limitations of groups of participants, such as lack of running water, lack of electricity, limited cooking or refrigeration facilities.

(c) *State agency responsibilities.* The State agency shall ensure that the local agency fully performs its responsibilities as set forth in paragraph (d) of this section.

(d) *Local agency responsibilities.* (1) The local agency shall make nutrition education available to all adult participants and to parents or guardians of infant and child participants. Where appropriate, nutrition education for child participants is encouraged.

(2) The local agency shall direct Program funds for nutrition education to the benefit of participants and local agency staff members in accordance with this part and FNS guidelines.

(3) The local agency shall conduct nutrition education in a manner consistent with the State agency's nutrition education portion of the Plan of Program Operation and Administration.

(4) The local agency shall include the following subject matter areas in the instruction given to participants:

(i) An explanation of the participant's nutritional need condition, and the importance of the supplemental foods being consumed by the participant for whom they are prescribed rather than the whole family.

(ii) Reference to the special nutritional needs of participants and ways to provide them with adequate diets;

(iii) An explanation of the Program as a supplemental rather than a total food program;

(iv) Information on the use of the supplemental foods and on the nutritional value of these foods; and

(v) An explanation of the importance of health care.

§ 247.9 Administrative funding.

(a) This section prescribes the policies and procedures for payment by FNS of funds for administrative costs to participating State agencies and by State agencies to local agencies. As a prerequisite to the receipt of such funds, the State agency shall have executed an agreement with the Department and shall have received approval of its Plan of Program Operation and Administration.

(b) For each fiscal year FNS shall pay to each State agency, based on an approved Plan of Operation and Administration funds for administrative costs in the amount of up to 15 percent of the total value of commodities made available to the State and local agencies and distributed to participants during the year. However, in no case shall the administration funds made available to State agency exceed actual administrative expenditures. The State agency may retain a percentage of the amount paid to it, based on the following formula: 15 percent of the first $50,000; plus 10 percent of the next $100,000; plus five percent of the next $100,000. The remaining funds and any unused funds at the State level shall be distributed to the local agencies. When the State agency also functions as a local agency, all administrative funds will remain at the State level.

(c) The State agency, in disbursing administrative funds to local agencies, shall apportion such funds among the local agencies on the basis of their respective needs so as to ensure that those local agencies evidencing higher administrative costs, while demonstrating prudent management and fiscal controls, receive a greater portion of the administrative funds. The State agency may also redistribute any unused portion of the local administrative funds among local agencies.

(d) All administrative funds made available under this section shall be provided to participating State agencies by means of quarterly Letters of Credit unless other funding arrangements are made with FNS. Letters of Credit to State agencies shall be based on 15 percent of the estimated total value of commodities to be purchased and distributed to States during the fiscal year, subject to adjustment to reflect actual issuance of commodities to participants during that fiscal year. If, at the end of the fiscal year, funds authorized by a Letter of Credit issued to any State agency exceed obligations, FNS shall reduce the amount of the Letter of Credit by the unobligated portion.

(e) Letters of Credit shall be issued to the appropriate Regional Disbursing Office in favor of the State agency. The State agency shall obtain funds needed through presentation by designated officials of a payment voucher on the Letter of Credit to the designated Regional Disbursing Office, in accordance with procedures prescribed by FNS and consistent with the U.S. Treasury Department regulations.

§ 247.10 Administrative costs.

(a) *General.* Funds provided to State and local agencies may be used to cover only administrative costs allowable under FMC 74-4, A-102, and A-110, where applicable, which State and local agencies determine to be necessary to carry out the Program within their jurisdictions.

(b) *Allowable costs.* The following costs are specifically identified as illustrative of costs allowable under the Program:

(1) The cost of nutrution education services provided to participants and parents and guardians of participants, and used for training of local agency staff members;

(2) The cost of administering and monitoring the food delivery and certification systems;

(3) The cost of outreach services;

(4) The cost of certification procedures;

(5) Local agency start-up costs for new programs during the first three months or until such programs reach projected caseloads, whichever is first;

(6) General administration of the State and local offices to include, but not be limited to, personnel, warehousing, and insurance; and

(7) State agency cost of distribution of food to local agencies. The State agency may not charge any part of distribution costs to local agencies.

§ 247.11 Records and reports.

(a) *Recordkeeping requirements.* Each State agency shall maintain accurate and complete records with respect to the receipt, disposal and inventory of supplemental foods, including the determination made as to liability for any improper distribution or use of, or loss of, or damage to, such foods and the result obtained from the pursuit of claims arising in favor of the State agency. Accurate and complete records shall also be maintained with respect to the receipt and disbursement of administrative funds received. State agencies shall require all local agencies to maintain accurate and complete records with respect to the receipt, disposal and inventory of supplemental foods and with respect to any administrative funds received. All records required by this section shall be retained for a period of 3 years from the close of the fiscal year to which they pertain. All records, except medical case records of participants (unless they are the only source of certification data), shall be available during normal business hours for representatives of the Department and the General Accounting Office of the United States to inspect, audit, and copy. Any reports resulting from such examinations shall not divulge names of individuals.

(b) *Financial reports.* All financial data shall be submitted as required by FNS, at a frequency prescribed by FNS.

(c) *Program reports.* All Program performance data shall be submitted as required by FNS, at a frequency prescribed by FNS.

(d) *Inventory reports.* Inventory reports shall be submitted as required by FNS, at a frequency prescribed by FNS.

(e) *Civil rights.* Each local agency participating under the Program shall submit a report of racial and ethnic participation data, at a frequency prescribed by FNS.

(f) *Audit acceptability of reports.* To be acceptable for audit purposes, all financial and Program performance reports shall be traceable to source documentation.

(g) *Certification of reports.* Financial and Program reports shall be certified as to their completeness and accuracy by the person given that responsibility by the State agency.

(h) *Use of reports.* FNS shall use State agency reports to measure progress in achieving objectives set forth in the Plan of Program Operation and Administration. If it is determined, through review of State agency reports, Program or financial analysis, or an audit, that a State agency is not operating according to its Plan of Program Operation and Administration, FNS may request additional information and take other appropriate actions.

§ 247.12 Procurement and property management standards.

(a) State and local agencies shall comply with the requirements of Circulars A-102 and A-110, where applicable, for procurement of supplies, equipment and other services with Program funds. These requirements are adopted by FNS to ensure that such materials and services are obtained for the Program in an effective manner and in compliance with the provisions of applicable law and executive orders.

(b) The standards contained in Circulars A-102 and A-110, where applicable, do not relieve the State or local agency of the responsibilities arising under its contracts. The State agency is the responsible authority, without recourse to FNS, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in connection with the Program. This in-

cludes, but is not limited to: disputes, claims, protests of awards, source evaluation, or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State or Federal authority as may have proper jurisdiction

(c) The State or local agency may use its own procurement regulations which reflect applicable State and local regulations, provided that procurements made with Program funds adhere to the standards set forth in Circular A-102 and Circular A-110, where applicable.

(d) State and local agencies shall observe the standards prescribed in A-102, Attachment N, and A-110, Attachment N, where applicable, in their utilization and disposition of property acquired in whole or in part with Program funds.

§ 247.13 Audits.

(a) The Secretary, the Comptroller General of the United States, or any of their duly authorized representatives, or State auditors shall have access to any books, documents, papers, and records (except medical case records of individuals unless that is the only source of certification data) of the State and local agencies and their contractors, for the purpose of making surveys, audits, examinations, excerpts, and transcripts.

(b) The State agency may take exception to particular audit findings and recommendations. The State agency shall submit a response or statement to FNS as to the action taken or planned regarding the findings.

(c) FNS shall determine whether Program deficiencies have been adequately corrected. If additional corrective action is necessary, FNS shall schedule a follow-up review, allowing a reasonable time for such corrective action to be taken.

(d) Each State agency shall provide for an independent audit of the financial operations of the State agency and local agencies. Audits may be conducted by State and local government audit staffs or by certified public accountants and audit firms under contract to the State or local agencies. Audits shall conform to "The Standards of Audit of Governmental Organizations, Program Activities and Functions", issued by the Comptroller General of the United States (1972, for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402). An audit shall be used to determine:

(1) Whether financial operations are properly conducted;

(2) Whether the financial reports are fairly presented;

(3) Whether the State or local agency has complied with applicable laws, regulations, and administrative requirements pertaining to financial management;

(4) Whether proper inventory controls (physical and paper) are being maintained.

(e) Each State agency shall make all State or local agency sponsored audit reports of Program operations under its jurisdiction available for the Department's review upon request. The cost of these audits shall be considered an allowable administrative cost and funded from the State or local agency administrative funds, as appropriate.

§ 247.14 Investigations

(a) The Department may make an investigation of any allegation or noncompliance with this part and FNS guidelines and instructions. The investigation may include, where appropriate, a review of pertinent practices and policies of any State or local agency, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the State of local agency has failed to comply with the requirements of this part.

(b) No State or local agency, participants, or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege under this part because the individual has made a complaint, formal allegation, or testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of every complainant shall be kept confidential except to the extent necessary to carry out the purpose of this part.

§ 247.15 Closeout procedures

(a) *Fiscal year closeout reports.* State agencies shall submit preliminary and final closeout reports for each fiscal year or part thereof. All obligations shall be liquidated before final closure of a fiscal year grant. Obligations shall be reported for the fiscal year in which they occur. State agencies:

(1) Shall submit to FNS, within 30 days after the end of the fiscal year, preliminary financial reports which show cumulative actual expenditures and obligations for the fiscal year, or part thereof, for which Program funds were made available.

(2) Shall submit to FNS, within 120 days after the end of the fiscal year, final fiscal year closeout reports; and

(3) May submit revised closeout reports at any time. However, FNS shall not be responsible for reimbursing unpaid obligations later than one year after the close of the fiscal year in which they were incurred.

(b) *Grant closeout procedures.* Grant closeout procedures for the Program shall be in accordance with Attachment L of OMB Circular A-102.

(c) *Termination for cause.* FNS may terminate a State agency's participation under the Program, in whole or in part, whenever FNS determines that the State agency has failed to comply with the conditions prescribed in this part, and in FNS guidelines and instructions. FNS shall promptly notify the State agency in writing of the termination and the reasons for the termination, together with the effective date. A State agency shall terminate a local agency's participation under the Program by written notice whenever it is determined by FNS or the State agency that the local agency has failed to comply with the requirements of the Program. When a State agency's participation under the Program is terminated for cause, any payments made to the State agency, or any recoveries by FNS from the State agency, shall be in conformance with the legal rights and liabilities of the parties.

(d) *Termination for convenience.* FNS or the State agency may terminate the State agency's participation under the Program, in whole or in part, when both parties agree that continuation under the Program would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date thereof and, in the case of partial termination, the portion to be terminated. The State agency shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. FNS shall allow full credit to the State agency for the Federal share of the noncancellable obligations, properly incurred by the State agency prior to termination.

§ 247.16 Nondiscrimination

(a) The State agency shall comply with the requirements of title VI of the Civil Rights Act of 1964, and the Department's regulations concerning nondiscrimination issued thereunder (7 CFR Part 15), including requirements of racial and ethnic participation data collection, public notification of its nondiscrimination policy and annual reviews to assure compliance with such policy, to the end that no person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the Program.

(b) The State agency shall further ensure that no person is subject to any discrimination under the Program because of creed, political beliefs, or sex.

(c) Where a significant proportion of the area served by a local agency is composed of non-English or limited English speaking persons who speak the same language, the State agency

shall take action to ensure that Program information in an appropriate language is provided to such persons.

(d) Complaints of discrimination filed by applicants or participants shall be referred to the Director, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

§ 247.17 Fair hearing procedure for participants.

(a) Each potential participant shall be informed of the right to a fair hearing during the initial program certification. Whenever a person is determined to be ineligible to participate in the Program, the person shall be notified in writing of the reason for his ineligibility and his right to a fair hearing.

(b) Each State agency participating in the Program shall establish a hearing procedure under which a person, or the person's parent or guardian, can appeal from a decision made by a local agency denying such person participation in the Program or suspending such person's participation. If the participant was already participating in the Program, he shall continue to receive Program benefits until a decision is reached in the fair hearing proceedings. Such hearing procedure shall provide:

(1) A simple, publicly announced method for a person to make an oral or written request for a hearing;

(2) An opportunity for the person to be assisted or represented by an attorney or other persons;

(3) An opportunity to examine, prior to and during the hearing, the documents and records presented to support the decision under appeal;

(4) That the hearing be held within three weeks from the date of receipt of request, be convenient to the person, and that a minimum of ten days written notice be given to the person as to the time and place of the hearing;

(5) An opportunity for the person or his representative to present oral or documentary evidence and arguments supporting his position in accordance with procedures established by the hearing official, and that such procedures shall not be unduly complex or legalistic, and shall take into consideration the person's background and education;

(6) An opportunity for the person or his representative to question or refute any testimony or other evidence and to confront and cross-examine any adverse witnesses;

(7) That the hearing be conducted and the decision made by a hearing official who did not participate in making the decision under appeal or in any previously held conferences.

(8) that the decision of the hearing official be based on the oral and documentary evidence presented at the hearing and that such decision be made a part of the hearing record;

(9) That the person, and any designated representative, be notified in writing of the decision of the hearing official within 45 days from the date of the request for hearing;

(10) That a written record be prepared with respect to each hearing, which shall include the decision under appeal, any documentary evidence admitted and a summary or verbatim transcript of any oral testimony presented at the hearing, the decision of the hearing official, including the reasons therefor, and a copy of the notification to the family concerned of the decision of the hearing official; and

(11) That such written records of each hearing be preserved for a period of three years and be available for examination by the person, or his representative, at any reasonable time and place during such period.

§ 247.18 Miscellaneous provisions

(a) Any person who wishes information, assistance, records or other public material shall request such information from the State agency, or from the FNS Regional Office serving the appropriate State as listed below:

(1) Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont: U.S. Department of Agriculture, FNS, New England Region, Northwest Part, 34 Third Avenue, Burlington, Mass. 01803.

(2) Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, West Virginia: U.S. Department of Agriculture, FNS, Mid-Atlantic Region, One Vahlsing Center, Robbinsville, N.J. 08691.

(3) Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee: U.S. Department of Agriculture, FNS, Southeast Region, 1100 Spring Street NW., Atlanta, Ga. 30309.

(4) Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin: U.S. Department of Agriculture, FNS, Midwest Region, 536 South Clark Street, Chicago, Ill. 60605.

(5) Arkansas, Louisiana, New Mexico, Oklahoma, Texas: U.S. Department of Agriculture, FNS, Southwest Region, 1100 Commerce Street, Room 5-C-30, Dallas, Tex. 75202.

(6) Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming: U.S. Department of Agriculture, FNS, Mountain Plains Region, 2420 West 26th Avenue, Room 430-D, Denver, Colo. 80211.

(7) Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory of the Pacific Islands, Washington: U.S. Department of Agriculture, FNS, Western Region, 550 Kearney Street, Room 400, San Francisco, Calif. 94108.

NOTE.—The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

(Catalog of Federal Domestic Assistance Program No. 10.550.)

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 and OMB Circular A-107.

Dated: March 1, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-5772 Filed 3-2-78; 8:45 am]

[3410-05]

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

PART 701—NATIONAL RURAL ENVIRONMENTAL PROGRAMS FOR 1975 AND SUBSEQUENT YEARS

Agricultural Conservation Program

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to revise the regulations for the Agricultural Conservation Program to: (1) Restate program objectives which include control of erosion and sedimentation, voluntary compliance with Federal and State requirements to solve point and non-point sources of pollution, priorities in the National Environmental Policy Act, improvement of water quality, and assurance of a continued supply of necessary food and fiber for a strong and healthy people and economy; (2) reflect that specific national practices, guidelines, and policies have been formulated for meeting these objectives; (3) provide for development of a State program with guidelines to county committees; (4) provide for cost-share levels for annual agreements not to exceed 90 percent of the average cost; (5) provide for long-term agreements on portions of a farm; and (6) delete the small cost-share increase provision. The need for this rule is to satisfy the changes made by Pub. L. 95-113 (91 Stat. 1019) to the Soil Conservation and Domestic Allotment Act, as amended and to reflect 1978 program year policies and operational modifications.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert J. Mondloch (ASCS) 202-447-6221.

SUPPLEMENTARY INFORMATION: The Agricultural Conservation Program provides cost-sharing for agricultural producers to carry out approved soil, water, woodland, and wildlife conservation measures to solve identified conservation or environmental problems which reduce the productive capacity of the nation's land and water resources or cause degradation of environmental quality. Because the changes in this amendment affect farmers and ranchers currently making plans for performing conservation work for the 1978 program year, it is essential that these provisions be effective as soon as possible. Accordingly, it is hereby found and determined that compliance with notice, public procedure, and 30-day effective date provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest.

Accordingly, 7 CFR Part 701 table of contents and §§ 701.2 through 701.26 and 701.70 are amended as follows:

1. The table of contents is amended by changing the titles of §§ 701.10, 701.11, 701.12, and 701.13 and revoking and reserving §§ 701.22.

Subpart—Agricultural Conservation Program

Sec.

* * * * *

701.10 State programs.
701.11 County programs.
701.12 Selection of practices.
701.13 Levels of cost-sharing.

* * * * *

701.22 [Reserved]

2. Wherever the title "Deputy Administrator, Programs" appears in the part, it is changed to read "Deputy Administrator, State and County Operations."

§ 701.2 [Amended]

3. Paragraph (c) of § 701.2 is amended by revising the words "Management and Finance" to read "Budget, Planning and Evaluation."

4. Section 701.3 is amended by designating the present paragraph (a) and deleting the last sentence and by adding paragraph (b) as follows:

§ 701.3 Program objectives.

* * * * *

(b) This will be accomplished through a program that has been formulated and is to be carried out taking into consideration: (1) The need to control erosion and sedimentation from agricultural land and conserve the water resources on such land; (2) the need to control pollution from animal wastes; (3) the need to facilitate sound resources management systems through soil and water conservation; (4) the need to encourage voluntary compliance by agricultural producers with Federal and State requirements to solve point and non-point sources of pollution; (5) national priorities reflected in the National Environmental Policy Act of 1969 and other congressional and administrative actions; (6) the degrees to which the measures contribute to the national objective of assuring a continous supply of food and fiber necessary for the maintenance of a strong and healthy people and economy; and (7) the type of conservation measures needed to improve water quality in rural America.

§ 701.5 [Amended]

5. Section 701.5 is amended to add "approved State water quality plans," between "development projects" and "and other conservation projects."

§ 701.9 [Amended]

6. Section 701.9 is amended by revising the first sentence to read "Practices have been made available nationally for developing State and county programs" and by revising the words "included in county programs must" in the second sentence to read "are designed to."

7. Section 701.12 is redesignated as § 701.10 and amended to read as follows:

§ 701.10 State programs.

(a) The State committee, in consultation with the State program development group, shall develop recommendations for the State program. The chairperson of the State committee may also invite others with conservation interests to participate in such deliberations.

(b) The State program shall consist of the guidelines and practices selected by the State committee after considering the recommendations of the State development group.

§ 701.11 [Redesignated from § 701.10 and Amended]

8. Section 701.10 is redesignated as § 701.11 and the title amended by deleting the words "Development of" and capitalizing "County."

§ 701.12 [Redesignated from § 701.11 and Amended]

9. Section 701.11 is redesignated as § 701.12 and is amended by revising the words "the county program" to read "the State or county program."

10. In § 701.13 the title and paragraph (b) are amended, a new paragraph (c) is added as follows, the present paragraph (c) is redesignated (d), and the present paragraph (d) is deleted.

§ 701.13 Levels of cost-sharing.

* * * * *

(b) Levels of cost-sharing under annual agreements shall not be in excess of 90 percent of the average cost for all practices as determined by the county committee. (See § 701.19 for special provisions for low-income farmers.)

(c) Levels of cost-sharing under long-term agreements shall not be in excess of 75 percent nor less than 50 percent of the average cost for all practices as determined by the county committee.

§ 701.16 [Amended]

11. Paragraphs (b), (c), (f), and (k) in § 701.16 are amended as follows:

(b) By inserting the words, "or portion thereof," between "ranch" and "which."

(c) By inserting the words "or portion thereof," between "ranch" and "whether."

(f) By inserting the words, "as provided in § 701.13," between "cost-sharing" and "in effect."

(k) By revising "Deputy Administrator, Programs" to read "State committee" wherever it appears.

§ 701.19 [Amended]

12. In § 701.19 paragraph (a) is amended by revising "80" to read "90."

§ 701.21 [Amended]

13. In § 701.21 paragraph (b) is amended by deleting the words "plus any applicable small cost-share increase."

§ 701.22 [Reserved.]

14. Section 701.22 is revoked and reserved.

§ 701.70 [Amended]

15. Paragraph (a) of § 701.70 is amended by deleting the words "but in no case may the cost-share be reduced to less than 50 percent of the contribution of the eligible person."

(Sec. 4, 49 Stat. 164, Secs. 7-15, 16(a), 16(f), 16A, 17, 49 Stat. 1148, as amended, 71 Stat. 176, 71 Stat. 426, 72 Stat. 864, 75 Stat. 233, 86 Stat. 676; (16 U.S.C. 590d, 590g-590o, 590p(a), 590pA, 590q); Secs. 1001-1009, 87 Stat. 241 (16 U.S.C. 1501-1510; Pub. L. 95-26, 91 Stat. 63; Pub. L. 95-113, 91 Stat. 1019).)

NOTE.—The Agricultural Stabilization and Conservation Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

NOTE.—The Agricultural Stabilization and Conservation Service, to meet the requirements of the National Environmental Policy Act (Pub. L. 91-190, 42 U.S.C. 4321 et seq.), has developed an environmental assessment on the program and has determined that the proposed action would not constitute a

major Federal action significantly affecting the human environment.

Signed at Washington, D.C., on February 24, 1978.

WELDON B. DENNY,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-5709 Filed 3-2-78; 8:45 am]

[3410-05]

PART 722—COTTON

Miscellaneous Deletions

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this document is to delete from the Code of Federal Regulations certain regulations concerning the upland cotton allotment program which are no longer required. The Food and Agricultural Act of 1977 eliminated upland cotton allotments.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

George Roach, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, 202-447-3418.

SUPPLEMENTARY INFORMATION: Because this document merely deletes obsolete regulations, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) providing for notice of proposed rulemaking, opportunity for public participation and 30-day effective date requirements are inapplicable. Any obligation or liability incurred, or any rights retained or accrued under these regulations are not affected by their deletion.

The following regulations contained in Title 7 CFR are deleted:

§§ 722.401 through 722.423 and §§ 722.463 through 722.468 [Deleted]

In Part 722—Cotton, Subpart—Regulations pertaining to Base Acreage Allotments for 1974 and Succeeding Crops of Upland Cotton and Base Acreage Allotments for Crop Year 1977 (§§ 722.401 through 722.423 and §§ 722.463 through 722.468) are deleted.

Signed at Washington, D.C., on February 21, 1978.

DONALD L. GILLIS,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-5409 Filed 3-2-78; 8:45 am]

[3410-02]

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

[Valencia Orange Reg. 576]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh California-Arizona Valencia oranges shipped to market from District 3 to be at least 2.32 inches in diameter for the period March 3 through April 13, 1978. This requirement is designed to promote orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the regulation of handling of Valencia oranges, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on February 17, 1978, to consider crop and market conditions and other factors affecting the need for regulation, and recommended that Valencia oranges in fresh domestic shipments from District 3 be required to be 2.32 inches in diameter or larger. The 1977-78 season crop of Valencia oranges is currently estimated by the committee at 55,600 carlots. The committee reports that demand in regulated fresh market channels is expected to require about 37 percent of this volume. The remaining 63 percent would be available for utilizaiton in export and processing outlets. The commitee indicates that volume and size composition of the crop of Valencia oranges grown in District 3 are such that ample supplies of the more desirable sizes will be available to satisfy the demand in regulated channels. The regulation is designed to permit shipment of ample supplies of fruit of the more desirable sizes in the interest of growers and consumers, and it reflects the Department's appraisal of the need for regulation based on the current and prospective crop and market conditions.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effecutate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective date.

§ 908.876 Valencia orange regulation 576.

Order. (a) During the period March 3 through April 13, 1978, no handler shall handle any Valencia oranges grown in District 3 which are of a size smaller than 2.32 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided,* That not to exceed 5 percent, by count, of the Valencia oranges contained in any type of container may measure smaller than 2.32 inches in diameter.

(b) As used in this section, "handler", "handle", and "District 3" mean the same as defined in the marketing order.

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

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

Dated: February 28, 1978.

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

[FR Doc. 78-5757 Filed 3-2-78; 8:45 am]

[3410-02]

[Lemon Regulation 135]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period March 5-11, 1978. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: March 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in CA and AZ, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on February 28, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is similar to last week.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 533), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.435 Lemon Regulation 135.

Order. (a) The quantity of lemons grown in CA and AZ which may be handled during the period March 5, 1978, through March 11, 1978, is established at 230,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

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

Dated: March 1, 1978.

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

[FR Doc. 78-5861 Filed 3-2-78; 11:09 am]

[3410-07]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER E—ACCOUNT SERVICING

[FmHA Instruction 451.1]

PART 1861—ROUTING

Account Servicing Policies

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations concerning reporting dates. This action is being taken as a result of an administrative decision. The intent of the action is to conform reporting dates with the new fiscal year.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Tassie H. Hare, Reports Management Branch, Management Information Systems Staff, telephone 202-447-3011.

SUPPLEMENTARY INFORMATION: Section 1861.1 of Subpart A of Part 1861 of Title 7, Code of Federal Regulations (37 FR 13703) is amended. Paragraphs (b) (5) (iv), and (v) (d) are amended to reflect editorial changes; to change submission dates of Form FmHA 493-7, "Collection-Only Borrower Activity Report," to March 31 and September 30 and to show the designated place to submit the forms to the Finance Office, St. Louis, Mo. Paragraph (b) (5) (v) is deleted and paragraph (b) (5) (vi) is renumbered (b) (5) (v). Other changes included the update of official titles and paragraph (e) and (f) are added to include information inadvertently omitted from previous publication.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking since the change affects only internal administrative requirements and is of an editorial nature, and, therefore, publication in proposed rulemaking format is unnecessary. Accordingly, § 1861.1 (b) (5) (v) is deleted, and (b) (5) (vi) is renumbered as (b) (5) (v) and § 1861.1 (b) (5) (iv), and (v) (d), (e) and (f) are amended and read as follows:

§ 1861.1 General.

* * * * *

(b) *Accounts of collection-only borrowers.*

* * * * *

(5) * * *

(iv) On each visit to a County Office, District Directors will review the progress being made by County Supervisors to insure that goals will be reached and may make a narrative report of the results of such review to the State Director who will maintain such controls as necessary to accomplish the objective outlined in subparagraph (5) of this paragraph.

(v) State Directors will submit a report on Form FmHA 493-7, "Collection-Only Borrower Activity Report," to the Finance Office as of March 31 and September 30. Form FmHA 493-7 will be prepared in an original and one copy. The original will be submitted to the Finance Office and the copy will be retained by the State Office.

* * * * *

(d) *Subsequent servicing.* If a borrower fails to make a payment as agreed upon, the County Supervisor will write or otherwise contact the borrower to request him to make the payment or request him to come to the office to discuss the reasons why the payment was not made and to develop specific plans for making the payment. Form FmHA 451-32, "Notice of Payment Due," may be used to notify borrowers who make payments directly to the Finance Office that their payment has not been received. Form FmHA 450-13, "Request for Assignment of Income from Trust Property," may be used when other methods of loan collection fail and debt repayment is possible from trust income. In the event the borrower refuses to make the payment when he has the income, or it is determined that the borrower's farming operations will not permit him to make the payment in a reasonable length of time, as well as make future payments, action will be taken to protect the government's security interest in accordance with applicable FmHA requirements. Followup actions for subsequent servicing will be noted on Form FmHA 405-1, "Management System Card—Individual," or Form FmHA 405-5, "Management System Card—Individual (Rural Housing Only—Monthly Payment)," or Form FmHA 405-10, "Management System Card—Association or Organization."

(e) *Maintaining records of accounts in County Offices.* Records of the accounts of FmHA borrowers will be

maintained in the County Office on forms FmHA 405-1, FmHA 405-5, and FmHA 405-10, as provided in FmHA Instruction 405.1.

(f) *Correspondence with Finance Office.* County Office correspondence concerning individual borrower transactions which deal directly with Finance Office records including such matters as (1) errors in Form FmHA 450-11, "Detail Analysis of Charges/Credits of Loans Receivable," and Form FmHA 451-31, "Borrower Transaction Record," (2) requests for special statements of accounts, and (3) request for reapplication of repayment except as otherwise provided in this Instruction, will be mailed directly to the Finance Office.

(7 U.S.C. 1989, 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93-357, 88 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by the Dir., OEO 29 FR 14764, 33 FR 9850).

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: February 10, 1978.

DENTON E. SPRAGUE,
Deputy Administrator, Financial and Administrative Operations, Farmers Home Administration.

[FR Doc. 78-5609 Filed 3-2-78; 8:45 am]

[3410-07]

SUBCHAPTER H—GENERAL

[FmHA Instruction 1901-D]

PART 1901—PROGRAM-RELATED INSTRUCTIONS

Subpart D—Davis-Bacon Act *C*

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends it regulation to comply with the Department of Labor requirements regarding the Semiannual Labor Compliance Report. This action changes reporting requirements as it relates to the Government's new fiscal year.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Harry Puffenberger, 202-447-3394.

SUPPLEMENTARY INFORMATION: Section 1901.158(f)(1) of Subpart D of Part 1901, Chapter XVIII, Title 7 in the Code of Federal Regulations (41 FR 19967) is amended to reflect a change for reporting projects requiring compliance with the Davis-Bacon Act. In the past, Semi-Annual Labor Compliance Reports (Form FmHA 440-29) were required at the end of each 6-month period during the calendar year. Future reports are now required by the Department of Labor at the end of each 6-month period in the new fiscal year October 1 through September 30. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment not withstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since the purpose of the change is to comply with the requirements of the Department of Labor, and the change itself is procedural and not substantive.

Accordingly, as amended, paragraph (f)(1) of § 1901.158 reads as follows:

§ 1901.158 Determination of compliance with Davis-Bacon Act.

(f) *Semiannual reports.* (1) The County Supervisor will complete Form FmHA 440-29, "Semiannual Labor Compliance Report," for projects requiring compliance with the Davis-Bacon Act, and submit it to the State Director for periods of October 1 through March 31, and April 1 through September 30. Form FmHA 440-29 must reach the State Director no later than April 20 and October 20, respectively.

* * * * *

(7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: February 17, 1978.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc. 78-5610 Filed 3-2-78; 8:45 am]

[3410-34]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 78—BRUCELLOSIS

Subpart D—Designation of Brucellosis Areas, Specifically Approved Stockyards, and Slaughtering Establishments

BRUCELLOSIS AREAS

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Animal and Plant Health Inspection Service is amending its Brucellosis Regulations. These amendments update the Brucellosis regulations by providing the current status of various counties and States which have been designated Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, or Noncertified Areas for purposes of interstate movement of cattle and bison from such areas. This action is required because of the change in the Brucellosis status of the areas affected.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. A. D. Robb, U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Hyattsville, Md., Room 805, 301-436-8713.

SUPPLEMENTARY INFORMATION: The amendments delete the following areas from the list of Modified Certified Brucellosis Areas in § 78.21 and add such areas to the list designated as Certified Brucellosis-Free Areas in § 78.20 because it has been determined that they now come within the definition of a Certified Brucellosis-Free Area in § 78.1(1): Jefferson County in Iowa; Box Butte and Cheyenne Counties in Nebraska; Borden County in Texas; and Cache County in Utah.

Accordingly, §§ 78.20, 78.21, and 78.22 of Part 78, Title 9, Code of Federal Regulations, designating Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, and Noncertified Areas, respectively, are amended to read as follows:

§ 78.20 Certified Brucellosis-Free Areas

The following States, or specified portions thereof, are hereby designated as Certified Brucellosis-Free Areas

(a) *Entire States.*

Arizona, California, Connecticut, Delaware, Hawaii, Indiana, Maine, Maryland Massachusetts, Michigan, Minnesota, Mon-

tana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Virginia, Washington, West Virginia, Wisconsin, Virgin Islands.

(b) *Specific Counties Within States.*

Alabama. Dale, Geneva.

Arkansas. Baxter, Bradley, Carroll, Cleveland, Columbia, Dallas, Drew, Fulton, Garland, Grant, Johnson, Marion, Monroe, Montgomery, Newton, Ouachita, Searcy, Sharp, Stone, Union, Woodruff.

Colorado. Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kiowa, Kit Carson, Lake, La Plata, Larimer, Las Animas, Lincoln, Logan, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Pueblo, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, Weld, Yuma.

Florida. Baker, Bay, Citrus, Dixie, Escambia, Franklin, Holmes, Jackson, Leon, Liberty, Monroe, Okaloosa, Orange, Santa Rosa, Seminole, St. Johns, Taylor, Wakulla, Walton, Washington.

Georgia. Appling, Atkinson, Bacon, Banks, Brantley, Bryan, Bulloch, Burke, Butts, Camden, Candler, Charlton, Chatham, Chattahoochee, Clarke, Clayton, Cook, Crawford, De Kalb, Echols, Effingham, Evans, Fannin, Franklin, Glascock, Glynn, Greene, Habersham, Jeff Davis, Johnson, Lanier, Laurens, Liberty, Long, McIntosh, Monroe, Peach, Rabun, Richmond, Screven, Stephens, Taylor, Toombs, Treutlen, Twiggs, Upson, Ware, Wayne, Wheeler, White, Wilkinson.

Idaho. Ada, Adams, Bear Lake, Benewah, Blaine, Boise, Bonner, Boundary, Butte, Camas, Canyon, Clark, Clearwater, Custer, Gem, Idaho, Kootenai, Latah, Lemhi, Lewis, Minidoka, Nez Perce, Owyhee, Payette, Power, Shoshone, Valley, Washington.

Illinois. Adams, Alexander, Bond, Boone, Brown, Bureau, Calhoun, Carroll, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, De Kalb, De Witt, Douglas, Du Page, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Hardin, Henderson, Henry, Iroquois, Jackson, Jasper, Jefferson, Jersey, Jo Daviess, Johnson, Kane, Kankakee, Kendall, Knox, Lake, La Salle, Lawrence, Lee, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Mason, McDonough, McHenry, McLean, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Piatt, Pike, Pope, Pulaski, Putnam, Randolph, Richland, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Stark, Stephenson, Tazewell, Union, Vermilion, Wabash, Warren, Washington, Wayne, White, Whiteside, Will, Williamson, Winnebago, Woodford.

Iowa. Adair, Adams, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cherokee, Chickasaw, Clarke, Clay, Clinton, Crawford, Dallas, Davis, Decatur, Delaware, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Fremont, Greene, Grundy, Hamilton, Hancock, Hardin, Harrison, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Kossuth, Lee, Linn, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Monona, Monroe, Montgomery, Muscatine, O'Brien, Osceola, Page, Palo Alto, Pocahontas, Polk, Pottawattamie, Poweshiek, Plymouth, Scott, Shelby, Sioux, Story, Tama, Taylor, Union, Van Buren, Wapello, Warren, Washington, Webster, Winnebago, Winneshiek, Woodbury, Worth, Wright.

Kansas. Barber, Brown, Chase, Cheyenne, Clark, Comanche, Decatur, Doniphan, Edwards, Ellsworth, Ford, Gove, Graham, Grant, Gray, Greeley, Hamilton, Haskell, Hodgeman, Johnson, Kearny, Kingman, Kiowa, Lane, Logan, Marion, Marshall, Meade, Ness, Norton, Pawnee, Phillips, Pottawatomie, Pratt, Rawlins, Republic, Riley, Rooks, Rush, Saline, Scott, Shawnee, Sheridan, Sherman, Smith, Stanton, Thomas, Trego, Wallace, Washington, Wichita.

Kentucky. Bell, Breathitt, Campbell, Clay, Edmonson, Floyd, Harlan, Johnson, Kenton, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, McCreary, Menifee, Morgan, Owsley, Pendleton, Perry, Pike, Robertson, Trimble, Whitley, Wolfe.

Mississippi. Alcorn, Hancock, Harrison, Jackson, Stone, Tishomingo.

Missouri. Audrain, Dunklin, Gasconade, Hickory, Lewis, Moniteau, Montgomery, Perry, Platte, Pulaski, St. Louis, Schuyler, Shelby.

Nebraska. Box Butte, Cheyenne, Deuel.

New Mexico. Catron, Colfax, Dona Ana, Grant, Harding, Hidalgo, Lincoln, Los Alamos, Luna, McKinley, Otero, Rio Arriba, Sandoval, San Juan, Santa Fe, Sierra, Socorro, Taos, Torrance.

South Dakota. Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Kingsbury, Lake, Lawrence, Lincoln, Lyman, Marshall, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Sully, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, Ziebach.

Tennessee. Anderson, Blount, Campbell, Carter, Claiborne, Davidson, Fentress, Grainger, Greene, Hamblen, Hancock, Jefferson, Johnson, Knox, Lake, Lewis, Meigs, Morgan, Perry, Polk, Roane, Robertson, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Van Buren.

Texas. Armstrong, Borden, Brewster, Childress, Comal, Crane, Culberson, Ector, Gillespie, Glasscock, Gray, Hansford, Hartley, Hemphill, Hudspeth, Hutchinson, Irion, Jeff Davis, Kendall, Kerr, Kimble, Lipscomb, Llano, Loving, Martin, Mason, Menard, Midland, Moore, Newton, Ochiltree, Reagan, Real, Roberts, Schleicher, Sherman, Sterling, Sutton, Terrell, Val Verde, Ward, Winkler, Yoakum.

Utah. Beaver, Cache, Carbon, Daggett, Davis, Duchesne, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, Wayne, Weber.

Vermont. Bennington, Caledonia, Essex, Grand Isle, Lamoille, Orange, Rutland, Washington, Windham, Windsor.

Wyoming. Albany, Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Laramie, Natrona, Niobrara, Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston.

Puerto Rico. Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arroyo, Barceloneta, Barranquitas, Bayamon, Cabo Rojo, Caguas, Canovanas (Loiza), Catano, Cayey, Ceiba, Ciales, Cidra, Coamo, Comerio, Corozal, Culebra, Dorado, Fajardo, Guanica, Guayama, Guaynabo, Guayanilla, Hormigueros, Humacao, Jayuya, Juana Diaz, Juncos, Lajas, Lares, Las Marias, Luquillo, Manati, Maricao, Maunabo, Mayaguez, Moca, Morovis, Naranjito, Orocovis, Patillas, Penuelas, Ponce, Rincon, Rio Grande, Rio Piedras, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Vieques, Villalba, Yabucoa, Yauco.

§ 78.21 Modified Certified Brucellosis Areas.

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

(a) *Entire States.*

Alaska, Louisiana, Oklahoma.

(b) *Specific Counties Within States.*

Alabama. Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dallas, De Kalb, Elmore, Etowah, Escambia, Fayette, Franklin, Greene, Hale, Henry, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Russell, St. Clair, Shelby, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Arkansas. Arkansas, Ashley, Benton, Boone, Calhoun, Chicot, Clark, Clay, Cleburne, Conway, Craighead, Crawford, Crittenden, Cross, Desha, Faulkner, Franklin, Greene, Hempstead, Hot Spring, Howard, Independence, Izard, Jackson, Jefferson, Lafayette, Lawrence, Lee, Lincoln, Little River, Logan, Lonoke, Madison, Miller, Mississippi, Nevada, Perry, Phillips, Pike, Poinsett, Polk, Pope, Prairie, Pulaski, Randolph, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, Washington, White, Yell.

Colorado. Mesa.

Florida. Alachua, Bradford, Brevard, Broward, Calhoun, Charlotte, Clay, Collier, Columbia, Dade, De Soto, Duval, Flagler, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Jefferson, Lafayette, Lake, Lee, Levy Madison, Manatee, Marion, Martin, Nassau, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, St. Lucie, Sarasota, Sumter, Suwanee, Union, Volusia.

Georgia. Baker, Baldwin, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckely, Brooks, Calhoun, Carroll, Catoosa, Chattooga, Cherokee, Clay, Clinch, Cobb, Coffee, Colquitt, Columbia, Coweta, Crisp, Dade, Dawson, Decatur, Dodge, Dooly, Dougherty, Douglas, Early, Elbert, Emanuel, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Grady, Gwinnett, Hall, Hancock, Haralson, Harris, Hart, Heard, Henry, Houston, Irwin

Jackson, Jasper, Jefferson, Jenkins, Jones, Lamar, Lee, Lincoln, Lowndes, Lumpkin, Macon, Madison, Marion, McDuffie, Meriwether, Miller, Mitchell, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Randolph, Rockdale, Schley, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Telfair, Terrell, Thomas, Tift, Towns, Troup, Turner, Union, Walker, Walton, Warren, Washington, Webster, Whitfield, Wilcox, Wilkes, Worth.

Idaho. Bannock, Bingham, Bonneville, Caribou, Cassia, Elmore, Franklin, Fremont, Gooding, Jefferson, Jerome, Lincoln, Madison, Oneida, Teton, Twin Falls.

Illinois. Massac.

Iowa. Allamakee, Appanoose, Cerro Gordo, Clayton, Guthrie, Ringgold, Sac, Wayne.

Kansas. Allen, Anderson, Atchison, Barton, Bourbon, Butler, Chautauqua, Cherokee, Clay, Cloud, Coffey, Cowley, Crawford, Dickinson, Douglas, Elk, Ellis, Finney, Franklin, Geary, Greenwood, Harper, Harvey, Jackson, Jefferson, Jewell, Labette, Leavenworth, Lincoln, Linn, Lyon, McPherson, Miami, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Osage, Osborne, Ottawa, Reno, Rice, Russell, Sedgwick, Seward, Stafford, Stevens, Sumner, Wabaunsee, Wilson, Woodson, Wyandotte.

Kentucky. Adair, Allen, Anderson, Ballard, Barren, Bath, Boone, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clinton, Crittenden, Cumberland, Daviess, Elliott, Estill, Fayette, Fleming, Franklin, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jackson, Jefferson, Jessamine, Larue, Laurel, Lincoln, Livingston, Logan, Lyon, Madison, Marion, Marshall, Mason, McCracken, McLean, Meade, Mercer, Metcalfe, Monroe, Montgomery, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Powell, Pulaski, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Union, Warren, Washington, Wayne, Webster, Woodford.

Mississippi. Adams, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, De Soto, Forrest, Franklin, George, Greene, Grenada, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, LeFlore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Sunflower, Tallahatchie, Tate, Tippah, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo.

Missouri. Adair, Andrew, Atchison, Barry, Barton, Bates, Benton, Bollinger, Boone, Buchanan, Butler, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Carter, Cass, Cedar, Chariton, Christian, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Dallas, Daviess, De Kalb, Dent, Douglas, Franklin, Gentry, Greene, Grundy, Harrison, Henry, Holt, Howard, Howell, Iron, Jackson, Jasper, Jefferson, Johnson, Knox, Laclede, Lafayette, Lawrence, Lincoln, Linn, Livingston, Macon, Madison, Maries, Marion, McDonald, Mercer, Miller, Mississippi, Monroe, Morgan, New Madrid, Newton, Nodaway, Oregon, Osage, Ozark, Pemiscot, Pettis, Phelps, Pike, Polk, Putnam, Ralls, Randolph, Ray, Reynolds, Ripley, St. Charles, St. Clair, St. Francois, St. Genevieve, Saline, Scotland, Scott, Shannon, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Warren, Washington, Wayne, Webster, Worth, Wright.

Nebraska. Adams, Antelope, Arthur, Banner, Blaine, Boone, Boyd, Brown, Buffalo, Burt, Butler, Cass, Cedar, Chase, Cherry, Clay, Colfax, Cuming, Custer, Dakota, Dawes, Dawson, Dixon, Dodge, Douglas, Dundy, Fillmore, Franklin, Frontier, Furnas, Gage, Garden, Garfield, Gosper, Grant, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Holt, Hooker, Howard, Jefferson, Johnson, Kearney, Keith, Keya Paha, Kimball, Knox, Lancaster, Lincoln, Logan, Loup, Madison, McPherson, Merrick, Morrill, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Perkins, Phelps, Pierce, Platte, Polk, Redwillow, Richardson, Rock, Saline, Sarpy, Saunders, Scotts Bluff, Seward, Sheridan, Sherman, Sioux, Stanton, Thayer, Thomas, Thurston, Valley, Washington, Wayne, Webster, Wheeler, York.

New Mexico. Bernalillo, Chaves, Curry, De Baca, Eddy, Guadalupe, Lea, Mora, Quay, Roosevelt, San Miguel, Union, Valencia.

South Dakota. Jones, Stanley.

Tennessee. Bedford, Benton, Bledsoe, Bradley, Cannon, Carroll, Cheatham, Chester, Clay, Cocke, Coffee, Crockett, Cumberland, Decatur, DeKalb, Dickson, Dyer, Fayette, Franklin, Gibson, Giles, Grundy, Hamilton, Hardeman, Hardin, Hawkins, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Jackson, Lauderdale, Lawrence, Lincoln, Loudon, Macon, Madison, Marion, Marshall, Maury, McMinn, McNairy, Monroe, Montgomery, Moore, Obion, Overton, Pickett, Putnam, Rhea, Rutherford, Shelby, Smith, Stewart, Sumner, Tipton, Trousdale, Warren, Washington, Wayne, Weakley, White, Williamson, Wilson.

Texas. Anderson Andrews, Angelina, Aransas, Archer, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Bosque, Bowie, Brazoria, Brazos, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comanche, Concho, Cooke, Coryell, Cottle, Crockett, Crosby, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, De Witt , Dickens, Dimmitt, Donley, Duval, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hardeman, Hardin, Harris, Harrison, Haskell, Hays, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hunt, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kenedy, Kent, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Matagorda, Maverick, Medina, Milam, Mills, Mitchell, Montague, Montgomery, Morris, Motley, Nacogdoches, Navarro, Nolan, Nueces, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Pecos, Polk, Potter, Presidio, Rains, Randall, Red River, Reeves, Refugio, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Scurry, Shackelford, Shelby, Smith, Somervell, Starr, Stephens, Stonewall, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Wood, Young, Zapata, Zavala.

Utah. Box Elder.

Vermont. Addison, Chittenden, Franklin, Orleans.

Wyoming. Lincoln.

Puerto Rico. Arecibo, Camuy, Carolina, Gurabo, Hatillo, Isabela, Las Piedras, Naguabo, Quebradillas, San Sebastian.

§ 78.22 Noncertified Areas.

The following States, or specified portions thereof, are hereby designated as Noncertified Brucellosis Areas:

(a) *Entire States.*

Yellowstone National Park.

(b) *Specific Counties Within States.*

Florida. Okeechobee.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132, (21 U.S.C. 111-113, 114a-1, 115, 117, 120, 121, 125, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25.)

The amendments impose certain restrictions necessary to prevent the spread of brucellosis in cattle and relieve certain restrictions presently imposed. They should be made effective promptly in order to accomplish their purpose in the public interests and to be of maximum benefit to persons subject to the restrictions which are relieved. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 27th day of February.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

E. A. SCHILF,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc. 78-5708 Filed 3-2-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

[Docket No. 76N-0366]

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

Provisional Listing of Lead Acetate; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document postpones the closing date for the provisional listing of lead acetate for use as a component of hair colors. The new closing date will be December 31, 1978. This document is a final rule acting in response to the proposal concerning provisionally listed color additives published in the FEDERAL REGISTER of December 13, 1977 (42 FR 62497). This action provides for the continued marketing of lead acetate as a hair color while a short-term study to resolve definitively questions about percutaneous absorption of the hair color is completed and evaluated.

EFFECTIVE DATE: February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Bureau of Foods (HFF-334, Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204 202-472-5740.

SUPPLEMENTARY INFORMATION: The Color Additive Amendments of 1960 provide that a color additive may be approved only if data establish that it is safe under its permitted conditions of use. Section 203(b) of the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86-618; sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note)) provides, however, for the provisional listing of color additives in use in 1960 on an interim basis pending completion of scientific investigations needed for determinations about "permanent listing" in accordance with section 706 of the Federal Food, Drug, and Cosmetic Act (sec. 706, 74 Stat. 399-403 (21 U.S.C. 376)). Section 81.1 (21 CFR 81.1) of the color additive regulations designates those color additives that are provisionally listed.

The color additive lead acetate has been used as a hair color for many years, dating back to well before July 12, 1960. With passage of the Color Additive Amendments of 1960 on that day, lead acetate was deemed provisionally listed along with any other metallic salt and vegetable substance hair color then in use. Following the receipt of inquiries regarding the status of metallic salts and vegetable substances, i.e., whether they were eligible for consideration under the coal tar hair dye exemption from the provisions of the Amendments, a notice was published in the FEDERAL REGISTER of December 10, 1963 (28 FR 13374) advising that metallic salt ingredients (e.g., lead acetate preparations) or vegetable substances (e.g., henna) were considered color additives within the meaning of the Amendments. Noting that any ambiguity concerning the color additives status of metallic salts and vegetable substances as hair colorings had only recently been clarified through publication of the provisional color additive regulations, the notice stated "The Food and Drug Administration will not institute regulatory action against them solely because they are not provisionally or permanently listed as color additives for use on the hair, pending appropriate notice of their status in the FEDERAL REGISTER, which will appear after the material received in response to the notice has been reviewed." The only data received in response to this notice were in the form of a petition for henna, which was subsequently permanently listed for use as a hair color.

A second notice was issued in the FEDERAL REGISTER of January 31, 1973 (38 FR 2996) stating that only those metallic salts or vegetable substances for which petitions had been filed by July 30, 1973, could continue to be marketed. By regulation published in the FEDERAL REGISTER of March 15, 1973 (38 FR 7006) metallic salts and vegetable substances were added to the provisional list, with a closing date of December 31, 1973. Subsequently, a petition was received from the Committee of the Progressive Hair Dye Industry for the listing of lead acetate as a color additive in cosmetics that are hair colors. Notice of filing for this petition appeared in the FEDERAL REGISTER of June 29, 1973 (38 FR 17260). Lead acetate was specifically added to the provisional list, effective January 1, 1974, by a regulation published in the FEDERAL REGISTER of March 13, 1974 (39 FR 9657). In the following years, the closing date for the provisional listing of lead acetate was postponed pending completion of the review of the petition. In a regulation published in the FEDERAL REGISTER of February 4, 1977 (42 FR 6992), the closing date was postponed until September 31, 1977, pending completion of a short-term absorption study intended to establish the extent to which absorption occurs from the use of lead acetate as a hair dye. This was further postponed by a regulation published in the FEDERAL REGISTER of November 4, 1977 (42 FR 57686), until January 31, 1978, pending a final decision on whether additional studies would be capable of establishing safe conditions of use. A proposal was published in the FEDERAL REGISTER of December 13, 1977 (42 FR 62497) to postpone the closing date for lead acetate until April 30, 1979, pending the conduct of additional absorption studies intended to measure the degree of percutaneous absorption of lead acetate from its use as a component of hair color. The closing date for lead acetate was postponed until February 28, 1978, by a regulation published in the FEDERAL REGISTER of February 3, 1978 (43 FR 4596) to permit time to evaluate fully a comment to the proposal submitted by the Environmental Defense Fund (EDF) and a subsequent letter analyzing the EDF comment from Combe, Inc., a manufacturer of hair coloring preparations containing lead acetate, and other pertinent scientific material.

ENVIRONMENTAL DEFENSE FUND COMMENT

In its comment of January 19, 1978, on the proposal of December 13, 1977, The Environmental Defense Fund (EDF) contended that the closing date for the provisional listing should not be extended for lead acetate, "a dye which presents no health benefit, which causes cancer in animal studies, and which appears to enter the bloodstream through the skin."

In support of its contention that lead acetate is a carcinogen in animals, EDF cites two studies, Boyland et al. (Ref. 1), and Zawirska and Medras (Ref. 2), preliminary results from an NCI study (Ref. 3), and a statement by the International Agency for Research on Cancer (Ref. 4). Citing Cooper and Gaffey (Ref. 5), EDF also contends that "human epidemiological studies suggest a cause and effect relationship between exposure to lead and an increased incidence of cancer."

Secondly, EDF asserts that the results of three studies—Laug and Kunze (Ref. 6), Rastogi and Clausen (Ref. 7), and Marzulli, Watlington, and Maibach (Ref. 8)—"must be considered highly suggestive if not conclusive evidence of the absorption of lead acetate."

COMBE, INC., COMMENT

In its submission of January 27, 1978, analyzing the EDF comment, Combe asserts that "human epidemi-

ological studies do not associate lead, even at very high blood levels, with an increased evidence of malignancy." In support of its contention, Combe cites a statement attributed to Dr. Cooper, one of the authors of the 1975 epidemiological study relied on by EDF. Dr. Cooper is reported to have stated that "* * * it is unjustified and unwarranted to conclude that lead is a carcinogen in man from this human evidence." Combe's letter contains no direct reference to the studies of lead acetate in animals relied on by EDF.

The second major point in Combe's letter deals with the question of lead absorption. Combe takes issue with EDF's conclusion that the evidence is "highly suggestive, if not conclusive" that lead acetate is absorbed. Combe asserts that the rat is not a good experimental model to predict absorption of lead acetate in man and that the Marzulli study (Ref. 8), relied on by EDF, "is so badly designed that it has no scientific value." Finally, Combe refers to data from a study involving the use of radioactive isotopes in support of its view that lead acetate is not absorbed through the skin. Combe concludes by stating that the safety of hair colorings containing lead acetate has been demonstrated.

Discussion

Two questions must be considered before a decision can be made on the continued provisional listing of lead acetate and whether it can be listed permanently, for use as a hair color. First, the Commissioner of Food and Drugs must consider the toxic effects, including carcinogenicity, of lead acetate. Second, the likelihood that lead would be absorbed as a result of the use of lead acetate as a hair color must be considered.

The toxic effects of lead resulting from high levels of exposure are especially well established. Among the first effects noted historically were the severe and sometimes fatal consequences, such as anemia, palsy, and effects on the nervous system, which followed acute occupational exposure in the mining and smelting industries. Exposure to high concentrations of lead in paints, ink, pesticides, and plumbing have similarly been implicated in cases of severe poisoning in children.

Concern about lead in the environment has stimulated research on the possible effects of longer-term, low-level exposure that is more characteristic of the entire population. Depending on the levels of lead to which a person is exposed, the adverse effects exhibited range from anemia to damage to the kidney and to the nervous systems—the peripheral nervous system in adults, the central nervous system in children. Although it has long been assumed that exposure to low levels of lead can be tolerated in humans without demonstrable adverse effects, the exact levels of exposure that define those thresholds have not been clearly established. It is generally agreed that young children are the most critically sensitive population.

The Commissioner has evaluated the two studies of lead acetate in animals cited by EDF and the preliminary report from NCI. The Commissioner has also considered several other studies not cited by EDF, including Van Esch et al. (Ref. 9), Van Esch and Kroes (Ref. 10), and other studies referenced in IARC, "Monographs on the Evaluation of Carcinogenic Risk of Chemicals to Man," IARC 1:40 (1972).

These studies establish that experimental animals exposed to very high levels of lead salts in their diets have shown carcinogenic effects. The studies, therefore, raise questions relating to the possible carcinogenicity of lead to man. On the basis of these studies the International Agency for Research on Cancer (IARC), World Health Organization, has concluded—and the Commissioner agrees—that lead acetate is carcinogenic when adminstered at high dietary levels in rats and mice; lead subacetate and lead phosphate are carcinogenic in the rat. This same IARC report states, however, that lead does not appear to be a carcinogen in humans. The Commissioner agrees that present scientific evidence does not provide definitive support for a conclusion that lead is a human carcinogen; however, on the basis of the studies that show lead acetate to be a carcinogen in animals, the possibility that lead acetate may be absorbed percutaneously must be explored carefully.

As noted above, EDF cites a human epidemiological study on lead purporting to show an increased incidence of cancer among workers exposed to lead; Combe attributes a contradictory statement to one of the authors of the study cited by EDF. The epidemiological data on workers exposed to lead, of which the Commissioner is aware, are scant and, as the EDF and Combe statements indicate, contradictory. At this date, it is simply not possible to draw any firm conclusion about the possible cancer-producing effects of exposure to lead in humans, based on epidemiologic data.

The animal studies that show lead acetate to be a carcinogen are not directly relevant to the use of lead acetate as a hair color without data showing that absorption of lead acetate through the scalp may occur as a result of such use.

A number of studies have attempted to measure the possibility of percutaneous absorption of lead in humans. These studies do not resolve all the significant questions on the percutaneous absorption of lead acetate from its use as a hair color. In all the studies, which were designed to assess lead acetate absorption in humans and which are discussed in detail below, any apparent increased absorption of lead was minimal. In no case were the apparent values for blood or urinary lead levels raised above the normal range of lead expected in human blood or urine. Two points must be kept in mind in discussing these studies. First, any amount of lead that may have been absorbed percutaneously would have been extremely small; detection and quantification of these levels are difficult. Second, because humans will invariably be exposed to lead from a variety of sources and therefore can have a wide range of lead in their blood and urine, it is difficult to establish what amount of lead in the blood or urine, if any, might be due to percutaneous absorption of the hair color.

An unpublished report by Kendel, Pfitzer, and Kehoe, entitled "An Investigation of the Potentialities for the Absorption of Lead by the Users of a Lead-Containing Hair Dye" (Ref. 15), was submitted with the color additive petition for lead acetate. Kendel et al. studied the potential for the absorption of lead by 10 users of a hair dye formulation containing 2 percent lead acetate. They concluded that under experimental conditions simulating normal use of hair dyes, little, if any, lead absorption occurred. Urinary lead levels increased slightly in the test subjects, however, and, although this was attributed to dietary variations, the authors also concluded "that some lead may have been absorbed by some or, perhaps, by all of the subjects, as the result of the experimental exposure to lead cannot be disproved, but neither can it be affirmed * * *."

The results of a second absorption study, which Biometrics conducted with humans, was submitted to FDA on February 25, 1977. The agency initially considered this study as not showing any noteworthy difference in lead levels between the control groups and those using the lead acetate hair dye. Statistical analysis of the data from this study, however, indicated a statistically significant, but very slight, increase in the amount of lead in the blood from the use of a lead acetate hair color as compared with the controls. The level of percutaneous absorption that appeared to occur was not considered to be of concern as it related to general lead toxicity. In view of the data demonstrating lead acetate to be an animal carcinogen, however, it is necessary to consider whether the study indicates that any absorption might have occurred. The problem of background lead and the relative lack of sensitivity of the detection methods used do not permit resolution of that question. The peti-

tioners have contended that their statistical analysis of the study did not show absorption of lead acetate in human subjects. To support their contention, they advised that the study had been reviewed by a number of scientists recognized as experts in the area of lead absorption, who concluded that the study indicated that no absorption had occurred.

In discussing the absorption of lead, EDF refers to an as yet unpublished study by Marzulli, Watlington, and Maibach (Ref. 8) in which a 2-percent lead acetate hair color was applied to the hair of nine human subjects daily for 90 days. Combe criticized this study, stating the study was "* * * so badly designed that it has no scientific value." Marzulli et al. reported in their study that there was an increase in the levels of lead in pubic and axillary hair after the administration of a lead acetate hair color to the hair of the scalp. They concluded that this might indicate lead was absorbed through the skin of the scalp and then deposited in the growing hair of the axillary and pubic regions. No blood or urine measurements of lead absorption were made, however, nor were there measures taken to rule out exogenous deposition, a necessary precaution according to Baloh (Ref. 16). Generally, blood and urine levels are considered reliable indicators of systemic exposure to lead; lead levels in axillary and pubic hair are not generally considered reliable indicators of systemic uptake. The failure to measure blood or urine levels of lead in the subjects and the distinct possibility of exogenous deposition are significant shortcomings in this study and preclude reliance on it to draw any conclusions about the likelihood of lead absorption in humans.

In the FEDERAL REGISTER of December 13, 1977, the Commissioner proposed to extend the closing date of lead acetate because the available data from absorption studies indicated that although lead acetate absorption was unlikely under the test conditions, these data did not permit a conclusion about the safety of lead acetate generally for such use. The limitations of the study presented by the petitioners on February 25, 1977 included the use of a test formulation based on a water and alcohol vehicle, whereas other available formulations may contain other vehicles, e.g., oil-in-water or water-in-oil emulsions containing surfactants, mineral oil, or petroleum vehicles which may enhance percutaneous absorption of lead. In addition, the study did not investigate the possible effect of various hair-grooming aids on percutaneous absorption of lead. Hair-grooming aids may be used in conjunction with lead acetate hair dyes that do not themselves provide sufficient grooming. Because hair-grooming aids may contain mineral or vegetable oils, surfactants, and other substances that may increase the absorption of lead, human absorption studies with the lead acetate hair dyes must also investigate the potential effects of grooming aids.

In addition, the Commissioner found that the conditions of the submitted test were not sufficiently rigorous to provide a degree of exaggeration from which safe conditions of use could be determined. In particular, the Commissioner felt that actual conditions of use may be more extreme than those encountered in this test.

As a condition for the proposed extension, the Commissioner stated the need for additional data for lead acetate involving a human absorption study similar to that study already conducted by the petitioner. However, a new study would have required several necessary revisions in the protocol. First, the study would have involved a formulation or formulations that would permit extrapolation of the results to the variety of lead acetate hair dyes that are marketed and/or for which the petitioners seek listing for lead acetate. Second, any studies that would be conducted would include a degree of exaggeration to reflect also those conditions of use that exceed recommended usage but are still likely to occur.

The fact that lead acetate is an animal carcinogen requires that the most sensitive scientific methods be applied in determining whether lead acetate is absorbed percutaneously. The focus of the scientific inquiry is whether there is absorption and not whether any absorption that may occur raises the lead levels in blood or urine above the normal ranges found in humans. The available data show that lead acetate is absorbed by animals. The human data are conflicting, but suggest only trivial absorption. The issue of potential absorption of lead acetate when used as a hair color necessitates the use of sensitive analytical methods that could differentiate routes of lead uptake in the human body, in particular that lead uptake that may be the direct result of topical application. During the course of the review of the absorption data, Combe submitted a method that uses a radioactive isotope of lead chloride.

Combe has submitted a preliminary report of a radioactive-tracer study, using human volunteers, of the absorption of lead acetate. The investigator reported that the results showed no percutaneous uptake of lead under "idealized" conditions. Review of the preliminary report, however, shows significant deficiencies in the study. In particular, though the radioactivity of the test solution may have been sufficiently high in toto, the application used in the study was made from a gauze pad containing 2 milliliters of the test solution. Thus, the actual amount of lead in contact with the skin, and available for absorption, was very limited. This study could not be expected to be capable of showing the absorption of small quantities of lead. Because of the major deficiencies in the design of the preliminary study, the results obtained do not demonstrate that lead is not absorbed through the human skin from the use of lead acetate as a hair dye.

Because lead is ubiquitous in the environment, a major problem inherent in appraising the likelihood of percutaneous absorption of lead is the variable "background" level that is always present in humans. Humans are exposed to lead from numerous sources, including lead found unavoidably in food, drink, and air. As a result of the possible variation in these sources, body lead intakes have not been precisely defined. Furthermore, although it now appears that exposure levels to lead might be reducible in some cases, it is not possible to totally eliminate lead intake. Estimates based on scientific data indicate that lead intake for food sources for adults can range from 100 to 500 micrograms per day, with an average of approximately 250 micrograms (μg). Current Environmental Protection Agency (EPA) water standards allow a calculation of a maximum intake of approximately 100 μg/day for adults. Estimations of daily lead intake from air sources vary with the geographical location. In the urban setting, estimations of intake range from 20 μg to 400 μg/day, whereas the nonurban areas have an estimated intake of about 2 μg/day. With these estimated values for exposure to lead, it is possible to estimate a daily level of lead absorption of at least 30 μg, with the actual amount possibly being higher depending on the exposure to lead. These fluctuating values represent the "background" against which short-term skin penetration studies with lead acetate must be conducted. It has been the problem of measuring an incremental change against this fluctuating background that has formed the major stumbling block in the previous studies submitted to demonstrate no lead penetration. The question then becomes what level of increase over this background must be detectable to permit a conclusion that no significant absorption will occur from the use of lead acetate as a hair color.

Combe submitted the radioactive tracer study discussed above as an alternative way of determining absorption of lead where the problem of the fluctuating background could be eliminated. Radioactive tracer studies appear to present a method that avoids this difficulty because the ques-

tion of an increase over normal lead background does not arise since there are no exogenous levels of radioactive lead.

The preliminary study submitted by Combe was capable of detecting 1 percent of the applied dose of radioactive lead. Such a level is not sufficiently sensitive, however, and therefore the results of that study do not establish that there was no absorption of lead. After considering the normal background level of lead exposure, the Commissioner concludes that any study intended to establish that use of lead acetate as a hair color does not result in significant percutaneous absorption of lead must include a method capable of detecting approximately 1 microgram of absorbed lead above and beyond the normal background.

Combe recently submitted a detailed protocol to FDA proposing to use the radioactive isotope ^{203}lead in conjunction with a sensitive radiation measurement instrument, "a whole body counter," capable of detecting radiation emissions throughout the human body. Combe believes that the study defined by the protocol will overcome the deficiencies that were present in the preliminary study and will support the extension of the closing date for lead acetate.

Basically, the protocol outlines a human absorption study using the radioactive isotope ^{203}lead in combination with nonradioactive lead acetate in vehicles composed of ingredients that simulate formulations of lead acetate hair colors or hair-grooming agents likely to be used in conjunction with the hair color formulations, including both hydro-alcoholic vehicles and vehicles of an oil emulsion composition. The measurements of lead absorption will include whole body counts with an instrument capable of a sensitivity of no less than 0.01 percent of the applied dose of lead where the applied dose contains ^{203}lead. The sensitivity of the method has been confirmed by FDA. In addition, blood and urine samples will be analyzed for measurable levels of radioactive and nonradioactive lead.

Having considered the preliminary study using a radioactive tracer technique and the Combe proposal for further tests of increased sensitivity and other pertinent data, the Commissioner concludes that reasonable cause has been shown to support postponement of the closing date for the provisional listing of lead acetate. A postponement of the closing date for lead acetate until December 31, 1978, will provide adequate time for submission of final reports of the required study and for the agency to take final action regarding lead acetate. The regulation set forth below will require that final reports of the study be submitted to the agency by September 30, 1978. The provisional listing of the color will be terminated if the reports are not submitted by that time, or if the Commissioner concludes at any time that continued provisional listing presents a hazard to public health.

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2. Zawirska, B. and K. Medras, "Tumours and Disorders of the Porphyrin Metabolism in Rats with Chronic Experimental Lead Poisoning. I. Morphologic Studies," *Zentralbl. Allg. Pathol. Anat. III* (1):1-12, 1968.

3. National Cancer Institute Carcinogenesis Bioassay Experimental Design Status Report, Contract No. 712166, Agent No. C01489. November 8, 1977, pp. 11-12.

4. IARC Monographs on the Evaluation of Carcinogenic Risk of Chemicals to Man. Lyon, France, IARC, 1:40, 1972.

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8. Marzulli, F. N., P. M. Watlington, and H. I. Maibach, "Exploratory Skin Penetration Findings Relating to the Use of Lead Acetate Hair Dyes: Hair as a Test Tissue for Monitoring Uptake of Systemic Lead," *In* "Curr. Prob. Dermatol." (in press).

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13. Bartek, M. J., J. A. LaBudde, and H. I. Maibach, "Skin Permeability In Vivo, Comparison in Rat, Rabbit, Pig, and Man," *Journal of Investigative Dermatology*, 58:114-123, 1972.

14. Bartek, M. J. and J. A. LaBudde, "Percutaneous Absorption, In Vitro," *In* "Animal Models in Dermatology," 1975.

15. Kendel, E. A., E. A. Pfitzer, and R. A. Kehoe, "An Investigation of the Potentialities for the Absorption of Lead by the Users of a Lead-Containing Hair Dye," Report submitted to the Food and Drug Administration, 1968.

16. Baloh, R. W. "Laboratory Diagnosis of Increased Lead Absorption," *Archives of Environmental Health*, 28:198-208, 1974.

Therefore, under the transitional provisions of the Color Additive Amendments of 1960 to the Federal Food, Drug, and Cosmetic Act (Title II, Pub. L. 86-618; sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 81 is amended as follows:

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives*, the entry for the closing date for the color additive "lead acetate" listed in paragraph (g) is changed to read "December 31, 1978."

2. In § 81.27 by revising paragraph (b) to read as follows:

§ 81.27 Conditions of provisional listing.

* * * * *

(b) The closing date for caramel is postponed until October 31, 1977, while a subchronic study is conducted and evaluated, and for lead acetate until December 31, 1978, while a short-term skin penetration study is conducted and evaluated, and subject to compliance with the requirements of this paragraph.

(1) At least one petitioner for caramel shall agree in writing by March 7, 1977 to undertake the subchronic study on the color additive.

(2) A full written report on the subchronic study for caramel shall be submitted by August 3, 1977, and on the short-term skin penetration study for lead acetate by September 30, 1978, to the Division of Food and Color Additives (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204.

(3) The petitioners undertaking the studies shall immediately notify the Division of Food and Color Additives of any findings that indicate a potential of the color additives to cause adverse effects.

* * * * *

Effective date: February 28, 1978.

(Sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note).)

Dated: February 28, 1978.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc. 78-5721 Filed 3-1-78; 10:00 am]

[4110-03]

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 77N-0085]

PART 101—FOOD LABELING

Saccharin and Its Salts

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document establishes a new regulation prescribing the

form, text, and manner of display of the notices required by statute to be displayed in retail establishments that sell food that contains saccharin. The notices will convey to consumers the warning statement about the risks to health presented by the use of saccharin which Congress has required to be on the label and labeling of saccharin-containing food.

EFFECTIVE DATES: This rule takes effect March 3, 1978. The warning notices must be displayed in retail establishments selling food containing saccharin on and after June 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Caesar Roy, Bureau of Foods (HFF-310), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1186.

SUPPLEMENTARY INFORMATION: Section 4(b)(1) of the Saccharin Study and Labeling Act (SSLA) added section 403(p)(1) to the Federal Food, Drug, and Cosmetic Act ("the act"). That section requires that retail establishments in which food containing saccharin is sold (except restaurants) display a notice conveying to consumers the warning statement required to be on the label and labeling of food containing saccharin. In addition, the SSLA authorizes the Food and Drug Administration (FDA) to promulgate regulations prescribing the form, text, and manner of display of those notices "after an oral hearing but without regard to the National Environmental Policy Act of 1969 and chapter 5 of section 553 of title 5, United States Code."

In a proposal published in the FEDERAL REGISTER of December 9, 1977 (42 FR 62160), the Commissioner of Food and Drugs announced that the hearing contemplated by the SSLA would be held on January 12, 1978. The following trade associations made oral presentations at the hearing: the National Soft Drink Association, Calorie Control Council, National Association of Convenience Stores, Food Marketing Institute, and National Association of Retail Grocers. Also, the National Association of Chain Drug Stores and the National Retail Merchants Association presented written comments. A transcript of the hearing was made and may be obtained, along with copies of the written comments, from the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

The comments have been carefully considered. The main issues raised in the comments and the Commissioner's disposition of them are described below.

1. The Commissioner proposed to require the notices to be printed in a combination of red and black ink on white card stock at least 11 inches by 14 inches in size. A few comments suggested a smaller size notice; one comment proposed that the notices be printed all in black ink.

The alternatives to the proposal have been evaluated and in the Commissioner's opinion the size of the notice and the use of red and black ink are reasonable and necessary to ensure that the notices are highly visible to consumers. This aspect of the proposal is adopted without change.

2. The text and format of the notice were set forth in the December 9 proposal on page 62161 of the FEDERAL REGISTER. No comments were received about the text or format and they are adopted without change.

3. the Commissioner proposed to require generally that three notices be displayed in retail establishments. The proposal also stated, however, that fewer notices might be adequate in small convenience stores. Comments were especially solicited on this point and several were received.

The National Association of Convenience Stores (NACS) recommended that only one notice be required in stores that have 3,200 square feet or less of floor space—the maximum size of the typical convenience store. Additionally, NACS recommended that the one notice be posted near the soft drink section of the store. The National Association of Retail Grocers of the United States (NARGUS) stated that the average size of a convenience store is 2,500 to 3,000 square feet and that there are many small grocery stores that can be as large as 10,000 square feet. Therefore, NARGUS recommended that only one notice be required in retail establishments with 10,000 square feet or less, and that the store have the option to place the notice in any one of the three locations where notices are required to be displayed generally.

The National Association of Chain Drug Stores (NACDS) recommended that notices not be required near the entrance of retail establishments because consumers would frequently not see those notices and because, to the extent that they did notice them, consumers would be distracted and possibly injured when entering through the electronic turnstiles and gates, which are common in drug stores.

The Commissioner is not persuaded by those comments that argued for fewer than three notices in the typical retail establishment that sells food containing saccharin. Many stores, including drug stores, routinely display notices near the entrance of the store announcing sale items and calling the attention of consumers to other matters of interest. Presumably, store managers believe that those notices are effective in attracting the attention of consumers. Likewise, the Commissioner is of the opinion that the notice required by this regulation will be seen by many consumers, assuming that the notice is properly displayed near the entrance of a store. Further, the Commissioner believes that the likelihood is extremely remote that consumers may be injured because of seeing the saccharin warning notice as they enter stores through turnstiles or gates. Although the Commissioner hopes that the notice will attract the attention of consumers, it can hardly be said that the notice is so striking that consumers will be so engrossed in reading it that they will neglect to pay attention to a matter so basic as gaining entry to the store without injuring themselves.

The requirement for three notices to be posted in most retail establishments is adopted as proposed. Issues about the placement of those notices and the special rules that apply to small stores are discussed below.

4. The Commissioner has considered the comments that discussed the question of the number of notices in convenience stores and small retail establishments. The following rules will apply:

a. Stores with 3,200 square feet or less of floor space must display at least one notice. That notice must be located near the entrance to the store so that consumers are likely to see it upon entering.

b. Stores with more than 3,200 but less than 10,000 square feet of floor space must display at least two notices. One notice shall be located near the entrance to the store and the other in the area where diet soft drinks are sold, or if none are sold, where the largest quantity of saccharin-containing foods are located.

5. A comment from the National Retail Merchants Association (NRMA) pointed out that many department and specialty stores, which are not primarily in the business of selling food, nevertheless carry some foods containing saccharin. These stores usually have a section of the store devoted to "gourmet" food items, and it is there that the foods containing saccharin are displayed. Accordingly, the NRMA stated that it would be unnecessary and unfair to require department and specialty stores that incidentally sell some saccharin-containing food to display three notices.

The Commissioner agrees with the NRMA comment. Therefore, department and specialty stores whose primary business consists of selling non-food items (i.e., the proportion of food sold is extremely small compared to other items) need display only one notice. Ordinarily these stores have a separate food area, and the notice shall be prominently displayed there. If the store has several "food areas" in

which food containing saccharin is sold, a notice shall be displayed in each area.

This provision applies only to department and specialty stores where the sale of food is clearly incidental to the main business in which the store is engaged. It does not apply to stores such as drug stores which often sell diet beverages and a range of other saccharin-containing foods. The latter stores are covered by the rules that apply generally to retail establishments selling food that contains saccharin.

6. An aspect of the proposal adopted below without major change is the requirement that the notices be displayed in the following three locations in retail establishments:

a. Near the entrance to the store and arranged so that consumers are likely to see the notice upon entering;

b. Centrally located in the aisle or area of the establishment in which soft drinks containing saccharin are sold. If there is more than one such place, then in the store area where the greatest quantity of diet soft drinks are sold; and

c. In the area in the establishment where the largest quantity of saccharin-containing foods (including saccharin sold in package form as a sugar substitute) are displayed, other than the area where diet soft drinks are displayed.

The Commissioner recognizes that the precise placement of the notices in retail establishments must be left to the discretion of the individual store manager. The locations specified in the regulation are intended to guide the placement of the notices, not to dictate their exact location in the thousands of retail establishments that sell food that contains saccharin. The Commissioner is confident that common sense and good judgment on the part of store managers will ensure that the notices are displayed prominently in the locations required by the regulation.

7. At the hearing on January 12, 1978, a question was raised about the phrase "centrally located" used in connection with the description of the placement of a notice in the area in the store where diet soft drinks are sold. The regulation does not require that the notice be affixed to a stand placed in the middle of the store aisle or area. Rather, it requires that in placing the notice, be it on a shelf, on a stand, or suspended from the ceiling (or in any other appropriate manner), the store manager locate it approximately in the middle, i.e., equidistant from the ends, of the area where the soft drinks are displayed. Because soft drinks containing saccharin are ordinarily displayed throughout the area (e.g., Brand X diet cola is displayed adjacent to Brand X cola and not clustered with all of the diet soft drinks), centrally locating the notice will make it visible to the largest possible number of consumers before they decide to purchase a particular type of soft drink.

8. One comment suggested that the notices should be posted only until the end of 1978, on the grounds that all foods and beverages that contain saccharin will bear the warning statement required by the SSLA by that time.

The Commissioner rejects the comment. The requirement to display the notices is intended to supplement the warning on the label of the food that contains saccharin. It was not intended by Congress to be an interim measure for the period required to get the warning on the labels. In the judgment of Congress and that of the Commissioner, the warnings on the label and the notices are necessary to ensure that consumers are alerted to the risks to health associated with the use of saccharin.

9. The Commissioner proposed to require that each manufacturer of food containing saccharin supply three notices to each retail establishment in which his products are sold. The Commissioner also proposed to require that on request, each manufacturer make additional notices available to any retail establishment. Finally, the Commissioner solicited comments on alternative arrangements for distributing the notices, "including joint distribution by several manufacturers or distribution through trade associations."

The National Soft Drink Association appeared at the hearing on January 12, 1978 and advised that the soft drink industry was in a unique position to supply notices to retail establishments because, unlike most food distribution, soft drinks are distributed directly to the retail establishment by representatives (driver-salesmen) of the manufacturer. This direct delivery system with frequent contact between the driver-salesman and retail establishment personnel will, said NSDA, enable the soft drink manufacturers to provide the notices to the retail establishments that stock their products. Also, the NSDA said that it will encourage its members to have their driver-salesmen carry additional notices with them so that they may restock retail establishments as necessary.

The Commissioner is encouraged by the spirit of cooperation reflected in the NSDA comment and accepts the NSDA plan as one of the alternative ways (codified in § 101.11 (21 CFR 101.11)) to supply the notices to retail establishments. The Commissioner advises that manufacturers who chose to supply notices in accordance with the system outlined by NSDA are under a continuing obligation to see that retail establishments have an adequate supply of notices. In this regard, the Commissioner encourages manufacturers to have their delivery personnel look for and ask about the notices and not merely carry additional notices to be supplied on request. The regulation does not require that each manufacturer leave three notices at each retail establishment if a retail establishment has already been supplied by another manufacturer. The establishment may properly decline to accept additional signs until they are needed.

10. The Calorie Control Council proposed a system for supplying the notices to retail establishments by manufacturers who do not customarily deliver their products directly to retail establishments. Other persons attending the hearing spoke favorably of the Calorie Control Council suggestion. The Commissioner agrees that it is a well-conceived plan, and it is adopted below, largely without change. The Calorie Control Council plan requires that a trade association that is coordinating a plan to distribute the notices file a statement with FDA about the program (see § 101.11(e)(1)). Those statements should be sent to the contact person listed above.

11. One comment asked whether a drug store chain has the option of having the notices delivered directly to its retail outlets, to the firm's warehousing operation, or to its corporate headquarters.

The Commissioner has no objection to a drug store chain or other group of retail establishments having the notices delivered to a location other than their retail outlets.

This regulation is exempt from the requirements of the National Environmental Policy Act of 1969. Accordingly, an environmental impact assessment has not been prepared.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 403(p), 409, and 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended, 91 Stat. 1453 (21 U.S.C. 321(s), 343(p), 348, and 371(a)), and the Saccharin Study and Labeling Act, 94 Stat. 1451-1454 (21 U.S.C. 301 note), and under authority delegated to the Commissioner (21 CFR 5.1), Part 101 is amended by adding new § 101.11 to read as follows:

§ 101.11 Saccharin and its salts; retail establishment notice.

Each retail establishment (except restaurants) that sells food that contains saccharin shall display the following notice in the locations set forth in paragraph (b) of this section:

SACCHARIN NOTICE

This store sells food including diet beverages and dietetic foods that contain saccharin. You will find saccharin listed in the ingredient statement on most foods which contain it. All foods which contain saccharin will soon bear the following warning:

USE OF THIS PRODUCT MAY BE HAZARDOUS TO YOUR HEALTH. THIS PRODUCT CONTAINS SACCHARIN WHICH HAS BEEN DETERMINED TO CAUSE CANCER IN LABORATORY ANIMALS.

THIS STORE IS REQUIRED BY LAW TO DISPLAY THIS NOTICE PROMINENTLY

Each notice shall be displayed prominently, in a manner highly visible to consumers (e.g., not shielded by other store signs or merchandise displays) and set up to reduce the likelihood that a notice will be torn, defaced, or removed.

(a) The notice shall be printed in a combination of red and black ink on white card stock and be at least 11 inches by 14 inches. The background of the bold heading, "Saccharin Notice," and the boxed warning statement shall be bright red and the lettering, white. The remaining background shall be white with black ink. All lettering shall be in gothic typeface.

(b) Except as provided in paragraph (c) of this section, each retail establishment that sells food that contains saccharin shall display a notice in each of the following three locations:

(1) Near the entrance to the retail establishment and arranged so that consumers are likely to see the notice upon entering.

(2) Centrally located in the area of the retail establishment in which soft drinks containing saccharin are displayed. If there is more than one such place, then in the area where the greatest quantity of diet soft drinks are displayed.

(3) In the area in the establishment in which the largest quantity of saccharin-containing foods (including saccharin sold in package form as a sugar substitute) are displayed, other than the area where diet soft drinks are displayed.

(c) The following are exceptions to the requirements set forth in paragraph (b) of this section:

(1) A retail establishment with 3,200 square feet or less of floor space shall display at least one notice. The notice shall be located near the entrance to the retail establishment and arranged so that consumers are likely to see the notice upon entering.

(2) A retail establishment with more than 3,200 but less than 10,000 square feet of floor space shall display at least two notices. The first notice shall be located near the entrance to the retail establishment and arranged so that consumers are likely to see the notice upon entering. The second notice shall be centrally located in the area of the retail establishment in which soft drinks containing saccharin are displayed. If there is more than one such place, then in the area where the greatest quantity of diet soft drinks are displayed. If diet soft drinks are not sold, then in the area of the establishment in which the largest quantity of saccharin-containing foods (including saccharin sold in package form as a sugar substitute) are displayed.

(3) A large retail establishment, e.g., department store, whose primary business consists of selling nonfood items (i.e., the proportion of food sold is extremely small compared to other items) shall display at least one notice. The notice shall be located in the area of the establishment in which foods containing saccharin are displayed. If there is more than one such area, then a notice shall be displayed in each area.

(d) Each manufacturer of saccharin-containing food who customarily delivers his products directly to retail establishments shall make available at least three notices to each retail establishment in which his products are sold. Each manufacturer shall also arrange to supply additional notices to a retail establishment that asks for them.

(e) Manufacturers who do not customarily deliver their saccharin-containing food products directly to retail establishments may fulfill their obligation to provide notices either in the manner set forth in paragraph (d) of this section or by participating in, and performing the actions required by, a trade association coordinated program that meets the following requirements:

(1) The coordinating association shall have filed notice of the program with the Food and Drug Administration, including the association's name, mailing address, telephone number, and contact person.

(2) Each manufacturer participating in the program shall file notice of its participation with the coordinating association, including its name, mailing address, telephone number, and contact person.

(3) The association shall ensure that retail establishment notices, in the form specified in this section, are readily available to participating manufacturers.

(4) The association shall take affirmative steps to coordinate with retail establishments, their trade associations, and the trade press to disseminate information about the applicable requirements of the Saccharin Study and Labeling Act and these regulations, the existence of the association coordinated program, and the availability of notices through the program.

(5) Each manufacturer shall, in consultation with the association, communicate with its contacts in the distributional chain to inform them of the applicable requirements of the Saccharin Study and Labeling Act and these regulations, and the continued availability of notices.

(6) Each manufacturer shall ensure that notices are promptly provided on request to any retail establishment carrying its products.

(7) The association shall consult with participating manufacturers concerning the implementation and progress of the program and shall disseminate information to facilitate the conduct of the program based on such consultations or consultation with the Food and Drug Administration.

(8) The association shall, on request, permit the Food and Drug Administration to have access to the participation notices filed by manufacturers, samples showing the form of retail establishment notices made available, and typical communication materials used by the association in the course of the program.

Effective date. This regulation shall be effective March 3, 1978; warning notices must be displayed in retail establishments selling food containing saccharin on or after June 1, 1978.

(Secs. 201(s), 403(p), 409, and 701(a), Pub. L. 717, 52 Stat. 1055 as amended, 72 Stat. 1784–1788 as amended, 91 Stat. 1453 (21 U.S.C. 321(s), 343(p), 348, 371(a)) and Pub. L. 95-203, 91 Stat. 1451-1454 (21 U.S.C. 301 note).)

Dated: February 28, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-5722 Filed 3-1-78; 10:02 am]

[1505-01]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 75N-0249]

PART 314—NEW DRUG APPLICATIONS

Procedures for Filing Over Protest

Correction

In FR Doc. 77-34039, appearing at page 60737 in the issue for Tuesday, November 29, 1977, on page 60739, middle column, lines 11 through 13 of § 314.110(e) reading: "proved, or the applicant shall be given hearing pursuant to § 314.200 on the written notice of an opportunity for a"; should read as follows: "proved, or the applicant shall be given written notice of an opportunity for a hearing pursuant to § 314.200 on the".

[4110-03]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Febantel Paste

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) filed by Bayvet Division of Cutter Laboratories, Inc., providing for use of an anthelmintic paste in treating horses for intestinal worms.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert A. Baldwin, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Bayvet Division of Cutter Laboratories, Inc., P.O. Box 390, Shawnee Mission, Kans. 66201, filed an NADA (107-345V) providing for use of febantel paste orally or in the feed of horses, foals, and ponies for the removal of large strongyles, sexually mature and immature ascarids, pinworms, and the various small strongyles.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations, a summary of safety and effectiveness data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, Monday through Friday, from 9 a.m. to 4 p.m., except on Federal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 520 (21 CFR Part 520) is amended by adding new § 520.903 to read as follows:

§ 520.903 Febantel paste.

(a) *Chemical name.* Dimethyl [[2-[(methoxyacetyl)amino]-4-(phenylthio)phenyl] carbonimidoyl]bis- [carbamate].

(b) *Specifications.* The drug is a paste containing 45.5 percent febantel.

(c) *Sponsor.* See No. 000859 in § 510.600(c) of this chapter.

(d) *Conditions of use.*—(1) *Amount.* Six milligrams per kilogram (2.73 milligrams per pound) of body weight in horses.

(2) *Indications for use.* For removal of large strongyles (*Strongylus vulgaris, S. edentatus, S. equinus*); ascarids (*Parascaris equorum*—sexually mature and immature); pinworms (*Oxyuris equi*—adult and 4th stage larva); and the various small strongyles in horses, foals, and ponies.

(3) *Limitations.* (i) The paste may be administered on the base of the tongue or well mixed into a portion of the normal grain ration.

(ii) Do not administer to pregnant mares.

(iii) For animals maintained on premises where reinfection is likely to occur, retreatment may be necessary. For most effective results, retreat in 6 to 8 weeks.

(iv) Not for use in horses intended for food.

(v) Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

Effective date: March 3, 1978.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: February 22, 1978.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 78-5443 Filed 3-2-78; 8:45 am]

[4210-01]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER [FEDERAL HOUSING ADMINISTRATION], DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-511]

MORTGAGE INSURANCE AND HOME IMPROVEMENT LOANS

Changes in Interest Rates

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: The change in the regulations increases the FHA maximum interest rate on homes. The change is necessitated by the current realities of high discounts and declining use of FHA financing in the mortgage

market. This action by HUD is designed to bring the maximum interest rate on home mortgages into line with other interest rates currently prevailing in the mortgage market.

EFFECTIVE DATE: February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Chester C. Foster, Director, Financial and Economic Analysis Division, Office of Policy Development and Evaluation, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-8694.

SUPPLEMENTARY INFORMATION: The following miscellaneous amendments have been made to this chapter to increase the maximum interest rates which may be charged on mortgages insured by this Department. (The maximum interest rate on home mortgage loan and insurance programs has been raised from 8.50 percent to 8.75 percent.) The Secretary has determined that such changes are immediately necessary to meet the needs of the mortgage market, and to prevent speculation in anticipation of a change, in accordance with her authority contained in 12 U.S.C. 1709-1, as amended. The Secretary has, therefore, determined that advance notice and public procedure are unnecessary and that good cause exists for making this amendment effective.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

It is hereby certified that the economic and inflationary effects of these amended regulations have been carefully evaluated in accordance with Executive Order No. 11821.

Accordingly, Chapter II is amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Subpart A—Eligibility Requirements

1. In § 203.20 paragraph (a) is amended to read as follows:

§ 203.20 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8.75 percent per annum with respect to mortgages insured on or after February 28, 1978.

* * * * *

2. In § 203.74 paragraph (a) is amended to read as follows:

§ 203.74 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 8.75 percent per annum with respect to loans insured on or after February 28, 1978.

* * * * *

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

Subpart C—Eligibility Requirements—Individual Properties Released From Project Mortgage

1. In § 213.511 paragraph (a) is amended to read as follows:

§ 213.511 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8.75 percent per annum with respect to mortgages insured on or after February 28, 1978.

* * * * *

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Individually Owned Units

1. In § 234.29 paragraph (a) is amended to read as follows:

§ 234.29 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8.75 percent per annum with respect to mortgages insured on or after February 28, 1978.

* * * * *

(Sec. 3(a), 82 Stat. 113; 12 U.S.C. 1709-1; sec. 7d, Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).)

Issued at Washington, D.C., February 28, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 78-5706 Filed 3-2-78; 8:45 am]

[4310-02]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

PART 73—ELECTION OF OFFICERS OF THE OSAGE TRIBE

Amendment

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Osage Tribal Council has requested that the regulations be amended. The amendment would eliminate the requirement that an Osage voter using an absentee ballot execute a certificate and have two persons witness his signature, and would change the voting age from 21 to 18 years of age to comply with the 26th Amendment to the United States Constitution which is self-executing.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Ms. Patricia Simmons, Division of Tribal Government Services, Branch of Tribal Relations, Telephone No. 202-343-4045, who is primary author of this document.

SUPPLEMENTARY INFORMATION: This notice is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 230 DM 2.

The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

Part 73, Subchapter G, Chapter 1 of Title 25 of the Code of Federal Regulations is amended by revising §§ 73.21, 73.41 and 73.43. These revisions are made pursuant to the authority contained in the Act of March 2, 1929 (45 Stat. 1481).

Accordingly, 25 CFR Part 73 is amended as follows:

1. By revising § 73.21 to read as follows:

§ 73.21 General.

Only members of the Osage Tribe who will be eighteen years of age or over on election day and whose names appear on the quarterly annuity roll at the Osage Agency as of the last quarterly payment immediately preceding the date of election will be entitled to hold office or vote for any tribal officers. Each such voter shall be entitled to cast one ballot and each ballot shall have exactly the same value as the voter's headright interest

shown on the last quarterly annuity roll. Any fraction of a headright, however, shall be valued as to the first two decimals only unless such interest is less than one-hundredth of a share, then it shall have its full value.

2. By revising §73.41(e) to read as follows:

§73.41 Absentee voting.

* * * * *

(e) The absentee voter shall enclose the inner envelope in the outer envelope and after sealing same shall execute the certificate imprinted thereon which certificate shall be in the following form:

I will be unable to appear at the poll in Pawhuska, Okla., on the —— day of June 19— and have enclosed my ballot for the election of officers of the Osage Tribe.[1]
(Voter's signature) ————.

The outer envelope shall be preaddressed as follows: Supervisor, Osage Election Board, Post Office Box ——, Pawhuska, Okla. 74056.

3. By revising §73.43(b) to read as follows:

§73.43 Canvass of election returns.

* * * * *

(b) Should any ballot be marked for more than one principal chief or assistant chief or for more than eight councilmen, only that section of the ballot wherein the error was made shall be declared void and the remaining section or sections shall be counted in the same manner as other ballots. Absentee ballots shall be declared void when items other than the ballot are enclosed in the inner envelope, the voter fails to sign the statement appearing on the outer envelope, and for failure to seal the inner envelope or enclose the inner envelope in the outer envelope. Votes cast for individuals whose names are not printed on the official ballot shall not be counted.

RICK LAVIS,
Deputy Assistant Secretary,
Indian Affairs.

[FR Doc. 78-5661 Filed 3-2-78; 8:45 am]

[4310-02]

SUBCHAPTER R—IRRIGATION PROJECTS

PART 191—OPERATION AND MAINTENANCE

Clarification

FEBRUARY 14, 1978.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final rule.

SUMMARY: The purpose of this rule change is to clarify paragraph (e) §191.1 which states that "the Area Director, or his delegated representative, is authorized to fix as well as to announce, by proposed and final public notice published in the FEDERAL REGISTER, * * *." The language of proposed and final notice has been misinterpreted as meaning a proposed and final rule. Notices are not published as proposed and final public notice, but only as a notice.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Arlo V. Dalrymple, 202-343-4005.

SUPPLEMENTARY INFORMATION: This rule is published under authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs in 230 DM2.

The primary author of this document is Charles P. Corke, General Engineer (Hydrology), Bureau of Indian Affairs, Department of the Interior, Washington, D.C. 20245, telephone 202-343-2287.

25 CFR Part 191 is amended by amending §191.1(e) to read as follows:

§191.1 Administration.

* * * * *

(e) The Area Director, or his delegated representative, is authorized to fix as well as to announce, by notice published in the FEDERAL REGISTER, the annual operation and maintenance assessment rates for the irrigation projects or units within his area of responsibility. In addition to the rates, the notices will include such * * *

FORREST J. GERARD,
Assistant Secretary,
Indian Affairs.

[FR Doc. 78-5608 Filed 3-2-78; 8:45 am]

[4310-02]

PART 221—OPERATION AND MAINTENANCE CHARGES

Uintah Indian Irrigation Project, Utah

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final rule.

SUMMARY: The purpose of this final regulation is to delete provisions from Title 25 of the Code of the Federal Regulations that are being replaced by a Public Notice to be published in the FEDERAL REGISTER simultaneously with this regulation.

EFFECTIVE DATE: This regulation shall become effective March 1, 1978.

FOR FURTHER INFORMATION:

Cecil A. Wright, Bureau of Indian Affairs, Phoenix Area Office, Phoenix, Ariz., telephone 602-261-4184.

SUPPLEMENTARY INFORMATION: Pursuant to §191.1(e) of Part 191, Chapter 1, Subchapter T, of Title 25 of the Code of Federal Regulations, this final regulation is published under authority delegated to the Assistant Secretary for Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelegated by the Assistant Secretary of Indian Affairs to the Area Directors, in 10 BIAM 3.

§§221.77, 221.78, 221.79, 221.80, and 221.81 [Deleted].

Chapter I, Subchapter T of Title 25, Code of Federal Regulations is amended by deleting §§221.77, 221.78, 221.79, 221.80, and 221.81 of Part 221.

NOTE.—It is hereby certified that the economic and inflationary impacts of this final regulation have been carefully evaluated in accordance with Executive Order 11821.

CHARLES WORTHMAN,
Acting Area Director.

[FR Doc. 78-5669 Filed 3-2-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

[FRL 848-2]

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Revision of Authority Citations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action amends the authority citiations for Standards of Performance for New Stationary Sources and National Emission Stantards for Hazardous Pollutants. The amendment adopts the redesignation of classification numbers as changed in the 1977 amendments to the Clean Air Act. As amended, the Act formerly classified to 42 U.S.C. 1857 et seq. has been transferred and is now classified to 42 U.S.C. 7401 et seq.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Emission Standards and Engineering Division, Environmental Protection Agency, Re-

search Triangle Park, N.C. 27711 telephone 919-541-5271.

SUPPLEMENTARY INFORMATION: This action is being taken in accordance with the requirements of 1 CFR 21.43 and is authorized under section 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7601(a). Because the amendments are clerical in nature and affect no substantive rights or requirements, the Administrator finds it unnecessary to propose and invite public comment.

Dated: February 24, 1978.

DOUGLAS M. COSTLE,
Administrator.

Parts 60 and 61 of Chapter I, Title 40 of the Code of Federal Regulations are revised as follows:

1. The authority citation following the table of sections in Part 60 is revised to read as follows:

AUTHORITY: Sec. 111, 301(a) of the Clean Air Act as amended (42 U.S.C. 7411, 7601(a)), unless otherwise noted.

§§ 60.10 and 60.24 [Amended]

2. Following §§ 60.10 and 60.24(g) the following authority citation is added:

(Sec. 116 of the Clean Air Act as amended (42 U.S.C. 7416)).

§§ 60.7, 60.8, 60.9, 60.11, 60.13, 60.45, 60.46, 60.53, 60.54, 60.63, 60.64, 60.73, 60.74, 60.84, 60.85, 60.93, 60.105, 60.106, 60.113, 60.123, 60.133, 60.144, 60.153, 60.154, 60.165, 60.166, 60.175, 60.176, 60.185, 60.186, 60.194, 60.195, 60.203, 60.204, 60.213, 60.214, 60.223, 60.224, 60.233, 60.234, 60.243, 60.244, 60.253, 60.254, 60.264, 60.265, 60.266, 60.273, 60.274, 60.275, and Appendices A, B, C, and D [Amended]

3. The following authority citation is added to the above sections and appendices:

(Sec. 114, Clean Air Act is amended (42 U.S.C. 7414)).

4. The authority citation following the table of sections in part 61 is revised to read as follows:

AUTHORITY: Sec. 112, 301(a) of the Clean Air Act as amended [42 U.S.C. 7412, 7601(a)], unless otherwise noted.

§ 61.16 [Amended]

5. Following § 61.16, the following authority citation is added:

(Sec. 116, Clean Air Act as amended (42 U.S.C. 7416)).

§§ 61.09, 61.10, 61.12, 61.13, 61.14, 61.15, 61.24, 61.33, 61.34, 61.43, 61.44, 61.53, 61.54, 61.55, 61.67, 61.68, 61.69, 61.70, 61.71, and Appendices A and B [Amended]

5. The following authority citation is added to the above sections and appendices:

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414)).

[FR Doc. 78-5347 Filed 3-2-78; 8:45 am]

[6820-24]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Amendment E-216]

PART 101-25—GENERAL

Energy Conservation Policy

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: Pursuant to the provisions of section 381(a)(1) of Pub. L. 94-163, Energy Policy and Conservation Act, this directive amends GSA regulations to include an energy policy statement. This directive takes the necessary action to comply with the public law by providing a basis for the promulgation of future directives with respect to energy conservation in supply management.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. John I. Tait, Director, Regulations and Management Control Division, Office of the Executive Director, Federal Supply Service, General Services Administration, Washington, D.C. 20406, 703-557-1914.

The table of contents for Part 101-25 is amended by revising the following entry:

Sec.
101-25.112 Energy conservation policy.

Subpart 101-25.1—General Policies

Section 101-25.112 is revised as follows:

§ 101-25.112 Energy conservation policy.

(a) Agency officials responsible for procurement, management, and disposal of personal property and nonpersonal services shall ensure that pertinent procurement and property management documents reflect the policy set forth in (b), below, which has been established pursuant to Pub. L. 94-163, Energy Policy and Conservation Act.

(b) With respect to the procurement or lease of personal property or nonpersonal services, which in operation consume energy or contribute to the conservation of energy, executive agencies shall promote energy conservation and energy efficiency by being responsive to the energy efficiency and/or conservation standards or goals prescribed by the U.S. Government.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c)).

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: February 16, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-5579 Filed 3-2-78; 8:45 am]

[4110-35]

Title 42—Public Health

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 449—SERVICES AND PAYMENT IN MEDICAL ASSISTANCE PROGRAMS

Prohibition Against Reassignment of Provider Claims

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule.

SUMMARY: This is a technical change in existing Medicaid regulations which prohibit reassignment of claims for payment by Medicaid providers. It: (1) Expands the prohibition to cover all providers, (2) allows reassignments to government agencies and reassignments under court orders, and (3) adds a restriction on payment to billing services. These changes are required by Pub. L. 95-142, enacted October 25, 1977, and are intended to prevent fraudulent claims.

DATE: Effective October 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Estelle Seldowitz, 202-245-0233.

SUPPLEMENTARY INFORMATION: Current regulations for the Medicaid program (Title XIX, Social Security Act) prohibit reassignments and use of factors by health care providers other than those reimbursed on a reasonable cost basis (42 CFR 449.31). Section 2(a)(3) of Pub. L. 95-142, the Medicare-Medicaid Anti-Fraud and Abuse Amendments, amended section 1902(a)(32) of the Act to expand this prohibition to all providers.

The current requirements also prohibit a power of attorney arrangement under which the check is payable to the provider, but cashed by a factor. Pub. L. 95-142 now incorporates a power of attorney prohibition. However, the statute allows reassignments to government agencies and reassignments resulting from court orders as an exception to this requirement.

The existing regulation also specifies that provider payments for billing services must be reasonably related to the

cost of processing the billings, and not related on a percentage basis to the dollar amounts to be billed or collected. The statute broadens this rule by adding that "compensation * * * is not dependent upon the actual collection of any such payment."

Accordingly, the regulation is revised to: (1) Expand the prohibition against reassignment to all providers, (2) allow power of attorney arrangements with respect to government agencies and court orders, and (3) incorporate the new restriction on payments for billing services.

States are expected to enforce this regulation by taking appropriate administrative action against those providers who continue to use factors.

The Department has found that good cause exists for dispensing with notice and opportunity for public comment, since this regulation only makes technical changes, required by the statute, to existing regulations.

These provisions are effective by law on the date of enactment, October 25, 1977. However, the Department recognizes the need to allow States lead time to amend their State plans and revise administrative procedures, and has had a long-standing policy of setting effective dates with this need in mind. Therefore, States will have until 90 days after publication of these regulations to submit plan amendments. During that period the State Medicaid agencies are expected to comply with these statutory amendments, but the Department will not take any compliance actions under section 1904 of the Act which would otherwise apply.

These prohibitions against factoring are already in effect under the Medicare program as well, by virtue of the amendments to Title XVIII made by sections 2(a) (1) and (2) of Pub. L. 95-142. The Medicare amendments also became effective on the date of enactment, October 25, 1977. Although the statute is in effect, the Department plans to issue a Notice of Proposed Rulemaking that will propose additional administrative enforcement procedures for public comment.

42 CFR 449.31 is revised to read as follows:

§ 449.31 Prohibition against reassignment of claims to benefits.

(a) *Meaning of terms.* For purposes of this section:

(1) "Facility" is a hospital or other institution which furnishes health care services to inpatients.

(2) "Organized health care delivery system" is a public or private organization for delivering health services. The system may include, but is not limited to, a clinic or a group practice prepaid capitation plan.

(3) "Factor" is an organization, i.e., collection agency or service bureau, which, or an individual who, advances money to a provider for his accounts receivable which the provider has assigned or sold, or otherwise transferred, including transfer through the use of power of attorney, to this organization or individual. The organization or individual receives an added fee or a deduction of a portion of the face value of the accounts receivable in return for the advanced money. For purposes of this regulation, the term "factor" does not include business representatives, such as billing agents or accounting firms as described in paragraph (e) of this section.

(b) *State plan requirements.* A State plan for medical assistance under title XIX of the Social Security Act must provide that the requirements of paragraph (c) through (g) of this section are met.

(c) *To whom payment is made.* Except as specified in paragraphs (d), (e), and (f), no payment under the State plan for any care or service furnished to an individual by a health care provider shall be made to anyone other than that individual (if he is eligible to receive this payment under § 449.32 of this chapter) or the provider.

(d) *Assignments.* Payment may be made in accordance with an assignment from the provider to a government agency or an assignment made pursuant to a court order.

(e) *Business agents.* Payment may be made to a business agent (such as a billing service or accounting firm) who renders statements and receives payments in the name of the provider, if the agent's compensation for this service is:

(1) Reasonably related to the cost of processing the billings,

(2) Not related on a percentage or other basis to the dollar amounts to be billed or collected, and

(3) Not dependent upon the actual collection of payment.

(f) *Individual practitioners.* With respect to physicians, dentists, or other individual practitioners, payment may be made:

(1) To the employer of the physician, dentist, or other practitioner if the practitioner is required as a condition of his employment to turn over his fees to his employer; or

(2) To the facility in which the care or service was provided, if there is a contractual arrangement between the practitioner and that facility whereby the facility submits the claim for reimbursement; or

(3) To a foundation, plan, or similar organization, including a health maintenance organization, which furnishes health care through an organized health care delivery system if there is a contractual arrangement between the organization and the person furnishing the service under which the organization bills or receives payments for such person's services.

(g) *Payment to factors specifically prohibited.* Payment under the plan for any care or service furnished to an individual by a provider shall not be made to or through a factor, either directly, or by virtue of a power of attorney given by the provider to the factor.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

NOTE.—The Health Care Financing Administration has determined that this document does not require preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: January 26, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: February 25, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-5680 Filed 3-2-78; 8:45 am]

[4110-35]

PART 450—ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

Reasonable Cost Reimbursement of Inpatient Hospital Services

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule.

SUMMARY: This rule revises and clarifies current rules and adds new requirements for State payment methods for inpatient hospital services under State Medicaid programs (medical assistance, title XIX of the Social Security Act). State agencies, hospitals, and other interested parties have raised questions about use of Medicare and other methods, and about public review of proposed changes in State payments. The rule clarifies Federal criteria requiring States to provide for public and provider involvement.

EFFECTIVE DATE: June 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Joseph E. Dougherty, 202-245-0048.

SUPPLEMENTARY INFORMATION: Notice of proposed rule making (NPRM) was published on September 3, 1976 (41 FR 37341). The purposes of the proposed rule were to clarify the current regulation on reasonable cost reimbursement of inpatient hospital services under Medicaid, and, where State payment methods differ from those used under Medicare, to add new conditions of approval.

The purpose and effect of the current Medicaid regulations (42 CFR

450.30, previously 45 CFR 250.30(a)(2)) is to require Medicaid State plans to provide for payment of the reasonable cost of inpatient hospital services either in accordance with the Medicare standards and principles, or by other methods and standards meeting specified requirements and approved in advance of implementation by regional officials. We originally intended, and have consistently interpreted the regulations, to require that the State payment plan meet one of these two alternatives, and to require any State which does not have an approved alternative plan to use the Medicare standards and principles. One purpose of the amended regulations thus is simply to state this requirement more clearly and directly. The basis for this is the principle that those affected by the regulation should have no doubt as to what is required.

ALTERNATIVE PAYMENT METHODS—PUBLIC AND PROVIDER REVIEW

The regulation requires that States which do not adopt the Medicare standards and principles (1) allow public review and comment on proposed payment methods before they become effective, and (2) under specified circumstances, permit individual Medicaid providers of inpatient hospital services to obtain administrative review of payment rates applied to them. Such review is to help insure fair and reasonable payment rates by affording those affected by the payment rates an opportunity to present data opposing the rate formulas and rates. At the same time, the regulations do not require the State to undergo the considerable expense of full administrative hearings, although a State is free to do so if it chooses. We do not believe that the incremental benefits of a full hearing are sufficiently large, compared to the incremental costs, to justify mandating such hearings.

PROVIDER ORGANIZATION INVOLVEMENT

The regulation omits the statement contained in the current regulation that:

> State title XIX agencies are encouraged to involve representative provider organizations in the development of reasonable cost payment plans and to work closely with title V grantees, the Social Security Administration, and other Governmental purchasers of hospital care in an attempt to achieve coordination in reimbursement methods within States.

It will remain our policy to encourage States to involve provider organizations in developing reasonable cost payment plans. However, the general statement should not be included in the regulation itself, as it is merely a recommendation and not a specific requirement.

CEILING PAYMENT DETERMINATIONS

The regulation also omits section (a)(2)(iii) of the current regulation, which is redundant (i.e., that payments may not exceed the amount which would be determined under the Medicare cost reimbursement principles). It remains a requirement of the regulation that reimbursement under alternative payment plans not exceed that which would be determined as reasonable cost using the Medicare standards and principles. However, since this requirement is already contained in paragraphs (a)(2)(i) and (ii), its repetition in paragraph (iii) is unnecessary and confusing.

COMMENTS RECEIVED

Of the nineteen comments received, the specific major concerns expressed and our response are as follows:

GENERAL PROVISIONS

Comment. Reimbursement should be on the basis of charges rather than costs.

Response. Section 1902(a)(13)(D) of the Social Security Act requires that reimbursement be made on the basis of reasonable costs.

Comment. The revisions on public review and appeals (proposed 45 CFR 250.30(a)(2)(ii) (D) and (E)) should apply also to skilled nursing and intermediate care facility (SNF and ICF) services.

Response. This regulation applies only to inpatient hospital services. 42 CFR 450.30 (previously 45 CFR 250.30(a)(3)) deals with SNF/ICF reimbursement and public comment provisions.

Comment. The deleted provision encouraging States to involve representative provider organizations in the development of reasonable cost plans should be reinstated. The regulation should be withdrawn.

Response. As explained in the NPRM preamble, it will remain our policy to encourage States to involve provider organizations in the development of reimbursement plans. However, since it is a recommendation and not a requirement, the paragraph remains deleted. The regulation is required to implement the statute.

Comment. State plan approval should be a function of the Secretary rather than the Regional Commissioner.

Response. The Secretary has delegated approval authority for all State plan provisions to the Regional Medicaid Director.

Comment. Each hospital should be allowed to select either the Medicare method or the State's alternative method.

Response. This conflicts with the principal intent of the statute which is to permit States to develop an alternative plan of reimbursement to be implemented statewide.

Comment. Alternative reimbursement plans should be approved only on experimental bases at first.

Response. The statute allows States to use alternative methods acceptable to the Department and does not require a trial period. Where States wish to begin on an experimental basis, section 222 of Pub. L. 92-603 and section 402 of Pub. L. 90-248 provide authority.

Comment. What recourse would providers have in the event that a State implemented a plan without approval?

Response. Providers could bring the State's action to the Department's attention so that the Department could take appropriate measures to achieve compliance. In addition, providers could bring suit for injunctive relief in Federal court and may have other remedies available in State court, depending upon State law.

Comment. The word "allowable" should be substituted for "reasonable" wherever it appears in reference to charges or costs as it is "unreasonable" of the Federal government not to pay its full share of costs or charges. Individuals who are covered by commerical insurance or who pay their own bills do pay their full share.

Response. Payment of reasonable costs is a statutory requirement (section 1902(a)(13)(D) of the Act), and all payment plans must meet HEW criteria in the area.

Comment. Where States set hospital rates through statewide rate review programs, that rate should be the payment rate for the Medicaid agency.

Response. States may submit such rate review programs for approval as alternative methods of payment under Medicaid. There is no authority in the Act for the Secretary to delegate his approval authority to a State rate review commission or similar public agency.

Comment. The regulations should provide a third option in reimbursement, permitting States to view the health care delivery system as one statewide system covering Medicare, Medicaid, and private health care.

Response. These regulations are statutorily confined to reimbursement under Medicaid.

Comment. Why is this proposed regulation characterized in part as one of clarification of previous regulations?

Response. The changes clarify the State's option to use Medicare reimbursement methods or another type of approval payment plan.

Comment. The regulations should mandate States to involve provider organizations in the development of alternative plans.

Response. Although we will continue to encourage provider involvement, a requirement that States must, in all

instances, involve provider organizations could effectively impede the development of any alternative plan. Furthermore, the regulations already provide for public review and comment (450.30(a)(2)(iv)(D)).

Comment. There should be no retroactive application of the revisions of this regulation.

Response. There will be no retroactive application of these revisions.

Comment. The regulations should provide a way of measuring the reasonableness of any departure from the Medicare reasonable cost guidelines.

Response. Reasonable cost represents a range of data and not one precise amount. The statute leaves States free to establish separate reasonable cost systems to be judged on their own reasonableness rather than on an item-by-item justification of departures from Medicare. The Medicare formula is only one of a number of acceptable reasonable cost formulas.

Comment. There should be ongoing monitoring and evaluation of alternative plans.

Response. The regulation requires that documentation be available for evaluation of approved plans.

Comment. Allowing two systems of reimbursement is undesirable. Allowing a lower level of reimbursement for Medicaid could cause a double standard of care. One system of reimbursement should be used.

Response. Section 1902(a)(13)(D) of the Social Security Act permits States to develop alternative systems of reimbursement to that used by Medicare.

Payment Standards

Comment. HEW should add language to insure that costs attributable to the program will not be borne by others and vice versa. HEW should add language to insure that all necessary and proper direct and indirect expenses, however widely they vary from institution to institution, are allowable. The above comments also should be added to proposed § 250.30(a)(2)(ii) (criteria for approval of alternative reimbursement plans).

Response. The regulation reiterates the statutory requirement that the State plan provide for payment of the reasonable cost of impatient hospital services. The Department interprets this requirement to mean that the State's payment methods and standards should provide for payment for all "necessary and proper items of expense" (other wise called "allowable costs") at a reasonable rate, that is, at a rate adequate to reimburse providers who operate economically and efficiently. The comment seems to indicate that the regulation should ensure payment in full of the costs incurred by each provider for allowable cost items, even if such costs are unreasonable. The statute does not permit this.

Criteria for Approval of Alternative Reimbursement Plans

Comment. It appears inconsistent to provide incentives for efficiency and economy and yet require that reimbursement not exceed Medicare standards and principles of reimbursement.

Response. Under the statute (section 1902(a)(13)(D) of the Social Security Act), reimbursement cannot exceed the "reasonable cost" under Medicare. Within this limitation, a State could develop a reimbursement concept that does not embrace the Medicare methodology but does permit a hospital to retain all or a portion of a differential between actual costs and agreed-upon rates of reimbursement. This is the case, for example, where a prospective rate is established, so that there exists an incentive not to incur costs in excess of the established rate.

Comment. Criteria for approval of alternative plans should be broadened to require that plans consider intensity of service, change in service, case mix, patient mix, volume, and type of hospital.

Response. The criteria already identified are minimal criteria to be met and are not intended to be all-inclusive. In the preamble to the Notice of Proposed Rule Making, we invited comments regarding additional criteria, and some suggestions were received. We intend to identify additional specific criteria and publish them for comment in a Notice of Proposed Rule Making.

Comment. Add language that prohibits setting payment rates on a statewide class-basis.

Response. The Regional Office will consider the reasonableness of the various elements of a proposal in its approval process. In a small or homogeneous State, a statewide class might be reasonable.

Comment. There should be exceptions to the Medicare upper limit for payment provision where there are few Medicaid providers in a community, to assure provider availability.

Response. The Medicare upper limit is required by section 1902(a)(13)(D) of the Act.

Comment. The regulation should provide for revocation of approval where a plan is unworkable or inconsistent with the program's goals and objectives.

Response. Meeting the approval criteria indicates that the plan is consistent with the program's goals and objectives.

Comment. The regulation should require payments on a timely basis and interim payments reflecting current costs.

Response. Pub. L. 95-142 contains provisions for timeliness of payment which will be incorporated in regulations. Interim payments requirements will not be added at this time; however, they will be considered for inclusion in the NPRM on specific critera mentioned above. Alternative plans providing interim payments will be reviewed to determine whether the interim payment approximates the projected ultimate reasonable cost.

Incentives for Efficiency and Economy

Comment. How does a State adopt standards and principles which provide incentives for efficiency and economy? This provision is so vague that it appears unenforceable.

Response. There are various approaches to meeting this criterion. One approach, for example, would be to establish prospective payment rates; another approach would be to establish rates based on comparisons with peer groups. In keeping with the flexibility intended for development of alternative plans, we do not mandate specific methods.

Opportunity for Public Review

Comment. Clarify that providers and other interested members of the public and persons affected must have an opportunity to receive notice of and to comment on a State's proposed method of payment prior to its submission to HEW for approval.

Response. The comment is accepted in principle and the regulation has been clarified accordingly.

Comment. Require State agencies to explain how they resolve problems raised by comments received prior to implementation of a plan.

Response. The recommendation is accepted in principle and the regulation has been revised accordingly.

Comment. The provision for public comment before plans are effective should be deleted. This provision could be used to delay or prevent implementation of an alternative plan.

Response. The Department considers it appropriate to afford providers and other members of the public who will be affected by alternative plans for reimbursement an opportunity to comment on the plans before implementation. The State can limit the comment period so that it does not delay or prevent implementation of an alternative plan.

Comment. The regulations should provide for a formal notification to providers regarding contemplated rate changes and an opportunity for providers and other interested members of the public to comment. Further, States should maintain a written record of comments, including the consideration given them and disposition of them, for transmittal to the Regional Commissioner.

Response. The Department considers a requirement for comment opportunity on State changes excessively bur-

densome on State agencies, particularly since the regulation does require public notice and opportunity for comment on the methods and standards to be used in establishing rates. It also provides for appeals of specific rates in certain circumstances. These requirements should afford adequate protection of the providers' interests.

The proposal for a written record relating to comments has been adopted; however, the record will be retained in the State agency since it is unnecessary for the Regional Office to maintain these State files.

CRITERIA FOR STATE ADMINISTRATIVE REVIEW OF RATES

Comment. The minimum criteria for obtaining review of established payment rates are too limited.

Response. The "Notice of Proposed Rule Making" previously mentioned would include this area also.

Comment. There should be full and prompt administrative review of reimbursement policies, rates, and decisions made under the plan.

Response. The regulations as revised require an opportunity for comment on proposed rate formulas and specify certain opportunities for review of rates. For the reasons set forth above, a State may, but is not obliged to, hold full administrative hearings. Administrative hearings entail expenses which are not necessarily warranted by the incremental benefits.

Comment. Actual time standards should be set for State administrative review of rates rather than merely stating that it must be "prompt".

Response. This is an element to be considered in the review process for approving or disapproving the plan.

Comment. The regulation should provide for administrative review of payment rates with no restrictions as to reasons for such review requests.

Response. Efficient administration requires that the basis for State review of rates be specific.

Comment. It is unclear whether the appeals provision affords review of rates only where the State has not used the specified criteria in setting the rates or whether the provision also affords review of the rates where the State has applied the criteria.

Response. The regulation has been changed to clarify that States must provide appeals where the identified costs were not considered in the rate calculation or where incorrect data were used or an error made in the calculation. A State is free to provide appeals in additional circumstances if it wishes.

Comment. The Medicare regulation at what was 20 CFR 405.490ff (now 42 CFR 405.1801ff) should be adopted to allow provider appeals from the State level to HEW.

Response. This would be inappropriate. Medicare is Federally-administered; Medicaid is State-administered and thus the provider's recourse is to the State.

Comment. Revise provision to permit providers to obtain a formal prompt administrative review of the payment rates established where providers have reason to believe that the revised rates will result in considerably financial hardship to them. Should there be a failure to reconcile their differences, the Secretary or the Regional Medicaid Director should resolve the matter by approving or disapproving the revised plan within 60 days of the plan's submission.

Response. The regulation sets minimum standards for appeals; States may also provide for appeals on the basis of hardship. The State has the authority to determine its methodology under section 1902(a)(13)(D). Once approved, the Secretary has authority only to bring compliance actions where a State is not following approved methodology. The Secretary has no authority to assume a position of adjudication in disputes between providers and the State.

DOCUMENTATION

Comment. The regulation should provide that States submit documentation on a periodic basis to permit evaluation of alternative systems.

Response. The current requirement that States maintain documentation is sufficient; it is available to HEW as necessary. In addition, the regulation has been rewritten to simplify the language. It also incorporates in paragraph (a)(2)(iii) and (iv) other final amendments published on November 22, 1976, in the FEDERAL REGISTER (41 FR 51401), cross-referring to new Medicare cost limit regulations under section 223 of Pub. L. 92-603 (42 USC 1395x, section 1861(v)(1) of the Social Security Act).

Accordingly, 42 CFR 450.30 is amended to incorporate the changes discussed above.

Section 450.30, Part 450, Chapter IV, Title 42, of the Code of Federal Regulations is amended by revising paragraph (a)(2) to read as follows:

§ 450.30 Reasonable charges.

(a) *State plan requirements.* A State plan for medical assistance under title XIX of the Social Security Act must:

* * * * *

(2) Provide for payment of the reasonable cost of inpatient hospital services under methods and standards developed by the State. The methods and standards must be approved by the Regional Medicaid Director in advance of implementation, and must meet the following requirements:

(i) They must be consistent with the capital expenditure provisions of section 1122 of the Social Security Act, as specified in § 450.210 of this chapter, if the State has an agreement under those provisions; and

(ii) They must incorporate the title XVIII standards and principles for determining reasonable cost reimbursement in 42 CFR 405.402 through 405.455 or an acceptable alternative.

(iii) If the title XVIII standards and principles are adopted, they must be modified to:

(A) Exclude the inpatient routine nursing salary cost differential;

(B) Determine payment applying the limits established by the Secretary pursuant to 42 CFR 405.460;

(C) For cost reporting periods beginning after December 31, 1973, base payment on whichever is lower: the reasonable cost of the services or the hospital's customary charges to the general public for the services; and

(D) In the case of public hospitals rendering services free or at a nominal charge, base payments on fair compensation computed in accordance with the regulations for title XVIII.

(iv) If the title XVIII standards and principles are not adopted, the alternative methods and standards must meet all of the following criteria:

(A) They provide incentives for efficiency and economy.

(B) They provide for reimbursement which is no higher than the reimbursement which would be calculated under title XVIII as modified by paragraph (a)(2)(iii) of this section.

(C) They assure adequate participation of hospitals in the State's title XIX program and the availability of hospital services of high quality to title XIX recipients.

(D) They afford providers and other interested members of the public an opportunity to review and comment on proposed methods and standards before the methods and standards are submitted as State plan amendments.

(E) They provide for maintaining a written record of the comments received and the consideration given to them.

(F) At a minimum, they allow individual providers of inpatient hospital services an opportunity to submit evidence and obtain prompt administrative review of payment rates established for them if:

(*1*) Costs of capital improvements were approved by a State's planning agency after the payment rates were set, and those costs were not considered in the rate calculation; or

(*2*) Costs of improvements were incurred due to certification or licensing requirements established after the payment rates were set, and those costs were not considered in the rate calculation; or

(*3*) Incorrect data were used or an error was made in the rate calculation.

(G) They provide for documentation adequate to permit evaluation of expe-

rience under the approved reimbursement plan.

* * * * *

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

NOTE.—The Health Care Financing Administration has determined that this document does not require preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: November 3, 1977.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: February 25, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-5679 Filed 3-2-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21411; RM-2879; RM-2914]

PART 73—RADIO BROADCAST SERVICES

Changes Made in Table of Assignments; FM Broadcast Station in Denair and Los Banos, Calif.

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action herein assigns a Class B FM channel as a substitute for a Class A FM channel in Los Banos, Calif. The Class B channel would provide additional FM service to a number of residents in the western portion of Merced County. A Class A channel is being assigned to Denair, Calif., to bring a first full-time local aural broadcast service to that community.

EFFECTIVE DATE: April 5, 1978.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTAL INFORMATION:

REPORT AND ORDER—PROCEEDING TERMINATED

Adopted: February 20, 1978.

Released: February 27, 1978.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Los Banos and Denair, Calif.). Docket No. 21411; RM-2879; RM-2914. 42 FR 55107.

1. The Commission has before it the Notice of Proposed Rule Making, adopted October 4, 1977, 42 FR 55107, inviting comments on two proposals; (1) substitution of Class B FM Channel 284 for Channel 240A at Los Banos, Calif., and assignment of Channel 240A to Denair, Calif.; or (2) assignment of Channel 285A to Denair and retaining Channel 240A at Los Banos. The Notice was issued in response to petitions submitted by John R. McAdam ("KLBS"), licensee of Stations KLBS and KLBS-FM, Los Banos, and Denair Broadcasting Co. ("DBC"). KLBS and DBC filed supporting comments in which they reaffirmed their intention to use the channels, if assigned to their respective communities. No oppositions to the proposals were received.

2. Los Banos (pop. 9,188), in Merced County (pop. 104,629)[1] is located approximately 161 kilometers (100 miles) southeast of San Francisco. It is presently served by one daytime-only AM station (KLBS) and one FM station (KLBS-FM, Channel 240A), both licensed to petitioner.

3. Denair (pop. 1,128), an unincorporated community in Stanislaus County (pop. 194,506), is located 144 kilometers (90 miles) east of San Francisco, and 23 kilometers (14 miles) southeast of Modesto, Calif. Denair has no local aural broadcast service.

4. Information concerning both Denair and Los Banos and their need for FM assignments was set forth in the Notice and need not be reiterated herein.

5. Channels 284 and 240A could be assigned to Los Banos and Denair, respectively, in conformity with the minimum distance separation requirements, provided the transmitter site for Channel 284 is located approximately 8 kilometers (5 miles) southeast of Los Banos. Even so, the station would be able to provide the required signal over the community. Three communities (Merced, pop. 22,670; Atwater, pop. 11,640; and Bishop, pop. 3,498) would be precluded as a result of the assignment to Los Banos. Merced has two FM stations and two AM stations, one of which operates full time; Bishop has one FM and one full-time AM station; and Atwater has no local aural broadcast service but is located only 11 kilometers (7 miles) from Merced. No preclusion study was required for Denair since the proposal is for a first Class A FM assignment. A Roanoke Rapids/Anamosa study indicates that KLBS's proposed Class B operation would provide first FM service to 1,879 persons in an area of 298 square kilometers (115 square miles) and a second FM service to 4,350 persons in an area of 479 square kilometers (185 square miles). No first and second aural service would be provided.

6. We believe the public interest would be served by the change in the Los Banos assignment from Channel 240A to Channel 284 since it would permit Station KLBS-FM to improve its operating facilities and enable it to provide first and second FM service to the surrounding area. Preclusion would not be an impediment since two of the three communities in the precluded area have local AM and FM stations and the third community is located within the service area of stations in Merced which has various aural facilities. The change in the assignment at Los Banos will allow Channel 240A to be used in Denair, thus providing that community with its needed first full-time local aural broadcast service.

7. The Notice stated that if no other person expressed an interest in the proposed assignment of Channel 284 at Los Banos, the license of Station KLBS-FM could be modified to the Class B channel.[2] Since no other party has expressed an interest in the proposed channel, Channel 284 will be substituted for Channel 240A at Los Banos, Calif., and the license of Station KLBS-FM will be modified. Station KLBS-FM on Channel 284 must be located at a site complying with the minimum distance separation requirements.

8. Accordingly, pursuant to authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, and § 0.281 of the Commission's Rules, *It is ordered*, That effective April 5, 1978, the FM Table of Assignments (§ 73.202(b) of the Rules) is amended with respect to the following communities:

City:	Channel No.
Denair, Calif.	240A
Los Banos, Calif.	[1] 284

[1] Any application for this channel must specify maximum power and antenna height or equivalent.

9. *It is further ordered*, That pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by John R. McAdam for Station KLBS-FM, Los Banos, Calif., is modified, effective April 5, 1978, to specify operation on Channel 284 instead of Channel 240A. The licensee shall inform the Commission in writing no later than April 5, 1978, of its acceptance of this modification. Station KLBS-FM may continue to operate on Channel 240A for 1

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

[2] Cheyenne, Wyoming, 62 FCC 2d 63 (1976).

year from the effective date of this action or until it is ready to operate on Channel 284, or the Commission sooner directs, subject to the following conditions:

(a) At least 30 days before commencing operation on Channel 284 the licensee of Station KLBS-FM shall submit to the Commission the technical information normally required of an applicant for Channel 284, including that connected with a change in the transmitter site;

(b) At least 10 days prior to commencing operation on Channel 284, the licensee of Station KLBS-FM shall submit the measurement data required of an applicant for a broadcast station license; and

(c) The licensee of Station KLBS-FM shall not commence operation on Channel 284 without prior Commission authorization.

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

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

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-5605 Filed 3-2-78; 8:45 am]

proposed rules

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.

[3410-37]

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

[9 CFR Parts 317 and 318]

MEAT OR POULTRY PRODUCTS

Proposed Net Weight Labeling; Extension of Time for Comments

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed Rule; Extension of time for comments.

SUMMARY: On December 2, 1977, the Department published in the FEDERAL REGISTER (42 FR 61279) a proposal providing uniform labeling requirements and uniform procedures for determining compliance with label statements of net contents of containers of meat products or poultry products. Comments were to be received on or before March 2, 1978. The comment period is hereby extended until June 2, 1978.

DATES: Comments must be received on or before June 2, 1978.

ADDRESSES: Send written comments to: Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Agriculture Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

W. H. Dubbert, Acting Director, Technical Services, Food Safety and Quality Service, U.S. Department of Agriculture, Room 4911, South Agriculture Building, Washington, D.C. 20250. Area Code 202-447-7470.

SUPPLEMENTARY INFORMATION: Since publication of the proposal, the Department has received a number of requests for an extension of the comment period in order that pertinent technical and economic information and data, which may prove useful in the consideration of the proposal, can be compiled and analyzed. The requests in some instances did not suggest specific extension periods. However, the requests from the National Broiler Council, the American Meat Institute, the National Turkey Federation, and the Poultry and Egg Institute indicate they will require an additional 6 months to assemble and submit pertinent technical information and data on the economic impact of the proposal's provisions. The Administrator has considered the requests in relation to the need to promulgate final regulations as soon as possible to assist State and local governments and concluded 3 months is a reasonable extention of time for the presentation of additional comments and data.

Accordingly, the Administrator has determined to reopen and extend the period of time within which written data, views, or arguments may be submitted.

The Department is especially interested in receiving further information concerning the application of the proposed inspection procedures to bulk-packed meat and poultry products.

In particular, the Department solicits its comments and data for consideration in adjusting Table I and Table II in the December 2, 1977, proposal to better deal with this class of product.

Finally, the Department is interested in receiving additional information concerning the economic effects to be anticipated by the implementation of the proposal's provisions.

In order that information and data be available to the fullest extent possible in the consideration of this proposal, the period for the submission of comments of any nature concerning this proposal is hereby extended until June 2, 1978.

Done at Washington, D.C., on March 1, 1978.

ROBERT ANGELOTTI,
Administrator,
Food Safety and Quality Service.

[FR Doc. 78-5739 Filed 3-2-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 231, 240, 241, 249]

[Release Nos. 33-5908, 34-14508; File Nos. S7-726, S7-661]

FOREIGN PRIVATE ISSUERS

Proposed Rules, Forms and Guidelines; Extension of Comment Period

AGENCY: Securities and Exchange Commission.

ACTION: Extension of comment period on proposed rules, forms and guidelines.

SUMMARY: The Securities and Exchange Commission today announced extension of the period of comment on its solicitation of public views concerning proposals to adopt or amend certain rules, forms and guidelines relating to disclosure by certain foreign private issuers of securities (Release No. 33-5880, November 2, 1977 (42 FR 58676, November 10, 1977) 34-14128, November 2, 1977 (42 FR 58684, November 10, 1977)). The period for submitting comments on these proposals was due to have expired on February 28, 1978. However, the Commission has received requests for additional time within which to prepare and submit comments thereon. Accordingly, the comment period has been extended to April 30, 1978.

DATES: Comments should be submitted on or before April 30, 1978.

ADDRESS: Comments should refer to Files S7-661 and S7-726 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All comments will be available for public inspection.

FOR FURTHER INFORMATION CONTACT:

Carl T. Bodolus, 202-755-1505 or Charles L. Evans, 202-755-1802, Office of International Corporate Finance, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 28, 1978.

[FR Doc. 78-5713 Filed 3-2-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 109]

[Docket No. 78N-0048]

AFLATOXINS IN SHELLED PEANUTS AND PEANUT PRODUCTS USED AS HUMAN FOODS

Proposed Tolerance: Reopening of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Commissioner of Food and Drugs is reopening the comment period on the proposed tolerance for aflatoxins in consumer peanut products. The additional comment period is to provide an opportunity for public comment on a report on the assessment of estimated risk resulting from aflatoxins in consumer peanut products and other food commodities.

DATE: Comments by April 17, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Joseph V. Rodricks, Bureau of Foods (HFF-3), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1564.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of December 6, 1974 (39 FR 42748), the Commissioner of Food and Drugs proposed a formal tolerance under section 406 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346) for aflatoxins in shelled peanuts and peanut products used as human foods without further processing. The proposal would set a 15 parts per billion (ppb) tolerance for total aflatoxins ($B_1+B_2+G_1+G_2$) in these products.

The proposal was accompanied by a detailed preamble, which described the history and current status of the aflatoxin problem and the reasons for the Commissioner's concern. The preamble also explained the scientific and technological basis for the proposal. Public comment was solicited on this proposal, and the comments recieved are currently being considered in preparation for the issuance of a final regulation. In the course of preparing a final regulation, the agency has developed a report containing assessments of the risks from consumption of aflatoxin-contaminated foods.

Although direct proof that aflatoxins ($B_1+B_2+G_1+G_2$) induce cancer in humans does not exist, laboratory tests have demonstrated that they are animal carcinogens. Further, epidemiology studies in Thailand and parts of Africa show a significant relationship between liver cancer incidence and estimated levels of aflatoxin intake. Unfortunately, the direct risks, if any, to humans from ingestion of aflatoxins cannot be measured. Therefore, risk assessments must rely on mathematical treatment of animal toxicology and epidemiology studies. Such risk assessments have been made by FDA.

This notice informs interested persons of the availability of this report on risk assessment concerning aflatoxins in consumer peanut products and other food commodities. The risk assessment will be relied on by FDA in issuing a final regulation. Interested persons are invited to comment on the risk assessment in the context of the proposal to establish a tolerance of 15 ppb for aflatoxins in consumer peanut products.

The report on assessment of estimated risk resulting from aflatoxins in consumer peanut products and other food commodities is available for public examination in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Requests for single copies may be made in writing to the Hearing Clerk, at the above address.

Interested persons may, on or before April 17, 1978 submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this report on the assessment of estimated risk resulting from aflatoxins in consumer peanut products and other food commodities and the proposed tolerance. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Recieved comments may be seen in the above-named office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 28, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-5729 Filed 3-2-78; 8:45 am]

[4110-03]

[21 CFR Parts 172, 182, and 184]

[Docket No. 77N-0039]

ALGINATES

Affirmation of GRAS Status With Certain Limitations; Correction

AGENCY: Food and Drug Administration.

ACTION: Proposal correction.

SUMMARY: This document corrects the proposal to affirm the GRAS status of alginates. The last sentence in the economic impact determination paragraph at the end of the proposal inadvertently states that an assessment is on file with the Hearing Clerk. This document corrects the language in that paragraph.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

John A. Richards, Federal Register Writer (HFC-11), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: In FR Doc, 78-2302 appearing at page 3725 in the FEDERAL REGISTER of Friday, January 27, 1978, on page 3728 in the right column, the second full paragraph is corrected to read as follows:

The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 (as amended by Executive Order 11949) and OMB Circular A-107.

Dated: February 23, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-5444 Filed 3-2-78; 8:45 am]

[4110-03]

[21 CFR Parts 182 and 184]

[Docket No. 77N-0259]

SUCCINIC ACID

Proposed Affirmation of GRAS Status as a Direct Human Food Ingredient; Correction

AGENCY: Food and Drug Administration.

ACTION: Proposal Correction.

SUMMARY: This document corrects the proposal to affirm the GRAS status of succinic acid. The last sentence in the economic impact determination paragraph at the end of the proposal inadvertently states that an assessment is on file with the Hearing Clerk. This document corrects the language in that paragraph.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

John A. Richards, Federal Register Writer (HFC-11), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-2723 appearing at page 4635 in the FEDERAL REGISTER of February 3, 1978, on page 4637 in the left column, the second full paragraph is corrected to read as follows:

The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 (as amended by Executive Order 11949) and OMB Circular A-107.

Dated: February 23, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-5442 Filed 3-2-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 862-8]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the Rules and Regulations of the Monterey Bay Unified Air Pollution Control District in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the Monterey Bay Unified Air Pollution Control District (APCD) rules and regulations have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board as revisions to the California State implementation plan (SIP). The intended effect of these revisions is to update the rules and regulations and to correct deficiencies in the SIP. The EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted on or before April 3, 1978.

ADDRESSES: Comments may be sent to:

Regional Administrator, Attn.: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco Calif. 94105.

Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

Montery Bay Unified Air Pollution Control District, P.O. Box 487, 1270 Natividad Road, Salinas Calif. 93901.

California Air Resources Board, 1709 11th Street, Sacramento Calif. 95814.

Public Information Reference Unit, Room 2922, EPA Library, 401 M Stret SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

David R. Souten, Chief, California SIP Section, EPA, Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted on October 3, 1977, proposed revisions to the following rules:

RULE 215—MONTEREY BAY UNIFIED AIR POLLUTION CONTROL DISTRICT CONTINUOUS EMISSIONS MONITORING

RULE 422—BURNING OF WOOD WASTES

The State also submitted on October 13, 1977, rules and regulations for the Monterey Bay Unified APCD CONCERNING NEW SOURCE PERFORMANCE STANDARDS (NSPS) and national emission standards for hazardous air pollutants (NESHAPS). These regulations implement sections 111 and 112 of the Clean Air Act, and are not appropriate for inclusion in a State implementation plan under section 110 of the Act. Therefore, these regulations will be neither approved nor disapproved by EPA as part of an applicable implementation plan. However, under the appropriate provisions of sections 111 and 112, delegation of authority to implement and enforce the NSPS and NESHAPS standards has already been granted to the State on behalf of the Monterey Bay Unified APCD.

The FEDERAL REGISTER notice for this delegation of authority was published on September 11, 1975 (40 FR 42194).

A rule concerning new source review was submitted on October 13, 1977, but will be addressed in a separate FEDERAL REGISTER notice.

Pursuant to section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations submitted as SIP revisions. The Regional Administrator hereby issues this notice setting forth these revisions, including rule deletions caused thereby, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received on or before April 3, 1978 publication of this notice will be considered. Comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

AUTHORITY: Sections 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410 and 7601(a)).

Dated: January 27, 1978.

PAUL DE FALCO,
Regional Administrator.

[FR Doc. 78-5545 Filed 3-2-78; 8:45 am]

[6560-01]

[40 CFR Part 52]

[FRL 863-1]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the Rules and Regulations of the Ventura County Air Pollution Control District in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: Revisions to the Ventura County Air Pollution Control District (APCD) rules and regulations have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board (ARB) as revisions to the California State Implementation Plan (SIP). The intended effect of the revisions is to update the rules and regulations, and to correct certain deficiencies in the SIP. The EPA invites public comments on these proposed rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted on or before April 3, 1978.

ADDRESSES: Comments may be sent to:

Regional Administrator, Attention: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), United States Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco Calif. 94105.

Copies of the proposed revisions are available for public inspection during

normal business hours at the EPA Region IX Office at the above address and at the following locations:

Ventura County Air Pollution Control District, 740 E. Main Street, Ventura Calif. 93001.

California Air Resources Board, 1709-11th Street, Sacramento Calif. 95814.

Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

David R. Souten, Chief, California SIP Section, EPA, Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted on October 13, 1977 proposed revisions to the following rules:

Rule 71—Transfer of Gasoline into Vehicle Fuel Tanks

Rule 105—Ventura County Air Pollution Control District Continuous Emissions Monitoring

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approved or disapprove the proposed regulations as SIP revisions. The Regional Administrator hereby issues this notice setting forth these revisions, including rule deletions caused thereby, as proposed rulemaking and advises the public that interested parties may participate by submitting written comments to the EPA Region IX Office. Comments received on or before April 3, 1978 notice will be considered, and made available for public inspection at the EPA Regional Office and the EPA Public Information Reference Unit.

AUTHORITY: Sections 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. §§ 7410 and 7601(a)).

Dated: January 27, 1978.

PAUL DE FALCO, Jr.,
Regional Administrator.

[FR Doc. 78-5544 Filed 3-2-78; 8:45 am]

[6560-01]

[40 CFR Part 52]

[FRL 862-5]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Proposed Extension of the Effective Period of the Sulfur in Fuel Regulations in Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing approval of three Implementation Plan revisions which change the expiration dates of Regulation 5.1, "Sulfur Content of Fuels and Control Thereof", for the Merrimack Valley Air Pollution Control District (APCD), the Pioneer Valley APCD, and the Central Massachusetts APCD. The regulations, which relax the sulfur limitations for fossil fuels burned by certain sources, were approved on a temporary basis by EPA during the past year. If the revisions presently under consideration are approved, the effective periods of the regulations would expire on July 1, 1979.

DATES: Comments must be received on or before April 3, 1978.

ADDRESSES: Copies of the Massachusetts submittal are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 2113, JFK Federal Building, Boston, Mass. 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460; and the Department of Environmental Quality Engineering, Division of Air and Hazardous Materials, 600 Washington Street, Room 320, Boston, Mass. 02111.

Comments should be submitted to the Regional Administrator, Region I, Environmental Protection Agency, Room 2203, JFK Federal Building, Boston, Mass. 02203.

FOR FURTHER INFORMATION CONTACT:

David Stonefield, Air Branch, EPA, Region I, JFK Federal Building, Room 2113, Boston, Massachusetts 02203, 617/223-5609.

SUPPLEMENTARY INFORMATION: On May 31, 1972 (37 FR 10872), pursuant to Section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved, with exceptions, the Massachusetts Implementation Plan for the attainment of National Ambient Air Quality Standards (NAAQS).

During the past year, the Administrator approved revisions to the State Implementation Plan (SIP) regulations for the Merrimack Valley Air Pollution Control District (APCD), the Pioneer Valley APCD, and the Central Massachusetts APCD, which relaxed the sulfur in fuel limitations. The federal Air Quality Control Regions (AQCR's) corresponding to the APCD's are, respectively, the Massachusetts portion of the Merrimack Valley-Southern New Hampshire Interstate AQCR, the Massachusetts portion of the Hartford-New Haven-Springfield Interstate AQCR, and the Central Massachusetts Intrastate AQCR. The original regulations limited the sulfur content of fuels to not more than 0.55 pounds per million BTU heat release potential (approximately equivalent to 1.0% by weight sulfur content residual fuel oil). Following is a summary of Regulation 5.1, "Sulfur Content of Fuels and Control Thereof", as revised last year for each District.

Merrimack Valley APCD—The regulation permits all sources, except those in the City of Lawrence and the Towns of Andover, Methuen, and North Andover, to burn fossil fuels with a sulfur content not in excess of 1.21 pounds per million BTU heat release potential (approximately equivalent to 2.2% by weight sulfur content residual fuel oil). Sources with a rated energy input capacity larger than 100 million BTU per hour are required to apply for and receive a permit from the Massachusetts Department of Environmental Quality Enginering (the Massachusetts Department) prior to burning the higher sulfur content fuel. Sources in Lawrence, Andover, Methuen, and North Andover must continue to burn lower sulfur content fuel as required by the original SIP regulation.

The revision was approved by EPA on December 30, 1976 (41 FR 56804) and will expire on May 1, 1978.

Pioneer Valley APCD—The regulation permits sources with a rated energy input capacity larger than 100 million BTU per hour to burn fossil fuels with a sulfur content not in excess of 1.21 pounds per million BTU heat release potential (approximately equivalent to 2.2% sulfur content residual fuel oil) until June 1, 1978. All other sources in the APCD must continue to burn the originally-approved lower sulfur content fuel.

In the final rulemaking notice, published on February 1, 1977 (42 FR 5975), EPA excluded certain sources from implementing the provisions of the revised regulation, based on dispersion modeling which predicted violations of the NAAQS for sulfur dioxide (SO_2).

Central Massachusetts APCD—The regulation permits sources with rated energy input capacity larger than 100 million BTU per hour, except those in the City of Worcester, to burn fossil fuel with a sulfur content not in excess of 1.21 pounds per million BTU heat release potential (approximately equivalent to 2.2% sulfur content residual fuel oil) until July 1, 1978. However, if these sources are located in the City of Fitchburg, they may burn the higher sulfur fuel only during April through October, and during November through March must burn lower sulfur content fuel as required by the original SIP regulations. All sources in Worcester, and the smaller sources in the rest of the APCD, must continue to burn the originally-approved lower sulfur content fuel.

EPA approved the revision in FEDERAL REGISTER notices published on February 15, 1977 (42 FR 9176) and May

19, 1977 (42 FR 25730). However, certain sources were excluded from implementing the provisions of the revised regulation, based on dispersion modeling which predicted violations of the NAAQS for SO_2.

The regulations for each District require that sources having an energy input capacity of 100 million Btu per hour or greater be reviewed by the Massachusetts Department and be granted a permit prior to burning the higher sulfur content fuel. Any violation of applicable state regulations or NAAQS within the area of impact of a facility will result in revocation of the permit and a mandatory return by that source to lower sulfur fuel.

On August 22, 1977, the Commissioner of the Massachusetts Department submitted SIP revisions which would change the expiration dates of the regulations in each APCD to July 1, 1979. No other provisions of the regulations would be changed.

The technical review submitted by the Massachusetts Department addresses the impacts of the revisions on SO_2 and total suspended particulate (TSP) levels.

Sulfur Dioxide—Dispersion modeling was performed in support of the revisions previously approved. Where NAAQS violations were predicted by this modeling, sources were disapproved; these disapprovals would remain in effect for the revision extensions presently being considered. Ambient monitoring data collected after the approved sources commenced burning of higher sulfur fuel show no violations of the NAAQS for SO_2.

Two of the nine sources in the Pioneer Valley APCD which were disapproved in EPA's February 1, 1977 final rulemaking notice agreed to conduct a special SO_2 ambient monitoring program designed to collect data for validation of the predictive model used in hilly areas. Deerfield Specialty Papers, Inc., Monroe, Massachusetts established and operated SO_2 monitors and meteorological instruments at locations corresponding to the maximum impact points predicted by the modeling. These data were submitted to EPA on December 27, 1977 by the Massachusetts Department and have been reviewed by both agencies. Ambient levels recorded from June through November, 1977, during which time the source continued to burn 1% sulfur fuel, did not exceed 11% of the primary 24-hour standard of 0.14 ppm (365 ug/m^3) or 17% of the secondary 3-hour standard of 0.5 ppm (1300 ug/m^3). Consequently, EPA believes that conversion of the source to 2.2% sulfur fuel will not interfere with attainment and maintenance of the NAAQS. Based on this information, EPA now proposes to approve Deerfield Specialty Papers, Inc. to burn the higher sulfur content fuel in accordance with the provisions of Regulation 5.1.

The monitoring program being conducted by Mount Tom Generating Station, Holyoke, Massachusetts will be completed in March 1978. Upon review of the data and evaluation of plant impact, a determination of the approvability of the source will be published as a Notice of Proposed Rulemaking in the FEDERAL REGISTER. Until a final rulemaking is published, the source must continue to burn the lower sulfur content fuel.

Total Suspended Particulates—Violations of the NAAQS for TSP have occurred throughout the state of Massachusetts. Since increased sulfur content of fuels is believed to result in increased particulate emissions, all sources converting to higher sulfur fuel will be stack tested for particulates, and the results of these stack tests will be reviewed in the light of TSP levels recorded throughout the area. In no case will a source be allowed to continue burning higher sulfur fuel if its emissions exceed the regulatory limits of the present SIP.

Ambient monitoring data collected after approved sources commenced burning of higher sulfur fuel show no additional sites in violation of the NAAQS for TSP. The existing standards violations are believed to be largely attributable to reentrainment of road and other fugitive dust. The Massachusetts Department is presently conducting a study to determine the causes of standards violations. The results of the study will be the basis for the January 1, 1979 attainment plan required by the Clean Air Act Amendments of 1977. The extension of the effective periods of the regulations will provide additional time for the data collection essential in the development of the attainment plan and in evaluating the consistency of this emission limitation with TSP standards attainment and maintenance.

The Administrator's decision to approve or disapprove the plan revisions will be based on whether they meet the requirements of Sections 110(a)(2)(A)-(H) and 110(a)(3)(A) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. EPA proposes to amend 40 CFR Part 52 in the manner set forth below. Interested persons may participate in the rulemaking by submitting comments to the address above. This revision is being proposed pursuant to sections 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601).

Dated: February 21, 1978.

WILLIAM R. ADAMS, Jr.,
Regional Administrator, Region I

Subpart W—Massachusetts

1. In § 52.1120, paragraphs (c)(8) (9), and (10) are revised to read as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(8) Regulation 5.1, Sulfur Content of Fuels and Control Thereof, for the Merrimack Valley Air Pollution Control District submitted on January 28, 1976 by the Secretary of Environmental Affairs and on August 22, 1977 by the Commissioner of the Department of Environmental Quality Engineering, and additional technical information pertinent to the Haverhill Paperboard Corp., Haverhill, Mass., submitted on December 30, 1976 by the Secretary of Environmental Affairs.

(9) Regulation 5.1, Sulfur Content of Fuels and Control Thereof, for the Pioneer Valley Air Pollution Control District submitted on July 22, 1976 by the Secretary of Environmental Affairs and on August 22, 1977 by the Commissioner of the Department of Environmental Quality Engineering, and additional technical information pertinent to Deerfield Specialty Papers, Inc., Monroe, Mass., submitted on December 27, 1977 by the Commissioner of the Massachusetts Department of Environmental Quality Engineering.

(10) Regulation 5.1, Sulfur Content of Fuels and Control Thereof, for the Central Massachusetts Air Pollution Control District submitted on June 25, 1976 by the Secretary of Environmental Affairs and on August 22, 1977 by the Commissioner of the Department of Environmental Quality Engineering.

§ 52.1126 [Amended]

2. In § 52.1126 paragraph (b) is amended by deleting "Deerfield Specialty Papers, Inc., Monroe, Mass." from the list of disapproved sources.

3. In § 52.1126, paragraph (e) is amended by striking out the phrase "submitted on January 28, 1976".

[FR Doc. 78-5546 Filed 3-2-78; 8:45 am]

[6560-01]

[40 CFR Part 228]

[FRL 831-6]

OCEAN DUMPING

Proposed Designation of Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposes to establish a temporary ocean dumping site in the San Nicolas Basin, on the Southern California Outer Continental Shelf, for the disposal of formation cuttings, waste drilling mud and nonperishable solid waste from exploratory oil drilling wells on Tanner Bank.

DATE: Comments must be received on or before April 3, 1978.

ADDRESS: Send comments to Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-548), EPA, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. T. A. Wastler, 202-245-3051.

SUPPLEMENTARY INFORMATION: In December 1975 the Department of the Interior (DOI) leased an area of the Tanner Bank, located on the Southern California Outer Continental Shelf, for exploratory oil drilling. To protect areas of particular biological significance on the Tanner and Cortes Banks, Stipulation No. 6 of the DOI leases requires that drill cuttings and waste drilling mud generated by wells on leases within five miles of the 80-meter isobath on these banks be transported to an area at least ten miles outside the 80-meter isobath for disposal. In addition, this stipulation prohibits the disposal of garbage and other solid waste within five miles of the isobath.

EPA Region IX has recently received applications from Shell Oil Company, Exxon Company, and Texaco, Inc., for special permits to dump into ocean waters outside the isobath formation cuttings, waste drilling mud, and nonperishable solid waste generated by exploratory wells on Tanner Bank. These materials cannot be discharged directly because of Stipulation No. 6. The maximum volumes proposed for dumping over a three-year period are as follows:

Shell—13,380 cubic meters; Texaco—3,261 cubic meters; and Exxon—6,657 cubic meters.

Because there is no approved EPA Pacific Ocean disposal site for dumping wastes generated by offshore oil drilling rigs, EPA today proposes to approve a new temporary ocean dumping site for the disposal of these materials under Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq., and Section 228.4(b) of EPA's Ocean Dumping Regulations and Criteria, 42 FR 2462 (January 11, 1977). Section 102(c) of the Act authorizes the Administrator of EPA to designate sites where ocean dumping may be permitted. Section 228.4(b) of the criteria provides that the Administrator may designate specific locations to be used on a temporary basis for disposal of small amounts of materials under a special permit without formal site designation studies where such materials satisfy the Criteria and where the Administrator determines that the quantities to be disposed of will not result in significant impact on the environment.

The proposed site is one square nautical mile in size with the northwest corner located at 32°55' north latitude and 119°17' west longitude. The depth at the proposed site is approximately 400 fathoms (2,400 feet).

The proposed disposal area was selected in consultation with the National Marine Fisheries Service, the DOI Fish and Wildlife Service, State of California Department of Fish and Game, United States Navy, and EPA Region IX. Among the factors influencing site selection were the need to avoid both shallow waters, which might be productive spawning areas, and also excessively deep waters which might hinder monitoring efforts. In addition, the site selected would not interfere with the Navy submarine transit zones.

EPA Region IX, after reviewing pertinent toxicity data and other information, has determined that the material proposed for dumping is in compliance with the Criteria and the dumping will not result in unreasonable environmental degradation.

This temporary site designation is being published as proposed rulemaking in accordance with Section 228.4(b) of the Criteria.

Management of the proposed site will be delegated to the Regional Administrator, Region IX.

All comments transmitted to EPA on or before April 3, 1978 will be considered by EPA in determining whether to make a final site designation. All comments should be sent in triplicate to Mr. T. A. Wastler at the address given above.

(33 U.S.C. 1412, 1418.)

Dated: February 24, 1978.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, paragraph (b) of §228.12 is proposed to be amended by adding subparagraph (4), an ocean dumping site, as follows:

§228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b) * * *

(4) San Nicolas Basin Ocean Dumping Site—Region IX. Location—Latitude and Longitude (northwest corner)—32°55' N., 119°17' W.
Size—1 square nautical mile.
Depth—400 fathoms (2,400 feet).
Primary use—disposal of formation cuttings, waste drilling mud, and non-perishable solid waste.
Period of use—three years after issuance of an ocean dumping permit for use of this site.

[FR Doc. 78-5543 Filed 3-2-78; 8:45 am]

[6560-01]

[40 CFR Part 423]

[FRL 854-1]

EFFLUENT GUIDELINES AND STANDARDS

Steam Electric Power Generating Point Source Category

AGENCY: Environmental Protection Agency.

ACTION: Proposed amendment to rule.

SUMMARY: EPA is proposing to amend regulations under the Clean Water Act which apply to the steam electric power industry. The amendments would provide, contrary to EPA's original position, that economic factors are legally relevant when considering a power plant's request for a variance from national effluent limitations guidelines. EPA has changed its original position in order to comply with a judicial decision.

DATE: Written public comments should be submitted to the person listed immediately below by April 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard G. Stoll, Jr., Office of General Counsel-(A-131), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-755-0788.

SUPPLEMENTARY INFORMATION: On October 8, 1974, EPA published regulations under the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act) setting forth best practicable control technology (BPT) effluent limitations guidelines for the steam electric power industry. 40 CFR Part 423, 39 FR 3686 et seq.

For each subcategory in the power industry category, there is a "variance clause." 40 CFR 423.12(a), 423.22(a), 423.32(a) and 423.42 (introductory paragraph). This clause allows case-by-case variances from national guidelines where one can show that certain plant-specific factors—such as age or size of the plant—are "fundamentally different" from the factors considered in setting the national guidelines. The variance clause does not specify whether plant-specific economic factors may be considered.

Essentially the same variance clause is included in the BPT effluent limitations guidelines for almost all industries. On August 20, 1974, EPA published a legal interpretation which ruled that economic factors could not be considered in applying this standard variance clause. 39 FR 30073.

On July 16, 1976, the United States Court of Appeals for the Fourth Cir-

cuit issued an opinion in response to various legal challenges to EPA's BPT (and other) regulations for the steam electric power industry. *Appalachian Power Co.* v. *Train*, 545 F. 2d 1351. The Court rejected EPA's exclusion of economic factors from the steam electric BPT variance clause. A request by EPA for recall of mandate as to this portion of the Court's opinion was denied (one judge dissenting) on September 26, 1977.

Since the Court's opinion was issued, EPA has in practice changed its position with regard to the steam electric power industry. In fact, EPA is now considering seven variance requests from power plants which raise plant-specific economic issues.

The purpose of this proposal is to formalize EPA's changed position. Appropriate clarifications to the variance clause are proposed below for each steam electric subcategory. In accordance with the Court's opinion, the variance clause would allow the permit issuer to consider "significant cost differentials" and other economic factors applicable to the particular source involved. The clause would also specify that the August 20, 1974 legal interpretation is not applicable to steam electric power plants.

This change applies only to steam electric power plants. EPA continues to believe that with respect to variances from national effluent limitations guidelines, economic factors may be considered only in § 301(c) proceedings to modify the "best available technology" requirements under § 301(b)(2)(A). For categories other than steam electric power plants, economic factors will not be considered in ruling on BPT variance requests and the August 20, 1974 legal interpretation will continue to apply.

It should be emphasized that a State which has permit-issuing authority under the Clean Water Act is not required to consider economic factors when evaluating steam electric BPT variance requests. Section 510 of the Act preserves the States' rights to impose more stringent limitations than required by Federal law.

The Court was also concerned that the August 20, 1974 legal interpretation meant that non-water quality environmental impact could not be considered in BPT variance requests. This is not the case. As I noted in my Decision *In the Matter of Louisiana-Pacific Corp. and Crown Simpson Pulp Co.*, 10 ERC 1841 (September 15, 1977), "[t]here is no reason why, in a proper case, a fundamental difference in non-water quality environmental impact could not justify a variance." That Decision also states, however, that the nature or quality of receiving waters is not a relevant factor with regard to variances from BPT. This applies to all industrial categories, including the steam electric power industry. See 42 FR 53661 (October 3, 1977).

Written public comments (preferably in triplicate) on these proposed regulatory changes should be submitted to the person listed in the introduction no later than April 3, 1978.

AUTHORITY: Sec. 501(a), Clean Water Act, 33 U.S.C. 1361(a).

Dated: February 24, 1978.

DOUGLAS M. COSTLE,
Administrator.

§§ 423.12, 423.22, 423.32 and 423.42 [Amended]

40 CFR Part 423 is proposed to be amended by adding the following two sentences to the end of §§ 423.12(a), 423.22(a), 423.32(a), and 423.42 (introductory paragraph):

* * * * *

In accordance with the decision in *Appalachian Power Co.* v. *Train*, 545 F. 2d 1351, 1358-60 (4th Cir. 1976), EPA's legal interpretation appearing at 39 FR 30073 (1974) shall not apply to this paragraph. The phrase "other such factors" appearing above may include significant cost differentials and the factors listed in Section 301(c) of the Act.

[FR Doc. 78-5542 Filed 3-2-78; 8:45 am]

[4110-35]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Part 460]

PROFESSIONAL STANDARDS REVIEW

Area Designations

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed regulations.

SUMMARY: HCFA proposes to amend the regulations establishing criteria to be used in designating PSRO areas to allow the Secretary to designate Statewide areas in those States where no PSRO areas have yet been designated, if he has evidence that physicians in the State favor a Statewide area.

DATE: HCFA plans to make the regulations effective on the date that they are published in final form. Consideration will be given to comments or suggestions received on or before April 17, 1978. When commenting, please refer to HSQ-48-P. Agencies and organizations are requested to submit their comments in duplicate. Comments will be available for public inspection, beginning approximately 2 weeks after publication, Parklawn Building, 5600 Fishers Lane, Rockville, Md., Room 16-A-55, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (telephone: area code 301-443-3880).

ADDRESS: Address comments to: Assistant Administrator for Professional Standards Review, room 16-A-55, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Stephen Crane, 301-443-2520.

SUPPLEMENTARY INFORMATION: The Secretary has broad discretion to establish the boundaries of PSRO areas under the Social Security Act. Section 1152(a) of the Social Security Act [42 U.S.C. 1320c-1(a)] provides that the Secretary shall establish "appropriate areas with respect to which Professional Standards Review Organizations may be designated." Under this authority the Secretary has published regulations incorporating six factors to be considered in developing areas. (42 CFR 460.2, formerly 42 CFR 101.2).

The six factors specified in law have not been sufficient to enable PSRO areas to be designated in some parts of the country, even though it is over 5 years since the enactment of the PSRO statute. The reason for these problems, in large measure, has been the inability of the Department under the existing regulations, to accommodate the strong preference of some physicians for the designation of Statewide boundaries of the PSRO area in which they are being asked to function.

While the Department recognizes that various aspects of the legislative history show a Congressional preference for the establishment of local PSRO areas, with Statewide areas being established only "in smaller or more sparsely populated States", S. Rpt. No. 92-1230, 92d Cong., 2d Sess., (1972), p. 258-259, the Department is also cognizant of the more fundamental Congressional objective of rapid implementation of the PSRO program. Section 1152(a) of the Social Security Act [42 U.S.C. 1320c-1(a)] requires the Secretary to enter into PSRO agreements with qualified groups "at the earliest practicable date after designation of an area." At least the spirit of this provision and possibly the letter of it as well, would be violated if the Secretary was unable to enter into an agreement with a PSRO because he had failed to designate a PSRO area.

The Department believes that for a PSRO organization to be effective, it must enlist the participation of a substantial number of doctors in an area. It is reasonable to assume that the support of the doctors on the bound-

aries of the Professional Standards Review area and the type of organization designated will be an accurate indicator of the degree of later participation of these doctors and the effectiveness of the organization after the PSRO is established. In addition, Congress has recognized the importance of obtaining the views of the affected physicians on the administration of the program by enacting a requirement that the Secretary give affected physicians an opportunity to object to the execution of an agreement with a PSRO [42 U.S.C. 1320c-1(f)].

However, neither the statutory language nor the legislative history precludes Statewide designation of populous States. Indeed, a Congressional Report has stated that, while local areas were preferred, "authority to designate Statewide areas was implied" in the original legislation. S. Rpt. No. 93-553, 93d Cong., 1st Sess. (1973), p. 67. A proposed amendment, which would have required the Secretary to give priority to local PSRO areas, was not enacted. Even the history of this amendment explains that it was never intended to "preclude designation of a Statewide area or Statewide PSRO". S. Rpt. No. 93-553, 93d Cong., 1st Sess. (1973), p. 67.

Consistent with the broad authority of the Secretary to designate PSRO areas and the legislative history, the Secretary considers it appropriate to propose regulations which would permit the designation of a single Statewide area in accord with evidence of physician preference. Designation of a single Statewide area would only occur in a State where no areas have been designated as of January 1, 1978, and, hence, no PSRO program progress has been made in over 5 years. (While the Secretary would be authorized to designate multiple areas in such States over the wishes of the physicians, such an approach is not considered appropriate in light of the long term necessity of obtaining their support for the program by organizing it in a manner which they believe will be most effective.)

It is proposed to revise Part 460 of Title 42 of the Code of Federal Regulations to read as follows:

42 CFR Part 460 is amended by revising § 460.2 to read as follows:

§ 460.2 Guidelines for designation of areas.

(a) *General requirements.* The Secretary:

(1) Will designate appropriate areas for which Professional Standards Review Organizations may be designated; and

(2) Will, from time to time, review the area designations and revise those that, in his judgment, need revision.

(b) *Specific guidelines.* In designating areas or revising the designations, the Secretary will take into consideration the following guidelines:

(1) Generally, an area should not cross State lines.

(2) In general, an area should not divide a county. However, in instances of large geographic areas or large county populations, it may be necessary and appropriate to divide a county.

(3) Existing boundaries of local medical review organizations and local health planning areas should be considered.

(4) An area should, to the extent possible, coincide with a medical service area and assure broad, diverse representation of all medical specialties. Consideration should also be given to the location of existing medical centers and to natural geographic barriers.

(5) An area should generally include a minimum of approximately 300 practicing physicians. While the maximum can be expected to vary with local circumstances, generally it should not exceed 2,500 practicing physicians.

(6) The designation of an area should take into account the need for effective cordination with Medicare and Medicaid fiscal agents.

(c) *Exception.* The Secretary will designate a single statewide area, without consideration of the foregoing guidelines, in any State for which:

(1) No areas have been designated as of January 1, 1978, and

(2) The Secretary has obtained suitable evidence that a majority of the physicians in the State favor a statewide area.

(Sec. 1152 of the Social Security Act, 42 U.S.C. 1320c-1; sec. 1102 of the Social Security Act, 42 U.S.C. 1302.)

Dated: January 19, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: February 24, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-5681 Filed 3-2-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 1600]

INVENTORY AND PLANNING

Intent To Propose Rulemaking

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to propose rulemaking.

SUMMARY: Proposed rulemaking is to be developed regarding inventory and planning procedures. Comments and suggestions are hereby invited to assist in the development and publication of a proposed rulemaking. The intended effect is to receive the maximum benefit possible from public and other government agency participation in the rulemaking process.

DATES: Written comments should be received by May 15, 1978.

ADDRESS: Written comments may be sent to: Director (210), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert A. Jones, Bureau of Land Management, Washington, D.C., 202-343-5682.

SUPPLEMENTARY INFORMATION: Proposed rulemaking is to be developed to implement the inventory and planning provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711-1712), the Coal Leasing Amendments Act of 1975 (30 U.S.C. 201), and the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.). A discussion package presenting a format of rulemaking for comment purposes will be available for review at all Bureau of Land Management State Offices and the Washington Office (220) after March 5, 1978.

The scope of the rulemaking includes: Conduct and availability of resource inventories; Planning levels for public land planning; Required processes for the land use planning rules; Land use plan maintenance and revision; Public involvement in land use planning; Interagency coordination and consistency of public land use plans with plans of State and local government and Indian Tribes; Interprestation and use of land use plans; Situations where public land management actions can proceed without a Bureau of Land Management land use plan; and Land use planning in relation to other established legal requirements, including wilderness study and designation of areas unsuitable for mining.

All comments and suggestions received will be considered in drafting a proposed rulemaking. The proposed rulemaking will be published in the FEDERAL REGISTER for further comments before final rulemaking is adopted. Resolution of conflicting comments and rejection of comments on policy or legal grounds are the responsibility of the Secretary of the Interior.

Dated: February 27, 1978.

FRANK GREGG,
Director.

[FR Doc. 78-5586 Filed 3-2-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR PART 73]

[BC Docket No. 78-73; RM-2949]

RADIO BROADCAST SERVICES

Changes Made in Table of Assignments; FM Broadcast Station in Prescott, Ariz.

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a second class A FM channel to Prescott, Ariz., in response to a petition filed by Southwest Broadcasting Co.

DATES: Comments must be received on or before April 24, 1978, and reply comments on or before May 15, 1978.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

Adopted: February 23, 1978.

Released: March 3, 1978.

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations (Prescott, Ariz.). BC Docket No. 78-73; RM-2949.

By the Chief, Broadcast Bureau:

1. *Petitioner, proposal, comments.* (a) Petition for rulemaking,[1] filed August 22, 1977, by Southwest Broadcasting Co. ("petitioner"), licensee of full-time AM station KYCA, Prescott, Ariz., proposing the assignment of channel 280A to Prescott as its second class A FM assignment. There were no responses to the proposal.

(b) The channel can be assigned without affecting any existing FM assignments in the table.

(c) Petitioner states that it intends to file an application for authority to construct a facility on the proposed channel, if assigned.

2. *Community data.* (a) *Location.* Prescott, seat of Yavapai County, is located in west-central Arizona, approximately 113 kilometers (70 miles) northwest of Phoenix.

(b) *Population.* Prescott—13,039; Yavapai County—36,733.[2]

(c) *Present aural service.* Full-time AM station KYCA, licensed to petitioner, AM station KNOT (full-time) and station KNOT-FM (channel 252A) presently serve Prescott. Noncommercial educational FM channel 215 is assigned to Prescott but is unoccupied.

3. *Population and economic data.* Petitioner indicates that according to the 1976 Arizona Statistical Review, Prescott's population is currently estimated at 17,000, which represents an increase of almost 25 percent over the 1970 Census data. It states that Yavapai County has experienced an even more rapid growth—an increase of 27.4 percent between 1960-1970. We are told that tourism manufacturing, ranching, and mining comprise the major industries. Petitioner claims that retail sales in Yavapai County between 1965-1975 increased by 217.6 percent from $41,606,000 to $132,155,000. Petitioner aserts that the population and economic trends for Prescott and Yavapai County indicate a rapid and continuing expansion of both population and economy.

4. *Preclusion study.* Preclusion would occur affecting four Arizona communities with populations greater than 1,000 (Williams, pop. 2,386; Wickenburg, pop. 2,698; Kingman, pop. 7,312; Bagdad, pop. 2,079). Of the four communities, Kingman has an AM and FM station, and Wickenburg has an AM station and an FM assignment. Williams and Bagdad have no FM assignments, but petitioner states that alternate FM channels are available for assignment to these communities if needed. Since alternative channels are available, this preclusion is not an impediment to the proposed assignment.

5. *Additional considerations.* Since the request is for a second class A assignment, petitioner should submit in its comments a *Roanoke Rapids,* 9 FCC 2d 672 (1967) study showing the number of people who would receive a first or second FM service. In addition, petitioner should show the extent of nighttime service provided by standard broadcast stations so that we can determine whether any first and second aural service would be provided.

6. Comments are invited on the proposal to amend the FM table of asignments (section 73.202(b) of the Commission's rules), with regard to the coummunity of Prescott, Ariz., as follows:

City and Channel No.
Prescott, Ariz., Present—252A; Proposed—252A, 280A.

7. The Commission's authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached 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 April 24, 1978, and reply comments on or before May 15, 1978.

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 porposed 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 § 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] Public notice of the petition was given on September 13, 1977 (Rept. No. 1074).

[2] Population figures are taken from the 1970 U.S. Census unless otherwise indicated.

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. 78-5606 Filed 3-2-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-69; RM-2980]

FM BROADCAST STATION IN ADA, OKLA.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Ada, Okla., as that community's second FM assignment. Petitioner, Charles M. Davis, states that the proposed channel could provide a local aural broadcast service to Ada.

DATES: Comments must be received on or before April 24, 1978, and reply comments on or before May 15, 1978.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

Adopted: February 23, 1978.

Released: March 2, 1978.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Ada, Okla.), BC Doctet No. 78-69, RM-2980. Notice of proposed rulemaking.

By the Chief, Broadcast Bureau.

1. *Petitioner, Proposal and Comments.* (a) Petition for rule making[1] filed August 9, 1977, by Charles M. Davis ("petitioner"), proposing the assignment of Channel 244A to Ada, Okla., as its second FM assignment.

(b) The channel may be assigned to Ada provided the transmitter site is located approximately 6.4 kilometers (4 miles) south of the community. The station could provide the required coverage of Ada operating from such a site. There were no responses to the proposal.

(c) Petitioner states he will file an application for the channel, if assigned.

2. *Community Data:* (a) *Location;* Ada, seat of Pontotoc County, is situated approximately 97 kilometers (60 miles) southeast of Oklahoma City.

(b) *Population:* Ada—14,859; Pontotoc County—27,867.[2]

(c) *Local Broadcast Service:* Ada is presently served by full-time AM Station KADA and Station KTEN-FM, Class C channel 227.

3. *Economic Considerations:* Petitioner states that there was about a 9% increase in population in Pontotoc County between 1960-1970. We are told that the per capita income in Ada in 1972 was $3,329.

4. *Preclusion Studies:* Petitioner's engineering study showed that preclusion would occur on Channels 244A and 246 as a result of the proposed assignment. The precluded areas contain three communities of over 2,000 population (McAlester, pop. 18,802; Davis, pop. 2,223; Sulphur, pop. 5,158). McAlester has a Class C station and Sulphur has a Class A assignment on which there is a pending application (BPH-10459). Davis is located within the 60 dBu contour of the proposed station at Sulphur.

5. *Additional Considerations:* The proposed assignment would result in intermixing a Class A channel with a Class C channel. The Commission has a policy of avoiding such intermixture in the classes of FM channel assignments, but exceptions have been made when a Class C channel is unavailable and the petitioner is willing to apply for the Class A channel in spite of the intermixture situation. Yakima, Washington, 45 F.C.C. 2d 548, 550 (1973); Key West, Florida, 45 F.C.C. 142, 145 (1974). Since no Class C channel is available and petitioner is willing to apply for and operate on Channel 244A at Ada, Oklahoma, this assignment could be made.

6. In view of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with regard to Ada, Oklahoma, as follows:

City and Channel No.
Ada, Okla. Present: 227; Proposed: 277, 244A.

7. The Commission's authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached below and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the attached material before a channel will be assigned.

8. Interested parties may file comments on or before April 24, 1978, and reply comments on or before May 15, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

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 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.)

[1] Public Notice of the petition was given on October 25, 1977, Report No. 1084.

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

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. 78-5672 Filed 3-2-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 1047, 1082]

[No. MC-C-3437]

MOTOR TRANSPORTATION OF PROPERTY INCIDENTAL TO TRANSPORTATION BY AIRCRAFT

Intent to Develop Additional Data

AGENCY: Interstate Commerce Commission.

ACTION: Notice that the Commission's Bureau of Economics has been directed to develop additional data in this matter.

SUMMARY: The purpose of this document is to give notice that the Bureau of Economics has been directed to develop data regarding the motor transportation of property incidental to transportation by aircraft and to submit this information in report form to the Commission as part of the formal record in this proceeding.

DATES: The Bureau will submit its report to the Commission in approximately 3 months.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, 202-275-7292.

Robert G. Rhodes, 202-275-7684.

SUPPLEMENTARY INFORMATION: This proceeding, which formerly embraced No. MC-C-4000, Motor Transportation of Passengers Incidental to Transportation by Aircraft, was instituted by a notice of proposed rulemaking published in the FEDERAL REGISTER on May 25, 1977, at 42 FR 26667. This notice stated that anyone wishing to present views and evidence concerning the matters involved in the notice might do so by the submission of written data, views, or arguments. The deadline ultimately set for the filing of comments was September 19, 1977, although comments received as late as October 6, 1977, were accepted and made part of the record in the proceeding. Numerous and extensive comments were filed.

On December 14, 1977, an informal conference concerning the matters as issue in this proceeding was held at the Commission's offices in Washington, D.C., in order to aid us in better understanding these issues. All parties were invited to participate in this conference, and many did.

The Commission, desiring a more comprehensive understanding of the issues in this proceeding, has by this notice directed its Bureau of Economics to prepare a report to be based on available economic data concerning these issues. The Bureau will submit its report to the commission in approximately 3 months, at which time the public will be given an opportunity to comment on the report. So that we may have the most extensive and detailed record possible, both the report and the comments to the report will be made part of the record in this proceeding.

Notice of the referral of this proceeding to the Bureau of Economics shall be given to the general public by depositing a copy of this notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy of this notice to the Director, Office of the Federal Register, for publication therein.

By the Commission, Chairman O'Neal.

Decided February 24, 1978.

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

[FR Doc. 78-5551 Filed 3-2-78; 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.

[4310-10]

ADVISORY COUNCIL ON HISTORIC PRESERVATION 1522 K Street NW., Washington, D.C. 20005

MEETING

Notice is hereby given in accordance with the Council's Procedures for the Protection of Historic and Cultural Properties (36 CFR part 800) that a special meeting of the Advisory Council on Historic Preservation will be held on March 20-21, 1978, in San Franciso, California.

The Council was established by the National Historic Preservation Act of 1966 (Pub. L. 89-665, as amended, Pub. L. 94-422) to advise the President and Congress on matters relating to historic preservation and to comment upon Federal, federally assisted and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Secretaries of the Interior; Housing and Urban Development; Treasury; Agriculture; Transportation; State; Defense; Health, Education and Welfare; and Smithsonian Institution; the Attorney General; the Administrator, General Services Administration; Chairman of the Council on Environmental Quality; Chairman of the Federal Council on the Arts and Humanities; Architect of the Capitol; Chairman of the National Trust for Historic Preservation; President of the National Conference of State Historic Preservation Officers; and twelve non-Federal members appointed by the President.

In accordance with Section 106 of the National Historic Preservation Act, the Council will meet to consider the proposed demolition of three buildings—Buildings 51, 53 and 55—that are part of a National Historic Landmark at Mare Island Naval Shipyard in Vallejo, California. The meeting will begin on Monday, March 20, at 9:00 a.m., at Mare Island Naval Shipyard, Vallejo, California, and will continue on Tuesday, March 21, at 9:00 a.m. in the Comstock Room of the Sheraton Palace Hotel, 639 Market Street, San Francisco, Calif. A summary of the meeting agenda follows:

1. Report of the Office of Review and Compliance consideration of 106 Case,
II. Report of the Chairman,
III. Report of the Executive Director,
IV. Report of the Office of Intergovernmental Programs and Planning,
V. Report of the Office of General Counsel,
VI. Report of the Office of Special Studies,
VII. Other Business.

Additional information concerning the meeting is available from the Executive Director, Advisory Council on Historic Preservation, Suite 530, 1522 K Street, NW., Washington, D.C. 20005, 202-254-3967.

Dated: March 1, 1978.

ROBERT M. UTLEY,
Deputy Executive Director.

[FR Doc. 78-5851 Filed 3-2-78; 11:00 am]

[3410-07]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation Number A575]

CALIFORNIA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following California Counties as a result of winds of hurricane force December 20 and 21, 1977:

Riverside, Ventura

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 D, Paragraph V B, including the recommendation of Governor Edmund G. Brown, Jr. that such designation be made.

Applications for emergency loans must be received by this Department no later than August 18, 1978, for physical losses and February 20, 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 27th day of February, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-5675 Filed 3-2-78; 8:45 am]

[3410-07]

[Notice of Designation Number A574]

NORTH CAROLINA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Beaufort County, N.C., as a result of excessive rainfall May 24 through May 26, 1977, and prolonged drought June 1 through August 15, 1977.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 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 August 16, 1978, for physical losses and February 15, 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 27th day of February, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-5676 Filed 3-2-78; 8:45 am]

[3410-07]

[Notice of Designation Number A573]

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 April 1 through December 19, 1977, in Palo Pinto County; and drought June 1, 1977, through January 3, 1978, in Throckmorton and Wilbarger Counties.

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 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 August 11, 1978, for physical losses and February 12, 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 27th day of February, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-5677 Filed 3-2-78; 8:45 am]

[3410-15]

Rural Electrification Administration

LEE COUNTY ELECTRIC COOPERATIVE

Draft Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration is investigating the environmental effects of a proposed upgrading of the Lee County Electric Cooperative's system and is contemplating the preparation of a draft environmental impact statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 in connection with a possible loan application for Lee County Electric Cooperative, Inc., P.O. Box 3455, North Fort Myers, Fla. 33903. Facilities under consideration for the possible application will include: (1) Approximately 12 miles of transmission line from an existing Florida Power & Light Co. 230 kV line in Lee County in a westerly direction to a substation near the intersection of Littleton Road and Corbett Road. The substation would be a 400,000 kVA 230 kV to 138 kV facility and requires approximately 3 acres; or, (2) approximately 6 miles of 230 kV transmission line from the existing Florida Power & Light Co. Iona Substation located south of the Caloosahatchee River to the proposed South Cape Substation located across the Caloosahatchee River. This alternative would be contingent upon system upgrading of the existing 138 kV line to 230 kV.

Interested persons are invited to submit comments which may be helpful in analyzing the environmental impacts of the proposed system upgrading.

Comments should be forwarded to the Assistant Administrator, Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, with a copy to the borrower whose address was given above. Additional information may be obtained at the borrower's office during regular business hours.

Dated at Washington, D.C., this 27th day of February 1978.

DAVID A. HAMIL,
Administrator.

[FR Doc. 78-5607 Filed 3-2-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 32162]

DALLAS/FORT WORTH-TUCSON INVESTIGATION

Prehearing Conference

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on March 21, 1978, at 10 a.m. (local time), in Room 1003, Hearing Room C, North Universal Building, 1875 Connecticut Avenue, Washington, D.C., before Administrative Law Judge Burton S. Kolko.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Pricing and Domestic Aviation will circulate its material on or before March 10, 1978,[1] and the other parties on or before March 17, 1978. The submissions of the other parties shall be limited to points on which they differ with the Bureau, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

[1] Prior to or at the prehearing conference the Bureau will provide to the parties and the Judge service segment data for the most recently available two-year period between Dallas/Fort Worth-Tucson and Dallas/Fort Worth-Atlanta.

Dated at Washington, D.C., February 28, 1978.

BURTON S. KOLKO,
Administrative Law Judge.

[FR Doc. 78-5695 Filed 3-2-78; 8:45 am]

[6320-01]

[Order 78-2-107; Docket 30332; Agreements CAB 26719, R-1 through R-4; 26725, R-1 through R-12; 26848, R-1 through R-9]

IATA

Agreements Relating to Cargo Rates; Order Denying Petition for Reconsideration

By Order 77-11-15, November 3, 1977, the Board, among other things, disapproved increases proposed by the member carriers of the International Air Transport Association in U.S.-Caribbean general commodity rates (GCR's), container rates, and charges for minimum-sized shipments. In that order the Board also disapproved increases in container rates proposed for the U.S.-South/Central America (longhaul) market. Pan American World Airways, Inc. (Pan American) has filed a petition for reconsideration of the Board's action in both markets; Eastern Air Lines, Inc. (Eastern) has filed in support of Pan American's petition insofar as it relates to the Caribbean rates.

Pan American, supported by Eastern, contends that the basis for disapproval of the Caribbean entity rate increases in the face of demonstrated low composite earnings is unclear, and, if based upon excessive capacity, is mistaken; Eastern's passenger load factors on its combination service L-1011 equipment are reasonable and do not support disapproval of cargo rates on the pretext that it is offering excessive capacity in L-1011 bellies; Pan American's forecast of 58.5 percent all-cargo and 71.6 percent belly freight load factors are comparable with its historical performance and indicate that it will not be operating excessive capacity during the forecast year as the Board suggests; therefore, its losses in the Caribbean area are not attributable to excess capacity and, contrary to the Board's conclusion, all-cargo freighter services are warranted; the Board's prediction that Pan American's all cargo return would improve as a result of increased U.S.-Venezuelan traffic is flawed since Venezuela is not within the Caribbean entity either for IATA ratemaking or the Board's analysis; all its Venezuelan data have been included in its forecast of U.S.-South/Central America longhaul operations, and are reflected in the Board's statement of operating results for the longhaul entity; and unlike passenger fares, Venezuelan cargo rates have traditionally been related by IATA and the Board to the longhaul entity.

As for the longhaul U.S./South-Central America area, Pan American contends that the Board's basis for disapproval of the container rate increases is erroneous; the disapproved rates are reasonable when evaluated under the pricing formula developed in the Domestic Air Freight Rates Investigation (DAFRI); in fact, the cost saving attributable to containerization in the longhaul market is less than recognized under DAFRI methodology because circumstances differ in international cargo transportation, as demonstrated by TWA for North Atlantic container rates, and, in particular, because of local South American airport customs regulations which not only negate the saving in handling costs at destination, but actually increase them; while the effect of local customs requirements on costs has not been quantified, the Board must recognize at least half of the handling cost saving is lost and additional costs are incurred because container shipments must be unloaded at destination and marked separately for later identification and pickup at the customs warehouse; although Pan American has demonstrated that the proposed longhaul Type 3 container discount of 4 percent is comparable to the discount afforded by a similar container in the New York-Los Angeles market, the Board has not explained why the longhaul discount is not acceptable; past experience in the large Miami-Venezuela and New York-Brazil markets indicates the increases would not discourage shipper use of containers; and, finally, disapproval denies the carrier needed revenue.

Upon consideration of the petition, the answer, and all other matters, the Board has decided to deny the requests.

First of all, Pan American appears to have misinterpreted IATA provisions defining sub-areas within the Western Hemisphere (TC1). While the "Provisions for the Regulation and Conduct of the IATA Traffic Conferences" set forth in the second edition of the IATA Traffic Handbook indicate that Venezuela is in the "longhaul" South/Central America sub-area, as Pan American claims, rather than in the Caribbean sub-area, this applies only to the determination of membership voting rights for matters wholly within TC1. IATA's New York Traffic Service Office has confirmed our view that fare and rate resolutions applicable to U.S.-Venezuela fare and rate matters are included in the Caribbean sub-area, as defined under IATA Resolution 012f. The Board follows Resolution 012f definitions in its evaluation of IATA TC1 agreements and expects each carrier to prepare its justification accordingly. Although Pan American suggests that its U.S.-Venezuelan cargo results were included in its longhaul sub-area justification, there is no practical way for us to isolate the results for inclusion into Pan American's Caribbean results. In any event, were this practicable, it is unlikely, for the reasons given, that we would alter our disposition of the Caribbean rate increases.

The problem in considering the appropriateness of fare and rate increases for the Caribbean lies in the continued wide earnings disparity among the four U.S. carriers operating in this market.[1] Delta and, particularly, American forecast relatively high earnings, 7.7 and 18 percent, respectively. Yet, Pan American and Eastern both project substandard returns on investment (ROI) of negative 20.0 and 21.3 percent, respectively, in the face of general commodity rates that appear to be higher than comparable domestic general rates for equivalent mileage blocks. In Eastern's case, the Board believed it was unreasonable for shippers to incur further increases in general rates to support capacity that is scheduled to meet the demands of passenger service and for which they are not causally responsible. This conclusion is strongly supported by the quite favorable passenger load factor data submitted by Eastern in support of the petition.

Pan American's case is more complex. The Board, to the extent possible, tries to evaluate rate proposals on the basis of all-cargo service results. Two carriers, American and Pan American, provide all-cargo service in the Caribbean. American's historical and forecast all-cargo data are not complete;[2] Pan American's operation raises legitimate questions about the viability of its all-cargo service. The carrier forecasts a respectable 58.5 percent weight load factor for this service, yet expects negative 36.2 percent earnings under existing rates, with only marginal improvement to negative 31.3 percent under the proposed rates. Thus, even with the rate increases, Pan American's all-cargo return is only slightly better than without them. In fact, to earn a positive return on investment Pan American would have to achieve a weight load factor of over 80 percent, based upon its forecast data and the proposed rates. Only when the weight load factor approaches 100 percent does it appear that the carrier's all-cargo operation would earn a return slightly in excess of the Board's 12-percent guideline.[3]

Under the proposed rates, American forecasts an 18 percent ROI in its combination belly and all-cargo freight services, well in excess of the Board's 12 percent guideline, as compared to Pan American's negative 20 percent for similar services. While it is uncertain, due to the incompleteness of the data, to what extent American's all-cargo operation contributes to this favorable position, there is no great difference between each carrier's forecast composite (belly and all-cargo) yield under the proposed rates—40.71 cents per revenue ton mile (RTM) for American and 43.77 cents for Pan American. There is, however, a great difference between each carrier's forecast all-cargo cost per RTM—Pan American's at 66.05 cents is 197 percent of American's at 33.57 cents.[4] Therefore, in view of American's cost position and the probability that both carriers earn similar all-cargo yields, it is not unreasonable to assume that the all-cargo operation of American would be in as favorable an earnings posture as its total cargo operations. In these circumstances, we still are not able to conclude that the general commodity and container rate increases in the Caribbean area are warranted.[5]

Turning to the issue of the longhaul container rate increases, Pan American's argument that the 4 percent discounts offered are related to costs is not convincing and, in fact, may be misleading. It is true, as Pan American contends, that 4.0–4.8 percent discounts for general cargo are afforded in the westbound New York-Los Angeles market for a domestic Type A container, which is similar to the IATA Type 3 container. However, it is also true that the discount for the same container type in the eastbound Los Angeles-New York market is 12.2 percent, and that discounts for other general container types in that market range up to 24 percent depending upon direction and container size. Thus, this market provides domestic shippers a wide variety of presumably

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[1] Order 77-3-62, March 11, 1977, and Order 77-8-135, August 26, 1977, denying Pan American's petition for reconsideration.

[2] American's data separate costs for its all-cargo service, but not revenue and investment. Consequently, calculation of its all-cargo ROI is not possible.

[3] These comparisons are probably theoretical, since such high weight load factors usually are not attainable because, as a general proposition, the carrier runs out of cargo space before reaching the weight limitations of the aircraft.

[4] To what extent, the poor earnings of Pan American may result from such other factors as the nature of the routes operated, relative carrier efficiency, or imperfections in rate structure is not entirely clear from the data submitted.

[5] We did approve 10 percent increases in specific commodity rates, which should be of some value to Pan American since it forecast that approximately 37 percent of its area revenue would flow from this traffic. Also, in addition to increases in the minimum charge for small shipments, we approved 3-7 percent increases in bulk general commodity rates and 10-12 percent increases in specific commodity rates in the long haul area.

cost-related container discounts for general cargo. On the other hand, the disapproved longhaul container rates provide no such variety; the discount would be approximately 4.0 percent in many markets regardless of container type. Pan American has simply used the one rate out of many that best suits its purpose.

Although it contends that different circumstances make international cargo transportation more costly than domestic cargo transportation, Pan American has not demonstrated that costs in the longhaul area are significantly higher than costs in other international areas. Existing longhaul container rates offer discounts, ranging from 20 to 27 percent, that are not out of line with the average 25 percent discounts offered in the North Atlantic market and are only slightly higher than the 13 to 20 percent discounts offered in the North/Central Pacific market. The discounts in these two markets have never been characterized by the carriers as unjustifiably great.[6] In short, Pan American has failed to justify increases in longhaul container rate that would result in discounts of only 4 percent to shippers.

Pan American also argues that DAFRI methodology would support a longhaul container discount of 9.8 percent but that the saving is cut in half by local South American customs requirements. Yet, as set forth in applicable tariffs, the carriers assess charges of from $30 to $360 depending upon container size when required to unload a container for customs purposes, presumably to recover the additional costs occasioned by these requirements.[7]

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 102, 204(a), 403, and 1002(j) thereof,

It is ordered, That:

1. The petition of Pan American World Airways, Inc. for reconsideration of Order 77-11-15 in Docket 30332 be denied; and

2. Copies of this order be served upon Pan American World Airways, Inc. and Eastern Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[8]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-5691 Filed 3-2-78; 8:45 am]

[6320-01]

[Order 78-2-106; Dockets 29123 and 30777; Agreements C.A.B. 26434, R-1, 26886, 27019, R-1 through R-28]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreements Relating to Passenger Fares; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23d day of February 1978.

In the matter of agreement adopted by Traffic Conference 1 of the International Air Transport Association relating to passenger-fare matters (Docket 29123, Agreement C.A.B. 26434, R-1; Docket 30777, Agreement C.A.B. 27019 R-1 through R-28); agreement adopted by the Joint Traffic Conferences of the International Air Transport Association relating to Western Hemisphere long haul passenger fares (Docket 29123, Agreement C.A.B. 26886).

Order 77-12-74, December 13, 1977, described the principal elements of a new fare agreement among the carrier members of Traffic Conference 1 (Western Hemisphere) of the International Air Transport Association (IATA) and established procedures for the receipt of carrier justifications, comments and replies.[1] The agreement was adopted at the 80th meeting of the TC1 Passenger Traffic Conference held in San Diego during September 1977 and encompasses a new U.S.-South/Central America (long haul) fare structure to become effective not later than April 1, 1978, with an expiry date of March 31, 1980.

In general, first-class fares would be increased by amounts ranging from approximately 8 to 10 percent and normal economy fares would be increased by about 5 to 8 percent. Some promotional fares would remain at existing levels while others would be increased by as much as 24 percent. A comparison of existing and proposed fares in typical New York long haul markets is shown in Appendix A.[10] The agreements also propose a number of substantive changes in conditions governing use of existing fares as detailed in Appendix B, as well as a number of new fare programs which are shown in Appendix C.

Justification and supporting data have been submitted by Pan American World Airways, Inc. (Pan American), and Braniff Airways, Inc. (Braniff). Comments opposing the proposed fare increases have been recieved from Donald L. Pevsner, Esq., and Pan American has filed a reply. We will also consider in this order Pan American's petition for reconsideration of Order 77-12-87, December 15, 1977, by which the Board disapproved fuel-related increases in various U.S.-South America fares (Agreement C.A.B. 26886). Pan American argues that the Board's conclusion, that the proposed increases were not warranted by revenue need, was based on erroneous calculations of the carriers' returns on investment by the Board's staff. We agree that the corrected figures argue in favor of approving the fuel-related fare increases. Those have been incorporated into the fare levels contained in the new agreement now before us. We will, therefore, consider them as an integral part of the new fare structure proposed for effectiveness April 1, 1978, which, as discussed below, will be approved in major part. The petition will be dismissed as moot.

Pan American states that the proposed fare increases are reasonable and justified, and that the new discount fares such as the APEX will help develop new traffic, particularly of the ethnic and "VFR" (visiting friends and relatives) variety; its forecast including the proposed fares assumes no change in overall traffic level due to price elasticity of demand, in accordance with the Board's view (with which Pan American disagrees), but a redistribution of traffic by fare category; forecast cost levels are escalated in line with the Board's guidelines for domestic fare increases, except that experienced cost escalations are projected for 6 months beyond the proposed effective date of the new fares in order to reflect the average costs of Pan American's U.S.-South/Central America combination services for at least 1 year;[9] and the forecast return on investment (ROI) is overstated because it assumes that intra-South America fares would be subject to the same increases as longhaul fares, but the increase for the former will average only about 5 percent compared to 7.4 percent for the latter.

Braniff has submitted only a statement of financial and operating results, which, together with Pan American's, is summarized below:

[6] Moreover, the carriers recently proposed and the Board approved U.S.-Colombia container rates which, although increases, offer discounts averaging 25 percent from New York and 37 percent from Miami. See Order 77-12-86, December 15, 1977.

[7] See, e.g., Air Tariffs Corporation, Agent, CAB No. 52, Rule 20 (D).

[8] All Members concurred.

[1] The procedural order also dealt with several separate agreements adopted for expedited effectiveness on dates ranging from November 1, 1977, to January 15, 1978. These agreements were subsequently approved by the Board in Order 78-2-17, February 1, 1978.

[10] Appendices A—D filed as part of the original document.

[9] As noted above, the agreement would be of two years' duration.

[Figures in percent]

	United States-Central/South America scheduled passenger service[1]		
		Forecast year ending Mar. 31, 1979	
	Historical year ending Sept. 30, 1977	Present	Proposed
Pan American:			
Passenger load factor	52.1	54.2	54.2
Return on investment	6.41	.21	6.86
Braniff:			
Passenger load factor	52.7	53.7	53.7
Return on investment	8.43	9.69	14.85

[1]Revenue-offset method.

Mr. Pevsner opposes any increase in United States-South/Central America fares on the ground that they, particularly the promotional fares, are already excessive in relation to fares in other international markets such as the North Atlantic;[4] and states that, as long as the Latin American carriers refuse to conform to the Board's findings and orders on the free baggage allowance and excess-baggage charges, no fare increases should be permitted.

In reply to Mr. Pevsner, Pan American states that it is irrelevant whether the proposed promotional fares are higher than promotional fares in other world areas, which have different traffic characteristics; the sole question to be decided is whether they are cost-related; the Board should leave the appropriate level of promotional fares to the marketing judgment of the carriers; and it would be unreasonable and punitive for the Board to deny the U.S. carriers needed revenue improvement when they have cooperated with the Board on the baggage question, simply because some Latin American countries refuse to follow the Board's mandate.

FINDINGS

The Board has decided to approve the agreement with the exception of the proposed increase in normal economy fares, which we will disapprove, and the increases in first-class fares, on which we will defer action.

The carriers' forecast financial results show a clear need for revenue improvement: the composite ROI under present fares would be 3.37 percent and, under the proposed fares, would rise to 9.52 percent, well below the Board's 12-percent ROI guideline. (See Appendix D.)

We have made no adjustments to the carriers' results. We must, however, comment on two particular aspects. Braniff has excluded intra-South America operations (where it achieved a 10.30 percent ROI for the historical year) from its U.S.-South America results, and has thereby understated its financial position. Braniff offers no explanation for this departure from its previous practice.[5] We must remind the carriers, therefore, that the Board evaluates fares and rate proposals with an eye to the entire ratemaking area involved so that we can gain a true picture of carriers' total financial position and revenue need.

Our second reservation concerns Pan American's forecast for APEX-fare traffic. We welcome the carriers' initiative in introducing new promotional fares for individual passengers in the South America market, which should benefit the carriers as well as the public by generating new business. It is exactly on this point that we disagree with Pan American's forecast, which understates the benefits it will derive from the new APEX fares. Pan American apparently constructed the forecast traffic from portions of its normal economy and excursion-fare traffic—thereby assuming that APEX-fare traffic would be 100 percent diverted—in order to maintain the same total traffic level under both present and proposed fares. Pan American presumably did this in view of the Board's position that price elasticity adjustments to reflect fare increases should not be made to forecast traffic.[6] We continue to hold that view. Our policy on price elasticity, however, cannot be read to disregard the generative capabilities of, and hence traffic growth fostered by, introduction of new promotional fares. In the present context, we must question Pan American's projected diversion of normal economy traffic. It does not explain why this traffic, which has continued to travel at normal economy fares despite availability of a variety of promotional fares should suddenly take on such an added discretionary character with introduction of the APEX fares. We question this scenario on its face, and estimate that Pan American's projected revenues under the proposed fares are understated by at least $610,000.[7]

These two reservations do not, however, substantially affect our conclusion that the fare increases are justified by revenue need. Increasing Pan American's revenue by $610,000, and adding Braniff's experienced intra-South America results to its U.S.-South America forecast would have a minimal effect, and their composite ROI would remain below 10 percent.

Nevertheless, we cannot approve any increase in normal economy fares. Our review of the information supplied by Pan American and Braniff indicates that these fares are already excessive in relation to costs. For both carriers combined, the ROI during the forecast period, at the forecast composite overall load factor of 54 percent, would be over 17 percent if all economy-class traffic moved at the present normal economy fares. At the proposed fares, the composite ROI would rise to more than 23 percent.[8] This indicates that normal economy fares are already above the level required for a reasonable return even at the modest 54-percent forecast load factor, and would be substantially excessive if increased.

We are deferring action on the proposed first-class fare increase because certain IATA carriers in various Western Hemisphere markets are maintaining a baggage-allowance system based on weight, with excess-baggage charges tied to the first-class fare. This is at odds with the Board's decision in *Baggage Allowance Tariff Rules in Overseas and Foreign Air Transportation*, Docket 24869,[9] which found the existing IATA resolutions and carrier tariff rules on baggage to be unjust and reasonable. In Order 76-10-108, October 15, 1976, the Board suspended tariff filings proposing increases in North Atlantic first-class fares because the carriers were still using the first-class fare to assess excess-baggage charges in that market. Subsequently, we approved an IATA agreement which increased North Atlantic first-class fares;[10] the carriers had, in the interim, adopted an agreement which prohibited use of the proposed first-class fares to compute excess-baggage charges, and had also filed a new agreement which

[4]Mr. Pevsner also alleges that illegal discounting is rife in the South America market and fares should therefore be reduced, rather than increased, to ameliorate discrimination among passengers.

[5]Similarly, Braniff's economic justification for the fuel-related fare proposal, supra, construed the Board's direction to exclude "market areas not covered by the agreement" (by which the Board meant, as Pan American understood, the U.S.-Central America/Caribbean/Mexico ratemaking areas) to mean all U.S.-Latin America city-pairs where fares would not be directly affected by the agreement. In justification of the previous U.S.-South/Central America fare agreement, Braniff properly included its intra-South America operations. See Order 77-3-62, March 11, 1977.

[6]For a detailed discussion of our view on this subject, see Order 77-8-119, August 24, 1977.

[7]This figure was reached by restoring the economy traffic level under proposed fares to the level under present fares, while accepting Pan American's promotional traffic yield under proposed fares.

[8]These figures assume no increase in first-class yields, in keeping with our decision to defer action on the proposed first-class fare increases.

[9]See Orders 76-3-81, served March 12, 1976 and 76-5-26, May 10, 1976.

[10]See Order 77-3-54, March 9, 1977.

adopted a piece system for the free allowance, and more reasonable excess-baggage charges, in most markets to and from the United States. That baggage agreement, which the Board approved with conditions in Order 77-4-97, April 20, 1977, excluded travel within the Western Hemisphere, however, and as indicated some carriers have insisted on maintaining the old rules which were found unlawful. The entire matter is now the subject of an enforcement complaint in Docket 31407, and until such time as it is resolved in that context, or all carriers revise their baggage rules in an acceptable manner (individually or by IATA agreement), the least we can do is to hold first-class fares at existing levels so as to prevent any further overcharge to passengers carrying excess baggage.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, makes the following findings:

1. It is not found that the following resolutions, incorporated in Agreement CAB 27019 as indicated, are adverse to the public interest or in violation of the Act provided that approval is subject, where applicable, to conditions previously imposed by the Board:

Agreement CAB	IATA No.	Title	Application
27019:			
R-1	001b I	TC1 special effectiveness resolution (tie-in).	1
R-2	001f	Special provisions for review of TC1 long-haul fares structure (new).	1
R-3	001oo	Special escape for TC1 agreement	1
R-4	001h	2-year effectiveness escape—passenger (new).	1
R-5	002 I	Standard revalidation resolution	1
R-7	051x	U.S.A/Canada to Greenland first class fares.	1
R-8	060	Economy-class conditions of service (revalidating and amending).	1
R-10	061x	U.S.A./Canada-Greenland economy-class fares.	1
R-11	070cc	TC1 excursion fares-North and Central America/Caribbean to South America (revalidating and amending).	1
R-12	070ee	TC1 excursion fares U.S.A./Canada to Central America (revalidating and amending).	1
R-13	071x	TC1 advance-purchase excursion fares U.S.A./Canada to South America (new).	1
R-14	075g	TC1 group excursion fares from Brazil to the U.S.A. (revalidating and amending).	1
R-20	084e	TC1 group inclusive-tour fares-U.S.A./Canada/Mexico to South America (revalidating and amending).	1
R-22	084m	TC1 group inclusive tour-fares U.S.A. to Colombia (revalidating and amending).	1
R-23	084mm	TC1 5 day group inclusive-tour fares San Juan to Colombia (revalidating and amending).	1
R-24	084oo	TC1 40 passenger group inclusive-tour fares from the U.S.A. to Comombia (revalidating and amending).	1
R-25	084s	TC1 Group inclusive-tour fares U.S.A. to Central America/Panama (revalidating and amending).	1
R-28	084yy	TC1 special group inclusive-tour fares from the U.S.A. to Brazil (revalidating and amending).	1

2. It is not found that the following resolution, incorporated in Agreement CAB 27019 as indicated, is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions stated below:

Agreement CAB	IATA No.	Title	Application
27019:			
R-18	084aa	TC1 7/15 day group inclusive-tour fares San Jose/San Salvador to San Juan (new). Provided that:	1
(a) The provision which at departure would		permit a lesser number of passengers than that prescribed by the Resolution to travel shall not be limited to situations caused by circumstances beyond the control of the passengers dropping out of the group and the balance of the group may travel at no added costs.	.....
		(b) In the event a passenger discontinues his journey en route for any reason, the amount of the fare paid may be applied as a credit toward the purchase of transportation at the applicable fare calculated from the original point of origin.	.....
		(c) Full refund shall be made in the event of death or illness of the passenger or of a member of the passenger's immediate family prior to travel.	.....
		(d) The amount of the forfeiture to be imposed in the event of cancellation by the group or member of the group at depar-	.....

Agreement CAB	IATA No.	Title	Application
		ture time for any reason shall not exceed 25 percent of the fare paid and, after departure, the forfeiture shall not exceed 25 percent of the excess of the price of the group fare ticket over the cost of normal fare transportation from point to origin to point of cancellation.	

3. It is found that the following resolutions, incorporated in the agreements indicated, are adverse to the public interest and in violation of the Act insofar as they would increase normal economy-class fares to/from U.S. points:

Agreement CAB	IATA No.	Title	Application
27019:			
R-9	061c	TC1 economy-class fares	1
26434:			
R-1	002s	Special amending resolution	1

4. It is not found that the following resolutions, incorporated in Agreement CAB 27019 as indicated, affect air transportation as defined by the Act:

Agreement CAB	IATA No.	Title	Application
27019:			
R-15	075mm	TC1 group excursion fares Mexico to Brazil (new).	1
R-16	080r	TC1 2/8 day individual inclusive-tour fares Jamaica to Panama (revalidating and amending).	1
R-17	080rr	TC1 3/21-day individual inclusive-tour fares Mexico to Panama (revalidating and amending).	1
R-19	084bb	TC1 group inclusive-tour fares Pointe a Pitre/Fort de France-Lima (revalidating and amending).	1
R-21	084ii	TC1 5/21-day group inclusive-tour fares Lima/Panama to Havana (revalidating and amending).	1
R-26	084ww	TC1 17-day group inclusive-tour fares—Netherlands Antilles to Central/South America (revalidating and amending).	1
R-27	084xx	TC1 group inclusive-tour fares—from Brazil to Barbados/Trinidad (revalidating and amending).	1

Accordingly, *it is ordered*, That:

1. Those portions of Agreement CAB 27019 set forth in finding paragraph 1 above be approved, subject, where applicable, to conditions previously imposed by the Board;

2. That portion of Agreement CAB 27019 set forth in finding paragraph 2 above be approved, subject to the conditions stated therein;

3. Those portions of Agreements CAB 27019 and CAB 26434 set forth in finding paragraph 3 above be disapproved insofar as they would increase normal economy fares to/from U.S. points;

4. Jurisdiction be disclaimed with respect to those portions of Agreement CAB 27019 set forth in finding paragraph 4 above;

5. Action be deferred on Agreement CAB 27019, R-6;

6. Tariffs implementing the approved portions of Agreement CAB 27019 shall be marked to expire not later than March 31, 1980; and

7. The petition of Pan American World Airways, Inc., for reconsideration of Order 77-12-87 be dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[1]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-5692 Filed 3-2-78; 8:45 am]

[6320-01]

[Docket 32152]

LAS VEGAS-HOUSTON COMPETITIVE SERVICE INVESTIGATION

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on March 28, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of: (1) Proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Pricing and Domestic Aviation will circulate its material on or before March 13, 1978, and the other parties on or before March 21, 1978. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Pricing

[1] All Members concurred.

posed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Pricing and Domestic Aviation will circulate its material on or before March 13, 1978, and the other parties on or before March 21, 1978. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Pricing and Domestic Aviation, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., February 27, 1978.

WILLIAM A. KANE, Jr.,
Administrative Law Judge.

[FR Doc. 70-5694 Filed 3-2-78; 8:45 am]

[6320-01]

[Docket 24847]

TRANSAVIA HOLLAND B. V.

Postponement of Prehearing Conference

At the request of the applicant the prehearing conference in the above-entitled matter now assigned to be held on March 9, 1978 (43 FR 6826, February 16, 1978), is postponed and will be held on March 23, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., February 27, 1978.

WILLIAM A. KANE, Jr.,
Administrative Law Judge.

[FR Doc. 70-5696 Filed 3-2-78; 8:45 am]

[6320-01]

[Docket 30356]

TRANSCONTINENTAL LOW-FARE ROUTE PROCEEDING

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on April 5, 1978, at 10 a.m. (local time), in Room 1003, Hearing Room A, Universal Building North, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned Administrative Law Judge.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report, served on December 23, 1977, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., February 27, 1978.

WILLIAM H. DAPPER,
Administrative Law Judge.

[FR Doc. 78-5693 Filed 3-2-78; 8:45 am]

[1505-01]

[Docket 29123]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Granting Petition and Approving Agreements

Correction

In FR Doc. 78-3287 appearing at page 5399 in the issue for Wednesday, February 8, 1978, in the docket number in the heading, "Order 77-2-17" should be inserted after "29123;".

[6325-01]

CIVIL SERVICE COMMISSION

DEPARTMENT OF COMMERCE

Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, FR Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed form Schedule C of Civil Service Rule VI by 5 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from Deputy Assistant Secretary for Economic Development Planning, Economic Development Administration/to Deputy Assistant Secretary for Economic Development Policy and Planning, Economic Development Administration.

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-5500 Filed 3-2-78; 8:45 am]

[3510-49]

DEPARTMENT OF COMMERCE

National Fire Prevention and Control Administration

ADVISORY COMMITTEE ON FIRE TRAINING AND EDUCATION FOR THE NATIONAL ACADEMY FOR FIRE PREVENTION AND CONTROL

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name: Advisory Committee on Fire Training and Education for the National Academy for Fire Prevention and Control (Committee).
Date of meeting: April 3-4, 1978.
Place: Executive House, 1515 Rhode Island Avenue NW., Washington, D.C.
Time: 9 a.m. to 5 p.m.
Proposed agenda: April 3, 1978: Roll call of members/visitors; announcements; approval of minutes of fifth meeting; correspondence report; unfinished business, review training portion of final report, start review of complete final draft; new business, open university phase I report and proposal, appointments and work of board of visitors. April 4, 1978: Continue review of final draft; committee administration and travel; determine next meeting date.

The meeting will be open to the public with approximately 20 seats available on a first-come-first-served basis. Members of the general public who plan to attend the meeting should contact Ms. Jane Sornberger, National Fire Academy, National Fire Prevention and Control Administration, P.O. Box 19518, Washington, D.C. 20036, 202-634-7541, on or before March 20, 1978.

Minutes of the meeting will be prepared by the Committee and will be available for public viewing in Room 214, National Fire Prevention and Control Administration, 2400 M Street NW., Washington, D.C. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: February 24, 1978.

HOWARD D. TIPTON,
Administrator, National Fire Prevention and Control Administration.

[FR Doc. 78-5705 Filed 3-2-78; 8:45 am]

[3510-49]

BOARD OF VISITORS FOR THE NATIONAL ACADEMY FOR FIRE PREVENTION AND CONTROL

Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name: Board of Visitors for the National Academy for Fire Prevention and Control (Board).
Date of meeting: March 28-29, 1978.
Place: Third floor, 1750 New York Avenue NW., Washington, D.C.
Time: 8:30 a.m. to 5 p.m.
Proposed agenda: March 28, 1978: Introductory remarks; overview of the National Fire Prevention and Control Administration Activities; overview of Academy organization; orientation; Academy activities to date. March 29, 1978: Administrative items; budget; Far West Laboratory report; Academy site; problem areas/questions.

The meeting will be open to the public with approximately 20 seats available on a first-come-first-served basis. Members of the general public who plan to attend the meeting should contact Ms. Jane Sornberger, National Fire Academy, National Fire Prevention and Control Administration, P.O. Box 19518, Washington, D.C. 20036, 202-634-7541, on or before March 20, 1978.

Minutes of the meeting will be prepared by the Board and will be available for public viewing in Room 214, National fire Prevention and Control Administration, 2400 M Street NW., Washington, D.C. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: February 24, 1978.

HOWARD D. TIPTON,
Administrator, National Fire Prevention and Control Administration.

[FR Doc. 78-5704 Filed 3-2-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

MID ATLANTIC FISHERY MANAGEMENT COUNCIL

Public Meeting

The Mid Atlantic Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet April 12 and 13, 1978 at The Bonhomme Richard Inn, 500 Merrimac Trail, Williamsburg, Va. The meeting starts at 9 a.m. on April 12 and will adjourn at about 3 p.m. on April 13.

Proposed Agenda: (1) Shark Management Plan; (2) Butterfish Management Plan; and (3) Other Administrative Matters.

Meeting is open to the public. For more information on seating, changes to the agenda, or written comments, contact John C. Bryson, Executive Director, Mid Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Del. 19901, telephone 302-674-2331.

Dated: February 27, 1978.

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

[FR Doc. 78-5591 Filed 3-2-78; 8:45 am]

[3510-17]

Office of the Secretary

ESSENTIALITY OF ADVISORY COMMITTEES

Solicitation of Public Views

In accordance with Section 7(b) of the Federal Advisory Committee Act, 5 U.S.C. App., and Office of Management and Budget Circular A-63, Transmittal Memorandum No. 5, this Department is commencing a comprehensive review into the essentiality of its advisory committees. To comply with the law, the Department is undertaking this annual review of each advisory committee to determine: (1) Whether such committee is carrying out its purpose; (2) whether, consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised; (3) whether it should be merged with other advisory committees; or (4) whether it should be abolished. This review will cover each of the 102 advisory committees officially chartered under the Federal Advisory Committee Act, as of December 31, 1977. These 102 committees, by title and brief statement of purpose, are accounted for in the listing below.

Public comment is hereby solicited on the abolishment, consolidation, or continuation of each of these committees. Such comments should be addressed as follows:

U.S. Department of Commerce, Assistant Secretary for Administration, Room 5830, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Comments received by March 24, 1978 in response to this solicitation will be considered by the Department in the course of its comprehensive review. Concurrently, and until March 31, 1978, all comments which are received will be available for public inspection and copying at the Department's Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Any questions regarding this matter may be directed to Mr. Donald Budowsky, Office of Organization and Management Systems, Room 5319, Main Commerce Building, telephone: 202-377-4217.

Dated February 24, 1978.

GUY CHAMBERLIN, Jr.,
Deputy Assistant Secretary for Administration.

DEPARTMENT OF COMMERCE ADVISORY COMMITTEES

Advisory Board to the U.S. Merchant Marine Academy examines the course of instruction and management of the U.S. Merchant Marine Academy and advises the Assistant Secretary for Maritime Affairs on these matters.

Advisory Committee on East-West Trade advises ITA's Deputy Assistant Secretary for East-West Trade on ways to promote, facilitate, and coordinate the expansion of bilateral trade with Socialist countries, and identifies and makes recommendations concerning current and proposed government policies and programs relating to the promotion and expansion of such trade.

Advisory Committee on Fire Training and Education for National Academy for Fire Prevention and Control shall inquire and make recommendations to the Administrator, NFPCA, regarding the desirability of establishing a mechanism for accreditation of fire training and education programs and courses, and the role which DOC's National Academy for Fire Prevention and Control should play if such a mechanism is recommended.

Advisory Committee for International Legal Metrology advises Commerce (through the Director, NBS) on technical and policy matters relating to NBS' assigned general responsibility for the development of U.S. positions on technical issues arising in the International Organization of Legal Metrology.

Advisory Committee on Product Liability advises the Under Secretary (who chairs the Interagency Task Force on Product Liability) on measures that might be taken in the public policy area to facilitate improvements in the product liability process.

Advisory Committee to the White House Conference on Balanced National Growth and Econmic Development furnishes advice to the Secretary of Commerce in the planning of the White House Conference and in the preparation of the Conference's interim and final reports.

Board of Visitors for the National Academy for Fire Prevention and Control shall annually review the program of the Academy and make comments and recommendations to the Secretary regarding the operation of the Academy and any improvements therein which the Board deems appropriate.

Building Technology Advisory Committee advises DOC on matters relating to the Nation's needs in building research and technology, and provides a medium for receiving advice from all interests (e.g., construction industry, government, labor, consumers, state building code agencies, etc.) concerning relevant NBS programs and activities.

Census Advisory Committee (CAC) on Agriculture Statistics advises the the Director, Census Bureau, on the kind of information that should be obtained from agricultural respondents; makes recommendations regarding the contents of agricultural reports; and presents the views and needs for data of major agricultural organizations, their members, and other users of agricultural statistics.

CAC of the American Economic Association advises the Director, Census Bureau, on technical matters, accuracy levels, and conceptual problems concerning the economic censuses; reviews major aspects of the Bureau's programs, and advises on the role of analysis within the Bureau and on the need for more detailed data.

CAC of the American Marketing Association advises the Director, Census Bureau, as to the statistics that will help in marketing the Nation's products and services and on ways to make the statistics more useful to users.

CAC of the American Statistical Association advises the Director, Census Bureau, on the Bureau's overall programs, considers priority issues in the planning of censuses; examines guiding principles and advises on policy and procedure issues; and responds to Bureau requests for opinion regarding Bureau operations.

CAC on the Asian and Pacific Americans Population for the 1980 Census provides an organized and continuing channel of communication between the Asian and Pacific Americans community and the Census Bureau on the problems and opportunities of the 1980 Census as they relate to the Asian and Pacific Americans of the U.S.

CAC on the Black Population for the 1980 Census provides an organized and continuing channel of communication between the black community and the Census Bureau on the problems and opportunities of the 1980 Census as they relate to the black population of the U.S.

CAC on Housing for the 1980 Census provides technical advice and guidance on plans for the forthcoming decennial Census of Housing to ensure that the major statistical needs of decision-makers will result therefrom.

CAC on Population Statistics advises the Director, Census Bureau, of current programs and on plans for the decennial census of population.

CAC on the Spanish Origin Population for the 1980 Census, during the planning for the 1980 Census of Population and Housing, advises on such elements as improving the accuracy of the population count, as developing definitions and terminology for better identification and classification of the Spanish-origin population, and suggesting areas of research, subject content, and tabulations which may be of particular use to the Spanish-origin population.

Coastal Zone Management Advisory Committee must, by statute, "advise, consult with, and make recommendations to the Secretary in matters of policy concerning the Coastal Zone."

Commerce Technical Advisory Board (CTAB) reviews and evaluates the technical activities of the Department and recommends measures to increase the value to the business community.

Committee of Industry Sector Advisory Committee (ISAC) Chairmen for Multilateral Trade Negotiations advises the Secretary of Commerce and the (President's) Special Representative for Trade Negotiations on matters which are of common interest to the ISACs and the U.S. in connection with the multilateral trade negotiations being undertaken pursuant to the Trade Act of 1974.

Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee advises Commerce on issues involving technical matters, worldwide availability, actual use of production and technology, and licensing procedures which may affect the level of export controls applicable to computer peripherals, components, test equipment, and technical data, including those whose export is subject to multilaterals controls. (*N.B.* Five other Technical Advisory Committees, marked with an *asterisk* in this listing, have an identical purpose relevant to the hardware identified in their respective titles.)

**Computer Systems Technical Advisory Committee.*

Economic Advisory Board advises the Secretary on economic policy issues, including consideration and discussion of economic data, analyses, forecasts, and related reports made available from time to time by both the public and private sectors.

**Electronic Instrumentation Technical Advisory Committee.*

Exporters' Textile Advisory Committee advises ITA on the identification and surmounting of barriers to the expansion of textile exports and on methods of encouraging textile firms to participate in export expansion.

Fishery Management Councils (FMC) and Their Scientific and Statistical Committees and Advisory Panels—a unique group of advisory committees whose establishment was prescribed or authorized by the Fishery Conservation and Management Act of 1976.

Each FMC has prescribed duties, which are multiple and identical, the primary of which is to prepare and submit to the Secretary a fishery management plan for each fishery within its geographical area. ("Fishery" is defined as one or more stocks of fish—salmon, for example—which can be treated as a unit for purposes of conservation and management.)

Each Scientific and Statistical Committee has prescribed duties to assist its respective Council in the development, collection and evaluation of such statistical, biological, economic, social, and other scientific data as is relevant to the Council's development or amendment of a fishery management plan.

Each Advisory Panel advises its respective Council on the assessments and specifications of each fishery management plan within a given regional area, with special regard to (a) the capacity and extent to which U.S. vessels will harvest the resources, (b) the plan's effect on local economies and social structures, and (c) any potential conflicts between user groups of a given fishery resource.

Caribbean FMC:
- Advisory Panel for the Caribbean FMC
- Scientific and Statistical Committee for the Caribbean FMC

Gulf of Mexico FMC:
- Billfishes/Pelagic Sharks Advisory Panel for the Gulf of Mexico FMC
- Groundfish Advisory Panel for the Gulf of Mexico FMC
- Migratory Coastal Pelagic Fishery Advisory Panel for the Gulf of Mexico FMC
- Reef Fishes Advisory Panel for the Gulf of Mexico
- Scientific and Statistical Committee for the Gulf of Mexico FMC
- Shallow Water Shrimp Fishery Advisory Panel for the Gulf of Mexico FMC

Mid-Atlantic FMC:
- Advisory Panel fo the Mid-Atlantic FMC
- Scientific and Statistical Committee for the Mid-Atlantic FMC

New England FMC:
- Advisory Panel for the New England FMC
- Scientific and Statistical Committee for the New England FMC

North Pacific FMC:
- Advisory Panel for the North Pacific FMC
- Scientific and Statistical Committee for the North Pacific FMC

Pacific FMC:
- Anchovy Advisory Panel for the Pacific FMC
- Groundfish Advisory Panel for the Pacific FMC
- Jack Mackerel Advisory Panel for the Pacific FMC
- Sablefish Advisory Panel for the Pacific FMC
- Salmon Advisory Panel for the Pacific FMC
- Scientific and Statistical Committee for the Pacific FMC

South Atlantic FMC:
- Advisory Panel for the South Atlantic FMC
- Scientific and Statistical Committee for the South Atlantic FMC

Western Pacific FMC:
- Advisory Panel for the Western Pacific
- Scientific and Statistical Committee for the Western Pacific FMC

Importers' Textile Advisory Committee advises ITA of the affects on import markets of cotton, wool, and man-made fiber textile and apparel agreements.

Industry Policy Advisory Committee for Multilateral Trade Negotiations (MTN) advises, consults with, and makes recommendations to the Secretary and the (President's) Special Representative for Trade Negotiations on matters concerning the multilateral trade negotiations of the U.S.

Industry Sector Advisory Committee (ISAC) on Aerospace Equipment for MTN provides the Secretary and the (President's) Special Representative for Trade Negotiations with detailed views and information regarding trade barriers which affect individual products in the Committee's sector of U.S. industry, for use during the multilateral trade negotiations. The following 26 committees serve an identical purpose for their respective industrial sectors:

- ISAC on Automotive Equipment for MTN
- ISAC on Communication Equipment and Non-Consumer Electronic Equipment for MTN
- ISAC on Construction, Mining, Agricultural, and Oil Field Machinery and Equipment for MTN
- ISAC on Consumer Electronic Products and Household Appliances for MTN
- ISAC on Drugs, Soaps, Cleaners, and Toilet Preparations for MTN
- ISAC on Electrical Machinery, Power Boilers, Nuclear Reactors, and Engines and Turbines for MTN
- ISAC on Ferrous Metals and Products for MTN
- ISAC on Food and Kindred Products for MTN
- ISAC on Hand Tools, Cutlery, and Tableware for MTN
- ISAC on Other Fabricated Metal Products for MTN
- ISAC on Industrial Chemicals and Fertilizers for MTN
- ISAC on Leather and Products for MTN
- ISAC on Lumber and Wood Products for MTN
- ISAC on Machine Tools—Other Metalworking Equipment, and Other Nonelectrical Machinery for MTN
- ISAC on Miscellaneous manufactures, Toys, Musical Instruments, Furniture, Etc., for MTN
- ISAC on Nonferrous Metals and Products for MTN
- ISAC on Office and Computing Equipment for MTN
- ISAC on Paint, Gum and Wood Chemicals, and Miscellaneous Chemical Products for MTN
- ISAC on Paper and Products for MTN
- ISAC on Photographic Equipment and Supplies for MTN
- ISAC on Railroad Equipment and Miscellaneous Transportation Equipment for MTN
- ISAC on Retailing for MTN
- ISAC on Rubber and Plastics Materials for MTN
- ISAC on Scientific and Controlling Instruments for MTN
- ISAC on Stone, Clay, and Glass Products for MTN
- ISAC on Textiles and Apparel for MTN

Management-Labor Textile Advisory Committee advises ITA on problems and conditions in the textile and apparel industries and furnishes relevant world trade information to the (interagency) Committee for the Implementation of Textile Agreements, DOC officials, and U.S. negotiators of Textile trade agreements.

Marine Fisheries Advisory Committee advises the Secretary (through NOAA) on

matters concerning the Department's responsibilities for fisheries resources and on means to facilitate cooperation between relevant public and private sector interests.

National Advisory Committee on Oceans and Atmosphere is a Presidential advisory committee, the management of which under the Federal Advisory Committee Act has been specifically delegated to the Secretary by OMB. This committee reviews national ocean policy, coastal zone management, and the progress of U.S. marine and atmospheric science service programs; submits comprehensive annual reports to the President and the Congress, as well as such other reports as may be requisted by them; and advises the Secretary with respect to NOAA's mission and accomplishments.

National Bureau of Standards Visiting Committee visits NBS at least once a year and reports to the Secretary on the efficiency of the Bureau and the condition of the Bureau's labs and equipment.

National Laboratory Accreditation Criteria Committee for Thermal Insulation Materials develops and recommends to the Secretary general and specific criteria to accredit testing laboratories that test thermal insulation materials.

National Public Advisory Committee on Regional Economic Development makes recommendations to the Secretary relative to the carrying out of her duties under the (EDA) Public Works and Economic Development Act of 1965, as amended.

**Numerically Controlled Machine Tool Technical Advisory Committee.*

Patent and Trademark Office Advisory Committee advises on all matters concerning the patent system and the administration of the PAT-TM Office, including: consideration of patent examining operations, proposals involving patent legislation, and proposals requiring new patent treaties.

Presidents Export Council (PEC) serves as a national advisory body to the President on export expansion activities. Through the Secretary, it advises the President, the Council on International Economic Policy, and the Interagency Committee on Export Expansion on matters relating to export trade.

PEC Subcommittee on Export Administration advises the Secretary, through the PEC, on matters which deal with U.S. policy of encouraging trade with all countries with which the U.S. has diplomatic relations and of controlling trade for national security and foreign policy reasons.

Public Advisory Committee for Trademark Affairs advises the PAT-TM Office on steps which can be taken to enhance the efficiency and effectiveness of the administration of the Trademark Act, and provides a continuing source of knowledge from the private sector to the government in trademark matters.

Sea Grant Review Panel advises on grant and contract applications, proposals, and performances under the 1976 Sea Grant Program Improvement Act; on the Sea Grant Fellowship Program; on the designation and operations of Sea Grant Colleges and Sea Grant Consortia; and related matters referred to it for review.

**Semiconductor Technical Advisory Committee.*

**Telecommunications Equipment Technical Advisory Committee.*

Travel Advisory Board identifies areas where attainment of U.S. Travel Service goals can be facilitated, and develops relevant policy recommendations; reviews all Federal policies and practices which impact the travel field; and offers guidance and recommendations on issues connected with the implementation of the International Travel Act.

Weather Modification Board advises the Secretary (through Administrator, NOAA) on matters of a national policy, a national research and development program, and other aspects of weather modification as outlined in the National Weather Modification Policy Act of 1976 (Pub. L. 94-490).

NOTE. The abbreviations used above and their meanings are as follows:

ITA—Industry and Trade Administration
EDA—Economic Development Administration
NBS—National Bureau of Standards
NFPCA—National Fire Prevention and Control Administration
NOAA—National Oceanic and Atmospheric Administration
PAT-TM—Patent and Trademark Office

[FR Doc. 78-5740 Filed 3-2-78; 8:45 am]

*See parenthetical note in the description of the *Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee.*

[3510-25]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

TEXTILE CATEGORY SYSTEM

FEBRUARY 28, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: 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 details of the new textile category system which became effective January 1, 1978. On January 25, 1978 a notice in the FEDERAL REGISTER, Vol. 43, No. 17, page 3421, listed certain corrections and changes in the textile category system. There is published below a list further amending the system to reflect changes in the tariff schedules of the United States annotated. Revised copies of the correlation are available upon request.

EFFECTIVE DATE: March 1, 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.

CHANGE SHEET—TEXTILE CATEGORY SYSTEM

Correlation page	TSUSA	Action
5	310.5048	Eliminate.
5	310.5049	Add.
5	310.5051	Add.
45	380.0043	Eliminate.
45	380.0041	Add.
45	380.0042	Add.
49	382.0063	Eliminate.
49	382.0059	Add.
49	382.0061	Add.
50	382.0074	Eliminate.
50	382.0073	Add.
50	382.0075	Add.
79	382.0415	Eliminate.
79	382.0414	Add.
79	382.0416	Add.
79	382.7819	Eliminate.
79	382.7818	Add.
79	382.7820	Add.
80	382.0468	Eliminate.
80	382.0467	Add.
80	382.0469	Add.
80	382.0473	Add.
82	382.0460	Add.
83	382.8104	Eliminate.
83	382.8103	Add.
83	382.8105	Add.
101	380.3980	Eliminate.
101	382.3380	Add.
101	386.0410	Add.
101	386.5010	Add.
111	389.6010	Eliminate.
111	389.6210	Add.
111	389.6240	Add.

[FR Doc.78-5622 Filed 3-2-78; 8:45 am]

[6820-33]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1978

Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee has received a proposal to add to procurement list 1978 a commodity to be produced by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: April 5, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Feltcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47 (a)(2), 85 Stat. 77.

If the committee approves the proposed addition, all entities of the Federal Government will be required to procure the commodity listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity to procurement list 1978, November 14, 1977 (42 FR 59015):

CLASS 8430

Footwear Cover, Radioactive Contaminants, 8430-00-890-2079.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-5636 Filed 3-2-78; 8:45 am]

[6820-33]

PROCUREMENT LIST 1978

Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to procurement list 1978 a service to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: March 3, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On December 9, 1977 the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (42 FR 62180) of proposed additions to procurement list 1978, November 14, 1977 (42 FR 59015).

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following service is hereby added to procurement list 1978:

SIC 7399, Packaging Services (SH), Portsmouth Naval Shipyard, Portsmouth, N.H.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-5637 Filed 3-2-78; 8:45 am]

[6820-33]

PROCUREMENT LIST 1978

Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Deletion from Procurement List.

SUMMARY: This action deletes from Procurement List 1978 military resale items produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: March 3, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On January 6, 1978 the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (43 FR 1117) of proposed deletion from Procurement List 1978, November 14, 1977 (42 FR 59015).

After consideration of the relevant matter presented, the Committee has determined that the military resale items listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following military resale items are hereby deleted from Procurement List 1978:

MILITARY RESALE ITEM NO. AND NAME

No. 998..... Dish, plastic, pet.
No. 999..... Do.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-5638 Filed 3-2-78; 8:45 am]

[3125-01]

COUNCIL ON ENVIRONMENTAL QUALITY

TOXIC SUBSTANCES STRATEGY COMMITTEE, SUBCOMMITTEE ON TRADE SECRETS AND DATA CONFIDENTIALITY—WORK PLAN

Public Meeting

AGENCY: Council on Environmental Quality.

SUBJECT: Toxic Substances Strategy Committee, Subcommittee on Trade Secrets and Data Confidentiality—Work Plan.

ACTION: Notice of Public Meeting.

SUMMARY: The Council on Environmental Quality, in response to the President's Environmental Message of May 23, 1977, convened the interagency Toxic Substances Strategy Committee. This committee serves as the principal forum for the development of Administration initiatives with respect to government-wide toxic substances strategy and policy. Further information on the background of the Toxic substances Strategy Committee, its goals, work plan, and membership was published on pages 57866-57870 of the FEDERAL REGISTER of November 4, 1977.

Included in the agenda of the Strategy Committee are several tasks, the purpose of which is to develop initiatives to eliminate overlaps and fill gaps in collection of toxic chemicals data. As part of this effort, and outlined generally under Task IIA in the work plan of the Strategy Committee, the Subcommittee on Trade Secrets and Data Confidentiality was established. The subcommittee will examine and make recommendations to the Strategy Committee on the effects of present federal protection afforded trade secrets and similar information on the government's efforts to effectively control health and environment problems caused by toxic substances. The work plan of this subcommittee will constitute the agenda for the public meeting and is published under the Supplemental Information heading of this notice. The Subcommittee will hold an informal public meeting to discuss the work plan and to solicit suggestions and information concerning the Subcommittee's activities. Information obtained at the hearing and by written comment (including those previously received in response to the Toxic Substances Strategy Committee's November 4, 1977, FEDERAL REGISTER notice) will assist the Subcommittee in formulating its recommendations to the Toxic Substances Strategy Committee.

The Subcommittee welcomes comments on its work plan generally but for the purposes of the meeting is particularly interested in obtaining comments concerning those issues to be included in the subcommittee's initial recommendations:

1. Whether federal agencies should be encouraged to share trade secrets and similar data obtained by an agency under specific statutory authority? If yes, under what guidelines? What are the problems (excluding considerations of physical security) and benefits?

2. Whether a federal agency should be permitted to disclose trade secrets and similar data to government contractors? If yes, under what guidelines? What are the problems?

3. Whether safety and efficacy data, health and safety studies and similar data constitute trade secrets or other confidential information? Whether such data should be released to the public and if so, under what guide-

lines? What are the benefits and problems in such cases?

4. What are the issues involved in agency rulemaking on a confidential record which contains trade secrets and similar information? What type of information that is presently kept confidential should be made publicly available? What mechanisms could be utilized to accomplish this purpose?

DATES: The public meeting will be held on Monday, March 20, 1978. The meeting will begin at 1:30 p.m. and extend through the normal business hours. Requests to present a statement at the meeting should be received by March 17, 1978. Comments pertinent to the Subcommittee's activities are welcome at any time, but should be received before March 31, 1978, to be of utility in the formulation of the initial recommendations.

ADDRESS: The hearing will be held in Room 2008 of the New Executive Office Building, 726 Jackson Place NW., Washington, DC. (Entrance is also on 17th Street, north of Pennsylvania Avenue.)

PARTICIPATION: Those persons wishing to present formal statements at the meeting should send their requests to Robert Nicholas, Counsel, Council on Environmental Quality, 722 Jackson Place NW., Washington, DC 20006 or call him at 202-633-7111. Requests should include the name, address, and telephone number of the participant and the approximate time needed for the presentation. For those persons who cannot participate at the meeting, written comments may be submitted.

FOR FURTHER INFORMATION CONTACT:

Robert Nicholas, Counsel, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006. Phone: 202-633-7111.

SUPPLEMENTAL INFORMATION: The meeting will be conducted in an informal manner under the Chairmanship of CEQ and other members of the Subcommittee. The meeting will first be limited to presentation of prepared statements by interested persons. It would be helpful if 20 copies of the prepared statement could be provided for distribution. To accommodate all persons wishing to present statements, the Chairperson may limit the time allowed for presentation of each statement. Following presentation of the prepared statement, clarifying questions will be permitted. Any time remaining will be available to receive additional comments. A verbatim record of the meeting will not be made.

Dated: February 28, 1978.

ROBERT B. NICHOLAS,
Counsel, Council on Environmental Quality.

TRADE SECRETS AND DATA CONFIDENTIALITY SUB-COMMITTEE TOXIC SUBSTANCES STRATEGY COMMITTEE

WORK PLAN

In response to the President's Environmental Message of May, 1977, the Council on Environmental Quality convened the Toxic Substances Strategy Committee. The Committee's work plan, published in the FEDERAL REGISTER on November 4, 1977 (42 FR 5866) details a broad program for evaluation and coordination of federal activities pertaining to research, regulation and information on toxic substances. Under the auspices of the Strategy Committee, and outlined generally in the work plan as Task II A, the Trade Secrets and Data Confidentiality Sub-Committee will examine the effects of present federal protection afforded trade secrets and similar information upon the government's efforts to effectively control health and environmental problems caused by toxic substances.

The Sub-Committee will operate within the general scope, objectives and methods of operation of the Strategy Committee as set out in the Work Plan. Initial recommendations will be made by the Sub-Committee to the Strategy Committee in April 1978, supplemented by additional recommendations in July 1978. A list of the members participating in Task II A appears as Appendix A.

BACKGROUND

Most federal agencies which have responsibility for protecting the public health and environment also have authority to obtain from industry safety and efficacy data, product composition, business production and similar information. Various statutes enacted over the years have granted this authority to these agencies. Such authority is essential for intelligent decisionmaking and effective performance of statutory responsibilities. (A list of the statutes to be considered by the Sub-Committee appears as Appendix B.) Some of the informnation provided to the government is believed by the provider to contain trade secrets or comercial or financial information, which the provider considers confidential and valuable, and the interagency transfer or public disclosure of which the provider seeks to restrict. The Freedom of Information Act, 18 U.S.C. 1905, the Federal Reports Act, and the various statutes under whose authority these agencies collect information have all attempted to deal with the question of transfer and disclosure. In varying degrees these statutes provide for limited transfer and disclosure of trade secret and other confidential information though none define what is either a trade secret or what constitutes confidential commercial or financial information. An overall look at these varying authorities and agency interpretations disclose that there is no coherent scheme for dealing with these problems. The absence of definitions, procedures and similar deficiencies has resulted in: duplication, as in the case where two or more agencies must simultaneously collect indentical data since they are prohibited from sharing the data; incongruities, as in the case where one statute mandates the disclosure of certain information and another prohibits it; and similar problems. Uncertainty about the appicability of penalties for disclosure or transfer have also left federal employees confused as to the consequences of their action and companies uneasy about the real protection afforded such information. Justifiably, this ad hoc approach has been subject of criticism from industry, labor and workers, public interest groups and the public generally.

GOALS

The goals of the Task Force are the following:

1. Facilitate agency access to data necessary to perform environmental, health and safety responsibilities.

2. Facilitate public access to data necessary for informed personal decisionmaking and knowledgeable participation in and evaluation of agency decisions, consistent with other legitimate interests: preserving confidentiality of secret information of substantial competitive value, and preserving individual rights of privacy.

3. Generally minimize burdens of duplicate reporting and collecting data, of ad hoc data confidentiality determinations, and otherwise promote efficient use of data by providing clear and, where appropriate, uniform guidance on standards and procedures for sharing, disclosing and protecting data.

ISSUES TO BE ADDRESSED

The Sub-Committee will examine present trade secret law and practice and make initial recommendations concerning the following high priority areas of concern:

1. Inter-agency sharing of data.

2. Agency sharing of data with government contractors.

3. Agency rulemaking and adjudication on a "blind" or secret record.

4. Public disclosure of safety and efficacy data.

Additional recommendations will be developed by the Committee on a longer time frame for some or all of the following areas of concern:

1. The definition of trade secrets and confidential commercial/financial information.

2. Administrative mechanisms and procedures for determination of what constitutes a trade secret and what constitutes confidential commercial/financial information.

3. Public disclosure and nondisclosure of trade secrets: (a) To workers; (b) to state and local governments; (c) in emergency situations; and (d) to the general public.

4. Penalties for unlawful disclosure of protected material.

5. Compensation and other economic protections for the suppliers of information.

(a) In cases involving the use by a company, of data which has been provided by another company, in order to obtain a government benefit, e.g., license. (b) In cases involving disclosure to the public for health and environment purposes.

6. Disclosure of medical records for epidemiological and similar purposes.

7. Public disclosure of information developed by governmental agencies.

TASKS

The Committee tasks will include:

1. Examination of present laws, policies and practices.

2. Analysis of the effects of present positions on stated goals.

3. Proposal of alternatives where appropriate, to implement goals, and evaluation of the effects of the proposals in the following areas: Protection of public health and environment, economic impacts, international, patent, anti-trust and other appropriate areas.

4. Committee recommendations.

JANUARY 15, 1978.

APPENDIX A.—TRADE SECRETS AND CONFIDENTIALITY SUBCOMMITTEE MEMBERS

CHAIRMAN

Robert Nicholas, Counsel, Office of General Counsel, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006, Phone 633-7111.

CPSC

Edward Cull, Office of General Counsel, U.S. Consumer Product Safety Commission, Washington, D.C. 20207.

DOC

Dr. Bernard Greifer, Toxic Substances Advisor, Office of Environmental Affairs, Department of Commerce, Room 3424, Washington, D.C. 20230.

Steve Ransdell, Office of General Counsel, Department of Commerce, Washington, D.C. 20230.

EPA

James Nelson, Attorney Advisor, Office of General Counsel, Environmental Protection Agency (A-134), Room 521, West Tower, 401 M Street SW., Washington, D.C. 20460.

HEW

Dr. Lowell T. Harmison, Special Assistant for Science, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Room 713H, Humphrey Building, Washington, D.C. 20201.

FDA

Edward Allera, Associate Chief Counsel for Veterinary Medicine, Office of General Counsel, Food and Drug Administration, Parklawn Building, Room 6B3, 5600 Fishers Lane, Rockville, Md. 20857.

NIOSH

Jean G. French, Dr.Ph.H., Health Scientist, Office of Extramural Coordination and Special Project, 5600 Fishers Lane, Mailing Room 8-23, Rockville, Md. 20857.

Howard Walderman, Attorney Advisor, Public Health Division, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857.

DOT

Ron Way, Special Assistant to the Assistant Secretary for Fish, Wildlife, and Parks, Department of the Interior, Room 3153, Washington, D.C. 20240.

Dan Edwards, Ph.d., Bureau of Mines, Department of the Interior, Washington, D.C. 20240.

DOJ

Thomas Newkirk, Office of Legal Counsel, Department of Justice, Room 5236, Washington, D.C. 20530.

OSHA

Bert Cottine, Special Assistant to Assistant Secretary for Occupational Safety and Health, Department of Labor, S-2315, Washington, D.C. 20210.

DOT

Bob Ross, Office of General Counsel, Department of Transportation, Washington, D.C. 20590.

STATE

Jack Blanchard, Environmentalist, OES/ENP/EN, Department of State, Room 7820, Washington, D.C. 20520.

OBSERVERS

OMB

Ed Newton, Assistant General Counsel, Office of General Counsel, Office of Management and Budget, Executive Office Building, Washington, D.C. 20503.

APPENDIX B.—LEGISLATION WITHIN SCOPE OF TRADE SECRETS AND CONFIDENTIALITY SUBCOMMITTEE

1. Toxic Substances Control Act, 15 U.S.C. 2601 et seq.

2. Food, Drug and Cosmetic Act, 21 U.S.C. 301-392 (1938) (as amended).

3. Occupational Safety and Health Act, 29 U.S.C. 65 et seq.

4. Consumer Product Safety Act, 15 U.S.C. 2051 et seq.

5. Poison Prevention Packaging Act of 1970, 15 U.S.C. 1471 et seq.

6. Federal Hazardous Substances Act, 15 U.S.C. 1261 et seq.

7. Marine Protection, Research and Sanctuaries Act, 33 U.S.C. 1401 et seq.

8. Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 135 et seq.

9. Clean Air Act, 42 U.S.C. 1857 et seq.

10. Federal Water Pollution Control Act, 33 U.S.C. 1351 et seq.

11. Safe Drinking Water Act, 42 U.S.C. 300(f) et seq.

12. Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.

13. Flammable Fabrics Act, 15 U.S.C. 1191 et seq.

14. Hazardous Materials Transportation Act, 49 U.S.C. 1802 et seq.

[FR Doc. 78-5751 Filed 3-2-78; 8:45 am]

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

FEBRUARY 28, 1978.

The USAF Scientific Advisory Board Weapons Panel will hold a meeting on March 21-22, 1978 at the Pentagon, Washington, D.C. from 8:00 a.m. to 5 p.m. The Panel will receive classified briefings and conduct classified discussions on technical issues surrounding cessation of nuclear testing.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at 202-697-8845.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 78-5649 Filed 3-2-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

ANNUAL REVIEW OF ADVISORY COMMITTEES

Request for Public Comment

The Department of Energy (DOE) is conducting a comprehensive review of its advisory committees, in accordance with OMB Circular No. A-63, Transmittal Memorandum No. 5. Public Comment is invited.

All agencies have been directed to conduct this review for each committee to determine (a) whether such committee is carrying out its purpose; (b) whether, consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised; (c) whether it should be merged with other advisory committees; or (d) whether it should be abolished.

DOE is now in the process of conducting this review for the following advisory committees:

Advisory Committee on Geothermal Energy
Bonneville Regional Advisory Council
Coal Industry Advisory Committee
Committee of Senior Reviewers

Consumer Affairs Advisory Committee
Electricity Advisory Committee
Environmental Advisory Committee
Food Industry Advisory Committee
Fossil Energy Advisory Committee
Fossil Energy Advisory Committee, Lignite Subcommittee
Fuel Oil Marketing Advisory Committee
Gas Policy Advisory Council
Gasoline Marketing Advisory Committee
High Energy Physics Advisory Panel
Inertial Fusion Advisory Committee
LP-Gas Industry Advisory Committee
National Industrial Energy Council
National Petroleum Council
Natural Gas Advisory Committee
Personnel Security Review Board Panel
State Regulatory Advisory Committee
Study Group on Global Effects of Carbon Dioxide

DOE is required to complete its review and submit its determination to the Committee Management Secretariat, General Services Administration, by April 1, 1978. Therefore, any public comments and recommendations should be provided to DOE not later than March 15, 1978. Interested persons should direct their comments to Georgia M. Hildreth, Acting Director, Advisory Committee Management Office, Department of Energy, Room 2138, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Issued at Washington, D.C. on February 27, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 78-5667 Filed 3-2-78; 8:45 am]

[3128-01]

VOLUNTARY AGREEMENT AND PLAN OF ACTION TO IMPLEMENT THE INTERNATIONAL ENERGY PROGRAM

Meetings

In accordance with Section 252 (c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94-163), notice is hereby provided of the following meetings:

A meeting of the International Energy Agency (IEA) Group of Reporting Companies will be held on March 9 and 10, 1978, at the offices of Exxon Corp., 1251 Avenue of the Americas, New York, N.Y., beginning at 9:30 a.m. on March 9. The agenda is as follows:

1. Opening remarks.
2. Second IEA Allocation Systems Test, including:
(A) Overview of test scope and objectives.
(B) Organization: General overview; Role of Secretariat/ISAG; Functions/responsibilities of Reporting Companies/affiliates.
(C) Participation of NESO's: Summary of key activities; Communications with affiliates; Limitations on product balancing and fair sharing.
(D) Scenario and timing: Review Reporting Company sequence of activities.
(E) Data base and use: Base case definition and reference data; Disruption telex; Preparation of Phase 1 allocation—Review Reporting Company rules, Hypothetical example of company allocation; Clarification of Questionnaire A reporting instructions; Coordination of Questionnaire A with affiliates; Resolution of Questionnaire A/B differences; Phase 2 voluntary offers (timing, procedures, coordination with affiliates, fair sharing considerations); Product imbalance considerations.
(F) Communications procedures: Telephone and telex numbers of participants; Review of data transmission deadlines—Disruption telex, NESO advice on demand restraint, Reporting company transmission schedule for Questionnaire A to Paris and from affiliates to NESO's; Questionnaire B transmission to Paris; Questionnaire A/B reconciliation; AR-AO telex; Telex on voluntary offers.
(G) Test appraisal after each cycle plus entire test.
(H) Legal considerations: Data and information that can be discussed and exchanged with ISAG; Recordkeeping requirements.
3. Closing remarks.

A meeting of Subcommittee A of the Industry Advisory Board to the International Energy Agency (IEA) will be held on March 10, 1978, at the offices of Exxon Corporation, 1251 Avenue of the Americas, New York, New York, beginning following adjournment of the meeting of the IEA Group of Reporting Companies which will be held at New York on March 9 and 10. The agenda is as follows:

1. Opening remarks.
2. Second IEA Allocation Systems Test, including addenda to Test Guide resulting from:
(A) SEQ meeting of February 16.
(B) NESO briefing meetings held to date.
(C) ISAG meeting.
(D) Reporting Company meeting.
3. Future work program.

As provided in section 252 (c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public. As provided by section 209.32 of DOE regulations, IEP requirements and unanticipated procedural delays in processing this notice require the usual seven day notice period to be shortened.

Issued in Washington, D.C., February 27, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration, Department of Energy.

[FR Doc. 78-5666 Filed 3-2-78; 8:45 am]

[3128-01]

Economic Regulatory Administration

CITY OF LOGANSPORT, IND.

Petition Filed

The purpose of this Notice is to advise the public that the below listed petition, requesting that the Economic Regulatory Administration exercise its authorities under section 202(c) of the Federal Power Act, 16 U.S.C. section 824(c), has been filed:

EC 78-4—Petition of City of Logansport, Ind.

ERA has this application under consideration and may exercise its statutory responsibilities with or without further hearing but invites comments thereon. Copies of the above listed petition and responses, if any, thereto are available for inspection at the following locations:

Office of Public Information, Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, D.C. 20461.
Public Information Reading Room, Department of Energy, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Additional information may be obtained from:

Douglas C. Bauer, Assistant Administrator for Utility Systems, Economic Regulatory Administration, 1111 20th Street NW., Vanguard Building, Room 538, Washington, D.C. 20461.

Written comments may be filed with:

Public Hearing Management, Economic Regulatory Administration, Box SG, Room 2313, 2000 M Street NW., Washington, D.C. 20461.

Issued in Washington, D.C., March 1, 1978.

DOUGLAS C. BAUER,
Assistant Administrator, Utility Systems, Economic Regulatory Administration, Department of Energy.

[FR Doc. 78-5832 Filed 3-2-78; 9:53 am]

[3128-01]

REFINERS' CRUDE OIL ALLOCATION PROGRAM

Allocation Period of April 1 Through September 30, 1978

The notice specified in 10 CFR 211.65(g) of the refiners' crude oil allocation program is hereby issued for the allocation period of April 1, 1978, through September 30, 1978.

The buy/sell list for refiners for the allocation period commencing April 1, 1978 is set forth as an appendix to this notice. The provisions of 10 CFR 211.65 apply to all transactions made under the buy/sell list. Included as part of the list, as required by 10 CFR 211.65(g), are: The names of refiner-buyers and their eligible refineries; the quantity of crude oil each refiner-buyer is eligible to purchase; the total allocation obligation for all refiner-sellers; the fixed percentage share for refiner-seller; and the quantity of crude oil that each refiner-seller is obligated to offer for sale to refiner-buyers.

The allocations shown on the buy-sell list for refiner-buyers were determined in accordance with 10 CFR

211.65(b). For the allocation period of April 1, 1978 through September 30, 1978, each refiner-buyer shall be entitled to purchase, for each of its refineries that is determined by ERA not to have access to imported crude oil, an amount of crude oil equal to the difference between (1) the volume of crude oil runs to stills (not including crude oil processed for other refiners) at the eligible refinery in the period April 1, 1977 through September 30, 1977, and (2) the volume of crude oil runs to stills (not including crude oil purchased pursuant to 10 CFR 211.65 or crude oil processed for other refiners) at the eligible refinery in the period October 1, 1977 through March 31, 1978 (calculated by using the level of the crude oil runs to stills at the particular refinery in the period October 1, 1977 through January 31, 1978 for the entire six-month period).

The buy/sell list sets forth separately the allocations for refiner-buyers with eligible newly constructed refinery capacity and reactivated refineries and refinery capacity. Pursuant to 10 CFR 211.65(a)(1)(iii), ERA has assigned such refinery capacity an allocation equal to twenty-five (25%) percent of the capacity for the allocation period commencing April 1, 1978. The allocations for newly constructed refinery capacity and reactivated refineries and refinery capacity were calculated on the basis of estimated capacities and the assumption that such capacity has commenced operations or will commence operations on or about April 1, 1978. ERA will review each such allocation after the capacity has been certified by ERA pursuant to 10 CFR 211.67(a)(2) and the start-up dates are verified. In the event that ERA subsequently determines that any such allocation is incorrect, ERA will adjust the allocation in this allocation period or in the allocation period commencing October 1, 1978.

Pursuant to 10 CFR 211.65(c)(1), any small refiner may apply to ERA for review of the denial of eligibility of a refinery owned by that refiner where significant changes in the refinery's access to imported crude oil have occurred since the refinery was determined by ERA to be ineligible for an allocation. Any refiner-buyer may apply to ERA for an adjustment to an allocation as to an eligible refinery to compensate for reductions in crude oil runs to stills due to unusual or nonrecurring operating conditions or an unconsummated directed sale under 10 CFR 211.65(j) due to documented delays in delivering allocated crude oil. Applications for review of eligibility for an allocation or adjustment to an allocation for the allocation period commencing October 1, 1978 must be received by ERA no later than August 1, 1978.

Pursuant to 10 CFR 211.65(c)(2), any refiner-buyer may apply to ERA at any time for an emergency supplemental allocation for one or more of its eligible refineries for one or more allocation periods, or for part of an allocation period: *Provided*, That such refiner will be required to demonstrate that it has incurred or will incur a reduction in its crude oil supply (excluding crude oil allocated under 10 CFR 211.65 or under 10 CFR 211.63), for the eligible refinery for which an emergency allocation is sought equal to at least twenty-five (25%) percent of such crude oil supply in the preceding six-month period.

The buy/sell list covers PAD Districts I through V, and amounts shown are in barrels of 42 gallons each, for the specified period. Pursuant to § 211.65(f), each refiner-seller shall offer for sale, directly or through exchange, to refiner-buyers during an allocation period a quantity of crude oil equal to that refiner-seller's sales obligation plus any portion of that refiner-seller's sales obligation as to which ERA directs a sale pursuant to 10 CFR 211.65(j).

Pursuant to 10 CFR 211.65(h), each refiner-buyer and refiner-seller is required to report to ERA in writing or by telex the details of each transaction under the buy/seller list within forth-eight hours of the completion of arrangements therefor. Each report must identify the refiner-seller, the refiner-buyer, the refineries to which the crude oil is to be delivered, the volumes of crude oil sold or purchased, and the period over which the delivery is expected to take place.

The procedures of 10 CFR 211.65(j) provide that if a sale is not agreed upon subsequent to the date of publication of this notice, a refiner-buyer that has not been able to negotiate a contract to purchase crude oil may request ERA to direct one or more refiner-sellers to sell a suitable type of crude oil to such refiner-buyer. Such request must be received by the ERA no later than 20 days after the publication date of the buy/sell notice for the allocation period for which the assignment of a refiner-seller is requested. Upon such request, ERA may direct one or more refiner-sellers that have not completed their required sales to sell crude oil to the refiner-buyer.

In directing refiner-sellers to make such sales, the ERA will consider the percentage of each refiner-seller's sales obligation for the allocation period that has been sold, as reported pursuant to § 211.65(h), as well as the refiner-seller or sellers that can best be expected to consummate particular directed sales. If, in ERA's opinion, a valid directed sale request cannot reasonably be expected to be consummated by a refiner-seller that has not completed all or substantially all of its sales obligation for the allocation period, the ERA may issue one or more directed sales orders that would result in one or more refiner-sellers selling more than their published sales obligations for that allocation period. In such cases, the refiner-seller or sellers will receive a barrel-for-barrel reduction in their sales obligations for the next allocation period pursuant to 10 CFR 211.65(f)(3)(ii).

If the refiner-buyer declines to purchase the crude oil specified by the ERA, the rights of that refiner-buyer to purchase that volume of crude oil are forfeited during this allocation period, provided that the refiner-seller or refiner-sellers have fully complied with the provisions of 10 CFR 211.65.

Refiner-buyers making requests for directed sales must document their inability to purchase crude oil from refiner-sellers by supplying the following information to the ERA:

(i) Name of the refiner-buyer and of the person authorized to act for the refiner-buyer in buy/sell program transactions.

(ii) Name and location of the refineries for which crude oil has been sought, the amount of crude oil sought for each refinery, and the technical specifications of crude oil that have historically been processed in each refinery.

(iii) Statement of any restrictions, limitations, or constraints on the refiner-buyer's purchases of crude oil, particularly concerning the manner or time of deliveries.

(iv) Names and locations of all refiner-sellers from which crude oil has been sought under the buy/sell notice, the refineries for which crude oil has been sought, and the volume and specifications of the crude oil sought from each refiner-seller.

(v) The response of each refiner-seller to which a request to purchase crude oil has been made, and the name and telephone number of the individual contacted at each such refiner-seller.

(vi) Such other pertinent information as the ERA may request.

All reports and applications made under this notice should be addressed to:

Program Manager, Crude Oil Allocation, 20th Steet Postal Station, P.O. Box 19028, Washington, D.C. 20036.

This notice is issued pursuant to Subpart G of DOE's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with DOE's Office of Administrative Review in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before April 3, 1978.

Issued in Washington, D.C., February 26, 1978.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

APPENDIX

The list of refiner-sellers and refiner-buyers for the period April 1, 1978, through September 30, 1978, is as follows. The first part of the list sets forth the identity of each refiner-seller and refiner-buyer, the fixed percentage share of each refiner-seller, and the volumes of crude oil that each such refiner-buyer is eligible to purchase for each eligible refinery, as the case may be.

Allocations for newly constructed refinery capacity and reactivated refineries and refinery capacity are set forth in the second part of the list.

CRUDE OIL ALLOCATION PROGRAM FOR THE PERIOD APR. 1, TO SEPT. 30, 1978

Refiner-sellers	Share	Sales obligation (barrels)
Amoco Oil Co	0.099	984,594
Atlantic Richfield	.072	719,436
Cities Service	.023	1,711,371
Chevron U.S.A.	.096	2,903,016
Continental Oil Co	.034	0
Exxon Corp	.112	0
Getty	.020	71,864
Gulf Oil Corp	.086	566,668
Marathon Oil Co	.022	78,660
Mobil Oil Corp	.089	499,537
Phillips Petroleum	.039	143,986
Shell Oil Co	.107	391,884
Sun Oil Co	.052	427,633
Texaco Inc	.107	994,700
Union Oil Co. of California	.043	1,577,581
Total sales		11,072,930

ELIGIBLE REFINERIES, APRIL TO SEPTEMBER 1978

Refiner	Refinery location	Allocation (barrels)
Asamera Oil, Inc	Denver, Colo	290,220
Bi-Petro, Inc	Pana, Ill	0
CRA-Farmland Ind., Inc.	Scottsbluff, Nebr.	35,612
Do	Phillipsburg, Kans.	135,260
Dow/Refinery	Bay City, Mich	1,307,653
Evangeline Refinery.	Jennings, La	46,080
Farmers Union Central Exchange.	Laurel, Mont	1,216,535
Giant Industries	Bloomfield, N. Mex.	0
Hunt Oil Co	Tuscaloosa, Ala	0
Kentucky Oil Refining Co.	Betsy Layne, Ky	0
Little America Refinery.	Sinclair, Wyo	0
Do	Casper, Wyo	540,395
Macmillan RP Oil Co.	Norphlet, Ark	0
Marion Corp	Mobile, Ala	0
Mid-Tex Refinery	Hearne, Tex	94,807
Mount Airy	Mount Airy, La	0
Newhall Refinery Co.	Newhall, Calif	0
OKC Corp	Okmulgee, Okla	1,197,695
Pennzoil Co. (Atlas).	Shreveport, La	591,409
Plateau, Inc	Bloomfield, N. Mex.	382,957
Do	Roosevelt, Utah	66,280

ELIGIBLE REFINERIES, APRIL TO SEPTEMBER 1978—Continued

Refiner	Refinery location	Allocation (barrels)
Pride Refinery, Inc.	Abilene, Tex	1,093,526
Somerset Refinery, Inc.	Somerset, Ky	152,282
Southern Union	Lovington, N. Mex.	1,664,960
Do	Monument, N. Mex.	383,662
Southwestern Refinery Co.	La Barge, Wyo	0
Texas American Petrochemicals, Inc.	West Branch, Mich.	0
Thunderbird Resources (Westco).	Cut Bank, Mont	67,052
Thunderbird Resources (Westland).	Williston, N. Dak.	0
Western Refinery Co.	Woods Cross, Utah.	109,220
Wyoming Refinery (Tesoro).	Newcastle, Wyo	0
Total		9,375,605

ADDITIONAL ALLOCATIONS FOR NEWLY CONSTRUCTED AND EXPANDED REFINING CAPACITY AND REACTIVATED REFINERIES

Refiner	Refinery location	Capacity[1]	Allocation (barrels)
Little America.	Sinclair, Wyo	23,000	1,052,250
Mount Airy.	Mount Airy, La	11,600	530,700
Southwestern.	La Barge, Wyo	1,000	45,750
Western Refinery.	Woods Cross, Utah.	1,500	68,625
Total			1,697,325
Total all locations			11,072,930

[1] Estimated (in barrels per day).

[FR Doc. 78-5587 Filed 2-28-78; 11:03 am]

[3128-01]

[Ex Parte No. 308 (Sub-No. 1)]

INVESTIGATION OF COMMON CARRIER PIPELINES

Issuance of Proposed Decision and Order Concerning Procedures; Extension of Time to Submit Comments

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Extension of time to submit comments.

SUMMARY: By Notice dated February 10, 1978, the Department of Energy issued a Proposed Decision and Order concerning the procedures to be followed by the Economic Regulatory Administration in connection with its current Investigation of Common Carrier Pipelines (Ex Parte No. 308 (Sub-No. 1)). In the Notice, the DOE provided that comments on the Proposed Decision and Order may be submitted to the Office of Administrative Review on or before March 6, 1978. Since the publication of the notice in the FEDERAL REGISTER on February 17, 1978, (43 FR 7017) the Office of Administrative Review has received a number of Motions seeking extensions of time within which to submit comments. Those Motions present valid reasons for extending the comment period. Therefore, interested parties may now submit comments on the Proposed Decision and Order through March 31, 1978.

FOR FURTHER INFORMATION, CONTACT:

George B. Breznay, Assistant Director, Office of Administrative Review, 202-254-9681

Dated: February 27, 1978.

MELVIN GOLDSTEIN,
Director, Office of Administrative Review.

[FR Doc. 78-5590 Filed 3-2-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Project No. 2742—Alaska (Solomon Gulch Project)]

COPPER VALLEY ELECTRIC ASSOCIATION, INC.

Availability of Environmental Impact Statement for Inspection

FEBRUARY 24, 1978.

Notice is hereby given that on or about March 3, 1978, as required by the Commission Rules and Regulations under Order 415-C, issued December 18, 1972, a final environmental impact statement prepared by the Commission's staff pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91-100) was placed in the public files of the Federal Power Commission. This statement deals with the environmental impact of the issuance of a Federal Energy Regulatory Commission license to Copper Valley Electric Association, Inc. which would authorize the construction of the proposed Solomon Gulch Project. The proposed project would be located at the outlet of Solomon Lake in the Third Judicial Division, State of Alaska, in the vicinity of the City of Valdez. The proposed project would consist of a rockfill dam at the site of an existing low dam at the outlet of Solomon Lake, two rockfill dikes, a reservoir with a surface area of 600 acres, a steel penstock, a powerhouse containing two units with a total generating capacity of 12,000 kW, a 138-kV transmission line extending approximately 104 miles to Glennallen, a 25-kV line approximately 5 miles in length to Valdez, and appurtenant facilities.

This statement is available for public inspection in the Commission's

Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426, and its San Francisco Regional Office located at 555 Battery Street, San Francisco, Calif. 94111.

Copies may be ordered from the Commission's Office of Public Information, Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5611 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket Nos. G-3894, et al.]

ATLANTIC RICHFIELD CO., ET AL.

Erratum Notice

FEBRUARY 22, 1978.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates

(Issued February 6, 1978)

Tabulation, 43 FR 6645, February 15, 1978, Docket No. CI78-371, Appalachian Exploration & Development, Inc. Under column headed "Price Per Mcf" change "*" to "4" opposite Docket No. CI78-371.

Footnotes, 43 FR 6645, February 15, 1978. Delete footnote "*".

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5618 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket No. E-8121]

GULF STATES UTILITIES CO.

Certification

FEBRUARY 24, 1978.

Take notice that Presiding Administrative Law Judge Allen C. Lande, on January 31, 1978, certified to the Commission a proposed settlement agreement entered into among Gulf States Utilities Co. and the other parties concerned with the proceeding in the above-noted docket. Judge Lande indicates that no party to the proceeding raised objection to the settlement.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 Capitol Street NE., Washington, D.C. 20426, on or before March 10, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5612 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket No. CP76-285, et al.]

MOUNTAIN FUEL RESOURCES, INC., ET AL.

Informal Conference

FEBRUARY 22, 1978.

Take notice that on February 23, 1978, at 2 p.m., an informal conference of all interested persons will be convened concerning the above-captioned matter. The conference will be held at the offices of the Federal Energy Regulatory commission, 825 North Capitol Street NE., Washington, D.C. 20426, in room 8402.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention. All parties will be expected to appear fully prepared to discuss the issues as determined at the prehearing conference of January 5, 1978, and as encompassed by the order of September 30, 1977. All parties will, additionally, be expected to comment on all procedural matters and make commitments with respect to the issues and any offers of settlement or stipulations discussed at the conference.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5613 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket No. CS77-383]

NATOMAS NORTH AMERICA, INC. (FORMERLY APEXCO, INC.)

Redesignation

FEBRUARY 24, 1978.

By letter of February 8, 1978, Natomas North America, Inc., has advised the Commission that its corporate name has been changed from Apexco, Inc., to Natomas North America, Inc., effective January 1, 1978.

Accordingly, the small producer certificate of public convenience and necessity issued pursuant to Section 7(c) of the Natural Gas Act in Docket No. CS77-383 to Apexco, Inc., is redesignated as that of Natomas North America, Inc.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5614 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket No. RP74-72]

NORTHWEST PIPELINE CORP.

Change in Rates Pursuant to Demand Charge Credit Adjustment

FEBRUARY 24, 1978.

Take notice that Northwest Pipeline Corp., on February 15, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, to compensate Northwest for demand charge credits given to certain of its customers due to curtailment of firm contract obligations because of gas supply deficiency.

The notice of change in rates is being filed pursuant to the Commission's Order issued March 29, 1974 at Docket No. RP74-72 and Article 13.4 of Northwest's FERC Gas Tariff, Original Volume No. 1. The change in rates will result in a net decrease of 0.044¢ per therm for Rate Schedules ODL-1, DS-1 and PL-1. The new demand charge credit adjustment of (0.028)¢ per therm is based on a negative balance in the deferred account for demand charge credits of $517,712.

Northwest is concurrently filing notices of change in rates applicable to Article 16, Purchased Gas Cost Adjustment Provision, contained in its Original Volume No. 1 Tariff and Article VI, Advance Payments, contained in Northwest's Stipulation and Agreement. All three rate adjustments are reflected on the tendered Nineteenth Revised Sheet No. 10, which is proposed to become effective April 1, 1978.

Copies of this filing have been served upon Northwest's jurisdictional customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the FERC, 825 North Capitol Street, Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before March 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5615 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket No. RP76-115]

NORTHWEST PIPELINE CORP.

Change in Rates Pursuant To Advance Payment Tracking Provision

FEBRUARY 24, 1978.

Take notice that Northwest Pipeline Corp. ("Northwest"), on February 15, 1978 tendered proposed changes in its FERC Gas Tariff, Original Volume No. 1, to track a decrease in advance

payments made by Northwest from the level previously reflected in its rates. The instant filing reflects a decrease in the outstanding advance payments balance of $829,157 which equates to a negative adjustment of 0.003¢ per therm for all the FERC Gas Tariff, Original Volume No. 1 effective jurisdictional sales rate schedules.

The change is filed in accordance with Article VI, Advance Payments, of the Stipulation and Agreement in Settlement of Rate Proceedings in Docket No. RP76-115 and Docket Nos. RP73-109 and RP74-95 (Reserved Issue), as agreed to by all parties in such proceedings.

Northwest is concurrently filing notices of change in rates applicable to Article 16, Purchased Gas Cost Adjustment Provision and Article 13.4 Demand Charge Credits, contained in its Original Volume No. 1 Tariff. All three rate adjustments are reflected on the tendered Nineteenth Revised Sheet No. 10, which is proposed to become effective April 1, 1978.

A copy of this filing is being served on all jurisdictional customers of Northwest and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the FERC, 825 North Capitol Street, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5616 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket No. RP72-154]

NORTHWEST PIPELINE CORP.

Change in Rates Pursuant to Purchased Gas Cost Adjustment

FEBRUARY 24, 1978.

Take notice that Northwest Pipeline Corp., on February 15, 1978, tendered for filing a proposed change in rates applicable to service rendered under rate schedules affected by and subject to Article 16, Purchased Gas Cost Adjustment Provision ("PGAC"), contained in its FERC Gas Tariff, Original Volume No. 1. Such change in rates is for the purpose of (1) reflecting changes in Northwest's cost of purchased gas which will become effective by April 1, 1978, applied to volumes purchased for the twelve (12) month period ending December 31, 1977 and its change in unrecovered purchased gas costs since Northwest's prior semi-annual PGAC filing dated August 16, 1977 as amended September 19, 1977, (2) refunding, pursuant to Article IV, Section A of Northwest's Stipulation and Agreement in Settlement of Rate Proceedings of Docket No. RP76-115, the difference between the Clay Basin storage service charges included in Northwest's base rates for the year 1977 and the actual charges for the year 1977, and (3) eliminating the two (2) special surcharge credit adjustments to reflect the difference between the cost of gas injected into storage and the average purchased gas cost included in the rate charged during the withdrawal season because of the substantial increase in the cost of Canadian gas included in Northwest's previous PGAC filing of August 16, 1977 as amended September 19, 1977.

The current PGAC adjustment, for which notice is given herein, aggregates to an increase of 0.262¢ per therm in all rate schedules affected by and subject to the PGAC. The annualized change in Northwest's purchased gas cost aggregates an increase of $15,610,304. Northwest proposes to recover, through a surcharge, the adjusted negative balance of $2,355,708 in its FERC Account No. 191, as of December 31, 1977. The proposed change in rates would increase Northwest's revenues from jurisdictional sales and service by $13,074,680.

Northwest is concurrently filing notices of change in rates applicable to the currently effective Section 13.4, Change in Rates to Reflect Curtailment Credits, contained in its Original Volume No. 1 Tariff and Article VI, Advance Payments, contained in Northwest's Stipulation and Agreement in Settlement of Rate Proceedings in Docket No. RP76-115 and Docket Nos. RP73-109 and RP74-95 (Reserved Issue). In accordance with the Commission's Order issued March 29, 1974 at Docket No. RP74-72 and the aforementioned Stipulation and Agreement, the rate adjustments under the Demand Charge Credit Adjustment provision and Advance Payment Tracker become effective on Northwest's PGAC adjustment date after 45 days notice. Accordingly, all three rate adjustments are reflected on the tendered Nineteenth Revised Sheet No. 10, which is proposed to become effective on April 1, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5617 Filed 3-2-78; 8:45 am]

[6740-02]

[Project No. 2146]

ALABAMA POWER CO. (LOGAN MARTIN DAM)

Meeting; Correction

FEBRUARY 23, 1978.

In FR Doc. 78-4920, Issued February 17, 1978, and published on page 7687 in the issue of Friday, February 24, 1978. Please change the caption from "Alabama Power Co. (Walter Bouldin Dam)" to read "Alabama Power Co. (Logan Martin Dam)."

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5659 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket No. RP73-65; PGA 78-2]

COLUMBIA GAS TRANSMISSION CORP.

Order Accepting for Filing and Suspending Proposed PGA Rate Increase, Initiating Hearing and Establishing procedures

FEBRUARY 27, 1978.

On January 27, 1978, Columbia Gas Transmission Corp. (Columbia) filed revised tariff sheets[1] to be effective March 1, 1978, to reflect: (1) An increase of $95.4 million annually in the current average cost of gas purchased from pipeline and producer suppliers, and (2) revised surcharges[2] to recover $23.9 million in the Unrecovered Purchased Gas Cost Account. For the reasons set forth below, the referenced tariff sheets are accepted for filing and suspended for one day to become effective March 2, 1978, subject to refund and to the conditions that Columbia file revised tariff sheets as provided herein.

[1] Fortieth Revised Sheet No. 16 and Twentieth Revised Sheet No. 64A to FERC Gas Tariff, Original Volume No. 1.

[2] The surcharges for the different zones vary due to certain supplier refunds which were made on a zone basis.

About $31.9 million of the $95.4 million increase in the current average cost of gas is attributable to producer supplier increases and changes in purchase patterns in the Appalachian and Louisiana areas. The remaining portion of the increase is due mainly to pipeline supplier rate changes.

During the period July through December 1977, Columbia entered into an emergency purchase with Michigan Consolidated Gas Co. (Michigan Consolidated) and an emergency storage service arrangement with Consolidated Gas Supply Corp. (Consolidated) at costs totalling $37.9 million, together with an additional $74,227 for transportation costs. The excess of actual costs for the emergency gas over costs reflected in Columbia's present rates (93.9 cents per Mcf) is reflected in the Unrecovered Purchase Gas Cost Account. The amount is about $24 million.

The Unrecovered Purchased Gas Cost balance of $23.9 million includes, among other things: (1) The $24 million of costs which are applicable to the emergency purchase from Michigan Consolidated and emergency storage service with Consolidated, (2) pipeline supplier refunds of $46.4 million which are credited to the balance, and (3) an adjustment ($455,086 credit) for peak shaving arrangements and emergency gas purchases which occurred during the period January 1, through June 30, 1977.

The emergency purchases which are reflected in Columbia's PGA filing fall into three categories: (1) those emergency purchases made during the period January through June 1977 which are at issue in Docket No. RP77-35,[3] (2) emergency peak shaving arrangements which were made during the period January through June 1977 and are not at issue in Docket No. RP77-35, and (3) emergency purchases which were made after June 30, 1977.

Since those emergency purchases falling into the first category listed above are already subject to the outcome of the Docket No. RP77-35 proceeding, we shall limit the scope of the investigation ordered herein to exclude consideration of those emergency purchases. Pending resolution of the Docket No. RP77-35 proceeding, these costs shall be collected subject to refund pursuant to the one day suspension ordered herein. As to the remaining two categories of emergency purchases, we believe that Columbia should be allowed to include in its purchased gas costs those rates for such purchases which a reasonably prudent pipeline would pay for gas under the same or similar circumstances. Accordingly, we shall institute hearing procedures for the purpose of resolving this issue. The amounts shall also be collected subject to refund pending the outcome of the hearing.

We note that Columbia has included in its proposed PGA surcharge estimated amounts reflecting the effect of Columbia's currently effective PGA surcharge on the deferred account balances for January and February 1978. However, there are no amounts for January and February 1978 reflecting increased purchased gas costs incurred by Columbia which would increase the balance in the deferred account and thus offset the effect of the presently effective PGA surcharge. The net effect of this proposal by Columbia would be to decrease the new surcharge proposed to become effective March 1, 1978, by $37.3 million.

For the reasons set forth below, the Commission shall not adopt Columbia's proposal and shall require Columbia to file revised tariff sheets reflecting elimination of the $37.3 million estimated offsets (amortizations) to the deferred account for January and February 1978 from the new PGA surcharge proposed to become effective March 1, 1978. Section 154.38(d)(4) of the Commission's regulations and Columbia's PGA clause contained in its tariff require Columbia to reflect in its new surcharge the latest available balances of actual figures in its deferred purchased gas cost account. For the instant filing, that would be the actual balances as of December 31, 1977. Estimated balances are not permitted under the Regulations or under Columbia's tariff. Furthermore, as noted above, the estimated figures for January and February 1978, do not reflect any additions to the deferred account but rather reflect only the effects of the currently effective surcharge which is to reduce the deferred account balances by $37.3 million. This $37.3 million reflects, for the most part, surcharges to remove costs from the deferred account related to emergency arrangements entered into in January and February 1977. To flow that amount through in the new proposed surcharge would result in an unfairly reduced surcharge for the March through August 1978 summer period customers when normal operation of the PGA clause would give the benefits to the winter customers by reflecting it in the September 1978 through February 1979 surcharge. Thus Columbia's proposal should be rejected because: (1) it violates its tariff and the Commission's PGA regulations, and (2) in any event, would not represent an equitable distribution of purchased gas costs among Columbia's customers. In view of the fact that Columbia's proposal violates its tariff and § 154.38(d) (4) of the Commission's regulations, no hearing is necessary to dispose of this matter.

Columbia's PGA filing also reflects, in its current average cost of gas, purchases from producer suppliers in Ohio at rates in excess of the producer rate levels prescribed by this Commission for jurisdictional sales by national gas producers. However, by order issued April 18, 1977, in Docket No. RP73-65 (PGA75-5), the Commission found that the majority of sales by Ohio producers to Columbia were not subject to this Commission's rate or certificate jurisdiction. The Commission's August 1, 1977, order in Docket No. RP73-65 (PGA75-5) stated that Columbia could flow through costs from these non-jurisdictional purchasers where the rates for such purchases are reasonable and prudent.

In our September 15, 1977, order issued in Docket No. RP73-65 (PGA77-4) we set for hearing the issue of the prudency and reasonableness of Columbia's purchases from non-jurisdictional Ohio producers that were included in Columbia's July 29, 1977, tariff filing. Since that proceeding involves issues of law and fact which are common to those presented herein, we shall make rates charged to the non-jurisdictional Ohio producer purchases reflected in Columbia's instant filing subject to the outcome of the Docket No. RP73-65 (PGA77-4) proceeding.

Public notice of Columbia's January 27, 1978, PGA filing was issued on February 16, 1978, with protests and petitions to intervene due on or before February 28, 1978.

The Commission finds. It is necessary and proper in carrying out the provisions of the Natural Gas Act that: (1) Columbia's proposed PGA rate increase be accepted for filing and suspended for one day to become effective on March 2, 1978, subject to refund, conditioned on Columbia filing, within 15 days of the issuance of this order, revised tariff sheets reflecting the elimination of the estimated amortizations for the months of January and February 1978; (2) a hearing be held to determine the prudency of (a) emergency costs for peak shaving arrangements which occurred during the period January through June 1977, and which are not at issue in Docket No. RP77-35, and (b) the emergency costs incurred during the period July through December 1977;

[3] By order issued March 31, 1977, in *Metzenbaum v. Columbia et al.*, Docket No. RP77-35, the Commission instituted an investigation and hearing to show cause why Columbia should be permitted to pass on to its customers the additional cost incurred by reason of Columbia's alleged errors in judgment resulting in purchases of expensive emergency gas supplies during the winter (1976-1977). The Commission, in its order issued on September 15, 1977, at Docket No. RP73-65 (PGA77-4), directed that the prudency of these emergency purchases be subject to the Commission's final determination in Docket No. RP77-35.

(3) the remaining emergency purchases shall be subject to the outcome of the Docket No. RP77-35 proceeding; and (4) the purchases from non-jurisdictional Ohio producers shall be subject to the outcome of the Docket No. RP73-65 (PGA77-4) proceeding.

The Commission orders. (A) Subject to the condition set forth in Ordering Paragraph (B), Columbia's proposed tariff sheets referenced herein are accepted for filing and suspended for one day until March 2, 1978, at which time such sheets shall be permitted to become effective, subject to refund.

(B) Columbia shall file, within 15 days of the issuance of this order, revised tariff sheets reflecting the elimination of the estimated amortizations for the months of January and February 1978.

(C) Collections of that portion of the PGA surcharge rate designed to recover the costs of emergency purchases and acquisitions, other than those costs incurred for peak shaving arrangements which were not reflected in Columbia's prior semi-annual adjustment (PGA77-4), made by Columbia from January through June 1977 shall be subject to the Commission's final determination in Docket No. RP77-35.

(D) The costs of non-jurisdictional Ohio producer purchases which are reflected in Columbia's filing shall be subject to the Commission's final determination in Docket No. RP73-65 (PGA77-4).

(E) Pursuant to the authority of the Natural Gas Act particularly Sections 4, 5, 7, 14, 15, and 16, and the Commission's rules and regulations, a hearing shall be held in this proceeding to determine the prudency of: (1) emergency costs for peak shaving arrangements which occurred during the period January through June 1977 and which are not at issue in Docket No. RP77-35, and (2) the emergency costs incurred during the period July through December 1977.

(F) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge pursuant to 18 CFR 3.5(d), shall convene a prehearing conference in this proceeding on March 21, 1978, at 10 a.m., e.s.t., in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, for the purposes of establishing procedures for the investigation and hearing to be held pursuant to this order. The Presiding Judge shall be authorized to modify all procedural dates and to establish further procedures as may in his judgment be required for purposes of the investigation and hearing pursuant to this order. The Presiding Judge shall also be authorized to rule upon all motions except motions to consolidate, sever, or dismiss, as provided for in the rules of practice and procedure.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5650 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket No. RP78-18]

EL PASO NATURAL GAS CO.

Order Clarifying and Modifing Prior Order

FEBRUARY 27, 1978.

On January 27, 1978, El Paso Natural Gas Co. (El Paso) filed a pleading requesting clarification or in the alternative rehearing of the Commission's order issued December 30, 1977, in the captioned docket. For the reasons set forth below, the Commission shall clarify and modify the December 30, 1977, order in this docket.

The Commission's December 30, 1977, order rejected El Paso's revised tariff sheets which reflected increases in gas well royalty and production tax expenses potentially resulting from the passage of the Pearson-Bentsen II deregulation proposal and accepted for filing and suspended lower alternative tariff sheets which incorporated an increase in rates of approximately $112 million annually. The December 30, 1977, order also rejected El Paso's proposal to include in its tariff a provision permitting it to automatically track increases in gas well royalty and production tax expenses occurring subsequent to June 1, 1978, without prejudice to El Paso's right to show the justness and reasonableness of such a provision for possible prospective effectiveness.

In accepting the lower alternate rate tariff sheets, the Commission also granted waiver of § 154.63(e)(2)(i) of the Commission's Regulations under the Natural Gas Act to permit El Paso to retain in its filing, subject to refund, gas well royalty and production tax expenses incurred as of June 1, 1978, which is one day beyond the end of the test period. These expenses, however, were not based on any anticipated legislative changes in natural gas producer rates, but rather were based upon these changes to be triggered by the Commission's producer rate regulations promulgated, inter alia, in Opinion Nos. 770 and 770-A. In accepting and suspending these lower alternate tariff sheets, the Commission stated that increases in costs that could be triggered by deregulation (i.e. passage of the Pearson-Bentsen bill) which could occur prior to and on or after June 1, 1978, were too speculative at this time. However, the Commission's order stated further that:

> • • • if El Paso becomes liable for increased production taxes or royalty costs *subsequent to* June 1, 1978, due to deregulation, it may make appropriate filings with this Commission. The Commission's decision with respect to any such filing will be based on the facts and circumstances existing at that time. (emphasis added) (mimeo, p.3)

El Paso's January 27, 1978, pleading expresses concern that the above quoted language would preclude El Paso from making an appropriate filing to recover increased gas well royalty and production tax expenses occurring within the Docket No. RP78-18 test period, and on or before June 1, 1978, as the result of any legislative change in the price of natural gas. El Paso requests that the Commission's December 30, 1977, order be clarified, or in the alternative amended, so as not to automatically preclude the making of such a filing.

It was not the Commission's intention to preclude the making of such a filing by El Paso. Accordingly, El Paso is free to make an appropriate filing to recover increased gas well royalty and production tax expenses occurring as the result of any legislated change in the price of gas sold by producers prior to, on, or after June 1, 1978. However, the Commission's decision with respect to any such filing will be based upon the facts and circumstances existing at that time.

The Commission orders: (A) The Commission's December 30, 1977, suspension order is hereby clarified and modified as set forth in the body of this order.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5651 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket No. RP78-37]

LAWRENCEBURG GAS TRANSMISSION CORP.

Order Accepting for Filing and Suspending Proposed Rate Increase, Granting Waiver, Initiating Hearing, and Establishing Procedures

FEBRUARY 27, 1978

On January 31, 1978, Lawrenceburg Gas Transmission Corp. (Lawrenceburg) tendered for filing in Docket No. RP78-37 proposed changes to its FERC Gas Tariff[1] which would increase its annual revenues by $33,120 and would amend its PGA clause to include a provision for deferring in-

[1] Lawrenceburg submitted the following sheets to its FERC Gas Tariff, First Revised Volume No. 1: Twelfth Revised Sheet No. 4, First Revised Sheet No. 18, First Revised Sheet No. 20, Original Sheet No. 20A and Original Sheet No. 20B.

creases and decreases in purchased gas cost. Lawrenceburg requests that the proposed changes be permitted to become effective on February 28, 1978. For the reasons stated below, the Commission shall accept for filing the proposed rate increase and amended PGA clause, suspend them as discussed herein, and set the matters for hearing.

In support of its rate increase, Lawrenceburg submitted a cost of service study based on actual operations for the twelve months ending September 30, 1977, adjusted to reflect increased operating costs which are now effective or which may become effective within the test period, increased costs associated with increased curtailment, and a claimed overall rate of return of 10.87 percent. Lawrenceburg states that its rate increase filing was made necessary due to its increased operating costs, the erosion of its volumetric sales resulting from the assigned curtailment by its sole supplier, Texas Gas Transmission Corp., and the continuing reduction in its overall rate of return.

Lawrenceburg asserts that its proposal to amend its PGA clause to include a provision for deferred accounting was occasioned by the rising number of gas purchases and transportation arrangements for emergency gas. Lawrenceburg also states that the reduction in the notice of filing period from 45 days to 30 days will make it more difficult to file changes under its present PGA clause so that they coincide with those of Lawrenceburg's supplier. According to Lawrenceburg, the deferred accounting provision will be beneficial in that Lawrenceburg will be able to reduce administrative costs by accumulating very small tariff changes before filing a revised PGA.

Public notice of Lawrenceburg's filing was issued on February 13, 1978, providing for protests or petitions to intervene to be filed on or before February 24, 1978.

Based upon a review of Lawrenceburg's filing, the Commission finds that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept Lawrenceburg's proposed rate increase for filing, suspend its use for one day, and shall set the matter for hearing. Furthermore, for good cause shown, the Commission shall grant waiver of the notice requirements to permit the filing to become effective on March 1, 1978, subject to refund.

Lawrenceburg, which was classified as a Class A company as of December 31, 1976, requests waiver of that part of § 154.63(b)(3) of the Commission's regulations which requires all Class A companies to file Statements A through M, O, and P. Lawrenceburg filed Statements L, M, N, and O, which Class B companies are required to file in support of a major rate increase. In support of its requests for waiver, Lawrenceburg notes that its request for an increase in annual revenues is due principally to the increase in natural gas prices, charged by its supplier, and it has not grown in size or in volume of gas delivered. Lawrenceburg further states that its cost of service, exclusive of cost of purchased gas, constitutes only 2.7 percent of the total revenues requested in its filing. Finally Lawrenceburg asserts that compliance with the additional filing requirements for Class A companies would impose a severe hardship in terms of cost and manpower. Lawrenceburg also requests waiver of ¶ 154.63(e)(6) of the Commission's Regulations which requires that the rate increase filing be accompanied with an opinion of an independent public accountant. Lawrenceburg notes that an independent auditor's fee, estimated at $2,500, would further increase Lawrenceburg's proposed rates by about 7.5 percent. The Commission finds that good cause exists to waive the requirement, of §§ 154.63(b)(3) and 154.63(e)(6) of the Commission's regulations as requested by Lawrenceburg.

The Commission finds: It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that a hearing be held concerning the lawfulness of the increased rates and amended PGA clause proposed by Lawrenceburg, that the same be accepted for filing and suspended as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates and amended PGA clause proposed by Lawrenceburg.

(B) Pending hearing and decision, Lawrenceburg's proposed rate increase and amended PGA clause are accepted for filing and suspended for one day. The notice requirements of the Commission's Regulations are hereby waived to permit the proposals to become effective, subject to refund, on March 1, 1978, upon motion filed by Lawrenceburg in accordance with the provisions of the Natural Gas Act.

(C) The requirements of §§ 154.63(b)(3) and 154.63(e)(6) of the Commissions regulations are hereby waived as requested by Lawrenceburg.

(D) The Commission staff shall prepare and serve top sheets on all parties on or before April 28, 1978.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the staff, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule on all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5652 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket Nos. ER78-78 and ER78-79]

NEW ENGLAND POWER CO.

Order Denying Application for Rehearing

FEBRUARY 27, 1978.

On January 12, 1978, New England Power Co. (NEP) filed an application for rehearing of our December 30, 1977 order accepting for filing and suspending a proposed rate increase to 30 of NEP's wholesale customers and an amendment to the Service Agreement between NEP and its affiliate, Narragansett Electric Co. (Narragansett). NEP requests rehearing of the five month suspension period required by that order and urges the Commission to reduce the suspension to one month. On February 10, 1978, the Commission issues a notice of Intent to Act on the application.

In support of its application, NEP contends that the Commission has inappropriately relied upon a preliminary analysis of the merits of its filing, and that the Commission has ignored the following important factors:

(1) The relative size of the rate increase represented by the filing;

(2) The fact that virtually 100 percent of NEP's revenues are regulated by this Commission and affected by the rate increase at issue here;

(3) The Company's past inability to earn the return authorized by the Commission; and

(4) The beginning date of the test period which will be used to determine the justness and reasonableness of the rate.

The length of the suspension period is a matter of Commission discretion. *Municipal Light Board of Reading and Wakefield* v. *F.P.C.*, 450 F.2d 1341 (D.C. Cir. 1971). Since suspension of a rate is the first step in initiating the proceedings which will eventually determine whether the fixed rate is just and reasonable the length of the sus-

pension must of necessity be based on a preliminary analysis of the filing. Since there are few practical limits on the rates a utility may file, a preliminary evaluation of those rates is an essential step in fulfilling our responsibilities under the Federal Power Act which permits rates to go into effect, subject to refund, before they are found to be just and reasonable. 16 U.S.C. 824(e).[1]

NEP's application for rehearing contends that there are undisputed facts to which the Commission should give far greater weight than the preliminary analysis of NEP's filing. It is within the proper bounds of the Commission's discreation to determine the weight to be given each factor relevant to the length of the suspension period. In essence, NEP is asking that the Commission substitute the Company's discreation for its own. This we decline to do.

Finally, NEP argues that the Company will be permanently deprived of the revenues from the increased rates during the suspension period, whereas its customers would not be harmed by a shorter suspension period since they enjoy the protection of refunds. As the United States Supreme Court has stated in regard to the protection offered consumers by the refund provision:

> Experience has shown this to be somewhat illusory in view of the trickling down process necessary to be followed, the incidental cost of which is often borne by the consumer, and in view of the transient nature of our society which often prevents refunds from reaching those to whom they are due.[2]

The five month suspension was based upon our review of NEP's filings, the protests to the filings and NEP's answer to the protests. Upon consideration of the contentions raised by NEP in its application for rehearing, we find no reason to alter our prior determination.

On January 30, 1978, a response to NEP's application was filed by the Rhode Island Intervenors[3] who contend that suspension orders are not of the final and definitive sort for which rehearing lies under Section 1.34 of the Commission's rules of practice and procedure. The Rhode Island Intervenors assert that Nepco's application for rehearing is therefore properly considered a motion for reconsideration, and the Commission may entertain answers to the motion.

A suspension order contains Commission directives which are clearly procedural and interlocutory in nature, and the impact of the suspension period itself will not be fully known until a final determination has been made as to the justness and reasonableness of the proposed rates. For these reasons, the Commission has in the past stated that applications for rehearing of suspension orders will be treated as motions for reconsideration, since rehearing does not lie for interlocutory orders.

We recognize, however, that an order determining whether and for how long a rate should be suspended is definitive (subject only to our redetermination upon review) as to these questions. As a recent court decision noted,[4] there has been increasing recognition of the need for and difficulty of making accurate decisions regarding suspensions. Since our suspension determinations are committed to Commission discretion and are therefore generally not reviewable by the courts,[5] such decisions take on added importance for the affected parties. We have therefore determined that while suspension orders may be treated as interlocutory for purposes of court review, for purposes of Commission review we shall consider our decisions establishing the length of a suspension period to be subject to rehearing under § 1.34 of the Commission's rules of practice and procedure. Our regulations proscribing answers to petitions for rehearing (§ 1.34(d) of the rules) therefore control our treatment of Rhode Island's response.

The Commission finds: Good cause exists to deny NEP's application for rehearing.

The Commission orders: (A) NEP's application for rehearing is denied.

(B) 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. 78-5653 Filed 3-2-78; 8:45 am]

[1] The courts have stated that the primary aim of the Federal Power Act is "the protection of consumers from excessive rates and charges," and that to effectuate this purpose the Commission is empowered, inter alia, with a suspension authority. *Municipal Light Boards*, supra, 450 F.2d at 1348.

[2] *F.P.C. v. Tennessee Gas Co.*, 371 U.S. 145 at 154-5 (1962).

[3] Julius C. Michaelson, Attorney General of Rhode Island, The Rhode Island Division of Public Utilities and Carriers, and The Rhode Island Consumers Council.

[4] *Central Power & Light Co. v. F.E.R.C.*, D.C. Circuit No. 77-1843 Per Curiam order issued November 30, 1977, slip at 3.

[5] Id. at 2.

[6740-02]

[Docket Nos. ER78-107; ER78-108; ER78-109; and ER78-219]

PENNSYLVANIA-NEW JERSEY-MARYLAND INTERCONNECTION

Order Conditionally Accepting for Filing, Suspending Rate Increase, Waiving Regulations and Consolidating Proceedings

FEBRUARY 24, 1978.

On February 16, 1978, the Pennsylvania-New Jersey-Maryland Interconnection (composed of Public Service Electric and Gas Co., Philadelphia Electric Co., Pennsylvania Power & Light Co., Baltimore Gas and Electric Co., Jersey Central Power & Light Co., Metropolitan Edison Co., Pennsylvania Electric Co. and Potomac Electric Co., hereinafter collectively referred to as PJM) tendered for filing a revised schedule 8.03 (Conservation Energy) to the Interconnection Agreement between Cleveland Electric Illuminating Company (CEI) and PJM dated September 30, 1965. The revised rate schedule is identical to previously filed Conservation Energy Agreements among PJM, the New York Power Pool (NYPP) and the Allegheny Power System (APS)[1] except that a transmission service charge of 1.50 mills/kWh is applied whenever CEI transmits and 1.75 mills/kWh is applied whenever PJM transmits.

Notice of the filing was issued on February —, 1978, with comments due on or before March 6, 1978. To date no comments have been filed.

PJM requests that the Commission waive 18 CFR 35.11 notice requirements and allow the proposed revised schedule to become effective February 16, 1978, in that current uncertainty of fuel supplies associated with the coal miners strike may require imminent transactions under the filed schedule.

PJM also requests that the Commission waive 18 CFR 35.13(b) filing requirements in that estimates of the transactions and revenues under the proposed revised schedule have not been made because of the current uncertainty of the coal miners strike which might determine the need for

[1] On December 13, 1977, PJM filed certain schedules providing for the exchange of Conservation Energy as part of its Interconnection Agreements with NYPP and APS. The foregoing agreements were prompted by the current coal miners strike which has resulted in curtailed fuel receipts and depleted fuel stocks in the area covered by these power pools. By order issued on February 13, 1978, in Docket Nos. ER78-107, ER78-108 and ER78-109, the Commission conditionally accepted these agreements for filing pending submittal by PJM of cost support data required by the Commission's regulations within 30 days, suspended use of the agreements until January 1, 1978, subject to refund and granted waiver of 18 CFR 35.3 Notice Requirements.

such transactions and because of variable operating restrictions in the event such transactions are required.

In that the proposed revised schedule is identical to the Energy Conservation Agreements filed by PJM in Docket Nos. ER78-107, ER78-108, and ER78-109, with transmission service exception noted above, the Commission shall waive its notice and filing requirements and condition acceptance of the proposed revised schedule on PJM's submitting the cost support data required by the Commission's order of February 13, 1978 in Docket Nos. ER78-107, ER78-108, and ER78-109.

The proposed revised schedule tendered for filing on February 16, 1978, has not been shown to be just and reasonable and therefore may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful.

The Commission finds that good cause exists to consolidate Docket Nos. ER78-107, ER78-108, ER78-109 and ER78-219. Due to common issues of law and fact, the consolidation of these dockets will save time and expense for all parties.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission conditionally accept for filing the Schedule filed on February 16, 1978, by Pennsylvania-New Jersey-Maryland, that it be suspended, and the use thereof deferred, all as hereinafter ordered.

(2) Good cause exists to waive the Commission's notice and filing requirements set out in the Commission's Rules and Regulations.

(3) Good cause exists to consolidate Docket Nos. ER78-107, ER78-108, ER78-109 and ER78-219.

The Commission orders: (A) The proposed schedule filed by the Pennsylvania-New Jersey-Maryland Interconnection on February 16, 1978, and identified above, is hereby conditionally accepted for filing as of February 16, 1978, suspended, and the use thereof deferred until February 17, 1978, when it shall become effective subject to refund; provided that PJM shall file the cost support required under the Commission's regulations in accordance with the Commission's order of February 13, 1978 in Docket Nos. ER78-107, ER78-108 and ER78-109.

(B) Docket Nos. ER78-107, ER78-108, ER78-109 and ER78-219 are hereby consolidated.

(C) Upon the filing of the cost support data described in paragraph (A) above, the Commission shall further evaluate all filings in the dockets set forth in paragraph (B) above and shall set a date for a public hearing, should such procedure be appropriate.

(D) The requirement for notice contained in § 35.3 of the Commission's rules and regulations is waived. The filing requirements not yet complied with are conditionally waived, as described in Paragraph (A) above.

(E) 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. 78-5654 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket Nos. CI61-104; CI68-1146; and CI70-102]

SHELL OIL CO.

Order Approving Project Expenditure and Granting Extension of Time

FEBRUARY 27, 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 appropriated component of DOE now responsible for the functions 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 March 29, 1976, the Federal Power Commission issued its Order Modifying And Accepting A Settlement Proposal For Payment to Shell Oil Co. (Shell) of approximately $413,000, plus certain interest, in escrowed funds generated by sales of gas by Shell in the captioned dockets to Tennessee Gas Pipeline Co. (Tennessee) and United Gas Pipe Line Co. (United) during periods ending in 1971 from the Disputed Zone, Southern Louisiana Area. The escrowed funds represented a potential severance tax liability that did not accrue because the producing properties involved later were determined by the Supreme Court to be in the Federal Domain. The settlement provided, inter alia, that Shell would add additional funds of it own to the escrow monies on a $3.00 for $2.00 basis and use the total fund for additional drilling on leases previously dedicated to United and Tennessee.

On April 7, 1977, Shell filed a "Report and Motion to Modify Order Accepting Settlement." Therein it stated it has completed its drilling obligation under the settlement relative to the Tennessee sale by drilling Well No. 14 on State of Louisiana Lease No. 2591. Gas from this well is being sold to Tennessee under Shell's Rate Schedule No. 130. Shell stated that the well was completed as a gas producer at a total cost of $403,223; that two-fifths of this amount is $161,293.20; and that the money due to Shell by Tennessee under the settlement was $75,909.25 plus interest from December 31, 1976. Based on this, it requested a finding that its obligation relating to the Tennessee sale under our order of March 29, 1976, has been met.

Shell stated it requested and received the sum of $501,109 from United pursuant to the settlement and that it drilled two wells relative to the United sales, as contemplated in the settlement. However, it stated that these wells turned out to be oil wells and that therefore the funds expended on them could not be credited against drilling expenditures obligation imposed by the settlement ("Project Expenditure") because Paragraph (K) thereof forbids this. Therefore, Shell has proposed to drill certain additional wells on acreage committed to United to meet its United sales settlement obligation.

The proposed wells are as follows:

1. Smith A State Unit F Well No. 3, Weeks Island Field. Sale to United would be under Shell's Rate Schedule No. 206.
2. Peters Well No. 6, South Houma Field. Sale to United would be under Shell's Rate Schedule No. 204.
3. Peters Well No. 10, South Houma Field. Sale to United would be under Shell's Rate Schedule No. 204.
4. J. L. & S. Well No. 1, West Lake Verret Field. Sale to United would be under Shell's Rate Schedule No. 207.

On May 16, 1977, United filed a response in support of Shell's proposal.

Upon analysis of this matter, we have determined to grant Shell's motion, as hereinafter provided.

Since it appears that the two year period provided by the settlement for the escrow funds to be withdrawn and

spent will soon expire (on April 29, 1978) it would appear that an extension of time will be necessary. We will grant a 6 month's extension *sua sponte*, without prejudice to any further request Shell might make in this regard.

The Commission finds: Shell's total obligation under the settlement relative to the sales to United Gas Pipe Line Company remains.

The Commission orders: (A) Expenditures proposed to be made by Shell on acreage committed to United under Shell's Rate Schedule Nos. 204, 206, and 207, as listed above and described in Shell's report and motion filed herein April 7, 1977, will be eligible for credit against Project Expenditure of the settlement proposal herein, as modified and accepted by our order of March 29, 1976, in accordance with the terms of such settlement, as modified (including the prohibition against crediting expenditures which result in commercial oil wells).

(B) The time period under the settlement agreement within which the escrow funds must be withdrawn and spent is hereby extended for a period of 6 months.

(C) Shell Oil Co. has fulfilled its obligation under the Order Modifying and Accepting Settlement, issued March 29, 1976, relative to sales to Tennessee Gas Pipe Line Co. Such finding is conditioned, *however*, upon the filing of a statement of agreement by Tennessee.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5655 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket No. RP78-36]

SOUTHERN NATURAL GAS CO.

Order Accepting for Filing and Suspending Proposed Rate Increase, Initiating Hearing, and Granting Interventions

FEBRUARY 27, 1978.

On January 30, 1978, Southern Natural Gas Co. (Southern) tendered for filing in Docket No. RP78-36 proposed changes to its FERC Gas Tariff[1] which would increase its jurisdictional revenues by $117,695,037 annually based on costs and volumes for the 12 months ended October 31, 1977, as adjusted for known and measurable changes through July 31, 1978. Southern requests that the proposed increase become effective on March 1, 1978. For the reasons stated below, and subject to the conditions set forth below, the Commission shall accept for filing Southern's proposed rate increase, suspend it as discussed herein, and set the matter for hearing.

Public notice of Southern's filing was issued on February 3, 1978, providing for the filing of protests or petitions to intervene on or before February 15, 1978. Timely petitions to intervene were filed by Chattanooga Gas Co., Carolina Pipeline Co., Mississippi Valley Gas Co., and the Gas Section of the Georgia Municipal Association. The Commission finds that the petitioners have demonstrated an interest in this proceeding warranting their participation, and the petitions to intervene shall accordingly be granted.

Southern states that its proposed higher rates are required because of increased operating expenses, increased cost of capital, increased federal and state income taxes, the cost of new gas supply projects, and increased gas purchase costs due to the initiation of LNG purchases from Southern Energy Company. Of these factors, the one that predominates is the onset of the LNG purchases, which Southern claims may commence on or about August 1, 1978 and may add as much as 92.4 Bcf to Southern's annual gas supply. Southern claims an overall rate of return of 11.39 percent on net investment rate base, including a 14.5 percent return on common equity.

Based upon a review of Southern's filing, the Commission finds that the proposed rate increases have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Accordingly, the Commission shall accept for filing Southern's proposed tariff sheets and, except as indicated below, shall suspend their use for five months or until August 1, 1978, when they shall be permitted to become effective, subject to refund. Furthermore, we shall set this matter for hearing.

Southern's filing states that the purchases of revaporized LNG from Southern Energy Company are presently expected to commence not later than August 1, 1978, which is the end of the five month suspension period that we have determined to impose on its tariff filing. Since its currently effective rates do not reflect the purchase of LNG volumes, Southern projects that revenue deficiencies will result from those purchases. Southern forecasts a monthly revenue deficiency of $18 million, should it have to sell the revaporized LNG volumes at its currently effective rates, and it states that it is unable to absorb such costs without cost recovery for even a single month. Accordingly, Southern requests that we allow a shortened suspension period to apply to that portion of its proposed rate increase which relates to LNG costs if its purchases of regasified LNG commence prior to August 1, 1978.

Southern's concern in this regard is well founded. Accordingly, we will limit the suspension period on that portion of Southern's proposed rate increase resulting from the purchase of revaporized LNG to the date of commencement of such purchase. However, our action in this regard is conditioned as follows. We will condition the limitation of the suspension period upon the filing by Southern, at least thirty days prior to the commencement date of the purchase, of interim tariff sheets which will be effective from the commencement date of the purchase until August 1, 1978, and which shall reflect only that portion of Southern's proposed rate increase attributable to the revaporized LNG purchase. Subject to the above condition, we shall permit that portion of Southern's proposed rate increase relating to the purchase of revaporized LNG to become effective on the date of commencement of that purchase, subject to refund.

Southern poses a second request regarding the effective date of the LNG portion of its proposed rate increase. In order to accommodate the possibility that the commencement of Southern's LNG purchases may occur later than August 1, 1978, Southern also requests that, if such eventuality occurs, it be permitted to defer placing the LNG portion of its proposed rate increase into effect until such commencement date. Consistent with our orders of October 31, 1977 and February 1, 1978 in *Consolidated Gas Supply Corporation*, Docket No. RP77-140, we shall deny Southern's second request. Our policy, as articulated in the *Consolidated* proceeding, of not permitting companies to reflect in their filing increases in costs which occur beyong the end of the test period, applies equally to the situation confronting Southern here. Accordingly, if the LNG is not onstream by August 1, 1978, Southern will be required to file revised tariff sheets reflecting the elimination of the LNG costs from its proposed rates.

The Commission finds: It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates proposed by Southern and that the same be accepted for filing and suspended as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's

[1] Twenty-Eighth Revised Sheet No. 4A and Third Revised Sheet Nos. 10, 17, and 28 to Sixth Revised Volume No. 1; and Fourth Revised Sheet No. 242 to Original Volume No. 2.

rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by Southern.

(B) Pending hearing and decision, and except as stated in Ordering Paragraph (C) below, Southern's proposed rate increase is accepted for filing and suspended until August 1, 1978, when it shall be permitted to become effective, subject to refund, upon motion filed by Southern in accordance with the provisions of the Natural Gas Act.

(C) Pending hearing and decision, that portion of Southern's proposed rate increase relating to the purchase of revaporized LNG is suspended until the date of commencement of those purchases (but not beyond August 1, 1978), when it shall be permitted to become effective, subject to refund, upon motion filed by Southern in accordance with the provisions of the Natural Gas Act: *Provided, however,* That Southern shall file interim tariff sheets, as least thirty days prior to the commencement date of the LNG purchases, which sheets shall be effective from that commencement date until August 1, 1978, and which shall reflect only that portion of Southern's proposed rate increase attributable to the revaporized LNG purchases.

(D) On or before August 1, 1978, Southern shall file substitute tariff sheets and supplemental cost and revenue data in accordance with the Commission's rules and regulations, reflecting the elimination of all costs associated with facilities which will not be placed in service by August 1, 1978, or with the purchase of LNG if the LNG is not on stream by August 1, 1978.

(E) The above-named petitioners are permitted to intervene in these proceedings, subject to the Commission's rules and regulations.

(F) The Commission shall prepare and serve top sheets on all parties on or before June 1, 1978.

(G) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the staff, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rule of practice and procedure.

(H) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5656 filed 3-2-78; 8:45 am]

[6740-02]

[Docket No. CP78-193]

TEXAS EASTERN TRANSMISSION CORP.

Application

FEBRUARY 27, 1978.

Take notice that on February 17, 1978, Texas Eastern Transmission Corp. (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP78-193 an application pursuant to Section 7(c) of the Natural Gas Act and § 2.79 of the Commission's general policy and interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of up to 300 dekatherms (dths) equivalent of natural gas for Fruehauf Corp. (Fruehauf), an indirect industrial customer of Applicant, receiving gas on a firm basis from Philadelphia Gas Works (PGW), a resale customer of Applicant, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to transport up to 300 dths of natural gas per day pursuant to a transportation agreement dated January 31, 1978, between Applicant and Fruehauf for Fruehauf from wells owned by Fruekel, Inc. (Fruekel), a wholly owned subsidiary of Fruehauf, located in Tuscarawas and Guernsey Counties, Ohio, to Fruehauf's Philadelphia plant. The application indicates that Fruehauf would pay Fruekel $1.95 per Mcf for the subject gas. It is stated that Fruehauf has entered into an agreement, dated January 16, 1978, with Columbia Gas Transmission Corp. (Columbia) in which Columbia would transport the quantities of natural gas to Applicant. Applicant indicates that pursuant to its TS Rate Schedule and the January 31, 1978, service agreement, it would receive from Columbia at the existing interconnection point between the two systems located near Lebanon, Ohio, and transport for Fruehauf's account, up to 300 dth per day of natural gas for redelivery, less 3 percent for gas used in providing such service, to PGW at the existing interconnection point in Philadelphia, Pa. PGW would then deliver the quantities to Fruehauf's plant in Philadelphia, Pa., it is said.

Applicant states that it would charge Fruehauf for the proposed transportation service a rate pursuant to its TS tariff sheets on file with the Commission, which rate is currently 19.56 cents per dth.

It is indicated that the subject gas would be used at Fruehauf's manufacturing operation at Philadelphia as a principal energy source and for processes and manufacturing purposes. It is further indicated that the subject gas is not available to the interstate market.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 17, 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 or practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5657 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket No. CP78-117]

TEXAS EASTERN TRANSMISSION CORP.

Amendment to Application

FEBRUARY 27, 1978.

Take notice that on February 17, 1978, Texas Eastern Transmission Corp. (Applicant), P.O. Box 2521, Houston, Tex. 77001, filed in Docket No. CP78-117 an amendment to its application filed in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to provide for the transportation of an additional quantity of

natural gas for UCG Energy Corporation (UCG), all as more fully set forth in the amendment on file with the Commission and open to public inspection.

Applicant indicates that in its original application it sought authorization to transport 15 dekatherms (dths) equivalent of natural gas per day for Delmarva Energy Co., 50 dths per day for Tar Heel Energy Corp., and 2 dths for Rockingham Exploration Co. for a total of 67 dths per day produced from the No. 1 Champion Well, South Gist Field, Newton County, Tex., which gas was to be delivered to Applicant at its existing interconnection located in Newton County, Tex., for redelivery to Transcontinental Gas Pipeline Co. (Transco) at the existing point of interconnection in Beauregard Parish, La., for ultimate redelivery to Delmarva Power & Light Co., Public Service Co. of North Carolina, Inc., and North Carolina Gas Co.

It is stated that this amendment is made pursuant to the conditions stated in the temporary certificate issued Applicant on December 21, 1977, at Docket Nos. CP77-324 and CP77-568, authorizing transportation for other South Gist Field interests, requiring that Applicant file collectively the remaining South Gist Field interests. Applicant indicates that the UCG interest, together with the three interests covered by the original application, will complete the South Gist Field gas supplies to be transported.

It is stated that United Cities Gas Co. (United) has acquired from its producing subsidiary, UCG, gas supplies of approximately 2 dths per day, produced from the No. 1 Champion Well, South Gist Field, Newton County, Tex., which is to be delivered to Applicant at the existing interconnection located in Newton County, Tex., for redelivery to Transco at the existing point of interconnection in Beauregard Parish, La., for ultimate delivery to United. Applicant indicates that it would transport the gas supplies for UCG pursuant to Applicant's FERC Rate Schedule TS-2, Fourth Revised Volume 1.

The addition of UCG's gas volume would make the daily volume to be transported from the South Gist Field by Applicant, in the instant docket, total 69 dths per day, it is said.

Any person desiring to be heard or to make any protest with reference to said petition to amendment on or before March 20, 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) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5658 Filed 3-2-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 862-7; PF-92]

PESTICIDE PROGRAMS

Filing of Pesticide Petition

Ciba-Geigy Corp., P.O. Box 11422, Greensboro, N.C. 27409, has submitted a petition (PP 8F2046) to the Enivronmental Protection Agency (EPA) which proposes that 40 CFR 180.298 be amended by establishing a tolerance for residues of the insecticide-miticide methidathion (0,0-dimethly phosphorodithioate S-ester with 4-(mercaptomethly)-2-methoxy-delta 2-1,3,4-thiadiazolin-5-one) in or on the raw agricultural commodities corn grain at 0.05 part per million and corn fodder at 2.0 parts per million. The proposed analytical method is by gas chromatography with a flame photometric detector used in the phosphorus or sulfur sensitive modes. 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) 12, Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at 202-426-9425. 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: February 23, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-5548 Filed 3-2-78; 8:45 am]

[6560-01]

[FRL 863-4]

RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

Pursuant to the President's Reorganization Plan No. 1, the Environmental Protection Agency is the official recipient for environmental impact statements (EIS's) and is required to publish the availability of each EIS received weekly. The following is a list of environmental impact statements received by the Environmental Protection Agency from February 21, through February 24, 1978. The date of receipt for each statement is noted in the statement summary. Under the Guidelines of the Council on Environmental Quality the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days; the date for submission of comments is April 17, 1978. The thirty (30) day period for each final statement begins on the day the statement is made available to the Environmental Protection Agency and to commenting parties.

Copies of individual statements are available for review from the origination agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Dated: February 27, 1978.

JOSEPH M. MCCABE,
Acting Director,
Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 307A, Washington, D.C. 20250, 202-447-6827.

FOREST SERVICE

Draft

Lone Tree Unit Plan, Gifford Pinchot National Forest, Lewis and Skamania Counties, Wash., February 24: This proposed action describes alternative management plans for national forest land in the Lone Tree Planning Unit, located in Lewis and Skamania Counties, Wash. Included is 1,480 acres of private land and 113,370 acres of national forest land administered by the Gifford Pinchot National Forest's Randle Ranger District. The Lone Tree Unit is 1 of 16 such units on the Gifford Pinchot National Forest. The geographic center of the unit is about 65 airline miles northeast of Vancouver, Wash. and Portland, Oreg. metropolitan area and 70 miles southeast of the Seattle/Tacoma area. USDA-FS-R6-FES(ADM)-78-5. (ELR Order No. 80186.)

Final

San Gabriel Unit, Angeles National Forest, San Bernardino and Los Angeles Counties, Calif., February 21: This statement proposes several alternative land use management plans for the 186,570-acre San Gabriel Planning Unit, Angeles National Forest, Calif. The unit includes the 36,000-acre San Gabriel Wilderness, the 5,800-acre Cucamonga inventoried roadless area, the 59,000-acre Sheep Mountain Wilderness study area, the 6,060-acre San Dimas undeveloped area, and the 17,000-acre San Dimas Experimental Forest. Impacts vary according to the alternative selected. USDA-FS-R5-DES(ADM) 77-05. Comments made by: USDA, DOT, HEW, LAB, DOI, COE, EPA, FPC, CGD, State and local agencies, organizations, and individuals. (ELR Order No. 80169.)

Eagle Aspen Unit Plan, White River National Forest, Eagle and Pitkin Counties, Colo., February 22: Proposed is the implementation of a revised land management plan for the 550,000-acre Eagle-Aspen Unit in White River National Forest in Colorado. Opportunities to be provided include 563,000 visitor days of developed recreation and 408,000 visitor days of dispersed recreation. Management of forest stand for wildlife habitat and recreation opportunities are protected to contribute to an estimated annual yield of 2.5 MMbf of timber. Present opportunities for domestic grazing will be maintained, opportunities will also be provided for wildlife solitude and protection or enhancement of big game winter range USDA-FS-RT-FES-(ADM)FY-77-03. Comments made by: DOI, EPA, FEA, State and local agencies, business/organizations, and individuals. (ELR Order No. 80177.)

RURAL ELECTRIFICATION ADMINISTRATION

Draft

Thomas Hill Unit 3, mine expansion and transmission, Randolph and Chariton Counties, Miss., February 23: This action concerns the use of REA guaranteed loan funds to finance the proposed New Thomas Hill Unit 3, 610-Mw-net base load, coal-fired steam electric generating unit located in Randolph County, Mo. The mine expansion is located in Chariton and Randolph Counties. The new 135 mile, 345 Kv transmission line will be constructed to interconnect the Thomas Hill plant substation with Franks substation via a new intermediate substation at Kingdom City. The transmission line will traverse several counties in Missouri. USDA-REA-EIS (ADM) 78-2-D. (ELR Order No. 80180.)

SOIL CONSERVATION SERVICE

Final

Canon Watershed Project, Fremont County, Colo., February 21: Proposed is the application and installation of project land treatment and flood prevention structural measures for Canon City, Colo. The project would protect 1,016 acres of agricultural, suburban, and urban land, including 650 residential and 50 commercial properties. The objective of the action is to reduce floodwater runoff, erosion and sediment damage, and repair costs to agricultural lands, residential and commercial properties, and other structures. A temporary increase in sediment would occur on 240 acres and residences and homes would be displaced. Comments made by: DOT, EPA, USDA, DOI, State and local agencies. (ELR Order No. 80170.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Draft

Pillar Point Marina, regulatory permit, San Mateo County, Calif., February 21: The San Mateo County Harbor District, El Granada, Calif., has applied for a permit to develop a marina at the north end of Half Moon Bay near the communities of El Granada and Princeton within the confines of the existing breakwaters, built in 1961. The project site is located approximately 20 miles south of San Francisco. Environmental impacts include: change in air and water quality; change in traffic and noise levels; improved aesthetics; enlarged water-related recreational facilities; growth inducement; and change in tax revenue. (ELR Order No. 80172.)

Gulf Intracoastal Waterway, Chocolate Bayou, Brazoria County, Tex., February 23: The proposed Federal action is the improvement of the existing Chocolate Bayou Navigation Channel Project in Brazoria County, Tex., and construction of a saltwater barrier in the Bayou upstream of Liverpool, Tex. The proposed improvements consist of enlargement and all future maintenance of the existing locally constructed shallow-draft channel in Chocolate Bay and the lower reaches of Chocolate Bayou from the Gulf Intracoastal Waterway (GIWW) to channel mile 8.2 and construction of saltwater barrier in Chocolate Bayou about 16.9 miles above the GIWW. (ELR Order No. 80182.)

Final

Davenport Local Flood Protection, Scott County, Iowa, February 21: The recommended plan provides flood control to the Davenport area and floodwalls along the Mississippi River between I-280 and the Government Bridge, modification of the channel of Blackhawk Creek, and selective structural protection for the water treatment plant. Nahant Marsh will be acquired by the city of Davenport and preserved as a natural study area. Installation of water control structures will facilitate environmental enhancement of the marsh. Installation of culverts in the upstream end of the levee crossing Credit Island Slough will restore water flow through the slough. Comments made by: EPA, DOI, DOC, USDA, DOT, HUD, HEW, State and local agencies, groups, and individuals. (ELR Order No. 80167.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Joseph M. McCabe, Director, Office of Federal Activities, Room WSMW 537, 401 M Street SW., Washington, D.C. 20460, 202-755-0780.

Draft

National ambient air quality standard for lead, February 22: Under section 109 of the Clean Air Act, the U.S. Environmental Protection Agency intends to propose a national ambient air quality standard for lead. The sources and 1974 ambient air concentrations of lead, trends in growth, and the existence and potential for lead emissions control have been summarized. Emission control strategies have been developed and, under one strategy developed, the nationwide environmental impacts of establishing the standard have been assessed. (ELR Order No. 80174.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Develoment, 451 7th Street SW., Washington, D.C. 20410, 202-755-6308.

Draft

Foster Village, Windcrest Park, and Bristol Square, Tarrant County, Tex., February 21: Proposed is the 633-acre development consisting of three independent, but adjacent subdivisions located in Watauga and North Richland Hills, Tarrant County, Tex. The Foster Village, Windcrest Park, and Bristol Square subdivisions are located approximately 12 miles from the Fort Worth central business district, and will be designed to accommodate an ultimate population of approximately 6,500 persons. HUD-RO6-EIS-78-12D. (ELR Order No. 80171.)

Final

Riverside Green and Riverside Hills Subdivisions, Franklin County, Ohio, February 23: Proposed is the development of two subdivisions in Columbus, Ohio. Riverside Green development involves the subdivision of a 164 acre tract of land into 880 dwelling units, including school and commercial areas, the Riverside Hills Project involves the developmenmt of a 155 acre tract of land into 568 dwellilng units, including space for schools and commercial use. Adverse effects include the removal of vegetation and wildlife habitat, increased storm water run-off, conversion of agricultural land to urban use, and increased traffic and air and noise pollution levels. HUD-RO5-EIS-77-09-(F). Comments made by: USDA, EPA, HUD, State, and local agencies. (ELR Order No. 80181.)

Willowridge Subdivision, Harris and Fort Bend Counties, Tex., February 21: Proposed is the development of 4,200 acres into a planned community composed of single-family homes, apartments, patio homes and townhouses with some commercial reserves in Fort Bend and Harris Counties, Tex. The development provides for the planning and controlling of a wide range of living accommodations for approximately 50,000 or more people. Comments made by: EPA, COE, DOT, DOI, USDA, State and local agencies, groups and individuals. (ELR Order No. 80168.)

Charterwood Subdivision, Harris County, Tex., February 23: Proposed is the acceptance for mortgage insurance purposes of the Charterwood Subdivision in Harris County, Tex. Project plans call for the development of the 292,698-acre area into a community composed of single-family homes. Adverse effects include the loss of wooded land and an increased demand for fossil fuels through heavy dependence on the automobile for transportation. HUD-R06-EIS-78-6F. Comments made by: USDA, EPA, COE, DOT, DOI, State and local agencies, special groups and individuals. (ELR Order No. 80175.)

Greengate Place and Birnam Wood, Harris County, Tex., February 23: The proposed action is acceptance of, for HUD/FHA home mortgage insurance purposes,

some 723 acres of land (368-acre tract of Greengate Place and 255-acre tract of Birnam Wood) located in the northern part of Harris County, Tex., the development of the two tracts located within a mile of each other will be composed primarily of single-family dwellings consisting of approximately 3,000 units. Adverse effects will be loss of grazing land and an increased demand for fossil fuels through heavy dependence on the automobile for transportation. HUD-R06-EIS-78-5F. Comments made by: EPA, COE, USDA, State and local agencies, special groups and individuals. (ELR Order No. 80178.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Building, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF OUTDOOR RECREATION

Final

Missouri River, National Wild and Scenic Rivers System, Montana, February 23: Proposed is the inclusion of a 128-mile segment of the Missouri River and 147,800 acres of adjacent land in the national wild and scenic rivers system. The segment would be classified as follows: 72 miles wild, 39 miles scenic, and 17 miles recreational under the Administration of the Bureau of Land Management and Fish and Wildlife Service. Commercial and residential development would be precluded. FES-78-3. Comments made by: USDA, COE, DOD, DOI, EPA, FPC, DOT, State and local agencies, and interested organizations. (ELR Order No. 80183.)

DEPARTMENT OF LABOR

Contact: Mr. David R. Bell, Chief, Office of Environmental and Economic, Impact Assessment, Room N-3673, Washington, D.C. 20210, 202-523-7076.

Final

DBCP Occupational Exposure Standard, February 23: The Occupational Safety and Health Administration proposes to regulate employee exposure to DBCP by limiting worker exposures to 1 part per billion on an 8-hour time-weighted average, with a ceiling level of 10 parts per billion as averaged over any 15-minute period during the working day, the proposal also provides for exposure measurements, methods of compliance, regulated areas, training, personal protective equipment, medical surveillance, and record-keeping. Comments made by: TREA, LAB, GSA, DOE, DOI, State and local agencies. (ELR Order No. 80179.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Voss A. Moore, Assistant Director for Environmental Projects, P-518, Washington, D.C. 20555, 301-492-8446.

Draft Supplement

Allens Creek nuclear generating station unit No. 1, Austin County, Tex., February 24: The proposed action is the issuance of a construction permit to the Houston Lighting & Power Co. for the construction of Allens Creek nuclear generating station, unit 1, located in Austin County, Tex. This draft supplemental statement has been prepared to update a FEIS filed with CEQ in November 1974. Major changes in the station design include: (1) Reduction in gross electrical generating capacity; (2) reduction in the number and size of associated facilities; (3) reduction in the cooling lake surface area; (4) addition of an external dam along the northern lake perimeter; (5) reduction in estimated water use requirements; and (6) redesign of waste systems, (NUREG-0428.) (ELR Order No. 80184.)

VETERANS ADMINISTRATION

Contact: Mr. Lyman T. Miller, Assistant Director for Construction and Evaluation, Veterans Administration, 810 Vermont Avenue, Washington, D.C. 20420, 202-389-2691.

Draft

Bay Pines Veterans Administration Center, improvements, Pinellas County, Fla., February 24: This project proposes construction on the existing site of a 520-bed medical and surgical replacement building with support facilities for the Veterans Administration Center at Bay Pines, Fla. A new 120-bed nursing home care unit to supplement the existing nursing home and a 200-bed domiciliary are also proposed. Building 1, presently serving as a hospital patient building, and building 23, functioning as a clinic, will both be renovated for administration and ancillary services not included in the proposed new medical and surgical building. (ERL Order No. 80185.)

DEPARTMENT OF TRANSPORTATION

Contact; Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

Northeast inner loop, Sioux City bypass, Woodbury County, Iowa, February 22; The northeast inner loop is a 2.5-mile, 4-lane urban arterial roadway which bypasses downtown Sioux City to the north and east, in Woodbury County, Iowa. The project proceeds from the intersection of 14th Street and Hamilton Boulevard easterly to Floyd Boulevard, then southerly to I-29, FHWA—IA—EIS—77-04-D. (ERL Order No. 80176.)

Final Supplement

I-90- To Bemus Point, 4(f) for Lake Chautauqua, Pa.-N.Y., February 21: This supplement to the final EIS on the southern tier expressway contains significant information in support of the recommended alternative for the Chautauqua Lake 4(f) statement and the southern tier expressway between Bemus Point, N.Y., and Erie, Pa. FHWA—NY—EIS—76—04—F. (ERL Odrer No. 80173.)

CORRECTION

The EPA published the availability of a final EIS on the "Inner Loop, U.S. 54 to I—35W, Wichita, Sedgwick County, Ill." in the FEDERAL REGISTER dated February 3, 1978 (43 FR 4674). This FEIS has not been received by EPA and is not available for review. The statement which should have appeared is listed below.

FEDERAL HIGHWAY ADMINISTRATION

Final

Carbondale railroad relocation demonstration, Jackson County, Ill., January 24: The city of Carbondale, Ill., has been selected as a railroad demonstration site by the U.S. Congress in the Federal Aid Highway Act of 1973. This statement compares the effects and environmental impacts of various actions designed to alleviate the problems associated with railroad-highway conflicts in Carbondale. The actions investigated include railroad relocations, grade separations, signal and warning service improvements, and no action. Adverse effects include those associated with construction. (Region 5.) Comments made by: FEA, HUD, EPA HEW, DOD, DOC, State and local agencies, groups and individuals. (ERL Order No. 80071.)

[FR Doc. 78-5714 Filed 3-2-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 899]

COMMON CARRIER SERVICES INFORMATION

Re: Applications Accepted for Filing

FEBRUARY 27, 1978.

By the Chief, Common Carrier Bureau:

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined that they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See §309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application

is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. [See §1.227(b)(3) and 21.30(b) of the Commission's Rules.]

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20744-CD-P-78 South Shore Radio-Telephone, Inc. (KSB591). C.P. for additional facilities to operate on 152.180 MHz at a new site described as Loc. No. 8: 7009 Kennedy Ave., Hammond, Ind.

20851-CD-AL-78 Owen W. and Thomas M. Hand t/a Page Boy Messenger Service, consent to assignment of license from Owen W. and Thomas M. Hand t/a Page Boy Messenger Service, assignor to Page Boy Communications, assignee. Station: KUO645, Swainton, N.J.

20855-CD-P-78 Pacific Northwest Bell Telephone Co. (KOA732). C.P. for additional test facilities to operate on 459.500 MHz at a new site described as Loc. No. 4: 1200 Third Avenue, Seattle, Wash.

INFORMATIVE

Due to the numerous requests for extensions of time to file FCC Form 430, as required by Part 21.11(a) of the Commission's Rule, the time within which to file has been extended to March 31, 1978 for Domestic Public Land Mobile Radio and Rural Radio Services Licensees.

RURAL RADIO

60100-CR-P-78 United Telephone Co. of Florida (WHJ25). C.P. to change antenna system and change frequencies 157.89 157.95 157.86 MHz to 157.98 MHz: Approx. 3.9 miles WNW. of Pineland, Mondongo Island, Fla.

60102-CR-P-78 United Telephone Co. of Florida (WGI57). C.P. to change antenna system and change frequencies 157.89 157.95 157.86 MHz to 157.98 MHz: 4.25 miles west of Pineland, Cabbage Key Island, Fla.

60108-CR-P/L-78 The Mountain States Telephone and Telegraph Co. (new). C.P. for a new rural subscriber station to operate on 158.04 MHz: 6.5 miles north of Hanna, Wyo.

60111-CR-P/L-78 The Mountain States Telephone and Telegraph Co. (new). C.P. for a new rural subscriber station to operate on 157.98 MHz: 12.2 miles northwest of Shoshoni, Wyo.

60110-CR-P-78 The Pacific Telephone and Telegraph Co. (new). C.P. for a new central office to operate on 454.500 MHz: 0.8 miles NE. of Furnace Creek Ranch, Calif.

APPLICATIONS ACCEPTED FOR FILING

POINT-TO-POINT MICROWAVE RADIO SERVICE

AZ—1392-CF-P-78 Mountain States Telephone & Telegraph Co. (KPS88), 1 Garden Avenue, Sierra Vista (Cochise), Ariz. Lat. 31°33'18" N., Long. 110°18'19" W. CP to replace transmitters on 6115.7V and 11115V MHz toward Bear Spring, Ariz.

AZ—1393-CF-P-78 Same (WDD47) Bear Spring, 12 miles northwest of Huachuca Village (Pima), Ariz. Lat. 31°46'08" N., Long. 110°27'25" W. CP to replace transmitters on 6367.7V, 1156V MHz toward Sierra Vista, Ariz., and 6382.6H, 11365V MHz toward Vail, Ariz.

AZ—1394-CF-P-78 Same (KPS84), 3.6 miles east-northeast of Vail (Pima), Ariz. Lat. 32°03'37" N., Long. 110°39'05" W. CP to replace transmitters on 6130.5H, 10915V MHz toward Bear Spring, Ariz., and 5937.8H, 10795H MHz toward Tucson, Ariz.

AZ—1395-CF-P-78 Same (KOS52), 120 East Pennsington Street, Tucson (Pima), Ariz. Lat. 32°13'26" N., Long. 110°58'08" W. CP to replace transmitters on 6189.8H and 11245H MHz toward Vail, Ariz.

AZ—1396-CF-P-78 Same (KOV63), 228 West Adams Street, Phoenix (Maricopa), Ariz. Lat. 33°26'58" N., Long. 112°04'35" W. CP to replace transmitters on 11075V and 10835H MHz toward Shaw Butte, Ariz.

AZ—1397-CF-P-78 Same (KPX35), Shaw Butte, 10 miles north of Phoenix (Maricopa), Ariz. Lat. 33°35'38" N., Long. 112°05'09" W. CP to replace transmitters on 11285H, 11525V MHz toward Phoenix, Ariz., and 11445V, 11685H MHz toward Mount Ord, Ariz.

AZ—1398-CF-P-78 Same (KPX68), Mount Ord, 23 miles south-southwest of Payson (Gila), Ariz. Lat. 33°54'18" N., Long. 111°24'28" W. CP to replace transmitters on 10755H and 10995V MHz toward Shaw Butte, Ariz.

ID—1399-CF-P-78 Same (KPS29), 455 West Lewis Street, Pocatello (Bannock), Idaho. Lat. 42°51'38" N., Long. 112°27'01" W. CP to replace transmitters on 10715V and 10955H MHz toward Chinks Peak, Idaho.

ID—1400-CF-P-78 Same (KPS30), Chinks Peak, 4 miles southeast of Pocatello (Bannock), Idaho. Lat. 42°50'49" N., Long. 112°21'41" W. CP to replace transmitters on 11445V, 11685H MHz toward McCammon, Idaho, and 11405H, 11645V MHz toward Pocatello, Idaho.

ID—1401-CF-P-78 Same (KPS31), 1.7 miles east of McCammon (Bannock), Idaho. Lat. 42°37'48" N., Long. 112°09'56" W. CP to replace transmitters on 10755H, 10995V MHz toward Chinks Peak, Idaho, and 10715H, 10955V MHz toward Fish Creek, Idaho.

ID—1402-CF-P-78 Mountain States Telephone & Telegraph Co. (KPS32), Fish Creek (Bannock), Idaho. Lat. 42°36'46" N., Long. 111°55'10" W. CP to replace transmitters on 11405V, 11645H MHz toward McCammon, Idaho, and 11445H, 11685V MHz toward Soda Springs, Idaho.

ID—1403-CF-P-78 Same (KPS33), 210 North Main Street, Soda Springs (Caribou), Idaho. Lat. 42°39'50" N., Long. 111°36'09" W. CP to replace transmitters on 10755V and 10995H MHz toward Fish Creek, Idaho.

OR—1408-CF-P-78 Pacific Northwest Bell Telephone Co. (new), 502 North Central Street, Medford (Jackson), Oreg. Lat. 42°19'50" N., Long. 122°52'28" W. CP for a new station on 3710V, 3730H, 3790V, 3870V, and 3950V MHz on azimuth 108.7° toward Baldy, Oreg.

OR—1409-CF-P-78 Pacific Northwest Bell Telephone Co. (KOR61), Baldy, 6.7 miles east-southeast of Medford (Jackson), Oreg. Lat. 42°17'56" N., Long. 122°44'55" W. CP to add a new point of communication on 3750V, 3770H, 3830V, 3850H, 3910V, 3990V, 4070V, and 4150V MHz on azimuth 288.8° toward Medford, Oreg.

OR—1410-CF-P-78 Same (KOS29), 4.3 miles east-northeast of Oregon City (Clackamas), Oreg. Lat. 45°22'56" N., Long. 122°31'13" W. CP to add 6375.2H MHz toward Portland, Oreg., and 6404.8H MHz toward Silverton, Oreg.

OR—1411-CF-P-78 Same (KOC65), 819 Southwest Oak Street, Portland (Multnomah), Oreg. Lat. 45°31'22" N., Long. 122°40'42" W. CP to add 6123.1V MHz toward Oregon City, Oreg.

OR—1412-CF-P-78 Same (KOS28), 2.8 miles south-southeast of Silverton (Marion), Oreg. Lat. 44°57'48" N., Long. 122°45'12" W. CP to add 6152.8V MHz toward Oregon City, Oreg.

VA-MD—1434-CF-P-78 American Telephone & Telegraph Co. (KYO63), Arlington, 2900 Walter Reed Drive, Arlington, (Arlington), Va. Lat. 38°51'49" N., Long. 77°05'17" W. CP to add 3770H MHz toward Waldorf, Md.

MD-VA—1435-CF-P-78 Same (KGH26), 1.1 miles south-southeast of Waldorf (Charles), Md. Lat. 38°36'38" N., Long. 76°55'14" W. CP to add 3730H MHz toward Arlington 2, Va.

ID—1451-CF-P-78 Continental Telephone Co. of the West (KPQ35), First and Lenore Streets, McCall (Valley), Idaho. Lat. 44°54'37" N., Long. 116°05'58" W. CP to correct coordinates and add a new point of communication on 10995.V MHz toward North Business Mount, Idaho.

ID—1452-CF-P-78 Continental Telephone Co. of the West (KPQ36), North Business Mount 11.2 miles south-southwest of McCall (Valley), Idaho. Lat. 44°45'54" N., Long. 116°14'41" W. CP to change location and add a new point of communication on 2163.8V MHz toward New Meadows, Idaho, and 11445V MHz toward McCall, Idaho.

ID—1453-CF-P-78 Same (new), alley between Virginia and Nora New Meadows (Adams), Idaho. Lat. 44°58'19" N., Long. 116°17'04" W. CP for a new station on 2113.8V MHz toward North Business Mount, Idaho.

CORRECTIONS

CA—1275-CF-P-78 Continental Telephone Co. of California (KNL84), Quartzite, 5.7 miles north of Victorville (San Bernardino), Calif. Correct entry to read, also changing antennas toward Barstow and Running Springs Road. All other particulars remain the same as reported on public notice No. 897, February 13, 1978.

CA—1277-CF-P-78 Same (KNL86), Running Springs Road, 1.1 miles south of Running Springs (San Bernardino), Calif. Correct frequency 6226.9H MHz toward San Bernardino, Calif., to read 6315.9V. All other particulars remain the same as reported on public notice No. 897, February 13, 1978.

[FR Doc. 78-5604 Filed 3-2-78; 8:45 am]

[6712-01]

[Report No. I-440]

COMMON CARRIER SERVICES INFORMATION

International and Satellite Radio Applications Accepted for Filing

FEBRUARY 27, 1978.

By the Chief, Common Carrier Bureau.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's rules, regulations, and its policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

CORRECTION

VA—313-DSE-P/L-78 The Chirstian Broad- casting Network, Inc., Virginia Beach, Va. Entry should have included trans. freqs. 5925-6425 MHz.

OK—336-DSE-P/L-78 Purcell - Lexington Cable TV, Inc., Purcell, Okla. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 35°02'30" N., Long. 97°21'50" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

KS—337-DSE-P-78 Kays, Inc. d.b.a. Goodland Cable TV Co., Goodland, Kans. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 39°20'21" N., Long 101°42'33" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

FL—338-DSE-P/L-78 Leon CATV, Associates, Tallahassee, Fla. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 30°21'19" N., Long. 84°15'48" W. Rec. Freq: 3700-4200 MHz. Emission 36000F9. With a 6 meter antenna.

SC—339-DSE-P/L-78 Coastal Cable Co., Ltd., North Myrtle Beach, S.C. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 33°54'47" N., Long. 78°40'00" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 6 meter antenna.

MD—298-CSG-P-78 Communications Satellite Corp., Clarksburg, Md. Comsat hereby applies for a construction permit in order to participate in the second phase of developmental program to investigate the feasibility of high data rate satellite transmission for load sharing and database sharing applications in a network environment. The station will operate a 4.5 meter at the Comsat Laboratories in Clarksburg, Md.

MD—299-CSG-R-78 Communications Satellite Corp. (WA31), Gaithersburg, Md. Renewal of stations developmental license which expires March 2, 1978, to March 2, 1979.

MD—300-CSG-ML-78 Communications Satellite Corp. (WA31), Gaithersburg, Md. Modification of license to add two new points of communications (Clarksburg, Md., and Weilheim, West Germany), and since the programs objectives are being enlarged, we are also expanding the scope of the program to include the second phase.

INFORMATIVE

These applications request authority to participate in the second phase of high data rate satellite transmission for load sharing and data-base sharing applications in a network environment. These facilities would operate via Symphonie satellite in conjunction with three other terminals: An existing antenna of the same dimensions at IBM facilities in Gaithersburg, Md., and with terminals at LaGaude, France (operated by the French PTT), and at Weilheim, West Germany (operated by the German Space Research Agency).

[FR Doc. 78-5602 Filed 3-2-78; 8:45 am]

[6712-01]

[BC Docket No. 78-53; FCC 78-98]

WIGO, INC.

Order To Show Cause and Notice of Apparent Liability Designating Application for Hearing on Stated Issues

Adopted: February 8, 1978.

Released: February 17, 1978.

By the Commission: Commissioner Lee absent.

In the matter of revocation of the license of WIGO, Inc. (WIGO-AM) Atlanta, Ga.

1. The Commission has before it for consideration the outstanding license of the captioned licensee, WIGO, Inc., to operate Station WIGO, Atlanta, Ga., and the Commission's field inquires concerning the operation of that station.

2. Information before the Commission raises the following questions:

(a) Whether Station WIGO has broadcast information concerning a lottery in violation of section 73.1211 of the Commission's Rules;

(b) Whether, in light of all the facts and circumstances pertaining thereto, the broadcast by Station WIGO of programs and/or announcements which offered three-digit numbers to listeners to be used for financial gain, constituted false, misleading or deceptive advertising;

(c) Whether, in light of the evidence adduced under questions (a) and (b), the licensee of WIGO has taken reasonable measures to avoid violating section 73.1211 of the Commission's Rules and has taken reasonable measures to protect WIGO listeners from false, misleading or deceptive advertising;

(d) Whether, in light of the information giving rise to the preceding questions, if found to be true, the licensee possesses the requisite qualifications to remain a licensee of the Commission.

3. Information relating to the above questions has come to the attention of the Commission since the grant of the renewal of license for WIGO. This information would, if substantiated, warrant a refusal to grant a license or permit or an original application, and raises serious questions, best resolved in a hearing, as to whether WIGO, Inc. has the qualifications to be a licensee of the Commission.

4. Accordingly, *It is ordered,* That pursuant to the provisions of section 312(a)(2) and (4) of the Communications Act of 1934, as amended, WIGO, Inc. is directed to show cause why an Order revoking the license of WIGO, Atlanta, Ga., should not be issued and to appear and give evidence as to the matters raised in paragraph two, at a hearing to be held at a time and location specified in a subsequent Order, that time to be no less than thirty (30) days from the receipt of the Order.

5. *It is further ordered,* That the Chief of the Broadcast Bureau is directed to serve upon WIGO, Inc. a Bill of Particulars regarding the matters referred to in Questions (a) through (c) inclusive, set out in paragraph two, within thirty (30) days of the release of this Order.

6. *It is further ordered,* That if it is determined that the hearing record does not warrant an order revoking the license of the captioned station, WIGO, it shall also be determined whether the licensee has repeatedly or willfuly violated section 73.1211 of the Commission's Rules, or the terms of authorization for WIGO and, if so, whether an Order of Forfeiture pursuant to section 503(b) of the Communications Act of 1934, as amended, in the amount of $10,000 or some lesser amount should be issued for violations which occurred within 1 year of the issuance of the Bill of Particulars in this matter.

7. *It is further ordered,* That this document constitutes a Notice of Apparent Liability for forfeiture for violations of section 73.1211 of the Commission's Rules set out in the preceding paragraph and of the terms of the station's authorization. The Commission has determined that, in every case designated for hearing involving revocation or denial of renewal of license for alleged violations which also come within the purview of section 503(b) of the Act, it shall, as a matter of course, include this forfeiture notice so as to maintain the fullest possible flexibility of action. Since the procedure is thus a routine or standard one, we stress, that inclusion of this Notice is not to be taken as in any way indicating what the initial or final disposition of the case should be; that judgment is, of course, to be made on the facts of each case.

8. *It is further ordered,* That pursuant to section 312(d) of the Communications Act of 1934, as amended, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Broadcast Bureau.

9. *It is further ordered,* That to avail itself of the opportunity to be heard,

the licensee pursuant to section 1.91(c) of the Commission's Rules, in person or by attorney, shall file with the Commission within 30 days of the receipts of the Order to Show Cause a written appearance stating that he will appear at the hearing and present evidence on the matter specified in the Order. If the licensee fails to file an appearance within the time specified, the right of a hearing shall be deemed to have been waived. See section 1.92(a) of the Commission's Rules. Where a hearing is waived, a written statement in mitigation or justification may be submitted within 30 days of the receipt of the Order to Show Cause. See section 1.92(b) of the Commission's Rules. In the event the right to a hearing is waived, the presiding officer, or the Chief, Administrative Law Judge if no presiding officer has been designated, will terminate the hearing proceeding and certify the case to the Commission in the regular course of business and an appropriate Order will be entered. See sections 1.92(c) and (d) of the Commission's Rules.

10. *It is further ordered,* That the Acting Secretary of the Commission send a copy of this Order to Show Cause by Certified Mail-Return Receipt Requested to WIGO, Inc., licensee of Station WIGO, Atlanta, Ga.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO.
Secretary.

[FR Doc. 78-5603 Filed 3-2-78; 8:45 am]

[6712-01]

[FCC 78-149]

CLOSED CIRCUIT TEST OF EMERGENCY BROADCAST SYSTEM SCHEDULED FOR MARCH 1, 1978

FEBRUARY 28, 1978.

A test of the emergency broadcast system (EBS) has been scheduled for Wednesday, March 1, 1978, between 2:09:00 and 2:14:30 p.m., Washington, D.C., time. Only ABC, CBS, NBC, IMN, MBX, and NPR radio network affiliates, UPI-Audio, and for the first time AP-Radio clients will participate. Television networks are not participating in this test.

Network affiliates will be notified of the test procedures via their network beginning four days in advance of the test. Test messages will also be run by AP and UPI radio press wire services for 4 days in advance of the test to insure wide dissemination of the test announcement and schedule.

Final evaluation of the March test is scheduled to be made by the end of March 1978.

This is a closed circuit test and will not be broadcast over the air.

Action by the Commission, February 27, 1978. Commissioners Ferris (Chairman), Lee, Quello, Washburn, Fogarty, White, and Brown.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-5664 Filed 3-2-78; 8:45 am]

[6712-01]

[Report No. 1105]

PETITIONS FOR RECONSIDERATION OF ACTIONS IN RULE MAKING PROCEEDINGS FILED

FEBRUARY 27, 1978.

Docket or RM No.	Rule No.	Subject	Date received
21109	Sec. 73.606(b)	Amendment of section 73.606(b), Table of Assignments, Television Broadcast Stations. (Medford and Grants Pass, Oreg.).	
		Filed by Harry J. Ockershausen and Christopher J. Reynolds, Attorneys for Oregon Broadcasting Co. (KOBI-TV).	Feb. 9, 1978
		Filed by John A. Rafter and Suzanne Meyer, Attorneys for Sierra Cascade Communications, Inc. (KTVL-TV).	Do.

NOTE.—Oppositions to petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the FEDERAL REGISTER. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
William J. Tricarico,
Secretary.

[FR Doc. 78-5663 Filed 3-2-78; 8:45 am]

[6712-01]

SOUND BROADCAST CORP. AND MOBILE BROADCAST SERVICE, INC.

Applications

Adopted: February 21, 1978. Released: February 28, 1978.

In the matter of applications of: Sound Broadcast Corp. (WLPR(FM)), Mobile, Ala., has: 96.1 mHz, No. 241, 38 kW, 420 feet; BC Docket No. 78-74, File No. BRH-1680. For renewal of broadcast license, Mobile Broadcast Service, Inc., Mobile, Ala., req: 96.1 mHz, No. 241, 40 kW, 420 feet; BC Docket No. 78-75, File No. BPH-9796. For construction permit for new FM broadcast station. Memorandum opinion and order designating applications for consolidated hearing on stated issues.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority has before it for consideration, the above-captioned applications of: (i) Sound Broadcast Corp., licensee of station WLPR (FM), Mobile Ala., for renewal of broadcast license (Sound); and (ii) Mobile Broadcast Service, Inc., for a construction permit for a new FM broadcast station at Mobile, Ala. (MBSI). Inasmuch as MBSI has specified the facilities presently licensed to Sound, these applications are mutually exclusive with each other and must be designated for a comparative hearing.[1]

2. MBSI has failed to comply with certain requirements of the Commission's *Primer on Ascertainment of Community Problems by Broadcast Applicants,* 27 FCC 2d 650, 21 RR 2d

[1] Also, Sound filed a letter requesting dismissal of MBSI's application, and MBSI filed a reply in opposition to that request. Sound's request was based on MBSI's delay in responding to Commission correspondence. Although MBSI did not amend its application pursuant to the Commission's November 18, 1976, letter until April 18, 1977, it requested several extensions of time. On March 18, 1977, the Commission, by letter, notified MBSI that if no amendment was received within 30 days, its application would be dismissed pursuant to section 1.568 of the rules. While MBSI's amendment was filed on the 31st day, the Commission finds that the amendment was filed in substantial compliance with the rules and that dismissal is not warranted.

1501 (1971). It does not appear that the applicant has consulted with leaders of all significant groups within the proposed community of license. *Voice of Dixie, Inc.*, 45 FCC 2d 1027, 29 RR 2d 1127 (1974), recon. denied, 47 FCC 2d 526, 30 RR 2d 851 (1974). In its demographic material, MBSI described Mobile as a "Gulf seaport town," and states that its major industries include shipping, shipbuilding, and seafood. The demographics also note the existence of chemical, paper, and rayon production. However, no leaders from any of these aforementioned industries have been consulted. Additionally, none of the persons listed as leaders of the professions appear to be leaders but, rather, are merely members of their respective professions. MBSI's ascertainment effort is further deficient because of its failure to ascertain the outlying communities within its service area. In addition to Mobile, MBSI, states that it plans to serve the nearby communities of Prichard, Chickasaw, Satsuma, and Saraland. However, it has not consulted with any representatives of Chickasaw or Satsuma. MBSI's omission from its leader survey of representatives of these communities is in contravention of questions and answers 6 and 7 of the *Primer* which require consultations with leaders from outlying communities who are expected to have a "broad overview" of those communities' problems. Accordingly an ascertainment issue will be included against MBSI.

3. Except as indicated by the issues specified below, the applicants are qualified to be Commission licensees. However, since these proposals are mutually exclusive, they must be consolidated for a hearing.

4. Accordingly, *it is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine the efforts made by Mobile Broadcast Service, Inc., to ascertain the community problems and needs of its area to be served, and the means by which it proposes to meet those problems and needs.

(2) To determine which of the proposals would, on a comparative basis, better serve the public interest.

(3) To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

5. *It is further ordered*, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to section 1.221(c) of the Commission's Rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

6. *It is further ordered*, That, the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and section 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rules, and shall advise the Commission of the publication of such notice as required by section 1.594(g) of the rules.

7. *It is further ordered*, That the Sound Broadcasting Corp.'s letter request for dismissal is denied.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-5665 Filed 3-2-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

VIRGINIA PORT AUTHORITY AND NACIREMA OPERATING CO., INC.

Agreement Filed

The Federal Maritime Commission hereby gives notice that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement and the justification offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the field offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; and San Juan, P.R. Interested parties may submit comments on the agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before March 20, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreement and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. J. Robert Bray, Acting Executive Director, Virginia Port Authority, 1600 Maritime Tower, Norfolk, Va. 23510.

Agreement No. T-3594, between the Virginia Port Authority (Port) and Nacirema Operating Co., Inc. (Nacirema), provides for the parties' 7-year lease (with renewal options) of the Newport News Marine Terminal, Newport News, Va., to Nacirema. Nacirema shall operate the terminal as a general cargo facility and shall provide terminal services for the receipt, delivery, handling, and interchange of import, export, intercoastal and coastwise general cargo, and wharfage, dockage, storage, warehousing, and all other applicable services. As compensation, Nacirema shall pay the Port according to a schedule of rates outlined in the agreement, based partly on percentages of designated tariff items. Nacirema shall publish a tariff comprising a schedule of rates and regulations applicable at the facility and the Port shall establish the rates and charges for dockage, wharfage, wharf demurrage, and lay berth rental.

By order of the Federal Maritime Commission.

Dated: February 28, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-5690 Filed 3-2-78; 8:45 am]

[6325-01]

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

ANNUAL REPORT

Availability

Pursuant to the provisions of section 10(d) of the Federal Advisory Committee Act (P.L. 92-463) and Circular A-63, revised, of the Office of Management and Budget notice is hereby given of the availability of the Federal Prevailing Rate Advisory Committee 1976 Annual Report.

The Report summarizes the activities and recommendations of the Committee to the U.S. Civil Service Commission in dealing with the Federal prevailing rate systems for craft, trade, and labor employees paid from either appropriated or nonappropriated funds during calendar year 1976.

Single copies of the Report will be furnished without charge. Multiple copies can be furnished at a fair and

equitable fee upon written request addressed to the Chairman, Federal Prevailing Rate Advisory Committee, Room 1338, 1900 E Street NW., Washington, D.C. 20415.

The Report may be otherwise examined and/or copied at the above office and address between the hours of 8:15 a.m. and 4:45 p.m. Monday through Friday, legal holidays excluded.

JEROME H. ROSS,
Chairman, Federal Prevailing Rate Advisory Committee.

FEBRUARY 27, 1978.

[FR Doc. 78-5491 Filed 3-2-78; 8:45 am]

[6820-25]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. E-42, Supplement 4]

ADP AND TELECOMMUNICATIONS REQUIREMENTS CHECKLIST

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation E-42 (40 FR 48733, Oct. 17, 1975).

2. *Effective date.* This regulation is effective March 1, 1978.

3. *Expiration date.* This regulation expires March 31, 1979, unless sooner superseded or canceled.

4. *Explanation of changes.* The expiration dates contained in paragraph 3 of FPMR Temporary Regulation E-42 and Supplements 1, 2, and 3 are revised to March 31, 1979 (41 FR 12248, Mar. 24, 1976; 41 FR 43253, Sept. 30, 1976; 42 FR 17179, Mar. 31, 1977).

Dated: February 21, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-5597 Filed 3-2-78; 8:45 am]

[6820-24]

[Federal Property Management Reg.; Temporary Reg. F-462]

CHAIRMAN, ATOMIC ENERGY COMMISSION AND SECRETARY OF DEFENSE—REGULATORY PROCEEDINGS

Revocation of Delegations of Authority

1. *Purpose.* This regulation revokes certain delegations of authority granted to other agencies to represent the consumer interests of the executive agencies of the Federal Government in utility proceedings which have been terminated.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation expires on February 28, 1978.

4. *Revocation.* This revocation identifies those delegations which are no longer in force due to completion of the proceedings for which they were issued. Accordingly, the following FPMR temporary regulations are hereby revoked:

No.	Date	Subject
F-141	Mar. 22, 1972	Delegation of authority to the Chairman, Atomic Energy Commission.
F-226	July 26, 1974	Delegation of authority to the Secretary of Defense—regulatory proceedings.
F-305	Oct. 10, 1974	Do.
F-325	Jan. 13, 1975	Do.
F-378	Mar. 17, 1976	Do.
F-397	Aug. 19, 1976	Do.
F-431	July 28, 1977	Do.

Dated: February 22, 1978.

JAY SOLOMON
Administrator of General Services.

[FR Doc. 78-5582 Filed 3-2-78; 8:45 am]

[6820-24]

[Federal Property Management Regs., Temporary Reg. F-464]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense, in conjunction with the Administrator of General Services, to represent the interests of the executive agencies of the Federal Government in a proceeding concerning the adoption of energy conservation rules for gas and electric utilities.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the New Mexico Public Service Commission involving the adoption of rules and regulations for energy conservation by gas and electric utilities. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: February 21, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-5583 Filed 3-2-78; 8:45 am]

[4110-88]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

RESEARCH TRIANGLE INSTITUTE AND OTHER PARTICIPANTS IN THE TREATMENT OUTCOME PROSPECTIVE STUDY

Research on Drug Abuse; Authorization of Confidentiality

Under the authority vested in the Secretary of Health, Education, and Welfare by section 303(a) of the Public Health Service Act [42 U.S.C. 242a(a)], all persons who—

1. Are employed by the Research Triangle Institute, Research Triangle Park, N.C. or drug treatment programs participating in the Treatment Outcome Prospective Study; and

2. Have, in the course of that employment, access to information which would identify individuals who are the subjects of the research on drug abuse which is assisted by the Department of Health, Education, and Welfare contract numbered 271-77-1205, entitled "Treatment Outcome Prospective Study";

are hereby authorized to protect the privacy of the individuals who are the subjects of that research by withholding their names and other identifying characteristics from all persons not connected with the conduct of that research.

As provided in section 303(a) of the Public Health Service Act [42 U.S.C. 242a(a)]:

> Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals.

This authorization does not authorize employees of the Research Triangle Institute or participating drug treatment programs to refuse to reveal to qualified personnel of the Department of Health, Education, and Welfare, for the purpose of management or financial audits or program evaluation, the names or other identifying characteristics of individuals who are the subjects of the research conducted pursuant to Department of Health, Education, and Welfare contract numbered 271-77-1205. Such personnel will hold any identifying information so obtained strictly confidential in accordance with 45 CFR 5.71.

This authorization is applicable to all information obtained pursuant to

Department of Health, Education, and Welfare contract numbered 271-77-1205 which would identify the individuals who are the subjects of the research conducted under that contract.

Dated: February 14, 1978.

ROBERT L. DUPONT,
Director, National Institute on Drug Abuse.

Dated: February 23, 1978.

GERALD L. KLERMAN,
Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-5489 Filed 3-2-78; 8:45 am]

[4110-03]

Food and Drug Administration

[Docket No. 77N-0438]

WITCO CHEMICAL CORP.

Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Witco Chemical Corp. has filed a petition proposing that the food additive regulations be amended to provide for the use of poly[(methylene - p - nonylphenoxy) poly(oxypropylene)(4-12 moles) propanol] in food-contact applications.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7B3333) has been filed by Witco Chemical Corp., proposing that § 178.3400 Emulsifiers and/or surface active agents provide for the safe use of poly[(methylene-p-nonylphenoxy) poly(oxypropylene)(4-12 moles) propanol] as a surfactant in food-contact applications.

The statement of exemption from the requirement of an environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the statement of exemption may be seen in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 24, 1978.

HOWARD R. ROBERTS,
Acting Director of Bureau of Foods.

[FR Doc. 78-5441 Filed 3-2-78; 8:45 am]

[4110-03]

[Docket No. 77N-0393; DESI 7245]

CERTAIN INHALATION BRONCHODILATORS

Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice proposes to withdraw approval of certain combination products used by inhalation in bronchial spasm because substantial evidence of their effectiveness is lacking, and offers an opportunity for hearing on the proposal.

DATES: Any request for a hearing must be submitted on or before April 3, 1978. In support of such a request, all data and information relied upon to justify a hearing must be submitted on or before May 2, 1978.

ADDRESSES: Communications forwarded in response to this notice should be identified with the number DESI 7245, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857. Request for Hearing (identify with docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Room 4-65. Request for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Robert H. Hahn, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER of July 28, 1972 (37 FR 15187) (Docket No. FDC-D-498 (now Docket No. 77N-0393)) the Commissioner of Food and Drugs announced that the drug products described below were regarded as effective for the treatment of bronchospasm associated with acute and chronic bronchial asthma, pulmonary emphysema, bronchitis, and bronchiectasis. The drugs were regarded as possibly effective or lacking substantial evidence of effectiveness for their other labeled indications. The notice offered opportunity for hearing concerning the indications lacking substantial evidence of effectiveness. No person requested a hearing, and those indications are no longer allowable in labeling. No data were submitted concerning the possibly effective indications.

1. Duo-Medihaler containing isoproterenol hydrochloride and phenylenphrine bitartrate; Riker Laboratories, 19901 Nordhoff Street, Northridge, Calif. 91324 (NDA 13-296).

2. Aerolone Compound Solution containing cyclopentamine hydrochloride and isoproterenol hydrochloride; Eli Lilly and Co., P.O. Box 618, Indianapolis, Ind. 46206 (NDA 7-245).

3. Nebu-Prel with Phenylephrine containing isoproterenol sulfate and phenylephrine hydrochloride; Thomas J. Mahon, Inc., 19 Sylvan Ave., Englewood Cliffs, N.J. 07632 (NDA 11-726).

Since publication of the July 28, 1972 notice, FDA has (1) reconsidered the information concerning the role of cyclopentamine hydrochloride in the treatment of bronchospasm that was available when the notice was published, and (2) evaluated new information on the role of phenylephrine in the treatment of bronchospasm. The Director of the Bureau of Drugs now concludes that none of these combinations have been shown to comply with the requirements of § 300.50 Fixed-combination prescription drugs for humans (21 CFR 300.50). In particular, the contribution of phenylephrine bitartrate, phenylephrine hydrochloride, or cyclopentamine hydrochloride (none of which are bronchodilators) to the effectiveness of isoproterenol hydrochloride (or sulfate) in bronchospasm has not been demonstrated. Isoproterenol as a single entity, however, has been classified as an effective bronchodilator (DESI 6327; 41 FR 37836; September 8, 1976). Therefore, these combination drug products could be reformulated to single-entity products containing isoproterenol only (with appropriate name changes).

In a letter of May 27, 1976, Eli Lilly and Co. was requested to provide clinical data or cite clinical studies supporting the claimed bronchodilator effect of each of the active ingredients (cyclopentamine hydrochloride and isoproterenol hydrochloride) in Aerolone Compound Solution (NDA 7-245). In response, the firm submitted nothing new, but simply cited the same data that had been submitted to the National Academy of Sciences-National Research Council for review at the beginning of the Drug Efficacy Study. None of the studies cited related to the contribution of each ingredient in the combination. Thus, FDA is not aware of any information that shows that cyclopentamine hydrochloride contributes to the claimed effects of

the combination, as required by 21 CFR 300.50.

With respect to phenylephrine, two examples of new information evaluated since the initial DESI notice was published July 28, 1972, are the following papers: (1) Palmer, K. N. V., "Drugs in the Treatment of Asthma," in "An Asthma Research Council Symposium, London, October 1973," The Trust for Education and Research in Therapeutics, pp. 263-275, 1974, and (2) Spector, S. L., L. Hudson, and T. L. Petty, "Effect of Bronkosol and Its Components on Cardiopulmonary Parameters in Asthmatic Patients," Journal of Allergy and Clinical Immunology 59(5):371-376, 1977. Copies of these references are on display in the office of the Hearing Clerk and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

The results obtained in these studies clearly indicate that the role of phenylephrine in the treatment of bronchial asthma has not been established.

Therefore, the drug products described above are reclassified to lacking substantial evidence of effectiveness for all of their labeled indications that were previously classified as either effective or possibly effective.

On the basis of all of the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 300.50 and 314.111(a)(5), that provides substantial evidence of the effectiveness of the combination drug products.

Therefore, notice is given to the holder(s) of the new drug application(s) and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (HFD-310).

In addition to the ground(s) for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons subject to this notice pursuant to 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and of all identical, related, or similar drug products.

An applicant or any other person subject to this notice pursuant to 21 CFR 310.6 who decides to seek a hearing, shall file (1) on or before April 3, 1978, a written notice of appearance and request for hearing, and (2) on or before May 2, 1978, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: February 24, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-5557 Filed 3-2-78; 8:45 am]

[4110-83]

Health Resources Administration

ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of March 1978:

Name: National Advisory Council on Health Professions Education.
Date and time: March 28-29, 1978, 8:30 a.m.
Place: Conference Room No. 6, Building 31, National Institutes of Health, 6th Floor, C-Wing, Bethesda, Md. 20014.
Open March 27—8:30 a.m.—12:30 p.m. (10:30 a.m.-12:30 p.m. will be structured study for Council members), closed for remainder of the meeting.
Purpose: The Council advises the Secretary concerning the programs authorized by

the Health Professions Educational Assistance Act of 1976, including recommendations on contracts, grant applications for construction, capitation, special projects, and financial need. These and other programs are designed to enable the health professions education institutions to meet the Nation's health manpower requirements.

Agenda: Agenda items for the open portion of the meeting will include a report by the Administrator, HRA; Bureau update; Update on 1979 Budget; and discussion of future meeting dates. The remainder of the meeting will be closed to the public for the review of applications submitted under the following programs: Expanded Function Dental Auxiliaries, General Dentistry, Dental TEAM, Physician Assistants, and Training of U.S. Students from Foreign Medical Schools. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S. Code, and the Determination by the Administrator, Health Resources Administration, pursuant to Pub. L 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mrs. Lynn Stevens, Bureau of Health Manpower, Room 9-50, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-6508.

Dated:February 21, 1978.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc. 78-5289 Filed 3-2-78; 8:45 am]

[4110-83]

PROPOSED PERFORMANCE STANDARDS FOR STATE HEALTH PLANNING AND RESOURCE DEVELOPMENT PROGRAMS

Availability

Notice is hereby given that the Department of Health, Education, and Welfare regional offices have available for distribution to the public "Proposed Performance Standards for State Health Planning and Resource Development Programs" on which the Department is seeking comments during a 45-day comment period. Final performance standards will be developed based upon comments received on the draft performance standards. Draft copies are being disseminated for review to State health planning and development agencies, Statewide health coordinating councils, health systems agencies, Centers for Health Planning, selected national organizations and other Federal agencies.

Comments or suggestions for improvement of the draft performance standards should be sent to: Bureau of Health Planning and Resources Development, Office of Operations Monitoring, Room 6-27, 3700 East-West Highway, Hyattsville, Md. 20782. Copies of the "Proposed Performance Standards for State Health Planning and Resource Development Programs" may be obtained from the DHEW regional offices listed below:

DHEW Regional Office I, John F. Kennedy Federal Building, Boston, Mass. 02203.
DHEW Regional Office II, 26 Federal Plaza, New York, N.Y. 10007.
DHEW Regional Office III, P.O. Box 13716, Philadelphia, Pa. 19108.
DHEW Regional Office IV, 101 Marietta Tower, Atlanta, Ga. 30323.
DHEW Regional Office V, 300 South Wacker Drive, Chicago, Ill. 60606.
DHEW Regional Office VI, 1200 Main Tower Building, Dallas, Tex. 75202.
DHEW Regional Office VII, 601 East 12th Street, Kansas City, Mo. 64106.
DHEW Regional Office VIII, 1961 Stout Street, Denver, Colo. 80294.
DHEW Regional Office IX, Federal Office Building, 50 United Nations Plaza, San Francisco, Calif. 94102.
DHEW Regional Office X, 1321 Second Avenue, Arcade Plaza, Seattle, Wash. 98101.

Dated: February 15, 1978.

HENRY A. FOLEY,
Administrator.

[FR Doc. 78-5288 Filed 3-2-78; 8:45 am]

[4110-08]

National Institutes of Health

REPORT ON BIOASSAY OF NITROFEN FOR POSSIBLE CARCINOGENICITY

Availability

Nitrofen (CAS 1836-75-5) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

SUMMARY

A bioassay of technical-grade nitrofen for possible carcinogenicity was conducted using Osborne-Mendel rats and B6C3F1 mice. Nitrofen was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species. The time-weighted average high and low dietary concentrations of nitrofen were 3656 and 2300 ppm for male rates, 2600 and 1300 ppm for female rats, and 4696 and 2348 ppm for both male and female mice, respectively. After a 78-week treatment period, observation of the low dose and control male and all female rats continued for an additional 32 weeks; observation of the high dose male rats continued for an additional 4 weeks. All mice were observed for an additional 12 weeks after the 78-week treatment period.

For each species, 20 animals of each sex were placed on test as controls. No nitrofen was added to their diet.

The incidence of carcinomas of the pancreas had a statistically significant positive association with concentration of nitrofen in the diet of female rats. The incidence of this tumor in high dose female rats was significant when compared to controls. Poor survival related to chemical toxicity precluded the evaluation of the carcinogenicity of nitrofen in male rats.

In mice of both sexes, the incidence of hepatocellular carcinoma at both high and low dose levels was highly significant when compared to the controls. The incidence of hemangiosarcoma of the liver had a statistically significant relationship with nitrofen concentration in the diet for mice of both sexes, and the incidence in high dose male mice was significant when compared to controls.

The results of this study indicate that orally administered technical-grade nitrofen is a liver carcinogen in B6C3F1 mice of both sexes. Nitrofen is also carcinogenic to female Osborne-Mendel rats.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: February 21, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-4987 Filed 3-2-78; 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF 3,3'-IMINOBIS-1-PROPANOL DIMETHANESULFONATE (ESTER) HYDROCHLORIDE (IPD) FOR POSSIBLE CARCINOGENICITY

Availability

3,3'-Iminobis-1-propanol dimethanesulfonate (ester) hydrochloride (IPD) (CAS 3458-22-8) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

SUMMARY

A bioassay of 3,3'-iminobis-1-propanol dimethanesulfonate (ester) hydrochloride (IPD) for possible carcinogenicity was conducted by administering the test chemical intraperitoneally to Sprague-Dawley rats and B6C3F1 mice.

The IPD was injected three times per week to groups of 35 animals, using doses of 12, 24, or 48 mg/kg for the rats, and 20 or 40 mg/kg for the mice. Rats at 12 mg/kg were treated for 52 weeks. Because of the toxicity of the chemical, administration of IPD for the group receiving 24 mg/kg was discontinued at week 34. Rats receiving 48 mg/kg were treated until all had died at week 23 (males) and week 27 (females). Both groups of mice were

treated for 52 weeks. All survivors were killed after post-administration periods that varied among groups.

With rats, untreated and vehicle-control groups, each consisting of 10 males and 10 females, were started with the high- and mid-dose groups and additional untreated and vehicle-control groups of the same size were started with the low-dose groups. With mice, untreated and vehicle-control groups each consisted of 15 males and 15 females.

The toxicity of IPD was associated with lower mean body weights and lower rates of survival of both the rats and mice. The shortened life spans, particularly in the rats, reduced the likelihood of the development of tumors.

In rats, peritonitis and fibrous adhesions, possible, from direct irritation by the test chemical were observed in most treated rats at necropsy. Sarcoma, fibroma, or fibrosarcoma of the peritoneum occurred in two low-dose male, one mid-dose male, and three mid-dose females rats, but not in any control animals. Because of this low incidence, and because irritation by the test chemical may have been involved in the pathogenesis, these tumors may have been due to local effects of the chemical.

In mice, lymphomas were observed at the following incidences (males: controls 0/14, low-dose 0/26, high-dose 3/21; females: controls 1/15, low-dose 2/29, high-dose 6/27). The Tarone test for life-table analysis of the probability of survival without lymphoma indicated a significant positive dose-related increase of lymphomas with a probability level of 0.011 for male mice and 0.003 for female mice.

Squamous-cell carcinoma was noted in the mice (low-dose males 6/26, high-dose females 2/27). Seven of these tumors were observed in subcutaneous tissue in the inguinal region near the sites of injection. Although not statistically significant, this tumor may be associated with administration of IPD.

Tumors of the peritoneum in rats and tumors in the subcutaneous tissue in mice may have been due to local effects related to administration of the test chemical. The lymphomas in mice, although marginally significant, were too few in number to clearly be related to dosing.

Conclusions from this study are limited by early deaths and toxicity, but the appearance of tumors in the peritoneum near the injection sites in both rats and mice indicate the carcinogenic potential of IPD.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: February 21, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-4988 Filed 3-2-78; 8:45 am]

[4110-02]

Office of Education

EMERGENCY SCHOOL AID ACT

Availability of Preimplementation Assistance

Under the authority of section 708(a)(2) of the Emergency School Aid Act (Title VII of Pub. L. 92-318, as amended; 20 U.S.C. 1601-1619) the Commissioner of Education invites applications for assistance to prepare for the implementation of desegregation plans (or other plans described in section 706(a)(1) (A)(i), (B), or (C) (i) or (ii) of the Act, involving the elimination or reduction of minority group isolation in public elementary and secondary schools).

Applications will be accepted from local educational agencies (LEAs), State educational agencies (SEAs), and other public agencies and organizations in connection with plans under which children (or, in the case of required plans described in section 706(a)(1)(A), faculty) will be reassigned to schools in the 1978-79 school year. However, applications will not be accepted from agencies or organizations which engaged in the illegal segregation that gave rise to a required plan.

Applications will be accepted at any time prior to September 30, 1978. However, submission of an application after August 1, 1978 may not permit sufficient time for review prior to the expiration of the period of fund availability. Applications must be prepared and submitted in accordance with regulations, instructions, and forms included in program information packages.

A. *Applications Sent By Mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.532J, Washington, D.C. 20202.

B. *Hand-Delivered Applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time, except Saturdays, Sundays, and Federal holidays.

C. *Program Information.* The Commissioner anticipates that $2,000,000 will be made available for preimplementation grants, and encourages applicants to seek assistance in the amount of $100,000 or less.

The Commissioner will consider for funding any activity authorized under the Act, so long as the activity is reasonably related to preparations for an LEA's implementation of a qualifying plan. The Assistant Secretary for Education has determined that these activities will make substantial progress in achieving the purposes of the Act.

The Commissioner will consider applications for funding when they are received. In evaluating the merits of an application the Commissioner will consider, in addition to the criteria in 45 CFR 185.14(b), the extent to which the need for assistance in the LEA to which the application relates has been met by other applications.

An applicant which is not a local educational agency should include in its application evidence that the LEA to which the application relates will cooperate in carrying out the proposed activities.

D. *Project Periods.* Grants made pursuant to this notice will be for projects starting no earlier than March 1, 1978, and ending no later than December 31, 1978.

E. *For Further Information and Forms Contact:* Dr. Thomas Fagan, U.S. Office of Education, 400 Maryland Avenue SW., Room 2017, Washington, D.C. 20202, telephone 202-245-2465.

F. *Applicable Regulations:* Grants made pursuant to this notice will be subject to the following regulations:

1. Regulations relating only to assistance under the Emergency School Aid Act (45 CFR Part 185) and, in particular, 45 CFR 185.94-185.94-4; and

2. The Office of Education general provisions regulations (45 CFR Parts 100, 100a, and appendixes), except to the extent that these regulations are inconsistent with 45 CFR Part 185.

(20 U.S.C. 1601-1619.)

(Catalog of Federal Domestic Assistance Number 13.532, Special Projects—Emergency School Aid.)

Dated: February 27, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-5621 Filed 3-2-78; 8:45 am]

[4110-12]

Office of the Secretary

FEDERAL ADVISORY COMMITTEES

Announcement of Annual Comprehensive Review

ACTION: Notice.

SUMMARY: This announces a review of Federal advisory committees in the Department of Health, Education, and Welfare and invites the public to com-

ment on individual committees in terms of the need for each committee, the balance of its membership, and the openness of each committee's proceedings.

DATES: Comments due by March 20, 1978.

SUPPLEMENTARY INFORMATION: The Department of Health, Education, and Welfare is now conducting its annual comprehensive review of advisory committees in connection with advising the Administrator of the General Services Administration, under the Federal Advisory Committee Act (Pub. L. 92-463, as amended), whether each committee is carrying out its purpose; whether, consistent with the provisions of applicable statutes, the responsibilities assigned to the committee should be revised; whether the committee should be merged with other advisory committees; or whether the committee should be abolished.

Pursuant to previous Presidential directive, this year's review will again involve a zero-base analysis of all committees, conducted with the presumption that all committees should be abolished except those (1) for which there is a compelling need; (2) which have truly balanced membership; and (3) which conduct their business as openly as possible. The Department intends to make appropriate recommendations with respect to administrative committees and to confer with Congress about abolishing statutory committees which do not meet these standards.

The public is invited to comment on the need for each committee listed below, how the committee's goals can best be achieved, whether the committee's membership represents a balance in points of view, and to recommend changes in membership, if needed. In addition, comment is welcome on the committee's record of encouraging public participation and on any other changes needed.

The General Services Administration has requested the Department to submit its recommendations by April 1, 1978. This date requires that public comments be received by March 20, 1978 to be included in the Department's review. Comments received after that date will be incorporated in the Department's continuing review of the utility and operation of its Federal advisory committees.

Comment should be directed to the persons listed under the respective headings below.

AGENCY: ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

Address: Mrs. Carolyn T. Evans, Committee Management Officer, 5600 Fishers Lane, Room 13-103, Rockville, Md. 20852, 301-443-4335.

FEDERAL ADVISORY COMMITTEES OF THE HEW/PHS/ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

Alcohol Research Review Committee
Alcohol Training Review Committee
Biological Science Training Review Committee
Board of Scientific Counselors, NIMH
Clinical Program-Projects Research Review Committee
Clinical Projects Research Review Committee
Clinical Psychopharmacology Research Review Committee
Community Alcoholism Services Review Committee
Continuing Education Training Review Committee
Crime and Delinquency Review Committee
Developmental Problems Research Review Committee
Drug Abuse Research Review Committee
Drug Abuse Training Review Committee
Epidemologic Studies Review Committee
Experimental Psychology Research Review Committee
Experimental and Special Training Review Committee
Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism
Mental Health Services Research Review Committee
Mental Health Small Grant Committee
Metropolital Mental Health Problems Review Committee
Minority Advisory Committee
Minority Group Mental Health Programs Review Committee
National Advisory Council on Alcohol Abuse and Alcoholism
National Advisory Council on Drug Abuse
National Advisory Mental Health Council
National Panel on Alcohol, Drug Abuse, and Mental Health
Neuropsychology Research Review Committee
Paraprofessional Manpower Development Review Committee
Personality and Cognition Research Review Committee
Preclinical Psychopharmacology Research Review Committee
President's Commission on Mental Health
Psychiatric Nursing Education Review Committee
Psychiatry Education Review Committee
Psychological Sciences Fellowship Review Committee
Psychology Education Review Committee
Rape Prevention and Control Advisory Committee
Research Scientist Development Review Committee
Social Problems Research Review Committee
Social Sciences Research Review Committee
Social Sciences Training Review Committee
Social Work Education Review Committee

AGENCY: CENTER FOR DISEASE CONTROL

Address: Mrs. Martha S. Brocato, Committee Management Officer, 1600 Clifton Road NE., Room 111, Atlanta, Ga. 30333, 404-633-3311, Extension 6793.

FEDERAL ADVISORY COMMITTEES OF THE HEW/PHS/CENTER FOR DISEASE CONTROL

Center for Disease Control Programs and Policies Advisory Committee (Ad Hoc)
Childhood Lead-Based Paint Poisoning Prevention Ad Hoc Advisory Committee
Coal Mine Health Research Advisory Committee
Immunization Practices Advisory Committee
Medical Laboratory Sciences Advisory Committee
Safety and Occupational Health Study Section

AGENCY: EDUCATION DIVISION

Address: Ms. Barbara Hunter, Committee Management Officer, Office of the Assistant Secretary for Education, 200 Independence Avenue SW., Room 301-H, Washington, D.C., 20201, 202-245-8036.

FEDERAL ADVISORY COMMITTEES OF THE HEW/EDUCATION DIVISION

OFFICE OF THE ASSISTANT SECRETARY FOR EDUCATION

Advisory Council on Education Statistics
Board of Advisors to the Fund for the Improvement of Postsecondary Education

NATIONAL INSTITUTE OF EDUCATION

Panel for the Review of Laboratory and Center Operations

OFFICE OF EDUCATION

Accreditation and Institutional Eligibility Advisory Committee
Advisory Council on Developing Institutions
Advisory Council on Environmental Education
Advisory Council on Financial Aid to Students
Community Education Advisory Council
National Advisory Committee on Black Higher Education and Black Colleges and Universities
National Advisory Council on Adult Education
National Advisory Council on Bilingual Education
National Advisory Council for Career Education
National Advisory Council on Education of Disadvantaged Children
National Advisory Council on Equality of Educational Opportunity
National Advisory Council on Ethnic Heritage Studies
National Advisory Council on Extension and Continuing Education
National Advisory Council on Indian Education
National Advisory Council on Vocational Education
National Advisory Council on Women's Educational Programs

AGENCY: FOOD AND DRUG ADMINISTRATION

Address: Mr. Richard L. Schmidt, Committee Management Officer, 5600 Fishers Lane, Room 7-79, Rockville, Md. 20852, 301-443-2765.

FEDERAL ADVISORY COMMITTEES OF THE HEW/PHS/FOOD AND DRUG ADMINISTRATION

Anesthesiology Advisory Committee
Anesthesiology Device Classification Panel
Anti-Infective Agents Advisory Committee
Arthritis Advisory Committee
Board of Tea Experts
Cardiovascular Device Classification Panel
Cardiovascular and Renal Advisory Committee
Clinical Chemistry Device Classification Panel
Clinical Toxicology Device Classification Panel
Controlled Substances Advisory Committee
Dental Device Classification Panel

Dermatology Advisory Committee
Device Good Manufacturing Practices Advisory Committee
Ear, Nose, and Throat Device Classification Panel
Endocrinology and Metabolism Advisory Committee
FDA/NIDA Drug Abuse Research Advisory Committee
Gastrointerological Urological Device Classification Panel
Gastrointestinal Drugs Advisory Committee
General Hospital and Personal Use Device Classification Panel
General and Plastic Surgery Device Classification Panel
Hematology Device Classification Panel
Immunology Device Classification Panel
Medical Radiation Advisory Committee
Microbiology Device Classification Panel
National Advisory Food and Drug Committee
Neurological Drugs Advisory Committee
Neurological Device Classification Panel
Obstetrical and Gynecological Device Classification Panel
Oncologic Drugs Advisory Committee
Ophthalmiac Device Classification Panel
Ophthalmiac Drugs Advisory Committee
Orthopedic Device Classification Panel
Panel on Review of Allergenic Extracts
Panel on Review of Antimicrobial Agents
Panel on Review of Antiperspirant Drug Products
Panel on Review of Bacterial Vaccines and Bacterial Antigens
Panel on Review of Bacterial Vaccines and Toxoids
Panel on Review of Blood and Blood Derivatives
Panel on Review of Contraceptives and other Vaginal Drug Products
Panel on Review of Dentifrices and Dental Care Agents
Panel on Review of Hemorrhoidal Drugs
Panel on Review of Miscellaneous External Drug Products
Panel on Review of Miscellaneous Internal Drug Products
Panel on Review of Ophthalmiac Drugs
Panel on Review of Oral Cavity Drug Products
Panel on Review of Topical Analgesics Including Antirheumatic, Otic, Burn, Sunburn Treatment and Prevention Drugs
Panel on Review of Viral Vaccines and Rickettsial Vaccines
Panel on Review of Vitamin, Mineral and Hematinic Drug Products
Pathology Device Classification Panel
Physical Medicine Device Classification Panel
Psychopharmacological Agents Advisory Committee
Pulmonary-Allergy and Clinical Immunology Advisory Committee
Radiological Device Classification Panel
Radiopharmaceutical Advisory Committee
Science Advisory Board to the National Center for Toxicological Research
Technical Electronic Product Radiation Safety Standards Committee
Toxicology Advisory Committee

AGENCY: HEALTH CARE FINANCING ADMINISTRATION

Address: Mr. Thomas J. Coleman, Committee Management Officer, 330-C Street SW., Room 4200, Washington, D.C. 20201, 202-245-0621.

FEDERAL ADVISORY COMMITTEE OF THE HEW/ HEALTH CARE FINANCING ADMINISTRATION

Pharmaceutical Reimbursement Advisory Committee

AGENCY: HEALTH RESOURCES ADMINISTRATION

Address: Mrs. Irene D. Skinner, Committee Management Officer, 3700 East-West Highway, Room 9-50, Center Building, Hyattsville, Md. 20782, 301-436-7183.

FEDERAL ADVISORY COMMITTEES OF THE HEW/ PHS/HEALTH RESOURCES ADMINISTRATION

Federal Hospital Council
Graduate Medical Education National Advisory Committee
National Advisory Council on Health Professions Education
National Advisory Council on Nurse Training
National Council on Health Planning and Development

AGENCY: HEALTH SERVICES ADMINISTRATION

Address: Mrs. Irene D. Skinner, Committee Management Officer, 3700 East-West Highway, Room 9-50, Center Building, Hyattsville, Md. 20782, 301-436-7183.

FEDERAL ADVISORY COMMITTEES OF THE HEW/ PHS/HEALTH SERVICES ADMINISTRATION

Indian Health Advisory Committee
Interagency Committee on Emergency Medical Services
Maternal and Child Health Grants Review Committee
National Advisory Council on Migrant Health
PHS Hospitals Ad Hoc Advisory Committee

AGENCY: NATIONAL INSTITUTES OF HEALTH

Address: Mrs. Suzanne L. Fremeau, Committee Management Officer, National Institutes of Health, Building 01, Room 303, Bethesda, Md. 20014, 301-496-2123.

FEDERAL ADVISORY COMMITTEES OF THE HEW/ PHS/NATIONAL INSTITUTES OF HEALTH

Advisory Committee to the Director, NIH
Aging Review Committee
Allergy and Clinical Immunology Research Committee
Allergy and Immunology Study Section
Animal Resources Advisory Committee
Applied Physiology and Orthopedics Study Section
Arteriosclerosis and Hypertension Advisory Committee
Artificial Kidney-Chronic Uremia Advisory Committee
Bacteriology and Mycology Study Section
Behavioral Sciences Research Contract Review Committee
Bioanalytical and Metallobiochemistry Study Section
Biochemistry Study Section
Biomedical Library Review Committee
Biometry and Epidemiology Contract Review Committee
Biophysics and Biophysical Chemistry A Study Section
Biophysics and Biophysical Chemistry B Study Section
Biotechnology Resources Advisory Committee
Bladder and Prostatic Cancer Review Committee
Blood Diseases and Resources Advisory Committee
Board of Regents of the National Library of Medicine
Board of Scientific Counselors, Division of Cancer Biology and Diagnosis
Board of Scientific Counselors, Division of Cancer Cause and Prevention
Board of Scientific Counselors, Division of Cancer Treatment
Board of Scientific Counselors, NEI
Board of Scientific Counselors, NHLBI
Board of Scientific Counselors, NIA
Board of Scientific Counselors, NIAID
Board of Scientific Counselors, NIAMDD
Board of Scientific Counselors, NICHD
Board of Scientific Counselors, NIDR
Board of Scientific Counselors, NIEHS
Board of Scientific Counselors, NINCDS
Breast Cancer Task Force Committee
Cancer Clinical Investigation Review Committee
Cancer Control Community Activities Review Committee
Cancer Control Grant Review Committee
Cancer Control Prevention, Detection, Diagnosis, and Pretreatment Evaluation Review Committee
Cancer Control Treatment, Rehabilitation and Continuing Care Review Committee
Cancer Control and Rehabilitation Advisory Committee
Cancer and Nutrition Scientific Review Committee
Cancer Research Manpower Review Committee
Cancer Special Program Advisory Committee
Carcinogenesis Program Scientific Review Committee
Cardiology Advisory Committee
Cardiovascular and Pulmonary Study Section
Cardiovascular and Renal Study Section
Cell Biology Study Section
Cellular and Molecular Basis of Disease Review Committee
Clearinghouse on Environmental Carcinogens
Clinical Applications and Prevention Advisory Committee
Clinical Cancer Education Committee
Clinical Cancer Program Project and Cancer Center Support Review Committee
Clinical Trials Committee
Clinical Trials Review Committee
Combined Modality Committee
Committee on Cancer Immunobiology
Committee on Cancer Immunodiagnosis
Committee on Cancer Immunotherapy
Committee on Cytology Automation
Committee on Health and Ecological Effects of Increased Coal Utilization
Communicative Disorders Review Committee
Communicative Sciences Study Section
Contraceptive Development Contract Review Committee
Contraceptive Evaluation Research Contract Review Committee
Dental Caries Program Advisory Committee
Dental Research Institutes and Special Programs Advisory Committee
Developmental Behavioral Sciences Study Section
Developmental Therapeutics Committee
Diagnostic Research Advisory Group
Endocrinology Study Section
Epidemiology and Disease Control Study Section
Epilepsy Advisory Committee
Ethical Advisory Board
Experimental Psychology Study Section
Experimental Therapeutics Study Section
Experimental Virology Study Section
General Clinical Research Centers Committee

General Medicine A Study Section
General Medicine B Study Section
General Research Support Program Advisory Committee
Genetics Study Section
Heart, Lung, and Blood Research Review Committee A
Heart, Lung, and Blood Research Review Committee B
Hematology Study Section
Human Embryology and Development Study Section
Immunobiology Study Section
Immunological Sciences Study Section
Large Bowel and Pancreatic Cancer Review Committee
Lipid Metabolism Advisory Committee
Mammalian Cell Lines Committee
Maternal and Child Health Research Committee
Medicinal Chemistry A Study Section
Mental Retardation Research Committee
Metabolism Study Section
Microbial Chemistry Study Section
Microbiology and Infectious Diseases Advisory Committee
Minority Access to Research Careers (MARC) Review Committee
Molecular Biology Study Section
Molecular Cytology Study Section
National Advisory Allergy and Infectious Diseases Council
National Advisory Child Health and Human Development Council
National Advisory Council on Aging
National Advisory Dental Research Council
National Advisory Environmental Health Sciences Council
National Advisory Eye Council
National Advisory General Medical Sciences Council
National Advisory Neurological and Communicative Disorders and Stroke Council
National Advisory Research Resources Council
National Arthritis Advisory Board
National Arthritis, Metabolism, and Digestive Diseases Advisory Council
National Cancer Advisory Board
National Commission on Digestive Diseases
National Diabetes Advisory Board
National Heart, Lung and Blood Advisory Council
Neurological and Communicative Disorders and Stroke Science Information Program Advisory Committee
Neurological Disorders Program-Project Review A Committee
Neurological Disorders Program-Project Review B Committee
Neurological Sciences Study Section
Neurology A Study Section
Neurology B Study Section
Nutrition Study Section
Oral Biology and Medicine Study Section
Pathobiological Chemistry Study Section
Pathology A Study Section
Pathology B Study Section
Periodontal Diseases Advisory Committee
Pharmacology Study Section
Pharmacology-Toxicology Research Program Committee
Physiological Chemical Study Section
Physiology Study Section
Population Research Committee
President's Cancer Panel
Primate Research Centers Advisory Committee
Pulmonary Diseases Advisory Committee
Radiation Study Section
Recombinant DNA Molecule Program Advisory Committee
Reproductive Biology Study Section
Research Manpower Review Committee
Sickle Cell Disease Advisory Committee
Social Sciences and Population Study Section
Surgery, Anesthesiology and Trauma Study Section
Surgery and Bioengineering Study Section
Toxicology Study Section
Transplantation, Biology and Immunology Committee
Tropical Medicine and Parasitology Study Section
Virology Study Section
Virus Cancer Program Scientific Review Committee
Vision Research Program Committee
Visual Sciences A Study Section
Visual Sciences B Study Section

AGENCY: OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

Address: Mrs. Elena Giallo, Committee Management Officer, 5600 Fishers Lane, Room 17A-55, Rockville, Md. 20852, 301-443-6339.

FEDERAL ADVISORY COMMITTEES OF THE HEW/PHS/OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

Health Care Technology Study Section
Health Insurance Benefits Advisory Council
Health Services Developmental Grants Study Section
Health Services Research Study Section
National Advisory Health Council
National Commission for the Protection of Human Subjects in Biomedical and Behavioral Research
National Professional Standards Review Council
President's Council on Physical Fitness and Sports
United States National Committee on Vital and Health Statistics

AGENCY: OFFICE OF THE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION

Address: Mr. Henry Aaron, Assistant Secretary for Planning and Evaluation, 200 Independence Avenue, SW., Room 415F, Humphrey Building, Washington, D.C. 20201, 202-245-1858.

FEDERAL ADVISORY COMMITTEES OF THE HEW/OFFICE OF THE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION

Advisory Committee on National Health Insurance Issues, Secretary's Advisory Committee on the Rights and Responsibilities of Women

AGENCY: OFFICE OF HUMAN DEVELOPMENT SERVICES

Address: Ms. Sandra Kolb, Committee Management Officer, Office of the Assistant Secretary for Human Development Services, 200 Independence Avenue, SW., Room 324E, Humphrey Building, Washington, D.C. 20201, 202-245-3072.

FEDERAL ADVISORY COMMITTEES OF THE HEW/OFFICE OF HUMAN DEVELOPMENT SERVICES

Child and Family Development Research Review Committee
Federal Council on the Aging
National Advisory Council on Services and Facilities for the Developmentally Disabled
President's Committee on Mental Retardation.

Dated: March 1, 1978.

FREDERICK M. BOHEN,
Executive Secretary.

[FR Doc. 78-5790 Filed 3-2-78; 8:45 am]

[4110-85]

Public Health Service

CONTINUED REGULATION OF HEALTH MAINTENANCE ORGANIZATIONS

Pursuant to the requirement of section 1312 of the Public Health Service Act (42 U.S.C. 300e-11(b)(1)) that each determination concerning compliance by a qualified health maintenance organization (HMO) with assurances made under section 1310(d)(1) of the Act be published in the FEDERAL REGISTER, notice is hereby given that the following actions have been taken with respect to a qualified HMO.

On May 26, 1977, Florida Health Care, Inc., 350 North Clyde Morris Boulevard, Daytona Beach, Fla. 32104, was officially notified that it was not in compliance with the fiscally sound operation (see section 1301(c)(1) of the Act) assurance provided the Secretary under section 1310(d)(1) of the Act. Subsequently, reports of operations submitted by Florida Health Care, Inc., for the period July through December 1977, show that it has met or exceeded the criteria for successfully initiating a corrective action. The Secretary has determined that effective January 1, 1978, Florida Health Care, Inc., has reestablished compliance with the assurances which it had given under Section 1310(d)(1) of the Act.

Dated: February 23, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

[FR Doc. 78-5320 Filed 3-2-78; 8:45 am]

[4110-85]

QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

Notice is hereby given, pursuant to 42 CFR 110.605, that in the month of December 1977 the following entities have been determined to be qualified health maintenance organizations under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)).

QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

NAME, ADDRESS, SERVICE AREA, AND DATE OF QUALIFICATION

(Operational Qualified Health Maintenance Organization: 42 CFR 110.603(a))

1. Health Central, Inc. (Staff Model, see section 1310(b)(1) of the Public Health Service Act), 2316 South Cedar, Lansing, Mich. 48901. Service area: Townships in the following counties: Ionia County: Portland and

Danby. Eaton County: Oneida, Delta and Windsor. Clinton County: Westphalia, Eagle, Watertown, DeWitt & Bath. Shiawassee County: Woodhull and Perry. Ingham County: Lansing, Meridan, Williamston, Locke, Delhi, Alaiedon, Wheatfield, Leroy, Aurelius, Vevay, Ingham and White Oak.

Date of operational qualification: December 19, 1977. (Achieved preoperational qualification on December 6, 1977.)

(Transitionally Qualified Health Maintenance Organization: 42 CFR 110.603(b))

2. Anchor Organization for Health Maintenance (Staff Model see section 1310(b)(1) of the Public Health Service Act), 1725 West Harrison Street, Chicago, Ill. 60612. Service area:

The following zip codes in the City of Chicago and suburban areas:

CITY OF CHICAGO

60601, 60602, 60603, 60604, 60605, 60606, 60607, 60608, 60609, 60610, 60611, 60612, 60613, 60614, 60615, 60616, 60618, 60621, 60622, 60623, 60624, 60625, 60626, 60629, 60630, 60631, 60632, 60634, 60635, 60636, 60637, 60638, 60639, 60640, 60641, 60644, 60645, 60646, 60647, 60648, 60650, 60651, 60653, 60654, 60656, 60657, 60659, 60660, 60666, 60670, 60671, 60675, 60684, 60685, 60693

SUBURBAN AREAS

60004, 60005, 60006, 60007, 60008, 60010, 60015, 60016, 60017, 60018, 60023, 60025, 60026, 60029, 60035, 60043, 60047, 60053, 60056, 60060, 60062, 60067, 60068, 60069, 60076, 60090, 60091, 60093, 60101, 60103, 60104, 60106, 60108, 60130, 60131, 60143, 60153, 60160, 60162, 60163, 60164, 60165, 60171, 60172, 60176, 60191, 60201, 60202, 60203, 60204, 60301, 60302, 60303, 60304, 60305, 60401, 60402, 60406, 60409, 60411, 60417, 60419, 60422, 60423, 60425, 60426, 60429, 60430, 60438, 60443, 60445, 60448, 60449, 60452, 60459, 60461, 60462, 60466, 60468, 60469, 60471, 60472, 60473, 60475, 60476, 60477, 60513, 60525, 60534, 60558

Date of Qualification: December 20, 1977.

(Preoperational Qualified Health Maintenance Organization: 42 CFR 110.603(c))

3. Foundation Health Plan (Individual Practice Association Model, see section 1310(b)(2)(A) of the Public Health Service Act), 650 University Avenue, Sacramento, Calif. 95825. Service area: Counties: El Dorado, Nevada, Placer, Sacramento, and Yolo. Date of Qualification: December 22, 1977.

Files containing detailed information regarding qualified health maintenance organizations will be available for public inspection between the hours of 8:30 a.m. and 5 p.m., Monday through Friday, at the Division of health Maintenance Organizations Qualification and Compliance, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Room 16A-08, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

Questions about the review process or requests for information about qualified health maintenance organizations should be sent to the same office.

Dated: February 23, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

[FR Doc. 78-5319 Filed 3-2-78; 8:45 am]

[4110-85]

QUALIFIED HEALTH MAINTENANCE ORGANIZATION

Notice of Determination

Notice is hereby given, pursuant to 42 CFR 110.605, that in the month of January 1978 the following entity has been determined to be a qualified health maintenance organization under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)).

QUALIFIED HEALTH MAINTENANCE ORGANIZATION

Name, address, service area, and date of qualification. (Operational Qualified Health Maintenance Organization: 42 CFR § 110.603(a).)

1. Foundation Health Plan, (Individual Practice Association Model, see section 1310(b)(2)(A) of the Public Health Service Act), 650 University Avenue, Sacramento, Calif. 95825. Service area: Counties: El Dorado, Nevada, Placer, Sacramento, and Yolo. Date of operational qualification: January 1, 1978. (Achieved preoperational qualification on December 22, 1977.)

Files containing detailed information regarding qualified health maintenance organizations will be available for public inspection between the hours of 8:30 a.m. and 5 p.m., Monday through Friday, at the Division of Health Maintenance Organizations Qualification and Compliance, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Room 16A-08, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

Questions about the review process or requests for information about qualified health maintenance organizations should be sent to the same office.

Dated: February 27, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

[FR Doc. 78-5678 Filed 3-2-78; 8:45 am]

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

UINTAH INDIAN IRRIGATION PROJECT, UTAH

Annual Operation and Maintenance Charges

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Public notice.

SUMMARY: The purpose of this public notice is to change the annual per acre assessment rates for the operation and maintenance of the irrigation facilities on the Uintah Indian Irrigation Project to properly reflect the actual costs for labor, materials, equipment and services. The change is from $4.50 to $7.50 per assessable acre per annum.

This public notice will replace §§ 221.77, 221.78, 221.79, 221.80, and 221.81 of Part 221, Chapter 1, Subchapter T of Title 25 of the Code of Federal Regulations which are being deleted by a Final Rule to be published in the FEDERAL REGISTER simultaneously with this public notice.

EFFECTIVE DATE: This public notice shall become effective March 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Cecil Wright, Bureau of Indian Affairs, Phoenix Area Office, Phoenix, Ariz., telephone 602-261-4184.

SUPPLEMENTARY INFORMATION: Studies were made in 1976 to determine the increase in assessments needed to operate and maintain the Uintah Irrigation Project. No action was taken to increase the assessment rate in 1977 due to the severe drought conditions. In 1977, a series of meetings were scheduled to inform the water users of the need to increase the operation and maintenance assessment. The first of the series was on September 21, 1977 with board members from six private irrigation companies. The second meeting was on September 30, 1977, with the Ute Tribal Business Committee and the Tribal Resources Director. The third meeting was on October 26, 1977, at Roosevelt, Utah, for the general public.

Notices were published in local newspapers during November 1977 requesting written comments from the public by December 9, 1977. Several letters were received from individuals. One letter was a petition with seventy-two signatures, another letter contained a petition with sixteen signatures. One water user wrote directly to the Secretary of the Interior, and one was sent to Representative Dan Marriott of Utah. All letters were given careful consideration and answers prepared.

On January 10, 1978, at the invitation of Senator Orrin G. Hatch of Utah, Uintah and Ouray Agency representatives participated in a town meeting held in Vernal, Utah, where they responded to questions concerning the operation and maintenance assessment rate increase of $3.00 per acre.

Pursuant to section 191.1(e) of Part 191, Chapter 1, Subchapter R, of Title 25 of the Code of Federal Regulations,

this public notice is issued under authority delegated to the Assistant Secretary for Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelegated by the Assistant Secretary for Indian Affairs to the Area Directors in 10 BIAM 3.

The Public Notice shall read as follows:

UINTAH INDIAN IRRIGATION PROJECT, UTAH

Annual Operation and Maintenance Charges

1. Basic water charges: Pursuant to the provisions of the Acts of June 21, 1906 (34 Stat. 375), and March 7, 1928 (45 Stat. 210, 25 U.S.C. 387), the reimbursable costs expended in the operation and maintenance of the Uintah Indian Irrigation Project, Utah, are apportioned on a per acre basis against the irrigable lands of all units of the project, and for the calendar year 1978 and each succeeding year unless changed by further public notice, there shall be collected for each acre of irrigable land to which water can be delivered from the constructed works, a uniform basic charge of $7.50 per acre per annum, where not otherwise established by contract. No bill shall be rendered for less than $7.50.

2. Payment and penalties: (a) The assessments fixed by this Public Notice shall be come due on April 1 of each year, and are payable on or before that date.

(b) Assessments remaining unpaid on October 1, following the due date, shall be subject to a penalty of one-half of one percent per month, or fraction thereof, from the due date until paid.

(c) Indian water users who are financially unable to pay the assessment on the due date may be furnished water provided the Superintendent of the reservation certifies to the project engineer that such Indian is not financially able to pay his assessment. Under such conditions, the assessment shall be entered on the accounts as a lien against the land, without penalty.

3. Delivery of water: (a) No water will be delivered to Indians farming their own land, until the Superintendent of the reservation has issued a certificate to the project engineer certifying that the Indian has paid or will pay such charges through the Superintendent or that such Indian is financially unable to pay the charges.

(b) No water will be delivered to a lessee of Indian trust patent land, until the Superintendent of the reservation has furnished the project engineer with a certificate stating that the lessee has fully complied with the terms of the lease relative to the payment of the annual operation and maintenance charges.

(c) No water will be delivered to land under lease to non-Indians until the Superintendent of the reservation certifies to the project engineer that the lessee has fully complied with the lease contract relative to the payment of the operation and maintenance charges.

(d) No water will be delivered to patent in fee land, until at least 50 percent of the annual charges assessed are paid, and water delivery will not be continued after July 1, unless the total charges have been paid.

(e) The Superintendent may authorize the delivery of water without payment of the operation and maintenance charges for the leaching of alkali and as an aid in reclaiming temporarily non-assessable land. The amount and delivery of free water will be made only under predetermined terms and conditions that have been mutually agreed to by the land operator and the Superintendent. Use of free water will be terminated and the land will be reclassified as assessable when, in the opinion of the Superintendent, the reclamation work is completed. In no event will free water be delivered for more than two years.

NOTE.—It is hereby certified that the economic and inflationary impacts of this public notice have been evaluated in accordance with Executive Order 11821.

CHARLES WORTHMAN,
Acting Area Director.

[FR Doc. 78-5670 Filed 3-2-78; 8:45 am]

[4310-84]

Bureau of Land Management

[NM 32763]

NEW MEXICO

Application

FEBRUARY 22, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co., has applied for a right-of-way for two 4½-inch natural gas pipelines across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 22 E.,
Sec. 27, E½SE¼.

These pipelines will convey natural gas across 0.388 miles of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-5584 Filed 3-2-78; 8:45 am]

[4310-55]

Fish and Wildlife Service

KENAI NATIONAL MOOSE RANGE, ALASKA

Pipeline Right of Way Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of application for pipeline right-of-way.

SUMMARY: The purpose of this notice is to inform the public that the United States Fish and Wildlife Service will be proceeding with an environmental assessment to consider whether an application to construct a natural gas pipeline across Kenai National Moose Range lands should be approved and, if so, under what terms and conditions.

DATES: Interested persons desiring to express their views should promptly provide comments.

ADDRESS: Kenai National Moose Range, P.O. Box 500, Kenai, Alaska 99611.

FOR FURTHER INFORMATION CONTACT:

James E. Frates, Refuge Manager, 907-283-4877.

SUPPLEMENTARY INFORMATION: The primary author of this document is Robert A. Richey. This 16-inch pipeline will tie-in with an existing buried 16-inch line so as to convey natural gas across 3.8 miles of the Kenai National Moose Range, Kenai Peninsula Borough, Alaska.

Subpart A, Section 29.1—Use of Natural Resources.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449; 30 U.S.C. 185) as amended by Pub. L. 93-153 approved November 16, 1973, the Alaska Pipeline Co., has applied for a thirty (30) foot wide pipeline right-of-way permit across the following lands:

Certain Kenai National Moose Range lands, located 46 miles northeast of the City of Kenai within an existing fifty (50) foot wide pipeline right-of-way that includes portions of sections 5, 8, 17, 18 and 19 of T8N, R4W, Seward Meridian.

NOTE.—The U.S. 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: February 17, 1978.

GORDON W. WATSON,
Alaska Area Director,
U.S. Fish and Wildlife Service.

[FR Doc. 78-5581 Filed 3-2-78; 8:45 am]

[4310-70]

National Park Service

TWA SERVICES, INC.

Intention To Negotiate Concession Contract

Pursuant to the provisions of section 5 of the act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that by April 3, 1978, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with TWA Services, Inc., authorizing it to provide concession facilities and services for the public at

Scotty's Castle, Death Valley National monument for a period of five (5) years, six (6) months from July 1, 1977, through December 31, 1982.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Office of the Superintendent, Death Valley National Monument.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on June 30, 1977, and therefore, pursuant to the act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants TWA Services, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new contract and a preference in the award of the contract, if the offer of TWA Services, Inc., is substantially equal to others received. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before April 3, 1978.

Interested parties should contact the Assistant Director, Special Services, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: February 3, 1978.

DAVID J. TOBIN, Jr.,
Director, National Park Service.

[FR Doc. 78-5620 Filed 3-2-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[332-87]

CONDITIONS OF COMPETITION IN THE WESTERN U.S. STEEL MARKET BETWEEN CERTAIN DOMESTIC AND FOREIGN STEEL PRODUCTS

Change of Date and Time and Place of San Francisco Hearing

Notice is hereby given that the public hearing in this matter, previously scheduled to begin on Tuesday, April 11, 1978, will now be held beginning at 9:30 a.m., p.d.t., Tuesday, May 9, 1978, in Room 6, Army Conference facilities, Building No. 35, Presidio of San Francisco, San Francisco, Calif.

Requests for appearances at the hearing should be received, in writing, by the Secretary of the Commission in his office in the United States International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, not later than noon, Thursday, May 4, 1978.

Notice of the investigation and public hearings was published in the FEDERAL REGISTER of June 15, 1977 (42 FR 30555), and notice of change of date and time and place of the San Francisco hearing was published in the FEDERAL REGISTER of January 31, 1978 (43 FR 4126).

Issued: February 27, 1978.

By order of the Commission:

KENNETH R. MASON,
Secretary.

[FR Doc. 78-5549 Filed 3-2-78; 8:45 am]

[4810-25]

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

ADVISORY COMMITTEE ON JOINT BOARD ACTUARIAL EXAMINATIONS

Meeting

Notice is hereby given that the Advisory Committee on Joint Board Actuarial Examinations will meet in the Red Carpet Room, O'Hare International Airport, Chicago, Ill. on April 3, 1978 at 9:00 a.m.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion in the Joint Board's examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, sections 1242(a)(1)(B) and (C). A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) has been made that this meeting is for the purpose of considering matters falling within the exemption to public disclosure set forth in Title U.S. Code, section 552(b)(5), and that the public interest requires such meeting be closed to public participation.

Dated: February 27, 1978.

LESLIE S. SHAPIRO,
Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 78-5556 Filed 3-2-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

MANUFACTURE OF CONTROLLED SUBSTANCES

Notice of Application

Pursuant to 21 U.S.C. 823(a)(1), and section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 23, 1978, Mallinckrodt Inc., Dept. CB, Mallinckrodt and Second Streets, St. Louis, Mo. 63147, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic class of controlled substances listed below:

Drug	*Schedule*
Codeine	II.
Dihydrocodeine	II.
Oxycodone	II.
Diphenoxylate	II.
Hydrocodone	II.
Methadone	II.
Methadone-Inter.	II.
Morphine	II.
Thebaine	II.
Opium Extracts	II.
Opium Fluid Extracts	II.
Opium Tinctures	II.
Opium Powders	II.
Opium Granulated	II.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1402 I Street NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than March 30, 1978.

Dated: February 24, 1978.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc. 78-5631 Filed 3-2-78; 8:45 am]

[4410-01]

MANUFACTURE OF CONTROLLED SUBSTANCES

Registration

By Notice dated December 28, 1977, and published in the FEDERAL REGISTER on January 9, 1978; (43 FR 1410), Knoll Pharmaceutical Co., Production Department, 30 North Jefferson Road, Whippany, N.J. 07981, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of hydromorphone, a basic class of controlled substance listed in schedule II.

No comments or objections having been received, and pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations section 1301.54(e), the Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: February 24, 1978.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc. 78-5632 Filed 3-2-78; 8:45 am]

[4510-23]

DEPARTMENT OF LABOR

Office of the Secretary

ALL ITEMS CONSUMER PRICE INDEX

United States City Average

Pursuant to section 112 of the 1976 amendments to the Federal Election Campaign Act (Pub. L. 94-283, 2 U.S.C. 441a), the Secretary of Labor has certified to the Chairman of the Federal Election Commission and publishes this notice in the FEDERAL REGISTER the fact that the United States City Average All Items Consumer Price Index (1967=100) increased 22.9 percent from its 1974 annual average of 147.7 to its 1977 annual average of 181.5. Using 1974 as a base (1974=100), I certify that the United States City Average All Items Consumer Price Index thus increased 22.9 percent from its 1974 annual average of 100 to its 1977 annual average of 122.9.

Signed at Washington, D.C., on this 23rd day of February 1978.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 78-5389 Filed 3-2-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 13, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 13, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 13th day of February 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Nieman Tool & Machine (workers).	Sullivan, Mo	Jan. 13, 1978	Jan. 9, 1978	TA-W-3,154	Precision machining of the atomic energy and guided missile programs.

[FR Doc. 78-5238 Filed 3-2-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than Mar. 13, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistnace, at the address shown below, not later than Mar. 13, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, D.C. this 16th day of February 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Bird & Son, Inc. (workers)	East Walpole, Mass	Feb. 6, 1978	Feb. 1, 1978	TA-W-3,144	Shoe boxes.
Fairfield Noble Corp. (ILGWU).	Long Island City, N.Y	do	Jan. 31, 1978	TA-W-3,145	Women's knit sweaters.
Fraser-Johnston (International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers).	San Lorenzo, Calif.	Jan. 19, 1978	Jan. 16, 1978	TA-W-3,146	Fabricated metal.
General Instrument Corp. Jerrold Electronic Div. (IBEW).	Chicopee, Mass	Jan. 30, 1978	Jan. 26, 1978	TA-W-3,147	Cable systems of equipment and master antennas.
Hubbard & Co. (International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers).	Emeryville, Calif	Jan. 19, 1978	Jan. 16, 1978	TA-W-3,148	Various kinds of metal including pole attachments.
New England Sportswear (workers).	Peabody, Mass	Feb. 6, 1978	Feb. 2, 1978	TA-W-3,149	Ladies' leather jackets.
Proctor Products, Inc. (United Shoe Workers of America).	Bourbon, Mo	do	Feb. 3, 1978	TA-W-3,150	Shoe counter and heel covers.
SKF Industries, Inc., Nice Bearing Division (USWA).	Kulpsville, and Philadelphia, Pa.	do	Jan. 31, 1978	TA-W-3,151	Ball and spherical bearings.
Uniroyal, Inc., Consumer Products Division, Credit Department (co. attorney).	Middlebury, Conn. and various other locations.	Feb. 2, 1978	Jan. 30, 1978	TA-W-3,152	Men's and women's shoes.
George J. Meyer Mfg. Worcester Plant (USWA).	West Boylston, Mass	Feb. 6, 1978	Jan. 18, 1978	TA-W-3,153	Bottling and labeling machines and packaging equipment.

[FR Doc. 78-5239 Filed 3-2-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 13, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 13, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 3rd day of January 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition	Articles produced
Tower Fashions (ILGWU)	New York, N.Y.	Jan. 3, 1978	Dec. 14, 1977	TA-W-3,155	Manufacturer and distributor of ladies' coats.
Lafemme Knitting Mills, Inc. (workers).	Weissport, Pa	do	Dec. 28, 1977	TA-W-3,156	Women's and girls' knit shirts and sweaters.
Lafemme Knitting Mills, Inc. (workers).	Lyons Station, Pa	do	do	TA-W-3,157	Women's and girls' knit shirts and sweaters.

[FR Doc. 78-5240 Filed 3-2-78; 8:45 am]

[4510-28]

Office of the Secretary

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened

total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 13, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 13, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 22nd day of February 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
A. S. Mines, Inc. (ACTWU)	New York, N.Y	Feb. 6, 1978	Jan. 31, 1978	TA-W-3,190	Young men's tailored clothing.
Bethlehem Steel Corp. Baltimore Rebar Shop (workers).	Baltimore, Md	Feb. 8, 1978	Feb. 6, 1978	TA-W-3,191	Steel rebars.
Everett Levinson Corp. (ACTWU).	New York, N.Y	Feb. 6, 1978	Jan. 31, 1978	TA-W-3,192	The cutting of garments to be sewn into men's tailored clothing.
Frank Saltz & Sons, Inc. (ACTWU).	Passaic, N.J	do	do	TA-W-3,193	Men's tailored clothing.
Harry Irwin, Inc. (ACTWU)	New York, N.Y	do	do	TA-W-3,194	Do.
Mandlebaum Clothing Co., Inc. (ACTWU).	do	do	do	TA-W-3,195	Men's jackets and sportcoats.
Manhattan Coat Corp. (ACTWU).	do	do	do	TA-W-3,196	Men's tailored clothing.
Mercer Clothing Co., Ltd. (ACTWU).	do	do	do	TA-W-3,197	Men's tailored jackets.
Petrocelli Clothes (ACTWU)	do	do	do	TA-W-3,198	Men's tailored suits.
Primo Mello (ACTWU)	do	do	do	TA-W-3,199	Men's jackets.
Prints-N-Things (workers)	do	Nov. 15, 1977	Nov. 11, 1977	TA-W-3,200	Knitting, printing and finishing fabrics.
Sabel & Schaps (ACTWU)	Long Island City, N.Y	Feb. 6, 1978	Jan. 31, 1978	TA-W-3,201	Men's jackets.
Saint Laurie Ltd. (ACTWU)	New York, N.Y	do	do	TA-W-3,202	Men's tailored clothing.
Shop Contracting Corp. (ACTWU).	do	do	do	TA-W-3,203	Men's trousers.
Sussex Clothes, Ltd. (ACTWU).	do	do	do	TA-W-3,204	Men's jackets and sportcoats.
William B. Kessler, Inc. (ACTWU).	Hammonton, N.J	do	do	TA-W-3,206	Men's tailored clothing.
U.S. Steel Corp., Joliet-Waukegan Works (USWA).	Joliet, Ill	Jan. 16, 1978	Jan. 12, 1978	TA-W-3,205	Carbon steel rods and merchant wire.

[FR Doc. 78-5697 Filed 3-2-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 13, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 13, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 21st day of February 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Albex Contractors, Inc. (ACTWU).	Brooklyn, N.Y	Feb. 6, 1978	Jan. 31, 1978	TA-W-3,158	Men's jackets.
Ambassador Clothes, Inc. (ACTWU).	New York, N.Y	do	do	TA-W-3,159	Men's and boys' tailored clothing.
Arrow Clothes, Inc. (ACTWU).	do	do	do	TA-W-3,160	Men's jackets.
Baxter Stores, Inc. (ACTWU).	Trenton, N.J	do	do	TA-W-3,161	Men's tailored clothing.
Bruce Ramsey Ltd. (ACTWU).	New York, N.Y	do	do	TA-W-3,162	Men's slacks.
Brookfield Clothes, Inc. (ACTWU).	Long Island City, N.Y	do	do	TA-W-3,163	Men's suits and coats.
Canamex Commodity Corp. (company).	San Francisco, Calif	Feb. 7, 1978	do	TA-W-3,164	Field fence, barbed wire, barbless cable, electric fence wire, rebar tie wire, merchant wire, and baler wire.
Catania Clothing Corp. (ACTWU).	New York, N.Y	Feb. 6, 1978	do	TA-W-3,165	Men's sport coats.
Central Fajardo (company)	Fajardo, P.R	Feb. 7, 1978	Jan. 30, 1978	TA-W-3,166	Unrefined sugar.
Central San Francisco (company).	Guayanilla, P.R	do	do	TA-W-3,167	Do.
Clifton Clothing Co. (ACTWU).	Wallington, N.J	Feb. 6, 1978	Jan. 31, 1978	TA-W-3,168	Men's and ladies' tailored jackets.
Cohen Clothes (ACTWU)	Brooklyn, N.Y	do	do	TA-W-3,169	Men's and boys' tailored clothing.
Delton Clothing, Ltd. (ACTWU).	New York, N.Y	do	do	TA-W-3,170	Men's sport coats and suit coats.
Dino Clothing Co. (ACTWU)	do	do	do	TA-W-3,171	Men's jackets.
Dirzis Products Co., Inc. (ACTWU).	Richmond Hill, N.Y	do	do	TA-W-3,172	Men's tailored clothing.
E. Bonelli & Co., Inc. (ACTWU).	New York, N.Y	do	do	TA-W-3,173	Men's jackets.
F. E. Olds & Son, (USWA)	Fullerton, Calif	Feb. 2, 1978	do	TA-W-3,174	Brass wind musical instruments.
Fine Craft Coat Co., Inc. (ACTWU).	Brooklyn, N.Y	Feb. 6, 1978	do	TA-W-3,175	Men's clothing.
George Heller, Inc. (ACTWU).	New York, N.Y	do	do	TA-W-3,176	Men's trousers.
Futura Fabrics Corp., Hazleton Dyeing Division (ACTWU).	West Hazleton, Pa	Feb. 7, 1978	Feb. 2, 1978	TA-W-3,177	Dyeing and finishing of fabrics.
Futura Fabrics Corp., Hazleton Warp-Knit Division (ACTWU).	do	do	do	TA-W-3,178	Knitting of fabrics.
Hilton Manufacturing Co. (ACTWU).	Linden, N.J	Feb. 6, 1978	Jan. 31, 1978	TA-W-3,179	Men's suits, sports-coats, and slacks.
Hudson Pants Co., Inc. (ACTWU).	Jersey City, N.J	do	do	TA-W-3,180	Men's and boys' trousers.
Hy-Grade Coat Co., Inc. (ACTWU).	New York, N.Y	do	do	TA-W-3,181	Men's tailored coats.
Kaiser Steel Corp., Napa Fabricating Plant (International Hod Carriers, Building & Common Laborers Union of America).	Napa, Calif	do	Jan. 26, 1978	TA-W-3,182	Fabricated steel and steel pipe.
Lefeton Custom Tailoring, Inc. (ACTWU).	New York, N.Y	do	Jan. 31, 1978	TA-W-3,183	Men's and boys' tailored clothing.
M. Ehrenberg Sons, Inc. (ACTWU).	Passaic, N.J	do	do	TA-W-3,184	Men's tailored clothing.
M & S Co., Inc. (workers)	Rayville, La	Feb. 7, 1978	Feb. 2, 1978	TA-W-3,185	Jeans and casual pants for men and women.
Monroe Manufacturing Co. (workers).	do	do	do	TA-W-3,186	Selling of jeans and casual pants for men and women.
Sealand Service, Inc. (workers).	South Kearney, N.J	Feb. 6, 1978	Jan. 31, 1978	TA-W-3,187	Shipping line for various products and goods.
Sealand Service, Inc. (workers).	Elizabeth, N.J	do	do	TA-W-3,188	Shipping line for various products and goods.
Victor Roberts, Inc. (ACTWU).	Passaic, N.J	do	do	TA-W-3,189	Tailored clothing for men.

[FR Doc. 78-5698 Filed 3-2-78; 8:45 am]

[4510-28]

[TA-W-2674]

MAXWELL & ROTHCHILD, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2674: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 29, 1977 in response to a worker petition received on November 17, 1977 which was filed on behalf of workers and former workers engaged in the sponging of cloth at Maxwell & Rothchild, Inc., Cincinnati, Ohio.

The notice of investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63486). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Maxwell

& Rothchild, Inc., and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met.

None of the criteria are applicable because Maxwell & Rothchild, Inc. does not produce an article within the meaning of Section 222(3) of the Trade Act of 1974.

In this case, the Department's investigation has revealed that Maxwell & Rothchild, Inc. performs a service. The company was an independent, one-plant corporation engaged in cloth sponging until its closure in October, 1977. Maxwell & Rothchild received cloth from its customers, inspected the cloth for damage, and then pre-shrunk or heat-set the cloth. All cloth was then rolled and shipped to the company's customers, who included apparel manufacturers, retailers, tailors, jobbers, contractors, and converters.

The petitioning group of workers employed by Maxwell & Rothchild were engaged solely in these operations and performed no production functions. Workers employed at Maxwell & Rothchild, Inc. perform the service of inspecting, pre-shrinking and heat-setting cloth.

CONCLUSION

After careful review of the issues, I have determined that services of the kind provided by workers employed at Maxwell & Rothchild, Inc., Cincinnati, Ohio are not "articles" within the meaning of Section 222(3) of the Trade Act of 1974. The petition for trade adjustment assistance, therefore, is denied.

Signed at Washington, D.C., this 21st day of February 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-5700 Filed 3-2-78; 8:45 am]

[4510-28]

[TA-W-2926]

McKEESPORT CONNECTING RAILROAD

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 12, 1978 in response to a worker petition received on December 20, 1977 which was filed by the United Transportation Union on behalf of workers and former workers at McKeesport Connecting Railroad, McKeesport, Pa. providing rail transportation for the National Tube Works of U.S. Steel Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on February 3, 1978 (43 FR 4695). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers at the National Tube Works of U.S. Steel Corp. were previously certified eligible to apply for adjustment assistance on June 9, 1977 (See TA-W-1444). The McKeesport Connecting Railroad is an autonomously operated and a wholly owned subsidiary of U.S. Steel Corp. and provides rail services to the National Tube Works. The petitioning workers can be considered employees of the same firm as the employees of the National Tube Works and are thus covered under the existing certification.

The existing certification will expire on June 9, 1979 unless terminated by the Secretary of Labor. Since workers newly separated, totally or partially, are covered by the existing certification provided such separations occurred on or after the impact date (November 15, 1975 and before the certification expiration date, June 9, 1979), a new investigation would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 15th day of February 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-5701 Filed 3-2-78; 8:45 am]

[4510-28]

[TA-W-2181]

TRW/IRC, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2181: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 27, 1977, in response to a worker petition received on June 22, 1977, which was filed by the International union of Electrical, Radio and Machine Workers on behalf of workers and former workers producing carbon composition resistors at TRW/IRC, Inc., Philadelphia, Pa. The investigation was expanded to include a satellite facility located in Downington, Pa.

The Notice of Investigation was published in the FEDERAL REGISTER on July 12, 1977 (42 FR 35904). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of TRW/IRC, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

Increased Imports. Imports of carbon composition resistors increased from 1,271.6 million in the first 9 months of 1976 to 2,297.7 million in the first 9 months of 1977. Imports of carbon composition resistors relative to domestic production increased from 43.5 percent in the first 9 months of 1976 to 86.4 percent in the first 9 months of 1977. Imports of carbon film resistors, which are substitutable for carbon composition resistors increased from 1,524.7 million in the first 9 months of 1976 to 1,915.2 in the first 9 months of 1977. Imports of carbon film resistors relative to domestic production increased from 155.0 percent in the first 9 months of 1976 to 174.2 percent in the first 9 months of 1977.

Contributed Importantly. a major customer of the Philadelphia Division in 1975 significantly reduced purchases in 1976 and in the first 10 months of 1977 while increasing purchases of imported resistors. Another major customer began purchasing imported resistors in November 1977 resulting in layoffs of workers from the Philadelphia Division in that month.

The workers at the Philadelphia Division of TRW/IRC, Inc., were certified eligible to apply for adjustment assistance on June 19, 1975 (TA-W-11). The certification expired on June 19, 1977.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with carbon composition resistors produced by TRW/IRC, Inc., Philadelphia and Downington, PA., contributed importantly to the total or partial separation of workers and to the decline in sales and production at those facilities. In accordance with the provisions of the Act, I make the following certification:

All workers at TRW/IRC, Inc., Philadelphia and Downington, Pa., who became totally or partially separated from employment on or after June 19, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22nd day of February 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-5702 Filed 3-2-78; 8:45 am]

[4510-30]

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

MEETING

The first meeting of the National Commission on Unemployment Compensation will be held in Room N4437 a, b, and c, U.S. Department of Labor Building, Second and Constitution Avenue NW., Washington, D.C. 20210, beginning at 4 p.m., Thursday, March 9, 1978. This session will conclude at 6 p.m., and resume at 9 a.m., on Friday, March 10. If business requires, the meeting will continue on Saturday, March 11, at a location to be announced at the Friday session. Sessions will be open to the public.

It has been impossible to give the standard period of advance notice because of scheduling difficulties. Future meetings will be subject to regular notice to the fullest extent possible.

AGENDA

THURSDAY, MARCH 9

4 p.m.

1. Preliminary statement by the Chairman.
2. Introduction of key staff members—U.S. Department of Labor.
3. Charge to the Commission: The Secretary (or Under Secretary) U.S. Department of Labor.
4. Organization: Designation of interim senior staff—(a) Interim executive director, (b) Interim research director, and (c) Interim administrative officer.
5. Adoption of preliminary procedures.
6. General information: Interim administrative officer.

FRIDAY, MARCH 10

9 a.m.

7. Presentation: Major current issues in unemployment insurance—Lawrence E. Weatherford, Administrator, Unemployment Insurance Service.
8. Briefing on federal executive and legislative procedures affecting the UI program: Unemployment Insurance Service staff.
9. Current legislative and budget developments: Unemployment Insurance Service staff.

3 p.m.

10. Report on work of the Federal Advisory Council on Unemployment Insurance (FAC/UI): Father Joseph M. Becker, acting chairman, FAC/UI.

4 p.m.

11. Introduction of liaison officers with other Federal agencies.

SATURDAY, MARCH 11

9 a.m.

12. Proposed amendments to basic 1976 law relating to the Commission: (a) Timing of reports, (b) Pay and travel expenses, and (c) Effective date of pension deduction requirement.
13. Appointment of subcommittee on staff personnel.
14. Proposed structure of subcommittees.
15. Adoption of future schedule.
16. Discussion of agenda of future meetings.
17. Discussion of arrangements for public hearings.
18. New business.

BACKGROUND

Creation of the National Commission on Unemployment Compensation was directed by Pub. L. 94-566 dated October 20, 1976. Statutory requirements are as follows:

(1) Seven members appointed by the President.
(2) Three members appointed by the Speaker of the House of Representatives.
(3) Three members appointed by the President pro tempore of the Senate.

In making appointments, the President, the Speaker of the House of Representatives and the President pro tempore of the Senate are to consult with each other to ensure that there will be a balanced representation of interested parties on the Commission.

Members are to consist of at least one representative of labor, industry, the Federal Government, State government, local government, and small business. The President designates one of the members to serve as Chairman of the Commission.

Three members each were appointed by the President pro tempore of the Senate and the Speaker of the House of Representatives during 1977. A charter was filed by the Department with OMB on May 26, 1977. On February 1, 1978, the President appointed six members and designated a chairman, thus making the Commission operative. The 12 members thus far appointed are:

Appointed by the President

Wilbur J. Cohen, Chairman, dean and professor, University of Michigan, former Secretary, U.S. Department of Health, Education and Welfare.
Mrs. Beatrice Coleman, president and board chairman, Maidenform, Inc.
Wilbur Daniels, executive vice president, International Ladies' Garment Workers' Union.
J. Eldred Hill, Jr., executive director, UBA (Employers Advisory Group).
Ken Morris, member, executive board and regional director, United Auto Workers Union.
James R. O'Brien, Assistant director, Department of Social Security, AFL-CIO.
Vacancy.

Appointed by the President Pro Tempore of the Senate

Hon. Alphonse Jackson, educator, member, Louisiana House of Representatives.
Warren Cooper, vice president, Kaiser Aluminum and Chemical Co.
Walter Bivins, retired deputy executive director, Mississippi Employment Security Commission, member several Jackson City and County, Miss., governmental boards and commissions.

Appointed by the Speaker of the House of Representatives

Hon. Mary Rose Oakar, Member, U.S. House of Representatives.
John D. Crosier, Commissioner of Commerce, Massachusetts, former president, Interstate Conference of Employment Security Agencies, Inc.
Edward Sullivan, president, Service Workers Union, Massachusetts.

The Commission's statutory assignments are to study and evaluate the present unemployment compensation programs in order to assess the long-range needs of the programs, to develop alternatives, and to recommend changes in the programs. Such study and evaluation are to include, without being limited to—

(1) Examination of the adequacy, and economic and administrative impacts, of the changes made by Pub. L. 94-566 in coverage, benefit provisions, and financing;

(2) Identification of appropriate purposes, objectives, and future directions for unemployment programs; including railroad unemployment insurance;

(3) Examination of issues and alternatives concerning the relationship of unemployment compensation to the economy, with special attention to long-range funding requirements and desirable methods of program financing;

(4) Examination of eligibility requirements, disqualification provisions, and factors to consider in determining appropriate benefit amounts and duration;

(5) Examination of (a) the problems of claimant fraud and abuse in the unemployment compensation programs, (b) the adequacy of present statutory requirements and administrative procedures designed to protect the programs against such fraud and abuse, and (c) problems of claimants in obtaining prompt processing and payment of their claims for benefits and any appropriate measures to relieve such problems;

(6) Examination of the relationship between unemployment compensation programs and manpower training and employment programs;

(7) Examination of the appropriate role of unemployment compensation in income maintenance and its relationship to other social insurance and income maintenance programs;

(8) Conduct of such surveys, hearings, research, and other activities as it deems necessary to enable it to for-

mulate appropriate recommendations, and to obtain relevant information, attitudes opinions, and recommendations from individuals and organizations representing employers, employees, and the general public;

(9) Review of the present method of collecting and analyzing present and prospective national and local employment and unemployment information and statistics;

(10) Identification of any weaknesses in such method and any problem which results from the operation of such method;

(11) Formulation of any necessary or appropriate new techniques for the collection and analysis of such information and statistics; and

(12) Examination of the feasibility and advisability of developing or not developing Federal minimum benefit standards for a State unemployment insurance program.

Members serve without pay, but, when performing services for the Commission, they are allowed travel expenses and per diem in lieu of subsistence as authorized by law.

DURATION

The Commission is directed by law to submit an interim report to the Congress not later than September 30, 1978, and to submit to the President and the Congress a final report not later than July 1, 1979.

The Commission ceases to exist 90 days after the date of submission of its final report to the President.

The Commission will begin immediately to recruit staff and prepare detailed agenda and timetables for its reports. Hearings will be held throughout the country to have input from all areas and all interests. The Commission will meet monthly and will review preliminary and drafts of reports between sessions.

Telephone inquiries and communications concerning this meeting should be directed to:

Mr. James M. Rosbrow, Interim Executive Director, National Commission on Unemployment Compensation, Room 7000, Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213.

Mr. Rosbrow's telephone number is area code 202-376-7034.

Future Commission notices will be signed by the Executive Director.

Signed at Washington, D.C., this 28th day of February 1978.

WILBUR J. COHEN,
Chairman, National Commission on Unemployment Compensation.

[FR Doc. 78-5699 Filed 3-2-78; 8:45 am]

[3510-12]

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

MEETING

Pursuant to sec. 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting Wednesday and Thursday, March 22-23, 1978. These sessions will be open to the public and will be held in Room 416 of Page Building No. 1, 2001 Wisconsin Avenue NW., Washington, D.C., beginning at 9 a.m. on both days.

The Committee, consisting of 18 non-Federal members, appointed by the President from State and local governments, industry, science, and other appropriate areas, was established by Congress by Public Law 95-63, on July 5, 1977. Its duties are to: (1) Undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or the Congress.

The agenda will include the following topics:

March 22, 1978

0900 NACOA Work Plan and Guidelines—Chairman
1030 Working groups:
Policy, planning, and organization—Mr. Marne Dubs, discussion leader
Atmosphere and climate—Dr. Werner Baum, discussion leader
Ocean R. & D.—Dr. John Knauss, discussion leader
Ocean management and use—Dr. Evelyn Murphy, discussion leader
1200 Lunch
1300 Working groups (continued)
1700 Adjourn

March 23, 1978

0900 Working groups (continued)
1030 (Penthouse) Planning session—Reports of working groups'—Plans for the future
1200 Lunch
1300 Planning session (continued)
1600 Adjourn

DOUGLAS L. BROOKS
Executive Director.

MARCH 1, 1978.

[FR Doc. 78-5810 Filed 3-2-78; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

ADVISORY GROUP REPORT

Availability

The National Science Foundation has filed with the Library of Congress some reports which were prepared by various advisory committees of the NSF:

Report of the Ad Hoc Advisory Panel for the Very Large Array
Report of the Special Advisory Committee to the NSF on the Sacramento Peak Observatory
1976 Annual Report of the Advisory Committee for Science Education
Issues of the Advisory Groups on Anticipated Advances in Science and Technology and Contributions of Technology to Economic Strength

SUBGROUP REPORTS

The Science Court Experiment
Recommendation on Food and Nutrition
Basic and Mission Agencies
Subgroup on Regulation—Interim Report

These reports were filed in accordance with the Federal Advisory Committee Act, Pub. L. 92-463, and are available for public inspection and use at the Library of Congress, Rare Book Division, Room 256, Washington, D.C. A copy of the reports are also available for public inspection and use at the National Science Foundation, Committee Management Office, Room 248, Washington, D.C.

Dated: February 28, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-5630 Filed 3-2-78; 8:45 am]

[7555-01]

DOE/NSF NUCLEAR SCIENCE ADVISORY COMMITTEE (NUSAC)

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

DOE/NSF 1978 FACILITIES SUBCOMMITTEE OF THE NUCLEAR SCIENCE ADVISORY COMMITTEE (NUSAC)

Date and Time: March 27, 1978, 9 a.m. to 5 p.m., March 28, 1978, 9 a.m. to 5 p.m.
Place: Conference Room, Room 540, National Science Foundation, 1800 G Street NW., Washington, D.C.
Type of meeting: March 27, 1978—Closed: 9 a.m. to 5 p.m. March 28, 1978—Closed: 9 a.m. to 5 p.m.
Contact person: Dr. Howel G. Pugh, Head, Nuclear Science Section, Room 341, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4318.
Purpose of committee: To provide advice to NUSAC on needs and opportunities for major new facilities and major modification of existing facilities in the field of basic nuclear science in the United States.

Agenda: March 27, 1978—Closed Session (9 a.m. to 5 p.m.). Discussion of projects under consideration for funding. March 28, 1978—Closed Session (9 a.m. to 5 p.m.). Continuation of previous day's activities.
Reason for closing: The projects 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.

Dated: February 28, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-5625 Filed 3-2-78; 8:45 am]

[7555-01]

EXECUTIVE COMMITTEE OF THE ADVISORY COMMITTEE FOR OCEAN SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

EXECUTIVE COMMITTEE OF THE ADVISORY COMMITTEE FOR OCEAN SCIENCES

Dates: March 22 and 23, 1978.
Time: March 22, 9 a.m. to 5 p.m., March 23, 9 a.m. to 5 p.m.
Place: Room 540, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Open—March 22, 9 a.m. to 5 p.m. Open—March 23, 9 a.m. to 12 p.m. Closed—March 23, 2 p.m. to 5 p.m.
Contact person: Dr. Lauriston King, IDOE Office, National Science Foundation, Washington, D.C. 20550, 202-632-7356.
Purpose of meeting: To provide advice, recommendations and oversight concerning support for research and research related activities in the ocean sciences area.
Agenda: March 22, 1978 (Open)—9 a.m. Introduction, Procedural Matters. 9:30 a.m. Post-IDOE Project Initiation and Planning. 2 p.m. Long-range OCE Planning and Budgeting. March 23, 1978—9 a.m. Long-range OCE Planning and Budgeting (Open). 2 p.m. Discussion of Project/Proposal Reviews (Closed).
Reason for closing: Discussion of project/proposal reviews will involve information of a proprietary or confidential nature, including technical and financial data. 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.

Dated: February 28, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-5626 Filed 3-2-78; 8:45 am]

[7555-01]

SUBCOMMITTEE ON ENGINEERING CHEMISTRY AND ENERGETICS OF THE ADVISORY COMMITTEE FOR ENGINEERING

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

SUBCOMMITTEE ON ENGINEERING CHEMISTRY AND ENERGETICS OF THE ADVISORY COMMITTEE FOR ENGINEERING

Date and time: March 20 and 21, 1978—9 a.m. to 5 p.m. each day.
Place: Room 543, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.
Type of meeting: Part open, Open—March 20, 9 a.m. to 11:45 a.m. March 21, 9 a.m. to 4 p.m. Closed—March 20, 1 p.m. to 5 p.m.
Contact person: Dr. Marshall M. Lih, Section Head, Engineering Chemistry and Energetics Section, Room 413, National Science Foundation, Washington, D.C. 20550, telephone 202-632-5867.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of subcommittee: To review current program areas and emphasis; to discuss future directions and strategies for research support.
Agenda: Open—March 20, (9 a.m. to 11:45 a.m.). Status of Engineering Division. Report on Engineering Chemistry and Energetics Section with questions and answers. Program reports (Chemical Processes, Heat Transfer, and Particulate and Multiphase Processes) with questions and answers. Closed—March 20, (1 p.m. to 5 p.m.). In depth program review including examination of grant proposal, files, and declination files. Open—March 21, (9 a.m. to 4 p.m.). Discussion on technical subject areas. Discussion on community interaction and program operations.
Reason for closing: The meeting will deal with a review of grants and declinations in which the Subcommittee will review materials containing the names of applicant institutions and principal investigations and privileged information contained in declined proposals. This meeting will also include a review of the peer review documentation pertaining to applicants. Any non-exempt material that may be discussed at this meeting (proposals that have been awarded) will be inextricably interwind with the discussion of exempt material and no further separation is practical. 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 Director, NSF, in accordance with the provisions of Section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act.

Dated: February 28, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-5627 Filed 3-2-78; 8:45 am]

[9555-01]

SUBCOMMITTEE ON METALLURGY AND MATERIALS OF THE ADVISORY COMMITTEE FOR MATERIALS RESEARCH

Amended Meeting

The Subcommittee on Metallurgy and Materials is holding a meeting in Washington, D.C., on March 6 and 7, 1978. Please change the time the meeting is to begin on March 7 from 9 a.m. to 8:30 a.m. There are no other changes in the meeting.

The notice for this meeting appeared in the FEDERAL REGISTER on February 17, 1978, FR Doc. 78-4457, Vol. 43, No. 34.

M. REBECCA WINKLER,
Committee Management Coordinator.

FEBRUARY 28, 1978.

[FR Doc. 78-5628 Filed 3-2-78; 8:45 am]

[7555-01]

SUBCOMMITTEE TO REVIEW THE ATOMIC, MOLECULAR, AND PLASMA PHYSICS PROGRAM

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

ADVISORY COMMITTEE FOR PHYSICS; SUBCOMMITTEE TO REVIEW THE ATOMIC, MOLECULAR, AND PLASMA PHYSICS PROGRAM

Date and time: March 20-21, 1978; 9 a.m. to 5 p.m. each day.
Place: Rooms 340 and 341, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting. Closed.
Contact person: Dr. Laura P. Bautz, Senior Staff Associate, Division of Physics, Room 341, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4175.
Purpose of subcommittee: To provide program oversight concerning NSF support for research in atomic, molecular, and plasma physics.
Agenda: To review NSF Atomic, Molecular, and Plasma Physics Program documentation as part of the program oversight function.
Reason for closing: The meeting will deal with a review of grants and declinations in which the Subcommittee will review materials containing the names of applicant institutions and principal investigators and privileged information from the files pertaining to the proposals. The meeting will

also include a review of the peer review documentation pertaining to applicants. 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 Director, NSF, pursuant to provisions of section 10(d) of the Federal Advisory Committee Act..

M. REBECCA WINKLER,
Committee Management Coordinator.

FEBRUARY 28, 1978

[FR Doc. 78-5629 Filed 3-2-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

SUBCOMMITTEE ON ELECTRICAL SYSTEMS, CONTROL AND INSTRUMENTATION AND SUBCOMMITTEE ON ARKANSAS NUCLEAR ONE, UNIT NO. 2

Meeting

The ACRS Subcommittee on Electrical Systems, Control and Instrumentation, and the Subcommittee on Arkansas Nuclear One, Unit No. 2 will hold a joint meeting on March 20, 1978, in Room 1046, 1717 H St. NW., Washington, D.C. 20555 to continue the review of the Combustion Engineering Core Protecting Calculator System to be used on Arkansas Nuclear One, Unit No. 2, and other Combustion Engineering-type nuclear powerplants, and to continue the review of the application of the Arkansas Power and Light Co. for an operating license for Arkansas Nuclear One, Unit No. 2.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977, page 56972, 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 subcommittees, their consultants, and staff. Persons desiring to make oral statements should notify the designated Federal employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: Monday, March 20, 1978, 8:30 a.m. until the conclusion of business.

The subcommittees may meet in executive session, with any of their consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full committee.

At the conclusion of the executive session, the subcommittees will hear presentations by and hold discussions with representatives of the NRC staff, Combustion Engineering, Inc., the Arkansas Power and Light Co., and their consultants, pertinent to the above topics. The subcommittees may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full committee.

In addition, it may be necessary for the subcommittees to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the designated Federal employee for this meeting, Mr. Gary R. Quittschreiber (202-634-1374), between 8:15 a.m. and 5 p.m., e.s.t.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and, regarding Arkansas Nuclear One, Unit No. 2, at the Arkansas Polytechnic College, Russellville, Ark. 72801.

Dated: February 28, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-5643 Filed 3-2-78; 8:45 am]

[7590-01]

[Docket Nos. 50-329 and 50-330]

CONSUMERS POWER CO. (MIDLAND PLANT, UNITS 1 AND 2)

Receipt of Application for Facility Operating Licenses

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has docketed a portion of an application for facility operating licenses from Consumers Power Co. (the applicant) which would authorize the applicant to possess, use, and operate two pressurized water nuclear reactors (the facilities), located on the applicant's site in Midland County, Mich. Each unit would operate at a reactor core power level of 2452 megawatts thermal. Construction of the facilities was authorized by Construction Permits Nos. CPPR-81 and CPPR-82, issued by the Atomic Energy Commission[1] on December 15, 1972. Construction of Unit 1 (CPPR-81) is anticipated to be completed by October 1, 1982, and Unit 2 (CPPR-82) by October 1, 1981.

In accordance with an exemption granted the applicant by the Commission on November 10, 1977, the applicant will submit an Environmental Report on March 1, 1978. The portion of the application docketed by the Commission on November 17, 1977, consisted of the Final Safety Analysis Report, which is currently undergoing review. Upon receipt of the Environmental Report, the Commission will notice an opportunity for hearing on radiological safety and environmental issues to be considered during the review. After the Environmental Report has been received and analyzed by the Commission's Director of Nuclear Reactor Regulation or his designee, a draft environmental statement will be prepared by the Commission's staff. Upon preparation of the draft environmental statement, the Commission will cause to be published in the FEDERAL REGISTER a notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The draft environmental statement will focus only on matters which differ from those previously discussed in the final environmental statement prepared in connection with the issuance of the construction permits. Upon consideration of comments submitted with respect to the draft environmental statement, the staff will prepare a final environmental statement, the availability of which will be noticed in the FEDERAL REGISTER.

The Commission will consider the issuance of facility operating licenses to Consumers Power Co. which would authorize the applicant to possess, use, and operate the Midland Plant, Units 1 and 2.

For further details pertinent to the matters under consideration, see the application for the facility operating licenses dated August 29, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Grace Dow Memorial Library, 1710 West St. Andrews Road, Midland, Mich. 48640. Additionally, all correspondence documenting the staff's review of the application is available at these locations. As they become available, the following docu-

[1] Pursuant to the Energy Reorganization Act of 1974, as amended, the Atomic Energy Commission (AEC) was abolished. The Nuclear Regulatory Commission assumed the licensing and related regulatory functions of the AEC.

ments may be inspected at the above locations: (1) The safety evaluation report prepared by the Office of Nuclear Reactor Regulation; (2) the draft environmental statement; (3) the final environmental statement; (4) the report of the Advisory Committee on Reactor Safeguards (ACRS) on the application for facility operating licenses; (5) the proposed facility operating licenses; and (6) the technical specifications, which will be attached to the proposed facility operating licenses.

Dated at Bethesda, Md., this 27th day of February 1978.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
Chief, Light Water Reactors Branch 4, Division of Project Management.

[FR Doc. 78-5645 Filed 3-2-78; 8:45 am]

[7590-01]

[Docket Nos. STN 50-510 and STN 50-511]

GULF STATES UTILITIES CO.

Blue Hills Stations, Units 1 and 2

Reconstitution of Board

Frederic J. Coufal, Esq., was Chairman of the Atomic Safety and licensing Board for the above proceeding. Because of a schedule conflict, Mr. Coufal is unable to continue his service on this Board.

Accordingly, Marshall E. Miller, Esq., whose address is Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Md., this 27th day of February 1978.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 78-5646 Filed 3-2-78; 8:45 am]

[7590-01]

[Docket Nos. 50-498A and 50-499A]

HOUSTON LIGHTING & POWER CO., ET AL.

Receipt of Attorney General's Advice

In the matter of Houston Lighting & Power Co., Public Service Board of San Antonio, City of Austin, and Central Power & Light Co.

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, a letter of advice from the Attorney General of the United States, dated February 21, 1978, a copy of which is attached as Appendix A.

A notice stating that any person whose interest may be affected by this proceeding will have the opportunity to intervene on the antitrust aspects of this application pursuant to and in accordance with § 2.714 of the Commission's "Rules of Practice," 10 CFR Part 2, will be published at such time as the Commission deems appropriate.

For the Nuclear Regulatory Commission.

JEROME SALTZMAN,
Chief, Antitrust and Indemnity Group, Nuclear Reactor Regulations.

APPENDIX A

HOUSTON LIGHTING & POWER CO., PUBLIC SERVICE BOARD OF SAN ANTONIO, CITY OF AUSTIN, CENTRAL POWER & LIGHT CO., SOUTH TEXAS PROJECT, UNITS NOS. 1 AND 2

[Docket Nos. 50-498A and 50-499A]

This responds to your letter of August 25, 1977, which seeks our advice on the competitive implications of issuing an operating license in the above captioned matter, pursuant to the Commission's determination under section 105(c)(2) of the Atomic Energy Act that changed circumstances in the licensee's activities make further antitrust review advisable.

A. Status of the Houston Lighting & Power Application

The South Texas Project (STP), located southwest of Houston, Tex. in Matagorda County, will consist of two 1,250 mw nuclear powered generating units. There are four participants in the STP, each of whom will own undivided interests as tenants in common: Houston Lighting & Power (HL&P) will own 30.8 percent and is the project manager; the City Public Service Board of San Antonio will own 28 percent; Central Power & Light (CP&L) will own 25.2 percent; and the City of Austin will own 16 percent. The addition of the STP will increase the combined generating capacity of the participants by approximately 15 percent and thus represents an important and substantial addition to the baseload capacity of the participants.

On October 22, 1974, the Department, after conducting an antitrust review of this nuclear plant in connection with HL&P's application for a construction permit, advised the NRC that an antitrust hearing would not be necessary. A construction permit was issued for the plant and, in early 1976 the construction permit proceeding was formally closed.

At the time of our prior letter of advice most of the electric systems in Texas interconnected and coordinated with one another to their satisfaction in the Texas Interconnected System (TIS). TIS was a group of nine electric systems interconnected through high voltage transmission facilities that operated throughout most of the state of Texas. TIS was comprised of six privately-owned and three publicly-owned systems. The privately-owned systems were Dallas Power & Light Co., Texas Electric Service Co., and Texas Power & Light Co.,[1] Houston Lighting & Power Co. (HL&P), Central Power & Light Co. (CP&L), and West Texas Utilities Co. (WTU). The three publicly-owned electric systems were Lower Colorado River Authority, City of Austin, and City Public Service Board of San Antonio.

As of October 22, 1974, TIS was exclusively an intrastate system; none of its members was interconnected with an electric utility outside Texas so as to be subject to the jurisdiction of the Federal Power Commission, and interconnection contracts among TIS members were conditioned specifically to preclude any interstate connections. In the absence of complaints from any source, the Department had expressed no view as to the legality or propriety of this "intrastate only" policy.[2]

In May 1976, two principal members of TIS, CP&L, and WTU, commenced to operate in interstate commerce. HL&P and TU, acting pursuant to the contractual conditions noted above, immediately opened their electrical connections with CP&L, WTU, and other Texas systems which were also interconnected with CP&L and WTU. CP&L then filed a petition at the NRC to intervene and to hold an antitrust hearing. In connection with that petition the NRC, by letter of August 3, 1976, requested the Department's advice as to whether there were compelling circumstances which warranted an antitrust review prior to the filing of an operating license application. The Department responded on January 25, 1977, and advised that, on the basis of the situation then existing

"—with restrictions on interutility coordination resulting from the division of the utilities in the state into two groups, premised on intrastate and interstate operation respectively, with TIS eliminated as a coordinating vehicle, and with questions raised as to the viability of planned participation in the nuclear units—"

an antitrust hearing was warranted.

After transmittal of our January 25, 1977 letter, the Commission, by Memorandum and Order dated June 15, 1977, ruled that it did not have jurisdiction to order a hearing prior to HL&P's filing an application for an operating license. The Commission did, however, make a determination that a further antitrust review would be advisable because of the significant changes in the licensee's activities that accurred after completion of the antitrust review at the construction permit stage. That determination, and HL&P's subsequent filing of an operating license application, provided the basis for you to once more seek the Department's antitrust advice with respect to the South Texas Project.

Your letter of August 25, 1977 requires the Department for the first time to render antitrust advice under the proviso of section 105(c)(2). That proviso states that the Attorney General's antitrust advice will not be sought at the operating license stage where a construction permit has issued, unless the Commission determines such review is "advisable on the ground that significant changes in the licensee's activities or pro-

[1] Dallas Power & Light, Texas Electric Service and Texas Power & Light are the operating subsidiaries of Texas Utilities Co. When used herein, "TU" refers to Texas Utilities Co. and its various operating and service subsidiary companies.

[2] See condition 11 of the license conditions attached to the Comanche Peak Steam Electric Station license, AEC Docket Nos. 50-445 and 50-446.

posed activities have occurred subsequent to the previous review * * * in connection with the construction permit for the facility."[3] Once the Commission has made the requisite determination then the Attorney General must conduct his review as contemplated by section 105(c)(1). That section provides that the Attorney General shall "render such advice to the Commission as he determines to be appropriate in regard to the finding to be made by the Commission pursuant to paragraph (5) of this subsection. Such advice shall include an explanatory statement as to the reasons or basis therefor." Thus, the Department's antitrust review at the operating license stage is no different than the review it would conduct at the construction permit stage and would not require the application of a standard different from that contemplated in section 105(c)(5); that is whether there is a reasonable probability that the activities under the license would create or maintain a situation inconsistent with the antitrust laws.

It should be noted at the outset that since the Department's advice letter of January 25, 1977, the members of TIS have reestablished their interconnections and are operating in much the same manner as they were at the time of our 1974 advice letters. The present situation is not voluntary, however, but is the result of an order of the Texas Public Utility Commission (TPUC), a state regulatory agency established in 1976 pursuant to the Public Utility Regulatory Act.[4] The TPUC, in May of 1977, ordered the members of TIS to reestablish the interconnections that existed prior to May 3, 1976. Since HL&P and TU were refusing to interconnect with any utility operating in interstate commerce, the TPUC ordered the utilities operating in interstate commerce to cease such operations and to reestablish interconnection with HL&P and TU. For the present, this has eliminated the severe operating problems that confronted the interstate utilities at the time of our January 25, 1977, advice letter.

B. The Competitive Situation

1. *The Department's Prior Antitrust Reviews.* Any analysis of present antitrust concerns must begin with the Department's prior antitrust review. The Department of Justice previously submitted to the Nuclear Regulatory Commission or its predecessor, the Atomic Energy Commission, antitrust advice with regard to three different construction permit applications that are relevant to the instant review. The Department first examined competitive relationships of electric utilities within Texas in connection with the application for Comanche Peak Steam Electric Station, AEC Docket Nos. 50-445 and 50-446. In the course of that inquiry, the Department determined that various electric systems in Texas had formed the Texas Interconnected System (TIS).

As noted above, TIS was composed of nine members. HL&P was the dominant member in the southern portion of TIS and TU was the dominant member in the northern portion. Together they owned approximately 75 percent of the generating capacity in TIS, accounted for approximately 75 percent of kwhr sales of electricity, and, more importantly, their service areas and transmission facilities were strategically located between the systems in south and central Texas with with which they were interconnected and other systems that were not members of TIS to the north and east. Thus, HL&P and TU offered the only realistic opportunity for interconnection to these systems.

The members of TIS, up to that time, had not engaged in a great deal of coordinated development outside of that carried on between the integrated systems in TU. The principal reason for such relative independence was that the ready availability of inexpensive natural gas made extensive coordination unnecessary. A utility could produce a low cost reliable source of bulk power and thereby maintain its competitive position simply by installing gas-fired steam generating units. Thus, the Texas utilities enjoyed substantial independence, each installing capacity to meet its own load and reserve needs.

At that time the main function of TIS had been to provide emergency backup between the interconnected utilities and thus to increase the reliability of participants. Some cost savings were also realized. Members of TIS also conducted various studies relating to the need for, and the effects of, any future transmission and generation changes planned by the members. Thus, membership in TIS provided each member system the opportunity to obtain various benefits from coordination that were not available to non-members. For example, the 1962 power interchange agreement between HL&P and TU provided for a form of staggered generation additions to obtain "certain mutual advantages in investment, efficiency and operation."

In the past, membership in TIS had not been available to all of the electric utility systems within Texas. It was the Department's view that membership in TIS was essential if the smaller electric systems were to compete effectively with the larger systems that were members of TIS. Thus, the Department sought to obtain for the smaller systems greater interconnection and coordination opportunities with the larger systems. In the Department's letter of advice concerning the Comanche Peak nuclear units, dated January 17, 1974, we advised that no hearing would be necessary if the Commission would impose certain license conditions, agreed upon by the applicant, that were designed to afford other utilities the opportunity for ownership participation in the Comanche Peak nuclear units, coordination and sharing of reserves with TU, and transmission services over TU facilities. The construction permit was subsequently issued with those license conditions attached.

The Department submitted its second advice letter on May 17, 1974, in connection with the Allens Creek Nuclear Generating Station, AEC Docket Nos. 50-466A and 50-467A. The application to construct the Allens Creek Station was filed by HL&P. In its letter, the Department noted that the restrictions on membership within TIS had recently changed and that membership was being made available to other systems. The Department also stated as follows: The Department has uncovered no evidence that would indicate that Applicant is attempting to prevent participation in the joint ownership of nuclear facilities by any system or is otherwise presently impairing the competitive opportunities of other systems.

The Department's advice letter in Allens Creek concluded that no antitrust hearing was necessary.

The Department rendered its third advice letter on October 22, 1974, with regard to the construction permit application for the instant South Texas Project. In that letter of advice, the Department again noted that the situation involving limitations on membership in TIS had recently changed and that membership in TIS was being made available to other systems, and concluded that no antitrust hearing was warranted.

As noted above, the members of TIS operated wholly within the state and were not interconnected with systems outside the state. Thus, TIS members were not subject to regulation by the Federal Power Commission, (nor at the time, were they subject to any state regulatory authority). In our antitrust reviews of the previous applications, the Department had encountered no claim by any electric system that the intrastate only operation of HL&P or TU was having an anticompetitive effect.

2. *Market Conditions After 1974.* In the past, utilities in Texas have used natural gas as their main and sometimes only source of fuel to generate their power needs. The fuel situation in Texas has changed drastically since our prior letters of advice. The price of natural gas in Texas has increased substantially over what it was in 1973, and the use of natural gas as a boiler fuel must be cut back by 1985 to 75 percent of the greater of a utility's 1974 or 1975 consumption level. This changing fuel situation has had a significant impact on the competitive posture of the various utilities in Texas. While every utility has been faced with rapid increases in its costs of power, the smaller utilities dependent on natural gas have been the hardest hit. These utilities must switch to alternatives, such as coal, lignite, and nuclear fueled generation, if they are to continue in existence, let alone be able to compete with their larger neighbors, such as HL&P and TU. The switch from natural gas to an alternative fuel will require joint participation arrangements in large base load generating resources, since economies of scale will play a much more important role than in the past. These resources must be tied together through transmission service arrangements or the construction of new transmission facilities.

In order to maintain their competitive viability these systems must engage in a degree of coordinated operation and development that has not heretofore existed in the State of Texas. This coordination cannot be done independently of the two dominant Texas utilities, HL&P and TU, without incurring substantially increased cost, decreased reliability and an erosion of the smaller utilities competitive capabilities.

Thus, in a very real sense the changing fuel situation in the State of Texas has increased the dominance of HLP and TU by increasing the dependence of smaller systems on the generation and transmission facilities of HLP and TU.

The monopoly power of HLP and TU was clearly evidenced by the consequences of their disconnection. During the period from May, 1976, to May, 1977, two separate sys-

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[3] The licensee must have caused, or be reasonably responsible or answerable for the significant changes. Joint Committee on Atomic Energy, S. Rep. No. 91-1247, 91st Cong., 2d Sess. 29 (1970).

In addition to requesting our advice pursuant to section 105(c)(2), you have also asked the Department to respond to certain questions raised by the Commission in its June 16, 1977, Order.

[4] Title 32, Art. 1446(c), V.A.C.S.

tems operated in Texas: HL&P, TU and the smaller utilities within their service areas constituted a wholly intrastate interconnected system which operated effectively without significant electrical problems; the other system, which included three of the four participants in the South Texas Project (the cities of Austin and San Antonio, and CP&L) and a number of other utilities, operating in interstate commerce, encountered severe operating difficulties. Without the interconnections with HL&P and TU on the eastern end of the interstate system, reliability of the system suffered, spinning reserves had to be increased and the cost of power to these systems increased. In addition, as noted in our January 25, 1977, letter, utilities that were a part of the intrastate system, such as Brazos Electric Membership Cooperative, could not participate in planned joint generation with utilities that were a part of the interstate systems, such as South Texas Electric Cooperative and Medina Electric Cooperative. Thus, members of TIS, as well as any smaller utility in the service area of a member of TIS, were unable effectively to plan and develop large scale bulk power generation, and particularly nuclear generation, either alone or in combination with other utilities, and opportunities to coordinate reserves and to engage in purchases, sales and exchanges of bulk power were restricted.

C. The Competitive Implication of the Intrastate Only Agreement Under Current Market Conditions[8]

It is in the context of changed market conditions—the increased dominance of HL&P and TU, and the effects of their having exercised such power to refuse to deal with utilities operating in interstate commerce—that the intrastate only agreement of HL&P and TU must be analyzed. The clear intent of the agreement is to prevent the parties from entering into interstate commerce. The enforcement mechanism is the underlying right of the dominant utilities to refuse to deal with any utility that breaches the agreement. In short, it is this threat of boycott which reinforces the intrastate only agreement.

The competitive consequences of this agreement are the same as those that flow from any group boycott: Actual and potential competition are injured. Actual competition suffers when existing systems are disconnected from HL&P and TU, as occurred during May 1976 to May 1977. Potential competition is foreclosed by reason of adherence to the unconditional, across-the-board ban of all interstate connections regardless of their technological and economic feasibility.

Because the intrastate only agreement has effectively precluded serious attempts to establish interstate connections, sources of potential competition must be inferred from facts showing the geographic proximity of interstate utilities, and the possible need or incentive to establish connections with such systems.

In the areas in which HL&P and TU face competition or could reasonably compete, there are a number of privately owned and publicly owned systems that generate and market electric power, and a number of distribution-only systems purchasing power at wholesale from one or more generation and transmission systems marketing firm bulk power. Some of these generating entities operate in interstate commerce, such as Southwestern Electric Power Co. (SWEPCO), Gulf States Utilities (GSU), Western Farmers Cooperative (in Oklahoma), and Southwestern Power Administration (an agency of the U.S. Government). These interstate systems are sources of potential competition for the patronage of the approximately 150 distribution systems in Texas that purchase power at wholesale.

In addition to the potential for increased competition at the wholesale level, there appear to exist substantial opportunities for exchanges of power between the interstate and intrastate utilities.

Utilities in the South West Power Pool are faced with declining reserve margins and will need to purchase generating capacity to maintain adequate reliability until additional generation can be constructed. For example, Western Farmers Cooperative sought to purchase 300 to 400 mw of surplus generating capacity from TU but was unable to do so because of the intrastate only restriction. A number of the utilities in Texas, including competitors of HL&P and TU, have a surplus of generating capacity. The intrastate only policy of HL&P and TU would prevent any utilities with which they are interconnected from marketing any surplus capacity to the interstate utilities. For example, the City of Bryan, Tex. has recently installed a new generating unit bringing its total generating capacity to approximately 225 mw. On the other hand, because of its higher power cost the city is losing College Station as a wholesale customer. College Station represents approximately 27 percent of Bryan's electric load. The city's remaining customers will have to absorb the cost of this excess capacity if it is not sold, thus further eroding Bryan's ability to compete. Although Gulf States Utilities will have high voltage transmission lines in the area and may constitute a ready market for the capacity, the city would not be able to sell its surplus capacity to Gulf States without violating the intrastate only restriction and risking disconnection from the other members of TIS.

The intrastate only restrictions could also prevent municipal and cooperative systems in Texas from being able to receive an increased share of low cost Southwestern Power Administration (SPA) power should additional amounts of capacity become available. The SPA may also constitute a market for the surplus capacity noted above since, when it is faced with low water levels on its system, it must purchase deficiency power in order to meet its contractual obligations to its preference customers.

Thus the intrastate only restriction, by preventing utilities within the Texas intrastate system from engaging in power exchange transactions with utilities outside the intrastate system, could foreclose access to a substantial part of the market for power exchange services.

Given current market conditions the intrastate only agreement may serve to unreasonably foreclose a significant degree of potential competition. The nature and extent of such foreclosure can only be established after a full evidentiary proceeding.

So long as HL&P intends that the operation of the jointly owned South Texas Project be in accordance with the terms of the intrastate restrictions imposed by HL&P and the TU system, HL&P's activities under the nuclear license in furtherance of that restriction can maintain and enhance a situation inconsistent with the antitrust laws contrary to section 105 of the Atomic Energy Act.

D. Additional Points Raised in Your Letter Requesting Advice

In your letter of August 25, 1977, you requested that the Department provide "an evaluation of the legal significance of the various facts and contentions dealt with in the Attorney General's letter of January 25, 1977."

At the time of the Department's letter of January 25, 1977, HL&P and TU, the two dominant utilities in Texas, were refusing to interconnect with other utilities (utilities with which they had historically maintained interconnections); that refusal was having a direct and substantial adverse effect on those utilities' power supply costs, reliability and their ability to remain competitive.

HL&P's refusal to deal with any interstate system went beyond a mere unilateral announcement of its decision to that effect. See *United States* v. *Parke, Davis & Co.*, 362 U.S. 29 (1960); *Albrecht* v. *Herald Co.*, 390 U.S. 145, 149-150 (1968). Its action was part of a course of conduct whereby HL&P had joined with the other dominant system within Texas to use their combined power to require other electric utility systems to act in accordance with their direction. The concerted action by HL&P and TU deprived competitors of a valuable business service needed in order to compete effectively and thus raised serious antitrust issues which the Department viewed as warranting a hearing. *Silver* v. *New York Stock Exchange*, 373 U.S. 341 (1969); *Associated Press* v. *United States*, 362 U.S. 1 (1945); *Eastern States Retail Lumber Dealers' Ass'n* v. *United States*, 234 U.S. 600, 612 (1914).

Your letter of August 25, 1977, also asks that the Department "advise as to why enforcement of a contract right, known to all parties and the Assistant Attorney General at the time of the construction permit antitrust review, may constitute 'changed circumstances' such as may justify the imposition of antitrust conditions."

While the Department was aware of the existence of the interstate only restrictions at the time of its prior advice, the Department was not aware of any anticompetitive effect or anticompetitive injury resulting from those restrictions. Nevertheless, the Department did recognize that possible antitrust consequences might flow from such restrictions and included in condition 11 of the Comanche Peak construction permit a statement that continuance of the policy [of intrastate only operation] was not to be interpreted to reflect any view as to the "legality or propriety of said policy."

In evaluating the competitive significance of any course of conduct, careful attention must be given to the commercial context within which that conduct occurs. Changed circumstances necessarily imply that, where a provision may be seen to have had a neutral impact in one set of circumstances, a change in those circumstances later on may reveal the anticompetitive nature of the same provision. The changed circumstances described above show very significant anticompetitive effects have arisen since the Department's original advice letter. While

[8] This section analyzes the competitive implications of a private agreement which includes as parties the dominant utilities in the State of Texas. The significance of the TPUC order, noted supra, which to some extent appears to presently supercede this agreement, is discussed in section E, infra.

HL&P did not cause, or cannot be held answerable for the increased costs of fuel to its competitors, HL&P is the cause and is answerable for the adverse effects of disconnecting from the smaller competitors that were operating in interstate commerce. Moreover, the basis for such action derived from the intrastate only agreement. Thus, on the basis of events occurring after the Department's original advice letter it can now be clearly seen that, with the increased importance of economic coordination brought about by the fuel situation, and the corresponding increased need and opportunity for coordination between interstate and intrastate utilities, HL&P, together with TU, by agreeing not to interconnect with utilities operating in interstate commerce have the power to and may adversely affect the future competitive situation, in or contiguous to the state of Texas, both between the intrastate systems and between the interstate and intrastate systems.

Certainly, as a matter of law, the Commission is not foreclosed from considering at this time the intrastate only restrictions. The mere fact that the Commission may conclude at any particular point in time that antitrust enforcement action is not advisable does not foreclose it from subsequently acting to confront a situation it then finds to be inconsistent with the antitrust laws if it otherwise has jurisdiction to act. *U.S.* v. *New Orleans Chapter, Associated General Contractors of America, Inc.*, 382 U.S. 17 (1965). Not even trade arrangements which have been long tolerated thereby require any vested immunity under the Sherman Act. *Times-Picayune Publishing Co.* v. *U.S., 345 U.S. 594 (1953). Even contemplated actions, such as mergers, once examined and not contested, can later be challenged if the dictates of the public interest so require. U.S.* v. *Jos. Schlitz Brewing Co.*, 253 F. Supp 129 (N.D. Cal. 1966) *Aff'd*, 385 U.S. 37 (1966).

In the Department's letter of January 17, 1974, pertaining to the Commanche Peak Generating Station, it was expressly indicated (in condition No. 11 of that license) that no view was then being taken as to the legality of the policy foreclosing transmission of power in interstate commerce. As the court noted in *U.S.* v. *Grinnell Corp.*, 30 F.R.D. 358 (D. R.I. 1962), whenever the Government reserves its future right to take action, any such communication of policy is not a final disposition of the matter at issue. Put succinctly, the obligation to protect the public interest can never be estopped by inaction at an earlier point.

E. The Proceedings in Other Forums

Your letter of August 25 finally asks that the Department provide "an evaluation of the probable effects of proceedings in other forums, as they have then progressed, in developing his [our] recommendations concerning further antitrust hearings." There are four proceedings in other forums, i.e., the Securities and Exchange Commission (SEC), the Federal Power Commission (FPC), the U.S. District Court in Dallas, Tex., and the Texas Public Utility Commission (TPUC), whose impact must be analyzed.

The proceeding before the SEC commenced in 1974 after several Oklahoma cooperatives and municipalities complained that the operating subsidiaries of Central & South West Corp. (C&SW), which include CP&L and WTU, were not operationally integrated and, therefore, were in violation of the Public Utility Holding Company Act of 1935. The SEC instituted hearings which, under the statute, involve as the sole issue:

Whether the electric utilities facilities of subsidiaries of Central & South West Corp. supplemented as planned or proposed are capable of being economically operated as a single integrated and coordinated system and whether the proposals presented by Central & South West Corp. and its subsidiaries, with any amendments or modifications which may be developed during the proceeding, represent a reasonable prospect of achieving such economical operation, and what contingencies, if any, may affect carrying out any of such proposals.

Although HL&P and TU are participating in the hearings, it is clear that the SEC has no statutory authority to require that HL&P implement any interconnection plan with CP&L or any other utility; and that it cannot affect the competitive situation in Texas. Moreover, the SEC could not interfere with the NRC's power to remedy anticompetitive situations. Thus, it is our view that the SEC proceeding has no bearing on the question of whether an antitrust hearing before the NRC is necessary.

A proceeding before the FPC (now FERC) was initiated when CP&L filed a petition in May 1976, requesting the FPC to find that CP&L, WTU, TU, and HL&P were operating in interstate commerce and thus were all under the jurisdiction of the FPC. This contention was grounded on the fact that these systems had been interconnected for approximately 8 hours, during which time WTU transmitted power across the Texas border into Oklahoma. The FPC issued an order, finding that, inter alia, CP&L and WTU were jurisdictional but that TU and HL&P were not.[6] This decision is on appeal to the U.S. Court of Appeals, D.C. Circuit. Should the Court of Appeals reverse and hold that HL&P and TU are subject to the jurisdiction of the FERC then, as a practical matter, the intrastate only policy of these parties will have been ended. On the other hand, a more likely course for the Court, if it does not affirm, would be to remand to FERC for an evidentiary hearing. Neither affirmance nor remand would relieve the NRC of its statutory duty to remedy an anticompetitive situation nor preclude the Commission from doing so. The Department views the outcome of the FERC proceeding as too speculative to warrant much weight in our recommendation.

The third proceeding involves a civil complaint which has been filed by CP&L in the U.S. District Court in Dallas, Tex. CP&L alleges that HL&P and TU, by refusing to deal with utilities in interstate commerce, have engaged in a conspiracy in violation of section 1 of the Sherman Act and an attempt to monopolize in violation of section 2 of the Sherman Act. The legality of the intrastate only agreement is squarely before the district court. It is conceivable, therefore, that the court could find such agreement unlawful and enter a permanent injunction against it. In that event, NRC action might become unnecessary. On the other hand the proceeding involves two groups of large investor-owned systems each seeking to protect its own private corporate interests. They might settle their differences without resolving any of the antitrust concerns raised by the Department. Moreover, even if the defendants prevail in the district court the question of the legality of intrastate only agreements would not be settled since both the parties and legal standards are different in that case than they would be before the NRC.

While this is the only proceeding which may consider some of the same issues as would be raised before the NRC, we cannot be certain that a decision of the District Court will be dispositive. The Department believes it would be unwise and inappropriate for the NRC to defer to the district court proceeding. It must be remembered that this—the operating license stage—is the last opportunity that the NRC has to carry out its statutory mandate to use its licensing authority to prevent the creation or maintenance of a situation inconsistent with the antitrust laws. If the Commission fails to act now it runs the risk of facing an unremediable anticompetitive situation in the future.

A fourth proceeding arose before the TPUC. Until the TPUC was formed in 1976, electric utilities in Texas were not subject ot any statewide regulatory agency and, outside of retail rate regulation by the governing body of the municipalities within which it operated, an electric utility was essentially unregulated.

In January of 1977, HL&P and other utilities in the TIS area petitioned the TPUC, to require WTU and CP&L to cease interstate operation and to reconnect with the intrastate utilities. The TPUC, on May 2, 1977, without any hearings and contrary to its findings of the year before,[7] found that the then existing situation, with WTU, CP&L, and the three public systems operating disconnected from TU and HL&P, was having an adverse impact on the power supply situation in Texas, both in terms of reliability and cost of power. An order was issued requiring WTU to cease transmission of power into the State of Oklahoma and for WTU and CP&L to reestablish interconnection with TU and HL&P. The TPUC thereafter held hearings and, by an amended final order dated July 11, 1977, confirmed its earlier order of May 2, 1977.

The final amended order prohibits all TIS members from disconnecting without TPUC authorization and further restrains any utility system connected with TIS from making connections with utility systems not so connected, unless authorized by Texas law or so ordered by the FPC or the TPUC. The order also provides that TPUC decisions on applications seeking relief from these prohibitions are to be governed by a public interest standard.

CP&L has appealed the TPUC order to the Federal District Court in the Western District of Texas and to a State court. It has not yet been decided which court will ultimately act on the appeal.

At the present time, it is clear that to some extent the TPUC order has superseded, but not validated, the intrastate only agreement of the private utilities. The agreement is superseded in the sense that it is no longer the sheer economic power of

[6] The FPC, in a later order denying a petition for reconsideration, specifically declined to consider antitrust issues that CP&L sought to raise.

[7] After a 1-day hearing in May of 1976, the TPUC made a finding that the situation, with HL&P and TU disconnected from the other TIS members, was not adversely affecting the reliability of any of the utilities. No determination was made as to any economic or competitive effects on any of the utilities.

the parties but rather the force of State law that restrains members of TIS from entering into interstate commerce. The agreement is not validated, however, since the TPUC expressly disclaimed any jurisdiction to determine whether the subject contracts were void or voidable. Therefore, while presently supplanted by a TPUC order, the private intrastate only agreements remain in existance and are capable of future implementation.

There are two reasons why the NRC ought to order an antitrust hearing in spite of the TPUC order. First, the Commission is confronted with a private agreement that raises serious competitive issues, that has not been abandoned by the parties and that has yet to be enjoined or declared unlawful. There is a real question as to whether the TPUC restraint on interstate connections is valid under the commerce clause of the United States Constitution. (Art. 1, section 8, clause 3.)* If on review, a court should abrogate that portion of the TPUC order, the TPUC might lift its injunction against disconnections from TIS. The point is simply that the private agreement may again become fully operative.

Given that the NRC has a nondelegable statutory responsibility to use its licensing authority to prevent the creation or maintenance of a situation inconsistent with the antitrust laws, it cannot ignore or look to others to prevent or correct an anticompetitive situation. Moreover, under its June 11, 1977, order in which it held itself to have only limited continuing antitrust authority the Commission will have no later opportunity to exercise its power since its jurisdiction to act is confined to the licensing stages.

Second, the TPUC may enforce its order in a manner which basically vindicates the operation of the intrastate only agreement. Arbitrary denials of applications for interstate connections can have the same anticompetitive effects as those that result from the threat of boycott. While we do not assert that the TPUC will act arbitrarily we also do not believe that the NRC can ignore its responsibility to protect interstate commerce from unreasonable competitive restraints—even those imposed by a State agency. The NRC can prevent the TPUC from improperly restricting competition by exercising its authority to condemn the intrastate only agreement and by reserving in license conditions the right to review and to countermand unreasonable refusals or failures to interconnect with utilities operating, or desiring to operate in interstate commerce, even where such actions are the result of TPUC decisions. This would not place the NRC in conflict with the TPUC since the Texas Public Utility Regulatory Act expressly provides that "No rule or order of the regulatory authority shall be in conflict with the rulings of any federal regulatory body."*

F. Conclusion

In view of the above legal and factual analysis, and the inability of the Department to conclude that the same issues raised herein will necessarily be resolved satisfactorily in another forum, the Department renews its advice that an antitrust hearing be held on the applicant's operating license. The purpose of the hearing would be to determine whether in order to remedy a situation inconsistent with the antitrust laws HL&P should be precluded from adhering to the intrastate only agreement or from unreasonably refusing to engage in interstate connections. At the time of the hearing, the Department of Justice may wish to participate to elaborate upon its views expressed in this letter, to offer evidence, to connect up legal theories and to evaluate and respond to submissions made by the parties.

[FR Doc. 78-5644 Filed 3-2-78; 8:45 am]

*See *Penn.* v. *West Virginia*, 262 U.S. 533 (1923); *FPC* v. *Corporation Commission of the State of Oklahoma*, 362 F. Supp. 522 (W. D. Okla. 1973) (three judge court), Sum, aff'd, 415 U.S. 961 (1974).

*Public Utility Regulatory Act, Title 32, Art. 1446(c), § 37 V.A.C.S.

[7590-01]

INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT SAFETY GUIDE

Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operation and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA codes of practice and safety guides are developed in the following way. The IAEA receives and collates relevant existing information used by Member Countries. Using this collation as a starting points, an IAEA Working Group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft code of practice or safety guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the member States. The Senior Advisory Group then considers the Member State comments, again modifies the draft as necessary to reach agreement and forwards it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG—QA6, "Quality Assurance for Design of Nuclear Power Plants," has been developed. An IAEA Working Group, consisting of Mr. S. K. Hellman (The Ralph M. Parsons Co.) of the United States of America, Mr. A. Kakodkar of India and Mr. L. Laurent of France developed this draft from an IAEA collation during a meeting on January 30-February 3, 1978, and we are soliciting public comment on it. Comments on this draft received by March 31, 1978 will be useful to the U.S. representatives to the Technical Review Committee and Senior Advisory Group in evaluating its adequacy prior to the next IAEA discussion.

Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a).)

Dated at Rockville, Maryland this 24th day of February 1978.

For the Nuclear Regulatory Commission.

RAY G. SMITH,
Deputy Director
Office of Standards Development.

[FR Doc. 78-5647 Filed 3-2-78; 8:45 am]

[7590-01]

REVISION TO THE STANDARD REVIEW PLAN (NUREG-75/087)

Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to Section No. 9.2.4 of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield,

Va. 22161. The domestic price is $70.00, including first-year supplements. Annual subscriptions for supplements alone are $30.00. Individual sections are available at current prices. The domestic price for Revision No. 1 to Section No. 9.2.4 is $4.00. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street NW., Washington, D.C. 20555.

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

Dated at Bethesda this 24th day of February 1978.

For the U.S. Nuclear Regulatory Commission.

ROGER J. MATTSON,
Director, Division of Systems Safety, Office of Nuclear Reactor Regulation.

[FR Doc. 78-5648 Filed 3-2-78; 8:45 am]

[6820-27]

OFFICE OF THE FEDERAL REGISTER

REGULATIONS DRAFTING WORKSHOPS SCHEDULED

May and June 1978

The Regulations Drafting Workshop covers the following material:

1. Drafting conventions, preferred usage, the rule of consistency.
2. Drafting exercises—proposed and final rules and preambles.
3. Review techniques that improve your work.
4. What you can do to make regulations easier to read and to use.

The aim of this workshop is to improve the quality of Federal regulations by teaching you how to design and draft clear documents.

WHO: Any Federal employee who drafts documents or who reviews documents for substance that are published in the FEDERAL REGISTER.

WHEN: May 22, 23, 24, 25, 1978 for people who are familiar with the rulemaking process and want to examine course material in depth.

June 26, 27, 28, 29, 1978, the same course will be given for people who are new to the Federal Government or to the rulemaking process and want a basic course.

WHERE: 1100 L Street NW., Room 9407, Washington, D.C.

COST: $150 for each person. Send a Form 170 or the training authorization form used by your office to: Special Projects Unit, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

HOW: Each participant must call the Office of the Federal Register, 202-523-4534 to make a reservation in addition to completing the training form.

FOR MORE INFORMATION: Write: Special Projects Unit, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408, or phone 202-523-4534.

Dated: February 28, 1978.

FRED J. EMERY,
Director of the Federal Register.

[FR Doc. 78-5601 Filed 3-2-78; 8:45 am]

[7555-02]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

EARTHQUAKE HAZARDS REDUCTION ADVISORY GROUP

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

Name: Earthquake Hazards Reduction Advisory Group.

Date: March 20, 1978.

Time and place: 9 a.m. to 4 p.m. Room 3104, New Executive Office Building, 17th and Pennsylvania Ave. NW., Washington, D.C. 20500.

Type of meeting: Open.

Contact person: Mr. William Montgomery, Executive Office of the President, Office of Science and Technology Policy, Washington, D.C. 20500, telephone 202-395-4692.

Summary minutes: May be obtained from the Office of Science and Technology Policy, Washington, D.C. 20500.

Purpose of advisory committee: The Office of Science and Technology Policy, in accordance with the statutory mandate to analyze and interpret significant developments and trends in science and technology and relate these to their impact on the achievement of national goals and objectives, is reviewing the activities and plans appropriate to the Federal, State, local governmental units, and the private sector for the implementation of actions derived from a comprehensive program of research in earthquake prediction, earthquake hazards assessment and earthquake disaster mitigation.

Agenda: 9 a.m. to 4 p.m.—A discussion of draft materials prepared as part of the policy review process for the President.

WILLIAM MONTGOMERY,
Executive Officer.

[FR Doc. 78-5703 Filed 3-2-78; 8:45 am]

[3190-01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

[Docket No. 301-12]

TRADE POLICY STAFF COMMITTEE

Termination of Section 301 Review

Pursuant to the regulations of the Office of the Special Representative for Trade Negotiations, as amended, the Trade Policy Staff Committee hereby terminates its review of a petition alleging unfair trade practices by Japan against United States commerce in thrown silk under section 301 of the Trade Act of 1974 (Docket No. 301-12).

On February 14, 1977, the George F. Fisher Co. filed a petition alleging that Japan was discriminating against United States commerce in thrown silk by effectively preventing the entry of such imports from the United States while permitting imports from Korea, the Peoples Republic of China, and Brazil under agreements negotiated with those countries. The petition was published in the FEDERAL REGISTER for Tuesday, March 1, 1977 (42 FR 11935) and the hearing requested by the petitioner was held on March 29, 1977. The office of the Special Representative for Trade Negotiations, through the section 301 Subcommittee, conducted an extensive review of the allegations in the petition. Prior to this review, the Office of the Special Representative for Trade Negotiations had initiated discussions on this matter with Japan; during and subsequent to the review, these discussions were continued. When the discussions with Japan failed to produce a solution to this problem, the United States instituted a complaint against Japan under the dispute settlement provisions of Article XXIII(2) of the General Agreement on Tariffs and Trade (GATT). Discussions with Japan continued during processing of the United States GATT complaint. As a result of these conversations, Japan has agreed to make adjustments satisfactory to the United States.

On the basis of the Japanese measures, the Trade Policy Staff Committee has concluded that action is no longer required under section 301 of the Trade Act of 1974 and that the purposes of the Act have been fulfilled through a bilateral resolution of the dispute.

Therefore, pursuant to regulations governing procedures for complaints under section 301 of the Trade Act of 1974, the Trade Policy Staff Committee now terminates the review of the petition underlying Docket No. 301-12.

WILLIAM B. KELLY, Jr.,
Chairman,
Trade Policy Staff Committee.

[FR Doc. 78-5671 Filed 3-2-78; 8:45 am]

[7715-01]

POSTAL RATE COMMISSION

[Docket No. MC76-5]

BASIC MAIL CLASSIFICATION REFORM SCHEDULE, 1976

FEBRUARY 27, 1978.

Notice is hereby given that pursuant to the Presiding Officer's "Notice Of Deadlines For Filing Objections To Proposed Stipulation And Agreement And Responses Thereto", dated February 27, 1978, a prehearing conference was held on February 23, 1978, to establish procedures for disposition of the settlement agreement submitted to the Commission on January 30, 1978,[1] as provided in the Notice of Proposed Stipulation and Agreement and Ruling Suspending Date for Filing of Testimony Concerning the Scope and Extent of the Domestic Mail Classification Schedule issued on February 3, 1978. During that conference, a tentative schedule for the remainder of the scope and extent phase of this docket was adopted; a copy of that schedule is appended hereto.

Two dates listed on the attached tentative schedule are hereby announced as final and firm deadlines. Parties are put on notice that any objection to the proposed Stipulation and Agreement must be filed by March 15, 1978. As stated on the attached schedule, objections must be accompanied by a brief and/or testimony, which should declare the grounds for the party's opposition with particularity.

As the attached schedule also provides, should any objections with supporting documents be received by the March 15 deadline, reply briefs will be due on April 4, 1978.

DAVID F. HARRIS,
Secretary.

TENTATIVE SCHEDULE SCOPE AND EXTENT PHASE OF DOCKET NO. MC 76-5

February 23—Conference.
February 23—Informal Discovery Begins.
March 15—Deadline for objection to Proposed Settlement. Objections must be accompanied by brief and/or testimony in opposition.
April 4—Reply briefs re Proposed Settlement.
April 11—Deadline for testimony concerning issues in Appendix B of the Stipulation and Agreement.
April 28—Deadline for discovery concerning testimony on Appendix B issues. (Answers due May 18, or 20 days after interrogatory filed, whichever is earlier.)
May 22-26—Hearings.
June 9—Deadline for rebuttal testimony concerning issues in Appendix B of the Stipulation and Agreement.
June 19-23—Hearings on rebuttal testimony.
July 17—Briefs due.
August 4—Reply briefs due.
August 9—Oral Argument (if requested).

[FR Doc. 78-5639 Filed 3-2-78; 8:45 am]

[1] Copies of the Stipulation and Agreement and of the Notice and Ruling issued on February 3, 1978, have been served on the parties of record in this proceeding and are also available for public inspection in the Commission's reading room during regular business hours.

[6820-40]

PRESIDENT'S COMMISSION ON MENTAL HEALTH

TWO-DAY MEETING

In accordance with section 10(a) (2) of the Federal Advisory Committee Act (5 USC Appendix I), announcement is made of the following Presidential Committee meetings scheduled to assemble during the month of March, 1978.

The President's Commission on Mental Health: March 17, 1978—9:30 a.m. to 5:00 p.m.; March 18, 1978—9:30 a.m. to 5:00 p.m. New Executive Office Building, Room 2010, Pennsylvania & 17th Streets NW., Washington, D.C.

Open Meeting

Contact: Mary Ann Orlando, Special Assistant to the Chairman, President's Commission on Mental Health, Room 121, Old Executive Office Building, Washington, D.C. 20500, Telephone 202-456-7100.

Purpose: The President's Commission on Mental Health is a policy recommendation commission composed of 20 members representing a broad spectrum of interested and informed private citizens. The Commission was created by the President by Executive Order No 11973 and was directed to identify the mental health needs of the nation. In particular, the Commission shall seek to identify: how the mentally ill, emotionally distrubed and mentally retarded are being served or underserved and who is affected by such underservice; projected needs for dealing with emotional stress during the next twenty-five years; ways the President, the Congress and the Federal Government may efficiently support the treatment of the underserved mentally ill, emotionally disturbed and mentally retarded; methods for coordinating a unified approach to all mental health services; types of research the Federal Government should support to further prevention and treatment of mental illness and mental retardation; roles of various educational systems, volunteer agencies and other people-helping institutions can perform to minimize emotional disturbance; and what programs will cost, when the money should be spent and how the financing should be divided among Federal, State and local governments, and the private sector. The Commission shall conduct such public hearings, inquiries and studies as may be necessary, and shall submit a preliminary report to the President by September 1, 1977. A final report with recommendations and priorities shall be submitted to the President by April 1, 1978.

Agenda: This meeting will be open to the public. This will be a working session without presentations and the agenda will consist of a general discussion of issues pertaining to the Commission's report to the President.

Substantive program information may be obtained from: Mary Ann Orlando, Special Assistant to the Chairman, The President's Commission on Mental Health, Room 121, Old Executive Office Building, Washington, D.C. 20500, telephone: 202-456-7100.

Attendance by the public will be limited to space available.

Mary Ann Orlando will furnish upon request summaries of the meeting and a roster of the Commission. President's Commission on Mental Health, Room 121, Old Executive Office Building, Washington, D.C. 20500.

BENEDICT J. LATTERI,
Administrative Officer, President's Commission on Mental Health.

FEBRUARY 24, 1978.

[FR Doc. 78-5640 Filed 3-2-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 14500; SR-Amex-77-40]

AMERICAN STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

FEBRUARY 24, 1978.

On January 3, 1978, the American Stock Exchange, Inc. ("AMEX") 86 Trinity Place, New York, N.Y. 10006, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), and Rule 19b-4 thereunder, copies of a proposed rule change to amend paragraph (c)(vii) of Amex Rule 5 which specifies the circumstances under which an Amex member, acting as principal, may effect transactions over-the-counter in equity securities admitted to dealings on that exchange. The proposed amendment expands the current exemption set forth in rule 5(c)(vii) to include stocks in which the Amex has halted trading for more than thirty (30) days.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act Release No. 14386, (January 17, 1978))

and by publication in FEDERAL REGISTER (43 FR 3449 (January 25, 1978)). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were made available to the public at the Commission's Public Reference Room (File No. SR-Amex-77-40).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Amex proposal creates an additional exemption to the exchange's restrictions on off-board principal transactions with respect to any equity security admitted to dealings thereon, and as to which the exchange has halted trading in excess of thirty (30) days. Consequently Amex members may now compete with non-members in making markets, over-the-counter, in such issues. In view of this potential enhancement of competition with respect to market-making in certain Amex-listed issues, the Commission finds good cause for approving the instant proposed rule change prior to the thirtieth day after date of publication of notice of filing thereof.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5558 Filed 3-2-78; 8:45 am]

[8010-01]

[File No. 81-301]

CALIFORNIA FINANCIAL CORP.

Application and Opportunity for Hearing

FEBRUARY 23, 1978.

Notice is hereby given that California Financial Corp. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for exemption from the filing requirements of Sections 13 and 15(d) of the 1934 Act.

The Application states, in part:

1. The Applicant is a Delaware corporation subject to the reporting provisions of Sections 13 and 15(d) of the 1934 Act.

2. On May 24, 1977, the stockholders of the Applicant approved the sale of substantially all of the Applicant's assets and adopted a plan of complete liquidation.

3. The Applicant is no longer an operating business entity and its activities are confined solely to expeditious liquidation.

In the absence of an exemption, Applicant is required to file certain periodic reports with the Commission pursuant to Section 13 and 15(d) of the 1934 Act.

The Applicant argues that no useful purpose would be served in filing the required periodic reports.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street Washington, D.C. 20549.

Notice is further given that any interested person not later than March 20, 1978 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5559 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 34-14502; File No. SR-CBOE-78-1]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on January 23, 1978 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Item 1. *Text of Proposed Rule Change*

Day and Hours of Business

Rule 6.1 (no change)

* * * Interpretations and Policies

.01 The Board of Directors has resolved that, *except under unusual conditions as may be determined by the Board,* hours during which transactions may be made on the exchange shall correspond to the *normal hours for business set forth in the rules* [hours of operations] of the primary exchange listing the stocks underlying CBOE options.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed change was to clarify an ambiguity in the existing language. Questions were raised as to the meaning of such Interpretation in view of the difficulties which the New York Stock Exchange ("NYSE") experienced in commencing operations due to a snow storm on January 20, 1978.

It was determined that such language was never intended to mean that CBOE would not open for trading whenever the NYSE, the primary market for practically all CBOE stocks, was not open. Instead this language was intended to merely prescribe that the regular business hours of the CBOE would correspond to the regular business hours of the NYSE. Consequently, if the NYSE opened late or closed early, CBOE could exercise its judgment as to whether it should open trading before NYSE or close trading after the NYSE closed trading.

The basis for the proposed rules change is contained in section 6(b)(5) of the Act.

Comments were not solicited from members on this proposed rules change.

The CBOE does not believe this proposed rules change imposes any burden upon competition.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submission 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 March 24, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 24, 1978.

[FR Doc. 78-5574 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 34-14501; File No. SR-CBOE-78-3]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 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 February 16, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Floor Procedure Committee of the Chicago Board Options Exchange has, in accordance with the provisions of Interpretation .03 of Rule 6.24, substantially amended the Terminal Order Formats Manual. The revised Manual is hereby filed in its entirety with the Securities and Exchange Commission and supersedes the previously filed Manual.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of this filing is to set forth the changes which have been implemented by the Exchange's Floor Procedure Committee with respect to the uniform manner in which orders for and reports of options transactions are handled by Exchange members and their personnel over telecommunications machinery.

Section 6(b)(5) of the Act provides the basis for the foregoing amendments.

No comments were solicited from the membership of the Exchange regarding the changes to be effected in the Terminal Order Formats Manual.

No burden will be imposed upon competition by the proposed changes to the above manual.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submission 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 March 24, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 24, 1978.

[FR Doc. 78-5575 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 10141; 812-4225]

CONNECTICUT GENERAL LIFE INSURANCE CO., ET AL.

Application for an Order of Exemption

FEBRUARY 27, 1978.

Notice is hereby given that Connecticut General Life Insurance Co. ("CG Life"), a Connecticut stock life insurance company, CG Fund, Inc., CG Income Fund, Inc., CG Money Market Fund, Inc., and CG Municipal Bond Fund, Inc. (the "Funds"), open-end diversified management investment companies registered under the Investment Company Act of 1940 ("Act"), and CG Equity Sales Co. ("Equity Sales"), the principal underwriter of the Funds and a wholly-owned subsidiary of Connecticut General Insurance Corp., the parent corporation of CG Life (collectively referred to as "applicants"), have filed an application on November 17, 1977, and an amendment thereto on February 3, 1978, pursuant to section 6(c) of the Act for an order of exemption from section 22(d) of the Act to the extent necessary to permit inclusion of certain accumulated annuity values, or amounts as to which there is a statement of intention in effect for the purchase of such annuities, in determining the sales loads applicable to Fund share purchases where rights of accumulation, statements of intention, or aggregation of amounts invested are employed. Applicants further request an exemption from the provisions of section 22(d) of the Act to the extent necessary to permit the sales of Fund shares at no-load where purchase payments represent transfers of certain accumulated annuity values within those limitations specified herein. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Purchasers of Fund shares are permitted to reduce the applicable sales load through the use of the right of accumulation, a statement of intention, and aggregation of amounts invested in other Funds. Applicants state that these reductions in sales loads are consistent with the provisions of rule 22d-1 under the Act.

A significant portion of Fund sales involves tax qualified accounts (hereinafter referred to as "retirement plans"). CG Life sells annuity products to retirement plans, providing a guarantee of principal and interest as well as significant insurance guarantees including a minimum death benefit and an annuity purchase rate guarantee. The CG Life annuities affected by this application (hereinafter referred to as "retirement annuities") are sold in conjunction with Fund shares as alternative or complementary funding vehicles for retirement plans. Such sales are handled by salesmen registered to sell both life insurance for CG Life and securities for Equity Sales. Consistent with this, the Funds and the retirement annuities are sold with identical sales loads which range from 7.5 percent to 1 percent of their respective public offering prices.

Notwithstanding the fact that the Funds and the retirement annuities apply identical sales loads, the effective aggregate sales load borne by a retirement plan may vary depending upon the amount of assets allocated between the Funds and the retirement annuities. This occurs presently because it is necessary to calculate the sales charge applicable to purchases of Funds without regard to purchases which may have been made of the retirement annuities. As a result, because of applicable breakpoints in the sales load structure and the inability to consider values accumulated under retirement annuities for purposes of the right of accumulation, a statement of intention, or the right of aggregation in the determination of sales load on Fund share purchases, a plan

choosing to split its assets between retirement annuities and Funds will probably pay a higher sales charge than a plan that allocates all of its assets solely to one or the other. Applicants wish to eliminate this unintended result, creating a situation in which the sales load applied to any purchase payment will be the same regardless of present or past allocations between Funds and retirement annuities. Similarly, applicants wish to permit the no-load purchase of Fund Shares with amounts transferred from accumulated retirement annuity values in order to be consistent in their desire to charge only one sales load against present and future allocations of plan assets.

Section 22(d) provides, in part, that no registered investment company shall sell any redeemable security issued by it to any person except either to or through a principal underwriter for distribution or at a current public offering price described in the prospectus, and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person except a dealer, a principal underwriter, or the issuer, except at a current public offering price described in the prospectus.

Salesmen normally present information concerning both the Funds and retirement annuities when discussing and assessing a retirement plan's needs with its fiduciary. For the same reasons that rights of accumulation and aggregation and statements of intention are permitted for fund complexes by rule 22d-1, Applicants believe such methods of sales load reduction should be extended to holders of retirement annuities and their interests therein. This is consistent with applicants' intention to consider the sale of retirement annuities and Funds as a single purchase decision. It is also consistent with the concept that the sale of Fund shares to a retirement annuity customer requires less selling effort in view of the salesman's familiarity with the fiduciary and the fiduciary's familiarity with the Funds.

Where Fund shares are purchased with some portion of the accumulated value of a retirement annuity, Applicants wish to avoid the unnecessary duplication of sales charges which would result if such purchases were subject to a sales load. As stated previously, contributions into a retirement annuity will already have been assessed a full sales load and the Funds will already have been described in the initial selling effort. Moreover, applicants anticipate that such transactions will occur not as a result of any selling effort but as a result of changes in a retirement plan's investment objectives. Applicants believe that the imposition of any sales load under these circumstances imposes an unnecessary burden upon the fiduciary in meeting his responsibilities. Finally, by permitting the no-load purchase of Fund shares with retirement annuity cash values, applicants and the Commission will be assured that salesmen are not engaged in the practice of "switching" in order to generate sales commissions.

Consistent with applicants' intentions specified above, applicants state that the retirement annuities will contain certain features which will discourage speculation and extreme shifts between the retirement annuities and the Funds. The retirement annuity contracts currently provide that no-load transfer of proceeds from the redemption of Fund shares to the retirement annuity may not exceed 10 percent of the value of the customer's Fund share account in any 1 year. Applicants state that this is due primarily to two considerations. First, CG Life does not wish to create competing products which could encourage substantial shifts of assets out of the Funds. Any such loss of Fund assets could impair Fund liquidity and thus force the untimely liquidation of portfolio securities and the concomitant incurring of additional portfolio commission expenses. Secondly, substantial shifts of assets into CG Life's general account can cause a lower overall rate of return, since those new assets must frequently be placed into lower yield short-term instruments until such time as they can be properly invested. While it is unlikely that the restrictions on transfer imposed by the retirement annuity contracts will be changed by CG Life, any such change will require the approval of the independent directors of the Funds in order to help assure that such changes are not disadvantageous to the Funds.

Alternatively, the retirement annuity contract limits to 10 percent the amount of its account value which can be withdrawn in any year without penalty to purchase Fund shares. This is so because of the significant insurance guarantees present in the retirement annuities and the potential adverse impact to the retirement annuities which could be caused by annuitants "selecting against" CG Life. Applicants state that, consistent with the Act, no restrictions are placed on the purchase or redemption of Fund shares, and salesmen will not receive any compensation in advising or handling asset reallocations between Funds and retirement annuities. All of the restrictions noted herein are a part of the retirement annuities, which are regulated by state insurance departments and subject to different regulatory requirements and objectives.

Applicants undertake to implement certain safeguards which are intended to eliminate any possibility of abuse arising out of the transactions described herein. First, Fund prospectuses, which are delivered annually to current shareholders, will disclose the applicable sales loads and existence of restrictions on transfers imposed by the retirement annuities. Secondly, all requests for reallocation of retirement plan assets will be accepted only after a request form has been signed by the retirement plan fiduciary and sent to Equity Sales. That form will again disclose restrictions on reallocations present in the retirement annuities. Finally, Equity Sales will subject all requests for reallocation of assets to its routine "compliance check" which includes an examination as to whether such transactions are handled properly, and which helps to assure that the lowest possible sales load is applied against each purchase of Fund shares.

Applicants state that the reductions in or elimination of sales load described above will not be unfair to present Fund shareholders since the per share value of Fund shares will not be diluted by such transactions which affect only the sales load charged. Moreover, to the extent that such incentives results in additional purchases of Fund shares, current shareholders may be advantaged by the increased ability of the Funds to offset redemptions with new purchases and the resulting ability of the Funds to maintain or increase their current level of portfolio investment.

Section 6(c) of the Act provides, in part, that the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions from any provision or provisions of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 20, 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 shall 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 applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the re-

quest. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date 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 any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5560 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 10135; 811-2190]

FRANKLIN LIFE BOND FUND, INC.

Proposal To Terminate Registration

FEBRUARY 23, 1978.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 ("Act"), to declare, by order on its own motion, that Franklin Life Bond Fund, Inc. ("Franklin Bond"), Franklin Square, Springfield, Ill. 62705, registered under the Act as a diversified, open-end management investment company, has ceased to be an investment company as defined in the Act.

Franklin Bond registered under the Act on May 7, 1971. Commission files indicate that Franklin Bond's shareholders adopted a plan of reorganization on June 21, 1977, pursuant to which substantially all of Franklin Bond's assets were transferred to monthly income shares ("MIS"), a registered investment company, in exchange for shares of the voting stock of MIS. The files further show that on September 27, 1977, the plan of reorganization was consummated and MIS shares were distributed to the then existing Franklin Bond shareholders. On December 15, 1977, Franklin Bond filed articles of dissolution with the State of Maryland, Department of Assessments and Taxation.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission on its own motion finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon taking effect 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 March 20, 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 Franklin Bond at the address stated above. Proof of such service (by affidavit or, in 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 matter will be issued as of course following said date 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 any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5561 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 10136; 811-2175]

FRANKLIN LIFE EQUITY FUND, INC.

Proposal To Terminate Registration

FEBRUARY 23, 1978.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 ("Act"), to declare, by order on its own motion, that Franklin Life Equity Fund, Inc. ("Franklin Equity"), Franklin Square, Springfield, Ill. 62705, Registered under the Act as a diversified, open-end management investment company, has ceased to be an investment company as defined in the Act.

Franklin Equity registered under the Act on March 9, 1971. Commission files indicate that Franklin Equity's shareholders adopted a plan of reorganization on June 21, 1977, pursuant to which substantially all of Franklin Equity's assets were transferred to Bullock Fund, Ltd. ("Bullock"), a registered investment company, in exchange for shares of the voting stock of Bullock. The files further show that on September 27, 1977, the plan of reorganization was consummated and said shares of Bullock stock were distributed to the then existing Franklin Equity shareholders. On December 15, 1977, Franklin Equity filed articles of dissolution with the State of Maryland, Department of Assessments and Taxation.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission on its own motion finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon taking effect 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 March 20, 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 Franklin Equity at the Address stated above. Proof of such service (by affidavit or, in 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 matter will be issued as of course following said date 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 any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5562 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 20419; 70-6118]

GEORGIA POWER CO.

Proposed Transactions Related to Financing of Pollution Control Facilities, Exception From Competitive Bidding, and Increase in Amount of First Mortgage Bonds Which May Be Outstanding Under Indenture

FEBRUARY 23,1978.

Notice is hereby given that Georgia Power Co. ("Georgia"), 270 Peachtree Street NW., Atlanta, Ga. 30302, a whollyowned electric utility subsidiary of the Southern Co., a registered holding company, has filed a declaration with this Commission pursuant to the

Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act and rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Georgia states that in order to comply with prescribed environmental standards of the State of Georgia with respect to air and water quality, it has been and will be necessary for the company to construct certain pollution control facilities solely for this purpose. The present declaration relates to Georgia's proposal for its financing of the pollution control facilities for use in connection with its Arkwright, Bowen, and Hammond steam plants located, respectively, in Bibb, Bartow, and Floyd Counties, as hereinafter described. Each transaction will be substantially similar. It is intended that a Development Authority of each such county ("Authority") will issue its pollution control revenue bonds and industrial development revenue bonds ("revenue bonds") for the purpose of making loans to Georgia to pay the costs of the acquisition, construction, and equipping of the pollution control facilities at the plant located in its county referred to above ("project"). While the actual amount of revenue bonds to be issued by each Authority has not yet been determined, such amount will be based upon the cost of the project located in its county. It is presently estimated that the aggregate principal amount of revenue bonds to be issued by all three Authorities will not exceed $30,000,000, of which up to $27,000,000 will be pollution control revenue bonds and up to $3,000,000 will be industrial development revenue bonds.

Georgia proposes to enter into two separate loan agreements with each authority ("agreements"), one relating to the pollution control revenue bonds and the other relating to the industrial development revenue bonds of that Authority. Under each agreement, the Authority will loan to Georgia the proceeds of the sale of the Authority's related revenue bonds, and Georgia will issue a nonnegotiable promissory note therefor ("note"). Such proceeds will be deposited with a trustee ("trustee") under an indenture to be entered into between the Authority and such trustee ("trust indenture"), pursuant to which such revenue bonds are to be issued and secured, and will be applied by Georgia to payment of the cost of construction (as defined in the agreement) of the related project. Each Note will provide for payments thereon to be made at times and in amounts which shall correspond to the payments with respect to the principal of, premium, if any, and interest on the related revenue bonds whenever and in whatever manner the same shall become due, whether at stated maturity, upon redemption, or declaration, or otherwise.

Each agreement will provide for the assignment to the trustee of the Authority's interest in, and of the moneys receivable by the Authority under, the agreement and the note. Each agreement will also obligate Georgia to pay the fees and charges of the trustee and will provide that Georgia may at any time, so long as it is not in default thereunder, prepay the amount due under the note, including interest thereon, in whole or in part, such payment to be sufficient to redeem or purchase the related outstanding revenue bonds in the manner and to the extent provided in the trust indenture.

Each trust indenture will provide that the revenue bonds issued thereunder will be redeemable: (i) At any time on or after 10 years from the date of issuance, in whole or in part, at the option of Georgia, initially with a premium of 3 percent of the principal amount and declining by ½ of 1 percent annually thereafter, and (ii) in whole, at the option of Georgia, in certain other cases of undue burdens or excessive liabilities imposed with respect to the related project, its destruction or damage beyond practicable or desirable repairability, or condemnation or taking by eminent domain, or if operation of the related plant is enjoined and Georgia determines to discontinue operation thereof, such redemption of all such outstanding revenue bonds to be at the principal amount plus accrued interest, but without premium. It is proposed that the revenue bonds will mature 30 years from the first day of the month in which they are initially issued and that such revenue bonds will be entitled to the benefit of mandatory redemption sinking funds calculated to retire not less than 25 percent of the aggregate principal amount of the issue prior to maturity.

In order to obtain the benefit of ratings for the revenue bonds equivalent to the rating enjoyed by the first mortgage bonds outstanding under its indenture dated as of March 1, 1941, between Georgia and Chemical Bank, as trustee ("indenture trustee"), as supplemented and amended ("mortgage"), which ratings Georgia has been advised may be thus attained, Georgia proposes to secure its obligations under each note by delivering to the trustee, to be held as collateral, a series of its first mortgage bonds ("collateral bonds") in principal amount equal to the principal amount of the related revenue bonds. Each series of collateral bonds will be issued under an indenture supplemental to the mortgage ("supplemental indenture") to be dated as of the first day of the month in which the collateral bonds are to be issued and delivered, will bear interest at a rate equal to the interest rate to be borne by the related revenue bonds, will mature on the maturity date of such bonds, and will be nontransferable by the trustee.

The supplemental indenture will provide, however, that the obligation of Georgia to make payment with respect to the collateral bonds will be satisfied to the extent that payments are made under the note sufficient to meet payments when due in respect of the related revenue bonds. The supplemental indenture will provide that, upon acceleration by the trustee of the principal amount of all related outstanding revenue bonds under the trust indenture, the trustee may demand the mandatory redemption of the collateral bonds then held by it as collateral at a redemption price equal to the principal amount thereof plus accrued interest, if any, to the date fixed for redemption. The supplemental indenture will also provide that, upon the optional redemption of the related revenue bonds, in whole or in part, at any time after they have been outstanding for 10 years, an equal principal amount of the collateral bonds will be redeemed at an initial premium of 3 percent declining by ½ percent every year. It is stated that, because interest accrues in respect of the collateral bonds until satisfied by payments under the note, "annual interest charges" in respect of the collateral bonds will be included in computing the "interest earnings requirement" of the mortgage which restrict the amount of first mortgage bonds which may be issued and sold to the public in relation to Georgia's net earnings. The collateral bonds will be issued on the basis of unfunded net property additions. The trust indenture will provide that, upon deposit with the trustee of funds sufficient to pay or redeem all or any part of the related revenue bonds, or upon direction to the trustee by Georgia to so apply funds available therefor, or upon delivery of such outstanding revenue bonds to the trustee by or for the account of Georgia, the trustee will be obligated to deliver to Georgia, or for the account of Georgia, the collateral bonds then held as collateral in an aggregate principal amount equal to the aggregate principal amount of such revenue bonds for the payment or redemption of which such funds have been deposited or applied or which shall have been so delivered.

It is contemplated that the revenue bonds will be sold by the Authorities pursuant to arrangements with one or more underwriters. In accordance with the laws of the State of Georgia, the interest rate to be borne by the revenue bonds will be fixed by the Boards of Directors of the Authorities. While

Georgia will not be party to the underwriting arrangements for the revenue bonds, such arrangements will provide that the terms of the revenue bonds and their sale by the Authorities shall be satisfactory to Georgia. Bond counsel will issue an opinion that interest on the revenue bonds will be exempt from Federal income taxation. Georgia has been advised that the interest rates on obligations, interest on which is so tax exempt, historically have been, and can be expected at the time of issue of the revenue bonds to be, 1½ percent to 2½ percent lower than the rates on obligations of like tenor and comparable quality, interest on which is fully subject to Federal income taxation. The obligations of Georgia under the separate agreements relating to the industrial development revenue bonds will be secured by separate series of collateral bonds. Such small issue bonds will be marketed contemporaneously with the other revenue bonds. Georgia will grant each Authority, in connection with its small issue bonds, a lien on certain property of Georgia other than the projects. Each such lien will be subordinate to the lien of the mortgage and will be assigned by the Authority to the trustee. The lien will be created by means of a deed to secure debt.

By orders dated January 21 and September 5, 1972 (HCAR Nos. 17437 and 17684), the Commission authorized Georgia to, among other things, execute a supplemental indenture modifying certain provisions of the mortgage which: (a) Immediately increased the aggregate principal amount of bonds of all series which may be at any one time outstanding under and secured by the indenture from one billion dollars ($1,000,000,000) to two billion dollars ($2,000,000,000), and (b) provided that such aggregate principal amount of bonds may thereafter be increased or decreased from time to time by a supplemental indenture or indentures executed and delivered to the trustee pursuant to authorization by Georgia's Board of Directors and stockholders. At December 31, 1977, Georgia had outstanding an aggregate of $1,865,386,000 principal amount of first mortgage bonds. Georgia proposes to issue additional first mortgage bonds during 1978 which together with the aggregate principal amount of bonds presently outstanding would exceed the maximum aggregate principal amount allowed under the mortgage. Accordingly, Georgia now proposes to increase the aggregate principal amount of bonds of all series which may be at any one time outstanding under and secured by the mortgage from two billion dollars ($2,000,000,000) to three billion dollars ($3,000,000,000). Georgia presently estimates that such increase will satisfy its needs for issuing first mortgage bonds through 1981.

It is stated that the fees, commissions, and expenses to be paid or incurred, directly or indirectly, in connection with the proposed issuance of the notes and collateral bonds (as distinguished from and excluding fees, commissions, and expenses incurred or to be incurred in connection with the sale of the revenue bonds by the Authorities payable out of the proceeds of such sales and in connection with the determination of the tax status of the revenue bonds) will be filed by amendment. It is further stated that the issuance of the collateral bonds, the borrowings under the agreements, and the issuance of the notes in respect thereof have been expressly authorized by the Georgia Public Service Commission and that no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. Georgia has requested a finding of the Commission that competitive bidding is inappropriate under the circumstances inasmuch as the notes and collateral bonds are to be issued and pledged solely to evidence and secure Georgia's obligations to the Authorities and no public offering by Georgia of the notes and collateral bonds is to be made.

Notice is further given that any interested person may, not later than March 20, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5563 Filed 3-2-78; 8:45 am]

[8010-01]

[Adm. Proceeding File No. 3-5386; File No. 81-245]

MARRIOTT CONDOMINIUM DEVELOPMENT CORP. CAMELBACK INN ASSOCIATES

Application and Opportunity for Hearing

FEBRUARY 17, 1978.

Notice is hereby given that Marriott Condominium Development Corp. ("MCDC") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, (the "Exchange Act") for an order exempting the Camelback Inn Associates (the "Partnership") from filing Part I of Form 10-Q as otherwise required by Section 15(d) of that Act.

MCDC's application discloses in part:

(1) MCDC, a wholly-owned subsidiary of Marriott Corporation ("Marriott"), offered and sold 407 interests (the "Interests") in the Marriott Resort Hotel Condominium—Camelback Inn (the "Condominium") and the Partnership for an aggregate of $23,136,000 pursuant to a registration statement filed under the Securities Act.

(2) Each purchaser of an interest became the direct owner of a unit in the Condominum with certain limited occupancy rights, as well as a limited partner in the Partnership which was organized as an integral part of the Condominium ownership arrangement for the purpose of pooling the Condominium units for rental. The Partnership interests cannot be transferred apart from ownership of the Condominium unit.

(3) Marriott is general partner of the Partnership, manager of the Condominium, and owner and manager of the hotel facilities which are integrally related with the Condominium and of other nearby resort facilities.

(4) These interests are owned by 315 persons, and there is very limited trading.

(5) Each owner, as required by the Partnership Agreement, is furnished annually a statement as to his share of operating income and capital account, together with statements of Partnership operations for the fiscal year and the financial condition at the end thereof, reviewed and certified by an independent public accountant.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person no later than March 14, 1978 may submit to the Commission in writing his view or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact

and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5564 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 34-14498; File No. SR-MSRB-78-5]

MUNICIPAL SECURITIES RULEMAKING BOARD

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 17, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The text of the proposed rule change is as follows:

Rule G-34. *Product Advertising*—(a) *Product Advertising.* No broker, dealer, or municipal securities dealer shall publish or cause to be published any advertisement or similar communication concerning municipal securities that is, to the knowledge of such broker, dealer, or municipal securities dealer, materially false or misleading.

(b) *Approval by Principal.* Advertisements or similar communications concerning municipal securities must be approved in writing by a municipal securities principal or general securities principal prior to first use. Each broker, dealer, and municipal securities dealer shall make and keep current in a separate file records of all such advertisements and communications.

STATEMENT OF BASIS AND PURPOSE

PURPOSE OF PROPOSED RULE CHANGE

The purpose of the proposed rule change is to prohibit a municipal securities professional from publishing an advertisement or causing an advertisement to be published concerning municipal securities that is, to the knowledge of the municipal securities professional, materially false or misleading. The proposed rule change is further designed to require that all advertisements relating to municipal securities be approved in writing by appropriate supervisory personnel (either a municipal securities principal or general securities principal) prior to first use and that a separate record be maintained of all such advertisements. The reference in the proposed rule change to approval by supervisory personnel prior to "first use" is intended to establish a minimum supervisory requirement. Depending on the length of time an advertisement is published, or other factors, closer supervision may be appropriate.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The Board has adopted proposed rule G-34 pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended (the "Act"), which provides that the Board's rules shall be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade * * * and, in general, to protect investors and the public interest * * *.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGE

The Board received letters of comment on its exposure draft relating to the proposed rule change from the following:

Blyth Eastman Dillon & Co. ("Blyth Eastman")
Dupree & Co., Inc. ("Dupree")
Interpacific Investors Services, Inc.
National Association of Securities Dealers, Inc. (the "NASD")
The Northern Trust Co. ("Northern Trust")
Public Securities Association (the "PSA")
Wauterlek & Brown, Inc. ("Wauterlek & Brown")

Copies of the letters of comment are on file at the offices of the Commission and of the Board.

The NASD recommended modification of the proposed rule to prohibit the distribution of advertising material which a municipal securities professional knows or "should have known" was either false or misleading.

Dupree suggested that the requirement for advertisements to be approved in writing by a municipal securities principal or general securities principal be modified either by deleting the "in writing" provision or adding the phrase "if advertising is placed by personnel other than a principal."

Northern Trust suggested that the proposed rule be amended to restrict its application to advertisements disseminated to the general public. As an alternative, Northern Trust suggested that the terms "publish," "advertisement," and "similar communication" should be defined in order to delineate the parameters of the rule.

Blyth Eastman took exception to the statement in the discussion accompanying the exposure draft that "advertisements indicating that securities are 'tax-exempt' may be misleading unless the securities are in fact exempt from all federal, state and local income taxes on ordinary income." On the same point the NASD suggested that the statement in the exposure draft may be too restrictive and that instead the Board should require municipal securities professionals to indicate the extent to which interest on a particular security may be subject to some form of taxation.

Blyth Eastman and the NASD also recommended that the Board provide further guidelines and specific examples for use in conjunction with the proposed rule concerning false or misleading advertising.

The NASD in addition suggested that the Board consider and evaluate their recently proposed new rule on advertising.

Wauterlek & Brown suggested that the three advertising rules (proposed rules G-21, G-33 and G-34) be consolidated into one rule for ease of reference.

Interpacific Investors Services, Inc. and the PSA endorsed the proposed rule change without qualification.

The Board took all of the comments received into consideration, and concluded that no change should be made in the text of the proposed rule as set forth in the exposure draft.

BURDEN ON COMPETITION

The Board does not believe that the proposed rule change will impose any burden on competition in the municipal securities industry inasmuch as such rule will be equally applicable to all participants in the industry.

On or before April 7, 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 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 submis-

sions should refer to the file number referenced in the caption above and should be submitted on or before April 3, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 23, 1978.

[FR Doc. 78-5576 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 14499; SR-MSRB-77-18]

MUNICIPAL SECURITIES RULEMAKING BOARD

Order Approving Proposed Rule Change

FEBRUARY 23, 1978.

On November 25, 1977, the Municipal Securities Rulemaking Board (the "MSRB"), Suite 507, 1150 Connecticut Avenue NW., Washington, D.C. 20036, filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act"), and Rule 19b-4 thereunder, copies of a proposed rule change. The purpose of the proposed rule change is to amend the provisions of MSRB rule G-3 relating to the respective dates of the MSRB's qualification examination requirements, to establish time periods and limitations for retaking the examinations, and to clarify the scope of certain exemptions from the examination requirements.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 14218 (Nov. 30, 1977)) and by publication in the FEDERAL REGISTER (42 FR 62235 (Dec. 9, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and in particular, the requirements of section 15B and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5565 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 20422; 70-6121]

NEW ENGLAND ELECTRIC SYSTEM, ET AL.

Proposed Short-Term Borrowings by Operating Subsidiaries of Holding Company and of Proposed Loans by Holding Company to Subsidiaries and of Proposed Sale of Commercial Paper by Subsidiary and Request for Exemption

FEBRUARY 27, 1978.

Notice is hereby given that New England Electric System ("NEES"), 20 Turnpike Road, Westborough, Mass. 01581, a registered holding company, and Granite State Electric Co. ("Granite"), and New England Power Co. ("NEPCO"), operating subsidiaries of NEES, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, 9(a), 10 and 12 of the Act and Rules 42, 43, 45 and 50, promulgated thereunder, as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Granite and NEPCO propose during the period from the date of the Commission's order hereunder through March 30, 1979 to issue short-term promissory notes to the below listed banks and/or to NEES, and NEPCO also proposes to issue notes to dealers in commercial paper.

The amounts shown below are the maximum face amounts of notes of each borrowing company to be held by the lenders at any one time pursuant to authority requested hereunder. The amounts shown below, indicating the amount each borrowing company may borrow from a particular bank, may be increased or decreased during the year but at no time will the aggregate amount of short-term borrowings from all banks for each of the borrowing companies exceed the aggregate authorized amount. The maximum amounts of short-term borrowings authorized to be outstanding at any one time by NEPCO ($130,000,000) from banks and NEES will be reduced by the amount of its commerical paper outstanding at that time.

Borrowing company—Banks or NEES[1]

[Thousands of dollars]

Granite: The First National Bank of Boston, Boston, Mass	750
NEPCO:	
Bank of America, North America Division, New York, N.Y	2,000
Baybank Newton-Waltham Trust Co., Waltham, Mass	2,000
Brown Bros., Harriman & Co., Boston, Mass	2,000
Chase Manhattan Bank, N.A., New York, N.Y	12,000
Chemical Bank, New York, N.Y	6,500
Citibank, N.A., New York, N.Y	17,000
Continental Illinois National Bank & Trust Co., Chicago, Ill	5,000
The First National Bank of Boston, Boston, Mass	30,000
The First National Bank of Chicago, Chicago, Ill	2,000
Irving Trust Co., New York, N.Y	12,000
Manufacturers Hanover Trust, New York, N.Y	12,000
Morgan, Guaranty Trust Co., New York, N.Y	12,000
New England Merchants National Bank, Boston, Mass	5,000
Shawmut Bank of Boston, N.A., Boston, Mass	5,000
State Street Bank & Trust Co., Boston, Mass	3,000
Worcester County National Bank, Worcester, Mass	2,500
Total NEPCO	130,000

[1] Or Commercial paper in the case of NEPCO

NEPCO requests a maximum borrowing authority of $130,000,000 to be reduced by the amount of proceeds of any sales of first mortgage bonds during the period.

The proceeds of such proposed borrowings are to be used to pay then outstanding notes initially issued to banks, dealers in commercial paper and/or to NEES at or prior to maturity and to provide new money for capitalizable expenditures or to reimburse the treasury therefore. Granite as of December 31, 1977, has no outstanding short-term debt and estimates its construction expenditures through March 31, 1979 at $2,415,000. NEPCO, as of December 31, 1977, has $44,325,000 in outstanding short-term debt and estimates its construction expenditures through March 31, 1979 at $134,100,000.

The proposed borrowings from banks and/or NEES will be evidenced by notes payable maturing in less than one year from the date of issuance, and will provide for prior payment in whole or in part without premium. The borrowing companies will maintain funds in the banks which represent balances or in lieu thereof will pay fees to the banks equivalent to such compensating balance requirements. The notes to banks will bear interest at not in excess of the prime rate in effect at the time borrowings are made (not including any fees in lieu of compensating balances). The notes to NEES will bear interest at not in excess of the prime rate in effect at the time borrowings are made. Based on compensating balance requirements of about 10 to 20 percent, or fees equivalent thereto, the effective interest cost of bank borrowing would be approximately 10 percent per annum, based on the current prime rate of 8 percent. The effective interest cost of borrowings from NEES would be the prime rate.

It is proposed that Granite and NEPCO may prepay their notes to

NEES, in whole or in part, with borrowings from banks or from the sale of commercial paper, or that their borrowings from banks may be prepaid, in whole or in part, with borrowings from NEES or from the sale of commercial paper. In the event of borrowings from banks at a higher interest rate or the sale of commercial paper at a higher effective interest cost, to prepay notes to NEES, NEES will credit the borrowers for any excess interest from the date of issuance of the new notes or commerical paper to the normal maturity date of the notes to NEES being prepaid. Conversely, in the event of borrowings from NEES to prepay notes to banks, the interest rate of the notes issued to NEES will be the lower of (1) the interest rate on the notes being prepaid or (2) the prime interest rate in effect, but with respect to (1) only to the maturity date of the notes so prepaid, and thereafter at the prime interest rate in effect at the time the new notes are issued.

NEPCO proposes to issue and sell commercial paper during the period through March 31, 1979, directly to Lehman Commercial Paper Incorporated ("Lehman") and/or A. G. Becker & Co., Inc. ("Becker"), dealers in commerical paper. Lehman and Becker, as principals, will reoffer such commercial paper to not more than 100 of their respective customers whose names appear on non-public lists prepared in advance by Lehman and Becker. No additions will be made to such lists of customers. It is expected that such commercial paper will be held to maturity by the purchasers from the dealers, but, if any such purchaser wishes to resell prior to maturity, Lehman or Becker, as the case may be, pursuant to an oral repurchase agreement will repurchase the paper for resale to others on said lists of customers.

The commercial paper so issued and sold by NEPCO will be in the form of unsecured promissory notes having varying maturities of not in excess of 270 days. Actual maturities will be determined by market conditions, the effective interest cost to the issuer, and the issuer's cash requirements at the time of issuance. The commercial paper will be in denominations of not less than $50,000 and not more than $1,000,000. The terms of the commercial paper do not provide for prepayment prior to maturity. The commercial paper will be purchased by Lehman and Becker from the issuer at a discount which will not be in excess of the discount rate per annum prevailing at the date of issuance for the particular maturity at which prime commercial paper of comparable quality is sold by public utility issuers to commercial paper dealers. Lehman and Becker will initially reoffer the commercial paper at a discount rate not more than ⅛ of 1 percent per annum less than the prevailing discount rate to the issuer.

The effective interest cost to the issuer on such paper will not exceed the effective interest costs at the time of issue for borrowings from The First National Bank of Boston, except that, in order to obtain maximum flexibility, commercial paper may be issued with a maturity of not more than 90 days from the date of issue with an effective cost in excess of such effective interest cost from The First National Bank of Boston.

With respect to the issue and sale of notes by it to Lehman and Becker, NEPCO requests an exemption from the competitive bidding requirements of Rule 50 pursuant to paragraph (a)(5) thereof on the grounds that (a) the commercial paper to be issued will have maturities of not more than nine months; (b) the effective interest cost thereon will not exceed the effective interest costs at the time of borrowings from The First National Bank of Boston, except that, in order to obtain maximum flexibility, commercial paper may be issued with a maturity of not more than 90 days from the date of issue with an effective cost in excess of such effective interest cost, from The First National Bank of Boston; (c) the current rates for commercial paper for a prime borrower such as NEPCO are readily ascertainable by reference to daily financial publications; and (d) it is not practical to publish invitations for bids for commercial paper.

It is stated that there are no fees or commissions, other than a $2,000 filing fee to be paid in connection with the proposed transactions and that incidental services in connection with the proposed transactions will be performed, at cost, by New England Power Service Company, an affiliated service company; such cost is estimated not to exceed $200 for each applicant-declarant, an aggregate of $600. Including their pro rata share of the filing fee, total expenses for each applicant-declarant is approximately $900.

The New Hampshire Public Utilities Commission has jurisdiction over the proposed issuance of short-term promissory notes by Granite and NEPCO. It is stated that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than March 24, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5566 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 20421; 70-6123]

OHIO EDISON CO.

Proposed Amendment to Articles of Incorporation To Increase Authorized Common Stock; Order Authorizing Solicitation of Stockholders' Proxies

FEBRUARY 27, 1978.

Notice is hereby given that Ohio Edison ("Ohio Edison"), 76 South Main Street, Akron, Ohio 44308, a registered holding company and an electric utility company, has filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7 and 12(e) of the Act and Rule 62 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, as amended, which is summarized below, for a complete statement of the proposed transaction.

Ohio Edison proposes to amend Article FOURTH of its Articles of Incorporation so as to increase the authorized number of shares of common stock, par value $9 per share, from 55,000,000 to 75,000,000. Its adoption requires the favorable vote of two-thirds of the outstanding shares of common stock of Ohio Edison entitled to vote at the meeting of stockholders. Upon completion of the sale in December 1977 of common stock and registration of shares of common stock to

be issued pursuant to the Dividend Reinvestment and Stock Purchase Plan, Ohio Edison presently has less than 3,000,000 of its authorized shares of common stock remaining. The company presently contemplates construction expenditures during 1978, 1979, and 1980, estimated as of January 31, 1978, of at least $1,300,000,000 and additional construction expenditures in the years that follow. The company presently anticipates the issue and sale of approximately 6,000,000 shares in late 1978 and to issue shares through its Dividend Reinvestment and Stock Purchase Plan. In addition to those above-mentioned shares to be issued and sold, the company also anticipates the issue and sale of approximately 6,000,000 shares in the years 1979 and 1980 and expects that by the end of 1980 it will have issued and sold all of the 20,000,000 shares by which it is proposed to increase the authorized amount of common stock.

Ohio Edison further proposes to submit the proposed amendment, the ratification of the appointment of Arthur Andersen & Co. as auditors for 1978, and the election of directors to its stockholders for consideration and vote, and to solicit the proxies from their common stockholders at the annual meeting to be held on April 27, 1978.

The fees, commissions and expenses in connection with the proposed increase of the authorized shares of common stock are estimated at $66,000, including legal fees of $1,500 and state filing fee of $50,075. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 24, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulation promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing, or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing to the Commission that the declaration, insofar as it proposes the solicitation of proxies from Ohio Edison's common stockholders, should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered, That the declaration regarding the proposed solicitation of proxies from Ohio Edison's common stockholders be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5567 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 10139; 812-4246]

PHILADELPHIA FUND, INC., ET AL.

Filing of Application for an Order of Exemption

FEBRUARY 24, 1978.

Notice is hereby given that Philadelphia Fund, Inc., and Eagle Growth Shares, Inc. (the "Fund(s)"), 110 Wall Street, New York, N.Y. 10005, each of which is registered under the Investment Company Act of 1940 (the "Act") as a diversified, open-end management investment company, and Universal Programs, Inc. ("UPI"; referred to together with the Funds as "Applicants"), investment adviser for the Philadelphia Fund and the principal underwriter of both of the Funds, filed an application on December 9, 1977, and an amendment thereto on February 3, 1978, pursuant to section 6(c) of the Act, for an order exempting from the provisions of section 22(d) of the Act proposed sales of shares of the Funds without sales charges in connection with the "Savings Reinvestment Privilege" discussed below. All interested persons are referred to the application on file with the commission for a statement of the representations contained therein, which are summarized below.

Applicants propose to offer to Fund shareholders, subject to the laws and regulations of the state or other jurisdiction in question, the privilege ("Redemption Deposit Privilege") of redeeming all or part of their investment in a Fund and depositing the proceeds in savings accounts ("Savings Account(s)") to be established with the Funds' transfer agent and custodian, the Bank of New York (the "Bank").

Applicants state that redemptions of Fund shares pursuant to the Redemption Deposit Privilege will be at the Fund's then current net asset value. They propose that amounts so deposited to Savings Accounts which have remained continuously on deposit, plus any interest credited thereon, may be reinvested in shares of either or both of the Funds at the then current net asset value of the Fund in question without payment of any sales charge (the "Savings Reinvestment Privilege," referred to together with the Redemption Deposit Privilege as "Privileges"). The application states that for the purpose of administering the proposed Privileges, the Bank would establish a separate type of savings account administered by its Mutual Fund Department; that deposits to the Savings Accounts would consist only of the proceeds of redemptions of shares pursuant to the exercise of a Redemption Deposit Privilege and interest paid thereon; and that depositors would be issued a statement rather than a passbook.

Applicants further state that only amounts which remain continuously on deposit in a Savings Account will be eligible for reinvestment in the Funds without sales charge, and that, if a shareholder withdrew monies from his Savings Account without so reinvesting, he could not subsequently redeposit them into the Savings Account designed for the proceeds of redemption. Applicants assert that amounts on deposit in both Savings Accounts and passbook accounts will bear interest at the same rate (presently 5 percent per annum, compounded and credited monthly), and that the Savings Accounts will be subject to the same rules and regulations as all "day of deposit to day of withdrawal" passbook acounts maintained with the Bank (except that statements rather than passbooks will be issued on Savings Accounts). Applicants state that no interest presently is credited on a "day of deposit to day of withdrawal" basis unless an account contains a minimum balance of $25 at the end of the month. The application states that the Bank has agreed to perform the services required for administering the Privileges without charge.

The application states that shareholders of each of the Funds presently have the option of exchanging their shares in one Fund into shares of the other Fund on the basis of their respective net assset values, without sales charge (the "Exchange Privilege"); however, under the Exchange Privilege, a service charge in the amount of $5 is imposed by UPI on an exchange of shares. Applicants state that under the proposed Privileges,

shareholders of either Fund may deposit the proceeds of redemption of one Fund into a Savings Account and later reinvest such deposited amounts, plus interest, in shares of the other Fund. They also state that in such circumstances an investor would be considered to be exercising not only the Savings Reinvestment Privilege, but the Exchange Privilege as well; therefore, a $5 charge would be imposed by UPI on such investment. Applicants believe that this procedure will preserve the integrity of the Exchange Privilege by assuring that shareholders who exchange shares of one Fund for shares of the other Fund will be treated alike regardless of whether an exchange of shares is made directly or indirectly via a Savings Account.

The application states that forms for use by shareholders desiring to exercise either a Redemption Deposit Privilege (concurrently authorizing the Bank to open a Savings Account), or a Savings Reinvestment Privilege, will be available from either UPI or the Bank. The application also states that a prospectus for the Fund designated by a shareholder who notifies UPI or the Bank of a desire to exercise a Savings Reinvestment Privilege with respect to a Fund for which such shareholder does not already have an open account will be delivered to such shareholder by UPI. Applicants state that the Privileges may be terminated at any time by the Fund, the Bank or UPI. However, they state also that, in order to afford an opportunity to those investors who have exercised the Redemption Deposit Privilege to reinvest amounts deposited in the Savings Account prior to the effective date of any such termination, UPI will send, at least 60 days prior to the effective date of any such termination, by first-class mail to all such investors at their last addresses as shown in the records of the Bank, a written notice informing them of: (1) the termination of the Privileges, (2) the effective date thereof, and (3) their opportunity to exercise the Savings Reinvestment Privilege prior to the effective date of such termination.

Section 22(d) of the Act provides, in part, that no registered investment company, or its principal underwriter, may sell redeemable securities issued by that investment company except at a current public offering price described in the investment company's prospectus. The application states that shares of the Funds are currently offered to the public at a price based on their net asset value plus a sales charge that varies with the quantity of securities purchased. Applicants state that sales of Fund shares at net asset value, pursuant to the Savings Reinvestment Privilege, may violate section 22(d). They therefore request an order exempting them and the proposed transactions herein from the provisions of that section.

Applicants assert that the purpose of the proposed Savings Reinvestment Privilege is to give shareholders who may desire to shift their investment temporarily from equities to an interest-paying investment the opportunity subsequently to retransfer their investment from the Savings Account to Fund shares without having to pay an additional sales charge, and that the Privileges are designed to encourage the use of the Funds as long-term investment vehicles. Applicants also assert that no sales charge should be required upon exercise of the Savings Reinvestment Privilege because, in connection therewith, (1) no sales effort is involved, and (2) no commission will be paid to any dealer. They submit that granting the requested exemption will be consistent with the purposes of section 22(d) of the Act in that the proposed Privileges would be available to all present or future shareholders of the Funds on precisely the same basis, and will not involve discrimination among investors.

Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class of persons, securities or transactions, from any provisions of the Act or the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 20, 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 shall 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 Applicants 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 will be issued as of course following said date 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 any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5568 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 20420; 70-6117]

SOUTHERN CO., ET AL.

Proposed Issuance and Sale of Short-Term Notes to Banks and Dealers in Commercial Paper, Capital Contributions to Subsidiaries, and Exception From Competitive Bidding

FEBRUARY 24, 1978.

Notice is hereby given that the Southern Co. ("Southern"), P.O. Box 720071, Atlanta, Ga. 30346, a registered holding company, and three of its wholly-owned electric utility subsidiary companies, Alabama Power Co. ("Alabama"), P.O. Box 2641, Birmingham, Ala. 35291, Gulf Power Co. ("Gulf"), P.O. Box 1151, Pensacola, Fla. 32520, and Mississippi Power Co. ("Mississippi"), P.O. Box 4079, Gulfport, Miss. 39501, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 6(b), 7, and 12 of the Act and Rules 45 and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Southern, Alabama, Gulf, and Mississippi propose to borrow from banks and to issue and sell commercial paper from time to time on or before March 31, 1979, in the case of Southern, Gulf, and Mississippi and March 31, 1980, in the case of Alabama. These borrowings shall be in the following maximum aggregate principal amounts outstanding at any one time: Southern—$100,000,000; Alabama—$555,000,000; Gulf—$40,000,000; and Mississippi—$36,000,000.

Pursuant to Commission authorization (HCAR No. 19422), Alabama, Gulf, and Mississippi have authority to effect short-term borrowings on or before March 31, 1978. The amount of short-term debt estimated to be outstanding at March 31, 1978, is $3,891,000 for Gulf and $17,075,000 for Mississippi. Neither Southern nor Alabama expects to have any short-term debt outstanding on that date.

The bank borrowings will be evidenced by notes to be dated the date of the borrowing and to mature not more than one year after the date of

issue in the case of Southern and not more than nine months after the date of issue in the case of Alabama, Gulf, and Mississippi. On or prior to April 1, 1978, Alabama proposes to enter into an arrangement with Citibank, N.A., the Chase Manhattan Bank, N.A., Chemical Bank, Bankers Trust Co., Continental Illinois National Bank & Trust Co. of Chicago, Irving Trust Co. Manufacturers Hanover Trust Co., the Bank of Nova Scotia, and Bank of America, which provides for a revolving line of credit for a period of two years in the amount of $500,000,000 and supersedes a Revolving Credit Agreement maturing March 31, 1978. Each note evidencing bank borrowing (except those included in Alabama's revolving credit agreement) will bear interest at an effective rate per annum in effect at the lending bank customary for similar companies and will be prepayable, in whole or in part, without penalty or premium. The terms and cost of commitments or lines of credit to the applicants-declarants, except in the case of Alabama from those banks under the proposed revolving credit agreement, have not been finalized by the companies with the proposed lending banks.

Alabama, Gulf, and Mississippi each maintain with the local banks from which borrowings will be made average daily operating balances adequate to meet the requirements of such banks in respect of certain services to such companies. Except in the case of Alabama under the proposed revolving credit agreement, it may reasonably be expected that banks may require the maintenance of balances and/or fees in lieu of balances in respect of any such borrowings. If balances were to be maintained solely for the purpose of satisfying a compensating balance requirement generally not in excess of 20 percent, the effective interest cost of the related borrowings, based on a prime rate of 8 percent, would be 10 percent per annum. In the case of Alabama, giving effect to the fees under the proposed revolving credit agreement, assuming full utilization of the commitment and based on a prime rate of 8 percent per annum and a three-week moving average commercial paper rate of 6.78 percent for the terminal week ending February 1, 1978, the effective interest rate on borrowings would be 9.67 percent per annum.

Southern, Alabama, Gulf, and Mississippi also propose from time to time prior to March 31, 1979, in the case of Southern, Gulf, and Mississippi and March 31, 1980, in the case of Alabama, to issue and sell commercial paper in the form of short-term promissory notes to dealers in commercial paper. The commercial paper notes will have varying maturities of not more than 270 days after the date of issue, will be sold in varying denominations of not less than $50,000 and not more than $5,000,000, and will not by their terms be prepayable prior to maturity. The commercial paper will be sold directly to or through the dealers at a discount which will not be in excess of the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and like maturity. No commercial paper note will be issued having a maturity of more than 90 days at an effective interest cost which exceeds the effective interest cost at which the issuer could borrow from banks.

Except for a commission not to exceed ⅛ of 1 percent per annum payable to the dealer in respect of commercial paper sold through the dealer as agent, no commission or fee will be payable in connection with the issuance and sale of commercial paper. The dealer will reoffer such commercial paper at a discount rate of ⅛ of 1 percent per annum less than the prevailing interest rate to the issuer. The commercial paper will be offered by each dealer to not more than 200 customers of the dealer identified and designated in a nonpublic list prepared in advance by the dealer. No additions will be made to such list of customers. It is expected that the commercial paper will be held by customers to maturity, but, if they wish to resell prior thereto, the dealer, pursuant to a verbal repurchase agreement, will repurchase the commercial paper and reoffer the same to others on the customer list.

Southern intends to use proceeds of the bank notes and commercial paper notes to the extent necessary, together with treasury funds and the proceeds from the sale of additional common stock through its dividend reinvestment plan, the employee savings plan and the employee stock ownership plan (the subject of separate filings), to make, from time to time, additional equity investments in the form of capital contributions in Alabama, Georgia Power Co. ("Georgia"), Gulf, and Mississippi, to make loans to Southern Co. Services, Inc., to pay such notes when due, and for other corporate purposes. Southern proposes herein to make capital contributions from April 1, 1978 through March 31, 1979, as follows: $180,000,000 to Alabama; $70,000,000 to Georgia; $6,000,000 to Gulf; and $10,000,000 to Mississippi.

The proceeds from the bank notes and commercial paper notes will be used by Alabama, Gulf, and Mississippi, respectively, to reimburse their treasuries for part of the expenditures in connection with their construction programs and to finance in part their future construction programs, to pay at maturity from time to time outstanding bank notes and commercial paper notes incurred for such purpose, and for other lawful purposes. Construction expenditures for Alabama for 1978 and 1979 are estimated at $494,390,000 and $704,741,000 respectively. Constructions expenditures for 1978 and January-March 1979 are estimated at $64,596,000 and $20,481,000, respectively for Gulf and $37,470,000 and $9,104,000, respectively for Mississippi.

The applicants-declarants request exception from the competitive bidding requirements of Rule 50 in connection with the sale of commercial paper notes pursuant to clause (a)(5) thereof. It is stated, in this connection, that (a) all commercial paper which they propose to issue and sell will have a maturity not in excess of 270 days, (b) current rates for commercial paper for prime borrowers, such as applicants-declarants, are published daily in financial publications, and (c) it is not practical to invite invitations for bids for commercial paper. It is also requested that authorization be granted to file certificates of notification under Rule 24 on a quarterly basis.

Fees and expenses to be incurred by Southern in connection with the proposed transactions are estimated at $3,400, including legal fees of $2,500; Alabama's expenses are estimated at $19,900, including legal fees of $6,000; Gulf's expenses are estimated at $1,400, including legal fees of $500; and Mississippi's expenses are estimated at $1,400, including legal fees of $500.

The Alabama Public Serive Commission has jurisdiction over the issuance of notes to banks and the issuance of commercial paper by Alabama. The Florida Public Service Commission has jurisdiction over the issuance of notes to banks and the issuance of commercial paper by Gulf. No other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than March 23, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may

be amended, may be granted and permitted to become effecitve as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5570 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 10138; 812-4257]

SENTINEL BOND FUND, INC., ET AL.

Application for an Order Exempting Proposed Transactions

FEBRUARY 24, 1978.

Notice is hereby given that Sentinel Bond Fund, Inc. ("Bond Fund"), Sentinel Growth Fund, Inc. ("Growth Fund"), Sentinel Trustees Fund, Inc. ("Trustees Fund") (hereinafter collectively referred to as the "Sentinel Funds"), National Life Drive, Montpelier, Vt. 05602, and Sentinel Group Funds, Inc. ("Group Funds"), One Exchange Place, Jersey City, N.J. 07302, (the Sentinel Funds and Group Funds hereinafter collectively referred to as the "Applicant"), Maryland corporations, each of which is an open-end, diversified, management investment company registered under the Investment Company Act of 1940 (the "Act"), have filed an application on January 12, 1978, and an amendment thereto on February 21, 1978, pursuant to section 17(b) of the Act, for an order exempting from the provisions of section 17(a) of the Act proposed mergers of each of the Sentinel Funds into Group Funds. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants propose, in accordance with Maryland law, that Trustee Fund be merged into the Sentinel Common Stock Fund class of stock of Group Funds, one of the three existing classes of stock of Group Funds; that Growth Fund be merged into a new class of stock of Group Funds to be known as "Sentinel Growth Fund"; and that Bond Fund be merged into a new class of stock of Group Funds to be known as "Sentinel Bond Fund." If the proposed mergers are consummated, Group Funds will be the surviving corporation and the separate corporate existence of each of the Sentinel Funds will cease.

National Life Investment Management Co., Inc. ("NLIM"), a wholly owned subsidiary of National Life Insurance Co., is the investment adviser of each of the three Sentinel Funds, and Sentinel Advisors, Inc. ("SAI"), a wholly owned subsidiary of NLIM, is the investment adviser to Group Funds. Of the nine directors of Group Funds and the seven directors of Sentinel Funds, five are the same persons. An additional director of Sentinel Funds has been nominated for election as a director of Group Funds.

The primary reason for the proposed mergers, according to the application, is to combine the present structure of four corporations with two investment advisers into one corporation with five classes of stock and one investment adviser so as to achieve efficiencies and economies of management. Since Group Funds will be the surviving corporation, the surviving adviser will be SAI. Applicants state that SAI's management fees are lower than those charged by NLIM.

The application states that, upon consummation of the respective mergers, the shares of Bond Fund will become an equal number of shares of the Sentinel Bond Fund class of Group Funds with the same aggregate value as prior to the merger; the shares of Growth Fund will become an equal number of shares of the Sentinel Growth Fund class of Group Funds with the same aggregate value as prior to the merger; and Trustees Fund shareholders will exchange their shares for shares of Sentinel Common Stock Fund class of Group Funds having the same aggregate value as the shares they held prior to the merger; except that in each case there may be a small difference because Group Funds values certain securities ("Non-traded Securities") at the mean between bid and ask prices whereas the Sentinel Funds value such securities at the bid price. Non-traded Securities are those securities (1) which were not traded on the day of valuation on a national securities exchange, or (2) for which the primary market is "over-the-counter." Each share of Trustees Fund will be converted into that number of shares of Sentinel Common Stock Fund class of Group Funds determined by dividing the net asset value per share of Trustees Fund as of the close of business on the day preceding the effective date of the merger by the net asset value per share to Sentinel Common Stock Fund class of Group Funds at that time. Applicants state that, for purposes of the mergers, Non-traded Securities will be valued at the mean between bid and ask.

According to the application, Group Funds is a series type company that as of November 30, 1977, had net assets of $289,851,810 in three different series or classes of stock as follows: Sentinel Common Stock Fund, with net assets of $265,820,568 as of November 30, 1977, which seeks a combination of growth of principal and income; Sentinel Balanced Fund, which seeks a conservative combination of stability, income and growth; and Sentinel Apex Fund, which seeks long term growth of principal. The primary investment objective of Bond Fund is to seek a high level of continuing income inconsistent with the preservation of capital; at November 30, 1977, it had $4,906,121 in net assets. Growth Fund has as its primary investment objective the growth of capital; at November 30, 1977 it had $13,470,060 in net assets. Trustees Fund has as its primary objective the achievement of above average investment return, consistent with preservation of capital, irrespective of whether the source of such return is income or capital growth; at November 30, 1977, it had net assets of $15,766,776.

In the opinion of counsel to the Sentinel Funds, and of counsel to Group Funds, no gain or loss will be realized or recognized, for federal income tax purposes, by either the Sentinel Funds or Group Funds or their shareowners by reason of the proposed merger. Prior to the effective date of the mergers, each of the Sentinel Funds will declare a distribution to its shareholders of its accrued income and realized capital gain as may be necessary to maintain its status as a regulated investment company under the Internal Revenue Code of 1954, as amended. No effect has been given to any relative disparities in the tax consequence of unrealized appreciation or depreciation in the respective portfolio securites. Applicants assert that these factor are not material in the case of the proposed mergers because of the speculative nature of the probability that possible tax benefits will be realized in the future.

The incremental cost of holding the annual meetings of shareholders of the Sentinel Funds chargeable to the merger, plus other costs related to the merger, is estimated by Applicants to be $11,952, $40,632 and $33,821 for Bond Fund, Growth Fund and Trustees Fund, respectively, which amounts will be borne by those funds respectively. Applicants assert that this is fair and reasonable because they estimate that, by reason of the mergers, annual savings will result of $9,266, $81,289 and $31,810 for the shareholders of Bond Fund, Growth Fund and Trustees Fund, respectively. The costs in connection with the merger to the present Group Funds is estimated by Applicants to be approximately $49,000, allocated $1,372 to Apex Fund, $2,695 to Balanced Fund and

$44,933 to Common Stock Fund. Applicants also assert this to be fair and reasonable in view of annual savings they anticipate of $3,083, $2,587 and $64,492 for Apex Fund, Balanced Fund and common Stock Fund, respectively.

Applicants state that although some reduction in expenses of NLIM and SAI are anticipated, such reduction will be offset by reduced management fees. Applicants conclude that the proposed mergers will not benefit NLIM and SAI economically. Thus, it is not proposed that either SAI or NLIM bear any portion of the merger expenses. However, as discussed below, NLIM has agreed to reimburse the Sentinel Funds an aggregate of $95,919.

According to the application, on February 1, 1976, the Sentinel Funds entered into advisory agreements with NLIM providing for an increase in the advisory fee to 0.75 percent per annum of each Fund's average net assets. However, the charter of each Sentinel Fund limited, inter alia, the amount which each such Fund could pay for investment advisory fees to 0.5 percent per annum of average net assets. Applicants assert that both the Sentinel Funds' Directors and NLIM were unaware of such limitation when those advisory agreements had been submitted for shareholder approval, and that the Directors agree that if they had known of such limitation they would have approved a proposal to amend the charters to eliminate the restriction. The Sentinel Funds state their belief that such amendment would have received approval by the shareholders of each of the Sentinel Funds. According to the application, from February 1, 1976, through November 7, 1977, the net advisory fees paid or accrued by the Sentinel Funds exceeded the 0.5 percent limitation by $125,919 in the aggregate.

The application states that, in view of the fact that the charters had not been amended as described above, a settlement was reached between the Sentinel Funds' Directors and NLIM under which NLIM agreed to waive, after November 7, 1977, its rights under the advisory agreements to the amount of the fee which exceeds the 0.5 percent limitation, pending consummation of the proposed mergers. It also agreed to credit each Sentinel Fund, on a daily basis against its advisory fees, amounts which, in the aggregate, total $30,000. Applicants state that, subsequently, during the course of preparation of the application herein and the related proxy statement and prospectus, NLIM has agreed to reimburse each Sentinel Fund certain additional amounts of the costs of the shareholder meetings and costs relating to the merger. With respect to each Sentinel Fund, Applicants state, such additional amounts, plus the amounts of the settlements described above, equal the entire advisory fees paid in excess of the 0.5 percent charter limit.

According to the application, no person owns beneficially, directly or indirectly, 25 percent of the voting securities of any of the Applicants except that National Life Insurance Co. and its affiliates own 201,564 shares of Bond Fund, representing 32.0 percent of its outstanding stock. Applicants conclude that they are presumed not to be under common control. As noted above, however, SAI, the investment adviser of Group Funds, is a wholly owned subsidiary of NLIM, the investment adviser of the Sentinel Funds, and Applicants have certain directors in common. Applicants state that, consequently, they may be deemed to be under common control (although such common control is not admitted by any of them) and therefore may be deemed to be affiliated persons of each other for purposes of the Act.

Section 17(a) of the Act, in pertinent part, provides that it shall be unlawful for any affiliated person of a registered investment company knowingly to sell to or purchase from such registered investment company any security or other property. Section 17(b) of the Act provides that the Commission, upon application, shall exempt a proposed transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act. Applicants seek an order of the Commission pursuant to section 17(b) of the Act exempting the proposed mergers from the provision of section 17(a) of the Act.

Applicants assert that the terms of the proposed transactions, including the basis for the exchange of shares of each of the Sentinel Funds, are reasonable and fair and do not involve overreaching on the part of any person concerned, since the proposed transactions are to be effected on the basis of their relative net asset values.

Applicants further assert that the proposed transaction will be consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the Act. They state that nothing in the recited policy of any of the Applicants forbids the proposed reorganization. They state further that the shareholders of each of the Sentinel Funds are being fully advised by its proxy statement and accompanying prospectus of the investment policies of the fund of which they will become shareholders if the merger is effected. Each of the mergers will serve, according to the Applicants, to reduce the per share amount of certain fixed expenses which presently duplicate each other, such as the expense of shareholder reports, legal and auditing, Commission filings, shareholders meetings and other administrative costs. Applicants' managements believe that the savings resulting from the larger size of the merged funds should result in a reduction of the expense ratio of each of them. Applicants also assert that the proposed transaction is consistent with the general purposes of the Act.

Notice is further given that any interested person may, not later than March 21, 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 Applicants at the addresses stated above. Proof of such service (by affidavit or, in 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 will be issued as of course following said date 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 any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5569 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 10137; 811-2795]

STERNS HOLDINGS INC.

Filing of Application for an Order Declaring That Applicant has Ceased To Be an Investment Company

FEBRUARY 23, 1978.

Notice is hereby given that Sterns Holdings Inc. ("Applicant"), 1359 Broadway, New York, N.Y. 10018, reg-

istered under the Investment Company Act of 1940 ("Act") as a closed-end, diversified management investment company, filed an application on February 1, 1978, and an amendment thereto on February 21, 1978, pursuant to section 8(f) of the Act, for an order 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 made therein, which are summarized below.

Applicant, formerly operating as Stern & Stern Textiles, Inc., was incorporated as a New York corporation on October 18, 1924, and until recently, was engaged in the business of designing, manufacturing, and selling fabrics. The application states that on November 3, 1977, following approval by Applicant's shareholders, substantially all of the assets of Applicant were sold to CMSS, Inc., a New York Corporation organized by Carl Marks & Co., Inc., for a purchase price of $10,550,000. Proceeds from such sale have been invested by Applicant only in short-term U.S. Government securities. On December 14, 1977, after amending its Certificate of Incorporation to change its name to Sterns Holdings Inc., Applicant registered under the Act by filing a Notification of Registration on Form N-8A with the Commission.

On December 16, 1977, Applicant commenced an offer, which expired on January 30, 1978, to repurchase its outstanding common stock for $23.10 per share. Applicant represents that the total number of beneficial owners of its outstanding securities was reduced to 55 as of February 21, 1978, and that Atwell & Co., a nominee of U.S. Trust Co. of New York, owns of record, as trustee under 10 separate trusts, approximately 55 percent of the outstanding common stock of Applicant for the beneficial interest of 12 individuals. The application states that except for the record ownership of Atwell & Co., no company, as defined in the Act, owns of record, or is known by Applicant to own beneficially, 10 percent or more of the outstanding voting securities of Applicant. Applicant also states that it is not making and does not propose to make a public offering of its securities. Accordingly, Applicant asserts that it is not presently an investment company within the meaning of the Act.

Section 3(c)(1) of the Act provides, in part, that any issuer whose outstanding securities (other than short-term paper) are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering of its securities is not an investment company within the meaning of the Act.

Section 8(f) of the Act provides, in part, that whenever 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 March 20, 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 shall 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 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 will be issued as of course following said date 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 any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5571 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 34-14497; File No. SR-SCCP-78-1]

STOCK CLEARING CORP. OF PHILADELPHIA

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 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 February 1, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Stock Clearing Corp. of Philadelphia (SCCP) proposes a rule change which will provide for additional fees for users of the indirect inquiry service for lost and stolen securities at $10 per month plus $0.50 per inquiry. In addition, the fee for processing legal transfers has been reduced from $25 per item to $15 per item. SCCP also has indicated that a rule change for its proposed indirect inquiry service for lost and stolen securities will be filed separately.

STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed rule change is to continue to unbundle clearing rates applicable to specific services.

SCCP believes that the proposed rule change provides equitable allocation of fees and charges in accordance with standards set forth in section 17A(b)(3)(D) of the Act.

SCCP has received no comments regarding the rate for lost and stolen securities. Several favorable comments were received for the new rate for legal transfers.

SCCP believes that no burden on competition will be imposed by the proposed rule change. The proposed rate schedule does not discriminate between marketplaces nor does it inhibit clearing interfaces.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty (60) days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

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 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 be submitted on or before March 24, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 23, 1978.

[FR Doc. 78-5577 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 10140; 812-4245]

TEMPLETON GROWTH FUND, LTD., ET AL.

Filing of Application for an Exemption To Permit Offers of Exchange

FEBRUARY 27, 1978.

Notice is hereby given that Templeton Growth Fund, Ltd. ("Growth Fund"), 155 University Avenue, Toronto, Ontario M5H 3B7, a Canadian corporation registered as an open-end, diversified management investment company under the Investment Company Act of 1940 ("Act"), Templeton World Fund, Inc. ("World Fund"), 50 North Franklin Turnpike, Hohokus, N.J. 07423, a Maryland corporation, registered as an open-end, diversified management investment company under the Act, and Securities Fund Investors, Inc. ("SFI"), 50 North Franklin Turnpike, Hohokus, N.J. 07423, the principal underwriter for Growth Fund and World Fund (collectively, the "Applicants"), filed an application on December 8, 1977, and an amended application on January 24, 1978, for an order of the Commission: (1) pursuant to section 11(a) of the Act to permit both Growth Fund and World Fund to offer to exchange their respective common shares for common shares of the other fund on the basis of their relative net asset values per share at the time of the exchange except for a $5 exchange fee (the "Interchange Privilege"), and (2) pursuant to section 6(c) of the Act to exempt Applicants from the provisions of section 22(d) of the Act and the rules thereunder to the extent necessary to permit such offers of exchange. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Both Growth Fund and World Fund have substantially the same investment policy and investment restrictions; namely, a flexible policy of investing in stocks and debt obligations of companies and governments of any nation, with the investment objective of long-term capital growth. They have the same investment manager, Templeton Investment Counsel Ltd., a company owned by and operated under the direction of John M. Templeton. They also have the same principal underwriter, SFI, and the same transfer agent and custodian bank, New England Merchants National Bank (the "Bank").

SFI, as principal underwriter, maintains a continuous public offering of the shares of Growth Fund and World Fund at their net asset value plus a sales charge. On purchases of less than $10,000, the maximum sales charge for both funds is 8.5 percent of the offering price, with the sales charge reduced on larger purchases. There is no sales charge imposed on the reinvestment of dividends and capital gains from shares of either Growth Fund or World Fund.

Applicants propose to permit a shareholder of either Growth Fund or World Fund to redeem his shares and use the proceeds to purchase shares of the other fund at relative net asset value per share at the time of the exchange and without payment of the customary sales charges. A holder of shares of either of the Templeton Funds (Growth Fund or World Fund) will authorize the Bank to redeem his shares in the fund presently owned and to invest the proceeds of such redemption in shares of the fund to be acquired. Upon receipt by the Bank of such investor's properly executed authorization form, the Bank will redeem the shares of the Templeton Fund to be exchanged; transmit to the investor a confirmation of such redemption; apply the redemption proceeds, less a $5 service fee charged by the Bank each time that the Interchange Privilege is exercised, to the purchase of full and fractional shares of the Templeton Fund to be acquired at net asset value for the investor's account (provided that the minimum initial amount of such investment is $500); and send a confirmation of such purchase to the investor. Although neither Growth Fund nor World Fund nor their principal underwriter, SFI, will impose any charge on an exchange of shares of either one of the Templeton Funds for shares of the other pursuant to the Interchange Privilege, a broker-dealer other than SFI may charge an investor a commission for handling such Interchange.

Applicants state that the proposed Interchange Privilege will not be available to the proceeds from a redemption of shares of either Templeton Fund which are paid directly to the investor or at his direction to any person other than the other Templeton Fund and that the Templeton Funds have reserved the right to establish a limit on the number of exchanges pursuant to the Interchange Privilege which any investor may make within a prescribed period. The Interchange Privilege will be subject to termination or amendment by Growth Fund or World Fund at any time on six months notice. A prospectus of the fund to be acquired will be sent to the shareholder with the form necessary to exercise the Interchange Privilege.

Section 11(a) provides, in part, that it shall be unlawful for any registered open-end company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus.

Applicants contend that the Interchange Privilege passes on to the investor the cost savings realized by SFI in connection with the sales of those shares of the Templeton Fund acquired by the investor pursuant to the Interchange Privilege. They state that, because any investor eligible for the Interchange Privilege will have been an investor in shares of Growth Fund or World Fund, no additional sales efforts will be incurred by SFI and no sales charge should be imposed on the investor in connection with the exchange of his shares of one fund for those of the other. It is also asserted that the Interchange Privilege will not enable any investor to purchase his original investment in shares of Growth Fund or World Fund at a current offering price other than that described in their prospectuses and that no investor will avoid payment of the applicable sales charge on such original investment. Accordingly, it is asserted that it is fair and equitable that no sale charge be imposed on the investor in connection with his exercise of the Interchange Privilege.

Section 6(c) of the Act provides, in part, that the Commission by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class of persons, securities, or transactions from any provision or provisions of the Act and the rules promulgated thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 21, 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 shall 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 Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in 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 will be issued as of course following said date 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 any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5572 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 10133; 812-4219]

TEMPLETON WORLD FUND, INC. and SECURITIES FUND INVESTORS, INC.

Filing of Application for an Exemption To Permit an Offer of Exchange

FEBRUARY 23, 1978.

Notice is hereby given that Templeton World Fund, Inc. (the "Fund"), an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), and Securities Fund Investors, Inc. ("SFI"), 50 North Franklin Turnpike, Hohokus, N.J. 07423, the principal underwriter for the Fund (collectively, the "Applicants"), filed an application on November 14, 1977, for an order of the Commission (1) pursuant to section 11(a) of the Act to permit the Fund to offer its common shares for certain shares of The Reserve Fund, Inc. ("Reserve"), and (2) pursuant to section 6(c) of the Act to exempt Applicants from the provisions of section 22(d) of the Act and the rules thereunder to the extent necessary to permit such an offer of exchange. All interested persons are referred to the application of file with the Commission for a statement of the representations contained therein, which are summarized below.

SFI, as principal underwriter for the Fund, maintains a continuous public offering of the shares of the Fund at their net asset value plus a sales charge. On purchases of les than $10,000, the maximum sales charge is 8.50 percent which is reduced on larger purchases. There is no sales charge imposed on the reinvestment of dividends and capital gains from shares of the Fund. The application states that Reserve, an open-end investment company registered under the Act, invests in short-term money market instruments and acts as its own distributor. Reserve imposes no sales or administrative charge in connection with the sale of its shares.

Applicants propose to permit a Reserve shareholder to exchange shares of Reserve acquired either (1) by investing the net proceeds from a redemption of shares of the Fund and held for such shareholder in a Templeton World Exchange Account ("Account") in the name of such shareholder at Reserve or (2) by the reinvestment of income dividends and capital gain distributions paid on all Reserve shares held in such Account, for shares of the Fund, in either case without the imposition of the customary sales charge described in the prospectus of the Fund (hereinafter referred to as the "Exchange Privilege"). Reserve shares acquired in any other manner than as described above would not qualify for the Exchange Privilege. A $5.00 service fee will be charged by New England Merchants National Bank, the custodian and transfer agent for the Fund, for each investment in shares of Reserve from proceeds of redemption of shares of the Fund.

The participant in an Account would be able to exercise his Exchange Privilege at any time by instructing Reserve to redeem shares of Reserve in his Account and apply the redemption proceeds to the acquisition of shares of the Fund. No charge on the exchange of Reserve shares for shares of the Fund will be imposed by Reserve or Applicants. The Exchange Privilege will not be available to the proceeds from a redemption of Reserve shares which are paid directly to the investor or at his direction to any person other than the Fund. The Fund and Reserve have reserved the right to establish a limit on the number of exchanges pursuant to the Exchange Privilege which any investor may make within a certain period. The Exchange Privilege will be subject to termination by the Fund or by Reserve on not less than six months' prior written notice to holders of an Account. An investor maintaining an Account will receive the current prospectus of both Reserve and the Fund provided the investor remains entitled to the Exchange Privilege. The Exchange Privilege will lapse for an investor if his Account balance of shares of the Fund shows a zero balance for a period of three consecutive years.

Section 11(a) provides, in part, that it shall be unlawful for any registered open-end company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus.

Applicants state that, because any investor eligible for the Exchange Privilege will have been an investor in shares of the Fund and will continue to receive current prospectuses of the Fund while he holds the Account with Reserve, no additional sales efforts will be incurred by SFI in connection with the reacquisition of shares of the Fund. Accordingly, Applicants contend that it is fair and equitable that no sales charge be imposed on the investor in connection with his reacquisition of shares of the Fund. It is asserted that the Exchange Privilege will not enable any investor to avoid payment of the applicable sales charge on his original investment in shares of the Fund.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class of persons, securities, or transactions from any provision or provisions of the Act and the rules promulgated thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 20, 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 shall 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 Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in 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 will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who re-

quest a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5573 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 14496]

EXTENSION OF PUBLIC HEARINGS INTO THE ESTABLISHMENT OF A NATIONAL CLEARANCE AND SETTLEMENT SYSTEM

FEBRUARY 23, 1978.

The Commission today announced that the Public Hearings into the establishment of a National Clearance and Settlement System, announced in Securities Exchange Act Release No. 14411 (January 25, 1978), have been extended. The hearings will commence on March 7, 1978, as announced, and testimony will be received from scheduled witnesses. Thereafter, the hearings will be adjourned and interested persons will be invited to submit supplemental data or prepare responsive testimony. The hearings will reconvene on April 18 for at least two days, and the proceedings will be held open to receive submissions through the end of April. For the convenience of interested persons, transcripts of the March session will be made available for public inspection upon request at Commission regional offices as well as at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5580 Filed 3-2-78; 8:45 am]

[8010-01]

[File No. 81-306]

LAKE SHORE FINANCIAL CORP.

Application and Opportunity for Hearing

FEBRUARY 27, 1978.

Notice is hereby given that Detroitbank Corp. on behalf of Lake Shore Financial Corp. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended, (the "Exchange Act") seeking an exemption from the requirements to file reports pursuant to sections 12(g), 13 and 15(d) of the Exchange Act.

The Applicant states, in part:

1. The Applicant is a Delaware corporation subject to the reporting provisions of sections 12(g), 13 and 15(d) of the Exchange Act.

2. On November 30, 1977, the Applicant was merged with a wholly-owned subsidiary of Detroitbank Corp. pursuant to an Agreement and Plan of Merger dated March 31, 1977.

3. As a result of the merger, all the issued and outstanding shares of common stock of the Applicant are now owned by Detroitbank Corp.

In the absence of an exemption, Applicant is required to file pursuant to sections 12(g), 13 and 15(d) of the 1934 Act and the rules and regulations thereunder, an Annual Report on Form 10-k for the year ending December 31, 1977. Applicant believes that its request for an order exempting it from the provisions of sections 12(g), 13 and 15(d) of the 1934 Act is appropriate in view of the fact that Applicant believes that the time, effort and expense involved in preparation of additional periodic reports would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, NW., Washington, D.C.

Notice is further given that any interested person not later than March 24, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5710 Filed 3-2-78; 8:45 am]

[8010-01]

[Rel. No. 10142; 812-4242]

STATE MUTUAL LIFE ASSURANCE COMPANY OF AMERICA

Filing of Application for Order

FEBRUARY 27, 1978.

Notice is hereby given that State Mutual Life Assurance Co. of America ("Insurance Company") 440 Lincoln Street, Worcester, Mass. 01605, a mutual life insurance company organized under the laws of the Commonwealth of Massachusetts, filed an application on December 5, 1977, for an order, pursuant to Section 17(d) of the Investment Company Act of 1940 ("Act") and Rule 17d-1 thereunder, permitting the acquisition by the Insurance Company of $1,600,000 of Subordinated Notes of Northwest Acceptance Corporation ("Northwest") in exchange for identical notes of Union Investment Co. ("Union"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Pursuant to an order of the Commission issued on February 12, 1973 (Investment Company Act Release No. 7665), corrected on February 27, 1973 (Investment Company Act Release No. 7698), and amended on July 28, 1976 (Investment Company Act Release No. 9371) (collectively referred to as the "Order"), the Insurance Company, which acts as investment adviser for State Mutual Securities, Inc. (hereinafter referred to as "Fund" or "Investment Company"), a closed-end, diversified investment company registered under the Act, is permitted to invest concurrently in each issue of securities purchased by the Fund at direct placement in an amount equal to the amount invested in such issue by the Fund and to exercise warrants, conversion privileges and other such rights at the same time and in the same amount as the Fund unless the security to be purchased is a long-term debt obligation without equity participation. The Order is subject to several conditions, one of which requires, generally, that purchases at direct placement of securities which would be consistent with the investment policies of the Fund be shared equally by the Insurance Company and the Fund. Another condition is that once the Insurance Company and the Fund have acquired interests in an issuer, neither the Insurance Company nor the Fund, unless otherwise permitted by order of the Commission, may acquire any further interest in such issuer or in any affiliated person of such issuer, or in securities issued by such issuer or affiliated person, other than interests in all respects identical.

The Insurance Company represents that the Insurance Company and the

Investment Company each concurrently hold $875,000 principal amount of 8¾ percent Subordinated Notes due 1988 of Northwest issued by Northwest in equal amounts of $437,500 on February 7, 1974 and June 13, 1974 ("Northwest Notes"). The Insurance Company states that it also holds $600,000 of 7½ percent Subordinated Notes due 1983 of Union and $1,000,000 of 9 percent Subordinated Notes due 1987 of Union (collectively, "Union Notes"). The Investment Company owns no Union securities.

Northwest is a wholly-owned subsidiary or Orbanco, Inc. ("Orbanco"), a financial services holding company. The Insurance Company states that Orbanco and Union have approved an agreement providing for the merger of Union and Northwest, subject to approval by shareholders of Union at a meeting scheduled to be held on January 30, 1978. Consummation of the merger is also dependent upon approval by the Board of Governors of the Federal Reserve System, issuance of an Internal Revenue Service tax ruling, and the consent of certain lenders and preferred stockholders of Northwest and Union.

The Insurance Company states that under the merger agreement all of the long-term noteholders of Union will become noteholders of Northwest on the same basis as their present relationships with Union, i.e., there would be no change in interest rate, level of debt, final maturity, or sinking fund requirements with respect to any lenders as a result of the merger.

It is submitted that the issuance of the new Northwest securities to the Insurance Company in exchange for the Union Notes owned by the Insurance Company may be deemed to be an acquisition of further interests in Northwest which will not be shared equally with the Investment Company, and that the Insurance Company would, therefore, not be permitted, within the terms of the Order, to exchange its Union Notes for the new Northwest securities pursuant to the merger unless it obtains a further order specifically permitting such acquisitions.

Section 17(d) of the Act and Rule 17d-1 thereunder provide that an affiliated person of a registered investment company, acting as principal, may not effect any transaction in which such investment company is a joint participant without the permission of the Commission. In passing upon applications for orders granting such permission, the Commission will consider whether the participation of the investment company in such joint enterprise or arrangement on the basis proposed is consistent with the provisions, policies, and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

The Insurance Company submits that its proposed acquisition of the New Northwest securities is not disadvantageous to the Fund and is consistent with the provisions, policies, and purposes of the Act. As a result of the merger, Northwest should have the benefit of increased operating efficiencies, a larger capital base, and increased assets. Accordingly, the Insurance Company asserts the merger should impact favorably upon Northwest's credit standing, and would thereby benefit both the Insurance Company and the Investment Company as current holders of Northwest Notes. It is further stated that the proposed acquisition by the Insurance Company of the new Northwest securities in exchange for its Union Notes pursuant to the merger will not be disadvantageous to the Investment Company because such Northwest securities will have the same subordinated creditor status as the Northwest Notes and because the Investment Company's position as a holder of Northwest Notes should be improved as a result of the merger. The Insurance Company further asserts that the new Northwest securities to be acquired pursuant to the merger should be of higher quality than the Union Notes. Finally, the Insurance Company believes that it would be disadvantaged if it were not permitted to exchange its Union Notes for the new Northwest securities pursuant to the merger.

Notice is further given that any interested person may, not later than March 24, 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 shall 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 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 will be issued as of course following said date 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 any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5711 Filed 3-2-78; 8:45 am]

[8010-01]

[Rel. No. 20423; 70-5964]

SYSTEM FUELS, INC. ET AL.

Proposal by Fuel Supply Subsidiary To Issue Two Year Note to Bank

In the matter of: System Fuels, Inc., 225 Baronne Street, New Orleans, La. 70112; Arkansas Power & Light Co., First National Building, Little Rock, Ark. 72203; Louisiana Power & Light Co., 142 Delaronde Street, New Orleans, La. 70174; Mississippi Power & Light Co., Electric Building, Jackson, Miss. 39205; New Orleans Public Service, Inc., 317 Baronne Street, New Orleans, La. 70112; (70-5964).

Notice is hereby given that Arkansas Power & Light Co., Louisiana Power & Light Co., Mississippi Power & Light Co. and New Orleans Public Service, Inc. (collectively, the "Operating Companies"), all of which are public utility subsidiaries of Middle South Utilities, Inc., a registered holding company, and System Fuels, Inc. ("SFI"), the Middle South system fuel supply subsidiary which is jointly owned by the Operating Companies, have filed a post effective amendment to an application-declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7 and 12(b) of the Act and rules 45 and 50(a)(2) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transaction.

By order dated March 8, 1977, in this matter (HCAR No. 19924) SFI was authorized to enter into a Coal Supply Agreement and certain supplemental agreements ("Coal Agreement"), dated as of December 22, 1976, between Antelope Coal Co. ("Antelope") and SFI, to advance to Antelope the total cost of a dragline which Antelope has ordered for use in producing coal for SFI's needs. It is currently expected that the total cost of the dragline will be not less than $15,000,000 and that the dragline will be available for delivery to Antelope in late February 1978. SFI anticipates having to advance to Antelope funds to cover the cost of the dragline shortly thereafter. As the date on which Antelope is to commence delivery of coal to SFI under the Coal Agreement is presently scheduled for January 1, 1983, rather

than January 1, 1982, the advance by SFI to Antelope in respect of the dragline will be for a period of two years, rather than one year.

To obtain such funds to advance to Antelope for the cost of the dragline in the manner described above, SFI proposes to enter into a new loan agreement ("Loan Agreement") with Morgan Guaranty Trust Co. of New York ("Bank"), under which SFI will be entitled to borrow from the Bank the principal amount of $15,000,000 for a two-year term. To the extent that the total cost of the dragline, as finally determined, exceeds $15,000,000, SFI will advance the additional funds to Antelope from the proceeds of Borrowings from the Operating Companies or from funds on hand.

To effect the proposed borrowing under the Loan Agreement, SFI will deliver to the Bank an unsecured promissory note ("Note") in the principal amount of $15,000,000. The Note will be payable two years from date of issuance and will bear interest, payable quarterly and at maturity, on the unpaid principal amount thereof at a rate per annum equal to one hundred ten percent (110 percent) of the base rate (currently 8 percent per annum) as announced from time to time by the Bank for 90-day commercial loans in New York City to borrowers of the highest credit standing, with adjustments in the interest rate to be made effective automatically as of the opening of business on the effective date of any change in the Bank's base rate. There is no requirement that SFI maintain compensating balances with, or pay any commitment fee to, the Bank in connection with the borrowing under the Loan Agreement.

Under the terms of the Loan Agreement, the Operating Companies will covenant and agree with the Bank, severally in accordance with their present respective shares of ownership of the common stock of SFI, to take any and all action as, from time to time, may be necessary to keep SFI in a sound financial condition and to place SFI in a position to discharge, and to cause SFI to discharge, its obligations to the Bank pursuant to the Loan Agreement and the Note when due. The Operating Companies will further covenant and agree that they will, unless otherwise consented to in writing by the Bank, maintain their respective shares of ownership of the common stock of SFI, for the period during which the principal amount of the Note remains unpaid, in approximately the same proportions as presently held by them.

A statement of the fees, commissions and expenses to be incurred by the applicants in connection with the proposed transaction will be filed by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 23, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5712 Filed 3-2-78; 8:45 am]

[4710-01]

DEPARTMENT OF STATE

[Public Notice CM-8/19]

STUDY GROUP 8 OF THE U.S. ORGANIZATION FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Group 8 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on March 23, 1978, at 9:30 a.m. in Room 8210, Federal Communications Commission Building, 2025 M Street NW., Washington, D.C.

Study Group 8 studies matters relating to systems of radiocommunications and radiodetermination for the mobile services. The purpose of the meeting will be the review and adoption of proposed contributions to the CCIR Special Preparatory Meeting (October 1978) for the 1979 World Administrative Radio Conference.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman.

Dated: February 23, 1978.

GORDON L. HUFFCUTT,
Chairman,
U.S. CCIR National Committee.

[FR Doc. 78-5641 Filed 3-2-78; 8:45 am]

[4710-02]

Agency for International Development

UNITED STATES AMBASSADOR TO BARBADOS

Redelegation of Authority No. 165-25

Pursuant to the authority vested in me as Assistant Administrator, Bureau for Latin America, by the Foreign Assistance Act of 1961, as amended, and the delegations of authority issued thereunder, I hereby delegate to the United States Ambassador to Barbados, the Honorable Fred V. Ortiz, authority to executive AID Loan Agreement 538-T-007 (Regional Agribusiness Development). This delegation of authority shall remain effective through March 31, 1978.

Dated: February 21, 1978.

ABELARDO L. VALDEZ,
Assistant Administrator,
Bureau for Latin America.

[FR Doc. 78-5642 Filed 3-3-78; 8:42 am]

[4710-02]

Agency for International Development

HOUSING GUARANTY PROGRAM FOR JAMAICA

Information for Investors

The Agency for International Development (A.I.D.) has advised the Jamaica Mortgage Bank (the Borrower) that upon execution by an eligible U.S. investor acceptable to A.I.D. of an agreement to lend the Borrower an amount not to exceed $15 million and subject to the satisfaction of certain further terms and conditions by the Borrower, A.I.D. will guaranty repayment to the investor of the principal and interest on such loan. The guaranty will be backed by the full faith and credit of the United States of America and will be issued, pursuant to authority contained in section 222 of the Foreign Assistance Act of 1961, as amended. Proceeds of the loan will be used to finance a tenement upgrading program, a squatter settlement improvement program and a rural home improvement program in Jamaica. This project is referred to as 532-HG-010.

Eligible investors interested in extending a guaranteed loan to the Borrower should communicate promptly with:

Mr. David Levermore, Jamaica Mortgage Bank, P.O. Box 950, Kingston 5, Jamaica, telephone 66-322-323.

Investors eligible to receive a guaranty are those specified in section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic corporations, partnerships or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for a guaranty, the loan must be repayable in full no later than the 13th anniversary of the first disbursement of the principal amount thereof and the interest rate must be fixed at time of offer and may be no higher than the maximum rate to be established by A.I.D.

The Borrower projects a disbursement schedule approximately as follows: $5 million not later than June 15, 1978, $5 million not later than September 15, 1979 and $5 million not later than September 15, 1980, in a maximum of four disbursements.

The investor must provide for the servicing of his loan, i.e., recordation and disposition of loan payments received from the Borrower. The Borrower shall not be required to pay a commitment fee prior to the first disbursement.

Information as to eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from:

Director, Office of Housing, Agency for International Development, Room 625, SA-12, Washington, D.C. 20423.

This notice is not an offer by A.I.D. or by the Borrower. The Borrower and not A.I.D. will select an investor and negotiate the terms of the proposed loan.

Prospective investors are requested to submit offers to the Borrower by March 17, 1978.

Dated: March 1, 1978.

PETER M. KIMM,
Director,
Office of Housing.

[FR Doc. 78-5782 Filed 3-2-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 78-73]

POLYVINYL CHLORIDE SHEET AND FILM FROM THE REPUBLIC OF CHINA (TAIWAN)

Antidumping; American Manufacturer's Desire To Contest Negative Fair Value Determination

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

ACTION: Notice of desire to contest a determination under the Antidumping Act, 1921, as amended.

SUMMARY: This notice is to advise the public that the Secretary of the Treasury has received notification from certain American producers of polyvinyl chloride sheet and film of their desire to contest a negative fair value determination made under the Antidumping Act of 1921, as amended, with respect to such products sold by two Taiwanese companies.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Lublinski, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-2938).

SUPPLEMENTARY INFORMATION: On January 16, 1978, a notice of "Determination of Sales at Less Than Fair Value; Exclusion from and Final Discontinuance of Antidumping Investigation" in the matter of polyvinyl chloride sheet and film from the Republic of China was published in the FEDERAL REGISTER (43 FR 2254). This notice excluded from the determination of sales at less than fair value, polyvinyl chloride sheet and film from the Republic of China produced by Ocean Plastics Co., Ltd. (Ocean Plastics), and discontinued the antidumping investigation with respect to merchandise produced by China Gulf Plastics Corporation (China Gulf). Except for the merchandise sold by these two producers, the case was referred to the United States International Trade Commission for a determination as to whether the sales at less than fair value are causing, or are likely to cause injury to an industry in the United States.

Notification was received by the Secretary of the Treasury on February 9, 1978, of the desire of the Plastic Imports Action Committee (PIAC), a group of American producers of the same class or kind of merchandise as that described in the above determination, to contest in the United States Customs Court the failure to include in the determination of sales at less than fair value, such merchandise sold by Ocean Plastics and China Gulf.

In accordance with the provisions of section 516 of the Tariff Act of 1930, as amended by the Trade Act of 1974 (19 U.S.C. 1516), notice is hereby given that certain American manufacturers, producers or wholesalers have given notice that they desire to contest the failure to include in the determination of sales at less than fair value, polyvinyl chloride sheet and film sold by Ocean Plastics and China Gulf.

LEONARD LEHMAN,
Acting Commissioner
of Customs.

Approved: February 27, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the
Treasury.

[FR Doc. 78-5600 Filed 3-2-78; 8:45 am]

[4810-22]

Customs Service

CERTAIN ELECTRICAL SOUND EQUIPMENT AND ELECTRONIC MUSICAL INSTRUMENTS FROM JAPAN

Initiation of Countervailing Duty Investigation and Preliminary Determination

AGENCY: Customs Service, United States Treasury Department.

ACTION: Initiation of Countervailing Duty Investigation and Preliminary Determination.

SUMMARY: This notice is to advise the public that a petition has been received and an investigation is being started for the purpose of determining whether or not benefits are granted by the Government of Japan to manufacturers or exporters of certain electrical sound equipment and electronic musical instruments which constitute a bounty or grant within the meaning of the Countervailing Duty Law. A preliminary determination that the subject merchandise does not benefit from bounties or grants is being issued simultaneously. A final decision will be made not later than August 24, 1978.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Edward F. Haley, Operations Officer, Technical Branch, Duty Assessment Division, Office of Operations, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-556-5492.

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was received on August 24, 1977, alleging that payments or bestowals conferred by the Government of Japan upon the manufacture, production or exportation of electrical sound equipment and electronic musical instruments from Japan 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).

The electrical sound equipment specified in the petition includes all types of audio frequency electric amplifiers (by themselves or in combination with RF amplifiers), microphones, speakers (including, but not

limited to, horns, drivers and tweeters), speaker arrays or systems, mixers, public address systems, and sound amplifier sets, classifiable under items 684.70, 685.25, 685.32, 685.40, 685.50, and 688.40 of the Tariff Schedules of the United States Annotated (TSUSA). The electronic musical instruments specified in the petition are classifiable under items 725.46 and 725.47 of the TSUSA.

For the reasons set forth below, it is deemed appropriate at this time to issue a preliminary determination pursuant to section 303(a)(4) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), that bounties or grants are not being paid or bestowed on electrical sound equipment and electronic musical instruments from Japan.

The only "bounty or grant" alleged by the petitioner to be countervailable is the forgiveness of the Japanese Commodity Tax upon the export of the subject merchandise. The Department has consistently held that the non-excessive rebate or remission of indirect taxes, directly related to an exported product, does not constitute a bounty or grant within the meaning of the law. The fact that imports into Japan of the subject merchandise are subject to duty does not, in itself, operate to make commodity tax rebates bounties or grants; and there is no evidence before the Department that the commodity tax rebates, either in themselves or in conjunction with Japanese import duties on similar merchandise, operate to confer bounties or grants on exports from Japan of the merchandise in question.

A final decision in this case will be made on or before August 24, 1978. Before a final determination is made, consideration will be given to any relevant data, views, or arguments submitted in writing with respect to this preliminary determination. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office on or before April 3, 1978.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan Number 26 of 1950 and Treasury Department Order 190 Revision 14, July 1, 1977, the provisions of Treasury Department Order 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the initiation of a countervailing duty investigation and issuance of a preliminary countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

FEBRUARY 27, 1978.

[FR Doc. 78-5662 Filed 3-2-78; 8:45 am]

[4810-25]

Office of the Secretary

TREASURY SMALL BUSINESS ADVISORY COMMITTEE

Meeting

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that a meeting of the Treasury Small Business Advisory Committee will be held on March 20 and 21, 1978.

On Monday, March 20, the Committee's three subcommittees will meet from 9:30 a.m. to 12 p.m. and from 2 p.m. to 5 p.m. Subcommittees on Capital Formation (Room 4125) and Tax Policy (Room 4119) will meet at the Main Treasury Building, 15th and Pennsylvania Avenue NW., Washington, D.C. 20220. The subcommittee on Tax Administration will meet in Room 3313 at the Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20220. The full committee will meet on Tuesday, March 21, at 9:30 a.m. until approximately 12 p.m. in Room 4119 at the Main Treasury Building, 15th and Pennsylvania Avenue NW., Washington, D.C. 20220.

The Committee was formed to provide a means of communication between the small business community and Treasury officials on numerous economic issues, including capital formation, tax policy, tax administration, and governmental regulations. On Monday, March 20, the Capital Formation subcommittee will address Securities Exchange Commission regulations and government assistance programs affecting small business; the Tax Policy subcommittee will focus on the impact of tax policies affecting the small business sector; and the Tax Administration subcommittee agenda will include compliance, Federal tax deposit procedures and ERISA as it affects plans maintained by small business. On March 21 the agenda for the full committee meeting includes reports and action on recommendations of the subcommittees.

The meetings will be open to the public. A limited number of seats will be available on a first come, first serve basis. In order to facilitate admittance, persons interested in attending are asked to call 566-5487 so that confirmation of space and access procedures can be provided.

Interested persons may file a written statement with the Committee before, during or after the meeting. The Chairman will, as time permits, entertain oral comments from members of the public attending the meetings. Persons interested in making oral statements are asked to call 566-5487 before 5 p.m. on March 16.

Minutes of the meeting will be available on request from the Treasury Small Business Advisory Committee.

Inquiries may be directed to Frederic H. Sweet, Special Assistant to the Secretary (Consumer Affairs), Department of the Treasury, Main Treasury Building, Room 4453, 15th and Pennsylvania Avenue NW., Washington, D.C. 20220, telephone 202-566-5487.

Dated: February 28, 1978.

ROBERT CARSWELL,
Deputy Secretary.

[FR Doc. 78-5673 Filed 3-2-78; 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

ADVISORY COMMITTEE ON STRUCTURAL SAFETY OF VETERANS ADMINISTRATION FACILITIES

Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92-463 that a meeting of the Advisory Committee on Structural Safety of Veterans Administration Facilities will be held in Room 442 at the Veterans Administration Central Office, 811 Vermont Avenue NW., Washington, D.C. on March 31, 1978 at 10 a.m. The Committee members will review Veterans Administration construction standards and criteria relating to fire, earthquake, and other disaster resistant construction.

The meeting will be open to the public up to the seating capacity of the room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Mr. James Lefter, Director, Civil Engineering Service, Office of Construction, Veterans Administration Central Office, phone 202-389-2864, prior to March 29, 1978.

Dated: February 24, 1978.

MAX CLELAND,
Administrator.

[FR Doc. 78-5623 Filed 3-2-78; 8:45 am]

[8320-01]

CENTRAL OFFICE EDUCATION AND TRAINING REVIEW PANEL

Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92-463 that a meeting of the Central Office Education and Training Review Panel, authorized by section 1790(b), Title 38, United States Code, will be held in Room 306, Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, D.C. on March 21, 1978 at 10 a.m. The meeting will be held for the purpose of reviewing the July 25, 1977 decision of the Director, Veterans Administration Regional Office, Los Angeles, Calif., to continue

the suspension of enrollments of all eligible persons in the National Training College, 4300 Campus Drive, Newport Beach, Calif. 92660. This hearing was previously scheduled for November 7, 1977 and was vacated at the request of the counsel for the institution.

The meeting will be open to the public up to the seating capacity of the conference room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Mr. Bernard D. Duber, Chief, Field Operations, Education and Rehabilitation Service, Veterans Administration Central Office, phone 202-389-2850, prior to March 10, 1978.

Dated: February 24, 1978.

MAX CLELAND,
Administrator.

[FR Doc. 78-5624 Filed 3-2-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 601]

ASSIGNMENT OF HEARINGS

FEBRUARY 28, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 46219 (Sub-No. 17), Sternberger Motor Corp. now being assigned May 15, 1978 (2 weeks), at New York, NY, in a hearing room to be later designated.

AB 57 (Sub-No. 7), Soo Line Railroad Co. Abandonment in Baraga and Houghton Counties, MI, is assigned for hearing at Houghton, MI, and will be held at the city of Houghton City Council Chambers, 100 Portage Street.

MC 2960 (Sub-No. 9), (Sub-No. 10), (Sub-No. 11), (Sub-No. 13), (Sub-No. 16), and (Sub-No. 18), England Transportation Co. of Texas, Inc., Houston, TX, are now assigned for hearing April 10, 1978 (10 days), at Austin, TX, in a hearing room to be later designated.

MC 113678 (Sub-No. 663), Curtis, Inc., now assigned March 13, 1978, at San Francisco, CA, is transferred from room 112, 555 Battery Street to room 510, 211 Main Street.

MC 43867 (Sub-No. 36), A. Leander McAlister Trucking Co., Inc; MC 113855 (Sub-No. 382), International Transport, Inc.; MC 114211 (Sub-No. 318), Warren Transport, Inc.; and MC 125433 (Sub-No. 133), F-B Truck Line Co., now assigned March 10, 1978, at San Francisco, CA, in room 15022, 15th floor, Federal Building, 450 Golden Gate Avenue; are transferred to room 510, 211 Main Street, San Francisco, CA.

MC 730 (Sub-No. 405), Pacific Intermountain Express Co., Inc., now assigned March 15, 1978, at San Francisco, CA, in room 1730, 17th floor, 211 Main Street, is transferred to room 510, 211 Main Street in San Francisco, CA.

MC-F-12598, Cooper-Jarrett, Inc.—Purchase—Tri-City Express, Inc., and MC 35334 (Sub-Nos. 78 and 79), Cooper-Jarrett, Inc., now assigned March 7, 1978, at Washington, DC, is canceled.

MC 115826 (Sub-No. 270), W. J. Digby, Inc., is now assigned for hearing March 20, 1978, at Phoenix, AZ, and will be held at the Adams Hotel, Adams Street at Central Avenue.

MC 71652 (Sub-No. 11), Byrne Trucking, Inc., now assigned March 20, 1978, at San Francisco, CA, in room 510 at 211 Main Street is transferred to the Holiday Inn, 750 Kearny Street in San Francisco, CA.

MC 119626 (Sub-No. 11), Ill-Pac Coast Transportation Co., now being assigned May 2, 1978 (2 days), at St. Louis, MO, in a hearing room to be later designated.

MC 3101 (Sub-No. 4), Schaum transfer Co., now being assigned May 4, 1978 (2 days), at St. Louis, MO, in a hearing room to be later designated.

MC 124004 (Sub-No. 42), Richard Dahn, Inc., now assigned March 15, 1978, at Washington, DC, is postponed to March 23, 1978, at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 1239 (Sub-No. 9), Pony Trucking, Inc., now being assigned May 11, 1978, at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 120436 (Sub-No. 2), Nussbaum Trucking, Inc., now being assigned April 10, 1978, for prehearing conference at the Offices of the Interstate Commerce Commission in Washington, DC.

MC-F-13163, R. C. Van Lines, Inc.—Purchase—Trans-World Movers, Inc., Transport Clearing of Colorado, Inc., Successor in Interest and MC 128155 (Sub-No. 5), R. C. Van Lines, Inc., Atlanta, GA, are now assigned for hearing April 11, 1978 (4 days), at Denver, CO, at a hearing room to be later designated.

MC 115904 (Sub-No. 81), Grover Trucking Co., is now assigned for hearing April 17, 1978 (2 days), at Denver, CO, at a hearing room to be later designated.

MC 57697 (Sub-No. 11), Lester Smith Trucking, Inc., is now assigned for hearing April 19, 1978 (3 days), at Denver, CO, at a hearing room to be later designated.

MC 141804 (Sub-No. 44), Western Express, division of Interstate Rental, Inc., is assigned for continued hearing April 24, 1978 (1 week), at San Francisco, CA, at a hearing room to be later designated.

MC-F-13341, Truck Transport, Inc.—Purchase—Drum Transport, Inc., by Drum White, Inc., Assignee now being assigned May 8, 1978 (1 week), at St. Louis, MO, in a hearing room to be later designated.

MC 4405 (Sub-No. 560), Dealers Transit, Inc., now being assigned May 2, 1978 (1 day), at Columbus, OH, in a hearing room to be later designated.

MC 73165 (Sub-No. 415), Eagle Motor Lines, Inc., now being assigned May 3, 1978 (1 day), at Columbus, OH, in a hearing room to be later designated.

MC 108119 (Sub-No. 66), E. L. Murphy Trucking Co., now being assigned May 4, 1978 (1 day), at Columbus, OH, in a hearing room to be later designated.

MC 133566 (Sub-No. 81), Gangloff & Downham Trucking Co., Inc., and MC 134286 (Sub-No. 24), Illini Express, Inc., now being assigned May 5, 1978 (1 day), at Columbus, OH, in a hearing room to be later designated.

MC 107012 (Sub-No. 242), North American Van Lines, Inc., now being assigned May 8, 1978 (1 day), at Columbus, OH, in a hearing room to be later designated.

MC 143297, Garn Trucking Co., Inc., now being assigned May 9, 1978 (2 days), at Columbus, OH, in a hearing room to be later designated.

MC 128273 (Sub-No. 263), Midwestern Distribution, Inc., now being assigned May 11, 1978 (2 days), at Columbus, OH, in a hearing room to be later designated.

MC-C-9853, Consolidated Van Lines, Inc.—Investigation and Revocation of Certificate now being assigned May 8, 1978 (1 day), at New York, NY, in a hearing room to be later designated.

MC 133689 (Sub-No. 153), Overland Express, Inc., now being assigned May 9, 1978 (1 day), at New York NY, in a hearing room to be later designated.

MC 78276 (Sub-No. 9), Mazzeo & Sons Express, now being assigned May 10, 1978 (3 days), at New York, NY, in a hearing room to be later designated.

MC 76032 (Sub-No. 329), Navajo Freight Lines, Inc., now assigned April 18, 1978, at Albuquerque, NM, is postponed indefinitely.

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

[FR Doc. 78-5688 Filed 3-2-78; 8:45 am]

[7035-01]

[Ex Parte No. 241; Rule 19, Exemption No. 145]

CONSOLIDATED RAIL CORP.

Exemption Under Mandatory Car Service Rules

To all railroads:

Because of congestion following severe winter storms, the Consolidated Rail Corp. is unable to furnish shippers gondola cars of suitable ownership to maintain operations thereby threatening to close factories and create substantial economic loss.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19:

The Consolidated Rail Corp. is authorized to accept from shippers general service plain gondola cars less than 61-ft. in length and bearing mechanical designations "GA", "GB", "GD", "GH", "GS", and "GT" as listed in the Offical Railway Equipment Register, ICC-RER No. 406, issued by W. J. Trezise, or successive issues thereof, regardless of the provisions of Car Service Rules 1 and 2.

It is further ordered, That:

This exemption shall not apply to cars of Mexican or Canadian ownership or to cars subject to Interstate Commerce Commission or Association of American Railroads' Orders requiring return of cars to owners.

Effective February 17, 1978.

Expires March 3, 1978.

Issued at Washington, D.C., February 17, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-5689 Filed 3-2-78; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATION FOR RELIEF

FEBRUARY 29, 1978.

This application for long-and-short-haul relief has been filed with the ICC.

Protests are due at the ICC within 15 days from the date of publication of this notice.

FSA No. 43511, Southwestern Freight Bureau, Agent's No. B-733, annual volume rates on 3,4-Dichloronitrobenzene, between East St. Louis, Ill., and St. Louis, Mo., on the one hand, and, on the other, Boutte and Luling, La., in sup. 30 to its tariff 12-K, ICC 5272, to become effective March 27, 1978.

Grounds for relief—market competition.

By the Commission.

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

[FR Doc. 78-5682 Filed 3-2-78; 8:45 am]

[7035-01]

[Notice No. 19TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 16, 1978.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field officil named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 26396 (Sub-No. 168TA), filed February 8, 1978. Applicant: POPELKA TRUCKING CO., d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural chemicals* (except in bulk) from Randolph, WI and points in its commercial zone, to points on the International Boundary line between the United States and Canada located in MN, ND, MT, ID, and WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bruce E. Ruoff, Transportation Analyst, Eli Lilly Inter-America, Inc., P.O. Box 32, Indianapolis, IN 46206. Send protests to: District Supervisor, Paul J. Labane, Interstate Commerce Commission, 2602 First Ave., North Billings, MT. 59101.

No. MC 51146 (Sub-No. 573TA), filed February 8, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Applicant's representative: Wayne Dowing (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses, and* (2) *foodstuff when moving in mixed loads with the commodities in* (1) *above.* From the facilities of Oscar Meyer & Co., Inc. at Madison WI, to Boston, MA; Portland, ME; Albany, NY; Suffield, CT; and Philadelphia, PA., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Oscar Meyer & Co., Inc., P.O. Box 7188, Madison, WI 53707. Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg. & Courthouse, 517 East Wisconsin Ave., Room 619, Milwaukee, WI 53202.

No. MC 59264 (Sub-No. 66TA), filed January 30, 1978. Applicant: SMITH & SOLOMON TRUCKING CO., How Lane, New Brunswick, NJ 08902. Applicant's representative: Herbert Burstein, 2373 1 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery goods and materials and equipment and supplies related to bakery goods*, from Richmond, VA, and commercial zone to points in the States of ME, NH, VT, MA and RI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Nabisco Inc., East Hanover, NJ 07936, Attention: Robert A. Schulze. Send protests to: Robert S. H. Vance, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

No. MC 61396 (Sub-No. 344TA), filed February 8, 1978. Applicant: HERMAN BROS., INC., 2565 St. Marys Avenue, P.O. Box 189, Omaha NE 68101. Applicant's representative: John E. Smith, II (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Helium, in bulk, in shipper-owned trailers*, from the facilities of the U.S. Department of Interior, Bureau of Mines, at or near Keyes, OK to Chicago, IL, for 180 days. Applicant also has filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): A. J. Sutton, Manager, Distribution, Industrial Gases Division, Chemetron Corp., 111 East Wacker Drive, Chicago, IL 60601. Send protest to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 94265 (Sub-No. 259TA), filed January 30, 1978. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Route 460 West, Windsor, VA 23487. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE, Atlanta, GA 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, dairy products and articles distributed by meat packinghouses* as defined in section A, B, and C of appendix 1 to the report in Descriptions in Motor Carrier Certificates 61 MCC 209 and 766, (except commodities in bulk) in vehicles equipped with mechanical refrigeration, from Chicago, IL, and points within the Chicago, IL, commercial zone to points in NC, for 180 days. Supporting shippers: There are eight (8) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies

thereof which may be examined at the field office named below. Send protests to: District Supervisor, Paul D. Collins, Bureau of Operations, Room 10-502 Federal Building, 400 North 8th Street, Richmond, VA 23240.

No. MC 98952 (Sub-No. 51TZ), filed February 1, 1978. Applicant: GENERAL TRANSFER CO., 2880 North Woodford Street, P.O. Box 2203, Decxatur, IL 62526. Applicant's representative: Paul E. Steinhour, 918 East Capitol Avenue, Springfield, IL 62701. Authority sought to operate as a *common carrier,* by motor vehicle, ever irregular routes, transporting: *Foodstuffs, frozen meats, and nonedible foodstuffs,* moving in mechanically refrigerated equipment, from the facilities of Terminal Ice & Cold Storage Co., at or near Bettendorf, IA, to IL, IN, KY, MI, MO, OH, WI, and TN. Restricted to shipments originating at named origin and destined to named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Larry Christensen, Office Manager, Terminal Ice & Cold Storage Co., P.O. Box 928, Bettendorf, IA, 52722. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

No. MC 99439 (Sub-No. 8TA), filed January 31, 1978. Applicant: SUWANNEE TRANSFER, INC., 1830 East 21st Street, Jacksonville, FL 32206. Applicant's representative: Dan R. Schwartz, 1729 Gulf Life Tower, Jacksonville, FL 32207. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Steel piling and piledriving equipment,* between Jacksonville, FL, on the one hand, and, on the other points in NC and SC, for 180 days. Supporting shipper: Mississippi Valley Equipment Co., 14401 Old St. Augustine Road, Jacksonville, FL 32224. Send protests to: District Supervisor, G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 106603 (Sub-No. 168TA), filed February 9, 1978. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street SW., Grand Rapids, MI 49508. Applicant's representative: Martin J. Leavitt P.O. Box 400 Northville, MI 48167. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Building materials, and materials, equipment and supplies used in the manufacture and installation of building materials* (except commodities in bulk), from the facilities of Bird & Son Inc., at Franklin, OH to Rock Hill, MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bird & Son, Inc., East Walpole, MA 02032. Send protests to: C. R. Flemning, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, MI 48933.

No. MC 107107 (Sub-No. 459TA), filed January 30, 1978. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 Northwest 42nd Avenue, P.O. Box 425, Opa Locka, FL 33054. Applicant's representative: Ford W. Sewell (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Bananas* and (2) *agricultural commodities* otherwise exempt from economic regulation under section 203(b)(6) of the Act, when transported in mixed loads with bananas, from Charleston, SC, to points in CT, GA, IL, IN, IA, KS, KY, MA, MI, MN, MO, NE, NJ, NY, OH, PA, RI, SD, TN, WV and WI, for 180 days, There is no environmental impact involved in this application, Supporting shipper: Del Monte Banana Co., 1201 Brickell Avenue, Miami, FL 33131. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, BOp, 8410 Northwest 53rd Terrace, Monterey Building, Suite 101, Miami, FL 33166.

No. MC 110410 (Sub-No. 22TA), filed January 30, 1978. Applicant: BENTON BROTHERS FILM EXPRESS, INC., 168 Baker Street NW., Atlanta, GA 30313. Applicant's representative: James L. Fant (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *General commodities,* except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Jacksonville International Airport, at or near Jacksonville, FL, on the one hand, and, on the other, points within the air terminal zones of Charleston, SC, and Savannah, GA, for 180 days. Supporting shipper: Air Cargo Services, Inc., Forbes Field, Topeka, KS. Send protests to: Sara K. Davis, Transportation Assistant, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 111729 (Sub-No. 728TA), filed January 24, 1978. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Exposed and processed film and prints, complimentary replacement film, and incidental dealer handling supplies and advertising literature moving therewith* (excluding motion picture film used primarily for commercial theater and television exhibition), between points in WA and OR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately (4) statements of support attached to the application which may be examined at the field office named below. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

No. MC 111729 (Sub-730TA), filed February 8, 1978. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Applicant's representative: Elizabeth L. Henoch, Staff Vice President, (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Business papers, records, audit and accounting media and advertising material of all kinds;* (2) *Plastic, thermal and ceramic home products,* restricted against the transportation of packages or articles weighing in excess of 300 lbs. in the aggregate, on behalf of Genie, Inc., subsidiary of Avon Products, between points in AR, on traffic having or subsequent out-of-State movement by motor vehicle, for 180 days. Supporting shipper(s): Genie, Inc., 12836 East Alondra Boulevard, Cerritos, CA 90701. Send protests to: Maria B. Kejes, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

No. MC 112617 (Sub-No. 383TA), filed February 9, 1978. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, KY 40221. Applicant's representative: Mr. Charles R. Dunford, Vice President, P.O. Box 21395, Louisville, KY 40221. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Chemicals,* in bulk, in tank vehicles, from points in IL, IN, IA, KS, LA, MI, MO, NJ, OH, PA, TN, and WV, to the plantsite of Millinckrodt Inc., at or near Paris, KY, for 180 days. Supporting shipper(s): Mr. Ronald E. Boling, Traffic Supervisor, Millinckrodt Inc., Paris By-Pass, P.O. Box M, Paris, KY 40361. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 P.O. Building, Louisville, KY 40202.

No. MC 115322 (Sub-No. 139TA), filed January 27, 1978. Applicant: REDWING REFRIGERATED, INC., 9831 S. Orange Avenue, P.O. Box 10177, Taft, FL 32809. Applicant's representative: J. V. McCoy, 8515 Palm River Road, P.O. Box 426, Tampa, FL 33601. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting:

Frozen foods, from storage facilities, Mount Airy Cold Storage, Mount Airy, Md., to points in the States of OH, WV, VA, NC, MD, DE, DC, PA, NY, NJ, MA, CT, NH, and ME. Returned, refused, and rejected merchandise in reverse direction, for 180 days. Supporting shipper: Lamb-Weston, Division of Amfac Foods, Inc., 6600 Southwest Hampton Street, Portland, OR 97223. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 115654 (Sub-No. 75TA), filed January 24, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Candy Lane, Nashville, TN 37202. Applicant's representative: Henry E. Seaton, 915 Pennsylvania Building, 13th and Pennsylvania Avenue NW., Washington DC 20004. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (a) *Candy and confectionery* in mechanically refrigerated equipment and (b) *foodstuffs and pet foods,* when moving in mixed shipments with (a) above, from the plantsites and warehouse facilities of Chicago Candy Shippers Association, Ferrara-Pan Candy Co., Leaf Confectionery, Standard Brands, Inc., and Tootsie Roll Industries, Inc., at or near Chicago, IL, to applicant's terminal and consolidation facility at Cincinnati, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately (4) statements of support attached to the application which may be examined at the field office named below. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

No. MC 115841 (Sub-No. 603TA), filed February 9, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Applicant's representative: D. R. Beller (address same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Drugs and medicines* from Gulfport, MS to Secaucus, NJ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sterling Drug, Inc., 90 Park Avenue, New York, NY 10016. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

No. MC 119934 (Sub-No. 221TA), filed January 20, 1978. Applicant: ECOFF TRUCKING, INC., 625 East Broadway, Fortville, IN 46040. Applicant's representative: Robert W. Loser II, 1009 Chamber of Commerce Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Acids, chemicals* (except liquified natural gas) and polyethylene resins, in bulk, in tank or hopper-type vehicles, from Tuscola, IL, to points in the United States on and east of U.S. Hwy 85, and to points in UT, restricted to the transportation of traffic originating at the above-named origin and destined to the above-named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: U.S. Industrial Chemicals Co., P.O. Box 218, Tuscola, IL 61953. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, room 429, Indianapolis, IN 46204.

No. MC 123294 (Sub-No. 43TA), filed January 31, 1978. Applicant: WARSAW TRUCKING CO., INC., 1102 West Winona Avenue, P.O. Box 784, Warsaw, IN 46580. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Automatic poultry and animal feeding equipment,* from Milford, IN, to points in the United States in or east of the States of ND, SD, NE, KS, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chore-Time Equipment, Inc., Road 15 North, Milford, IN 46542. Send protests to: J.H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 128117 (Sub-No. 34TA), filed February 9, 1978. Applicant: NORTON-RAMSEY MOTOR LINES, INC., P.O. Box 896, Hickory, NC 28601. Applicant's representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, D.C. 20014. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *New furniture* from Appomattox, VA, to points and places in AR, LA, OK, TX, NM, CA, and NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Thomasville Furniture Industries, Inc., P.O. Box 339 Thomasville, NC 27360. Send protests to: District Supervisor, Terrell Price, 800 Brair Creek Road, Room CC516, Mart Office Bldg., Charlotte, NC 28205.

No. MC 128196 (Sub-No. 9TA), filed January 26, 1978. Applicant: KARL ARTHUR WEBER, 2002 West Cypress Street, Phoenix, AZ 85021. Applicant's representative: Karl Arthur Weber (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Building materials and forest products,* A. Building Materials in mixed shipments; B. gypsum and gypsum products; C. roofing and roofing products, insulation; D. forest products, lumber, wood products, plywood, particle board, hard board, pressed wood products, timbers and laminated beams; E. nails, rebar, hardware cloth, barbwire and other steel products; F. cement, cement mixes, sands, lime and lime products, soda ash, pot ash, bricks, blocks, rock and rock products; from points and places in AZ, CA, ID, OR, NM, TX, UT, WA, to points and places in NV and return to above named States. *Gypsum and gypsum products,* from points and places, in CA, NV, NM, TX, UT, to points and places in AZ, NV, OR, WA, and CA; *forest products, lumber, plywood, particle and hard board, timbers and laminated wood products, and recyclable waste products,* from points and places in WA, and AZ, to points and places in AZ, NM, TX, CA; from points and places in CA, OR, to points and places in NM, CA; from points and places in AR, LA, TX, to points and places in AZ, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shippers: Bath Ace Hardware 588B (or) Bath Lumber & Building Supply, 189 West Aultman, P.O. Box 1290, Ely, NV, 89301; Specialty Forest Products, Inc., 4433 North 19th Avenue, Phoenix, AZ 85015. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 128273 (Sub-No. 284TA), filed February 1, 1978. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, 121 Humboldt Street, Fort Scott, KS 66701. Applicant's representative: Elden Corban (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Drums, fibreboard, paper or pulpboard,* other than corrugated, with or without metal tops or bottoms, knocked down, ends detached, bondies folded flat in packages, and sealing machines, from the plantsite and storage facilities of the Mead Corp., located at or near Avondale, GA, to CA, WA, and OR, for 180 days. Applicant has also filed an un-

derlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Mead Corp., Courthouse Plaza Northeast, Dayton, OH 45463. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

No. MC 128527 (Sub-No. 100TA), filed January 27, 1978. Applicant: MAY TRUCKING CO., P.O. Box 398, Payette, IN 83661. Applicant's representative: C. Marvin May (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed, feed ingredients, and feed supplements*, from Quincy and Dundee, IL, and Boscobel, WI, to the facilities of Moorman Mfg. Co. of California, Inc., located near Fruitland, ID, and San Gabriel, CA. Applicant does not intend to tack or interline authority, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Moorman Mfg. Co. of California, Inc., P.O. Box 1000, San Gabriel, CA 91778. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Suite 110, 1471 Shoreline Drive, Boise, ID 83706.

No. MC 128638 (Sub-No. 18TA), filed January 30, 1978. Applicant: CENTRAL GRAIN HAULERS, INC., Route 1, Van Meter Road, P.O. Box 746, Winchester, KY 40391. Applicant's representative: George M. Catlett, 708 McClure Building, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizers*, in bulk, from the plantsite of Agrico Chemical Co. at Melbourne, KY, to points in IL, IN, KY, MI, OH, VA, and WV. Restricted to the transportation of traffic originating at the above-mentioned plantsite, for 180 days. Supporting shipper: Agrico Chemical Co., Director, Transportation, Legislation and Research, P.O. Box 3166, Tulsa, OK 74101. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

No. MC 129495 (Sub-No. 313TA), filed February 10, 1978. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liveria, KS 67901. Applicant's representative: Herbert Alan Dublin, Sullivan, Dublin & Kingsley, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lawn and patio furniture, in cartons*, from Louisberg, NC, to points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NY, NH, OH, PA, RI, TN, VT, VA, WV, and WI, for 180 days. Supporting shipper(s): Sun Terrace Casual Furniture, Division, Gay Products, Inc., P.O. Box 2377, Clearwater, FL. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

No. MC 134286 (Sub-No. 42TA), filed February 2, 1978. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Applicant's representative: Charles J. Kimball, Suite 350, Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the report in Description in Motor Carrier Certificates 61 MCC 209 and 766 (except hides and commodities in bulk), from the plantsite and/or storage facilities utilized by Sioux Preme Packing Co. located at or near Sioux Center, IA, to Detroit, MI, Champlain, Buffalo, and New York, NY, Boston, MA, Philadelphia, PA, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Larry Walsh, Vice President, Sioux Preme Packing Co., Highway 75 South, Sioux Center, IA 51250. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 139420 (Sub-No. 29TA), filed February 10, 1978. Applicant: ART GREENBERG, d.b.a. GLACIER TRANSPORT, P.O. Box 428, Grand Forks, ND 58201. Applicant's representative: James B. Hovland, P.O. Box 1680, 414 Gate City Building, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potato products* (except in bulk) from the facilities of International Co-op located at or near Grand Forks, ND, to Denver, CO, and points in NE, KS, and SD. Restriction: Restricted to the transportation of traffic originating at the facilities of International Co-op at or near Grand Forks, ND, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): International Co-op, Highway 2, Grand Forks, ND 58201. Send protests to: Ronald R. Mau, District Supervisor, Bureau of operations, Interstate Commerce Commission, Room 268, Federal Building, and U.S. Post Office, 657 2d Avenue, North Fargo, ND 58102.

No. MC 140037 (Sub-No. 6TA), filed January 30, 1978. Applicant: SUNFLOWER CARRIERS, INC., P.O. Box 355, York, NE 68467. Applicant's representative: Scott E. Daniel, Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Siouxland Dressed Beef located in Sioux City, IA, to points in NY. Restriction: Restricted to a transportation service to be performed under a continuing contract or contracts with Sunflower Beef Packers, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John C. Tasset, General Manager, Sunflower Beef Packers, Inc., York, NE 68467. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

No. MC 142443 (Sub-No. 3TA), filed January 30, 1978. Applicant: HOLSTON BROS., INC., 13711 Travilah Road, Rockville, MD 20850. Applicant's representative: Barry Roberts, Pope Ballard & Loos, 888 17th Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bagged limestone, bagged limestone chips, bagged concrete mixes, and bagged sand*, from Buchanan, VA, to Washington, DC, and points in its commercial zone, for 180 days. Supporting shipper(s): James River Limestone Co., Inc., P.O. Box 617, Buchanan, VA 24066. Send protests to: Interstate Commerce Commission, 12th and Constitution Ave. NW., room 1413, District Supervisor, W. C. Hersman, Washington, DC 20423.

No. MC 142765 (Sub-No. 4TA), filed January 31, 1978. Applicant: AMERICAN TRANSPORTATION, INC., P.O. Box 2379, Trenton, NJ 08601. Applicant's representative: Mel P. Booker, Jr., 118 North St. Asaph, Alexandria, VA 22314. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Toilet preparations, soap, cosmetics, printed matter, prizes, premiums and jewelry*, from the facilities of Avon Products, Inc., located at or near Rye, NY, to all points in the state of CT, under a continuing contract or contracts with Avon Products, Inc., for 180 days. Supporting shipper: Avon Products, Inc., Midland and Peck Avenues, Rye, NY 10580. Send protests to: District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 142925 (Sub-No. 4TA), filed January 20, 1978. Applicant: A.C.B. TRUCKING, INC., P.O. Box 1683,

2344 Sagamore North, Lafayette, IN 47902. Applicant's representative: James Robert Evans, 145 West Wisconsin Avenue, Neenah, WI 54956. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectioneries* in vehicles equipped with mechanical refrigeration (except in bulk), (1) from the facilities of E. J. Brach & Sons Division, American Home Products Corp. at Carol Stream, Chicago, and Sullivan, IL, to points in AZ, CA, NV, OR, UT, and WA, and (2) from Reno, NV, to points in AZ, CA, OR, and WA, under a continuing contract or contracts with E. J. Brach & Sons Division, American Home Products Corp., for 180 days. Supporting shipper: E. J. Brach & Sons Division, American Home Products Corp., 4656 West Kinzie Street, Chicago, IL 60644. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

By the Commission.

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

[FR Doc. 78-5683 Filed 3-2-78; 8:45 am]

[7035-01]

[Notice No. 21TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 17, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 124071 (Sub-No. 14TA), filed January 19, 1978. Applicant: LIVESTOCK SERVICE, INC., P.O. Box 944, 1420 Second Avenue South, St. Cloud, MN 56301. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 56301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of Robel Beef, Packers, Inc., St. Cloud, MN, to Seattle, WA; Portland, OR; Oakland, Los Angeles, and Wilmington, CA; Phoenix and Tucson, AZ; Las Vegas, NV; Albuquerque, NM; Denver and Grand Junction, CO; Augusta and Atlanta, GA; Georgia, Miami, and Fort Lauderdale, FL; Aiken and Columbia, SC; Charlotte and Raleigh, NC; Roanoke, Richmond, and Suffolk, VA; and Tulsa, OK, under a continuing contract, or contracts, with Robel Beef Packers, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Robel Beef Packers, Inc., St. Cloud, MN 56301. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 125023 (Sub-No. 52TA), filed January 16, 1978. Applicant: SIGMA-4 EXPRESS, INC., 3825 Beech Avenue, P.O. Box 9117, Erie, PA 16504. Applicant's representative: Richard G. McCurdy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, and *malt beverage containers*, from Utica, NY, to points in CT, ME, NH, NJ, PA, and RI, and from points in CT, ME, NH, NJ, PA, and RI, to Utica, NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: West End Brewing Company, 811 Edward Street, Utica, NY 13502. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 135797 (Sub-No. 95TA), filed January 20, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, U.S. Hwy 71, Lowell, AR 72745. Applicant's representative: Daniel C. Sullivan, 10 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal feed* (except in bulk); (2) *animal feed ingredients*, and (3) *advertising and packaging materials* when moving in mixed loads with the commodities named in (1) and (2) from the facilities of Kal Kan Foods, Inc., at Los Angeles, CA, and Indianapolis, IN, to points in CT, DE, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kal Kan Foods, Inc., 3386 E. 44th Street, Vernon, CA 90058. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 140033 (Sub-No. 38TA), filed January 16, 1978. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Applicant's representative: Lawrence A. Winkle, Winkle & Wells, P.O. Box 45538, Suite 1125 Exchange Park, Dallas, TX 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plumbing fixtures, materials and supplies*, from Plano and Abilene, TX, to points in NM, AZ, CA, OR, WA, NV, ID, NT, NJ, NY, MA, CT, PA, MD, DE, RI, VA, WV, KY, and the DC; and (2) *flexible gas connectors*, from Los Angeles, CA, to Abilene and Plant, TX; Louisville, KY; and Carlstadt, NJ, for 180 days. Supporting shipper: Eastman Central D, Division of United States Brass Corp., 901 10th Street, Plano, TX 75074. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street Room 13C12, Dallas, TX 75242.

No. MC 140193 (Sub-No. 1TA), filed January 16, 1978. Applicant: RICH B. GRANT, 910 West 24th Street, Ogden, UT 84401. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the Report in Description in Motor Carrier Certificates, 61 M. C. C.

209 and 766, (except hides, inedible tallow and commodities in bulk), from Albert Lea, MN, and Cedar Rapids, IA, to the plant site or storage facilities of Country Pride Foods at Salt Lake City, UT, under a continuing contract, or contracts, with Country Pride Foods, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Country Pride Foods, 501 North 2200 West, Salt Lake City, UT, (Dahl T. Warren, director of Wilson Food Sales). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, UT 84138.

No. MC 140553 (Sub-No. 5TA), filed January 5, 1978. Applicant: ROGERS TRUCK LINE, INC., Box 125, Webster City, IA 50595. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat by-products, dairy products and articles distributed by meat packinghouses,* as described in Sections A, B, and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and skins and commodities in bulk), from the plantsite and storage facilities of John Morrell & Co., at Sioux Falls, SD, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, and DC, and (2) *meats, meat products, meat byproducts, and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and skins and commodities in bulk), from the plantsite and storage facilities of John Morrell & Co., at Estherville, IA, to points in CT, ME, MD, MA, NH, NJ, NY, PA, and RI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John Morrell & Co., 208 S. LaSalle Street, Chicago, IL 60604. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, IA 50309.

No. MC 141776 (Sub-No. 20TA), filed January 19, 1978. Applicant: FOOD-TRAIN, INC., Spring and South Center Streets, Ringtown, PA 17967. Applicant's representative: Pauline E. Myers, 734 15th Street NW., Suite 406-7, Washington, DC. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foods and unfrozen potato products* (except in bulk), in temperature-controlled equipment, from the cold storage facility operated by Genesee Valley Cold Storage, Inc., Mt. Morris, NY, to points in the states of CT, DE, DC, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, VA, and WV, with returned, refused and rejected merchandise in reverse direction for 180 days. Supporting shipper: Lamb-Weston, Division of Amfac Foods, Inc., 6000 S.W., Hampton Street, Portland, OR 97223. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, PA 18503.

No. MC 142715 (Sub-No. 10TA), filed January 11, 1978. Applicant: LENERTZ, INC., 411 Northwestern National Bank Bldg., South St. Paul, MN 55101. Applicant's representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat byproducts, dairy products and articles distributed by meat packinghouses,* as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and skins and commodities in bulk), from the plantsite and storage facilities of John Morrell & Co., at Sioux Falls, SD, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC, and (2) *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (excedpt hides and skins and commodities in bulk), from the plantsite and storage facilities of John Morrell & Co., at Estherville, IA, to points in CT, ME, MD, MA, NH, NJ, NY, PA, RI and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): John Morrell & Co., 208 S. LaSalle Street, Chicago, IL 60604. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 142827 (Sub-No. 2 TA), filed January 18, 1978. Applicant: DE MARLIE TRUCKING, INC., Box 338, Reynolds, IL. 61279. Applicant's representative: Robert H. Levy, 29 S. La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses,* (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, from the plantsite and warehouse facilities of Central Meat Company located in Chicago, IL, to Detroit, MI, St. Louis, MO; Salem, OH; and Sunbury, PA and from the plantsite and warehouse facilities of Dakota Meat Co. located in Chicago, IL, to Cleveland, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Central Meat Co., William Beck President, 824 W. 38th Place, Chicago, IL (2) Dakota Packing Co., Robert A. Cohn, Secretary, 4040 Normal Avenue, Chicago, IL. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 143790 (Sub-No. 5 TA), filed January 16, 1978. Applicant: FEDERAL FREIGHT SYSTEM, INC., 30650 Carter Road, Solon, OH 44319, Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Household appliances* such as stoves, ranges, ovens, disposers, dishwashers, compactors, refrigerators, freezers and kitchen equipment and parts for each of such items, from (a) Nashville, TN, to points in the United States (except TN), in and east of the states of MN, IA, MO, AR, LA and (b) from Mansfield, OH to points in the United States, (except OH) in and east of the states of MN, IA, MO, AR, and LA, for 180 days. Supporting shipper(s): The Tappan Co., Tappan Park, 222 Chambers Road, Mansfield, OH 44901. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, 731 Federal Office Bldg., 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 144082 (Sub-No. 1TA), filed January 13, 1978. Applicant: DIST/TRANS MULTI-SERVICES, INC., d.b.a. TAHWHEELALEN EXPRESS, INC., P.O. Box 7191, Charlotte, NC 28217. Applicant's representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are manufactured or distributed by electrical equipment and supply manufacturers, from Anoka, MN, to Charlotte, NC, restricted to the transportation of shipments under a continuing contract, or contracts, with Hoffman Engineering Co., (2) *Such commodities* as are used or distributed by carpet manufacturers (except in bulk), (a) from Martinsville, VA, and Greenville

and Spartanburg, SC, to the facilities of Coronet Carpets, Inc., at Dalton, Calhoun, and Gainesville, GA; and (b) from the facilities of Coronet Carpets, Inc., at Dalton, GA, to points in IL, WI, MN, IA, and MI, restricted to transportation of shipments under a continuing contract, or contracts, with Coronet Carpets, Inc., and Hoffman Engineering Co., for 180 days. Supporting shipper(s): (1) Hoffman Engineering Co., Tyler Street, Anoka, MN 55303. (2) Coronet Carpets, Inc., P.O. Box 1248, Dalton, GA 30720. Send protests to: Terrell Price District Supervisor, Tyler St., Anoka, MN 55303.

No. MC 144187TA, filed January 16, 1978. Applicant: FELIX TRANSFER, INC., 7453 Lochness Drive, Miami Lakes, FL 33013. Applicant's representative: John P. Bond, 2766 Douglas Road, Miami, FL 33133. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, Classes A and B explosives, household goods, as defined by the Commission, commodities requiring special handling and cement), between points in Dade County, FL, and shipments having a prior or subsequent movement by water, for 180 days. There is no environmental impact involved in this application. Supporting shipper(s): There are approximately 5 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies therof which may be examined at the field office named below. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 NW. 53rd Terrace, Miami, FL 33166.

No. MC 144201TA, filed January 17, 1978. Applicant: V.M.P. ENTERPRISES, INC., 3006 South 40th Street, Milwaukee, WI 53215. Applicant's representative: Wm. C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buses*, in initial movements, in driveaway service, from Brownsville, TX, to points in the United States, including AK and HI, for 180 days. Supporting shipper(s): Eagle International, Inc., 2045 Les Mauldin, Brownsville, TX (Lee R. Vandaveer). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 144204TA, filed January 19, 1978. Applicant: MUD HAULERS, INC., 732 Royal Lane, Yukon, OK 73099. Applicant's representative: G. Timothy Armstrong, 6161 North May Avenue, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drilling mud and gel, drilling mud and gel materials* (except petroleum based products), between points in that part of OK on and west of U.S. Hwy 183 on the one hand, and, on the other, points in that part of TX on and north of U.S. Hwy 70, for 180 days. Supporting shipper(s): Tri-State Mud Co., Suite 520, 2809 Northwest Expressway, Oklahoma City, OK 73112. Send protests to: Connie Stanley, Transportation Assistant, room 240, Old Post Office and Courthouse Building, 215 Northwest 3d, Oklahoma City, OK 73102.

No. MC 144210TA, filed January 19, 1978. Applicant: GEORGE L. MCINTOSH TRUCKING, INC., R.D. No. 1, Watertown, NY 13601. Applicant's representative: Herbert M. Canter, Benjamin D. Levine, 305 Montgomery Street, Syracuse, NY 13202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feeds, poultry feeds, ingredients for the same, and animal health products*, from the facilities of Red Rose Feeds Division of Carnation Co. at Circleville, OH, to points in Cayuga, Chenango, Cortland, Franklin, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, and St. Lawrence Counties, NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Red Rose Feed, Division of Carnation Co., East Mill Street, P.O. Box 380, Circleville, OH 43113. Send protests to: Interstate Commerce Commission, U.S. Courthouse and Federal Building, 100 South Clinton Street, room 1259, Syracuse, NY 13260.

No. MC 144211TA, filed January 20, 1978. Applicant: BROWN & SONS, INC., P.O. Box 55, Gratis, OH 45330. Applicant's representative: Lewis S. Witherspoon, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metals*, in bulk, in dump vehicles, between points and places in Jefferson Township, Montgomery County, OH, on the one hand, and, on the other, points and places on east of U.S. Hwy 31 in IN, under a continuing contract, or contracts, with Pennsylvania Iron & Coal Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pennsylvania Iron & Coal Co., Lawrence S. Katz, Vice President, P.O. Box 6, Dayton, OH 45401. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

By the Commission.

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

[FR Doc. 78-5684 Filed 3-2-78; 8:45 am]

[7035-01]

[Notice No. 18TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 15, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 51146 (Sub-No. 572TA), filed February 3, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, 2661 South Broadway, Green Bay, WI 54306. Applicant's representative: Wayne Downing (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese, cheese products, synthetic cheeses, and materials and supplies* used in their manufacture

from points in WI to Logan, UT and points in AZ and CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: L. D. Schreiber Cheese Co., Inc., P.O. Box 610, Green Bay, WI 54305 (Robert Buchberger). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 63417 (Sub-No. 124TA), filed January 25, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Applicant's representative: William E. Bain (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles*, from Rensselaer, NY, to Philadelphia, PA, and High Point, NC, for 180 days. Supporting shipper: Ket Products, Inc., 5 Forbes Road, Rensselaer, NY 12144. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, VA 24011.

No. MC 106674 (Sub-No. 281TA), filed February 7, 1978. Applicant: SCHILL MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Applicant's representative: Linda J. Sandy (address same). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper bags and materials* used in the manufacture of cellulose fiber insulation, from Spencerville, OH, to Jonesville, NC; Lee, MA; and Oskaloosa, IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): U.S. Fiber Corp, 101 South Main, Delphos, OH 45833. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 107107 (Sub-No. 460TA), filed February 9, 1978. Applicant: ALTERMAN TRANSPORT LINES, INC. 12805 Northwest 42d Avenue, Opa Locka, FL 33054. Applicant's representative: Ford W. Sewell (address the same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foods and foodstuff*, except in bulk, between points in FL. There is no environmental impact involved in this application, for 180 days. Supporting shipper(s): Albertson International, Inc., Suite 1414, CNA Tower, 255 South Orange Avenue, Orlando, FL 32809, Allsun Juices, Inc., P.O. Box 338, Highland City, FL 33846, Citrus Central, Inc., P.O. Box 17774, Orlando, FL 32810, Del Monte Banana Co. 1201 Brickel Avenue, Box 011940, Miami, FL 33101, Doric Foods Corp., P.O. Box 986, Mt. Dora, FL 32757, Florida Fish Distributors, Inc., P.O. Box 2306 Jacksonville, FL 32203, Hill Stephens Coffee Co., 590 West 84th Street, Hialeah, FL 33528, Leaf Condectionery, Inc. 1155 North Cicero Avenue, Chicago, IL 60651, Lykes Pasco Packing Co., P.O. Box 97, Dade City, FL 33525, The Nestle Co. Inc., 100 Bloomingdale Road, White Plains, NY 10605, Orange Products, Inc., Imperial Flavors, Inc., P.O. Box 1579, Winter Haven, FL 33880, Phoenix Candy Co. Inc., 175 34th Street, Brooklyn, NY 11232, Purity Condiments, Inc., 1800 Northwest 70th Avenue, Miami, FL 33126, The Rath Packing Co., Sycamore and Elm Street, Waterloo, IA 50704, Seafood Center, Inc., 136 N. Myrtle Ave., Jacksonville, FL 32203, Standard Brands, Inc., P.O. Box 2004 Birmingham, AL 35201, Sullivan & Son, Inc., P.O. Box 572, Jacksonville, FL 32201, Tampa Cold Storage & Warehouse, P.O. Box 22666, Tampa, FL 33622, Turbana Banana Corp., 2701 LeJeune Rd., Coral Gables, FL, United States Cold Storage Corp., 2292 Sand Lake Road, Orlando, FL 32809, Vann Warehouse Co., Inc., 1707 Industrial Boulevard, Jacksonville, FL 32203. Send protests to: Donna M. Jones, Transportation Assist., Interstate Commerce Commission, BOP, Monterey Building, Suite 101, 8410 Northwest 53d Terrace, Miami, FL 33166.

No. MC 113651 (Sub-No. 264TA), filed January 23, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC. P.O. Box 552, Riggin Road, Numcie, IN 47305. Applicant's representative: Paul R. Bergant, 10 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by Department Stores (except commodities in bulk), from New York City, NY, to Houston and Dallas, TX, and New Orleans, LA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Freight Forwarders, 351 West 38th Street, New York, NY 10018. Send protests to: J. H. Gray District Supervisor, Bueau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 113388 (Sub-No. 122TA), filed January 27, 1978. Applicant: LESTER C. NEWTON TRUCKING CO., P.O. Box 618, Seaford, DE 19973. Applicant's representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue, NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the storage facilities of Mt. Airy Cold Storage, Mt. Airy, MD, to points in the States of OH, WV, VA, NC, MD, DE, DC, PA, CT, NY, NJ, MA, NH, and ME. Returned, refused and rejected merchandise in reverse direction, for 180 days. Supporting shipper(s): Ralph P. Hill, Manager, Corporate Distribution, Lamb-Weston, Div. of AMFAC Foods, Inc., 6600 Southwest Hampton Street, Portland, OR 97223. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Building, Baltimore, MD 21201.

No. MC 114273 (Sub-No. 336TA), filed February 2, 1978. Applicant: CRST, INC., P.O. Box 68, 3930 16th Avenue, Cedar Rapids, IA 52406. Applicant's representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides, pelts and skins*, from St. Cloud, MN, to points in the lower peninsular of MI; Chicago, IL; Gloversville, NY; Luray, VA; Milwaukee, WI; and Westfield, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Landy Packing Co., 1st Avenue and 16th Street, St. Cloud, MN 56301. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 115716 (Sub-No. 20TA), filed February 7, 1978. Applicant: DENVER - LIMON - BURLINGTON TRANSFER CO., 3650 Chestnut Place, Denver, CO 80216. Applicant's representative: Edward C. Hastings, 666 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat biproducts* and *articles* distributed by meat packinghouses, between Limon, CO, on the one hand and Los Angeles, CA and its commercial zones, on the other. Applicant intends to tack the authority here applied for to another authority held by it, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Limon Packing Co., Inc., 474 Wisconsin Avenue, Limon, CO 80828. Send protests to: District Supervisor, Herbert C. Ruoff, I.C.C., 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

No. MC 115841 (Sub-No. 598TA), filed February 3, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Applicant's representative: Chester G. Groebel (same

address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* for human consumption, in mechanically refrigerated equipment (except commodities in bulk, in tank vehicles), from the plant and warehouse facilities of Kraft, Inc., at Decatur, GA, to points in AL, LA, and MS, for 180 days. Supporting shipper: Kraft, Inc., 500 Peshtigo Court, Chicago, IL 60690. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

No. MC 116254 (Sub-No. 197TA), filed February 6, 1978. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, AL 35630. Applicant's representative: Randy C. Luffman (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Vegetable oil,* in bulk, in tank vehicles, from the plantsite of Cargill, Inc., Gainesville, GA, to points in AL, GA, MS, FL, KY, NC, SC, VA, TN and WV, for 180 days. Supporting shipper: Cargill, Inc., P.O. Box 1298, Gainesville, GA 30501. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 111729 (Sub-No. 721TA), (correction) filed December 12, 1977, published in the FEDERAL REGISTER issue of January 20, 1978, and republished as corrected this issue. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Business papers, records,* and audit and accounting media of all kinds, between Birmingham and Montgomery, AL, on the one hand, and on the other, Louisville, Owensboro and Paducah, KY for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Durr-Filauer Medical, Inc., 645 S. McDonough Street, Montgomery, AL. (2) South Central Bell Telephone Co., 302 Phoenix Bldg., 1706 2d Avenue, North, Birmingham, AL 35203. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007. The purpose of republication is to correct the territorial description sought by applicant.

No. MC 114457 (Sub-No. 342TA) (correction) filed December 14, 1977, published in the FEDERAL REGISTER issue of January 20, 1978, and republished as corrected this issue. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Applicant's representative: James H. Wills (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dry dog food,* from the facilities of Sunshine Feed Mills, Inc., at Tupelo, MS and Red Bay, AL to points in MO, IL, MI, and IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sunshine Feed Mills, Inc., P.O. Drawer S, Red Bay, AL 35882. Send protests to: Marion L. Cheney, District Supervisor, ICC, BOp, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401. The purpose of this republication is to broaden the destination points.

No. MC 117686 (Sub-No. 201TA) (correction) filed January 5, 1978, published in the FEDERAL REGISTER issue of February 15, 1978, and republished as corrected this issue. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Boulevard, P.O. Box 417, Sioux City, IA 51102. Applicant's representative: Robert A. Wichser (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Cloth and materials and supplies* used in the manufacture, sale, and distribution of goods produced from cloth, in mixed loads with cloth, from Osceola, AR; Eufaula, AL; Augusta, Lindale, and Trion, GA; Lawrenceburg, KY; Erwin, Greensboro, Haw River, Mount Holly, Salisbury, and Yadkin, NC; Graniteville, Greenville, Orangeburg, Rock Hill, and Ware Shoals, SC; Centerville, TN; and Brenham and New Braunfels, TX; to LeMars, Sheldon, Sioux City, Spencer, and Storm Lake, IA for 180 days. Supporting shipper(s): Aalfs Manufacturing Co., John W. Aalfs, president, 1005 East 4th Street, Box 3038, Sioux City, IA 51102. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102. The purpose of this republication is to add the portion of the territorial description that was eliminated.

No. MC 119988 (Sub-No. 130TA), file February 3, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., Hwy 130 E, P.O. Box 1384, Lufkin, TX 75901. Applicant's representative: Clayte Binion, 1108 Continental Life Bldg., Ft. Worth, TX 76102. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* from the facilities utilized by Hudson Foods, Inc., at or near Troy, AL, to points in TX, AZ, MO, OK, MS, LA, KS, IA, MN, WI, IL, IN, KY, and TN, for 180 days. Supporting shipper: Hudson Foods, Inc., Troy Industrial Park, Troy, AL. Send protests to: District Supervisor John F. Mensing, Interstate Commerce Commission, 8610 Federal Bldg., 515 Rusk Avenue, Houston, TX 77002.

No. MC 121372 (Sub-No. 2TA), filed February 7, 1978. Applicant: EXPRESS TRANSPORT CO., 1333 West Seventh Street, Cincinnati, OH 45203. Applicant's representative: Norbert B. Flick, 715 Executive Bldg., Cincinnati, OH 45202. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel articles,* between Clarksville, OH, on the one hand, and, on the other, points and places in IL, IN, KY, MI, PA, and WV, for 180 days. Supporting shipper(s): Valley Steel Products Co., Richard C. Davis, Transportation Manager, P.O. Box 429, Centralia, IL 62801. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, I.C.C., 5514-B Federal Bldg., 550 Main Street, Cincinnati, OH 45202.

No. MC 123048 (Sub-No. 384TA) (Correction) filed January 10, 1978, published in the FEDERAL REGISTER issue of February 6, 1978, and republished as corrected this issue. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st St., P.O. Box A, Racine, WI 53401. Applicant's representative: Carl S. Pope (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Tractors* (except truck tractors), and (2) *parts, implements, attachments and accessories* for tractors (except truck tractors), from Savannah, GA to points in AL, AR, MS, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Deutz Corp., 6429 Crestline Terrace, Norcross, GA 30092 (Dan Ragan). Send protests to: Mrs. Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202. The purpose of this republication is to add the territorial scope that was omitted.

No. MC 123778 (Sub-No. 35TA), filed February 3, 1978. Applicant: JALT CORP., d.b.a. UNITED NEWSPAPER DELIVERY SERVICE, P.O. Box 398, 75 Cutters Dock Road, Woodbridge, NJ 07095. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Maga-*

zines, from carrier's terminal in Edison, NJ, to points in CT, NJ, points in that part of NY on and east of NY Hwy 14, points in that part of MD and PA on and east of U.S. Hwy 15 and Wilmington, DE, under a continuing contract or contracts with Dayton Press, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dayton Press, Inc., Fred W. Scheidweiler, Jr., traffic manager, 2219 McCall Street, (P.O. Box 700), Dayton, OH 45401. Send protests to: Robert S. H. Vance, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

No. MC 124078 (Sub-No. 779TA) (correction), filed January 26, 1978, published in the FEDERAL REGISTER issue of February 15, 1978, and republished as corrected this issue. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, Milwaukee, WI 53246. Applicant's representative: Richard H. Prevette, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oil*, in bulk, in tank vehicles, from the plantsite of Cargill, Inc., at or near Gainesville, GA, to points in AL, FL, GA, KY, MS, NC, SC, TN, VA, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Gargill, Inc., P.O. Box 1298, Gainesville, GA 30501, (Ms. Ellen Jacobs). Send protests to: Mrs. Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202. The purpose of this republication is to add a State that was left out.

No. MC 124692 (Sub-No. 190TA), filed February 7, 1978. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59801. Applicant's representative: James B. Hovland, P.O. Box 1680, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, wood products and millwork*, from OR to GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): R. W. Rickett, Traffic Manager, Publisher Forest Products, 6637 Southeast 100th Avenue, Portland, OR 97266, Michael J. Scott, Manager-Beaverton, Burns Lumber Co., 11200 Southwest Allen Avenue, Suite B, Beaverton, OR 97005, William McCoy, General Manager, Northwest Division, International Forest Products, Inc., 1105 Broadway, Vancouver, WA, Bard Brown, Western International Forest Products, Inc., 8285 Southwest Nimbus Avenue, Suite 131, Beaverton, OR 97005, Kathy Watkins, Traffic Manager, Wood Markets, Inc., Box 669, Portland, OR 97207. Send protests to: District Supervisor, Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

No. MC 129086 (Sub-No. 26TA), filed February 1, 1978. Applicant: SPENCER TRUCKING CORP., Route 2, Box 254A, Keyser, WV 26726. Applicant's representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cullet*, in bulk, in dump vehicles, from Cumberland, MD, and its commercial zone, to Barrington, NJ, and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bassichis Co., 2323 West Third Street, Cleveland, OH 44113. Send protests to: J. A. Niggemyer, District Supervisor. Interstate Commerce Commission, Bureau of Operations, 416 Old Post Office Building, Wheeling, WV 26003.

No. MC 129326 (Sub-No. 28TA), filed January 31, 1978. Applicant: CHEMICAL TANK LINES, INC., Highway 60 West, P.O. Box 432, Mulberry, FL 33860. Applicant's representative: Keith Alexander, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Octyl phenol (X-80)*, in bulk, in insulated, heated, shipper-owned semitrailer tank vehicles, from Mobil Chemical Corp., Charleston, SC, to Mulberry, FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Uranium Recovery Corp., SR 640, Mulberry, FL 33860. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission—BOp, 8410 Northwest 53rd Terrace, Monterey Building, Suite 101, Miami, FL 33166.

No. MC 133689 (Sub-No. 156TA) (Correction), filed November 23, 1977, published in the FEDERAL REGISTER issue of January 20, 1978, and republished as corrected this issue. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Bettendorf, IA, to points in IL, IN, KY, MI, OH, and points in that part of PA on and west of a line beginning at the PA-MD State line (near Hancock, MD), thence along U.S. Highway 522 to junction U.S. Highway 322 (near Lewistown, PA), thence along U.S. Highway 322 to junction PA Highway 144 to U.S. Highway 6, thence along U.S. Highway 6 to PA Highway 449, thence along PA Highway 449 to the PA-NY State line (near Genessee, PA), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: General Foods Corp., 250 North Street, White Plains, NY 10625. Send protests to: Marion L. Cheney, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 14th Street, Minneapolis, MN 55401. The purpose of this republication is to add the portion of the territorial description that was inadvertently eliminated.

No. MC 134755 (Sub-No. 130TA), filed February 10, 1978. Applicant: CHARTER EXPRESS, INC., 1959 East Turner Street, Springfield, MO 65804. Applicant's representative: Larry K. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuff* (except in bulk, in tank vehicles); in vehicles equipped with mechanical refrigeration, from the plantsite and warehouse facilities of Kraft, Inc. at Decatur, GA to points in AL, LA, and MA., for 180 days. Supporting shipper(s): Kraft, Inc., 500 Peshtigo Ct., Chicago, IL 60690. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission-BOP, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 135874 (Sub-No. 94TA) (Correction), filed December 20, 1977, published in the FEDERAL REGISTER issue of January 20, 1978, and republished as corrected this issue. Applicant: LTL PERISHABLES, INC., 550 East 5th Street South, South St. Paul, MN 55075. Applicant's representative: K. O. Ptrick, 550 East 5th Street South, South St. Paul, MN 55075. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, (except commodities in bulk) from the facilities of terminal Ice & Cold Storage at or near Bettendorf, IA, to points in the States of IN, KY, MI, OH and points in that part of PA on and west of a line beginning at the PA-MD State line (near Hancock, MD), thence along U.S. Highway 522 to junction U.S. Highway 322 (near Lewistown, PA), thence along U.S. Highway 322 to junction PA Highway 144 (at Potters Mills), thence along PA Highway 144 to U.S. Highway 6, thence along U.S. Highway 6 to PA Highway 449 thence along PA Highway 449 to the PA-NY State line (near Genessee, PA), for 180 days. Ap-

plicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: General Foods Corp., 250 North Street, White Plains, NY 10625.

No. MC 135874 (Sub-No. 96TA), filed January 9, 1978. Applicant: LTL PERISHABLES, INC., 550 East 5th Street South, South St. Paul, MN 55075. Applicant's representative: K. O. Petrick (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* from the facilities of The Miami Margarine Co. at or near Albert Lea, MN, to points in IL, IA, KS, MO, NE and Denver, CO, for 180 days. Supporting shipper: Miami Margarine Co., 5226 Vine Street, Cincinnati, OH 45217. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 135874 (Sub-No. 98TA), filed January 24, 1978. Applicant: LTL PERISHABLES, INC., 550 East 5th Street South, South St. Paul, MN 55075. Applicant's representative: K. O. Petrick (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs,* frozen meats and inedible foods when moving in vehicles equipped with mechanical refrigeration, from the facilities of Terminal Ice and Cold Storage at or near Bettendorf, IA, to points in CT, DE, DC, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Continental Processors, Inc., P.O. Box 414, Lafayette, CA 94549. Lamb-Weston Division of Amfac Foods, Inc., 6600 Southwest Hampton Street, Portland, OR 97223. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 136357 (Sub No. 3TA) (correction), filed December 15, 1977, published in the FEDERAL REGISTER issue of February 3, 1978, and republished as corrected this issue. Applicant: BEST TRANSPORTATION CORP., South Washington Avenue and River Street, Scranton, PA 18505. Applicant's representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Printed matter,* from Dunmore, Scranton, Bloomsburg, and Allentown, PA, to points in the States of NJ, RI, CT, MA, MI, IL, NH, VT, ME, and NY; and Indianapolis, Crawfordsville, Bloomington, Fort Wayne, Hammond, and Terre Haute, IN; Cincinnati, OH, Kingsport, TN, and Lynchburg, VA; and (2) *materials and supplies used in the manufacture of printed matter,* from points in the states of NJ, RI, CT, MA, MI, IL, NH, VT, ME, and NY; and Indianapolis, Crawfordsville, Bloomington, Fort Wayne, Hammond, and Terre Haute, IN; Cincinnati, OH; Lynchburg, VA, and Kingsport, TN; to Dunmore, Scranton, Bloomsburg, and Allentown, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Haddon Craftsmen, Book Manufacturing Division of Intext, Ash Street and Wyoming Avenue, Scranton, PA 18509. Send protests to: District Supervisor, Paul J. Kenworthy, 314 U.S.P.O. Washington Avenue and Linden Street, Scranton, PA 18503. The purpose of this republication is to the District Supervisor and his address so protests may be sent to him.

No. MC 138562 (Sub-No. 2TA), filed February 8, 1978. Applicant: CATES TRUCKING, INC., P.O. Box 518, Swayzee, IN 46986. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, IN 46204. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Magazines and periodicals,* from Kokomo, IN, to points in FL. Supporting shipper: Hearst Magazine, Division of Hearst Corp., 224 West 57th Street, New York, NY 10019. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commision, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 141124 (Sub-No. 14TA) (correction), filed January 1978, published in the FEDERAL REGISTER issue of February 15, 1978, and republished as corrected this issue. Applicant: EVANGELIST COMMERCIAL CORP., Hanger 5, Greater Wilmington Airport, P.O. Box 1709, Wilmington, DE 19899. Applicant's representative: Boyd B. Ferris, 50 W. Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Doors, door parts, panels, hardware, electrical control parts, steel channels, and equipment, materials and supplies used or useful in the manufacture and sale thereof, except commodities in bulk, between the plantsites and facilities of Overhead Door Corp. and its subsidiaries in Cortland, NY; Lewiston, PA; Salem, OR; Grand Island, NE; Sacramento and Los Angeles, CA; Athens, GA; Covington, KY; Dallas and Fort Worth, TX; Marion, OH and Hartford and Shelbyville, IN for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Overhead Door Corp., 6250 LBJ Freeway, Dallas, TX 75240. Send protests to: T. M. Esposito, Trans. Asst., 600 Arch Street, Room 3238, Philadelphia, PA 19106. The purpose of this republication is to correct the territorial origin.*

No. MC 141483 (Sub-No. 3TA), filed February 3, 1978. Applicant: VALCON PACKAGE DELIVERY, INC., 3840 West Street, Landover, MD 20785. Applicant's representative: Martin B. Lessans, 16 Crain Highway NW., Glen Burnie, MD 21062. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Merchandise, equipment and supplies sold, used or distributed by a manufacturer of cosmetics,* for the account of Avon Products, Inc., over irregular routes, between Newark, DE, all points in MD, Washington, DC, and the following VA counties: Arlington, Accomack, Culpeper, Fairfax, Fauquier, King George, Loudoun, Northhampton, Orange, Page, Prince William, Rappahannock, Spotsylvania, Stafford, Warren and Westmoreland, for 180 days. Supporting shipper(s): Avon Products, Inc., 2100 Ogletown Road, Newark, DE 19711. Send Protests to: Interstate Commerce Commission, 12th and Constitution Avenue NW., Room 1413, District Supervisor W. C. Hersman, Washington, DC 20423.

No. MC 142330 (Sub-No. 8TA) (correction), filed December 13, 1977, published in the FEDERAL REGISTER issue of January 16, 1978, and republished as corrected this issue. Applicant: PONY EXPRESS COURIER CORP., P.O. Box 4313, Atlanta, GA 30302. Applicant's representatives: Francis J. Mulcahy, P.O. Box 4313, Atlanta, GA 30302; and John Guandolo, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Advertising media, copy sources of documents and related items,* between Jacksonville, Miami, Orlando and Tampa, FL, on the one hand, and, on the other, all points and places in FL restricted to the transportation of shipments having an immediately prior or immediately subsequent movement by air, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sun Newspapers, Inc., Division of Cook Publication, 3700 Old Cahaba Beach Road, P.O. Box 10567, Birmingham, AL 35202. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta,

GA 30309. The purpose of this republication is to add the amendment that was requested by the applicant.

No. MC 142516 (Sub-No. 7TA), filed January 30, 1978. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Avenue, Kearny, NJ 07032. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Table sauce*, except in bulk, from Paterson, NJ, to Houston, TX, Dallas, TX, Harahan, LA; Tampa, Miami, Jacksonville, FL; Seattle, WA; Birmingham, Montgomery, AL; Atlanta, GA; Portland, OR; under a continuing contract or contracts with Lea & Perrins, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lea & Perrins, Inc., 1701 Pollott Drive, Fairlawn, NJ. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 618, Newark, NJ 07102.

No. MC 143503 (Sub-No. 9TA), filed February 3, 1978. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, CA 93031. Applicant's representative: T. M. BROWN, 223 Ciudad Building, Oaklahoma City, OK. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, new furnishings*, and *accessories*, between the facilities of Rhodes Furniture, Inc., at or near Jacksonville, FL, on the one hand, and, on the other, points in Camden, Glynn, McIntosh, Charlton, Ware, Echols, Clinch, Lawndes, Lanier, Brantley, Pierce, Wayne, Long, Brooks, Cook, Berrien, and Atkinson Counties, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rhodes Furniture, Inc., P.O. Box 41428, Jacksonville, FL 32203. Send protests to: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 143794 (Sub-No. 2TA) (correction), filed December 19, 1977, published in the FEDERAL REGISTER issue of February 6, 1978, and republished as corrected this issue. Applicant: EAST-WEST MOTOR FREIGHT, INC., 7270 Hobgood Road, Fairburn, GA 30312. Applicant's representative: Richard M. Tettlebaum, Serby & Mitchell, P. C., Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Central heating and air conditioning units, furnances, air coolers, water evaporators, condensing units, compressors*, and (2) *parts, equipment and supplies* used in the manufacture and installation of the commodities in (1) above, from the facilities of Heil-Quaker Corp. in Davidson County, TN, to points in CA, MT, UT, and WA, under a continuing contract or contracts with Heil-Quaker Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Heil-Quaker Corp., 1714 Heil-Quaker Boulevard, Lavergne, TN 37080. Send protests to: E. A. Bryant, District Supervisor, Interstate Commerce Commission, Room 300, 1252 West Peachtree Street NW., Atlanta, GA 30309. The purpose of this republication is to correct the authority requested which is common in lieu of contract authority which was previously published in error.

No. MC 143978 (Sub-No. 1TA) (Correction), filed January 9, 1978, published in the FEDERAL REGISTER issue of February 21, 1978, and republished as corrected this issue. Applicant: EMERSON DELIVERY, INC., 307-12th Street SE., Cedar Rapids, IA 52401. Applicant's representative: James H. Hodge, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Machine parts* between Cedar Rapids, IA, on the one hand, and, on the other, points in the United States in and east of ND, SD, WY, CO, OK and TX, under continuing contract or contracts with FMC Corp. of Cedar Rapids, IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: FMC Corp. Crane & Excavator Division, 1201 6th Street, Cedar Rapids, IA 52406. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309. The purpose of this republication is to correct the territorial scope of the authority sought which was incorrectly worded.

No. MC 143980 (Sub-No. 1TA), filed February 2, 1978. Applicant: GERALD E. SALTSMAN, Box 242, Republic, WA 99166. Applicant's representative: Gerald E. Saltsman (same address as applicant. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Shavings, sawdust and waste*, from Republic, WA, to the international boundary at or near Danville, WA, traffic destined to Grand Forks, BC, under a continuing contract or contracts with Parta Industries Ltd., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Parta Industries Ltd., P.O. Box 129, Grand Forks, BC, Canada VOH 1HO. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, 915 Second Avenue, Seattle, WA 98174.

No. MC 144103 (Sub-No. 2TA), filed February 1, 1978. Applicant: LAWRENCE EVERS, P.O. Box 176, Darby, MT 59829. Applicant's representative: William E. O'Leary, 631 Helena Avenue, Helena, MT 59601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* in bottles, cans and kegs, from Cold Spring Brewing Co. facilities located in or near Cold Springs, MN to MT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bill White, General Manager, Coors of Missoula, Inc., 3115 West Broadway, Missoula, MT 59801. Send protests to: District Supervisor Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

No. MC 144167 (Sub-No. 1TA), filed February 1, 1978. Applicant: K/T RAILROAD EQUIPMENT CO., INC., 29 Pleasant Valley Road, Whippany, NJ 07981. Applicant's representative: Michael R. Werner, P.O. Box 1409, 1607 Fairfield Road, Fairfield, NJ 07006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Contaminated chemicals*, in sealed drums, from Sayreville and Lodi, NJ to the land fill sites of NEWCO Chemical Waste Systems, Inc., at Cincinnati, OH and Niagara, NY, under a continuing contract or contracts with Advanced Environmental Technology Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Advanced Environmental Technology Corp., 97 West Hanover Avenue, Randolph, NJ 07801. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Room 618, Newark, NJ 07102.

No. MC 144213 (Sub-No. 1TA), filed January 30, 1978. Applicant: CHANDLER & CLARK, INC., Knobs Road, P.O. Box 94, Union, WV 24983. Applicant's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crushed and ground limestone*, in bulk, in dump vehicles, from points in Greenbrier County, WV, to points in Bath, Allegheny, Craig, Giles and Highland Counties, VA, under a continuing contract or contracts with Acme Limestone Co., for 180 days. Applicant has also filed an underlying

ETA seeking up to 90 days of operating authority. Supporting shipper(s): Rodney H. Pack, Vice President, Sales and Traffic, Acme Limestone Co., Fort Spring, WV 24936. Send protests to: Miss Francis A. Ciccarello, Secretary, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charlestown, WV 25301.

No. MC 144265TA, filed February 1, 1978. Applicant: AID, INC., P.O. Box 53154, Baton Rouge, LA 70805. Applicant's representative: Lynn Lyons or Leonard Cole (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* on a call and demand basis with no shipments moving in bulk or tank trucks and no package express, and with no shipments exceeding 3,000 pounds, between points beginning or ending in the following LA parishes: Lafayette, St. Landry, Pointe Coupee, West Feliciana, East Feliciana, St. Helena, Tangipahoa, Washington, St. Tammany, Livingston, East Baton Rouge, Iberville, St. Martin, Iberia, Ascension, St. James, St. John the Baptist, St. Charles, Assumption, Lafourche, Terrebonne and St. Mary; and beginning or ending in the following States: TX, AZ, and MS, for 180 days. Supporting shippers: There are approximately (7) statements of support attached to the application which may be examined at the field office named below. Send protests to: Ray C. Armstrong, Jr., District Supervisor, T-9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 144266TA, filed February 3, 1978. Applicant: TOURCRAFTER TROLLEY, INC., 3 EAST 4TH Street, Suite 205, Cincinnati, OH 45202. Applicant's representative: Norbert B. Flick, 715 Executive Building, Cincinnati, OH 45202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, between Cincinnati, OH, on the one hand, and on the other, points in IN, KY and OH, under a continuing contract or contracts with Cincinnati Convention & Creative Services, Inc., for 180 days. Supporting shipper: Cincinnati Convention & Creative Services, Inc., Patricia A. Kayser, President, 3 East 4th Street, Cincinnati, OH 45202. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations; Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

WATER CARRIER

No. W 1320TA, filed January 23, 1978. Applicant: CMT Transportation Co., P.O. Box 216, 98th & Calumet River, Chicago, IL 60617. Applicant's representative: Richard W. Casey (same as above). Authority sought to operate as a *common carrier*, by water, transporting: *Commodities* generally, by non-self propelled vessels with the use of separate towing vessels, between ports and points in Lake Michigan, Lake Superior, Lake Huron, Lake Erie and Lake Ontario, and interconnecting waterways, for 180 days. Supporting Shippers: Max Schlossberg Co., J.B. Schlossberg, Board Chairman, 332 South Michigan Avenue, Chicago, IL 60604, Scrap Corp. of America, Dale R. Pinkert, President, 666 North Lake Shore Drive, Chicago, IL 60611. Send protests to: Transportation Assistant, Patricia A. Roscoem Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

By the Commission.

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

[FR Doc. 78-5685 Filed 3-2-78; 8:45 am]

[7035-01]

[Notice No. 22TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 22, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 1515 (Sub-No. 244TA), filed January 23, 1978. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Suite 1602, Phoneix, AZ. 85077. Applicant's representative: W. L. McCracken, Greyhound Tower, Phoenix, AZ 85077. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* and express and newspapers in the same vehicle with passengers, between Terre Haute, IN, and the junction of U.S. Hwy 41 and U.S. Hwy 52 near Gravel Hill, IN, serving no intermediate points: From Terre Haute, IN, over IN Hwy 63 to junction U.S. Hwy 41, thence over U.S. Hwy 41 to junction U.S. Hwy 52 and return over the same route. Applicant intends to tack authority applied for to MC 1515 Sub 6 and MC 1515 Sub 8, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Passenger Public (Nine students, Indiana State University). Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, 230 North First Avenue, Room 2020 Federal Building, Phoenix, AZ 85025.

No MC 4963 (Sub-No. 55TA), filed December 20, 1977. Applicant: ALLEGHANY CORP. d.b.a. Jones Motor, Bridge Street and Schuylkill Road, Spring City, PA 19475. Applicant's representative: William H. Peiffer, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, plastic pipe and fittings; cast iron pipe and fittings*, between, Charlotte, NC commercial zone, Bakers and Monroe, NC, on the one hand and on the other points in the state of MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Charlotte Pipe & Foundry Co., 2109 Randolph Road, Charlotte, NC 28202, Metalsource, 7950 Pence Road, Charlotte, NC 28212, Crucible Specialty Metals, Division of Colt Industries, 321 West 32d Street, Charlotte, NC 28206, Reynolds Aluminum Supply Co., 642 Pineville Road, Charlotte, NC, Capitol Pipe & Steel Products, 8200 Henderson Dr., Charlotte, NC. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

No. MC 2962 (Sub-No. 67 TA), filed January 19, 1978. Applicant: A & H TRUCK LINE, INC., 1111 East Louisiana Street, Evansville, IN 47717. Applicant's representative: Robert H.

Kinker, P.O. Box 464, Frankfort, KY 40602. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), serving the facilities of St. Meinrad Archabbey at or near St. Meinrad, IN, as an off-route point in connection with carriers presently authorized regular route operations. Applicant proposes to tack the temporary authority sought herein with applicant's routes contained in Certificate MC 2962 and Subs thereunder at Tell City, IN. Applicant further proposes to interline traffic with other carriers at points at Chicago, IL; Evansville, IN, and Terre Haute, IN; Louisville, and Paducah, KY; St. Louis, MO; Cincinnati, OH; Memphis and Nashville, TN, for 180 days. Supporting shipper: St. Meinrad Archabbey, St. Meinrad, IN 47577. Send protests to: Beverly J. Williams Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 41406 (Sub-No. 61 TA), filed January 23, 1978. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, P.O. Box 2176, Hammond, IN 46323. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, and materials, equipment and supplies* used in the manufacture and installation of building materials, (except commodities in bulk), from Franklin (Warren County), OH, to Rock Hill, MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Bird & Son, Inc., Fred K. Bauer Corporate Traffic Manager, Washington Street, East Walpole, MA 02032. Send protests to: Patricia A. Roscoe Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 95876 (Sub-No. 224TA), filed December 20, 1977. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 North Copper Avenue, P.O. Box 1377, St. Cloud, NM 56301. Applicant's representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, NM 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardwood flooring, hardwood flooring systems and accessories* therefor, from Dollar Bay, MI, to CT, DE, IL, IN, IA, KS, KY, ME, MD, NM, MA, MO, NH, NJ, NY, OH, OK, PA, RI, VT, VA, WV, and WI, for 180 days. Supporting shipper(s): Horner flooring Co., Dollar Bay, MI 49922. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 99365 (Sub-No. 4TA), filed January 23, 1978. Applicant: SHORTY HALL RIG CO., INC., Box 2429, Odessa, TX 79760. Applicant's representative: Q. L. Hall, 2631 E. Pearl Street, Odessa, TX 79760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, materials, equipment and supplies* used in or in connection with the construction, operation, repair, and servicing of utility, electrical, uranium and hydroelectric plants, mines, and disposal and heavy industrial plants, between Odessa, Ector County, TX, and points in NM, OK, and KS, for 180 days. Supporting shipper(s): (1) Arrow Wholesale Supply, Odessa, TX; (2) Barnco, Odessa, TX; (3) X-L Co., Midland, TX; (4) Reda Pump Co., Midland, TX; (5) Continental Products, Odessa, TX. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395, Herring Plaza, Amarillo, TX 79101.

No. MC 108393 (Sub-No. 134TA), filed January 23, 1978. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 E. Ogden Avenue, Hinsdale, IL 60521. Applicant's representative: Thomas B. Hill (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by mail order houses and retail department stores, and equipment, materials and supplies used in the conduct of such business, from New Orleans, LA, to Houston, TX, and from Brenham, TX, to New Orleans, LA, under a continuing contract, or contracts, with Sears, Roebuck and Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sears, Roebuck & Co., William C. Weeks, Southern Territorial Distribution-Traffic Manager, 675 Ponce de Leon Avenue, NE., Atlanta, GA 30395. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 108676 (Sub-No. 117TA), filed December 20, 1977. Applicant: A. J. METLER HAULING AND RIGGING, INC., 117 Chicamauga Avenue NE., Knoxville, TN 37917. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refuse containers and parts, attachments, and accessories for refuse containers* from the plantsite of Harding Machine Co. at or near Lexington, TN to points in ND, SD, NE, KS, OK, TX, NM, CO, WY, MN, ID, UT, AR, NV, CA, OR, and WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dempster Dumpster Systems, Division of Carrier Corp., Springdale and North Central Avenues, Knoxville, TN 37917. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-22, U.S. Court House, 801 Broadway, Nashville, TN 37203.

No. MC 111625 (Sub-No. 25TA), filed December 29, 1978. Applicant: BERMAN'S MOTOR EXPRESS, INC., Box 1566-Old Mill Road, Binghamton, NY 13902. Applicant's representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Authority to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Sensitized reproduction paper, and photo and reprographic articles, cleaning compounds, disinfectants, deodorants, floor sealers, flor cleaners, soaps, and sanitary napkins, foodstuff, insecticides and fertilizers, seeds, onion sets, garden supplies, footwear and materials, supplies, accessories and equipment* used in the manufacture and sale thereof. (1) Between Elmira, NY and Pittsburgh, PA, serving all intermediate points and all off-route points in Allegheny, Armstrong, Beaver, Blair, Butler, Cambia, Fayette, Greene, Indiana, Lawrence, Lycoming, Somerset, Washington, and Westmoreland Counties, PA. (a) From Elmira over NY Hwy 17 to junction U.S. Hwy 15, thence over U.S. Hwy 15 to Williamsport, PA thence over U.S. Hwy 220 to Hollidaysburg, PA thence over U.S. Hwy 22 to Pittsburgh, and return over the same route. (b) From Elmira over NY Hwy 14 to junction NY Hwy 17 thence over NY Hwy 17 to junction U.S. Hwy 15, and thence over the same routes specified in (a) above to Pittsburgh, and return over the same route. (c) From Elmira over NY Hwy 17E or NY Hwy 352 to junction NY Hwy 17, thence over NY Hwy 17 to junction U.S. Hwy 15 and thence over the same routes specified in (a) above to Pittsburgh, and return over the same route. (2) Between junction U.S. Hwy 22 and 219 and the junction of PA Hwy 56 and junction U.S. Hwy 22, serving all intermediate points and all off-route points in Allegheny, Armstrong, Beaver, Blair, Butler, Cambia, Fayette, Greene, Indiana, Lawrence,

Lycoming, Somerset, Washington, and Westmoreland Counties, PA; from junction U.S. Hwy 22 and 219 over U.S. Hwy 219 to junction PA Hwy 56 near Johnstown, PA thence over PA Hwy 56 to junction U.S. Hwy 22 at or near Armagh, PA and return over the same route. (3) Between Binghamton, NY and Pittsburgh, PA serving all intermediate points and all off-route points in Allegheny, Armstrong, Beaver, Blair, Butler, Cambia, Fayette, Greene, Indiana, Lawrence, Lycoming, Somerset, Washington, and Westmoreland Counties, PA from Binghamton, NY over NY Hwy 17 to junction U.S. Hwy 221, thence over U.S. Hwy 220 to junction PA Hwy 414, thence over PA Hwy 414 to junction Hwy 14, thence over the same routes specified in (a) above to Pittsburgh, and return over the same route. Restricted against the transportation of interline traffic which has both its interchange point and its origin or destination point within Allegheny, Armstrong, Beaver, Blair, Butler, Cambia, Fayette, Greene, Indiana, Lawrence, Lycoming, Northumberland, Somerset Washington, and Westmoreland Counties, PA for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Azon Corp., P.O. Box 290, Johnson City, NY 13790, Douglas Food Service Corp., P.O. Box 71, Johnson City, NY 13790, Endicott-Johnson Corp., Endicott, NY 13790, GAF Corp., 1361 Apls Road, Wayne, NJ 07407, Page Seed Co., Inc., Greene, NY 13778, Rochester Germicide Co., Box 1515, Rochester, NY 14603. Send protests to: Interstate Commerce Commission, U.S. Courthouse and Federal Building, 100 South Clinton Street, Room 1259, Syracuse, NY 13260.

No. MC 113624 (Sub-No. 80TA), filed January 23, 1978. Applicant: WARD TRANSPORT, INC., P.O. Box 735, Pueblo, CO 81001. Applicant's representative: Marion F. Jones, 1660 Lincoln Street, Suite 1600, Denver, CO 80264. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions,* in bulk, in tank vehicles, from Optic, NE, to points in CO and KS, for 180 days. Supporting shipper: Nutra-Flo Chemical Co., 1919 Grand Avenue, Sioux City, IA 51107. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 721 19th Street, Denver, CO 80202.

No. MC 114632 (Sub-No. 126TA), filed December 21, 1977. Applicant: APPLE LINES, INC., 212 Southwest Second Street, P.O. Box 287, Madison, SD 57042. Applicant's representative: Michael L. Carter (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Candy and confectionery* from the facilities of Switzer Candy Co., Division of Beatrice Foods Corp., located at or near St. Louis, MO, to Pheonix, AZ; Cabazon, Los Angeles, Sunnyvale, CA; Denver, CO; Pocatello, ID; Portland, OR; Salt Lake City, UT; and Seattle and Spokane, WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Switzer Candy Co., Division of Beatrice Foods Corp., 1600 North Broadway, St. Louis, MO 63102, Ms. Shirley James, Traffic Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

No. MC 119789 (Sub-No. 403TA), filed December 20, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, TX 75222. Applicant's representative: Lewis Coffey, P.O. Box 6188, Dallas, TX 75222. (For telegrams—605 S. Loop 12, Irving, TX 75060). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses,* as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61, MCC 209 and 766 (except hides and commodities in bulk). From Salt Lake City, UT to Dallas, TX, for 180 days. Supporting shipper: Joc Doctorman & Son Packing Co., Inc., 2900 South 300 West, Salt Lake City, UT 84110. Send protests to: Opal M. Jones, Trans., Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

No. MC 123476 (Sub-No. 32 TA), filed January 23, 1978. Applicant: CURTIS TRANSPORT, INC., P.O. Box 388, 3616 Jeffco Boulevard, Arnold, Mo. 63010. Applicant's representative: David G. Dimit (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Expanded plastic products,* (except in bulk, in tank vehicles), from ports of entry on the U.S.-Canadian Border at Buffalo, NY, Detroit and Port Huron, MI, to points in that part of the United States east of the western borders of MN, IA, and MO north of the southern borders of MO, KY, and WV, and on and west of U.S. Hwy 219 extending from Bluefield, WV, to the ports of entry at Buffalo, NY, restricted to traffic originating at the facilities of Dow Chemical Co. located in Canada, for 180 days. Supporting shipper: Dow Chemical U.S.A., Eastern/Central Divisions, P.O. Box 36000, Strongsville, OH 44136. Send protests to: J. P. Werthmann District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

No. MC124887 (Sub-No. 47 TA), filed January 23, 1978. Applicant: SHELTON TRUCKING SERVICES, INC., Route 1, Box 230, Altha, FL 32421. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings,* from the facilities of Samson Plastic Conduit and Pipe Corp., located in Geneva County, Al, to points in FL, GA, KY, LA, MS, NC, SC, TN and VA, for 180 days. Supporting shipper(s); Samson Plastic Conduit and Pipe Corp., Samson, AL 34677. Send protests to : G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 128117 (Sub-No. 28 TA), filed January 23, 1978. Applicant: NORTON-RAMSEY MOTOR LINES, INC., P.O. Box 896, Hickory, NC 28601. Applicant's representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, DC 20014. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Cribs,* from the plantsites of Bassett Furniture of North Carolina, Inc., at or near Statesville and Hickory, NC, to the plantsites and warehouse facilities of Bassett Furniture Industries, Inc., in Henry County, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 day of operating authority. Supporting shipper(s): Bassett Furniture Industries, Inc., P.O. Box 626, Bassett, VA 24055. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

No. MC 128190 (Sub-No. 13TA), filed January 9, 1978. Applicant: FREMONT CONTRACT CARRIERS, INC., P.O. Box 489, 1520 Railroad Street, Fremont, NE 68025. Applicant's representative: Scott E. Daniel, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Metal drywall products and products* used in the manufacturing and distribution of metal drywall products, from the plantsite of Phillips Manufacturing Co., located in Omaha, NE, to points in the United States (except NE, AK and HI), restricted to a transportation service to be performed, under a continuing contract, or contracts, with Phillips Manufacturing Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting

shipper(s): Phil Sokolof, President, Phillips Manufacturing Co., 4601 South 76th Street, Omaha, NE 68127. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 133987 (Sub-No. 3 TA), filed January 9, 1978. Applicant: ALL AMERICAN CAB CO., d.b.a. AMERICAN PARCEL EXPRESS, 6123 State Street, Huntington Park, CA 90255. Applicant's representative: Wilmer B. Hill, 666 Eleventh Street NW., Suite 805, Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Radiopharmaceuticals, radioactive chemicals, and diagnostic kits* (1) between Portland International Airport, at or near Portland, OR, on the one hand and on the other points in Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Deschutes, Douglass, Hood River, Jackson, Josephine, Klamath, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Wasco, Washington, and Yamhill Counties, OR. (2) between Seattle-Tacoma International Airport, at or near Seattle, WA, on the one hand and on the other, points in Adams, Benton, Chelan, Clallam, Cowlitz, Douglass, Franklin, Grant, Grays Harbor, Jefferson, King, Kittitas, Lewis, Lincoln, Mason, Pacific, Pierce, Skagit, Snohomish, Spokane, Thurston, Wankiakum, Walla Walla, Whatcom, Whitman, and Yakima Counties, WA, for 180 days. Applicant has also filed an underlying ETA up to 90 days of operating authority. Supporting shipper(s): Medi-Physics, Inc., 5801 Christie Ave., Emeryville, CA 94608, New England Nuclear Corp., 601 Treble Cove Rd., N. Billerica, MA 01862, E.R. Squbb & Sons, Inc., 5 Georges, New Brunswick NY 08903, Amersham Corp., 2636 S. Clearbrook Dr., Arlington Hts., IL 60005, Abbott Laboratories, Abbott Park-Bldg. AP-8, N. Chicago, IL 60064 CIS-Radiopharmaceuticals, Inc., Five DeAngelo Dr., Bedford, MA 01730. Send protests to: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Room 1321 Federal Bldg., 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 134477 (Sub-No. 217 TA), filed January 23, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meats*, from the facilities of Morris Rifkin & Sons at or near South St. Paul, MN, to Dallas and Fort Worth, TX, restricted to the transportation of traffic originating at the above named origin and destined to the above named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Morris Rifkin & Sons, Inc., South St. Paul, MN 55075. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 134755 (Sub-No. 129 TA), filed January 19, 1978. Applicant: CHARTER EXPRESS, INC., 1959 East Turner, P.O. Box 3772, Springfield, MO 65804. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and nonedible food products*, (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Terminal Ice & Cold Storage Co., at or near Bettendorf, IA to points in IL, IN, KY, MI, MN, MO, OH, and WI, for 180 days. Supporting shipper(s): Terminal Ice & Cold Storage Co., 1618 Southwest First Avenue, Portland, OR 97201. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 135007 (Sub-No. 65 TA), filed January 23, 1978. Applicant: AMERICAN TRANSPORT, INC., 7850 F Street, Omaha, NE 68127. Applicant's representative: Arthur J. Cerra, P.O. Box 19251, 2100 TenMain Center, Kansas City, MO 64141. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products* and *articles* distributed by meat packinghouses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766, (except hides and commodities in bulk), from the plantsites and facilities of John Morrell & Co., located at or near Arkansas City, KS, and Wichita, KS, to points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, TN, VT, VA, and WV, under a continuing contract, or contracts, with John Morrell & Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Emil Barondeau Traffic and Transportation Manager, John Morrell & Co., 1800 Summit, Arkansas City, KS 67005. Send protests to: Carroll Russell District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 135797 (Sub-No. 90 TA), filed December 16, 1977. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, U.S. Highway 71, Lowell, AR 72745. Applicant's representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Poultry and livestock agricultural equipment* from Sulphur Springs, AR and points approximately five (5) miles south of Noel, MO on U.S. Highway 59, to points in the United States (except AK and HI): (2) *Machinery materials and equipment and supplies* used in the manufacture or distribution of the commodities named in (1) above, from points in the United States (except AK and HI); to Sulphur Springs, AR and a point approximately five miles south of Noel, MO on U.S. Hwy 59. Restricted: to the transportation of traffic originating at the plantsite and warehouse facilities of or used by the Sibley engineering and Manufacturing Co., Inc., a wholly owned subsidiary of the Hoyt Corp. and destined to the named points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sibley Engineering & Manufacturing, Inc., Subsidiary of Hoyt Corp., 1020 North Second Street, Rogers, AR 72756. Send protests to: District Supervisor, William H. Land, Jr., 3108 Federal Bldg., 700 West Capitol, Little Rock, AR 72201.

No. MC 135797 (Sub-No. 99 TA), filed January 23, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, U.S. Hwy 71, Lowell, AR 72745. Applicant's representative: Daniel C. Sullivan, 10 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal feed*, (except in bulk), (2) *Animal feed ingredients*, and (3) *advertising and packaging materials* when moving in mixed loads with the commodities named in (1) and (2), from the facilities of Kal Kan Foods, Inc., Ogden, UT, to Denver, CO, and Indianapolis, IN, and points in WA, OR and CA, for 180 days. Supporting shipper: Kal Kan Foods, Inc., 3386 E. 44th Street, Vernon, CA 90058. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 135874 (Sub-No. 97 TA), filed January 23, 1978. Applicant: LTL PERISHABLES, INC., 550 East 5th Street South, South St. Paul, MN 55075. Applicant's representative: K. O. Patrick, 550 East 5th Street South, South St. Paul, MN 55075. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C.

209 and 766 (except in bulk), from National Stockyards, IL, East St. Louis, IL, and St. Louis MO, to points in OH, PA, NY, NJ, CT, DE, ME, MD, MA, NH, VT, RI, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Krey Packing Co., Inc., 3607 North Florissant St., St. Louis, MO 63107; (2) Royal Packing Co., Box 156, St. Clair Avenue and Ice Plant Road, National Stockyards, IL 62071. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 136423 (Sub-No. 6 TA), filed December 19, 1977. Applicant: EMPIRE DIRECT SHIPPERS, INC., 400 Sip Ave., Jersey City, NJ 07306. Applicant's representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Radio or radio receiving sets, talking machines or phonographs, or other related articles, loud speakers, consoles, floor standing, calculators, adding or computing machines and stand and tables.* From Edison, NJ, to points in the U.S. west of a line beginning at Lake Erie and extending south along the eastern border of OH, KY, TN, and FL near Dotham, AL, then over an imaginary line to Apalachia, FL on the Gulf of Mexico under a container contract with Lloyd Electronics, Inc., for 180 days. Supporting shipper: Lloyd's Electronics, Inc., 180 Raritan Center Parkway, Raritan, NJ 08818. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton St., Newark, NJ 07102.

No. MC 138253 (Sub-No. 7 TA), filed January 9, 1978. Applicant: MONFORT TRANSPORTATION CO., Box G, Greely, CO 80631. Applicant's representative: John T. Wirth, 1600 Broadway, 2310 Colorado State Bank Bldg., Denver, CO 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meat* from the port of Newark, NJ, to Lexington, KY; East Bridgewater and Worchester, MA, Trotwood, OH, and Greenwood, PA. Restrictions: (1) Restricted to shipments with prior ocean movements and moving in foreign commerce; (2) Restricted to shipments moving under a continuing contract or contracts with Monfort of Colorado, Inc. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Monfort of Colorado, Inc., P.O. Box G, Greely, CO 80631. Send protests to: District Supervisor, Roger L. Buchanan, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

No. MC 138308 (Sub-No. 38TA), filed January 23, 1978. Applicant: KLM, INC., 2102 Old Brandon Road, P.O. Box 6098, Jackson, MS 39208. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Battery boxes, covers and vents, rubber and/or plastic*, from the facilities of the Richardson Co. at or near Philadelphia, MS, to points in AL, AR, FL, GA, LA, NC, TN (except Memphis and points in its commercial zone) and TX; and (2) between the facilities of the Richardson Co. at or near Philadelphia, MS, on the one hand, and, on the other, points in CA and IN; (3) applicant intends to serve all points in the commercial zones of all cities in the States applied for, for 180 days. Supporting shipper: The Richardson Co., 2701 West Lake St., Melrose Park, IL. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

No. MC 138328 (Sub-No. 55TA), filed January 20, 1978. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I-80 and Hwy 50, P.O. Box 37308, Omaha, NE 68137. Applicant's representative: Donna Ehrlich (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New boxed cedar products and patio supplies*, from the facilities of Creative Forest Products located at or near Meridian, ID, to points in the United States (except AK and HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Brian D. Sopatyk, President, Creative Forest Products, 4388 S. Meridian Road, Meridian, ID. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 138676 (Sub-No. 6TA), filed January 23, 1978. Applicant: O-J TRANSPORT, INC., 2739 Sturtevant, Detroit, MI 48206. Applicant's representative: Robert E. McFarland, McFarland & Bullard, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Detroit, MI, to Hammond, IN, and the commercial zone thereof; and Lansing, Berwyn, and Geneva, IL, with empty containers on return, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately three (3) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building & U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

No. MC 139858 (Sub-No. 18 TA), filed December 16, 1977. Applicant: AMSTAN TRUCKING INC., 1255 Corwin Avenue, Hamilton, OH 45015. Applicant's representative: Chandler L. Van Orman, 704 Southern Building, Washington, DC 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Construction and mining equipment parts*, (1) from Indianapolis, IN; and Peoria, IL; to Carlstadt, Newark, and South Plainfield, NJ; New York, NY; Harrisburg and Pittsburgh, PA; Douglas, Tucson, and Phoenix, AZ; Baldwin Park, Hayward, Oakland, San Francisco, and San Leandro, CA; Denver, CO; Ely and Reno, NV; Albuquerque and Farmington, NM; Salt Lake City, UT; and Casper and Gillette, WY. (2) Between Indianapolis, IN; and Peoria, IL; *Crates*, from West Helena, AR; to Peoria, IL. Restrictions: The operations authorized above are subject to the following conditions: (1) The product description does not include commodities which because of their size or weight require the use of special equipment; (2) said operations are limited to a transportation service to be performed, under a continuing contract, or contracts, with Westinghouse Air Brake Co., a subsidiary of American Standard Inc., of New Brunswick, NJ for 180 days. Supporting shipper: American Standard Inc., P.O. Box 2003, New Brunswick, NJ 08903, Gregory J. Decker, Manager, Rates. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

No. MC 143000 (Sub-No. 7 TA), filed December 28, 1978. Applicant: THE HIGH GRAIN CO., INC., East Highway 40, P.O. Box 7, Hays, KS 67601. Applicant's representative: Erle W. Francis, Suite 719, 700 Kansas Avenue, Topeks, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Dry animal and poultry feed in bulk and bags*, from the facilities of Cargill, Inc., McCook, NE to

all points in KS on and west of U.S. Hwy 81; (b) *Dry animal and poultry feed in bulk and bags, in self-unloading equipment with auger discharge,* from the facilities of Cargill, Inc., at Kansas City, KS and Springdale, AR to all points in OK on and east of U.S. Hwy I-35. Applicant states it does not intend to tack or interline, for 180 days. Applicant has also filed underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cargill, Inc., Nutrena Feed Division, P.O. Box 9300, Minneapolis, MN 55440. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 147 Federal Building, and U.S. Courthouse, 444 Southeast Quincy, Topeka, KS 66683.

No. MC 142837 (Sub-No. 2 TA), filed January 23, 1978. Applicant: BARBER TRUCKING, INC., 19140 Southeast 35th Place, P.O. Box 685, Sandy, OR 97055. Applicant's representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Heat recovery equipment and components,* from Newberg, OR, to points in SD, MN, MI, IA, WI, IL, MI, IN, OH, PA, NJ, CT, MA, NH, NY, VT, and ME, under a continuing contract, or contracts, with Allied Air Products, Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Allied Air Products Co., 315 E. Franklin, Newberg, OR 97132. Send protests to: A. E. Odoms, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 114 Pioneer Courthouse, 555 Southwest Yamhill Street, Portland, OR 97204.

No. MC 143957TA (second correction), filed November 10, 1977, published in the FEDERAL REGISTER issue of February 6, 1978, and republished as corrected this issue. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Applicant's representative: Charles M. Williams, Kimball and Williams, 350 Capitol Life Center, Denver, CO 80203. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Chemicals, acids, solvents and edible oils,* (except in bulk), (A) from (1) the facilities of Hawkins Chemical Co., and Exxon Chemical Corp., at or near Lawrence, KS; (2) Chicago, IL, and points in its commercial zone; (3) the facilities of Olin Chemical Co., at or near Joliet, IL; (4) the facilities of Sanford Chemical Co., at or near Elk Grove Village, IL; (5) the facilities of Velsicol Chemical Co., and James Barley & Son Co., at or near St. Louis, MI; (6) the facilities of BASF Wyandotte, MI; (7) the facilities of Ozark-Mahoning Co., at or near Tulsa, OK; (8) the facilities of Floridian Co., at or near Berkeley Springs, WV, and Quincy, FL; (9) the facilities of Ash Grove Chemical Co., at or near Springfield, MO; (10) the facilities of Lien Chemical Co., at or near Rapids City, SD; (11) the facilities of Burris Chemical Co., at or near Charleston, SC; (12) the facilities of Barneby Cheney, at or near Columbus, OH; (13) the facilities of Cities Service Co., at or near Copper-Hill, TN; (14) the facilities of Fort Recovery Industries, at or near Fort Recovery, OH; (15) the facilities of Great Lakes Chemical Corp., at or near West Lafayette, IN; (16) the facilities of Keys Fiber Co., at or near Hammond, IN; (17) of facilities of Marathon, Morco, Co., at or near Dickenson, TX; (18) the facilities of Quality Chemical Co., at or near Baltimore, MD; (20) the facilities of Stauffer Chemical Co., at or near Greenriver, WY; (21) the facilities of West Vaco Chemical Division, at or near Covington, VA; (22) the facilities of Lowes Inc., at or near Oran, MO; (23) the facilities of PPG Industries, at or near Barberton, OH and Natrium, WV; (24) the facilities of Diamond Shamrock Chemical Co., at or near Paynesville, OH; (25) the facilities of Allied Chemical Co., at or near North Claymont, DE; Richmond, VA; and Wilmington, DE; (26) the facilities of E. I. DuPont, at or near Midland, MI, to points in IA, NE, CO, NM, TX, OK, KS, IL, and St. Louis, MO, and Phoenix, AZ, and points in their respective commercial zones, from the facilities of Aarren-Douglas Chemical Co., at or near Omaha, NE, and Sioux City, IA, to points in IA, NE, CO, NM, TX, OK, KS, IL, and St. Louis, MO, and Phoenix, AZ, and points in their respective commercial zones, restricted to transportation service performed under a continuing contract, or contracts, with Aarren-Douglas Chemical Co., for 180 days. Supporting shipper: Aarren-Douglas Chemical, Paul Wendte, Traffic Manager, 3002 F Street, Omaha, NE 68107. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102. The purpose of this second republication is to correct the territorial description and typographical errors.

No. MC 144073 (Sub-No. 1TA), filed January 9, 1978. Applicant: COMPUTER TRANSPORT OF GEORGIA, INC., 3914 Shirley Drive, SW., Atlanta, GA 30336. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Reproducing or copying machines, computers, verifiers, collators, sorters, receivers, and transmitters, printers, typewriters, X-ray equipment, and supplies, parts and accessories* used in connection therewith, between Charleston, WV, on the one hand, and, on the other, points in Carter, Elliott, Floyd, Greenup, Harlan, Johnson, Knott, Lawrence, Letcher, Magoffin, Martin, Morgan and Pike Counties, KY; Adams, Athens, Brown, Gallia, Jackson, Lawrence, Meigs, Monroe, Pike, Scioto, and Washington Counties, OH; and Bland, Buchanan, Dickenson, Russell, Smyth, and Tazewell Counties, VA, restricted to service performed under a continuing contract, or contracts, with Xerox Corp., of Arlington, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Xerox Corp., 1616 North Fort Myer Drive, Arlington, VA 22209. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 144145 (Sub-No. 1TA), filed January 23, 1978. Applicant: GILBERT TRUCK LINES, INC., South Alger Road, Route 2, Ithaca, MI 48847. Applicant's representative: James R. Davis, 1018 Michigan National Tower, Lansing, MI 48933. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Soybean meal,* in bulk in hopper-type vehicles, from the facilities of Cargill, Inc., located at 122d and Torrence Avenue, Chicago, IL 60617 to various points and places in MI, south of M-55 and Pickford and Sault Ste. Marie, MI for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cargill, Inc., Chicago, IL 60617. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, MI 48933.

No. MC 144217 TA, filed January 23, 1978. Applicant: ROBERT HARRIS, d/b/a BODEE TRUCK BROKERS, 5001 North 62 Lane, Glendale, AZ 85301. Applicant's representative: Thomas E. Haney, 2030 Valley Bank Center, Phoenix, AZ 85073. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foods, frozen prepared foods, frozen juices, and fresh meat,* when moving in mechanical temperature controlled vehicles, for the accounts listed in the appendices herein, between Los Angeles, County and Orange County, CA, and Maricopa County, AZ, for 180 days. Supporting shipper: There are approximately five (5) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may

be examined at the field office named below. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020, Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 144219 TA, filed January 23, 1978. Applicant: B.I.T., INC., P.O. Box 2665, La Habra, CA 90631. Applicant's representative: Kellner & Steffire, 700 South Flower Street, Suite 1724, Los Angeles, CA 90017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass, mirrors, automobile windows and windshields and the materials and supplies* used in the manufacturing, sale, and installation thereof, from the facilities of Buchmin Industries, Inc., located at or near Reedley, CA, and points in WA, OR, ID, NV, MT, WY, UT, AZ, CO, NM, TX, and OK, under a continuing contract, or contracts, with Buchmin Industries, Inc., for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Buchmin Industries, Inc., 1485 East Curtis, Reedley, CA 93654. Send protests to: Edward P. Henry, Interstate Commerce Commission, Room 1321, Federal Bldg., 300 North Los Angeles Street, Los Angeles, CA 90012.

By the Commission.

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

[FR Doc. 78-5687 Filed 3-2-78; 8:45 am]

[7035-01]

[Docket No. AB-12 (Sub-No. 35)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment Between Susanville and Westwood in Lassen County, CA; Findings

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on January 12, 1978, a finding, which is administratively final, was made by the administrative law judge, stating that, subject to the conditions for the protection of railway exployees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen*, 354 I.C.C. 76 (1977), the present and furture public convenience and necessity permit the abandonment by the Southern Pacific Transportation Co. of that portion of the line of railroad in Lassen County, CA, which extends from railroad milepost 381.900 near Susanville, CA, to railroad milespost 407.166 at Mason, CA, and permit discontinuance of service by the Southern Pacific over that portion of the line between milepost 407.166 and milepost 412.433, near Westwood, in Lassen County, CA. A certificate of abandonment will be issued to the Southern Pacific Transportation Co. based on the above-described finding of abandonment, 30 days after publication of this notice (April 3, 1978), unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a Government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(*a*) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(*b*) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

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

[FR Doc. 78-5686 Filed 3-2-78; 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

[6320-01]

1

[M-103, Feb. 27, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 4 p.m., February 27, 1978.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Dispute with the United Kingdom over Braniff's Dallas-London fares.

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: This meeting will concern what if any steps the Board should take to satisfactorily resolve a fare dispute with the United Kingdom regarding Braniff's proposed inauguration of Dallas-London service on March 1, 1978. The United Kingdom has notified Braniff that it would not permit Braniff to inaugurate service at Braniff's proposed fares. This morning it became clear that a Board meeting would be necessary. Premature public disclosure, particularly to the United Kingdom of the options, plans, and opinions of the Board could seriously compromise the Board's ability to successfully negotiate a resolution of the dispute in best interests of the United States. So that the Board can consider this matter and determine what, if any, action should be taken prior to the March 1, 1978, proposed inauguration of services by Braniff, the following Members have voted that agency business requires that the Board meet on Monday, February 27, 1978, on less than seven days notice, and that no earlier announcement of the meeting was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

Additionally, the following members have voted that public observation of this meeting would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR section 310b.5(9)(B) and that the meeting will be closed:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

PERSONS EXPECTED TO ATTEND

Board Members: Chairman, Alfred E. Kahn; Vice Chairman, G. Joseph Minetti; Member, Richard J. O'Melia; and Member, Elizabeth E. Bailey.
Assistants to Board Members: Mr. Mike Roach, Mr. Fred Houghteling, Mr. James Casey, Mr. John Goldn, Mr. Elias Rodriguez, Mr. Ford Cole, and Ms. Barbara Clark.
Office of the Managing Director: Mr. Dennis Rapp, Mr. John Hancock.
Bureau of International Aviation: Mr. Donald Farmer, Mr. Donald Litton, Mr. Joseph Chesen, Mr. Tony Largay, and Ms. Mary Pett.
Bureau of Pricing and Domestic Aviation: Mr. Michael Levine.
Bureau of Fares and Rates: Mr. Herbert Aswall, Mr. James Deegan, and Mr. James Greene.
Office of the General Counsel: Mr. Philip Bakes, Mr. Gary Edles, Mr. Peter Schwarzkopf; and Ms. Melissa Osborne.
Office of Economic Analysis: Mr. Darius Gaskins.
Office of the Secretary: Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.
Reporter: North American Reporting.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR section 310b.5(9)(B).

PHILIP T. BAKES, Jr.,
General Counsel.

[S-463-78 Filed 3-1-78; 9:56 am]

[6320-01]

2

[M-102, Amdt. 1, Mar. 24, 1978]

DELETION OF ITEMS FROM THE MARCH 1, 1978 AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., March 1, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: (16) Docket 30971, Western Air Lines, Inc. Motion for Hearing on Phoenix-Salt Lake City Competitive Nonstop Authority (Memo No. 7785, BPDA). (17) Docket 31967, Ozark's Petition For Show Cause, or, Alternatively, Motion For Hearing on St. Louis-Washington (Via Dulles Airport) (Memo No. 7784, BPDA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: These items are subject to the new procedure established by the Board at its November 23, 1977 meeting which rescheduled deferred and newly-filed route applications for comparative consideration at regular 60-day intervals. These items were inadvertently scheduled for the March 1, 1978 meeting but pursuant to the new procedure will be considered in the early April 60-day review. Accordingly, the following members have voted that agency business requires the deletion of these items from the March 1, 1978 agenda and that no earlier announcement of these deletions was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-464-78 Filed 3-1-78; 9:56 am]

[6320-01]

3

[M-102, Amdt. 2, Feb. 28, 1978]

DELETION OF ITEMS FROM THE MARCH 1, 1978 AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., March 1, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

7. Docket 28655, Seattle/Portland-Japan Service Investigation (request for instructions) (Memo No. 7758, 7758—A, OGC).

12. Docket 29186, *Memphis-Twin Cities/Milwaukee Case* (OGC, OEA).

13. Docket 21670, *Frontier Airlines, Inc. Subsidy Mail Rates*—Petitions for discretionary review (OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The staff stated that they would like to research the condition requirement in Item 7 further before discussing it at a Board meeting. Item 12 has been rescheduled to the meeting of March 9, 1978 in order to give the Members more time to consider the staff's recommendation. Because of the complex issues in Item 13 and the press of other work, the staff was unable to submit its recommendation to the Board in time for consideration in the March 1, 1978 meeting. Accordingly, the following Members have voted that agency business requires the deletion of items 7, 12, and 13 from the March 1, 1978 agenda and that no earlier announcement of these deletions was possible:

Chairman Alfred E. Kahn
Vice Chairman G. Joseph Minetti
Member Lee R. West
Member Richard J. O'Melia
Member Elizabeth E. Bailey

[S-473-78 Filed 3-1-78; 3:45 pm]

[6715-01]

4

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Thursday, March 9, 1978 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public:

I. Future meetings.
II. Correction and approval of minutes.
III. Advisory opinions: AO 1977-40, AO 1978-5, AOR status report.
IV. FOIA regulations.
V. Appropriations and budget. Budget execution report.
VI. Classification actions.
VII. Pending legislation.
VIII. Pending litigation. Litigation status report.
IX. Liaison with other Federal agencies.
X. Routine administrative matters.

Portions closed to the public (executive session):

Audit reports, compliance, personnel.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, press officer, telephone, 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-472-78 Filed 3-1-78; 3:17 pm]

[6740-02]

5

MARCH 1, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., March 8, 1978.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda. NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the commission. It does not include a listing of all papers relevant to be items on the agenda, howeve, all public documents may be examined in the Office of Public Information, Room 1000.

GAS AGENDA, 80TH MEETING, MARCH 8, 1978, REGULAR MEETING

I. PIPELINE RATE MATTERS

A. Pipeline rates

RP-1.— Docket No. RP72-6 (Ignition Fuel and Flame Stabilization), El Paso Natural Gas Co.

II. PRODUCER MATTERS

A. Producer certificates

CI-1.—Docket Nos. CI75-45, et al., Tenneco Oil Co., et al.
CI-2.—Docket No. CI77-657, American Natural Gas Production Co., et al.
CI-3.—Reserved.
CI-4.—Reserved.

B. Area rates

CI-6.—Docket No. AR70-1 (Phase I), Area Rate Proceeding (Permian Basin II Area)

III. PIPELINE CERTIFICATE MATTERS

A. Pipeline certificates

CP-1.—Docket No. CP76-492, National Fuel Gas Supply Corp., Docket No. CP77-590, National Gas Storage Corp.
CP-2.—Docket No. CP76-136, Tennessee Gas Pipeline Co.
CP-3.—Reserved.
CP-4.—Reserved.

B. Storage

CP-5.—Docket No. CP66-237, Natural Gas Pipeline Co. of America.
CP-6.—Reserved.
CP-7.—Reserved.

C. Curtailment

CP-8.—Docket No. RP77-102, Public Service Co. of North Carolina, Inc., Piedmont Natural Gas Co., Inc., and North Carolina Natural Gas Corp. *v.* Transcontinental Gas Pipe Line Corp., Docket No. RP78-26, Transcontinental Gas Pipe Line Corp. (North Carolina Utilities Commission on Behalf of Farmers Chemical Association).

GAS AGENDA, 80TH MEETING, MARCH 8, 1978, REGULAR MEETING

CAG-1.—Docket Nos. RP72-74 and RP74-6, Southern Natural Gas Co.
CAG-2.—Docket Nos. RP78-39 and RP78-40, Panhandle Eastern Pipe Line Co.
CAG-3.—Docket No. CP78-42, United Gas Pipe Line Co. Docket No. CP78-44, Columbia Gulf Transmission Co. and Tennessee Gas Pipe Line Co.
CAG-4.—Docket No. CP78-43, Trunkline Gas Co.
CAG-5.—Docket No. CP76-260, Consolidated Gas Supply Corp.
CAG-6.—Docket No. CP77-531, Western Interstate Co. Docket No. CP76-410, El Paso Natural Gas Co.
CAG-7.—Docket No. CP72-258, Natural Gas Pipeline Co. of America.
CAG-8.—Docket No. CP78-139, Cities Service Gas Co.
CAG-9.—Docket No. CP78-132, Cities Service Gas Co.
CAG-10.—Docket No. CP77-662, Arkansas Louisiana Gas Co.
CAG-11.—Docket No. CP78-25, United Gas Pipe Line Co.
CAG-12.—Docket No. CP78-115, Northern Natural Gas Co.
CAG-13.—Docket Nos. CI75-201, et al., Atlantic Richfield Co., et al.

MISCELLANEOUS AGENDA, 80TH MEETING, MARCH 8, 1978, REGULAR MEETING

M-1. (A) Docket No. RM76-15, Regulation of Small Producers. (B) Docket No. CS77-767, Emon A. Mahony.

MISCELLANEOUS AGENDA, 80TH MEETING, MARCH 8, 1978, REGULAR MEETING

CAM-1.—Secretary of Energy's proposed rule to amend 10 CFR Subpart K of Part 212, Mandatory Petroleum Price Regulations.

POWER AGENDA, 80TH MEETING, MARCH 8, 1978, REGULAR MEETING

I. ELECTRIC RATE MATTERS

ER-1.—Docket No. ER77-546, Dayton Power & Light Co.
ER-2.—Docket No. ER76-678, Maine Electric Power Co.
ER-3.—Docket No. E-8570 (Fuel Clause), Southern California Edison Co.
ER-4.—Docket No. E-9609, Connecticut Municipal Electric Energy Cooperative, Complainant *v.* Power Authority of the State of New York, Respondent.
ER-5.—Docket No. ER76-818, Northern States Power Co. (Minnesota).
ER-6A.—Docket No. ID-1820, Fred D. Hafer.
B. Docket No. ID-1692, John W. Vaughan.
C. Docket No. ID-1742, James E. Tribble.
D. Docket No. ID-1819, Warren L. Stevens.
E. Docket No. ID-1778, Jack Lloyd.
F. Docket No. ID-1323, R. Leigh Fitzgerald.

G. Docket No. ID-1804, Larry G. McManus.
H. Docket No. ID-1682, Frederick Lange.

II. LICENSED PROJECT MATTERS

P-1.—Emergency Action Plan (Dam Safety) Hydroelectric Licensing Program.
P-2.—Project No. 2301—Montana, the Montana Power Co.

POWER AGENDA, 80TH MEETING, MARCH 8, 1978, REGULAR MEETING

CAP-1.—Docket No. ER78-15, Southwestern Public Service Co.
CAP-2.—Docket Nos. ER78-191 and ER78-206, Mississippi Power & Light Co.
CAP-3.—Docket No. ES78-19, Northwestern Public Service Co.
CAP-4.—Docket No. E-9603, Carolina Power & Light Co.
CAP-5.—Project No. 994, Utah Power and Light Co.
CAP-6.—Project No. 2652, Pacific Power & Light Co.
CAP-7.—Project No. 2333, Rumford Falls Power Co.
CAP-8.—Docket No. DA-510—Colorado, U.S. Forest Service, U.S. Geological Survey.
CAP-9.—Docket No. ER78-25, Kansas City Power & Light Co.

KENNETH F. PLUMB,
Secretary.

[S-469-78 Filed 3-1-78; 2:30 pm]

[6720-01]

6

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., March 8, 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.

MATTERS TO BE CONSIDERED:

Application for approval of two $500,000 lines of credit—Southwestern Group Financial, Inc., Sugar Land, Tex.
Branch office application—First Federal Savings & Loan Association of Lake Worth, Lake Worth, Fla.
Application to include U.S. obligations as liquid assets—bank regulation 531.6(b).
Designation of Anne P. Jones, General Counsel, as a member of the Administrative Conference of the United States.
Consideration of debt application—United Financial Corp. of California, San Francisco, Calif.
Consideration of report to the Board on proposed amendment to § 543.1—Corporate name change.
Concurrent consideration of two branch office applications—(1) Home Federal Savings & Loan Association of San Diego, San Diego, Calif.; and (2) Central Federal Savings & Loan Association, San Diego, Calif.
Agency office application—First Federal Savings & Loan Association of Miami, Miami, Fla.
Consideration of amendment of charter—Change of name—El Reno Federal Savings & Loan Association, El Reno, Okla.
Merger; change of name; maintenance of branch offices; cancellation of membership and insurance and transfer of stock of First Federal Savings & Loan Association of Battle Creek, Battle Creek, Mich., into Ann Arbor Federal Savings & Loan Association, Ann Arbor, Mich.
Branch office application—First Federal Savings & Loan Association of Osceola County, Kissimmee, Fla.
Consideration of FSLIC insurance of trusteed pension plans.
Branch office application—Lincoln Federal Savings & Loan Association, Lincoln, Nebr.
Consideration of termination of insurance and refund of secondary reserve—Niagara Permanent Savings & Loan Association, Niagara, N.Y.
Branch office application—Evansville Federal Savings & Loan Association, Evansville, Ind.
Branch office application—First Federal Savings & Loan Association of Great Falls, Great Falls, Mont.
Branch office application—Rocky Mountain Federal Savings & Loan Association, Cheyenne, Wyo.
Report to the Board on proposed new procedures for suspensions/prohibitions where felony charged (the "Feinberg" Regulations).

[S-466-78 Filed 3-1-78; 9:57 am]

[6720-01]

7

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: March 8, 1978; at the conclusion of the open meeting to be held at 9:30 a.m.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Closed meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-377-6679.

MATTERS TO BE CONSIDERED: Consideration of Consent To Serve on the Board of Directors of a Savings & Loan Association.

No. 141, February 28, 1978.

[S-467-78 Filed 3-1-78; 9:57 am]

[7030-01]

8

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., March 8, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

PORTION OF THE MEETING OPEN TO THE PUBLIC: Dockets 64, 335, and 338, *Shawnee.* Docket 363, *Lower Sioux.*

PORTION OF THE MEETING CLOSED TO THE PUBLIC: Personnel.

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006, 202-653-6174.

[S-468-78 Filed 3-1-78; 9:57 am]

[7035-01]

9

FEBRUARY 28, 1978.

INTERSTATE COMMERCE COMMISSION.

Vice Chairman Christian, Commissioner Brown, and Commissioner Clapp.

TIME AND DATE: 10 a.m., Thursday, March 2, 1978.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Short notice of open informal meeting.

MATTERS TO BE DISCUSSED: Rail Abandonments—Options for Consideration.

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Hildred S. Hersman, 202-275-7535.

[S-465-78 Filed 3-1-78; 9:57 am]

[7590-01]

10

NUCLEAR REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 7797.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Thursday, March 2, 1978.

CHANGES IN THE MEETING: Meeting titled "Briefing on Integrated Safeguards Information System" is canceled.

WALTER MAGEE,
Chief, Operations Branch,
Office of the Secretary.

[S-470-78 Filed 3-1-78; 2:30 pm]

[7715-01]

11

POSTAL RATE COMMISSION.

TIME AND DATE: Each business day from March 8 through April 7, 1978, at 9 a.m. and 2 p.m.

PLACE: Commission Conference Room, Room 500, 2000 L Street NW., Washington, D.C. 20268.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Issues in Docket No. R77-1. Meetings closed pursuant to 5 U.S.C. § 552b(c)(10).

CONTACT PERSON FOR MORE INFORMATION:

Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, telephone 202-254-5614.

[S-471-78 Filed 3-1-78; 2:30 pm]

[8010-01]

12

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of March 6, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Monday, March 6, 1978, at 3 p.m. and on Thursday, March 9, 1978, immediately following the open meeting. An open meeting will be held on Thursday, March 9, 1978, at 9 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(9)(9)(A) and (10) and 17 CFR 200.402 (a)(8)(9)(i) and (10).

Chairman Williams, Commissioners Loomis, Evans, Pollack, and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Monday, March 6, 1978, at 3 p.m., will be:

Formal orders of investigation.
Referral of investigative files to Federal, State, or self-regulatory authorities.
Chapter XI proceedings.
Institution of injunctive actions.
Settlement of injunctive actions.
Settlement of administrative proceedings of an enforcement nature.
Freedom of Information Act appeals.

The subject matter of the closed meeting scheduled for Thursday, March 9, 1978, immediately following the open meeting, will be:

Opinion.
Other litigation matters.

The subject matter of the open meeting scheduled for Thursday, March 9, 1978, at 9 a.m., will be:

1. Affirmation of action taken by Commissioner Pollack, as Duty Officer, authorizing a Department of Justice attorney to examine documents for which Commission staff attorneys have asserted a privilege in the multidistrict litigation relating to Franklin National Bank.
2. Consideration of a request for authorization to interview and take depositions of a Commission employee and two former Commission employees with respect to certain meetings during a closed investigation.
3. Consideration of the transmittal of comments to the Office of Management and Budget ("OMB") expressing the views of the Commission on OMB's draft bill amending the Independent Offices Appropriations Act of 1952.

FOR FURTHER INFORMATION CONTACT:

Kathy Malfa at 202-376-8004 or Edward A. Scallet at 202-755-1234.

FEBRUARY 28, 1978.

[S-461-78 Filed 3-1-78; 9:56 am]

[8010-01]

13

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be printed February 27, 1978.

CHANGES IN THE MEETING: Additional item to be considered.

The following additional item will be considered by the Commission at the open meeting scheduled for Thursday, March 2, 1978, at 10 a.m.:

Proposed adoption of revisions to Rule 146 and the adoption of related Form 146, relating to exemptions for offers and sales of securities by an issuer not involving a public offering.

Chairman Williams, Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required consideration of the matter and that no earlier notice thereof was possible.

FEBRUARY 28, 1978.

[S-462-78 Filed 3-1-78; 9:56 am]

[6325-01]

14

CIVIL SERVICE COMMISSION.

TIME AND DATE OF MEETING: 2 p.m., Thursday, March 9, 1978.

PLACE: Commissioners' Meeting Room, Room 5H09 (fifth floor), 1900 E Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED: Proposed final regulations to extend the coverage of Part 713 to include complaints of discrimination based on physical or mental handicap. This will establish an administrative complaints process for handicapped applicants and employees in the Federal Government.

CONTACT PERSON FOR MORE INFORMATION:

Lee Willis, Office of Selective Placement, Staffing Resources Division, Bureau of Recruiting and Examining, 202-632-5687.

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

[S-478-78 Filed 3-2-78; 11:22 am]

[6325-01]

15

CIVIL SERVICE COMMISSION.

TIME AND DATE OF MEETING: 4 p.m., Thursday, March 9, 1978.

PLACE: Commissioners' Meeting Room, Room 5H09 (fifth floor), 1900 E Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE DISCUSSED: Negotiations with insurance carrier under section 890.204 of the Federal Employees Health Benefits Regulations.

CONTACT PERSON FOR MORE INFORMATION:

Georgia Metropulos, Office of the Executive Assistant to the Commissioners, 202-632-5556.

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

[S-479-78 Filed 3-2-78; 11:22 am]

federal register

FRIDAY, MARCH 3, 1978
PART II

ENVIRONMENTAL PROTECTION AGENCY

■

NATIONAL AMBIENT AIR QUALITY STANDARDS

States Attainment Status

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 856-5]

PART 81—AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

Section 107—Attainment Status Designations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rulemaking sets forth the attainment status of all States in relation to the national ambient air quality standards (NAAQS). The tables following this rulemaking indicate, on a State-by-State, pollutant-by-pollutant basis, the attainment status of every area as submitted by the appropriate State agency and approved, or as designated by the Environmental Protection Agency (EPA). No distinctions are made as to the severity of the violations recorded in the areas designated as nonattainment in these tables. These designations are immediately effective. EPA is soliciting comments for 60 days and will republish revised designations as appropriate.

DATES: Effective Date: Immediately. Comments Due: May 2, 1978.

ADDRESS: General comments on these designations should be addressed to Norman L. Dunfee, Chief, Control Programs Operations Branch (MD-15), Office of Air Quality Planning and Standards (OAQPS), Research Trangle Park, N.C. 27711.

Comments relative to specific State designations should be directed to the appropriate EPA Regional Office, contact as listed below:

Tom Devine, Chief, Air Branch, EPA Region I, JFK Federal Building, Boston, Mass. 02203 (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont).

William Baker, Chief, Air Branch, EPA Region II, 26 Federal Plaza, New York, N.Y. 10007 (New York, New Jersey, Puerto Rico, Virgin Islands).

Howard Heim, Chief, Air Branch, EPA Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106 (Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia).

Tom Helms, Chief, Air Branch, EPA Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308 (Alabama, Georgia, Florida, Kentucky, Mississippi, North Carolina, Tennessee, South Carolina).

Jack Chicca, Chief, Air Branch, EPA Region V, 230 South Dearborn Street, Chicago, Ill. 60604 (Indiana, Illinois, Michigan, Minnesota, Ohio, Wisconsin).

Jack Divita, Chief, Air Branch, EPA Region VI, 1201 Elm Street, Dallas, Tex. 75270 (Arkansas, Louisiana, Oklahoma, New Mexico, Texas)

Art Spratlin, Chief, Air Branch, EPA Region VII, 1735 Baltimore Street, Kansas City, Mo. 64108 (Nebraska, Iowa, Kansas, Missouri).

Robert DeSpain, Chief, Air Branch, EPA Region VIII, 1860 Lincoln Street, Denver, Colo. 80295 (Montana, Utah, North Dakota, South Dakota, Wyoming, Colorado).

Allyn Davis, Chief, Air Branch, EPA Region IX, 215 Fremont Street, San Francisco, Calif. 94105 (California, Nevada, Arizona, Hawaii, American Samoa, Northern Mariana Islands).

Clark Gaulding, Chief, Air Branch, EPA Region X, 1200 Sixth Avenue, Seattle, Wash. 98101 (Alaska, Washington, Oregon, Idaho).

FOR FURTHER INFORMATION CONTACT:

Norman L. Dunfee, USEPA, Research Triangle Park, N.C. 27711, phone 629-5226 (FTS) or 919-541-5226 (commercial).

SUPPLEMENTARY INFORMATION: The Clean Air Act (CAA) Amendments of 1977 place additional requirements on the States and EPA. Among them, the Amendments added section 107(d), which directed each State, within 120 days after the Amendments were enacted, to submit to the Administrator a list of the NAAQS attainment status of all areas within the State. The Administrator was required under section 107(d)(2) to promulgate the State lists, with any necessary modifications, within 60 days of their submittal.

The States are now preparing revisions to their State implementation plans (SIPs) as required by sections 110(a)(2)(I) and 172 of the Act. This enterprise, which must be completed by January 1, 1979, requires that the States have immediate guidance as to the attainment status of the areas designated under section 107(d). Congress has acknowledged this by imposing a tight schedule on the designation process and requiring EPA to promulgate the list within 180 days of the enactment of the amendments. Under these circumstances it would be impracticable and contrary to the public interest to ignore the statutory schedule and postpone publishing these regulations until notice and comment can be effectuated. For this good cause, the Administrator has made these designations immediately effective.

The Agency recognizes, however, the importance of public involvement in the designation process. It is therefore, soliciting public comment on this rule by May 2, 1978.

Comments received will be considered carefully and revisions to the designations will be made where appropriate. The criteria used in making these designations include the following.

Air Quality Data

Section 107(d) of the CAA specified that designations should be based upon air quality levels as of enactment of the Amendments (August 7, 1977). States were required by EPA guidance to consider the most recent four quarters of monitored ambient air quality data available. If this data showed no standards violations, then the previous four quarters of monitoring data were to be examined to assure that the current indication of attainment was not the result of a single year's data reflecting unrepresentative meteorological conditions. In the absence of sufficient monitored air quality data, other evaluation methods were used, including air quality dispersion modeling.

Geographic Size

The Act specified that the designation areas could be based on air quality control regions (AQCRs) or any subportions of these areas. EPA advised States they could divide AQCRs into various nonattainment, attainment, or unclassified portions, i.e., county, subcounty, or other geographic areas as long as the area could be clearly defined in a written narrative. Additionally, a different geographic area could be used in designating the status for each pollutant.

Pollutant Specific Considerations

Subsections 107(d)(1) (A)-(E) of the CAA Amendments specified the possible categories for area designations. For both total suspended particulates (TSP) and sulfur dioxide (SO_2), an area could be designated as: (1) Not meeting the primary NAAQS, (2) not meeting the secondary NAAQS, (3) unclassifiable, and (4) attainment. For carbon monoxide (CO), photochemical O_x, and nitrogen dioxide (NO_2), designations of: (1) Not meeting the primary NAAQS, and (2) attainment/unclassified were possible. The attainment and unclassified designations for CO/O_x/NO_2 are combined into one column for the tables presented in this notice because both designations are set forth by subsection 107(d)(1)(E) of the CAA. No designations regarding the secondary NAAQS for these pollutants were necessary since the primary standards and secondary standards are identical.

The criteria used in designation of the status of each pollutant used in addition to ambient air quality data is discussed below:

Photochemical Oxidants

There are 105 urban areas in the United States with populations great-

er than 200,000. These major urban areas (except Honolulu, Hawaii, and Spokane, Wash.) are where the oxidant problem is most severe. Honolulu has recorded eight consecutive quarters of data without a violations justifying and attainment designation. There is sufficient uncertainty regarding conditions in Spokane to warrant an unclassifiable designation for the present time. The other 103 urban areas, where over 100,000,000 people reside, consistently experience photochemical oxidant levels above the NAAQS. Due to these factors, higher priority is being given in the SIP planning process to these urban areas. Of these, only six urban areas do not have oxidant ambient air quality monitoring data. The other 97 urban areas experienced oxidant violations based on ambient data. Since 97 of the 105 urban areas greater than 200,000 with monitoring data recorded violations, the six cities without data were presumed to be nonattainment for oxidants.

Additionally, a comprehensive analysis was performed by OAQPS and other factors considered by EPA for each of the six urban areas. These analyses substantiated the presumptive nonattainment designation and these areas will be required to monitor during the 1978 oxidant season (summer-fall) to determine the magnitude of their oxidant problem.

Total Suspended Particulates

Given the spatially limited nature of TSP violations, no general area size criteria were possible. However, States were advised that designations along political boundaries such as city limits or county lines were practical from an air quality management standpoint.

The problem of designating for rural fugitive dust areas required special consideration. EPA's fugitive dust policy recognizes the generally greater health impact due to fugitive dust in urban areas in contrast to rural areas. In urban areas, the windblown soil contains various manmade toxic pollutants. But, rural windblown dust is usually not significantly contaminated by industrial pollutants. Therefore, for the purposes of these designations, any rural areas experiencing TSP violations which could be attributed to fugitive dust could claim attainment of the TSP NAAQS. Rural areas for this purpose are defined as those which have: (1) A lack of major industrial development or the absence of significant industrial particulate emissions, and (2) low urbanized population densities.

Carbon Monoxide

A designation of nonattainment for the entire urban core area of a city experiencing monitored CO violations was desirable, but smaller area designations were acceptable since CO violations are most pervasive in downtown areas of high traffic density.

Sulfur Dioxide and Nitrogen Dioxide

Generally where EPA promulgated a designation for SO_2, the minimum area was to be the county in which the violating monitoring site was located. If States had monitoring data to substantiate the size areas they designated, they would be acceptable by EPA regardless of size.

Air Quality Control Region (AQCR) Redesignations

Section 107 of the CAA also provided for redesignation of the existing AQCR boundaries where a State determined that the redesignated areas would promote more efficient air quality management. Several States exercised this option in defining their designation areas. Part 81 under Title 40 of the Code of Federal Regulations presently contains descriptions of all existing AQCRs and these descriptions, where feasible, will be modified in a future Federal Register notice to reflect the State revisions. The exact descriptions of all AQCR boundaries are available from either the appropriate State or EPA Regional Office.

Effect of the Designations

Section 107(d)(1)(A)-(E) sets out attainment status categories to which reference is made in Parts C (Prevention of Significant Deterioration (PSD)) and D (Nonattainment) of the CAA. Section 171(2) in Part D defines "nonattainment area" to include any area identified under subparagraphs 107(d)(1) (A)-(C), while giving the Administrator authority to add other areas based on monitoring or calculations. Similarly, areas designated under subparagraphs 107(d)(1) (D) or (E) are described in section 161, Part C, as PSD areas.

The section 107(d) designations are meant to provide a starting point for States in their efforts to correct existing air quality problems and to implement programs under the 1977 CAA Amendments. For example, a designation as a nonattainment area, in general, means that an applicable SIP must be revised, pursuant to section 172, to provide for attainment of the NAAQS as expeditiously as practicable, but not later than December 31, 1982 (December 31, 1987, under certain conditions for photochemical oxidants and/or carbon monoxide). Under section 172(b)(6) the revised SIPs must require permits, in accordance with the provisions of section 173, for the construction and operation of major new or modified stationary sources. To be approved by the Administrator under section 110(a)(2)(I), a SIP must contain a prohibition against major new source construction in nonattainment areas after June 30, 1979, where emissions from the source would contribute to increases in pollutants for which a NAAQS was being exceeded, unless the SIP meets the requirements of Part D at the time of the permit application. Under section 129 of the Amendments, EPA's emission offsets policy, as modified, continues to apply to major new source construction in nonattainment areas prior to July 1, 1979.

But the designation of an area as nonattainment or attainment must be considered only a point of departure and not a final, inflexible end in itself. The designations will have only limited significance for new source preconstruction review, for three reasons. First, new sources, wherever they propose to locate, must be reviewed for their impact on all nearby areas as well as that in which they would locate. If an area on which a new source would impact is designated differently than the one in which it is locating, the designation of the latter would not necessarily determine the rules to which the source would be subject. Second, PSD rules apply in any area where at least one NAAQS is attained, and since virtually every area in the country shows attainment for at least one pollutant, the PSD review will be a requisite virtually everywhere. Finally, case-by-case new source review is necessitated to account for the possibility that an area with a particular designation may encompass "pockets" which do not fit that designation.

These section 107(d) designations are subject to revision under Section 107(d)(5) whenever sufficient data is available to warrant a redesignation. Both the State and EPA can initiate changes to these designations, but any State redesignation must be submitted to EPA for concurrence. EPA will promulgate any revised list in accordance with the requirements for this initial promulgation.

EPA Review

The State submittals were reviewed by EPA for consistency with the criteria set forth in this notice. Where EPA differed with a State designation, section 107 of the CAA provides that EPA should notify the State and allow the submission of additional information. If EPA and the State could not reach agreement, an EPA designation would replace the State submitted designation. Also, in the case where a State failed to designate for any State or portion thereof the EPA would designate for the State as needed.

EPA considered all available monitoring data where it was determined to be valid. All EPA designations contained in the following tables were

made within the criteria contained in this notice except in a limited number of cases where the State designations were replaced by unclassifiable designations by the appropriate Regional Offices on the basis that a major source in each county was utilizing a possibly unauthorized dispersion technique. Since EPA has not finalized its tall stack policy regulations to implement Section 123, it is presently unknown whether the sources can claim full credit for their existing stacks.

EPA designations are indicated in the following tables by the asterisks accompanying the designations: * means a Federal EPA designation replaced a State recommendation. This * is used where either the designation status or the area size was modified by EPA: ** means solely a Federal designation where a State failed to submit their own recommendation. In some instances, the descriptions of the designated areas submitted by the States were so lengthy as to prohibit their publication in the limited space available in the tables presented below. Exact descriptions of all areas designated are available at the appropriate Regional Offices or the State in question. In some of the following tables, States referenced AQCRs by their appropriate number instead of their title. An Appendix A is included in the regulatory section of this rulemaking which gives both the AQCR name and number for ease of reference.

A summary of the approved designations for the 3215 counties or county equivalents covered by these designations is presented below:

	TSP	SO_x	CO	O_x	NO_x
Number of counties either totally or partially approved or designated by EPA as nonattainment	421	101	190	607	8

Dated: February 23, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended by adding Subpart C and Appendix A as follows:

Subpart C—Section 107 Attainment Status Designations

Sec.

AUTHORITY: Secs. 107, 301 of the Clean Air Act, as amended (42 U.S.C. 7407, 7601).

Subpart C—Section 107 Attainment Status Designations

§ 81.300 Scope.

Attainment status designations as approved or designated by the Environmental Protection Agency (EPA) pursuant to Section 107 of the Act are listed in this subpart. Area designations are subject to revision whenever sufficient data becomes available to warrant a redesignation. Both the State and EPA can initiate changes to these designations, but any State redesignation must be submitted to EPA for concurrence.

§81.301 Alabama.

Alabama - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
That portion of Etowah County within the western section of Gadsden	X			
That portion of Jackson County surrounding TVA's Widows Creek plant	X			
Those portions of Jefferson County within central Birmingham and the area surrounding the Universal Atlas Cement plant	X			
That portion of Lauderdale County adjacent to TVA's Colbert plant		X		
That portion of Mobile County within a section of downtown Mobile	X			
A portion of Northern Mobile County		X		

Alabama - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
A portion of Morgan County including portions of the city of Decatur		X		
Rest of State				X

Alabama - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
That portion of Colbert County surrounding TVA's Colbert Plant		X		
That portion of Jackson County surrounding TVA's Widow Creek Plant	X			
That portion of Lauderdale County adjacent to TVA's Colbert Plant		X		
Rest of State				X

Alabama - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Jefferson County	X	
Madison County	X	
Mobile County	X	
Morgan County	X	
Russel County	X*	
Rest of State		X

* EPA designation replaces State designation

Alabama - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide		X

§81.302 Alaska.

Alaska - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Entire State				X

Alabama - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide		X

Alaska - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Entire State				X

Alaska - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

Alaska - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

§81.300 Arizona.

Alaska - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Anchorage	X	
Fairbanks	X	
Remainder of State		X

Arizona - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Maricopa County	X**			
Pima County	X**			
Pinal County	X**			
Gila County	X**			
Graham County	X**			
Cochise County	X**			
Santa Cruz County	X**			
Yuma County	X**			
Coconino County	X**			
Navajo County		X**		
Apache County		X**		
Mohave County			X**	
Greenlee County			X**	
Yavapai County				X**

**EPA designation only

Arizona - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Cochise County	X**			
Gila County	X**			
Greenlee County	X**			
Pima County	X**			
Pinal County	X**			
Coconino County			X**	
Rest of State				X**

**EPA designation only

Arizona - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Maricopa County	X**	
Pima County	X**	
Rest of State		X**

**EPA designation only

Arizona - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Maricopa County	X**	
Pima County	X**	
Rest of State		X**

**EPA designation only

Arizona - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		X**

**EPA designation only

§81.304 Arkansas.

Arkansas - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 016				
Limited area of Pulaski County		X		
Remainder of AQCR				X
AQCR 017				
Limited area of Sebastion County		X		
Remainder of AQCR				X
AQCR 018				X
AQCR 019				
Limited area of Ashley County		X		
Remainder of AQCR				X
AQCR 020				
Limited area of Arkansas County	X			
Remainder of AQCR				X
AQCR 021				X
AQCR 022				X

Arkansas - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 016		
Pulaski County	X	
Remainder of AQCR		X
AQCR 017		X
AQCR 018		X
AQCR 019		X
AQCR 020		X
AQCR 021		X
AQCR 022		X

Arkansas - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 016				X
AQCR 017				X
AQCR 018				X
AQCR 019				X
AQCR 020				X
AQCR 021				X
AQCR 022				X

Arkansas - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 016		X
AQCR 017		X
AQCR 018		X
AQCR 019		X
AQCR 020		X
AQCR 021		X
AQCR 022		X

Arkansas - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 016		X
AQCR 017		X
AQCR 018		X
AQCR 019		X
AQCR 020		X
AQCR 021		X
AQCR 022		X

California - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Non-Salinas Valley			X	
Santa Barbara AQMA		X		
Santa Barbara Non-AQMA				
A. West area of north-south boundary separating Santa Ynez and Lompoc Valleys	X			
B. East area of north-south boundary separating Santa Ynez and Lompoc Valleys			X	
Ventura Co:				
North of Los Padres Nat'l Forest boundaries			X	
South of Los Padres Nat'l Forest boundaries	X			
Channel Islands			X	
San Diego Air basin				
West San Diego Co.	X			
East San Diego Co.			X	

§81.305 California.

California - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
North Coast Air Basin:				
Del Norte County				X
Humboldt County	X			
Mendocino County	X			
Sonoma County (North Coast Basin)		X		
Trinity County				X
San Francisco Bay Area Air Basin:				
Basin Wide		X		
Alameda County	X			
Lake County Air Basin				X
North Central Coast Air Basin:				
Monterey County	X			
San Benito County				X
Santa Cruz County				X
South Central Coast Air Basin:				
Salinas Valley-El Pomar Estrella Planning Area		X		

California - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
South Coast Air Basin	X			
San Joaquin Valley Air Basin	X			
Sacramento Valley Air Basin:				
Sacramento County		X		
Solano County (Sacramento Valley Air Basin Portion)		X		
Yolo County	X			
Butte County	X			
Colusa County		X		
Glenn County			X	
Shasta County (Sacramento Valley Portion)		X		
Sutter County	X			
Tehama County		X		
Yuba County		X		
Great Basin Valleys Air Basin			X	
Northeast Plateau Air Basin			X	

California - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Los Angeles County (Portion within S.E. Desert Air Basin)	X			
Riverside County (Portion within S.E. Desert AQMA)	X			
San Bernardino County (Portion within S.E. Desert AQMA)	X			
Riverside County, non-AQMA portion			X	
San Bernardino, non-AQMA portion			X	
Tahoe Air Basin				X

California - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
North Coast Air Basin:				
Del Norte County			X	
Humboldt County			X	
Mendocino County			X	
Sonoma County (North Coast Basin Portion)			X	
Trinity County			X	
Lake County Air Basin			X	
San Francisco Bay Area Air Basin				X
North Central Coast Air Basin:				
Monterey County			X	
San Benito County			X	
Santa Cruz County			X	

California - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Mountain Counties Air Basin:				
AQMA Portion of Placer County		X		
Placer County excluding AQMA portion and Lake Tahoe Portion				X
Amador County				X
Calaveras County			X	
El Dorado County, excluding Lake Tahoe Air Basin Portion				X
Mariposa County			X	
Nevada County			X	
Plumas County				X
Sierra County				X
Tuolumne County		X		
Southeast Desert Air Basin:				
Kern County (S.E. Desert Portion)			X	
Imperial County			X	

California - SO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
South Central Coast Air Basin:				
San Luis Obispo County			X	
Santa Barbara AQMA			X	
Santa Barbara non-AQMA			X	
Ventura County				X
Channel Islands			X	
San Diego Air Basin:				
West San Diego County				X
East San Diego County				X
South Coast Air Basin:				
South Coast Basin Portion of L.A. County	X			
Orange County				X
South Coast Basin Portion of Riverside County				X

California - SO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
South Coast Basin				
Portion of San Bernardino County				X
San Joaquin Valley Air Basin:				
Fresno County			X	
Kern County	X			
Kings County			X	
Madera County			X	
Merced County			X	
San Joaquin County			X	
Stanislaus County			X	
Tulare County			X	
Sacramento Valley Air Basin			X	
Great Basin Valley's Air Basin			X	
North East Plateau Air Basin			X	
Mountain Counties Air Basin			X	
Southeast Desert Air Basin excluding Imperial Co.			X	

California - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
North Coast Air Basin		X
San Francisco Bay Area Air Basin	X	
Lake County Air Basin		X
North Central Coast Air Basin	X	
South Central Coast Air Basin:		
Ventura County	X	
San Luis Obispo	X	
Santa Barbara AQMA	X	
Santa Barbara non-AQMA	X	
Channel Islands		X
San Diego Air Basin		
West San Diego County	X	
East San Diego County	X	
South Coast Air Basin	X	
San Joaquin Valley Air Basin	X	
Sacramento Valley Air Basin:		
Sacramento Metropolitan AQMA	X	
Sacramento Valley Air Basin, non-AQMA	X	
Great Basin Valleys Air Basin		X
Northeast Plateau Air Basin		X

California - SO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Imperial County				X
Lake Tahoe Air Basin				X

California - O_x (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Mountain Counties Air Basin:		
AQMA portion of Placer County	X	
Placer County excluding AQMA portion and Lake Tahoe portion		X
Amador County		X
Calaveras County		X
El Dorado County, excluding Lake Tahoe Air Basin Portion		X
Mariposa County	X	
Nevada County		X
Plumas County		X
Sierra County		X
Tuolumne County		X
Southeast Desert Air Basin:		
Kern County (S.E. Desert portion)		X
Imperial County	X	
Los Angeles County (portion within S.E. Desert Air Basin)	X	

California - O_x (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
San Bernardino County (Portion within S.E. Desert AQMA)	X	
Riverside County, non-AQMA portion		X
Riverside County (S.E. Desert AQMA)	X	
San Bernardino, non-AQMA Portion		X
Tahoe Air Basin	X	

California - CO (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
San Joaquin Valley Air Basin:		
Fresno County	X	
Kern County (SJVAB Portion)	X	
Kings County		X
Madera County		X
Merced County		X
San Joaquin County	X	
Stanislaus County	X	
Tulare County	X	
Sacramento Valley Air Basin:		
Sacramento County	X	
Solano County (Sacramento Valley Air Basin Portion)		X
Yolo County		X
Butte County	X	
Colusa County		X
Glenn County		X
Shasta County (Sacramento Valley Portion)		X
Sutter County	X	
Tehama County		X

California - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
North Coast Air Basin		X
San Francisco Bay Area Air Basin	X	
Lake County Air Basin		X
North Central Coast Air Basin:		
Monterey County		X
San Benito County		X
Santa Cruz County		X
South Central Coast Air Basin:		
San Luis Obispo County		X
Santa Barbara AQMA	X	
Santa Barbara non-AQMA		X
Ventura County		X
Channel Islands		X
San Diego Air Basin		
West San Diego County	X	
East San Diego County		X
South Coast Air Basin	X	

California - CO (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Yuba County		X
Great Basin Valleys Air Basin		X
Northeast Plateau Air Basin		X
Mountain Counties Air Basin:		
AQMA Portion of Placer County		X
Placer County excluding AQMA Portion and Lake Tahoe Portion		X
Amador County		X
Calaveras County		X
El Dorado County, excluding Lake Tahoe Air Basin Portion		X
Mariposa County		X
Nevada County		X
Plumas County		X
Sierra County		X
Tuolumne County		X
Southeast Desert Air Basin:		
Kern County (S.E. Desert Portion)		X
Imperial County		X

California - CO (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Los Angeles County (Portion within S.E. Desert AQMA)		X
Riverside County (Portion within S.E. Desert AQMA)		X
San Bernardino County (Portion within S.E. Desert AQMA)		X
Riverside County, non-AQMA Portion		X
San Bernardino County, non-AQMA Portion		X
Tahoe Air Basin	X	

California - NO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
San Joaquin Valley Air Basin:		
Fresno County		X
Kern County (SJVAB Portion)		X
Kings County		X
Madera County		X
Merced County		X
San Joaquin County		X
Stanislaus County		X
Tulare County		X
Sacramento Valley Air Basin:		
Sacramento County		X
Solano County (Sacramento Valley Air Basin Portion)		X
Yolo County		X
Butte County		X
Colusa County		X
Glenn County		X
Shasta County (Sacramento Valley Portion)		X
Sutter County		X
Tehama County		X

California - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
North Coast Air Basin		X
San Francisco Bay Area Air Basin		X
Lake County Air Basin		X
North Central Coast Air Basin:		
Monterey Portion		X
San Benito Portion		X
Santa Cruz Portion		X
South Central Coast Air Basin:		
San Luis Obispo County		X
Santa Barbara AQMA		X
Santa Barbara non-AQMA		X
Ventura County		X
Channel Islands		X
San Diego Air Basin		
West San Diego County	X	
East San Diego County		X
South Coast Air Basin	X	

California - NO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Yuba County		X
Great Basin Valleys Air Basin		X
Northeast Plateau Air Basin		X
Mountain Counties Air Basin:		
AQMA Portion of Placer Co.		X
Placer County excluding AQMA Portion and Lake Tahoe Portion		X
Amador County		X
Calaveras County		X
El Dorado County, excluding Lake Tahoe Air Basin Portion		X
Mariposa County		X
Nevada County		X
Plumas County		X
Sierra County		X
Tuolumne County		X
Southeast Desert Air Basin:		
Kern County (S.E. Desert Portion)		X
Imperial County		X

California - NO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Los Angeles County (Portion within S.E. Desert Air Basin)		X
Riverside County (Portion within S.E. Desert AQMA)		X
San Bernardino County (Portion within S.E. Desert AQMA)		X
Riverside County, non-AQMA Portion		X
San Bernardino, non-AQMA Portion		X
Tahoe Air Basin		X

[redacted] Colorado

Colorado - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 1				X
AQCR 2 - Larimer-Weld Designated Area	X			
Remainder of AQCR 2				X
AQCR 3 - Denver Designated Area	X			
AQCR 3 - City Limits of Castle Rock			X	
Remainder of AQCR 3				X
AQCR 4 - Colorado Springs 3-C Urbanized Area	X			
Remainder of AQCR 4				X
AQCR 5				X
AQCR 6 - City Limits of Lamar			X	
Remainder of AQCR 6				X
AQCR 7 - Pueblo 3-C Urbanized Area	X			
Remainder of AQCR 7				X
AQCR 8				X
AQCR 9 - City Limits of Telluride and Pagosa Springs			X	
Remainder of AQCR 9				X
AQCR 10 - City Limits of Delta			X	
Remainder of AQCR 10				X

Colorado - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 11 - Mesa Designated Area and City Limits of Craig	X			
Remainder of AQCR 11			X	
AQCR 12 - City Limits of Aspen, Eagle, Vail, and Steamboat Springs			X	
Remainder of AQCR 12				X
AQCR 13				X

Colorado - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Entire State				X

Colorado - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 1		X
AQCR 2	X	
AQCR 3 - Counties of Arapahoe, Adams, Boulder, Denver, Jefferson, and Douglas	X	
Remainder of AQCR 3		X
AQCR 4 - El Paso County	X	
Remainder of AQCR 4		X
AQCR's 5 - 10		X
AQCR 11 - Rio Blanco County	X**	
Remainder of AQCR 11		X
AQCR's 12 and 13		X

**EPA designation only

Colorado - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR's 1 - 2		X
AQCR 3 - Denver 3-C Urbanized Area	X	
Remainder of AQCR 3		X
AQCR 4		X

Colorado - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 1		X
AQCR 2 - Ft. Collins and Greeley AQMA Analysis Areas	X	
Remainder of AQCR 2		X
AQCR 3 - Counties of Arapahoe, Adams, Denver, Jefferson, Boulder, and Douglas	X	
Remainder of AQCR 3		X
AQCR 4 - Colorado Springs 3-C Urbanized Area	X	
Remainder of AQCR 4		X
AQCR's 5 - 13		X

§81.307 Connecticut.

Connecticut - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 41		X		
AQCR 42	X			
AQCR 43		X		
AQCR 44	X			

Connecticut - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 41				X
AQCR 42				X
AQCR 43				X
AQCR 44				X

Connecticut - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 41		X
AQCR 42	X	
AQCR 43	X	
AQCR 44		X

Connecticut - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 41	X	
AQCR 42	X	
AQCR 43	X	
AQCR 44	X	

Connecticut - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 41		X
AQCR 42		X
AQCR 43		X
AQCR 44		X

§81.308 Delaware.

Delaware - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
City of Wilmington			X	
Section within City of Newark bounded by: College Avenue, CONRAIL tracks, South Chapel Street and Chestnut Hill Road			X	
Remainder of New Castle County				X
Kent County				X
Sussex County				X

Delaware - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
New Castle County	X	
Kent County		X
Sussex County		X

Delaware - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
New Castle County				X
Kent County				X
Sussex County				X

Delaware - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
New Castle County		X
Kent County		X
Sussex County		X

Delaware - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
New Castle County		X
Kent County		X
Sussex County		X

District of Columbia - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
National Capital Interstate AQCR - District of Columbia Portion				X

§81.309 District of Columbia.

District of Columbia - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
1. Area bounded by: East Capitol Street S.E., District Line (Southern Avenue S.E.), Potomac River and Anacostia River				X
2. Area bounded by: Francis Scott Key Bridge, M Street N.W., 23rd Street N.W., Florida Avenue N.W., H Street N.W., Florida Avenue N.W.-N.E., 4th Street N.E., Interstate Route 95, 15th Street N.W., Constitution Avenue N.W., Theodore Roosevelt Memorial Bridge, Potomac River	X			
3. Remainder of the District of Columbia Portion of the National Capital Interstate AQCR		X		

District of Columbia - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
National Capital Interstate AQCR - District of Columbia Portion	X	

District of Columbia - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
National Capital Interstate AQCR - District of Columbia Portion	X	

District of Columbia - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
National Capital Interstate AQCR - District of Columbia Portion		X

§81.310 Florida.

Florida - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Duval County		X**		
Seminole County		X**		
Polk County		X**		
Hillsborough County		X**		
Rest of State				X**

**EPA designation only

Florida - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Duval County			X**	
Pinellas County	X**	X**		
Hillsborough County			X**	
Escambia County			X**	
Rest of State				X**

**EPA designation only

Florida - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Duval County	X**	
Leon County	X**	
Broward County	X**	
Dade County	X**	
Palm Beach County	X**	
Escambia County	X**	
Orange County	X**	
Hillsborough County	X**	
Pinellas County	X**	
Rest of State		X**

**EPA designation only

Florida - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide		X**

**EPA designation only

Florida - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Broward County	X**	
Rest of State		X**

**EPA designation only

§81.311 Georgia.

Georgia - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
That portion of Fulton County within northwest section of Atlanta	X			
That portion of Chatham County within the north central section of Savannah	X			
That portion of the northern part of Walker County which includes Rossville	X			
That portion of Washington County within the southern section of Sandersville	X			
Rest of State				X

Georgia - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Statewide				X

Georgia - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Atlanta Area - those portions of Clayton, Dekalb, and Fulton Counties within perimeter highway I-285	X	
Rest of State		X

Georgia - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Atlanta Area - Clayton, Cobb, Coweta, Dekalb, Douglas, Fayette, Fulton, Gwinnet, Henry, Spaulding and Rockdale Counties	X	
Muscogee County	X*	
Rest of State		X

*EPA designation replaces State designation

Georgia - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide		X

§81.312 Hawaii.

Hawaii - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Maui Island			X*	
Hawaii Island			X*	
Rest of State				X

*EPA designation replaces State designation

Hawaii - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Maui Island			X*	
Oahu Island			X*	
Rest of State				X

*EPA designation replaces State designation

Hawaii - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		X

Hawaii - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		X

Hawaii - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		X

Idaho - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Silver Valley (Shoshone County)	X			
Pocatello	X			
Remainder of State				X

§81.313 Idaho.

Idaho - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Silver Valley (in Shoshone County)	X			
Pocatello	X			
Soda Springs	X			
Lewiston	X			
Remainder of State				X

Idaho - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

Idaho - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Boise	X	
Remainder of State		X

Idaho - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

§81.314 Illinois.

Illinois - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 65				
Knox County				
Galesburg (City)		X		
All other twps.				X
McDonough County				
Chalmers Twp.			X	X
Emmet			X	X
Macomb			X	X
Scotland			X	X
All other twps.				X
Peoria County				
Kickapoo Twp.	X			
Limestone	X			
Medina		X		
Peoria	X			
Richwoods	X			
All other twps.				X
Tazewell County				
Cincinnati Twp.	X			
Fondulac	X			
Groveland	X			
Pekin	X			
Washington	X			
All other twps.				X
Fulton County				X
Hancock				X
Henderson				X
Mason				X
Warren				X
Woodford				X
Lee				X
AQCR 66				
Champaign County				
Champaign (City)			X	X
Cunningham Twp.			X	X
Ludlow			X	X
Rantoul			X	X
All other twps.				X

Illinois - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Coles County				
Charleston Twp.			X	X
Lafayette			X	X
Mattoon			X	X
All other twps.				X
McLean County				
Bloomington Twp.		X		
Normal			X	X
All other twps.				X
Vermillion County				
Blount Twp.			X	X
Danville			X	X
Newell			X	X
All other twps.				X
Clark County				X
Cumberland				X
DeWitt				X
Douglas				X
Edgar				X
Ford				X
Iroquois				X
Livingston				X
Moultrie				X
Piatt				X
Shelby				X
AQCR 67				
Cook County				
Calumet Twp.	X			
Hyde Park	X			
Jefferson		X		
Lake	X			
Lakeview		X		
North Town	X			
Rogers Park		X		
South Town	X			
West Town	X			
Barrington			X	X
Berwyn			X	X
Bloom		X		
Bremen	X			
Cicero		X		

Illinois - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Elk Grove Twp.		X		
Lyons	X			
Maine		X		
Niles		X		
Orland	X			
Palatine		X		
Palos		X		
Proviso		X		
Rich		X		
Schaumburg			X	X
Stickney	X			
Thornton	X			
Wheeling		X		
Worth	X			
All other twps.				X
DuPage County				
Addison Twp.	X			
Wayne		X		
Winfield		X		
York		X		
All other twps.				X
Kankakee County				
Bourbonnais Twp.		X		
Kankakee			X	X
Aroma			X	X
All other twps.				X
Kendall County				
Little Rock Twp.		X		
All other twps.				X
Lake County				
Fremont Twp.			X	X
Libertyville			X	X
Wauconda		X		
West Deerfield			X	X
All other twps.				X

Illinois - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Whiteside County				
Coloma Twp.		X		
All other Twps.				X
Carroll County				X
Mercer				X
AQCR 70				
Monroe County				
T.1S.-R.10W		X		
All other				X
Madison County				
Alton Twp.	X			
Chouteau	X			
Collinsville	X			
Godfrey	X			
Granite City	X			
Nameoki	X			
Venice	X			
Wood River	X			
All other twps.				X
St. Clair County				
Canteen Twp.	X			
Caseyville	X			
Centerville	X			
St. Clair	X			
Stites	X			
Stookey	X			
Sugar Loaf	X			
All other Twps.				X
Bond County				X
Clinton				X
Randolph				X
Washington				X
AQCR 71				
Bureau County				
Shelby Twp.		X		
All other twps.				X
LaSalle County				
Bruce Twp.			X	X
Dear Park	X			

Illinois - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Will County				
Crete Twp.		X		
DuPage	X			
Frankfort		X		
Joliet	X			
Lockport	X			
Manee		X		
New Lenox		X		
Plainfield		X		
Troy		X		
All other twps.				X
Grundy County				
Aux Sable Twp.			X	
Morris Twp.			X	
All other twps.				X
Kane County				X
McHenry County				X
AQCR 68				
Jo Daviess County				
East Galena Twp.		X		
Rawlins		X		
West Galena		X		
All other twps.				X
AQCR 69				
Henry County				
Kewanee Twp.			X	X
Wethersfield			X	X
All other twps.				X
Rock Island County				
Blackhawk Twp.	X			
Coal Valley	X			
Hampton	X			
Moline	X			
South Moline	X			
So. Rock Island	X			
Rock Island	X			
All other twps.				X

Illinois - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Eagle Twp.			X	X
LaSalle	X			
Ottawa		X		
Otter Creek			X	X
South Ottawa		X		X
All other twps.				X
Lee County				
Dixon Twp.			X	X
South Dixon			X	X
All other twps.				X
Putnam County				
Hennepin Twp.		X		
All other twps.				X
Marshall County				X
Stark County				X
AQCR 72				
Pope County				
T. 14S-R.5E		X		
All other twps.				X
Massac County				
Metropolis Pct.		X		
Grant		X		
Washington		X		
All other Pct.				X
Alexander County				X
Johnson				X
Pulaski				X
Union				X
AQCR 73				
DeKalb County				
DeKalb Twp.		X		
All other twps.				X
Stephenson County				
Freeport Twp.			X	X
All other twps.				X
Winnebago County				
Cherry Valley Twp.		X		
Owen		X		

Illinois - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Rockford		X		
All other twps.				X
Boone County				X
Ogle				X
AQCR 74				
Jackson County				
Carbondale Twp.			X	X
All other twps.				X
Jefferson County				
Dodds Twp.		X		
Mt. Vernon		X		
Shiloh		X		
All other twps.				X
Marion County				
Centralia Twp.			X	X
All other twps.				X
Williamson County				
East Marion Twp.		X		
West Marion		X		
All other twps.				X
Clay County				X
Crawford				X
Edwards				X
Effingham				X
Fayette				X
Franklin				X
Gallatin				X
Hamilton				X
Hardin				X
Jasper				X
Lawrence				X
Perry				X
Richland				X
Saline				X
Wabash				X
Wayne				X
White				X

Illinois - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 65				
Peoria County				
Hollis Twp.	X		X	
Limestone Twp.	X		X	
Medina Twp.	X		X	
Peoria Twp.	X		X	
KickapooTwp.	X		X	
Richwoods Twp.	X		X	
All other twps.				X
Tazewell County				
Cincinnati Twp.	X		X	
Elmgrove Twp.	X		X	
Groveland Twp.	X		X	
Pekin Twp.	X		X	
All other twps.				X
Fulton County				X
Hancock County				X
Henderson County				X
Knox County				X
McDonough County				X
Mason County				X
Warren County				X
Woodford County				X
Lee County				X
AQCR 66				
Champaign County				X
Clark County				X
Coles County				X
Cumberland County				X
DeWitt County				X
Douglas County				X
Edgar County				X
Ford County				X
Iroquois County				X
Livingston County				X
McLean County				X
Moultrie County				X
Piatt County				X

Illinois - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 75				
Adams County				
Ellington Twp		X		
Melrose		X		
Riverside		X		
All other twps.				X
Logan County				
Lincoln Twp.			X	X
West Lincoln			X	X
All other twps.				X
Macon County				
Decatur Twp	X			
Hickory Point		X		
Long Creek		X		
South Wheatland		X		
Whitmore		X		
All other twps				X
Menard County				
Petersburg East Twp		X		
Petersburg North		X		
Petersburg South		X		
All other Twps.				X
Morgan County				
T.15N-R10W			X	X
T.15N-R.11W			X	X
All other twps.				X
Sangamon County				
Capital Twp.	X			
Springfield			X	X
Woodside			X	X
All other twps.				X
Brown County				X
Calhoun				X
Cass				X
Christian				X
Greene				X
Jersey				X
Macoupin				X
Montgomery				X
Pike				X
Schuyler				X
Scott				X

Illinois - SO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Shelby County				X
Vermillion County				X
AQCR 67				
Cook County				
Bremen Twp.			X	
Calumet Twp.			X	
Thornton Twp.			X	
Worth Twp.			X	
All other Cook County Twps.				X
Will County				
Channahon Twp.			X	
DuPage Twp.			X	
Joliet Twp.			X	
Lockport Twp.			X	
Troy Twp.			X	
All other Will Cty. Twps.				X
DuPage County				X
Grundy County				X
Kane County				X
Kankakee County				X
Kendall County				X
Lake County				X
McHenry County				X
AQCR 68				
Jo Daviess County				X
AQCR 69				
Carroll County				X
Henry County				X
Mercer County				X
Rock Island County				X
Whiteside County				X
AQCR 70				
Madison County				
Wood River Twp.			X	
Alton Twp.			X	
All other Madison C				X
Bond County				X
Clinton County				X
Monroe County				X
Randolph County				X
St. Clair County				X

Illinois - SO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Washington County				X
Bureau County				
Leepertown Twp.			X	
All other Washington Twps.				X
LaSalle County				X
Lee County				X
Marshall County				X
Putnam County				X
Stark County				X
AQCR 72				
Massac County				
Grant Pct	X	X		
Metropolis Pct	X	X		
Hillerman Pct	X	X		
All other Massac CtyPt				X
Alexander County				X
Johnson County				X
Pope County				X
Pulaski County				X
Union County				X
AQCR 73				
Boone County				X
DeKalb County				X
Ogle County				X
Stephenson County				X
Winnebago County				X
AQCR 74				
Clay County				X
Crawford County				X
Edwards County				X
Effingham County				X
Fayette County				X
Franklin County				X
Gallatin County				X
Hamilton County				X
Hardin County				X
Jackson County				X
Jasper County				X
Jefferson County				X
Lawrence County				X
Marion County				X

Illinois - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 65		
Fulton County		X
Hancock County		X
Henderson County		X
Knox County		X
McDonough County		X
Mason County		X
Peoria County	X	
Tazewell County	X	
Warren County		X
Woodford County		X
AQCR 66		
Champaign County	X	
Clark County		X
Coles County		X
Cumberland County		X
DeWitt County		X
Douglas County		X
Edgar County		X
Ford County		X
Iroquois County		X
Livingston County		X
McLean County	X	
Moultrie County		X
Piatt County		X
Shelby County		X
Vermillion County		X
AQCR 67		
Cook County	X	
DuPage County	X	
Grundy County	X	
Kane County	X	
Kankakee County	X	
Kendall County	X	
Lake County	X	
McHenry County	X	
Will County	X	
AQCR 68		
JoDaviess County		X

Illinois - SO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Perry County				X
Richland County				X
Saline County				X
Wabash County				X
Wayne County				X
White County				X
Williamson County				X
AQCR 75				
Christian County				
South Fork Twp.			X	
All other Twps.				X
Sangamon County				
Capital Twp.			X	
Cooper Twp.			X	
Cotton Hill Twp.			X	
Rochester Twp.			X	
Woodside Twp.			X	
All other Twps.				X
Adams County				X
Brown County				X
Calhoun County				X
Cass County				X
Greene County				X
Jersey County				X
Logan County				X
Macon County				X
Macoupin County				X
Menard County				X
Montgomery County				X
Morgan County				X
Pike County				X
Schuyler County				X
Scott County				X

Illinois - O_x (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 69		
Carroll County		X
Henry County		X
Mercer County		X
Rock Island County	X	
Whiteside County		X
AQCR 70		
Bond County		X
Clinton County		X
Madison County	X	
Monroe County	X	
Randolph County		X
St. Clair County	X	
Washington County		X
AQCR 71		
Bureau County		X
LaSalle County	X	
Lee County		X
Marshall County		X
Putnam County		X
Stark County		X
AQCR 72		
Alexander County		X
Johnson County		X
Massac County		X
Pope County		X
Pulaski County		X
Union County		X
AQCR 73		
Boone County	X	
DeKalb County	X	
Ogle County		X
Stephenson County		X
Winnebago County	X	

Illinois - O_x (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 74		
Clay County		X
Crawford County		X
Edwards County		X
Effingham County		X
Fayette County		X
Franklin County		X
Gallatin County		X
Hamilton County		X
Hardin County		X
Jackson County		X
Jasper County		X
Jefferson County		X
Lawrence County		X
Marion County		X
Perry County		X
Richland County		X
Saline County		X
Wabash County		X
Wayne County		X
White County		X
Williamson County	X	
AQCR 75		
Adams County	X	
Brown County		X
Calhoun County		X
Cass County		X
Christian County		X
Greene County		X
Jersey County		X
Logan County		X
Macon County	X	
Macoupin County		X
Menard County		X
Montgomery County		X
Morgan County		X
Pike County		X
Sangamon County	X	
Schuyler County		X
Scott County		X

Illinois - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 65		
Peoria County		
City of Peoria (Area bounded by Green St. on the northeast and east, Water Street on the southeast, Liberty Street on the southwest, Franklin St. on the west, and Perry Avenue on the northwest).	X	
Remainder City of Peoria (Portions or all of Peoria, Limestone, Kickapoo, Richwoods and Medina Townships)		X
All other townships		X
Tazewell County		
Cities of East Peoria and Creve Coeur (Portions of Fondulac and Groveland Townships)		X
All other townships		X
Fulton County		X
Hancock County		X
Henderson County		X
Knox County		X
McDonough County		X
Mason County		X
Warren County		X
Woodford County		X
Lee County		X

Illinois - CO (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 66		
Champaign County		
City of Champaign Township		X
Cunningham Township		X
All other townships		X
McLean County		
City of Bloomington Township		X
City of Normal (Portion of Normal Township)		X
All other townships		X
Vermillion County		
City of Danville (Portion of Danville and Newell Townships)		X
All other townships		X
Clark County		X
Coles County		X
Cumberland County		X
DeWitt County		X
Douglas County		X
Edgar County		X
Ford County		X
Iroquois County		X
Livingston County		X
Moultrie County		X

Illinois - CO (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Piatt County		X
Shelby County		X
AQCR 67		
Cook County		
City of Chicago		
Expressway Corridor Area (100 feet from the edge of pavement on either side)		
-Edens Expressway from junction with I-94 to Kennedy Expressway	X	
-Kennedy Expressway from junction with Northwest Tollway to Dan Ryan Expressway	X	
-Eisenhower from junction with East-West Tollway to Kennedy-Dan Ryan Expressway		
-Dan Ryan Expressway from junction with Eisenhower Expressway to Calumet Expressway and I-57	X	
-Stevenson Expressway from junction with Tri-State Tollway to Lake Shore Dr.	X	
Core Area (Define by Lake Shore Drive on the east, Roosevelt Rd. on the south, Halstead St. on the west, and Lake St. and Wacker Drive on the north).	X	

Illinois - CO (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Kennedy-Edens Core Area (Defined by Lawrence Ave. on the north, Kenton St. on the east, Montrose Ave. on the south, and Cicero Ave. on the west)	X	
Remainder Cook County		X
DuPage County		
Bloomingdale Township		X
Addison Township		X
Milton Township		X
York Township		X
Naperville Township		X
Lisle Township		X
Downers Grove Township		X
All other townships		X
Grundy County		X
Kane County		
Dundee Township		X
Elgin Township		X
St. Charles Township		X
Geneva Township		X
Batavia Township		X
Aurora Township		X
All other townships		X
Kankakee County		X
Kendall County		X
Lake County		
Deerfield Township		X
West Deerfield Township		X
Shields Township		X
Waukegan Township		X

Illinois - CO (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
City of E. St. Louis (Portion of Canteen Township)		X
All other townships		X
Madison County		
City of Alton Township		X
All other townships		X
Bond County		X
Clinton County		X
Monroe County		X
Randolph County		X
Washington County		X
AQCR 71		
Bureau County		X
LaSalle County		X
Lee County		
Marshall County		X
Putnam County		X
Stark County		X
AQCR 72		
Alexander County		X
Johnson County		X
Massac County		X
Pope County		X

Illinois - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Warren Township		X
Cuba Township		X
Libertyville Township		X
All other townships		X
McHenry County		X
Will County		
Joliet Township		X
Lockport Township		X
All other townships		X
AQCR 68		
Jo Daviess County		X
AQCR 69		
Rock Island County		
City of Rock Island, Moline East Moline and Silvis (all or portions of Rock Island, South Rock Island, Moline, South Moline and Hampton Townships)		X
All other townships		X
Carroll County		X
Henry County		X
Mercer County		X
Whiteside County		X
AQCR 70		
St. Clair County		

Illinois - CO (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Pulaski County		X
Union County		X
AQCR 73		
Winnebago County		
City of Rockford - (Portion of Cherry Valley and Rockford Townships)		X
All other townships		X
Boone County		X
DeKalb County		X
Ogle County		X
Stephenson County		X
AQCR 74		
Clay County		X
Crawford County		X
Edwards County		X
Effingham County		X
Fayette County		X
Franklin County		X
Gallatin County		X
Hamilton County		X
Hardin County		X
Jackson County		X

Illinois - CO (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Jasper County		X
Jefferson County		X
Lawrence County		X
Marion County		X
Perry County		X
Richland County		X
Saline County		X
Wabash County		X
Wayne County		X
White County		X
Williamson County		X
AQCR 75		
Adams County		
City of Quincy (Portions of Melrose, Ellington and Riverside townships)		X
All other townships		X
Macon County		
City of Decatur (Portions of Decatur, Long Creek and Hickory Point Townships)		X
All other townships		X
Sangamon County		
City of Springfield (all of Capital township)		X

Illinois - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 65		
Fulton County		X
Hancock County		X
Henderson County		X
Knox County		X
McDonough County		X
Mason County		X
Peoria County		X
Tazewell County		X
Warren County		X
Woodford County		X
Lee County		X
AQCR 66		
Champaign County		X
Clark County		X
Coles County		X
Cumberland County		X
DeWitt County		X
Douglas County		X
Edgar County		X
Ford County		X
Iroquois County		X
Livingston County		X
McLean County		X
Moultrie County		X
Piatt County		X
Shelby County		X
Vermillion County		X
AQCR 67		
Cook County - "Central Core Area" (Wacker Drive on the north and west, Michigan Avenue on the east and Harrison St. on the south)	X	
Remainder Cook County		X
DuPage County		X
Grundy County		X
Kane County		X
Kankakee County		X
Kendall County		X

Illinois - CO (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
All other townships		X
Brown County		X
Calhoun County		X
Cass County		X
Christian County		X
Greene County		X
Jersey County		X
Logan County		X
Macoupin County		X
Menard County		X
Montgomery County		X
Morgan County		X
Pike County		X
Schuyler County		X
Scott County		X

Illinois - NO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Lake County		X
McHenry County		X
Will County		X
AQCR 68		
In Daviess County		X
AQCR 69		
Carroll County		X
Henry County		X
Mercer County		X
Rock Island County		X
Whiteside County		X
AQCR 70		
Bond County		X
Clinton County		X
Madison County		X
Monroe County		X
Randolph County		X
St. Clair County		X
Washington County		X
AQCR 71		
Bureau County		X
LaSalle County		X
Lee County		X
Marshall County		X
Putnam County		X
Stark County		X
AQCR 72		
Alexander County		X
Johnson County		X
Massac County		X
Pope County		X
Pulaski County		X
Union County		X

Illinois - NO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 73		
Boone County		X
DeKalb County		X
Ogle County		X
Stephenson County		X
Winnebago County		X
AQCR 74		
Clay County		X
Crawford County		X
Edwards County		X
Effingham County		X
Fayette County		X
Franklin County		X
Gallatin County		X
Hamilton County		X
Hardin County		X
Jackson County		X
Jasper County		X
Jefferson County		X
Lawrence County		X
Marion County		X
Perry County		X
Richland County		X
Saline County		X
Wabash County		X
Wayne County		X
White County		X
Williamson County		X
AQCR 75		
Adams County		X
Brown County		X
Calhoun County		X
Cass County		X
Christian County		X
Greene County		X
Jersey County		X
Logan County		X
Macon County		X
Macoupin County		X
Menard County		X
Montgomery County		X

Illinois - NO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Morgan County		X
Pike County		X
Sangamon County		X
Schuyler County		X
Scott County		X

§81.315 Indiana.

Indiana - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Indiana Counties				
Clark County	X			
Dearborn County	X			
Dubois County				
An area within a 10 km radius of the center of Jasper	X			
The remainder of Dubois County				X
Floyd County			X	
Howard County				
An area within a 10 km radius of the center of Kokomo		X		
The remainder of Howard County				X
Lake County	X			
LaPorte County				
An area within a 10 km radius of the City of LaPorte sampling site		X		
Michigan City		X		
The remainder of LaPorte County				X
Marion County	X			
Porter County				
St. Joseph County	X		X	
Sullivan County			X*	
Tippecanoe County			X*	
Vanderburgh County		X*		
Vigo County	X			
Wayne County	X			
All portions of all other counties in Indiana				X

X* EPA designation replaces State designation

Indiana - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Dearborn County			X	
Gibson County			X*	
Jefferson County			X*	
Lake County				
An area bounded by Lake Michigan on the north, the Indiana-Illinois State line on the west, U.S. 30 on the south, and the Lake-Porter County line on the east	X			
The remainder of Lake Co.				X
LaPorte County				
An area bound in the north by Lake Michigan & the Indiana-Michigan State line, in the west by the LaPorte Porter County line, & in the south & east by I-94	X	X		
The remainder of LaPorte County				X
Marion County	X	X		
Porter County				
An area bound in the north by Lake Michigan, in the west by the Lake-Porter Co. line, in the south by I-80-90 & in the east by the LaPorte-Porter County line	X	X		
The remainder of Porter Co.				X
Vigo County	X			
Warrick County			X*	
Wayne County	X			
All portions of all other Indiana Counties				X

X* EPA designations replace State designations

Indiana - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Allen County	X*	
Clark County	X*	
Floyd County	X	
Lake County	X	
Marion County	X	
Porter County	X*	
St. Joseph County	X*	
Vanderburgh	X	
All portions of all other Indiana counties		X

X* EPA designations replace State designations

Indiana - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
All portions of all Indiana Counties		X

Indiana - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Lake County		
City of East Chicago (area bound by Columbus Drive on the north, the Indiana Harbor Canal on the west, 148th St. if extended, on the south, & Euclid Ave. on the east)	X	
The remainder of East Chicago & Lake County		X
Marion County		
City of Indianapolis (area bound by 11th St. on the north, Capitol on the west, Georgia St. on the south, & Delaware on the east)	X	
The remainder of Indianapolis & Marion County		X
All portions of all other Indiana Counties		X

§81.316 Iowa.

Iowa - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
City of Waterloo		X		
Cedar Falls Township			X	
E. Waterloo Township			X	
Remainder of Black Hawk Co.				X
Lime Creek Township	X			
Mason Township	X			
Falls Township			X	
Lake Township			X	
Lincoln Township			X	
Remainder of CerroGordo Co.				X
Clinton Township		X		
Camanche Township			X	
Remainder of Clinton Co.				X
Burlington Township			X	
Remainder of Des Moines Co.				X
Iowa City Township			X	
Remainder of Johnson Co.				X

Iowa-TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Keokuk Township	X			
Jackson Township			X	
Jefferson Township			X	
Madison Township			X	
Remainder of Lee County				X
Rapids Township	X			
Bertram Township			X	
Clinton Township			X	
College Township			X	
Fairfax Township			X	
Marion Township			X	
Monroe Township			X	
Putnam Township			X	
Remainder of Linn County				X
City of Marshalltown		X		
Remainder of Marshall County				X
Muscatine Township		X		
Fruitland Township			X	
Sweetland Township			X	
Montpelier Township			X	
Remainder of Muscatine Co.				X
Bloomfield Township		X		
Crocker Township	X			
Delaware Township		X		
Des Moines Township	X			
Lee Township	X			
Saylor Township		X		
Walnut Township		X		
Webster Township		X		
Clay Township			X	
Douglas Township			X	
Jefferson Township			X	
Remainder of Polk County				X
Kane Township	X			
Lake Township			X	
Lewis Township			X	
Remainder of Pottawattamie Co.				X
Buffalo Township	X			
City of Davenport Township	X			
Pleasant Valley Township		X		
Remainder of Scott County				X
City of Ames			X	
Remainder of Story County				X

Iowa - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Julien Township	X			
Remainder of Dubuque County				X
Remainder of State				X

Iowa - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Center Township			X	
Remainder of Wapello County				X
Cooper Township	X			
Pleasant Valley Township	X			
Wahkonsa Township	X			
Otho Township			X	
Remainder of Webster County				X
City of Sioux City	X			
Liberty Township			X	
Woodbury Township			X	
Remainder of Woodbury County				X
Remainder of State				X

Iowa - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Linn County	X	
Polk County	X	
Pottawattamie County	X*	
Scott County	X	
Remainder of State		X

*EPA designation replaces State designation

Iowa - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Des Moines Township	X	
Lee Township	X	
Remainder of Polk County		X
Remainder of State		X

Iowa - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

§81.317 Kansas.

Kansas - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Wyandotte County				
a. Most of the area between I-635 and the Missouri state line	X			
b. An area extending about three miles west of the above area		X		
Topeka, Kansas area bounded by:				
Kansas River on the east and south, Vail Avenue on the west and Lyman Avenue on the north	X			
Remainder of State				X

Kansas - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Entire State				X

Kansas - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Kansas City AQCR (094)		
Wyandotte County	X*	
Johnson County	X*	
South Central AQCR (099)		
Sedgwick County	X	
Northeast AQCR (095)		
Douglas County	X*	
Remainder of State		X

*EPA designation replaces State designation

Kansas - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

Kansas - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Kansas City, Kansas area bounded by:		
6th Street on the east, Washington Street on the north, 18th Street on the west, and Barnett Street on the south	X	
Wichita, Kansas area bounded by:		
Grove Street on the east, 13th Street on the north, the Arkansas River on the west, and Kellogg Avenue on the south	X	
Remainder of State		X

§81.318 Kentucky.

Kentucky - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Bell County	X			
Boyd County	X			
That portion of Bullitt Co. in Shepherdsville	X			
That portion of Campbell Co. in Newport	X			
That portion of Daviess Co. in Owensboro	X			
Those portions of Henderson County in and around Henderson	X			
Jefferson County	X			
That portion of Lawrence Co. in Louisa	X			
McCracken County	X			
Marshall County		X		
That portion of Madison Co. in Richmond	X			
Muhlenberg County	X			
That portion of Perry Co. in Hazard	X			
That portion of Pike Co. in Pikeville	X			
That portion of Whitley Co. in Corbin	X			
Rest of State				X

Kentucky - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Boyd County	X			
That portion of Daviess Co. in Owensboro	X	X		
Greenup County	X	X		
That portion of Henderson Co in Henderson	X			
Jefferson County	X	X		
McCracken County	X			
Muhlenberg County	X	X		
Webster County	X	X		
Rest of State				X

Kentucky - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Jefferson County	X	
Rest of State		X

Kentucky - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Cincinnati Area - Boone, Kenton, and Campbell Counties	X	
Daviess County	X	
Fayette County	X	
Henderson County	X	
Jefferson County	X	
McCracken County	X	
Boyd County	X	
Rest of State		X

Kentucky - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide		X

§81.319 Louisiana.

Louisiana - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 019				X
AQCR 022				X
AQCR 106				X

Louisiana - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 019		X*
AQCR 022		
Cado Parish	X*	
Remainder of AQCR		X*
AQCR 106		
Ascension Parish	X	
Iberville Parish	X	
St. James Parish	X	
St. John the Baptist Parish	X	
West Baton Rouge Parish	X	
East Baton Rouge Parish	X	
Calcasieu Parish	X	
Orleans Parish	X	
Jefferson Parish	X	
St. Bernard Parish	X	
Grant Parish	X*	
Beauregard Parish	X*	
Lafourche	X*	
Point Coupee Parish	X*	
Lafayette Parish	X*	
St. Mary Parish	X*	
St. Charles Parish	X	
Remainder of AQCR		X*

*EPA designation replaces State designations

Louisiana - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 019				X
AQCR 022				X
AQCR 106				X

Louisiana - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 019		X
AQCR 022		X
AQCR 106		X

Louisiana - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 019		X
AQCR 022		X
AQCR 106		X

Maine - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 110				X
AQCR 107				X
AQCR 109 - Millinocket	X			
Rest of Region				X
AQCR 108 - Madawaska			X	
Rest of Region				X
AQCR 111				X

§81.320 Maine.

Maine - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 110				X
AQCR 107 -- Augusta		X		
Rockland and Thomaston		X		
Lewiston and Auburn		X		
Rumford and Mexico			X*	
Bath			X	
Rest of Region				X
AQCR 109 -- Bangor & Brewer	X			
Old Town			X	
Baileyville		X		
Rest of Region				X
AQCR 108 - Presque Isle			X	
Rest of Region				X
AQCR 111				X

*EPA designation replaces State designation

Maine - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 110	X	
AQCR 107	X	
AQCR 109	X	
AQCR 108		X
AQCR 111		X

Maine - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 110		X
AQCR 107 - Lewiston (area bounded by and including Main Street, Park Street, Willow Street, and Canal Street)	X	
AQCR 107-Rest of the Region		X
AQCR 109-Bangor (area bounded by and including Kenduskeag Stream, Franklin Street, Columbia Street, and Water Street)	X	
AQCR 109-Rest of the Region		X
AQCR 108		X
AQCR 111		X

Maine - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 110		X
AQCR 107		X
AQCR 109		X
AQCR 108		X
AQCR 111		X

§81.321 Maryland.

Maryland - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Cumberland-Keyser Interstate AQCR				
a) Election District No. 8, Luke, Md.	X			
b) Remainder AQCR				X
Central Maryland Interstate AQCR				X
Metropolitan Baltimore Intrastate AQCR				
a) Baltimore City				
Regional Planning Districts 1				
#118 Zones 120,129,130, 132 to 137	X			
#119 Zones 138 to 147, 153 to 155	X			
#125 Zones 199,200,201, 203	X			
#121 All zones except 167,169	X			
#120 All zones	X			
#123 All zones	X			
#124 All zones	X			
#126 All zones	X			
#114 to 126 All zones		X		
#110 Zone 53		X		
#111 Zones 57,61,64 to 68		X		
#112 Zone 72		X		
#113 Zones 77,79,80		X		
b) Baltimore County Regional Planning Districts				
#329 Zones 454 to 458	X			
#331 Zone 472	X			
#320 Zone 384		X		
#321 Zones 387, 388		X		

Maryland - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
#325 Zones 416, 417, 418, 421		X		
#326 All zones except 428		X		
#327 Zones 432 to 434		X		
#328 All zones		X		
#329 All zones		X		
#330 All zones		X		
#331 Zones 470, 471, 472		X		
c) Anne Arundel County Regional Planning District				
#201 Zones 208, 209	X			
#201 Zone 211		X		
#203 Zone 228	X			
#203 Zones 224, 227, 228		X		
#204 Zone 229	X			
#204 Zones 229, 230		X		
d) Remainder of AQCR				X
National Capital Interstate AQCR				X
Southern Maryland Intrastate AQCR				X
Eastern Shore-Intrastate AQCR				X

[1] Regional Planning Districts - defined by the Baltimore Regional Planning Council, Maps showing Districts and nonattainment areas available for inspection at the offices of:
EPA, Region III
6th & Walnut Streets
Philadelphia, Pennsylvania 19106

Md. Bureau of Air Quality & Noise Control
201 West Preston Street
Baltimore, Maryland

Maryland - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Cumberland-Keyser Interstate AQCR, Election District No. 8, Luke, Maryland			X*	
Remainder of State				X

*EPA designation replaces State designation

Maryland - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Cumberland-Keyser Interstate AQCR		
City of Cumberland	X	
City of Hagerstown (those areas of high traffic density)	X	
Remainder of AQCR		X
Central Maryland Intrastate AQCR		X
Metropolitan Baltimore Intrastate AQCR		
City of Baltimore (those areas of high traffic density)	X	
Remainder of AQCR		X
National Capital Interstate AQCR - Maryland Portion	X	
Southern Maryland Intrastate AQCR		X
Eastern Shore Intrastate AQCR		X

Maryland - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Cumberland-Keyser Interstate AQCR	X	
Central Maryland Intrastate AQCR		X
Metropolitan Baltimore Intrastate AQCR	X	
National Capital Interstate AQCR - Maryland Portion	X	
Southern Maryland Intrastate AQCR		X
Eastern Shore Intrastate AQCR		X

Maryland - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
State of Maryland		X

§81.322 Massachusetts.

Massachusetts - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Berkshire AQCR				
Adams		X		
North Adams		X		
Pittsfield		X		
Central Massachusetts AQCR				
Worcester	X			
Athol		X		
Fitchburg		X		
Gardner			X	
Grafton			X	
Leominster			X	
Millbury			X	
Shrewsbury			X	
Merrimack Valley AQCR				
Haverhill		X		
Lawrence		X		
Pioneer Valley AQCR				
Springfield	X			
Chicopee			X	
Holyoke			X	
Northampton			X	
South Hadley			X	
West Springfield			X	
Southeastern Massachusetts AQCR				
Fall River		X		
Attleboro			X	
New Bedford			X	
Taunton			X	
Metropolitan Boston AQCR				
Topsfield			X	
Wakefield			X	
Walpole			X	
Watertown			X	
Wayland			X	
Wellesley			X	
Wenham			X	
Weston			X	
Westwood			X	
Weymouth			X	
Winchester			X	
Winthrop			X	

Massachusetts - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Statewide				X

Massachusetts - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Boston	X			
Danvers	X			
Cambridge		X		
Framington		X		
Lynn		X		
Marblehead		X		
Norwood		X		
Medford		X		
Peabody		X		
Quincy		X		
Revere		X		
Swampscott		X		
Waltham		X		
Arlington			X	
Belmont			X	
Beverly			X	
Braintree			X	
Brockton			X	
Brookline			X	
Canton			X	
Chelsea			X	
Dedham			X	
Everett			X	
Malden			X	
Malborough			X	
Melrose			X	
Middleton			X	
Milton			X	
Natick			X	
Needham			X	
Newton			X	
Salem			X	
Saugus			X	
Somerville			X	
Southborough			X	
Stoneham			X	

Massachusetts - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide	X	

Massachusetts - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Berkshire AQCR		
All cities and towns		X
Central Massachusetts AQCR		
Worcester	X	
All cities and towns		X
Merrimack Valley AQCR		
Lowell	X	
All other cities and towns		X
Metropolitan Boston AQCR		
Boston	X	
Cambridge	X	
Medford	X	
Waltham	X	
All other cities and towns		X
Pioneer Valley AQCR		
Springfield	X	
All other cities and towns		X
Southeastern Massachusetts AQCR		
All cities and towns		X

Massachusetts - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide		X

§81.323 Michigan.

Michigan - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 82 (Michigan Portion)				
Except sub-areas defined by range and township numbers:				X
1. Berrien County R18W, T4S, Sections 7, 8, 17-20, 29, 30				
R19W, T4S, Sections 12-14 & 23-27		X		
AQCR 122				
Except sub-areas defined:				X
1. Bay County R5E, T14N, Sections 14-16 & 21-23		X		
2. Genesee County				
a. Starting at intersection of Stewart Av. and N. Saginaw St. then E. along Stewart Av. to Dort Highway to Franklin Av. to Hamilton Av. to Saginaw St. to Stewart Av.	X*			
b. Starting at intersection of Carpenter Rd. and DuPont St. then E. on Carpenter Rd. to Center Rd. then S. to M-21 then E. to I-475 to Bristol Rd. then W. to I-75 then N. to Corunna Rd (M-56) then E. to Flint city limits then N. to Pasadena Av. then E. to DuPont St. to Carpenter Rd.		X*		

*EPA designation replaces State designation

Michigan - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
3. Kent County R11W, T7N, Sections 19, 30, 31				
R12W, T7N, Sections 22-27 & 34-36		X		
4. Mason County R18W, T18N, Sections 13, 14, 23 & 24		X		
5. Midland County R2E, T14N, Sections 13-15, 21-23, 26-28 & 33-35		X		
6. Muskegon County R16W, T9N, Sections 21, 22 & 27-34		X		
7. Saginaw County				
a. R4E, T21N, Sections 1, 12-15, 22-27 & 34-36				
R5E, T12N, Sections 4-6, 9, 16, 19-21 & 28-33		X		
b. R5E, T12N, Sections 7, 8, 17 & 18	X			
AQCR 123				
Except sub-areas defined:				X
1. Macomb County				
a. R14E, T4N, Sections 247, 28, 33, & 34		X		
b. All of County South of 20 Mile Rd.		X		

Michigan - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
2. Oakland County a. R10E, T3N, Sections 15, 16, 21, 22, 27 & 28		X		
b. Area included within: Coolidge Rd. 10 Mile Rd. Campbell Rd. 14 Mile Rd. Dequindre Rd. & 8 Mile Rd.		X		
3. St. Clair County R17E, T6N Sections 2-4, 9-11, 14-16, 21, 22 & 28		X		
4. Wayne County a. Area included within: Lake St. Clair 8 mile Rd. to Schaeffer Rd. to McNichols Rd. to Greenfield Av. to Evergreen Rd. to Joy Rd. to Telegraph Rd. to Ford Rd., to Beech-Daly Rd. to Cherry Hill Rd. to Inkster Rd. to Carlysle St. to Middle Belt Rd. to Van Born Rd. to Wayne Rd. to Ecorse Rd. to Haggerty Hwy. to Tyler Rd. to Belleville Rd. to I-94 to Rawsonville to Oakville - Waltz Rd. to Will-Carlton Rd. to the Huron River to Lake area except for the subarea under b.		X		

Michigan - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
b. Area included within: Lake St. Clair-Moross Rd. to 7 Mile Rd. to Van Dyke Rd. to 8 Mile Rd. to Wyoming Rd. to 7 Mile Rd. to Schaffer Rd. to Fenkell Rd. to Greenfield Av. to Joy Rd. to Southfield Expressway to Ford Rd. to Cherry Hill Rd. to Beech-Daly Rd. to Michigan Av. to Inkster Rd. to Carlysle St. to Middle Belt Rd. to Sibley Rd. to Telegraph Rd. to King Rd. to Grange Rd. to Sibley Rd. to Jefferson Av. to Bridge St. (Gross Ile) extended to Detroit River)	X			
AQCR 124 (Michigan Portion) Except sub-area defined by following townships: 1. Monroe County Exeter Ash, Berlin, Raisinville, Monroe & Frenchtown Townships including all incorporated municipalities		X		X
AQCR 125 Except sub-areas defined: 1. Branch County R5W, T6S, Section 22		X		X
2. Calhoun County R4W, T2S, Section 34	X			
3. Ingham County R1W, T4N, Sections 2-11 & 14-23		X		

Michigan - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
4. Washtenaw County Area near Ypsilanti within Cross St., Huron St., Harris Rd. & I-94		X		
AQCR 126				X
1. Delta County R22W, T39N, Sections 6-8, 17-20, 29-30				
R23W, T39N Sections 1, 12, & 13		X		
2. Emmet County R6W, T34N Sections 1-3 & 9-12				
3. Manistee County R16W, T21N, Sections 7, 18 & 19		X		
R17W, T21N, Section 12 & 13		X		
4. Marquette County R25W, T48N Section 1 & 2			X	

Michigan - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 82 (Michigan portion)				X
AQCR 122 Except sub-areas defined:				X
1. Ingham County	X*			
2. Midland County	X*			
AQCR 123				X
AQCR 124 (Michigan portion)				X
AQCR 125				X
AQCR 126				X

*EPA designation replaces State designation

Michigan - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 82 (Michigan portion)	X	
AQCR 122		
Except sub-area defined:		X
1. Muskegon, Ottawa, Allegan, Kent, Montcalm, Ionia, Gratiot, Midland, Bay, Saginaw, Shiawassee, Genesse, Tuscola, Lapeer, Sanilac and Huron Counties	X	
AQCR 123	X	
AQCR 124 (Michigan portion)	X	
AQCR 125	X	
AQCR 126		
Except sub-area defined:		X
1. Marquette County	X*	

*EPA designations replace State designations

Michigan - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
State of Michigan		X

§81.324 Minnesota.

Michigan - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 82 (Michigan portion)		X
AQCR 122		
Except sub-area defined:		X
1. Saginaw County R4E, T12N Sections 1, 12, 13, & 24 R5E, T12N Sections 4-9, 16-21	X	
AQCR 123		
Except sub-area defined:		X
1. Macomb, Oakland, Wayne Counties Lake St. Clair - 14 Mile Rd. to Mally Rd. N. to 15 Mile Rd. to Hayes Rd. S. to 14 Mile Rd. to Clawson northern city boundary to Royal Oak northern city boundary to 13 Mile Rd. to Evergreen Rd. to Beverly Hills southern city boundary to Bingham Farms southern city boundary to Franklin southern city boundary to Inkster Rd. to 8 Mile Rd. to Livonia western city boundary to Wayne western city boundary to Romulus southern city boundary following Pennsylvania Rd. to Detroit River.	X	
AQCR 124 (Michigan portion)		X
AQCR 125		X
AQCR 126		X

Minnesota - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 131	x*			
City of International Falls	x			
City of Duluth	x*			
City of Red Wing		x		
City of E. Grand Forks		x		
City of Cloquet		x		
City of Silver Bay		x		
Mesabi Iron Range Identified by county and township and range numbers:		x		
Itasca County T55N, R24-26W T56N, R22-25W T57N, R22-23W				
St. Louis County T57N, R12-21W T58N, R14-21W T59N, R13-18W T6-N, R12-13W				
Sherburne County			x	
St. Cloud Township (Stearns County)			x	
City of Springfield and Burnstown Township (Brown County)			x	
Remainder of State				x

*EPA designation replaces State designation

Minnesota - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 131	x			
City of Rochester	x			
Sherburne County			x	
Remainder of State				x

Minnesota - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 131	x	
City of Duluth	x	
City of Rochester	x	
City of St. Cloud	x	
Remainder of State		x

Minnesota - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 131	x	
St. Louis County	x*	
Sherburne County	x*	
Carlton County	x*	
Lake County	x*	
Olmsted County	x*	
Remainder of State		x

* EPA designation replaces State designation

Minnesota - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
State of Minnesota		x

§81.325 Mississippi.

Mississippi - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
That portion of Jones County in southern section of Laurel	x			
Rest of State				x

Mississippi - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide		x

Mississippi - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Statewide				x

Mississippi - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide		x

Mississippi - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide		x

Missouri - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Northern AQCR (137)				
Kirksville City Limits	x			
Mexico (Township 51 North, Range 9 West	x			
Columbia City Limits		x*		
Remainder of AQCR				x
Southeastern AQCR				
Township 23 North, Range 14 East and Township 22 North, Range 14 East (New Madrid)	x			
Remainder of AQCR				x
Southwestern AQCR				x

* EPA designation replaces State designation

§81.326 Missouri.

Missouri - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
St. Louis AQCR (070)				
St. Louis (an area extending west about two miles from the Mississippi River, north to near I-270 and south to about one mile beyond the city limits)	x			
Remainder of the City of St. Louis		x		
Chambers area				
Beginning at the St. Louis city limits and I-270, west to Highway 367, south to St. Louis city limits and along this boundary to point of origin		x		
St. Ann area				
(An area of about one mile radius located in the City of St. Ann)		x		
Herculaneum (Township 41 North, Range 6 East)		x		
Remainder of AQCR				x
Kansas City AQCR (094)				
Kansas City				
(An area extending about 4 miles north and south from the central business district and from the Kansas state line to Missouri Highway 7)	x			
St. Joseph City Limits	x			
Remainder of AQCR		x		

Missouri - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
St. Louis "Hotspot" (an area of approximately one mile radius at the confluence of River Des Peres and the Mississippi River)	x			
Township 34 North, Range 2 West (Sixby)	x			
Remainder of State				x

Missouri - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
St. Louis AQCR (070)		
Entire area	x	
Kansas City AQCR (094)		
Jackson County	x	
Clay County	x	
Platte County	x	
Remainder of AQCR		x
Remainder of State		x

Missouri - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		x

Missouri - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
St. Louis AQCR (070)		
The area encompassed by I-270 and the Mississippi River	x	
Remainder of State		x

§81.327 Montana.

Montana - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Colstrip Area	x			
City of Columbia Falls	x			
City of Missoula	x			
Missoula Area		x		
Billings Area		x		
Great Falls Area		x		
Butte Area		x		
East Helena Area		x		
Remainder of State				x

Montana - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Laurel Area	x			
East Helena Area	x	x		
Anaconda Area	x	x		
Rest of State				x

Montana - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
City of Billings	x*	
City of Missoula	x	
Rest of State		x

* EPA designation replaces State designation

Montana - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Yellowstone County	x*	
Rosebud County	x*	
Rest of State		x

* EPA designation replaces State designation

Montana - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		x

§81.328 Nebraska.

Nebraska - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 085	x			
AQCR 086			x*	
AQCR 145				x
AQCR 146 (except Cass County and Dawson County)				x
Cass County	x			
Dawson County			x*	

* EPA designation replaces State designation

Nebraska - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 085	x	
Remainder of State		x

Nebraska - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Entire State				x

Nebraska - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
City of Lincoln	x	
City of Omaha	x	
Remainder of State		x

Nebraska - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		x

Nevada - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
(Township, Range)				
Steptoe Valley (179) (10-29N, 61-67E)	x*			
Rest of State				x

* EPA designation replaces State designation

§81.329 Nevada.

Nevada - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
(Township, Range)				
Las Vegas Valley (212) (15-24S, 56-64E)	x			
Carson Desert (101) (15-28N, 25-35E)	x			
Winnemucca Segment (70) (34-38N, 34-41E)	x			
Lower Reese Valley (59) (27-32N, 42-48E)		x		
Gabbs Valley (122) (7-15N, 31-37E)	x			
Pernley Area (76) (19-21N, 23-26E)	x			
Truckee Meadows (87) (17-20N, 18-21E)	x			
Mason Valley (108) (9-16N, 24-28E)	x			
San Emido Desert (22) (27-32N, 22-24E)			x*	
Colorado River Valley (213) (22-33S, 63-66E)			x*	
Steptoe Valley (179) (10-29N, 61-67E)			x*	
Clovers Area (64) (32-39N, 42-46E)		x		
Rest of State				x

*EPA designation replaces State designation

Nevada - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Las Vegas Valley (212) (15-24S, 56-64E)	x	
Truckee Meadows (87) (17-20N, 18-21E)	x	
Lake Tahoe Basin (90) (13-17N, 18-19E)	x	
Eagle Valley (104) (14-16N, 19-20E)	x	
Rest of State		x

Nevada - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Las Vegas Valley (212) (15-24S, 56-64E)	x	
Truckee Meadows (87) (17-20N, 18-21E)	x	
Lake Tahoe Basin (90) (13-17N, 18-19E)	x	
Rest of State		x

Nevada - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		x

§81.330 New Hampshire.

New Hampshire - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Metropolitan Keene, Manchester		x		
Remainder of New Hampshire portion of So. N.H.M.V. AQCR 121				x
Central N.H. Interstate AQCR 149				x
Metropolitan Berlin	x*			
Remainder of N.H. portion of Androscoggin Valley Interstate AQCR 107				x

*EPA designation replaces State designation

New Hampshire - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
N.H. portion of Merrimack Valley So. N.H. Interstate AQCR 121				x
Central N.H. Interstate AQCR 149				x
Metropolitan Berlin	x*			
Remainder of N.H. portion of Androscoggin Valley Interstate AQCR 107				x

* EPA designation replaces State designation

New Hampshire - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Central N. H. Intrastate AQCR 149	x	
N. H. portion of Androscoggin Valley Interstate AQCR 107		x
N. H. portion of Merrimack Valley So. N.H. Interstate AQCR 121	x	

New Hampshire - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide		x

New Hampshire - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Metropolitan Manchester	x	
Remainder of N.H. portion of Merrimack Valley So. N.H. Interstate AQCR 121		x
Central N.H. Intrastate AQCR 149		x
N.H. portion of Androscoggin Valley Interstate AQCR 107		x

§81.331 New Jersey.

New Jersey - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
New Jersey-New York-Connecticut Interstate AQCR				
The City of Jersey City	x			
The City of Newark (eastern)		x		
The City of Elizabeth		x		
The City of Linden		x		
The Borough of Carteret		x		
The Town of Woodbridge		x		
The City of Perth Amboy		x		
Remainder of AQCR				x
Metropolitan Philadelphia Interstate AQCR				
The City of Camden	x			
Remainder of AQCR				x
New Jersey Intrastate AQCR				
The City of Bridgeton		x		
Remainder of AQCR				x
Northeast Pennsylvania-Upper Delaware Valley Interstate AQCR				x

New Jersey - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
New Jersey-New York-Connecticut Interstate AQCR				x
Metropolitan Philadelphia Interstate AQCR				x
New Jersey Intrastate AQCR				x
Northeast Pennsylvania-Upper Delaware Valley Interstate AQCR				x

New Jersey - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
New Jersey-New York-Connecticut Interstate AQCR		
The City of Paterson	x	
The City of Hackensack	x	
The City of Jersey City	x	
The City of Newark	x	
The City of Elizabeth	x	
The Town of Morristown	x	
The City of Perth Amboy	x	
The Borough of Somerville	x	
The City of Asbury Park	x	
The Borough of Freehold	x	
Remainder of AQCR		x
Metropolitan Philadelphia Interstate AQCR		
The City of Trenton	x	
The City of Burlington	x	
The City of Camden	x	
The Borough of Penns Grove	x	
Remainder of AQCR		x
New Jersey Intrastate AQCR		
The City of Wildwood	x	
The City of Atlantic City	x	
Toms River (portion of Dover Township	x	
Remainder of AQCR		x
Northeast Pennsylvania-Upper Delaware Valley Interstate AQCR		x

New Jersey - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
New Jersey-New York-Connecticut Interstate AQCR	x	
Metropolitan Philadelphia Interstate AQCR	x	
New Jersey Intrastate AQCR	x	
Northeast Pennsylvania-Upper Delaware Valley Interstate AQCR	x	

New Jersey - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
New Jersey-New York-Connecticut Interstate AQCR		x
Metropolitan Philadelphia Interstate AQCR		x
New Jersey Intrastate AQCR		x
Northeast Pennsylvania-Upper Delaware Interstate AQCR		x

§81.332 New Mexico.

New Mexico - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 012				
Grant County	X*			
Remainder of AQCR				X*
AQCR 014				X
AQCR 152				
Albuquerque city limits	X*			
Remainder of AQCR				X
AQCR 153				X
AQCR 154				X
AQCR 155				
Portions of Eddy and Lea Counties	X			
AQCR 156				X
AQCR 157				X

* EPA designation replaces State designation

New Mexico - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 012				
Portions of Grant Co.		X*		
Remainder of AQCR				X
AQCR 014				
Portions of San Juan Co.	X			X
Remainder of AQCR				
AQCR 152				X
AQCR 153				X
AQCR 154				X
AQCR 155				X
AQCR 156				X
AQCR 157				X

* EPA designation replaces State designation

New Mexico - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 012		X*
AQCR 014		X*
AQCR 152		
Bernalillo Co.	X*	
Remainder of AQCR		X*
AQCR 153		X*
AQCR 154		X*
AQCR 155		X*
AQCR 156		X*
AQCR 157		X*

* EPA designation replaces State designation

New Mexico - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 012		X
AQCR 014		
Central Farmington	X	
Remainder of AQCR		X
AQCR 152		
Bernalillo Co.	X	
Remainder of AQCR		X
AQCR 153		
Narrow Corridor in Las Cruses	X	
Remainder of AQCR		X
AQCR 154		X
AQCR 155		X
AQCR 156		X
AQCR 157		
Narrow Corridor in Santa Fe	X	
Remainder of AQCR		X

* EPA designation replaces State designation

New Mexico - SO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 012		X
AQCR 014		X
AQCR 152		X
AQCR 153		X
AQCR 154		X
AQCR 155		X
AQCR 156		X
AQCR 157		X

§81.333 New York.

New York State - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Niagara Frontier AQCR				
The City of Buffalo (south of I-190 and east of a line parallel to and one-half mile inland from Fuhrman Blvd between I-190 and Tifft Street).	X			
The City of Buffalo (excluding an area one-quarter mile inland and parallel to Fuhrman Blvd between I-190 and Tifft Street).		X		
The City of Buffalo (an area bounded on the north by I-190, on the south by Tifft Street, on the west by a line parallel to and one-quarter mile inland from Fuhrman Blvd, and on the east by a line parallel to and one-half mile inland from Fuhrman Blvd).		X	X*	
The City of Buffalo (an area one-quarter mile inland and parallel to Fuhrman Blvd between I-190 and Tifft Street)			X*	
The City of Lackawanna	X			
The City of Tonawanda (west of Military Road)		X	X	
The City of Tonawanda (east of Military Road)			X*	

* EPA designation replaces State designation

New York - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
The Town of Tonawanda (west of Military Road)		X	X	
The Town of Tonawanda (east of Military Road)			X*	
The City of Niagara Falls (south of Pine Ave, east of Hyde Park Blvd and west of I-190)	X			
The City of Niagara Falls		X		
The Town of Niagara		X		
The City of North Tonawanda		X		
The Village of Blasdell		X		
The Town of Cheektowaga (west of Union Road)		X		
The Town of Cheektowaga (east of Union Road)			X*	
The Town of West Seneca (west of Union Road)		X		
The Town of West Seneca (east of Union Road)			X*	
The Town of Amherst			X*	
The City of Lockport		X		
Remainder of AQCR				X
Genesee-Finger Lakes AQCR				X
Southern Tier West AQCR				
The City of Jamestown		X		

* EPA designation replaces State designation

New York - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
The City of Dunkirk		X		
Remainder of AQCR				X
Southern Tier East AQCR				X
Central AQCR				
The City of Syracuse (central)	X			
The City of Syracuse		X		
The Village of East Syracuse		X		
The Village of Solvay		X		
Remainder of AQCR				X
Northern (Champlain Valley) AQCR				X

New York - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Hudson Valley AQCR				
The City of Albany (eastern)		X		
The Village of Hoosick Falls		X		
The Town of Catskill (except eastern Catskill Village)		X		
Remainder of AQCR				X
New Jersey-New York-Connecticut Interstate AQCR				
The Borough of Manhattan		X	X*	
The Borough of The Bronx (southern)		X	X*	
The Borough of Brooklyn (northern)		X	X*	
The Borough of Queens (northwestern)		X	X*	
The Borough of Staten Island (west-central)		X		
Remainder of AQCR				X

* EPA designation replaces State designation

New York - SO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Northern (Champlain Valley) AQCR				X
Hudson Valley AQCR				X
New Jersey-New York-Connecticut Interstate AQCR				
The Borough of Manhattan (except between 59th and 125th Sts.)			X	
The Borough of Queens (west-central)			X	
The Borough of the Bronx (southern)			X	
Remainder of AQCR				X

New York - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Niagara Frontier AQCR				
The City of Buffalo (an area bounded on the north by Tifft Street, on the east by Hopkins Street, on the south by the City of Lackawanna and on the west by Lake Erie)	X		X*	
The City of Buffalo (an area bounded by Tifft Street, Hopkins Street, the City of Lackawanna, the Towns of West Seneca and Cheektowaga, I-190 and Lake Erie)			X*	
The City of Lackawanna (west of South Park Avenue)	X		X*	
The City of Lackawanna (east of South Park Avenue)			X*	
Remainder of AQCR				X
Genesee-Finger Lakes AQCR				X
Southern Tier West AQCR				
The Town of Corning			X*	
Remainder of AQCR				X
Southern Tier East AQCR				
The Town of Bainbridge			X*	
Remainder of AQCR				X
Central AQCR				X

New York - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Niagara Frontier AQCR	X	
Genesee-Finger Lakes AQCR	X	
Southern Tier West AQCR	X	
Southern Tier East AQCR	X	
Central AQCR	X	
Northern (Champlain Valley) AQCR	X	
Hudson Valley AQCR	X	
New Jersey-New York-Connecticut Interstate AQCR	X	

New York - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Niagara Frontier AQCR		
The City of Buffalo (northern)	X*	
The Town of Cheektowaga (northwestern)	X*	
The Town of Amherst (southwestern)	X*	
Remainder of AQCR		X
Genesee-Finger Lakes AQCR		
Monroe County (inside the area bounded by the Seabreeze Expressway, I-490, Elmwood Avenue, Scottsville Road, Paul Road, Behan Road, Harvard Street, I-490, Mt. Read Boulevard (as far north as Stone Road), a straight line to the intersection of St. Paul Boulevard and Titus Avenue, and Titus Avenue)	X*	
Remainder of AQCR		X
Southern Tier West AQCR		X
Southern Tier East AQCR		X
Central AQCR		
The City of Syracuse (central)	X*	
Remainder of AQCR		X
Northern (Champlain Valley) AQCR		X
Hudson Valley AQCR		
The City of Troy	X*	
The Town of Waterford	X*	
The City of Watervliet	X*	
The City of Albany (east of Fuller Road)	X*	
The Town of Colonie (inside an area bounded by Sand Creek Road, Wolf Road, Railroad Avenue, and Fuller Road)	X*	

* EPA designation replaces State designation

New York - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Niagara Frontier AQCR		X
Genesee-Finger Lakes AQCR		X
Southern Tier West AQCR		X
Southern Tier East AQCR		X
Central AQCR		X
Northern (Champlain Valley) AQCR		X
Hudson Valley AQCR		X
New Jersey-New York-Connecticut Interstate AQCR		X

New York - CO (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
The City of Schenectady	X*	
Remainder of AQCR		X
New Jersey-New York-Connecticut Interstate AQCR		
The Borough of Manhattan (Midtown and Downtown)	X	
The Borough of Manhattan (remainder)	X*	
The Borough of Staten Island	X*	
The Borough of Queens	X*	
The Borough of Brooklyn	X*	
The Borough of The Bronx	X*	
The City of Yonkers	X*	
The City of Mt. Vernon	X*	
Nassau County (southwestern)	X*	
Remainder of AQCR		X

* EPA designation replaces State designation

§81.334 North Carolina.

North Carolina - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Certain portions of Mitchell, Avery and Yancey Counties within and around Spruce Pine	X			
Carteret County			X*	
Forsyth County			X	
Rest of State				X

* EPA designation replaces State designation

North Carolina - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Statewide				X

North Carolina - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Mecklenburg County	X	
Durham County	X*	
Rest of State		X

*EPA designation replaces State designation

North Carolina - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Mecklenburg County	X	
Buncombe County	X*	
Durham County	X*	
Rest of State		X

*EPA designation replaces State designation

North Carolina - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide		X

§81.335 North Dakota.

North Dakota - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Entire State				X

North Dakota - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Burleigh County	X	
Mercer County	X	
Dunn County	X**	
Rest of State		X

North Dakota - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Entire State				X

North Dakota - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

North Dakota - SO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Carroll		X**		
Champaigne		X		
Clark				
The subareas defined as the area south and east of the line determined by: Route 41 east from the Clark-Miami County line east to Route 235, north to the Clark-Champaigne County line; & bounded by the north-south line determined by: Thackery Domer Road southeast from the Clark-Champaigne County Line Road to Knollwood Road, south on Knollwood (which becomes Ballentine Pike) to Springfield-N. Hampton Road, south to Sintz Road, west to Vale Road, south to Lost New Carlisle Pike, east & southeast across U.S. 40 to Old Mill Road, south to Fairfield Pike, northeast to Cross Road, east to Route 68, south to Jackson Road, east to Mosier Road, south to Clark-Greene County line.		X		
The remainder of Clark County				X

§81.336 Ohio.

Ohio - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Ohio Counties				
Allen		X		
Ashtabula	X*			
City of Ashtabula, Ashtabula Township & portion of Plymouth Township north of I-90				
The remainder of Ashtabula County				X
Belmont				
Cities of Martins Ferry, Bridgeport, Brookside, Bellaire, Shadyside & Powhatan Point in addition to Townships of Pease, Pultney, Mead & York	X			
Townships of Colerain, Richland, Smith & Washington excluding primary nonattainment areas		X		
The remainder of Belmont County				X
Butler				
City of Middletown	X			
Cities of Monroe, Trenton, New Miami, Fairfield, and that portion of the City of Hamilton within Fairfield Township & also the Townships of Madison, Lemon, St. Clair, Liberty, Fairfield & Union		X		
The remainder of Butler County				X

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Clermont				
Pierce Township		X**		
The remainder of Clermont County				X**
Clinton	X			
Columbiana				
The Cities of East Palestine, East Liverpool & Wellsville, plus the Townships of Fairfield, Unity, Elk Run, Middleton, Madison, St. Clair, Liverpool & Yellow Creek	X			
Knox & West Townships				X
The remainder of Columbiana County		X		
Coshocton		X**		
Cuyahoga				
The Cities of Brookly Hts., Cuyahoga Hts., Newburgh Hts., Bratenahl & the City of Cleveland east of W. 117th St. & Highland Ave.	X			
Olmsted & Chagrin Falls Townships & the Cities of Bay Village, Westlake, North Olmsted, Olmsted Falls, Strongsville, North Royalton, Broadview Hts.,				X

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Brecksville, Glenwillow, Solon, Beatleyville, Granga, Moreland Hills, Chagrin Falls, Pepper Pike, Hunting Valley, Lyndhurst, Mayfield Hts., Highland Hts., Mayfield & Gates Mills				
The remainder of Cuyahoga County		X		
Darke				
The subareas defined as Road T358 east from the Indiana-Ohio line to Richmont Road, south to Moore Road, east to Payne Road, south to Rush Road, east to and thru New Madison (emerging as Wilt Road east of New Madison), east from New Madison on Wilt Road to Preble County Butler Township Road, north to Hollandsburg-Arcanum Road, east to Jaysville-St. John's Road, north to Delisle-Fourman's Road, east to Gordon Landis Road, north to Painter Creek-Arganon Road,	X			
east to Teagues-South Road, south to Delisle-Fourman's Road, east to Darke-Miami County line (where road becomes Fenner Road)				
The remainder of Darke County				X
Defiance	X**			
Erie	X			
Franklin				
Includes an area encompassed by Alum Creek on the east, Livingston Ave., Lockbourne Road, Thurman Ave., and Greenlawn Ave. on the south; on the west by I-71 & S.R. 315; & on the north by Lane Ave., North High St., Weber Road, Westerville Pike & Agler Road	X			
The area within I-270 outerbelt excluding primary nonattainment area		X		
The remainder of Franklin County				X
Gallia		X		
Geauga		X		
Greene				
the subarea defined as Meredith Road south from the Greene-Clark County line,		X		

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
converts to St. Rt. 370, south to Bryan Park Road, southeast to Clifton Road southwest to Route 68, south to Route 235, northwest to Hill Top Road, southwest to Fairground Road, west to Beaver Valley Road, south to Lantz Road, west to Fairfield Road, south to Sweigart Road, west to Montgomery-Greene County line.				
The remainder of Greene County				X
Hamilton				
the subarea bounded on the east by I-71, on the south by the Ohio River, on the west by the Cincinnati City Limits & on the north by the north & west boundaries of the Cities of Cincinnati, Lockland, Lincoln Hts., Evandale & Blue Ash	X			
Area south & east of U.S. 50 & north & east of S.R. 125; & an area to the north including the Cities of Forest Park, Greenhills,				X

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Mt. Healthy, North College Hill, Wyoming, Woodlawn, Glendale, Springdale, Sharonville & Loveland & the Townships of Colerain, Springfield, Sycamore & Symmes				
The remainder of Hamilton County		X		
Hancock		X		
Henry	X**			
Jackson		X		
Jefferson				
Cities of Stratton, Empire, Toronto, Wintersville, Steubenville, Mingo Junction, New Alexandria, Brilliant, Rayland, Tiltonville, Yorkville & Townships of Saline, Knox, Island Creek, Cross Creek, Steubenville, Wells & Warren	X			
Springfield Township				X
The remainder of Jefferson County		X		
Lake				
Area bounded by the west County lines north of I-90 & west of S.R. 306 in addition to Cities of Painesville,	X*			

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Grand River, Fairport Harbor & Painesville Township				
The remainder of Lake County				X
Lawrence				
The Cities of Ironton, Coal Grove & South Point & the Townships of Upper & Perry	X			
Fayette Township		X		
The remainder of Lawrence County				X
Logan	X			
Lorain				
The portion of the City of Lorain north of S.R. 611	X			
The City of Lorain east of S.R. 58, & Sheffield Township excluding primary non attainment areas		X		
Remainder of Lorain County				X
Lucas				
The Cities of Toledo, Maumee & Ottawa Hills	X			
Townships of Waterville, Monclova, Washington & City of Oregon		X		
The remainder of Lucas County				X

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
of the line determined by Rte. 40 north from the Montgomery-Miami County line to Rte. 202, north to Rte. 571, east to Rte. 201, north to Rte. 41, east to the Miami-Clark County line & excluding the City of Piqua				
The remainder of Miami County				X
Monroe				
The City of Clarington & the Townships of Salem & Switzerland	X			
Townships of Adams, Greene, Lee, Ohio & Sunbury		X		
The remainder of Monroe County				X
Montgomery				
The Cities of Dayton & Miamisburg	X			
That area bounded by Sweigart Road from the Montgomery-Greene County line west to Wilmington Pike, Wilmington Pike south to Whipp Road, west to Rte. 48, south to the Montgomery-Warren County line & Rte. 440 (U.S. 40) at the Montgomery Miami County line south to Bridgewater		X		

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Madison				
Mahoning		X**		
The Cities of Campbell, Struthers & Youngstown & that portion of Poland Township north of U.S. Rte. 224 & that portion of Coitsville Township south of U.S. Rte. 422	X			
Townships of Coitsville (excluding portion south of U.S. Rte. 422), Boardman & Poland (excluding portion north of U.S. Rte 224) & that portion of Austintown Township east of S.R. 46		X		
The remainder of Mahoning County				X
Medina	X*			
Meigs	X			
Miami				
The City of Piqua	X			
That area in Miami County north of the line determined by Fenner Road from the Darke-Miami County line east to Pemberton Road, south to Horse Shoe Bend Road, east to Rte. 55, Rte. 55 northeast thru Troy to Troy-Urbana Road, Troy-Urbana Road northeast to Miami-Champaigne County line & south		X		

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Road, south to Taylorsville Road, west to Little York Road, west to Peters Road, south to Frederick Road, northwest to Dog Leg Road, southwest to Westbrook Road, west to Olive Road, south to Shiloh Springs Road, west to Union Road, south to Little Richmond Road, west to Snyder Road, south to Old Dayton Road, west to Lutheran Church Road, south to Mile Road, west to Guntle Road, south to Havermale Road, west to Clayton Road, south to Chicken Birskle Road, west to Montgomery-Preble County line; however, excluding the Cities of Dayton & Miamisburg and the area determined by the Montgomery-Warren County line north on Yankee St. north to Rte. 725, east to McEwen Road, north to Alexandersville-Bellbrook Road, northwest to Rte. 741 & south to the Montgomery-Warren County line				
The remainder of Montgomery County				X

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Muskingum		X	X**	
Noble				
Portage		X		
Preble				
That area with Preble County southeast of the line described by the Montgomery-Preble County Line Road at Carlton Road, south to Kinsey Road, west to Rte. 503, south to the Preble-Butler County line		X		
The remainder of Preble County				X
Richland	X			
Ross	X*			
Sandusky	X			
Scioto				
The Cities of Portsmouth, New Boston & South Webster & Bloom Township	X			
Township of Harrison excluding primary non attainment areas		X		
The remainder of Scioto County				X
Seneca		X		
Shelby		X		
Stark				
Portion of the City of Canton to the south of 12th Ave.	X			

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Trumbull				
The area encompassed on the north by S.R. 82, on the east by S.R. 11, S.R. 304 & S.R. 616, on the south by the County line & on the west by the Mahoning River	X			
The Townships of Warren, Howland, Weathersfield, Liberty & Hubbard; & of Vienna Township the area south of the north boundary of Vienna Township to S.R. 193 & the area of Brookfield Township south of S.R. 82 excluding primary non attainment areas		X		
The remainder of Trumbull County				X
Tuscarawas		X**		
Washington		X		
Wayne		X**		
Wood		X		
Wyandot		X		

* EPA designation replaces State designation

**EPA designation only

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
The political boundaries of City of Canton & Canton Township excluding primary non attainment areas		X		
The remainder of Stark County				X
Summit				
Area encompassed on the north by S.R. 261 on the east by S.R. 91, on the south by U.S. Rte. 224 & on the west by S.R. 93.	X			
Area bounded on the north by S.R. 18 from the Medina County line to the Fairlawn city limits, & the city limits of Fairlawn, Akron, Cuyahoga Falls & Stow; on the east by the Summit-Portage, Summit-Stark County lines; on the south by S.R. 619, S.R. 93 & the Summit-Stark County line; & on the west by the Summit-Wayne, Summit-Medina County lines, excluding primary non attainment areas		X		
The remainder of Summit County				X

Ohio - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Athens	X**			
Clermont	X**			
Columbiana	X**			
Coshocton	X**			
Cuyahoga	X**			
Erie	X**			
Franklin	X**			
Gallia		X**		
Greene	X**			
Hamilton	X**			
Jefferson	X**			
Lake	X**			
Lorain	X**			
Lucas	X**			
Mahoning	X**			
Montgomery	X**			
Morgan		X**		
Muskingum	X**			
Pickaway	X**			
Seneca	X**			
Stark	X**			
Summit	X**			
Trumbull	X**			
Washington	X**			
Wood	X**			
All other counties in the State of Ohio				X**

**EPA designation only

Ohio - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Adams		X*
Allen	X*	
Ashland	X	
Ashtabula	X	
Athens		X*
Auglaize		X*
Belmont	X	
Brown	X	
Butler	X	
Carroll	X	
Champaign	X	
Clark	X	
Clermont	X	
Clinton	X	
Columbiana	X	
Coshocton		X*
Crawford		X*
Cuyahoga	X	
Darke	X	
Defiance		X*
Delaware	X	
Erie	X	
Fairfield	X	
Fayette	X	
Franklin	X	
Fulton	X	
Gallia		X*
Geauga	X	
Greene	X	
Guernsey		X*
Hamilton	X	
Hancock	X	
Hardin		X*
Harrison	X	
Henry	X	
Highland	X	
Hocking	X	
Holmes	X	
Huron	X	
Jackson		X*
Jefferson	X	
Knox	X	

*EPA designation replaces state designation

Ohio - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Cuyahoga	X	
Franklin	X*	
Hamilton	X	
Jefferson	X	
Lucas	X	
Mahoning	X	
Montgomery	X	
Summit	X	
All portions of all other counties in State of Ohio		X

*EPA designation replaces state designation

Ohio - O_x (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Lake	X	
Lawrence	X	
Licking	X	
Logan	X	
Lorain	X	
Lucas	X	
Madison	X	
Mahoning	X	
Marion	X	
Medina	X	
Meigs		X*
Mercer		X*
Miami	X	
Monroe		X*
Montgomery	X	
Morgan		X*
Morrow	X	
Muskingum		X*
Noble		X*
Ottawa	X	
Paulding		X*
Perry	X	
Pickaway	X	
Pike		X*
Portage	X	
Preble	X	
Putnam		X*
Richland	X	
Ross	X	
Sandusky	X	
Scioto		X*
Seneca	X	
Shelby	X	
Stark	X	
Summit	X	
Trumbull	X	
Tuscarawas	X	
Union		X*
Van Wert		X*
Vinton	X	
Warren		X*
Washington	X	
Wayne		X*
Williams	X	
Wood		X*
Wyandot		X*

*EPA designation replaces state designation

Ohio - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
State of Ohio		X

§81.337 Oklahoma.

Oklahoma - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 017				X
AQCR 184				
Portions of Oklahoma Co.	X			
Portions of Oklahoma Co.			X	
Remainder of AQCR				X
AQCR 185				
AQCR 186				
Portions of Tulsa Co.	X			
Portions of Tulsa Co.			X	
Portion of Muskogee Co.			X	
Mayes Co.	X*			
Remainder of AQCR				X
AQCR 187				X
AQCR 188				X
AQCR 189				
Portion of Comanche Co.			X	
Remainder of AQCR				X

*EPA designation replaces state designation

Oklahoma - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 017		X
AQCR 184		
Oklahoma Co.	X	
Cleveland Co.	X	
Remainder of AQCR		X
AQCR 185		X
AQCR 186		
Tulsa Co.	X	
Remaining counties in AQCR		X
AQCR 187		X
AQCR 188		X
AQCR 189		X

Oklahoma - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 017				X
AQCR 184				X
AQCR 185				X
AQCR 186				
Washington Co. (Portion of)	X*			
Remainder of AQCR				X
AQCR 187				X
AQCR 188				X
AQCR 189				X

*EPA designation replaces State designation

Oklahoma - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 017		X
AQCR 184		X
AQCR 185		X
AQCR 186		
Portion of Tulsa Co.	X*	
Remainder of AQCR		X
AQCR 187		X
AQCR 188		X
AQCR 189		X

*EPA designation replaces State designation

Oklahoma - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 017		X
AQCR 184		X
AQCR 185		X
AQCR 186		X
AQCR 187		X
AQCR 188		X
AQCR 189		X

Oregon - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Entire State				X

§81.338 Oregon.

Oregon - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Portland-Vancouver AQMA (Oregon Portion)		X		
Eugene-Springfield AQMA	X			
Medford-Ashland AQMA		X		
Remainder of State				X

Oregon - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Portland-Vancouver AQMA (Oregon Portion)	X	
Medford-Ashland AQMA	X	
Salem	X	
Eugene-Springfield AQMA	X*	
Remainder of State		X

*EFA designation replaces State designation.

Oregon - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Portland-Vancouver AQMA (Oregon Portion)	X	
Eugene-Springfield AQMA	X	
Medford-Ashland AQMA	X	
City of Salem	X	
Remainder of State		X

Oregon - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

§81.339 Pennsylvania.

Pennsylvania - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
I. Metropolitan Philadelphia Interstate AQCR				
A) City of Philadelphia				
- Census tracts 1-12, 125-142, 144-157, 162-177, 190-205, 293, 294, 298-302, 315-321, 323, 325, 326, 329-332.		X		
- Census tracts 13-75, 143, 158-161, 178-189, 295-297, 322, 324, 327.			X	
- Balance of City				X
B) Montgomery County				
Conshohocken Boro		X		
West Conshohocken Boro			X	
Lower Merion Boro			X	
Narberth Boro			X	
Upper Merion Twp.			X	
Bridgeport Boro			X	
Norristown Boro			X	
Plymouth Twp.			X	
Whitemarsh Twp.			X	
Lansdale Boro		X		
Montgomery Twp.			X	
Upper Gwynedd Twp.			X	
North Wales Boro			X	
Towamencin Twp.			X	
Hatfield Twp.			X	
Hatfield Boro			X	
Pottstown Boro	X			
West Pottsgrove Twp.			X	
Upper Pottsgrove Twp.			X	

Pennsylvania - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
B) Montgomery County cont'd				
Lower Pottsgrove Twp.			X	
Upper Providence Twp.			X	
C) Chester County				
South Coatesville Boro	X			
City of Coatesville			X	
Caln Twp.			X	
East Fallowfield Twp.			X	
Modena Boro			X	
Valley Twp.			X	
North Coventry Twp.			X	
East Coventry Twp.			X	
Phoenixville Boro		X		
Schuylkill Twp.			X	
D) Remaining Pennsylvania Portion of AQCR				X
II. Northeast Pennsylvania Interstate AQCR				
A) Allentown, Bethlehem, Easton Air Basin	X			
B) Reading Air Basin	X			
C) Scranton, Wilkes-Barre Air Basin	X			

Pennsylvania - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
D) Remaining Pennsylvania Portion of AQCR				X
III. South Central Pennsylvania Intrastate AQCR				
A) Lancaster Air Basin	X			
B) Harrisburg Air Basin	X			
C) York Air Basin	X			
D) Remainder of AQCR	X			
IV. Central Pennsylvania Intrastate AQCR				
A) Johnstown Air Basin	X			
B) Lycoming County/ City of Williamsport	X			
South Williamsport Boro			X	
Duboistown Boro			X	
Armstrong Twp.			X	
Susquehanna Twp.			X	
Woodward Twp.			X	
Old Lycoming Twp.			X	
Loyalsock Twp.			X	
Montoursville Boro.			X	
C) Blair County				
City of Altoona	X			
Logan Twp.			X	
Allegheny Twp.			X	

Pennsylvania - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
I. Metropolitan Philadelphia Interstate AQCR				
A) City of Philadelphia				
- Census tracts 2, 3, 4, 5, 6, 7, 8, 9, 11, 12.	X			
- Balance of City				X
B) Delaware County			X	
C) Remaining Pennsylvania Portion of AQCR				X
II. Northeast Pennsylvania Intrastate AQCR				X
III. South Central Pennsylvania Intrastate AQCR				X
IV. Central Pennsylvania Intrastate AQCR				
A) Northumberland County				
Lower Augusta Twp.	X			
Point Twp.	X			
Little Mahanoy Twp.		X		
Rockefeller Twp.		X		
Shamokin Twp.		X		
Upper Augusta Twp.			X	
Sunbury Boro			X	
Northumberland Boro			X	

Pennsylvania - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
D) Remainder of AQCR				X
V. Southwest Pennsylvania Intrastate AQCR				
A) Monongahela Valley Air Basin	X			
B) Allegheny County Air Basin	X			
C) Beaver Valley Air Basin	X			
D) Remainder of AQCR				X
VI. Northwest Pennsylvania Interstate AQCR				
A) Erie Air Basin	X			
B) Mercer County				
City of Sharon	X			
City of Farrell	X			
Hickory Twp.			X	
Sharpsville Boro			X	
Wheatland Boro			X	
C) Remaining Pennsylvania Portion of AQCR				X

Pennsylvania - SO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
B) Snyder County				
Shamokin Dam	X			
Monroe Twp.			X	
C) Remainder of AQCR				X
V. Southwest Pennsylvania Intrastate AQCR				
A) Monongahela Valley Air Basin	X			
B) Allegheny County Air Basin	X			
C) Armstrong County				
Madison Twp.	X			
Mahoning Twp.	X			
Boggs Twp.	X			
Washington Twp.	X			
Pine Twp.	X			
D) Remainder of AQCR				X
VI. Northwest Pennsylvania Interstate AQCR				
A) Warren County				
Conewago Twp.	X			
Warren Boro			X	
Mead Twp.			X	
Clarendon Boro			X	
Pleasant Twp.			X	
B) Remaining Pennsylvania Portion of the AQCR				X

Pennsylvania - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State	X	

Pennsylvania - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

§81.340 Rhode Island.

Pennsylvania - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
City of Philadelphia - high traffic density areas within the CBD and certain other high traffic density areas	X	
Allegheny County Air Basin - high traffic density areas within the CBD and certain other high traffic density areas	X	
Remainder of State		X

Rhode Island - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Providence	X			
East Providence, Cranston, Warwick, North Providence, Pawtucket, and Central Falls			X	
Remainder of Rhode Island portion of AQCR 120				X

Rhode Island - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Rhode Island portion of AQCR 120				X

Rhode Island - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Providence	X	
Remainder of Rhode Island portion of AQCR 120		X

Rhode Island - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Rhode Island portion of AQCR 120	X	

Rhode Island - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Rhode Island portion of AQCR 120		X

§81.341 South Carolina.

South Carolina - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
That portion of Charleston County within section of North Charleston just south of U. S. Army Depot		X		
That portion of Charleston County within section of Charleston just west of south end of U.S. Naval Station	X			
That portion of Georgetown County within southern section of Georgetown	X			
Rest of State				X

South Carolina - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Charleston Area - Charleston and Berkeley Counties	X*	
Columbia Area - Richland and Lexington Counties	X*	
York County	X*	
Rest of State		X

*EPA designation replaces State designation.

South Carolina - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Statewide				X

South Carolina - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
That portion of York County within city limits of Rock Hill	X	
That portion of Richland County within city limits of Columbia	X	
Rest of State		X

South Carolina - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide		X

South Dakota - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Entire State				X

§81.342 South Dakota.

South Dakota - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Rapid City Area	X			
Rest of State				X

South Dakota - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Entire State				X

South Dakota - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

South Dakota - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

South Dakota - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

§81.343 Tennessee.

Tennessee - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Those portions of Anderson and Knox Counties surrounding TVA's Bull Run plant		X		
Those portions of Campbell County within downtown Lafollette and the area surrounding the Carborundum Company's plant at Jacksboro.	X			
That portion of Coffee County within a section of Tullahoma			X	
That portion of Davidson County within the 1964 Urban Services Area of Nashville	X			
That portion of Hamilton County within, approximately, the city limits of Chattanooga	X			
That portion of Maury County within the northern section of Columbia	X			
That portion of Obion County within the downtown section of Union City			X	

Tennessee - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
That portion of Roane County within a downtown section of Rockwood	X			
Those portions of Shelby County within two sections of downtown Memphis	X			
Those portions of Sullivan County within a section of Bristol and a section of Kingsport	X			
That portion of Sumner County surrounding TVA's Gallatin plant		X		
That portion of Washington County within downtown Johnson City			X*	
Rest of State				X

*EPA designation replaces State designation

Tennessee - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Nashville Area - Davidson, Sumner, Rutherford, Wilson and Williamson Counties	X**	
Shelby County	X**	
Maury County	X**	
Hamilton County	X**	
Knox County	X**	
Sullivan County	X**	
Bradley County	X**	
Roane County	X**	
Rest of State		X

**EPA designation only

Tennessee - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
That portion of Polk County surrounding the Cities Service plant at Copperhill	X	X		
That portion of Maury County surrounding the Stauffer Organic Chemical plant at Mt. Pleasant			X	
That portion of Benton and Humphreys Counties surrounding TVA's Johnsonville plant	X	X		
That portion of Roane County surrounding TVA's Kingston plant			X*	
Rest of State				X

*EPA designation replaces State designation

Tennessee - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Davidson County	X	
Knox County	X	
Shelby County	X	
Rest of State		X

Tennessee - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide		X

Texas - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 022				X
AQCR 106				X
AQCR 153				
El Paso County			X*	
Remainder of AQCR				X
AQCR 210				X
AQCR 211				X
AQCR 212				X
AQCR 213				X
AQCR 214				X
AQCR 215				X
AQCR 216				X
AQCR 217				X
AQCR 218				X

*EPA designation replaces State designation

§81.344 Texas.

Texas - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 022				X
AQCR 106				X
AQCR 153				
Limited area in El Paso County	X			
Remainder of AQCR				X
AQCR 210				X
AQCR 211				X
AQCR 212				X
AQCR 213				
Limited areas in Cameron County	X			
Limited areas in Hidalgo County	X			
Remainder of AQCR				X
AQCR 214				
Limited areas in Nueces County	X			
Remainder of AQCR				X
AQCR 215				
Limited areas in Dallas County	X			
Limited areas in Tarrant County		X		
Remainder of AQCR				X
AQCR 216				
Limited areas in Harris County	X			
Limited areas in Galveston County	X			
Remainder of AQCR				X
AQCR 217				
Limited area in Maverick County	X			
Limited area in Bexar County	X			
Remainder of AQCR				X
AQCR 218				X

Texas - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 022		
Gregg County	X*	
Remainder of AQCR		X
AQCR 106		
Jefferson County	X	
Orange County	X	
Remainder of AQCR		X
AQCR 153		
El Paso County	X	
Remainder of AQCR		X
AQCR 210		X
AQCR 211		X
AQCR 212		
Travis County	X	
McLennen County	X*	
Remainder of AQCR		X
AQCR 213		X
AQCR 214		
Portion of Nueces County	X	
Victoria County	X*	
Remainder of AQCR		X
AQCR 215		
Dallas County	X	
Tarrant County	X	
Remainder of AQCR		X
AQCR 216		
Brazoria County	X	
Galveston County	X	
Harris County	X	
Remainder of AQCR		X

Texas - O_x (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 217		
Bexar County	X	
Remainder of AQCR		X
AQCR 218		
Ector County	X*	
Remainder of AQCR		X

*EPA designation replaces State designation

Texas - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 022		X
AQCR 106		X
AQCR 153		X
AQCR 210		X
AQCR 211		X
AQCR 212		X
AQCR 213		X
AQCR 214		X
AQCR 215		X
AQCR 216		X
AQCR 217		X
AQCR 218		X

§81.345 Utah.

Texas - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 022		X
AQCR 106		X
AQCR 153		
Portion of the City Limits of El Paso	X	
Remainder of AQCR		X
AQCR 210		X
AQCR 211		X
AQCR 212		X
AQCR 213		X
AQCR 214		X
AQCR 215		X
AQCR 216		X
AQCR 217		X
AQCR 218		X

Utah - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Davis County		X		
Salt Lake County	X			
Utah County	X			
Weber County	X			
City of Price	X			
Cedar City		X		
Rest of State				X

Utah - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Salt Lake County	X*	X*		
Tooele County	X*	X*		
Cedar City	X	X		
Rest of State				X

*EPA designation replaces State designation

Utah - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Salt Lake City	X	
City of Bountiful	X	
City of Ogden	X	
City of Provo	X	
Rest of State		X

Utah - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Salt Lake County	X	
Davis County	X	
Utah County	X	
Weber County	X	
Uintah County (Southern Half)	X	
Rest of State		X

Utah - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

§81.346 Vermont.

Vermont - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Champlain Valley Air Management Area: Consisting of townships and cities listed below: Colchester Town, Winooski City, Essex Town, Burlington City, S. Burlington City, Williston Town, Shelburne Town, St. George Town		X		
Vermont Valley Air Management Area: Consisting of townships and cities listed below: Rutland Town, Rutland City, Proctor Town, West Rutland Town, Pittsford		X		
Central Vermont Air Management Area: Consisting of townships and cities listed below: Barre City, Barre Town		X		
Remainder of the State				X

Vermont - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 159 (Vermont portion)	X	
AQCR 221 (Vermont portion)	X	

Vermont - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 159 (Vermont portion)				X
AQCR 221 (Vermont portion)				X

Vermont - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Champlain Valley Air Management Area: Consisting of the townships and cities listed below: Colchester Town, Winooski City, Essex Town, Burlington City, S. Burlington City, Williston Town, Shelburne Town, St. George Town	X	
Remainder of the State		X

Vermont - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 159 (Vermont portion)		X
AQCR 211 (Vermont portion)		X

§81.347 Virginia.

Virginia - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Buchanan County			X*	
City of Galax			X*	
City of Norton			X*	
Tazewell County			X*	
Washington County			X*	
Remainder of the Virginia Portion of Southwest Virginia-Eastern Tennessee Interstate AQCR				X*
Frederick County			X*	
Pulaski County			X*	
Roanoke County			X*	
Warren County			X*	
City of Waynesboro			X*	
Remainder of the Valley of Virginia AQCR				X*
City of Bedford			X*	
Henry County			X*	
Lynchburg			X*	
Patrick County			X*	
Pittsylvania County			X*	

*EPA designation replaces State designation

Virginia - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Prince Edward County			X*	
Remainder of the Central Virginia AQCR				X*
Northeastern Virginia AQCR				X
City of Hopewell			X*	
City of Richmond			X*	
Sussex County			X*	
Remainder of the State Capital AQCR				X*
City of Chesapeake			X*	
Remainder of the Hampton Roads AQCR				X*
City of Alexandria			X*	
Arlington County			X*	
City of Fairfax			X*	
Fairfax County			X*	
Prince William			X*	
Remainder of the Virginia Portion of the National Capital Interstate AQCR				X*

*EPA designation replaces State designation

Virginia - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Virginia Portion of Southwest Virginia-Eastern Tennessee Interstate AQCR				X
Valley of Virginia AQCR				X
Central Virginia AQCR				X
Northeastern Virginia AQCR				X
State Capital AQCR				X
Hampton Roads AQCR				X
Virginia Portion of National Capital Interstate AQCR				X

Virginia - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Virginia Portion of Southwest Virginia-Eastern Tennessee Interstate AQCR	X*	
Valley of Virginia AQCR	X*	
Central Virginia AQCR		X
Northeastern Virginia AQCR	X*	
State Capital AQCR	X*	
Hampton Roads AQCR	X*	
Virginia Portion of National Capital Interstate AQCR	X*	

*EPA designation replaces State designation

Virginia - NO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Virginia Portion of Southwest Virginia-Eastern Tennessee Interstate AQCR				X
Valley of Virginia AQCR				X
Central Virginia AQCR				X
Northeastern Virginia AQCR				X
State Capital AQCR				X
Hampton Roads AQCR				X
Virginia Portion of National Capital Interstate AQCR				X

Virginia - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Virginia Portion of Southwest Virginia-Eastern Tennessee Interstate AQCR		X
Valley of Virginia AQCR		X
Central Virginia AQCR		X
Northeastern Virginia AQCR		X
City of Richmond		X
Remainder of State Capital AQCR		X
Norfolk		X
Hampton		X
Remainder of Hampton Roads AQCR		X
Alexandria	X*	
Fairfax County	X*	
Remainder of the Virginia Portion of National Capital Interstate AQCR		X*

*EPA designation replaces State designation

§81.348 Washington.

Washington - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Seattle - that area including the north protion of the Duwamish industrial area, and extending to the southern boundary of the CBD	X			
Seattle - an area of the Duwamish Valley extending approximately 2 1/2 miles further south than the above area		X		
Renton		X		
Kent		X		
Tacoma - that area including the Tide Flats industrial area, east end of the CBD, and the north end of South Tacoma Way corridor	X			
Port Angeles - small area of the CBD		X		

Washington - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Longview - industrial area		X		
Vancouver - small portion of the industrial port area	X			
Yakima	X			
Tri-Cities (Pasco, Kennewick, Richland)	X			
Walla Walla	X			
Spokane	X			
Clarkston	X*			
Remainder of State				X

*EPA designation replaces State designation

Washington - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Greater Seattle - Tacoma Area - in general, from Puget Sound at the west to North Bend at the east, from Puyallup at the south to Edmonds at the north	X	
Portland-Vancouver AQMA (Washington portion)	X*	
Spokane		X*
Remainder of State		X

*EPA designation replaces State designation

Washington - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Tacoma - a parabolic shaped area extending approximately 3 1/2 miles SSW from the ASARCO copper smelter	X			
Remainder of State				X

Washington - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Greater Seattle - Tacoma Area	X*	
City of Spokane	X*	
Yakima - portion of the CBD	X	
Remainder of State		X

*EPA designation replaces State designation

Washington - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

West Virginia - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
New Manchester - Grant Magisterial District in Hancock County	X			
Wellsburg Magisterial District in Brooke County	X			
Piedmont Magisterial District in Mineral County			X**	
Remainder of State				X

**EPA designation only

§81.349 West Virginia.

West Virginia - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Steubenville-Weirton Wheeling Interstate AQCR	X			
Parkersburg - Tygart Magisterial District in Wood County		X		
Kanawha County, and Falls Magisterial District and Kanawha Magisterial District in Fayette County	X			
In Marion County, all portions of Union and Winfield Magisterial Districts west of Interstate Highway I-79	X			
Arden Magisterial District in Berkeley County			X	
Remainder of State				X

West Virginia - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Kanawha Valley Intrastate AQCR	X	
Remainder of State		X

West Virginia - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
State of West Virginia		X

West Virginia - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
State of West Virginia		X**

**EPA designation only

§81.350 Wisconsin.

Wisconsin - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 68				
Grant County				X
AQCR 73				
Rock County				
Beloit				
Sub-city area defined as follows: North: Woodward Ave. from 3rd St. and Portland east to Park Avenue. West: Corner of 3rd St., Portland and Wooduard South on 3rd St. to Second St. Southwest on Second St. to Grand Avenue. Then southeast on Grand to State St. and South on State to the Illinois-Wisconsin Border. South: Illinois-Wisconsin Border East: Park Avenue from Illinois-Wisconsin Border,	X			
Sub-city area defined as follows: North: From Washburn and Wisconsin Ave. west to the intersection of Chicago Northwestern Railroad tracks and Lemnigan Creek West: From Chicago Northwestern intersection RR tracks and Lemnigan Creek South on RR tracks to the Illinois-Wisconsin border South: Illinois-Wisconsin Border East: Dearborn Ave. from the Ill-WI border north to Grand Ave. continuing northwest on Grand Ave. to Wisconsin Ave. to Washburn Street.		X		
Remainder of Rock County				X
AQCR 128				
Barron County				X
Buffalo County				X

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Chippewa County				X
Clark County				X
Crawford County				X
Dunn County				X
Eau Claire County				X
Jackson County				X
LaCrosse County				
LaCrosse				
Sub-city area defined as follows: North:Corner of LaCrosse St. and Second Ave., East on LaCrosse St. to 10th Street. West: Corner of Second St. and Main St. to LaCrosse St. South:Corner 10th St. and Main St., West to Second Street. East: Corner of 10th St. South to Main Street		X[1]		
Remainder of LaCrosse County				X
Monroe County				X
Pepin County				X
Pierce County				X
Polk County				X
St. Croix County				X
Trempealeau County				X
Vernon County				X
AQCR 129				
Ashland County				X
Bayfield County				X
Burnett County				X
Douglas County				X
Superior				
Sub-city areas defined as follows: AREA 1 West: Superior Bay and St. Louis Bay shoreline from intersection with Belknap St. to intersection with E St. East. South: East from intersection of Belknap St. and Minnesota-Wisconsin border to Oaks Ave. south on Oaks Ave. from Belknap		X		

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Street and 19th Street east on 19th Street from Oaks Ave. to Hill Ave. North on Hill Ave. to E St. East. Northeast on E. St. East to MN-WI border in Superior Bay AREA 2 North: Corner East Eighth St. and 37th St., North along 37th St. to Superior Bay. West: Corner east Eighth Street and 37th St., east along East Eighth St. to intersection with last set of railroad tracks. South: Intersection of last set of railroad tracks, north to Allouez Bay. East: Allouez Bay and Superior Bay North from point where South boundary intersects to intersection of 37th Ave. and shoreline.				
Remainder of Douglas County				X
Iron County				X
Price County				X
Rusk County				X
Sawyer County				X
Taylor County				X
Washburn County				X
AQCR 237				
Brown County				
Green Bay				
Sub-city area defined as follows: North: Green Bay West: Corner west Mason St. and Ashland Ave. north to Mather St., west to Crocker Street, north on Crocker St. to Bylsby St., then to Green Bay.		X		

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
continue southeast on Franklin St. to Oak St. West: Corner Dixie and Cecil Streets north to Harrison St., continue north on Harrison Street to Caroline Street South: Corner Dixie Street and Cecil Street East on Cecil St. to Higgins Ave. East: Corner Franklin St. and Oak St. south on Oak St. to Laudan Boulevard, west on Laudan Blvd. to Higgins Ave. to Cecil Street.				
Oshkosh				
Sub-city area defined as follows: North: Corner Irving Ave. and Wisconsin Ave. east to Bowen Street West: Corner Ohio St. and west 11th Ave. north to Route 26/44, continue northeast along Route 26/44 to intersection with Irving Avenue. South: Corner Ohio St. and west 11th Ave., east along west 11th Ave. to Lake Winnebago. East: Corner Irving Ave. and Bowen St., South along Bowen to Lake Winnebago.		X		
Remainder of Winnebago Co.				X
AQCR 238				
Adams County				X
Florence County				X
Forest County				X
Juneau County				X
Langlade County				X
Lincoln County				X
Marathon County				
Brokaw--corporate limits of Brokaw		X		

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
South: Corner west Mason St. and Ashland Ave., east along west Mason St. to Irwin Ave. East: Corner west Mason St. and Irwin Ave. north along Irwin Ave. to Green Bay.				
Remainder of Brown County				X
Calumet County				X
Door County				X
Fond du Lac County				X
Green Lake County				X
Kewaunee County				X
Manitowoc				
Manitowoc				
Sub-city area defined as follows: North: East from Manitowoc River to York St. to Lake Michigan. West: 14th St. south from Wollmer St. to Hamilton St. South: Hamilton St. east from 14th St. to Lake Michigan East: Lake Michigan				
Remainder of Manitowoc Co.				X
Marinette County				
Marinette--corporate limits of Marinette			X	
Remainder of Marinette Co.				X
Marquette County				X
Menominee				X
Oconto				X
Outagamie				X
Shawano				X
Sheboygan				X
Waupaca				X
Waushara				X
Winnebago				
Neenah				
Sub-city area defined as follows: North: Corner Caroline St. and Harrison St. east to Franklin St.		X		

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Remainder of Marathon Co.				X
Oneida County				X
Portage County				X
Vilas County				X
Wood County				
Marshfield				
Sub-city area defined as follows: North: Chicago and Northwestern railroad track. West: Western border of section 18 north to Chicago and Northwestern railroad tracks. South: Southern border of section 17 and 18. East: Eastern border of section 17 north to Chicago and Northwestern railroad tracks.		X		
Remainder of Wood County				X
AQCR 239				
Kenosha County				
Kenosha				
Sub-city area defined as follows: North: 52nd Street east from 39th Avenue to Lake Michigan West: 39th Avenue south from 52nd Street to 67th Street. South: 67th from 39th Avenue to Lake Michigan. East: Lake Michigan		X		
Remainder of Kenosha Co.				X
Milwaukee County				
Milwaukee				
Sub-city area defined as follows: North: St. Paul Avenue from corner 16th Street to Lake Michigan West: 16th Street south from St. Paul Avenue to Pierce Street, east on	X			

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Pierce Street to 6th St., south on 6th Street to Becher Street South: Becher Street east from 6th to Lake Michigan. East: Lake Michigan				
Sub-city area defined as follows: North: Center Street east from 55th Street to Lake Michigan West: 55th Street south from North Avenue extended to 56th Street South: Oklahoma Avenue east from 56th St. to 6th St., south on 6th St. to Morgan Ave., east on Morgan Ave. to Lake Michigan. East: Lake Michigan		X		
Remainder of Milwaukee Co.				X
Ozaukee County				X
Racine County				
Racine				
Sub-city area defined as follows: North: Douglas Avenue north from Marquette St. To Rapids Drive, northwest on Rapids Drive to intersection with Forest Street. West: North from corner of Grange Avenue and Washington Avenue north to Freres Avenue north to intersection with north boundary South: Washington Avenue west from Grange Avenue to Marquette Street East: Marquette Street north from Washington Avenue to Douglas Ave.		X		

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Remainder of Racine County				X
Walworth County				
Lake Geneva			X	
Remainder of Walworth Co.				X
Washington County				X
Waukesha County				
Waukesha				
Sub-city area defined as follows: North: East on Eales Ave. from Whiterock Ave. to Niagara St. West: Whiterock Avenue north from Main Street to Eales Avenue South: Southwest along Main Street from intersection of railroad track and Main Street to Whiterock Avenue. East: Southeast from the intersection of Eales Ave. to the intersection of the railroad tracks and Main Street.	X			
Sub-city area defined as follows: North: West along Margaret St. from corner of Margaret St. and Highland Ave. to North St. West: North St. north from Union St. to intersection with north boundary South: West on Arcadian Avenue from intersection of railroad track and Arcadian Ave. to East Ave. to Buckley St., across Fox River to Union St. then to North Street East: South on Highland Avenue to Moreland Blvd.,		X		

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
west on Moreland Blvd. to Waukesha Ave., south on Waukesha Ave. to intersection of railroad tracks and Main St., south along railroad tracks to Arcadian Avenue.				
Remainder of Waukesha Co.				X
AQCR 240				
Columbia County				
Pacific Township				
Sub-township area defined as follows: Pacific Township (from Township Map T.12 N.-R.9E) North: Northern border of section 22 from USH 16 east to section 23. West: C.M. St. P&P Railroad south from northern border of section 22 to southern border of section 22. South: Southern border of section 22 east from C.M. St. P&P Railroad to section 23. East: Eastern border of section 22.	X			
Sub-township area defined as follows: Sections 22, 23,26 and 27 of T.12 N.-R.9 E.		X		
Remainder of Columbia Co.				X
Dane County				
Madison				
Sub-city area defined as follows: North: Corner of Schlimgen Ave. and Packers Ave. west to Lakewood Blvd. Northwest: Corner of Lakewood Blvd. and Del Mar Drive south to Lake Mendota, continue along		X		

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
eastern shoreline of Lake Mendota to Charter Street West: Charter St. north from Vilas St. to Lake Mendota South Southeast: Vilas St. east from Charter St. to west Washington Ave., continue southeast to Lake Monona, continue along west shoreline of Lake Monona northeast to Starkweather Creek. North Northeast: Western branch of Starkweather Creek northeast to Fair Oaks Ave., then north along Bryan St. to Milwaukee St. continue west to Oak St. then north to Aberg Ave., continue northwest to Packers Ave., then north to Schlimgen Ave.				
Remainder of Dane County				X
Dodge County				X
Green County				X
Iowa County				X
Jefferson County				X
Lafayette County				X
Richland County				X
Sauk County				X

Footnote 1 - The specific boundaries defining the LaCrosse sub-city nonattainment area are interim, pending Wisconsin's submission of adequate justification.

Wisconsin - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 68				
Grant County				X
AQCR 73				
Rock County				X
AQCR 123				
Barron County				X
Buffalo County				X
Chippewa County				X
Clark County				X
Crawford County				X
Dunn County				X
Eau Claire County				X
Jackson County				X
LaCrosse County				X
Monroe County				X
Pepin County				X
Pierce County				X
Polk County				X
St. Croix County				X
Trempealeau County				X
Vernon County				X
AQCR 129				
Ashland County				X
Bayfield County				X
Burnett County				X
Douglas County				X
Iron County				X
Price County				X
Rusk County				X
Sawyer County				X
Taylor County				X
Washburn County				X
AQCR 237				
Brown County				
Green Bay-corporate limits of Green Bay			X	
Remainder of Brown County				X
Calumet County				X
Door County				X
Fond du Lac County				X
Green Lake County				X
Kewaunee County				X
Manitowoc County				X
Marinette County				X

Wisconsin - SO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
West: Sherman Avenue north from Yahara River to Vahlen St. Southwest: Yahara River north from east Washington Ave. to Sherman Ave. South: East Washington Ave. from Yahara River to Aberg Avenue East: Intersection Aberg and Washington Ave. northwest to intersection with Packers Ave., then Packers Ave. north to corner Vahlen St.				
Remainder of Dane County				X
Dodge County				X
Green County				X
Iowa County				X
Jefferson County				X
Lafayette County				X
Richland County				X
Sauk County				X

Wisconsin - SO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Marquette County				X
Menomonee County				X
Oconto County				X
Outagamie County				X
Shawano County				X
Sheboygan County				X
Waupaca County				X
Waushara County				X
Winnebago County				X
AQCR 238				
Adams County				X
Florence County				X
Forest County				X
Juneau County				X
Langlade County				X
Lincoln County				X
Marathon County				
Brokaw--corporate limits of Brokaw	X	X		
Remainder of Marathon County				X
Oneida County				X
Portage County				X
Vilas County				X
Wood County				
Biron--corporate limits of Biron			X	
Remainder of Wood County				X
AQCR 239				
Kenosha County				X
Milwaukee County				X
Ozaukee County				X
Racine County				X
Walworth County				X
Washington County				X
Waukesha County				X
AQCR 240				
Columbia County				X
Dane County				
Madison--sub-city area defined as follows: North: Corner Sherman Ave. and Vahlen St. east along Vahlen St. to Packers Avenue	X*			

*EPA designation replaces State designation

Wisconsin - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 68		
Grant County	X	
AQCR 73		
Rock County		X
AQCR 128		
Barron County		X
Buffalo County		X
Chippewa County		X
Clark County		X
Crawford County		X
Dunn County		X
Eau Claire County		X
Jackson County		X
LaCrosse County	X	
Monroe County		X
Pepin County		X
Pierce County		X
Polk County		X
St. Croix County		X
Trempealeau County		X
Vernon County		X
AQCR 129		
Ashland County		X
Bayfield County		X
Burnett County		X
Douglas County	X	
Iron County		X
Price County		X
Rusk County		X
Sawyer County		X
Taylor County		X
Washburn County		X
AQCR 237		
Brown County	X	
Calumet County		X
Door County		X
Fond du Lac County		X
Green Lake County		X
Kewaunee County		X
Manitowoc County		X
Marinette County		X
Marquette County		X

Wisconsin - O_x (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Menomonee County		X
Oconto County		X
Outagamie County		X
Shawano County		X
Sheboygan County		X
Waupaca County		X
Waushara County		X
Winnebago County		X
AQCR 238		
Adams County		X
Florence County		X
Forest County		X
Juneau County		X
Langlade County		X
Lincoln County		X
Marathon County		X
Oneida County		X
Portage County		X
Vilas County	X	
Wood County		X
AQCR 239		
Kenosha County	X	
Milwaukee County	X	
Ozaukee County	X	
Racine County	X	
Walworth County		X
Washington County		X
Waukesha County	X	
AQCR 240		
Columbia County	X	
Dane County	X	
Dodge County		X
Green County		X
Iowa County		X
Jefferson County		X
Lafayette County		X
Richland County		X
Sauk County		X

Wisconsin - CO (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Oconto County		X
Outagamie County		X
Shawano County		X
Sheboygan County		X
Waupaca County		X
Waushara County		X
Winnebago County		X
AQCR 238		
Adams County		
Florence County		X
Forest County		X
Juneau County		X
Langlade County		X
Lincoln County		X
Marathon County		X
Oneida County		X
Portage County		X
Vilas County		X
Wood County		X
AQCR 239		
Kenosha County		X
Milwaukee County		
Milwaukee Sub-city area defined as follows: North: From 124th St. and Silver Spring Road to Sunny Point Road, north on Sunny Point Road and North River Road to Good Hope Road, east on Good Hope Road to Lombardy Road. East: From Lombardy and Good Hope Roads south on Lombardy to Yates Road, South on Yates and Monica Blvd. to the Milwaukee River, south from the river on Humboldt Blvd. to the Lake Michigan waterfront, south from the waterfront on Clement Avenue to Layton Avenue.	X	

Wisconsin - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 68		
Grant County		X
AQCR 73		
Rock County		X
AQCR 128		
Barron County		X
Buffalo County		X
Chippewa County		X
Clark County		X
Crawford County		X
Dunn County		X
Eau Claire County		X
Jackson County		X
LaCrosse County		X
Monroe County		X
Pepin County		X
Pierce County		X
Polk County		X
St. Croix County		X
Trempealeau County		X
Vernon County		X
AQCR 129		
Ashland County		X
Bayfield County		X
Burnett County		X
Douglas County		X
Iron County		X
Price County		X
Rusk County		X
Sawyer County		X
Taylor County		X
Washburn County		X
AQCR 237		
Brown County		X
Calumet County		X
Door County		X
Fond du Lac County		X
Green Lake County		X
Kewaunee County		X
Manitowoc County		X
Marinette County		X
Marquette County		X
Menomonee County		X

Wisconsin - CO (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
South: From Layton and Clement Avenues west to Layton to 13th Street, south on 135h to Rawson Avenue, west on Rawson to 20th Street, north on 20th to Layton Avenue, west on Layton to 108th Street. West: From Layton Avenue and 108th to Watertown Plank Road, west on Watertown Plank to 124th St., north on 124th St. to Silver Spring Road.		
Remainder of Milwaukee Co.		X
Ozaukee County		X
Racine County		X
Walworth County		X
Washington County		X
Waukesha County		X
AQCR 240		
Columbia County		X
Dane County		X
Dodge County		X
Green County		X
Iowa County		X
Jefferson County		X
Lafayette County		X
Richland County		X
Sauk County		X

Wisconsin - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
State of Wisconsin		X

Wyoming - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Entire State				X

§81.351 Wyoming.

Wyoming - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Trona Industrial Area (Sweetwater County)	X			
Rest of State				X

Wyoming - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

Wyoming - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

Wyoming - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

§81.352 American Samoa.

American Samoa - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Whole State				X**

**EFA designation only

American Samoa - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Whole State				X**

**EFA designation only

American Samoa - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		X**

**EPA designation only

American Samoa - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		X**

**EPA designation only

American Samoa - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		X**

**EPA designation only

§81.353 Guam.

Guam - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Whole State	X*			

*EPA designation replaces State designation

Guam - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Whole State	X*			

*EPA designation replaces State designation

Guam - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		X

Guam - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		X

Guam - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		X

§81.354 Northern Mariana Islands.

Northern Mariana Islands - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Whole State				X**

**EPA designation only

Northern Mariana Islands - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Whole State				X**

**EPA designation only

Northern Mariana Islands - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		X**

**EPA designation only

Northern Mariana Islands - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		X**

**EPA designation only

Northern Mariana Islands - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		X**

**EPA designation only

Puerto Rico - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Puerto Rico AQCR				
The Municipality of San Juan			X*	
Remainder of AQCR				X

*EPA designation replaces State designation

§81.355 Puerto Rico.

Puerto Rico - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Puerto Rico AQCR				
Municipality of Catano	X*	X		
Municipality of Toa Baja (eastern)	X*	X		
Municipality of Guaynabo (northern)	X*	X		
Municipality of Bayamon (northern)		X		
Municipality of Dorado			X	
Municipality of Guayanilla (southern)		X		
Municipality of Penuelas (central)		X		
Municipality of Ponce			X	
Municipality of Mayaguez			X*	
Remainder of AQCR				X

Puerto Rico - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Puerto Rico AQCR		X

Puerto Rico - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Puerto Rico AQCR		X

Puerto Rico - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Puerto Rico AQCR		X

§81.356 U.S. Virgin Islands.

Virgin Islands - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Virgin Islands AQCR				
St. Croix (southern)	X	X		
Remainder of AQCR				X

*EPA designation replaces State designation

Virgin Islands - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Virgin Islands AQCR				
St. Croix (southern)			X*	
Remainder of AQCR				X

*EPA designation replaces State designation

Virgin Islands - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Virgin Islands AQCR		X

Virgin Islands - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Virgin Islands AQCR		X

Virgin Islands - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Virgin Islands AQCR		X

APPENDIX A.—*Air Quality Control Regions (AQCRs)*

	AQCR No.
Alabama:	
Alabama and Tombigbee Rivers	1
Columbus-Phenix City	2
East Alabama	3
Metropolitan Birmingham	4
Mobile-Pensacola-Panama City-Southern Mississippi (Fla., Miss.)	5
Southeast Alabama	6
Tennessee River Valley-Cumberland Mountains (Tenn.)	7
Alaska:	
Cook Inlet	8
Northern Alaska	9
South Central Alaska	10
Southeastern Alaska	11
Arizona:	
Arizona-New Mexico Southern Border (N. Mex.)	12
Clark-Mohave	13
Four Corners (Colo., N. Mex., Utah)	14
Phoenix-Tucson	15
Arkansas:	
Central Arkansas	16
Metropolitan Fort Smith	17
Metropolitan Memphis	18
Monroe-El Dorado (La.)	19
Northeast Arkansas	20
Northwest Arkansas	21
Shreveport-Texarkana-Tyler (La., Okla., Texas)	22
California:	
Great Basin Valley	23
Metropolitan Los Angeles	24
North Central Coast	25
North Coast	26
Northeast Plateau	27
Sacramento Valley	28
San Diego	29
San Francisco Bay Area	30
San Joaquin Valley	31
South Central Coast	32
Southeast Desert	33
Colorado:	
Comanche	34
Four Corners (Ariz., N. Mex., Utah)	14
Grand Mesa	35
Metropolitan Denver	36
Pawnee	37
San Isabel	38
San Luis	39
Yampa	40
Connecticut:	
Eastern Connecticut	41
Hartford-New Haven-Springfield (Mass.)	42
New Jersey-New York-Connecticut (N.J., N.Y.)	43
Northwestern Connecticut	44
Delaware:	
Metropolitan Philadelphia (N.J., Pa.)	45
Southern Delaware	46
District of Columbia:	
National Capital (Md.)	47
Florida:	
Central Florida	48
Jacksonville-Brunswick (Ga.)	49
Mobile-Pensacola-Panama City-Southern Mississippi (Ala., Miss.)	5
Southeast Florida	50
Southwest Florida	51
West Central Florida	52
Georgia:	
Augusta-Aiken (S.C.)	53
Central Georgia	54
Chattanooga (Tenn.)	55
Columbus-Phenix City (Ala.)	2
Jacksonville-Brunswick (Fla.)	49
Metropolitan Atlanta	56
Northeast Georgia	57
Savannah-Beaufort (S.C.)	58
Southwest Georgia	59
Hawaii:	
Entire State	60
Idaho:	
Eastern Idaho	61
Eastern Washington-Northern Idaho (Wash.)	62
Idaho	63
Metropolitan Boise	64
Illinois:	
Burlington-Keokuk (Iowa)	65
East Central Illinois	66
Metropolitan Chicago (Ind.)	67
Metropolitan Dubuque (Iowa, Wis.)	68
Metropolitan Quad Cities (Iowa)	69
Metropolitan St. Louis (Mo.)	70
North Central Illinois	71
Paducah-Cairo (Ky.)	72
Rockford-Janesville-Beloit (Wis.)	73
Southeast Illinois	74
West Central Illinois	75
Indiana:	
East Central Indiana	76
Evansville-Owensboro-Henderson (Ky.)	77
Louisville (Ky.)	78
Metropolitan Chicago (Ill.)	67
Metropolitan Cincinnati (Ky., Ohio)	79
Metropolitan Indianapolis	80
Northeast Indiana	81
South Bend-Elkhart-Benton Harbor (Mich.)	82
Southern Indiana	83
Wabash Valley	84
Iowa:	
Burlington-Keokuk (Ill.)	65
Metropolitan Dubuque (Ill., Wis.)	68
Metropolitan Omaha-Council Bluffs (Nebr.)	85
Metropolitan Quad Cities (Ill.)	69
Metropolitan Sioux City (Nebr., S. Dak.)	86
Metropolitan Sioux Falls (S. Dak.)	87
Northeast Iowa	88
North Central Iowa	89
Northwest Iowa	90
Southeast Iowa	91
South Central Iowa	92
Southwest Iowa	93
Kansas:	
Metropolitan Kansas City (Mo.)	94
Northeast Kansas	95
North Central Kansas	96
Northwest Kansas	97
Southeast Kansas	98
South Central Kansas	99
Southwest Kansas	100
Kentucky:	
Appalachian	101
Bluegrass	102
Evansville-Owensboro-Henderson (Ind.)	77
Huntington-Ashland-Portsmouth-Ironton (Ohio, W. Va.)	103
Louisville (Ind.)	78
Metropolitan Cincinnati (Ind., Ohio)	79
North Central Kentucky	104
Paducah-Cairo (Ill.)	72
South Central Kentucky	105
Louisiana:	
Monroe-El Dorado (Ark.)	19
Shreveport-Texarkana-Tyler (Ark., Okla., Tex.)	22
Southern Louisiana-Southeast Texas (Tex.)	106
Maine:	
Androscoggin Valley (N.H.)	107
Aroostook	108
Down East	109
Metropolitan Portland	110
Northwest Maine	111
Maryland:	
Central Maryland	112
Cumberland-Keyser (W. Va.)	113
Eastern Shore	114
Metropolitan Baltimore	115
National Capital (D.C.)	47
Southern Maryland	116
Massachusetts:	
Berkshire	117
Central Massachusetts	118
Hartford-New Haven-Springfield (Conn.)	42
Metropolitan Boston	119
Metropolitan Providence (R.I.)	120
Merrimack Valley-Southern New Hampshire (N.H.)	121
Michigan:	
Central Michigan	122
Metropolitan Detroit-Port Huron	123
Metropolitan Toledo (Ohio)	124
South Bend-Elkhart-Benton Harbor (Ind.)	82
South Central Michigan	125
Upper Michigan	126
Minnesota:	
Central Minnesota	127
Southeast Minnesota-La Crosse (Wis.)	128
Duluth-Superior (Wis.)	129
Metropolitan Fargo-Moorhead (N. Dak.)	130
Minneapolis-St. Paul	131
Northwest Minnesota	132
Southwest Minnesota	133
Mississippi:	
Metropolitan Memphis (Ark., Tenn.)	18
Mississippi Delta	134
Mobile-Pensacola-Panama City-Southern Mississippi (Ala., Fla.)	5
Northeast Mississippi	135
Missouri:	
Metropolitan Kansas City (Kans.)	94
Metropolitan St. Louis (Ill.)	70
Northern Missouri	137
Southeast Missouri	138
Southwest Missouri	139
Montana:	
Billings	140
Great Falls	141
Helena	142
Miles City	143
Missoula	144
Nebraska:	
Lincoln-Beatrice-Fairbury	145
Metropolitan Omaha-Council Bluffs (Iowa)	85
Metropolitan Sioux City (Iowa, S. Dak.)	86
Nebraska	146
Nevada:	
Clark-Mohave (Ariz.)	13
Nevada	147
Northwest Nevada	148
New Hampshire:	
Androscoggin Valley (Maine)	107
Merrimack Valley-Southern New Hampshire (Mass.)	121
New Hampshire	149
New Jersey:	
Metropolitan Philadelphia (Del., Pa.)	45
New Jersey	150
New Jersey-New York-Connecticut (N.Y., Conn.)	43
Northeast Pennsylvania-Upper Delaware Valley (Pa.)	151
New Mexico:	
Albuquerque-Mid Rio Grande	152
Arizona-New Mexico Southern Border (Ariz.)	12
El Paso-Las Cruces-Alamogordo (Tex.)	153
Four Corners (Ariz., Colo., Utah)	14
Northeastern Plains	154
Pecos-Permian Basin	155
Southwestern Mountains-Augustine Plains	156
Upper Rio Grande Valley	157
New York:	
Central New York	158
Champlain Valley (Vt.)	159
Genesee-Finger Lakes	160
Hudson Valley	161
New Jersey-New York-Connecticut (N.J., Conn.)	43
Niagara Frontier	162
Southern Tier East	163
Southern Tier West	164
North Carolina:	
Eastern Mountain	165
Eastern Piedmont	166
Metropolitan Charlotte (S.C.)	167
Northern Coastal Plain	168
Northern Piedmont	136
Sandhills	169
Southern Coastal Plain	170
Western Mountain	171
North Dakota:	
Metropolitan Fargo-Moorhead (Minn.)	130
North Dakota	172
Ohio:	
Dayton	173
Greater Metropolitan Cleveland	174
Huntington-Ashland-Portsmouth-Ironton (Ky., W. Va.)	103
Mansfield-Marion	175
Metropolitan Cincinnati (Ind., Ky.)	79
Metropolitan Columbus	176
Metropolitan Toledo (Mich.)	124
Northwest Ohio	177
Northwest Pennsylvania-Youngstown (Pa.)	178
Parkersburg-Marietta (W. Va.)	179
Sandusky	180

APPENDIX A.—*Air Quality Control Regions (AQCRs)*—Continued

APPENDIX A.—*Air Quality Control Regions (AQCRs)*—Continued

APPENDIX A.—*Air Quality Control Regions (AQCRs)*—Continued

[FR Doc. 78-5284 Filed 3-2-78; 8:45 am]

federal register

FRIDAY, MARCH 3, 1978
PART III

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

[4510-27]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determining in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. the cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Alabama:	
AL77-1140	Nov. 25, 1977
California:	
CA78-5003	Feb. 24, 1978
CA78-5005	Jan. 27, 1978
Indiana:	
IN77-2129	Aug. 19, 1977
Louisiana:	
LA78-4001	Jan. 6, 1978
Maryland:	
MD77-3077	June 3, 1977
Minnesota:	
MN77-2048	May 20, 1977
New Jersey:	
NJ77-3079	June 17, 1977
North Dakota:	
ND77-5099	Dec. 2, 1977
Pennsylvania:	
PA77-3055; PA77-3056; PA77-3058	May 13, 1977
PA77-3078	June 24, 1977
PA77-3100	July 15, 1977
PA77-3102; PA77-3103	July 22, 1977
PA77-3107	Aug. 26, 1977
PA77-3124	Sept. 9, 1977
Texas:	
TX77-4262; TX77-4263; TX77-4280.	Sept. 30, 1977
TX77-4289	Oct. 21, 1977
TX78-4003	Jan. 13, 1978
TX78-4005	Jan. 20, 1978
TX78-4014; TX78-4015	Feb. 17, 1978
West Virginia:	
WV77-3101	July 22, 1977

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Georgia:	
GA77-1116 (GA78-1016)	Sept. 30, 1977
Maryland:	
MD77-3021 (MD78-3002)	Jan. 14, 1977
DC77-3108 and MD77-3109 (DC78-3006).	Sept. 16, 1977
Mississippi:	
MS78-1002 (MS78-1019); MS78-1009 (MS78-1020); MS78-1010 (MS78-1017); MS78-1011(MS78-1018); MS78-1012 (MS78-1021).	Feb. 17, 1978
MS78-1013 (MS78-1022)	Feb. 24, 1978
Virginia:	
DC77-3108 and MD77-3109 (DC78-3006).	Sept. 16, 1977
Washington, D.C.:	
DC77-3108 and MD77-3109 (DC78-3006).	Sept. 16, 1977

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

NONE.

Signed at Washington, D.C., this 24th day of February 1978.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #AL77-1140 - Mod. #1 (42-FR-60551 - November 25, 1977) Tuscaloosa County, Alabama					
Change:					
Bricklayers, Marble masons, & Stonemasons	$ 9.35		.40		.05
Electricians	10.65	.55	3%+.40		½ of 1%
Ironworkers	9.25	.60	.815		.06
Laborers:					
Laborers	3.80	.20	.15		
Mason tenders	3.80	.20	.15		
Mortar mixers	3.90	.20	.15		
Sheet Metal Workers	10.05	.69	.82		.09
Truck drivers	2.65				
DECISION NO. CA78-5003 - Mod. #1 (43 FR February 24, 1978) Alameda, Alpine, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Fresno, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tehama, Tuolumne, Yolo and Yuba Counties, California					
Omit:					
Sheet Metal Workers Fresno County	$11.98	.73	$1.22		.14
Add:					
Carpenters, Drywall Installers (Frame dwellings 2 stories or less) Fresno County	9.00	1.35	1.71	$1.00	.07
Cement masons, Plasterers (Frame dwellings 2 stories or less) Fresno County	9.00	1.30	1.68	1.65	.05
Sheet metal workers (Frame dwellings 2 stories or less) Fresno County	7.43	.73	.73		.14
Sheet metal workers (3-4 stories) Fresno County	11.98	.73	1.22		.14

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. CA78-5005 - Mod. #2 (43 FR 3853 - January 27, 1978) Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California					
Add:					
Clean Up Work:					
General clean-up laborer: (except Vandenberg AFB; Point Arguello and Camp Roberts)	$6.00	$1.05	$2.45		
General clean-up laborer: (Vandenberg AFB; Point Arguello and Camp Roberts)	7.25	1.05	2.45		
DECISION NO. IN77-2129 - Mod. #1 (42 FR 42064 - August 19, 1977) Wayne County, Indiana					
Change:					
Power equipment operators:					
Backhoe	$11.15	.55	.55		.08
Bulldozer	11.15	.55	.55		.08

MODIFICATIONS P. 3

DECISION #LA78-4001 - Mod. #4 (43 FR 1276 - January 6, 1978) Statewide Louisiana	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers & stonemasons:					
Zone 2	$ 9.40	.53			
Carpenters:					
Zone 3 - Carpenters	10.10	.35	.30		
Millwrights	11.75	.35	.30		
Piledrivermen	10.40	.35	.30		
Cement masons (Highway Construction):					
Zone 1	9.00	.45	.30		
Zone 2	6.45				
Zone 3	8.75	.35			
Zone 4	9.10				
Zone 5	8.60				
Zone 6	8.10				
Zone 7	8.60				
On concrete lined ditches	8.60	.50	.50		.05
Zone 8	8.10				
On concrete lined ditches	8.60	.50	.50		.05
Zone 9	6.30				
Zone 10	5.72				
Area Covered by Cement Masons (Highway Construction):					
Zone 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes					
Zone 2 - Ascension, East Baton Rouge, U.S. Hwy. 61 in East Feliciana & West Feliciana Parishes					
Zone 3 - Bossier & Caddo Parishes					
Zone 4 - Calcasieu Parish					
Zone 5 - Cameron & Jefferson Davis Parishes					
Zone 6 - Allen & Beauregard Parishes					
Zone 7 - Acadia, Iberia, Lafayette, St. Landry, St. Martin & Vermilion Pars.					
Zone 8 - St. Mary Parish					
Zone 9 - Assumption, Avoyelles, Bienville, Claiborne, DeSoto, East Feliciana (excluding U.S. Hwy. 61), Evangeline, Iberville, Lafourche, Lincoln, Livingston, Madison, Natchitoches, Ouachita, Pointe Coupee, Rapides, Red River, Richland, St. Helena, St. James, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne, Vernon, Webster & West Baton Rouge Parishes					
Zone 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Morehouse, Sabine, Tensas, Union, Washington, West Carroll & Winn Parishes					
Electricians:					
Zone 1 - Electricians	12.30	5%	8%		3/10%
Cable spicers	12.55	5%	8%		3/10%
Zone 4 - Electricians	11.90	.35	3%		2/10%
Cable splicers	12.15	.35	3%		2/10%
Zone 8 - Electricians	11.15		3%	.30	1/2%
Cable splicers	11.40		3%	.30	1/2%
Ironworkers (Highway Construction):					
Zone 1	10.92				
Zone 2	8.70				
Zone 3	10.50				
Zone 4	10.36				
Zone 5	8.60				
Zone 6	8.10				

MODIFICATIONS P. 4

DECISION #LA78-4001 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 7	$ 6.99				
Zone 8	6.45				
Zone 9	5.84				
Area Covered By Ironworkers (Highway Construction):					
Zone 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes					
Zone 2 - East Baton Rouge Parish					
Zone 3 - Calcasieu Parish					
Zone 4 - Bossier & Caddo Parishes					
Zone 5 - Cameron & Jefferson Davis Parishes					
Zone 6 - Allen & Beauregard Parishes					
Zone 7 - Lafayette, Ouachita & Rapides Parishes					
Zone 8 - Acadia, Ascension, Bienville, DeSoto, Iberia, Iberville, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (that portion north of Iberia), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes					
Zone 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (that portion south of Iberia), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Pars.					
Laborers (Building Construction):					
Zone 1 - Group 1	6.45	.15			
Group 2	6.60	.15			
Group 3	6.70	.15			
Laborers (Highway Construction):					
Group 1 - Zone 1	6.13	.20	.27		.05
Zone 2	4.80	.15	.10		.05
Zone 3	5.58	.20	.12		.05
Zone 4	6.28	.20	.12		.05
Zone 5	5.38	.20	.12		.05
Zone 6	5.18	.20	.12		.05
Zone 7	4.10	.15	.10		.05
Zone 8	3.85	.15	.10		.05
Zone 9	3.75	.15	.10		.05
Group 2 - Zone 1	6.23	.20	.27		.05
Zone 2	4.90	.15	.10		.05
Zone 3	5.68	.20	.12		.05
Zone 4	6.38	.20	.12		.05
Zone 5	5.48	.20	.12		.05
Zone 6	5.28	.20	.12		.05
Zone 7	4.20	.15	.10		.05
Zone 8	3.95	.15	.10		.05
Zone 9	3.85	.15	.10		.05
Group 3 - Zone 1	6.68	.20	.27		.05
Zone 2	5.35	.15	.10		.05
Zone 3	6.13	.20	.12		.05
Zone 4	6.83	.20	.12		.05
Zone 5	5.93	.20	.12		.05
Zone 6	5.78	.20	.12		.05
Zone 7	4.65	.15	.10		.05
Zone 8	4.40	.15	.10		.05
Zone 9	4.30	.15	.10		.05

MODIFICATIONS P. 5

DECISION #LA78-4001 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 4 - Zone 1	$ 6.93	.20	.27		.05
Zone 2	5.60	.15	.10		.05
Zone 3	6.38	.20	.12		.05
Zone 4	7.08	.20	.12		.05
Zone 5	6.13	.20	.12		.05
Zone 6	5.93	.20	.12		.05
Zone 7	4.85	.15	.10		.05
Zone 8	4.60	.15	.10		.05
Zone 9	4.50	.15	.10		.05
Area Covered by Laborers (Highway Construction):					
Zone 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Pars.					
Zone 2 - East Baton Rouge Parish					
Zone 3 - Bossier & Caddo Parishes					
Zone 4 - Calcasieu Parish					
Zone 5 - Cameron & Jefferson Davis Parishes					
Zone 6 - Allen & Beauregard Parishes					
Zone 7 - Lafayette, Ouachita & Rapides Parishes					
Zone 8 - Acadia, Ascension, Bienville, DeSoto, Iberia, Iberville, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (that portion north of Iberia), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes					
Zone 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (that portion south of Iberia), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Pars.					
Line Construction:					
Zone 2:					
Linemen, line equipment & line truck ops.	12.30	5%	8%		3/10%
Cable splicers	12.55	5%	8%		3/10%
Zone 4:					
Linemen, equuipment ops.	11.90	.35	3%		
Cable splicers	12.15	.35	3%		
Groundman	50%JR	.35	3%		
Zone 5:					
Linemen & equipment ops.	11.15		3%	.30	1/2%
Cable splicers	11.40		3%	.30	1/2%
Groundmen	60%JR		3%	.30	1/2%
Marble, tile & terrazzo workers & finishers:					
Zone 1 - Tile & terrazzo workers	10.60	.40	.25		.035
Power Equipment Operators (Highway Construction):					
Group 1 - Zone 1	9.76	.65	.55		.05
Zone 2	8.31	.25	.39		.05
Zone 3	9.23	.65	.55		.05
Zone 4	9.41	.65	.55		.05
Zone 5	7.45	.65	.55		.05
Zone 6	6.95	.65	.55		.05
Zone 7	6.69	.25	.30		.05
Zone 8	6.14	.25	.30		.05
Zone 9	5.53	.25	.30		.05

MODIFICATIONS P. 6

DECISION #LA78-4001 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 2 - Zone 1	$10.01	.65	.55		.05
Zone 2	8.56	.25	.39		.05
Zone 3	9.48	.65	.55		.05
Zone 4	9.66	.65	.55		.05
Zone 5	7.70	.65	.55		.05
Zone 6	7.20	.65	.55		.05
Zone 7	6.94	.25	.30		.05
Zone 8	6.39	.25	.30		.05
Zone 9	5.78	.25	.30		.05
Group 3 - Zone 1	9.51	.65	.55		.05
Zone 2	8.06	.25	.39		.05
Zone 3	8.98	.65	.55		.05
Zone 4	9.16	.65	.55		.05
Zone 5	7.20	.65	.55		.05
Zone 6	6.70	.65	.55		.05
Zone 7	6.44	.25	.30		.05
Zone 8	5.89	.25	.30		.05
Zone 9	5.28	.25	.30		.05
Group 4 - Zone 1	8.26	.65	.55		.05
Zone 2	7.13	.25	.39		.05
Zone 3	7.93	.65	.55		.05
Zone 4	7.94	.65	.55		.05
Zone 5	6.23	.65	.55		.05
Zone 6	5.73	.65	.55		.05
Zone 7	5.58	.25	.30		.05
Zone 8	5.02	.25	.30		.05
Zone 9	4.46	.25	.30		.05
Group 5 - Zone 1	7.91	.65	.55		.05
Zone 2	6.39	.25	.39		.05
Zone 3	7.34	.65	.55		.05
Zone 4	7.33	.65	.55		.05
Zone 5	5.71	.65	.55		.05
Zone 6	5.21	.65	.55		.05
Zone 7	5.02	.25	.30		.05
Zone 8	4.48	.25	.30		.05
Zone 9	3.97	.25	.30		.05
Group 6 - Zone 1	7.11	.65	.55		.05
Zone 2	5.75	.25	.39		.05
Zone 3	6.53	.65	.55		.05
Zone 4	6.53	.65	.55		.05
Zone 5	4.98	.65	.55		.05
Zone 6	4.48	.65	.55		.05
Zone 7	4.86	.25	.30		.05
Zone 8	4.31	.25	.30		.05
Zone 9	3.81	.25	.30		.05
Group 7 - Zone 1	6.80	.65	.55		.05
Zone 2	5.46	.25	.39		.05
Zone 3	6.19	.65	.55		.05
Zone 4	6.19	.65	.55		.05
Zone 5	4.69	.65	.55		.05
Zone 6	4.19	.65	.55		.05
Zone 7	4.86	.25	.30		.05
Zone 8	4.31	.25	.30		.05
Zone 9	3.81	.25	.30		.05

MODIFICATIONS P. 7

DECISION #LA78-4001 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 8 - Zone 1	$ 8.16	.65	.55		.05
Zone 2	7.13	.25	.39		.05
Zone 3	7.83	.65	.55		.05
Zone 4	7.84	.65	.55		.05
Zone 5	6.18	.65	.55		.05
Zone 6	5.68	.65	.55		.05
Zone 7	5.58	.25	.30		.05
Zone 8	5.02	.25	.30		.05
Zone 9	4.46	.25	.30		.05
Group 9 - Zone 1	8.41	.65	.55		.05
Zone 2	7.38	.25	.39		.05
Zone 3	8.08	.65	.55		.05
Zone 4	8.09	.65	.55		.05
Zone 5	6.43	.65	.55		.05
Zone 6	5.93	.65	.55		.05
Zone 7	5.83	.25	.30		.05
Zone 8	5.27	.25	.30		.05
Zone 9	4.71	.25	.30		.05
Group 10 - Zone 1	7.05	.65	.55		.05
Zone 2	5.71	.25	.39		.05
Zone 3	6.44	.65	.55		.05
Zone 4	6.44	.65	.55		.05
Zone 5	4.94	.65	.55		.05
Zone 6	4.44	.65	.55		.05
Zone 7	5.11	.25	.30		.05
Zone 8	4.56	.25	.30		.05
Zone 9	4.06	.25	.30		.05

Area Covered by Power Equipment Operators (Highway Construction):
Zone 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
Zone 2 - Ascension, East Baton Rouge, Iberville & West Baton Rouge Parishes
Zone 3 - Bossier & Caddo Parishes
Zone 4 - Calcasieu Parish
Zone 5 - Cameron, Jefferson Davis & Red River Parishes
Zone 6 - Allen & Beauregard Parishes
Zone 7 - Lafayette, Ouachita & Rapides Parishes
Zone 8 - Acadia, Bienville, DeSoto, Iberia, Livingston, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (north of Iberia), St. Tammany, Tangipahoa, Vermilion, Washington & Webster Parishes
Zone 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (south of Iberia), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

Truck Drivers (Highway Construction):

Group 1 - Zone 1	6.38	.45			
Zone 2	5.49				
Zone 3	6.56				
Zone 4	6.99				
Zone 5	5.67				
Zone 6	5.77				
Zone 7	4.45				
Zone 8	4.35				
Zone 9	4.25				

MODIFICATIONS P. 8

DECISION #LA78-4001 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 2 - Zone 1	$ 6.51	.45			
Zone 2	5.61				
Zone 3	6.66				
Zone 4	7.12				
Zone 5	5.80				
Zone 6	5.90				
Zone 7	4.56				
Zone 8	4.46				
Zone 9	4.36				
Group 3 - Zone 1	6.57	.45			
Zone 2	5.66				
Zone 3	6.89				
Zone 4	7.18				
Zone 5	5.86				
Zone 6	5.96				
Zone 7	4.61				
Zone 8	4.51				
Zone 9	4.41				
Group 4 - Zone 1	6.65	.45			
Zone 2	5.73				
Zone 3	7.10				
Zone 4	7.25				
Zone 5	5.93				
Zone 6	6.03				
Zone 7	4.67				
Zone 8	4.57				
Zone 9	4.47				
Group 5 - Zone 1	6.84	.45			
Zone 2	5.89				
Zone 3	7.52				
Zone 4	7.44				
Zone 5	6.13				
Zone 6	6.22				
Zone 7	4.83				
Zone 8	4.73				
Zone 9	4.63				

Area Covered by Truck Drivers (Highway Construction):
Zone 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
Zone 2 - East Baton Rouge Parish
Zone 3 - Bossier & Caddo Parish
Zone 4 - Calcasieu Parish
Zone 5 - Allen & Beauregard Parishes
Zone 6 - Cameron & Jefferson Davis Parishes
Zone 7 - Lafayette, Ouachita & Rapides Parishes
Zone 8 - Acadia, Ascension, Bienville, DeSoto, Iberia, Iberville, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (north of Iberia), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes
Zone 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (south of Iberia), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

DECISION #MD77-3077 - Mod. # 9
(42 FR-28760 - June 3, 1977)
Counties of Anne Arundel (excluding the D.C Training School), Baltimore, and Baltimore City, Maryland, and for Heavy Construction Projects in Harford and Howard Counties, Maryland

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Boilermakers	$12.025	1.075	1.00		.02
Lead Burners	11.70	.65		c	.01

DECISION #MN77-2048 - Mod. #5
(42 FR 26157 - May 20, 1977)
Aitken, Anoka, Benton, Blue Earth, Carlton, Carver, Chicago, Cook, Dakota, Dodge, Fairbault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Itasca, Kanabec, Koochiching, Lake, LeSueur, Meeker, McLeod, Mille Lacs, Morrison, Mower, Nicollet, Nobles, Olmstead, Ramsey, Rice, Rock, Scott, Sherburne, Sibley, Stearns, Steel, St. Louis, Wabasha, Waseca, Washington, Winona & Wright Counties, Minnesota

OMIT:
Pine County

DECISION #NJ77-3079 - Mod. # 8
(42 FR-31080 - June 17, 1977)
Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester Mercer, Monmouth, Ocean & Salem Counties, New Jersey

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Boilermakers	$11.57	8%	20%+.25	10%	.01
Boilermakers helpers	11.04	8%	20%+.25	10%	.01
Laborers, Heavy & Highway Construction:					
ZONE 1					
GROUP 1	8.90	.85	1.00	d	.10
GROUP 2	8.60	.85	1.00	d	.10
GROUP 3	8.55	.85	1.00	d	.10
GROUP 4	8.40	.85	1.00	d	.10
GROUP 5	8.30	.85	1.00	d	.10
GROUP 6	8.05	.85	1.00	d	.10
GROUP 7	8.00	.85	1.00	d	.10
GROUP 8	7.90	.85	1.00	d	.10
ZONE 2					
GROUP 1	9.40	.85	1.00	d	.10
GROUP 2	9.25	.85	1.00	d	.10
GROUP 3	9.00	.85	1.00	d	.10
GROUP 4	8.95	.85	1.00	d	.10
GROUP 5	8.85	.85	1.00	d	.10
GROUP 6	8.75	.85	1.00	d	.10
GROUP 7	8.50	.85	1.00	d	.10
GROUP 8	8.35	.85	1.00	d	.10
GROUP 9	8.30	.85	1.00	d	.10
Laborers, Free Air Tunnel Jobs					
GROUP 1	9.77	.85	1.00	d	.10
GROUP 2	9.37	.85	1.00	d	.10
GROUP 3	9.21	.85	1.00	d	.10
GROUP 4	8.70	.85	1.00	d	.10
Line Construction:					
ZONE 5					
Linemen, Equipment Operators, Technicians,& certified linemen welders	12.55	.25	3%+.60		3/4 of 1%
Truck Drivers	8.90	.25	3%+.60		3/4 of 1%
Groundmen	8.27	.25	3%+.60		3/4 of 1%

DECISION NO. NJ77-3079

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
ZONE 5					
New construction & Major Alteration Work:					
Brush & Roller Rates:					
Any surface except steel	$ 9.25	.55	.25		
Any surface except steel (exotic materials)	10.25	.55	.25		
Steel & swing	9.50	.55	.25		
Steel and swing (exotic material)	10.50	.55	.25		
Steel above 70'	9.90	.55	.25		
Steel above 70' (exotic materials)	10.90	.55	.25		
Spray Rates:					
Any surface except steel	9.30	.55	.25		
Any surface except steel (exotic Materials)	10.30	.55	.25		
Steel & swing	9.55	.55	.25		
Steel (exotic materials)	10.55	.55	.25		
Steel above 70'	9.95	.55	.25		
Steel above 70' (exotic materials)	10.95	.55	.25		
Sandblasting Rates:					
Any surface except steel	9.30	.55	.25		
Steel & swing	9.55	.55	.25		
Steel above 70'	9.95	.55	.25		
Vacuum Blasting Rates:					
Any surface except steel	9.60	.55	.25		
Steel & swing	9.85	.55	.25		
Steel above 70'	10.25	.55	.25		
Repaint work (except Bridges, tank towers & all other open structural steel):					
Any surface	8.25	.55	.25		
Any surface (exotic materials)	8.75	.55	.25		

DECISION #ND77-5099 - Mod. #3
(42 FR 61437 - December 2, 1977)
Statewide, North Dakota

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1: Cableway Operator; Crane operator with over 135' boom, all types; Derrick (guy and stiff leg), (power), (skids and stationary); Front end loader over 10 cu. yds. mfg. rating; Gantry crain operator; Helicopter operator (construction work only); Mole operator, including power supply or tunnel mucking machine; Power shovel and/or other equipment with shovel type controls 3½ cu. yds. mfg. rated capacity and over	8.80	.45	.40		
Group 2: Concrete mixer stationary plant operator over 34E; Dredge operator or Engineer, Dredge operator (power) and engineer; Elevator grader Operator; Hydro crane operator, 15 ton and over; Locomotive crane operator; Master mechanic (the inclusion of the classification of Master Mechanic in this agreement does not mean that a master mechanic must be employed, but if employed, that he shall perform manual work); Mixer (paving) concrete paving operator, road; Power shovels and/or other equipment with shovel type controls up to 3½ cu. yds. mfg. rated capacity; Scraper tandem; Tandem pusher quad 9 or similar; Tractor operator (pipeline) Side boom; Truck crane operator	8.65	.45	.40		

DECISION #ND77-5099 (Cont'd)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 3:					
Dope Machine Operator (pipeline); Drill Rigs, Heavy duty rotary or churn or cable drill; Front end loader operator, 6 cu. yds. and over; Locomotive, all types; Pipeline wrapping, cleaning and bending machine operator; Power actuated horizontal boring machine over 6" operator (pipeline); Pumpcrete operator; Refrigeration plant engineer; Slip form operator (power driven)(paving); Tandem scraper-twin engine, 50 cu. yds. Struck and over	8.50	.45	.40		
Group 4:					
Asphalt Paving Machine Operator; Asphalt plant operator and console board operator; CMI grading operator; Crushing plant operator (gravel and stone or gravel washing, crushing and screening plant operator); Front end loader operator, 1 cu. yds. up to 6 cu. yds.; Grader or motor patrol, finishing earth work and bituminous; Mechanic or welder (heavy duty); Rubber tired industrial tractor with backhoe attachment (water main sanitary sewer and storm sewer, trunk line construction); Scraper operator; Tractor type or rubber tired dozer, D-6 and over; Trenching machine operator, sewer and water, (except ditch witch or similar use oiler rate); Turnapull operator, (or similar type)	8.45	.45	.40		

DECISION #ND77-5099 (Cont'd)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 5:					
Bituminous Spreader and Bituminous Finishing operator (power); Concrete distrbutor and spreader operator, finishing machine logitudinal float operator, Ft. machine operator and spray operator; Concrete mixer operator on job site 16S or over; Paving breaker or tamping machine operatror or including machine with power shovel attachments (power driven); Power actuated augers and boring machine operator; Power actuated jacks operator; Power plant engineer, 100 K.W.H. and over (when an engineer is in charge of crushing or blacktop plants with the the operation of these plants no power plant engineer shall be required); Push tractor; Self-propelled traveling soil stabilizer; Slip form, curb and gutter operator (electronic or automatic controls); Soil cement stabilizer; Truck mechanic, Rotomill operator	8.20	.45	.40		
Group 6:					
Bituminous Spreader and Bituminous Finishing Machine Operator (helper) (power); Concrete saw operator (multiple blade) (power operated); Distributor operator; Fine grade operator; Roller, steel and self-propelled rubber, on hot mix asphalt paving; Sheepsfoot packer with dozer attachment; Tractor type or rubber tired dozer under D-6 H.P.	7.97	.45	.40		

MODIFICATIONS P 15

DECISION #ND77-5099 (Cont'd)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 7: Brakeman or Switchman; Concrete Batch plant operator (cement, rock and sand) Electronic; Concrete mixer operator on job site under 16S; Crane truck oiler; Fireman or tank car heater operator; Grader operator (Motor patrol) (haul road); Gravel screening plant operator (portable not crushing or washing); Greaser (truck or tractor); Gunite operator gunall; Hoist Engineer (power); Hydro crane operator, under 15 ton; Launchman (Tankerman or pilot license); Pick-up sweeper, 1 yd. and over hopper capacity; Sheepsfoot roller or compactor (self-propelled); Shouldering machine operator (power) (Apsco or similar type) including self-propelled sand chip spreader flaherty or similar	7.04	.45	.40		
Group 8: Boom Truck Operator; Crawler type and/or steiger or similar tractor pulling compaction or areating equipment; Farm type rubber tired tractor with backhoe attachment; Roller, steel and self-propelled rubber, on other than hot mix asphalt paving; Self-propelled vibrating packer operator pad type (35 HP and over); Off-road self-propelled watering equipment	6.89	.45	.40		

MODIFICATIONS P. 16

DECISION #ND77-5099 (Cont'd)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 9: Concrete Batch Operator (cement rock and sand) (manual); Form trench digger (power); Front end loader operator, up to 1 cu. yd.; Hyster carrier or forklift; Leverman; Mechanic's helper or greaser helper; Oiler (power shovel), crane, dragline); Pugmill operator; Pump operator (well points); Self-propelled Broom	6.79	.45	.40		
Group 10: Conveyor Operator; Curb machine operator (manual); Dredge deck hand; Farm tractors, rubber tired for compacting and areating; Front end loader operator (farm type rubber tired tractor); Paint machine striping operator; Stump chipper operator; Tie tamper and ballast machine Op.	6.45	.45	.40		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA77-3055- Mod. # 8 (42 FR 24688 - May 13, 1977) Greene, Somerset & Potter Counties, Pennsylvania					
Change:					
Cement Masons					
ZONE 2	$ 9.95	12%	6%		
DECISION #PA77-3056 - Mod. # 9 (42 FR 24698 - May 13, 1977) Lehigh County, Pennsylvania					
Omit:					
Roofers:					
Composition & Slate helpers	7.21	.15	.50		
DECISION #PA77-3078 - Mod. # 3 (42 FR 32478 - June 24, 1977) Lawrence & Mercer Counties, PA					
Change:					
Electricians					
Lawrence County	11.51	6%	5%	1.00	1½%
Elevator Constructors	11.75	.745	.56	b+c	.025
Elevator Constructors helpers	70%JR	.745	.56	b+c	.025
Elevator Constructors helpers (prob.)	50%Jr				

FOOTNOTES:

b. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

c. Paid Holiday: A through F, plus the Friday after Thanksgiving Day.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA77-3100 - Mod. #5 (42 FR 36775 - July 15, 1977) Columbia, Montour, and Snyder Counties, Pennsylvania					
Change:					
Glaziers					
ZONE 3	9.75	.40	.70		
DECISION #PA77-3102 - Mod. # 7 (42 FR 37754 - July 22, 1977) Clinton, Centre, Huntingdon, Fulton, & Mifflin Counties Pennsylvania					
Change:					
Cement Masons					
ZONE 2	$10.45	12%	6%		
DECISION #PA77-3103 - Mod. #4 (42 FR 37759 - July 22, 1977) Bradford, Tioga and Union Counties, Pennsylvania					
Change:					
Glaziers					
ZONE 1	9.75	.40	.70		
DECISION #PA77-3107 -Mod. #7 (42 FR 43353 - August 26, 1977) Bucks, Chester, Delaware, Montgomery and Philadelphia Counties, Pennsylvania					
Change:					
Landscape Laborers:					
Class I	$ 7.50	.95	.65	c	
Class II	8.00	.95	.65	c	
Soft Floor Layers:					
All other work	9.03	.95	1.30		.12
Omit:					
Commercial, Roofers Helpers					
Zone II	4.63	.25	.25		
Zone V					

MODIFICATIONS P. 19

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA77-3124 - Mod. # 3 (42 FR 45618 - September 9, 1977) Nothampton County, Pennsylvania					
Change:					
Glaziers	9.19	.40	.40		.01
Omit:					
Roofers, helpers	7.21	.15	.80		
DECISION #PA77-3058 - Mod. # 6 (42 FR 24702 - May 13, 1977) Erie County, Pennsylvania					
Change:					
Plumbers & Steamfitters	$11.17	.55	.50		.04
Roofers Composition	9.89	.60	.30		.05
ADD:					
Truck Drivers	7.12	d	e	a	

FOOTNOTES:

a. One week vacation after 1 year's work; two week's vacation after five years of service.
d. Employee agree to contribute $67.94 per month.
e. Employer agree to contribute $20.00 per week.

MODIFICATIONS P. 20

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX77-4262 - Mod. #4 (42 FR 53167 - September 30, 1977) Smith County, Texas					
Change:					
Electricians: Electricians	$ 9.40	.60	3%		1/4%
Cable splicers	9.80	.60	3%		1/4%
DECISION #TX77-4263 - Mod. #4 (42 FR 53167 - September 30, 1977) Taylor County, Texas					
Change:					
Electricians: Electricians	9.40	.60	3%		1/4%
Cable splicers	9.65	.60	3%		1/4%
DECISION #TX77-4280 - Mod. #4 (42 FR 53171 - September 30, 1977) Cameron, Hidalgo, Starr & Willacy Cos., Texas					
Change:					
Plumbers & pipefitters	8.40	.40	.20		.05
DECISION #TX77-4289 - Mod. #3 (42 FR 56311 - October 21, 1977) Harrison County, Texas					
Change:					
Bricklayers & stonemasons	9.75		.25		
Electricians: Electricians	9.40	.60	3%		1/4%
Cable splicers	9.80	.60	3%		1/4%
DECISION #TX78-4003 - Mod. #1 (43 FR 2126 - January 13, 1978) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas					
Change:					
Building Construction - Glazier	7.10				
DECISION #TX78-4005 - Mod. #2 (43 FR 3029 - January 20, 1978) Bowie County, Texas					
Change:					
Plumbers & pipefitters	10.70	.50	.65		.05
DECISION #TX78-4014 - Mod. #1 (43 FR 7132 - February 17, 1978) Gregg County, Texas					
Change:					
Electricians: Electricians	9.40	.60	3%		1/4%
Cable splicers	9.80	.60	3%		1/4%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX78-4015 - Mod. #1 (43 FR 7133 - February 17, 1978) Galveston & Harris Cos., Texas					
Change:					
Electricians - Galveston Co.	$12.29	.50	3%+.40		.06
DECISION No. WV77-3101 - Mod. #9 (42 FR-37773 - July 22, 1977) State of West Virginia excluding the Counties of Berkeley, Jefferson, Morgan, Nicholas, & Preston					
CHANGE:					
Boilermakers:					
Area 1	$ 9.80	I.05	1.10	1.50	.02
Glaziers:					
Area 1	10.13				
Laborers:					
Area 8					
Group 1	8.40	.55	.40		.05
Group 2	8.50	.55	.40		.05
Group 3	8.565	.55	.40		.05
Group 4	8.60	.55	.40		.05
Group 5	8.75	.55	.40		.05
Group 6	8.73	.55	.40		.05
Group 7					
50' to 100'	8.73	.55	.40		.05
100' to 150'	8.90	.55	.40		.05
over 150'	9.30	.55	.40		.05
Group 8	9.08	.55	.40		.05
Group 9	8.645	.55	.40		.05
Group 10	8.93	.55	.40		.05
Group 11	8.73	.55	.40		.05
Group 12	9.23	.55	.40		.05
Plumbers & Pipefitters:					
Area 7					
Commercial work	10.93	.40	.60		
Repair work	10.74	.40	.60		
Truck Drivers:					
Area 2					
Group 1	7.60	q	r		
Group 2	7.70	q	r		
Group 3	7.85	q	r		
Group 4	8.00	q	r		
Group 5	8.25	q	r		
Group 6	8.35	q	r		

FOOTNOTES:

q. Employer contributes $93.17 per month per employee employed 30 days or more

r. Employer contributes $26.00 per month per employee employed 30 days or more

DECISION #WV77-3101 - Mod. #9 (Cont'd)

LABORERS GROUP CLASSIFICATION

GROUP 1 General Laborers

GROUP 2 Rodmen and Chainmen

GROUP 3 All Brick Handlers, Tenders for Brick Masons, Plasterers, Stone Masons Tile Setters, Mortarmen for Masons and Plasterers and Men Mixing Cement for Cement Finishers, Scaffold Builders, Mortar Mixer Machine Operator.

GROUP 4 Laborers Operating Concrete Busters, Jack Hammers, Air Spades, Chipping Hammers, Air Tampers, Vibrators, Power Buggy, Concrete Saw, Power Saw, Sandblaster, Acetylene Burners, Scuba Diver, Panel Cleaning Machine Operators, Signalmen, All Power Driven Tools, Air Pump, Air Blow Pipe, Pipelayer and Helper Working in Ditches or Tunnels and Hand Spikers on Railroads.

GROUP 5 Instrument Men, Laser Beam

GROUP 6 Laborers performing work pertaining to or in connection with and repair of Stoves, Blast Furnaces, Basic Oxygen Process Furnaces and Basic Oxygen Furnaces, Steeple and Stacks, Annealing Process Furnaces, Kilns, Soaking Pits, Coke Batteries on Industrial Work.

GROUP 7 Demolition of Stacks

GROUP 8 Blasterman and Helper, Bellman and Lancer, All Bottom men in Blast Furnaces, Stacks, Stoves and Dust Catchers.

GROUP 9 Ditches, Trenches, Caissons and Coffers over 6' deep, open top

GROUP 10 Miners including Caissons and Coffers, Horizontal or Underground, Mucking Machine Operators.

GROUP 11 Tunnel Laborers, Muckers including Caissons and Coffers, Horizontal and Underground.

GROUP 12 Gunite Nozzleman and Gunite Machine Operator--Grout Nozzleman and Grout Machine Operator.

SUPERSEDEAS DECISION

STATE: GEORGIA

COUNTIES: CLAYTON, DEKALB, & FULTON

DECISION NO.: GA78-1016

DATE: DATE OF PUBLICATION

Supersedes Decision No. GA77-1116, dated September 30, 1977, in 42 FR 52996.

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.15	.55	.60		.10
BOILERMAKERS	10.25	.75	1.05		.02
BRICKLAYERS & STONE MASONS	9.35	.55	.50		.05
CARPENTERS, DRYWALL HANGERS, & RESILIENT FLOOR LAYERS	9.45	.50	.45		.02
CARPET LAYERS	7.50	.50	.45		.02
CEMENT MASONS	8.70	.45	.55		
ELECTRICIANS:					
Wiremen	10.45	9%	11%		½ of 1%
Cable splicers	11.35	9%	11%		½ of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	9.595	.745	.56	4%+a+b	.035
Helpers	6.72	.745	.56	4%+a+b	.035
GLAZIERS	9.55	.65	.43		
IRONWORKERS - Structural, Reinforcing, & Ornamental	9.60	.65	.57		.07
LATHERS	8.75	.40	.35		.05
LEAD BURNERS	10.75	.40	.25	c	.01
MARBLE MASONS, TILE SETTERS, & TERRAZZO WORKERS	9.20	.55	.50		
MARBLE, TILE, & TERRAZZO FINISHERS	6.30				
MILLWRIGHTS	9.50	.40	.50		.05
PAINTERS:					
Brush, roller, & drywall finishers	9.45	.45	.65		.05
Paperhangers	9.70	.45	.65		.05
Drywall taping (where pressurized tools are used), boatswain chair & window-jack work, all steel above 25' (where no scaffold is erected), & any scaffold above 25' (where not floored solid)	9.95	.45	.65		.05
Spray, steamcleaning, waterblasting, sandblasting, steeplejack work, gold leafing, stencil designing, & graining, marbelizing	10.45	.45	.65		.05

DECISION NO. GA78-1016

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PILEDRIVERMEN	$ 9.60	.50	.45		.02
PLASTERERS	9.17	.40	.55		
PLUMBERS & PIPEFITTERS	10.75	.65	.50		.11
ROOFERS	6.32				
SHEET METAL WORKERS	10.20	.50	.81		.06
SPRINKLER FITTERS	10.35	.65	.95		.08
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Employer contributes 4% of the basic hourly rate of employees with 5 years or more of service, or 2% of the basic hourly rate of employees with 6 months to 5 years of service as Vacation Pay Credit.

c. Nine Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve, and Christmas Day, provided the employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

DECISION NO. GA78-1016

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 6.25	.20	.33		.05
Group 2	6.47	.20	.33		.05
Group 3	6.75	.20	.33		.05
Group 4	7.00	.20	.33		.05
Group 5	7.32	.20	.33		.05
Group 6 (25¢ above rate for classification under which employed)					

Group 1 - Batch plant man; buggy rollers (Ga.); cleaners, brick or lumber; clearing of right-of-way & building site (hand tools); concrete curer-sealer and liquid hardner; conveyor operator, used in tending plasterers & bricklayers; electricians laborer; excavator, backfiller, grader, hand; forklift operator, walk-type mech. used in tending plasterers and bricklayers; form oilers; form stripper; metal pan handler; plumber laborer; pipe doper; precast slab layer (floor, roofs, walks, curbs); puddlers, concrete; rail porter; railroad track laborer; reinforcing steel handler; scaffolds and staging for masons & plasterers, erecting & removing; scarifyer, concrete, mech. or hand; sheeting and shoring laborers; steam jennies, used in cleaning equipment; tenders (all crafts); tool room man; truck-spotter dumper; water boy; winch handler (manual); wrecking buildings & miscellaneous structures.

Group 2 - All tool operators: air, electric or gas powered, such as jackhamer, paving breaker, tampers, vibrator, spade, chipping hammer, & barco tamp.; bucket dump man, concrete; burner demolition work; chain saw operator; flagman; form setter, steel; mixer, mortar, cement grout clay, etc. (hand machine oper.); mortar mixer used in connection with hose for gypsum roofs, plastering, asbestos, fiber, soundproofing, etc.; mortorized post hole digger; power saw operator, concrete, outside building; steam cleaning machine operator; sewer pipe layer, yarner, wiper & pot man; slip form raiser, steel or wood, jack or screw type; wheelbarrow operator, motorized.

Group 3 - Powderman helper; wagon drill operator, track or wheel type and other equipment used in drilling for blasting.

Group 4 - Caisson work, hole man; tunnel laborer.

Group 5 - Nozzleman, concrete pneu.; powderman.

Group 6 - Chimneys or stacks, isolated.

DECISION NO. GA78-1016

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$ 8.85	.50	.75		.07
GROUP B	8.50	.50	.75		.07
GROUP C	6.83	.50	.75		.07
GROUP D	7.18	.50	.75		.07
GROUP E	6.28	.50	.75		.07
GROUP F	6.63	.50	.75		.07
GROUP G	5.61	.50	.75		.07

GROUP A: Backhoe operators, clamshell operator, conc. mix operator, cent, mix plant, conc. pump operator-Ridley or similar type, crane operator (truck, tower, crawler, or locomotive), derrick operator, dragline operator, drill operator-caisson foundation type, elevating grader operator, forklift operator that comes within the jurisdiction of the Operating Engineers hoisting engine operator, locomotive operator, mechanics-heavy duty, oilers on cranes with earth boring drill attached with a separate power source, concrete paving mixer operator, pile driver operator, rock crusher operator, shovel operator, trenching machine operator over 6 ft. depth capacity, well point system operator (including the operation of all pumps on project operated by the contractor) generator operator-75 K. VA. and over, tugger hoist operator, winch truck operator, hoisting material, air compressor operator, 365 C.F.M. and over furnishing air simultaneously for more than one contractor.

GROUP B: Bulldozer operator, dozer shovel operator, drill operator-Quarry master type, firemen-sationary or portable, motor grader operator, motor scraper operator (pans), pusher dozer operator, self-propelled compactor operator with blade, tractor operator with special equipment, trenching machine operator up to and including 6 ft. depth capacity.

GROUP C: Air compressor operator 600 cu. ft. and over, air compressor operator batt. of two, 300 cu. ft. and over, hydrohammer operator, concrete batch plant operator.

GROUP D: Oiler-grease truck, truck or locomotive crane.

GROUP E: Oiler-unspecified, pump operator over 4" up to batteries of 4, welding machine operator, batteries of 4 or more, portable, gasoline or diesel driven.

GROUP F: Concrete mixer operator skip types except paving mixers, concrete finishing machine operator, concrete paving machine operator, roller operator, well drill operator

GROUP G: Air compressor operator up to and including 300 cu. ft. or one machine over 300 but less than 600 cu. ft. conveyor operator, belt type, sand blasting machine operator, water pump operator 4" or less. water pump operator over 4" (one only)

SUPERSEDEAS DECISION

STATE: Maryland COUNTIES: Allegany and Garrett
DECISION NO. MD78-3002 DATE: Date of Publication
Supersedes Decision No. MD77-3021 dated January 14, 1977 in 42 FR 3153.
DESCRIPTION OF WORK: Heavy and Highway Construction.

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$10.54		.40		
Carpenters	10.54	.45	.25		.02
Cement Masons	10.55	.45			
Electricians - Allegany Co.	10.75	.70	3%+.25		1%
Electricians - Garrett Co.	11.15	.70	3%+.25		1%
Ironworkers:					
Structural & reinforcing	10.44	.60	.90		
Laborers:					
Unskilled, landscape workers, tool checkers, dumpmen, handy men & truck spotters	7.79	.80	.90		
Power tool operators, mason & Plasterers tenders, mortar ixer by hand, scaffold builders, hod carriers, concrete puddlers, pipe layers, chainmen-rodmen, rammers & grade checkers	7.91	.80	.90		
Mortar mixer by machine	7.98	.80	.90		
Barko tampers	8.05	.80	.90		
Blaster/dynamite & wagon drill operator (air track)	8.09	.80	.90		
Tunnel workers:					
Caisson, driller & mucker	8.61	.80	.90		
Laborer-unskilled	8.25	.80	.90		
Gunnite workers:					
Nozzlemen & gun operators	8.09	.80	.90		
Piledrivermen	10.83	.45	.25		.02
Welders - receive rate prescribed for craft performing operation to which welding is incidental					

DECISION NO. MD78-3002

HEAVY CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 9.80	.85	.85	a	.10
Hourly additional pay for long boom cranes (including jibs), pile driver machines with leads:					
130' to 169' plus $ .40					
170' to 209' " .60					
210' to 249' " .80					
250' to 299' 1.00					
300' and over 1.25					
GROUP 2	9.38	.85	.85	a	.10
GROUP 3	9.04	.85	.85	a	.10
GROUP 4	8.80	.85	.85	a	.10
GROUP 5	8.72	.85	.85	a	.10
GROUP 6	8.33	.85	.85	a	.10
GROUP 7	10.20	.85	.85	a	.10

CLASSIFICATIONS

GROUP 1 - Backfiller, backhoe, concrete mixing plants, batching plants, cable way, derick, derrick boat, dragline, elevating grader, compressors (2 or more), space heaters, hoist (2 active drums or more), pile driving machine, power crane, power shovel, standard gauge locomotive, trenching machine, tunnel mucking machine, whirley rig, certified welders, concrete paver, double concrete pump, front end loader (over 2 yds.), over 4 welders top scale (more than 6, another man), eimco type overhead loader, wellpoint system, mighty midget with compressor, twin engine scraper (25 yds. and over), mechanic, mechanic's welder, grader
GROUP 2 - Tractor with attachments (2 or more), Bulldozer
GROUP 3 - Concrete mixer, concrete pump, one drum hoist, narrow gauge locomotive, power roller, asphalt spreader, pumps (not exceeding 4), well drill, engine driven welders (not exceeding 4), single compressors (over 210 c.f.m.), steam hammer, pile extractor, conveyor, stone crusher, hi-lift, front end loader (up to and including 2 yds.), excavating scoop
GROUP 4 - Finishing machine, bull float, longitudinal float, screeding machine concrete spreader, sub grader
GROUP 5 - Fireman, truck crane oiler, wheel tractor, grease truck operator
GROUP 6 - Oiler, greaser, mechanic's helper, single compressor (up to 210 c.f.m.)
GROUP 7 - Operators handling or setting steel, prestressed concrete or machinery, Tower Crane

FOOTNOTE: a. 7 paid holidays - New Year'sDay, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day and Christmas Day.

DECISION NO. MD78-3002

HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	9.62	.85	.85		.10
Hourly additional pay for long boom cranes (including jibs), pile driver machines with leads					
130' to 169' plus $ .40					
170" to 209' " .60					
210' to 249' " .80					
250' to 299' 1.00					
300' and over 1.25					
GROUP 2	9.16	.85	.85		.10
GROUP 3	8.86	.85	.85		.10
GROUP 4	8.63	.85	.85		.10
GROUP 5	8.51	.85	.85		.10
GROUP 6	8.16	.85	.85		.10
GROUP 7	10.02	.85	.85		.10

CLASSIFICATIONS

GROUP 1 - Backfiller, backhoe, concrete mixing plants, batching plants, cable way, derrick, derrick boat, dragline, elevating grader, compressors (2 or more), space heaters, hoist (2 active drums or more), pile driving machine, power crane, power shovel, standard gauge locomotive, trenching machine, tunnel mucking machine, whirley rig, certified welders, concrete paver, double concrete pump, front end loader (over 2 yds.), over 4 welders top scale (more than 6 another man), eimco type overhead loader, wellpoint system, mighty midget with compressor, twin engine scraper (25 yds. and over), mechanic, mechanic's welder, grader

GROUP 2 - Tractor with attachments (2 or more), bulldozer

GROUP 3 - Concrete mixer, concrete pump, one drum hoist, narrow gauge locomotive, power roller, asphalt spreader, pumps (not exceeding 4), well drill, engine driven welders (not exceeding 4), single compressors (over 210 c.f.m.), steam hammer, pile extractor, conveyor, stone crusher, hi-lift, front end loader (up to and including 2 yds.), excavating scoop

GROUP 4 - Finishing machine, bull float, longitudinal float, screeding machine, concrete spreader, sub grader

GROUP 5 - FIreman, truck crane oiler, wheel tractor, grease truck operator

GROUP 6 - Oiler, greaser, mechanic's helper, single compressor (up to 210 c.f.m.)

GROUP 7 - Operators handling or setting steel, stone, prestressed concrete, or machinery, tower crane

DECISION NO. MD78-3002

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
GROUP 1	$ 7.89	.70	.90		
GROUP 2	8.04	.70	.90		
GROUP 3	8.24	.70	.90		
GROUP 4	8.44	.70	.90		
GROUP 5	8.67	.70	.90		

CLASSIFICATIONS

GROUP 1 - Dumpmen and Flagmen

GROUP 2 - Pick-ups, dumps (under 5 yds., capacity), stright trucks

GROUP 3 - Helpers, panel trucks, straight trucks with multiple axle, dumpsters (under 5 yds. capacity), Transit mix, dumps (5 to 9 yd. capacity), flatbody material trucks (straight jobs), greasers, tiremen, mechanics' helpers, rubber-tired (towing & pushing flatbody vehicles), form trucks

GROUP 4 - Dump trucks (10 to 15 yd., capacity)

GROUP 5 - Dump trucks (over 15 yd. capacity), bottom and end dump euclids, all other euclid type trucks, turnarockers, ross carriers, athey wagons, mechanics, semi-trailers or tractor-trailers, low boys, asphalt distributors, agitator mixer, dumpcretes or batch trucks, specialized earth moving equipment, Off-highway tandem back-dump, twin engine equipment and double hitched equipment (where not self-loaded)

STATE: Mississippi COUNTY: *SEE BELOW
DECISION NUMBER: MS78-1017 DATE: Date of Publication
Supersedes Decision No.: MS78-1010 dated February 17, 1978, in 43 FR-7129.
DESCRIPTION OF WORK: Highway Construction (does not include Building Structure in Rest Area Projects; Bridges over Navigable Water; Tunnels and Railroad Construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayer	$ 5.00				
Carpenters	4.60				
Cement Masons/Finisher	4.25				
Electrician	7.00				
Ironworkers, reinforcing	4.05				
Laborers:					
Unskilled	2.84				
Grade Checker	3.00				
Asphalt Raker	3.25				
Mason Tender	4.00				
Air Tool Operator	3.25				
Pipelayer	3.50				
Painter, Structural Steel	5.00				
Truck Driver	3.00				
Welder	4.10				
POWER EQUIPMENT OPERATORS:					
"A" Frame Truck (Winch)	5.00				
Aggregate Spreader Operator	3.50				
Air Compressor Operator	3.25				
Asphalt Distributor-Spreader Operator	3.50				
Asphalt Plant	4.00				
Backhoe or Shovel Operator	4.90				
Bulldozer Operator	5.25				
Concrete Batch Plant Operator	4.25				
Concrete Finishing Machine Operator	4.45				
Curing Machine Operator	3.00				
Concrete Paving Machine Operator	3.80				
Concrete Spreader Machine Operator	4.25				
Crane, Dragline Operator	5.50				
Guard Rail Post Driver	3.50				
Earth Auger	5.00				
Fireman	3.60				
Joint Filler	2.90				
Joint Setter	3.50				
Loader Operator (All Types)	4.00				
Mechanic	4.95				
Mixer Operator (All Types)	3.60				
Motor Patrol Operator	4.50				
Mulcher Operator	2.90				
Oiler-Greaser	4.00				
Piledriver Operator	4.00				

DECISION NO.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (CONT'D)					
Roller Operator (Self-propelled)	$ 3.15				
Scales (All types)	3.50				
Scraper Operator	5.00				
Striping Machine Operator	4.00				
Tractor Operator (Track Type)	4.50				
Tractor Operator (Wheel Type)	2.90				
Trenching Machine	3.00				
Concrete Breaker & Hydo-Hammer Operator	2.90				
Crusher Feeder Operator	3.00				

Area III Counties:
Claiborne, Copiah, Hinds, Holmes, Humphreys, Issaquena, Madison, Rankin, Sharkey, Simpson, Warren and Yazoo.

SUPERSEDEAS DECISION

STATE: Mississippi COUNTY: *SEE BELOW
DECISION NUMBER: MS78-1018 DATE: Date of Publication
Supersedes Decision No.: MS78-1011 dated February 17, 1978 in 43 FR-7129.
DESCRIPTION OF WORK: Highway Construction. (Does not include Building Structures in Rest Area Projects, Bridges over Navigable Water, Tunnels and Railroad Construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayer	$ 5.50				
Carpenters	4.00				
Cement Masons/Finisher	4.00				
Electrician	7.00				
Ironworker, reinforcing	3.50				
Laborers:					
Unskilled	2.60				
Grade Checker	3.50				
Asphalt Raker	3.00				
Air Tool Operator	3.00				
Concrete Saw Operator	4.00				
Pipelayer	3.00				
Painter, Structural Steel	6.00				
Truck Driver	2.75				
Welder	3.00				
POWER EQUIPMENT OPERATORS:					
"A" Frame Truck (Winch)	3.75				
Aggregate Spreader Operator	3.25				
Air Compressor Operator	3.25				
Asphalt Distributor-Spreader Operator	3.25				
Asphalt Plant	3.00				
Backhoe or Shovel Operator	4.75				
Bulldozer Operator	4.00				
Concrete Batch Plant Operator	3.10				
Concrete Finishing Machine Operator	4.50				
Curing Machine Operator	3.00				
Concrete Paving Machine Operator	3.50				
Concrete Spreader Machine Operator	3.25				
Crane, Dragline Operator	5.25				
Guard Rail Post Driver	3.20				
Earth Auger	3.00				
Fireman	3.00				
Joint Setter	3.00				
Loader Operator (All Types)	3.30				
Mechanic	4.00				
Mixer Operator (All types)	2.75				
Motor Patrol Operator	4.00				
Mulcher Operator	2.75				
Oiler-Greaser	3.00				
Piledriver Operator	4.25				

DECISION NO.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (CONT'D)					
Roller Operator (Self-propelled)	$ 3.00				
Scales (All types)	2.60				
Scraper Operator	4.00				
Striping Machine Operator	4.25				
Tractor Operator (Track Type)	2.85				
Tractor Operator (Wheel Type)	2.75				
Trenching Machine	4.35				
Crusher Feeder Operator	3.50				

Area IV Counties:
Attala, Clarke, Jasper, Kemper, Lauderdale, Leake, Neshoba, Newton, Noxubee, Scott, Smith, and Winston.

SUPERSEDEAS DECISION

STATE: Mississippi COUNTY: *See Below
DECISION NUMBER: MS78-1019 DATE: Date of Publication
Supersedes Decision No. MS78-1002 dated February 17, 1978, in 43 FR-7128.
DESCRIPTION OF WORK: Highway Construction (Does not include Building Structure in Rest Area Projects; Bridges over Navigable Water; Tunnels and Railroad Construction
Area I. Counties:
*Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Itawamba, Lafayette, Lee, Lowndes Marshall, Monroe, Oktibbeha, Pontotoc, Prentiss, Tippah, Tishomingo, Union and Webster.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$5.50				
Carpenters	4.60				
Cement Mason/Finishers	4.10				
Electricians	5.50				
Ironworkers, reinforcing	5.45				
Laborers:					
Unksilled	2.80				
Mason Tender	3.56				
Asphalt Raker	3.25				
Grade Checker	4.40				
Air Tool Operator	3.25				
Concrete Saw	3.25				
Painters, Structural Steel	4.75				
Pipelayers	3.50				
Welders	4.75				
POWER EQUIPMENT OPERATORS					
Aggregate Spreader Operator	3.75				
Air Compressor Operator	3.50				
Asphalt Distributor-Spreader Operator	3.66				
Asphalt Plant	3.40				
Backhoe or Shovel Operator	4.60				
Bulldozer Operator	4.90				
Concrete Batch Plant Operator	4.25				
Concrete finishing Machine Operator	4.00				
Curing Machine Operator	3.00				
Concrete Paving Machine Operator	4.10				
Concrete Spreader Machine Operator	4.25				
Crane, Dragline Operator	5.25				
Guard Rail Post Driver	3.00				
Earth Auger	4.00				
Fireman	3.00				
Joint filler	2.90				
Joint Setter	2.90				
Loader Operator (All Types)	4.25				
Mechanic	5.10				
Mixer Operator (All Types)	3.65				
Motor Patrol Operator	5.10				
Mulcher Operator	2.90				

MS78-1019 (Continued)

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Oiler-Greaser	3.95				
Piledriver Operator	4.00				
Roller Operator (Self-propelled)	3.20				
Scales (All Types)	3.00				
Scraper Operator	4.80				
Striping Machine Operator	4.25				
Tractor Operator (Track Type)	3.25				
Tractor Operator (wheel Type)	2.80				
Trenching Machine	3.00				
Concrete Breaker & Hydro-Hammer Operator	2.90				
Subgrade Machine Operator	3.15				

STATE: Mississippi COUNTY: *SEE BELOW
DECISION NUMBER: MS78-1020 DATE: Date of Publication
Supersedes Decision No.: MS78-1009 dated February 17,1978, in 43 FR-7128.
DESCRIPTION OF WORK: Highway Construction, (does not include Building Structure in Rest Area Projects; Bridges over Navigable Water; Tunnels and Railroad Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayer	$ 7.00				
Carpenters	4.50				
Cement Masons/Finisher	5.00				
Electrician	6.00				
Ironworkers: Reinforcing/Structural	3.75				
Laborers:					
Unskilled	2.74				
Asphalt Raker	2.85				
Grade Checker	3.75				
Air Tool Operator	3.25				
Concrete Saw Operator	4.25				
Pipelayer	3.00				
Painter, Structural Steel	4.50				
Truck Driver	2.80				
POWER EQUIPMENT OPERATORS:					
Aggregate Spreader Operator	3.25				
Air Compressor Operator	2.75				
Asphalt Distributor-Spreader Operator	3.36				
Asphalt Plant	3.00				
Backhoe or Shovel Operator	5.00				
Bulldozer Operator	5.00				
Concrete Batch Plant Operator	4.00				
Concrete Finishing Machine Operator	3.50				
Curing Machine Operator	3.00				
Concrete Paving Machine Operator	3.50				
Concrete Spreader Machine Operator	3.00				
Crane, Dragline Operator	6.00				
Guard Rail Post Driver	3.50				
Earth Auger	3.00				
Fireman	3.00				
Joint Filler	2.80				
Loader Operator (All Types)	3.70				
Mechanic	4.85				
Mixer Operator (All Types)	3.50				
Motor Patrol Operator	5.00				
Mulcher Operator	2.75				
Oiler-Greaser	3.65				
Piledriver Operator	4.25				
Roller Operator (Self-propelled)	2.75				
Scales (All types)	3.00				

DECISION NO. MS78-1020

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (CONT'D)					
Scraper Operator	$ 4.50				
Striping Machine Operator	4.00				
Tractor Operator (Track Type)	3.00				
Tractor Operator (Wheel Type)	2.80				
Trenching Machine	4.00				
Concrete Breaker & Hydo-Hammer Operator	2.80				
Subgrade Machine Operator	4.00				
Crusher Feeder Operator	3.00				
Welder	3.70				

Area II Counties:
Bolivar, Carroll, Coahoma, DeSoto, Grenada, Leflore, Montgomery, Panola, Quitman, Sunflower, Tallahatchie, Tate, Tunica, Washington, & Yalobusha.

SUPERSEDEAS DECISION

STATE: Mississippi COUNTIES: *SEE BELOW
DECISION NUMBER: MS78-1021 DATE: Date of Publication
Supersedes Decision No.: MS78-1012 dated February 17, 1978, in 43 FR-7130
DESCRIPTION OF WORK: Highway Construction. (Does not include Building Structures in Rest Area Projects, Bridges over Navigable Waters, Tunnels and Railroad Construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayer	$ 5.00				
Carpenters	4.50				
Cement Masons/Finisher	5.00				
Electricians	6.00				
Ironworkers, Reinforcing	4.85				
Ironworkers, Structural	4.55				
Laborers:					
Unskilled	2.74				
Asphalt Raker	3.40				
Grader Checker	3.50				
Air Tool Operator	3.50				
Concrete Saw Operator	3.25				
Painter, Structural Steel	4.00				
Piledriverman	4.25				
Truck Driver	3.06				
Welder	5.50				
POWER EQUIPMENT OPERATORS:					
"A" Frame Truck (Winch)	3.75				
Aggregate Spreader Operator	4.25				
Air Compressor Operator	4.25				
Asphalt Distributor-Spreader Operator	3.30				
Asphalt Plant	4.00				
Backhoe or Shovel Operator	4.25				
Bulldozer Operator	4.54				
Concrete Batch Plant Operator	4.50				
Concrete Finishing Machine Operator	3.75				
Concrete Paving Machine Operator	3.00				
Concrete Spreader Machine Operator	3.00				
Crane, Dragline Operator	5.00				
Guard Rail Post Driver	3.25				
Earth Auger	3.38				
Fireman	3.00				
Joint Filler	3.00				
Joint Setter	3.50				
Loader Operator (All Types)	4.05				
Mechanic	4.50				
Mixer Operator (All types)	3.50				
Motor Patrol Operator	5.50				
Mulcher Operator	2.94				
Oiler-Greaser	3.88				

DECISION NO. MS78-1021

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (CONT'D)					
Piledriver Operator	$ 4.75				
Roller Operator (Self-propelled)	3.25				
Scales (All types)	3.45				
Scraper Operator	4.25				
Striping Machine Operator	4.00				
Tractor Operator (Track Type)	3.75				
Tractor Operator (Wheel Type)	2.75				
Trenching Machine	3.75				
Crusher Feeder Operator	3.25				

Area V Counties:
Adams, Amite, Covington, Forrest, Franklin, Greene, Jefferson, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Perry, Pike, Walthall, Wayne, and Wilkinson.

SUPERSEDEAS DECISION

STATE: Mississippi COUNTY: *SEE BELOW
DECISION NUMBER: MS78-1022 DATE: Date of Publication
Supersedes Decision No.: MS78-1013 dated February 24, 1978 in 43 FR
DESCRIPTION OF WORK: Highway Construction. (Does not include Building Structures in Rest Area Projects, Bridges over Navigable Waters, Tunnels and Railroad Construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayer	$ 7.00				
Carpenters	5.20				
Cement Masons/Finisher	5.00				
Electricians	6.00				
Ironworkers, reinforcing	5.70				
Laborers:					
Unskilled	3.00				
Asphalt Raker	3.72				
Pipelayer	3.50				
Air Tool Operator	4.18				
Concrete Saw Operator	5.00				
Grade Checker	3.10				
Painter (Structural Steel)	5.00				
Piledriverman	5.00				
Truck Driver	3.00				
Tugboat Operator	5.50				
Welder	5.00				
POWER EQUIPMENT OPERATORS:					
"A" Frame Truck (Winch)	4.50				
Aggregate Spreader Operator	3.50				
Air Compressor Operator	3.00				
Asphalt Distributor-Spreader Operator	3.80				
Asphalt Plant	4.00				
Backhoe or Shovel Operator	4.75				
Bulldozer Operator	4.50				
Concrete Batch Plant Operator	5.30				
Concrete Finishing Machine Operator	5.12				
Curing Machine	3.00				
Concrete Paving Machine Operator	3.55				
Concrete Spreader Machine Operator	3.25				
Crane, Dragline Operator	5.50				
Guard Rail Post Driver	3.50				
Earth Auger	4.00				
Fireman	3.00				
Joint Filler	3.00				
Loader Operator (All Types)	4.60				
Mechanic	5.50				
Mixer Operator (All types)	3.00				
Motor Patrol Operator	5.16				
Mulcher Operator	3.00				

DECISION NO. MS78-1022

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATOR: (CONT'D)					
Oiler-Greaser	$ 3.50				
Piledriver Operator	6.25				
Roller Operator (Self-propelled)	3.68				
Scales (All types)	3.40				
Scraper Operator	4.00				
Striping Machine Operator	4.10				
Tractor Operator (Track Type)	3.00				
Tractor Operator (Wheel Type)	3.00				
Trenching Machine	4.00				
Sub Grade Machine Operator	3.60				
Crusher Feeder Operator	3.25				

Area VI Counties:
George, Hancock, Harrison, Jackson, Pearl River, and Stone.

SUPERSEDEAS DECISION

STATES: DC, Maryland, Virginia DATE: Date of Publication
DECISION NO. DC78-3006
Supersedes Decision No. DC77-3108, dated September 16, 1977, in 42 FR 46905; & MD77-3109, dated, September 16, 1977, in 42 FR 46872.
DESCRIPTION OF WORK: Building Construction (excluding residential 4 stories, etc., District of Columbia, Arlington County, VIrginia, Prince Georges and Montgomery Counties, Maryland (Only)
Heavy Construction (excluding Water and Sewer Lines)
Highway Construction (District of Columbia (Only)
Water and Sewer Lines (District of Columbia Only)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY CONSTRUCTION: District of Columbia Only					
BUILDING CONSTRUCTION: All Areas					
ASBESTOS WORKERS	$11.41	.70	1.29		.03
BOILERMAKERS - BLACKSMITHS	11.15	.70	1.00		.02
BRICKLAYERS	11.65	.80	.70		.10
CARPENTERS	10.45	.80	.60		.05
CARPET LAYERS	7.05	.30			.05
CEMENT MASONS:					
Cement masons	10.50	.805	.60		.11
Grinding machine	10.75	.805	.60		.11
DIVERS	18.125	.50	.49		.07
DIVER TENDER	10.75	.50	.49		.07
ELECTRICIANS	11.40	.65	3%+.80		.13
ELEVATOR CONSTRUCTORS	11.77	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROBATIONARY)	50%JR				
GLAZIERS	11.48	.61	.50		.05
IRONWORKERS:					
Structural, ornamental and chain link fence	10.40	.87	.80		.05
Reinforcing	10.95	.62	1.05		.03
LABORERS (EXCLUDING, HEAVY CONSTRUCTION)					
Common laborers, landscapers	8.46	.60	.45		.05
Acetylene burners used on wrecking	8.96	.60	.45		.05
Air tool op., scaffold builders, paving breakers, towmasters, buggy mobiles, spaders, mortar men and scootcretes	8.61	.60	.45		.05
Pipelayers	8.61	.60	.45		.05
Plasterers' tenders	7.03	.32	.35		.05
Plumbers' laborers	8.31	.60	.45		.05
Powdermen	9.635	.60	.45		.05
Powersaw, well points	8.71	.60	.45		.05
LATHERS	10.36	.50	.50		.025
LEADBURNERS	10.75	.40	.25	c	.01

DECISION NO. DC78-3006

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY CONSTRUCTION: District of Columbia Only					
BUILDING CONSTRUCTION: All Areas					
LINE CONSTRUCTION:					
Linemen, cable splicers, equipment operators	12.41	.45	3%		½ of 1%
Truck with winch, truck pole or steel handling	7.53	.45	3%		½ of 1%
Groundmen (0 to 1 year)	6.11	.45	3%		½ of 1%
Groundmen (1 to 2 years)	7.02	.45	3%		½ of 1%
Groundmen (over 2 years)	7.27	.45	3%		½ of 1%
MARBLE SETTERS	11.60	.80	.65		.06
MARBLE SETTERS' HELPERS	7.35				
MILLWRIGHTS	10.94	.80	.60		.05
PAINTERS:					
Brush, spray, paperhangers, tapers	10.54	.81	1.10		.06
Steel, sandblasting, swing stage, power brushing	11.04	.81	1.10		.06
PILEDRIVERMEN	10.68	.80	.60		.05
PLASTERERS	10.40	.60	.75		.06
PLUMBERS	11.12	1.00	1.00		.27
ROOFERS:					
Composition	9.87	.56	.30		
Slate, tile mopmen, waterproofers, sprayers, sprandrel and ironite	10.43	.56	.30		
SHEET METAL WORKERS	11.14	1.07	1.21		.14
SOFT FLOOR LAYERS	10.45	.80	.60		.05
SPRINKLER FITTERS	11.70	.65	.95		.08
STEAMFITTERS, REFRIGERATION AND AIR CONDITION MECHANIC	11.48	.75	1.00		.16
STONE MASONS	11.60	.80	.65		.07
STONE CUTTERS:					
Fitters and trimmers	11.65	.18	.40		
Ornamental carvers	10.38	.18	.40	d	
Figure carvers	11.00	.18	.40	d	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY CONSTRUCTION: District of Columbia Only					
BUILDING CONSTRUCTION: All Areas					
TERRAZZO AND MOSAIC WORKERS	12.03	.60	.40		
TERRAZZO WORKERS' HELPERS	9.95	.70	.70		
TILE SETTERS	10.68	.60	.40		
TILE SETTERS' HELPERS	9.30	.50	.40		
TRUCK DRIVERS:					
Boom trucks	8.45	.415	.425	e+f	
Small dump, water sprinkler, grease and oil	8.20	.415	.425	e+f	
Flat, pick-up hauling materials, small Euclids, dump over 8 wheels	8.30	.415	.425	e+f	
Trailers, low boys, tractor pulls	8.50	.415	.425	e+f	
Helpers	8.05	.415	.425	e+f	
Carryalls, large Euclids, Euclid water sprinkler, tunnel work under ground	8.60	.415	.425	e+f	
Mechanics	8.35	.415	.425	e+f	
RIGGERS AND WELDERS - Receive rates prescribed for crafts performing operations to which rigging and welding are incidental.					

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PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F, plus the Friday after Thanksgiving Day.

b. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Holidays: A through F plus Washington's Birthday, Good Friday and Christmas Eve (provided an employee has worked at least 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday).

d. Holidays: A-D-E-F and Veteran's Day.

e. Holidays: A-D-E and F (provided the employee works the regularly scheduled work days immediately preceeding and following the holiday.

f. One weeks paid vacation providing the employee has worked 3 years and a minimum of 1450 hours during any calendar year.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY - RAPID RAIL TRANSIT SYSTEM (ONLY)

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
GROUP I	8.46	.60	.45		.05
GROUP II	8.61	.60	.45		.05
GROUP III	8.66	.60	.45		.05
GROUP IV	8.71	.60	.45		.05
GROUP V	8.91	.60	.45		.05
GROUP VI	9.11	.60	.45		.05
GROUP VII	9.235	.60	.45		.05
GROUP VIII	9.635	.60	.45		.05

CLASSIFICATIONS

LABORERS:

GROUP I - Carloader, choker setter, concrete crewman, crushed feeder, demolition laborer (including salvaging all material, loading and cleaning up), wrecking, driller helper, dumpman, flagman, fence erector and installer (including installation and erection of fence, guard rails, median rails, reference posts, guide posts and right-of-way markers), form stripper, general laborers, railroad track laborer, riprap man, scale man, stake jumper, structure mover (includes foundation, separation, preparation, cribbing, shoring, jacking and unloading of structures), water nozzleman, timber bucker and faller, truck loader, water boys, tool room men

GROUP II - Combined air and water nozzlemen, cement handler, dope pot fireman (nonmechanical), form cleaning machine, mechanical railroad equipment (includes spiker, puller, tie cleaner, tamper pipe wrapper, power driven wheelbarrow, operators of hand derricks, towmasters, scootcretes, buggymobiles and similar equipment), tamper or rammer operator, trestle scaffold builders over one tier high, power tool operator (gas, electric or pneumatic), sandblast or gunnite tailhose man, scaffold erector (steel or wood), vibrator operator (up to 4'), asphalt cutter, mortar men, shorer and lagger, creosote material handler, corrosice enamel or equal, paving breaker and jackhammer operators

GROUP III - Multi-section pipe layer, non-mentallic clay and concrete pipe layer (including caulker, collarman, jointer, rigger and jacker) thermite welder and corrugated metal culvert pipe layer

GROUP IV - Asphalt block pneumatic cutter, asphalt roller, walking chain-saw with attachment, concrete saw (walking), high scalers, jackhammer (using over 6' of steel), vibrator (4' and over), well point installers, air-trac operator

GROUP V - Asphalt screeder, big drills, cut of the hole drills (1½ piston or larger) down the hole drills (3½" piston or larger), gunnite or sandblaster nozzleman, asphalt raker, asphalt tamper, form setter, demolition torch operator, shotcrete nozzlemen and potman

GROUP VI - Powderman, master for setters

GROUP VII - Brick paver (asphalt block paver, asphalt block saw man, asphalt block grinder; hasting block or similar type)

GROUP VIII - Miners

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY - RAPID RAIL TRANSIT SYSTEM (ONLY)

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
GROUP I	8.735	.50	.40		.05
GROUP II	9.035	.50	.40		.05
GROUP III	9.685	.50	.40		.05
GROUP IV	9.935	.50	.40		.05

CLASSIFICATIONS

TUNNELS, RAISES AND SHAFTS - FREE AIR

GROUP I

Brakeman, bull gang, dumper, trackman, concrete man

GROUP II

Chuck tender, powdermen in prime house, form setters and movers, nippers, cableman, hosemen, groutman, bell or signalman, top or bottom vibrator operator, caulkers' helpers

GROUP III

Miners, rodmen, re-bar underground, concrete or gunnite nozzlemen, powderman, timberman and re-timberman, wood steel including liner plate or any other support, material, motorman, caulkers, diamond drill operators, riggers, cement finishers - undergroung, welders and burners, shield driver, air trac operator, shotcrete nozzleman and potman

GROUP IV

Mucking machine operator (air)

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LABORERS - COMPRESSED AIR RATES		Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
Gauge Pressure Pounds	Work Period Hours					
1-14	7	91.26	a	b		c
14-18	6	94.60	a	b		c
18-22	5-1/2	97.89	a	b		c
22-26	5	101.28	a	b		c
26-32	4	104.61	a	b		c
32-38	3	107.91	a	b		c
38-44	2-1/2	119.29	a	b		c

FOOTNOTES:

a. The employer pays $4.80 to health and welfare per day.

b. The employer pays $3.60 to Pension per day.

c. The employer pay $.40 to training fund per day.

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HEAVY CONSTRUCTION: District of Columbia Only BUILDING CONSTRUCTION: All Areas POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	11.70	.60	.60		.12
GROUP II	11.45	.60	.60		.12
GROUP III	11.30	.60	.60		.12
GROUP IV	11.12	.60	.60		.12
GROUP V	11.07	.60	.60		.12
GROUP VI	11.05	.60	.60		.12
GROUP VII	11.04	.60	.60		.12
GROUP VIII	10.87	.60	.60		.12
GROUP IX	10.85	.60	.60		.12
GROUP X	10.65	.60	.60		.12
GROUP XI	10.17	.60	.60		.12
GROUP XII	9.99	.60	.60		.12
GROUP XIII	8.55	.60	.60		.12

POWER EQUIPMENTOPERATORS CLASSIFICATIONS

GROUP I - 35 ton cranes and above, tower and climbing cranes

GROUP II - Back hoes, boom-cat, cableways, cranes or derricks, draglinges, elevating graders, hoists, multiple concrete conveyors, elevators (permanent), paving mixers, pile driving engines, power shovels, tunnel shovels, mucking machines, batch plant, concrete pumps, locomotives (standards, narrow guage), power driven wheel scoops and scrapers (50 cu. yd. struck capacity or above), front end loader above 3½ cu. yd., boom trucks, moles, shields, tunnel mining machines, loaders used as muckers in tunnel mining, gradalls, shotcrete machines and grout pumps with discharge of two inches I.D. or more, drill rigs

GROUP III - Hydraulic back hoes of less than ½ yd. capacity, mounted on tractors, front end loader above 2-3/4 to 3½ cu. yd.

GROUP IV - Air compressor on steel

GROUP V - Mechanic, mechanic-welder, welder

GROUP VI - Front end loader, highlift, fork lift

GROUP VII - Boilers (skeleton), trenching machines, tug boat, well drilling machines

GROUP VIII - Concrete mixer, tunnel motorman

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POWER EQUIPMENT OPERATORS CLASSIFICATIONS (CONT'D)

GROUP IX - Power driven wheel scoops and scrapers (below 50 cu. yd. struck capacity), blade graders, motor graders, bulldozers

GROUP X - Rollers, asphalt spreaders, bullfloat finishing machines, concrete finishing machines, concrete spreaders, fine graders

GROUP XI - Air compressors (except steel), welding machines, pumps, generators, space heaters, wellpoints, deepwells, hydraulic pumps

GROUP XII - Firemen

GROUP XIII - Oilers

(District of Columbia Only)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DEMOLITION					
Laborers	$ 6.40	.35	.40		.05
Burners	6.90	.35	.40		.05
Power tool operator	6.55	.35	.40		.05
Bobcat operator	7.40	.35	.40		.05

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(DISTRICT OF COLUMBIA ONLY)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAVING AND INCIDENTAL GRADING					
ASPHALT SHOVELER	7.05	.27	.35		
ASPHALT RAKER	7.25	.27	.35		
ASPHALT TAMPER	7.15	.27	.35		
BRICKLAYERS	11.65	.80	.70		.10
CARPENTERS	10.45	.80	.60		.05
CEMENT MASONS	7.50	.27	.35		
CONCRETE SAW OPERATOR	7.25	.27	.35		
CONCRETE SHOVELER	7.15	.27	.35		
FORM SETTER	7.50	.27	.35		
LABORERS:					
Laborers	7.00	.27	.35		
Jackhammer	7.20	.27	.35		
Hand Burner Operator	7.15	.27	.35		
POWER EQUIPMENT OPERATORS:					
Concrete Spreader Operator, Finishing Machine, Roller (rough), Compressor, Rubber-tired Loader (1-½ cu. yds., or less), Asphalt Plant Mixer	7.25	.27	.35		
Loader Operator Tracks (2-½ cu. yds. or less), Burner Planer, Bulldozer, Mechanic or Welder, Rubber Tired Loader (over 1-½ cu. yds.)	7.45	.27	.45		
Asphalt Spreader, Hydraulic Backhoe (½ cu. yd., or less), Asphalt Plant Engineer, Asphalt Roller Operator, Concrete Breaker (machine)	7.50	.27	.35		
Crane Operator, Concrete Paving Operator	7.65	.27	.35		
Shovel Operator	7.75	.27	.35		
Gradall Operator (1-½ cu. yds. or less), Motor Grader, Operator Tracks (over 2-½ cu. yds	8.40	.27	.35		
G-1000 Gradall Operator (over 1½ cu. yds.)	8.65	.27	.35		
Power Broom, Oiler	7.15	.27	.35		
Sand Setter	7.45	.27	.35		
TRUCK DRIVERS:					
Truck Drivers (standard)	7.00	.27	.35		
Tandem	7.12	.27	.35		
Tractor trailer (capable of moving heavy equipment)	7.50	.27	.35		

DECISION NO. DC78-3006

(DISTRICT OF COLUMBIA ONLY)

SEWER AND WATER LINES

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	11.65	.80	.70		.10
CARPENTERS	10.45	.80	.60		.05
CEMENT MASONS	10.50	.805	.60		.11
IRONWORKERS; Reinforcing	10.95	.62	1.05		.03
LABORERS:					
Open Cut:					
Laborers, jackhammer, rammers and spaders	5.78	.28	.25		.03
Timbermen, sheeting-men, shoring-men, caulkers, pipelayers helpers	5.93	.28	.25		.03
Bottom man	5.83	.28	.25		.03
Wagon drillers, air track drillers	6.13	.28	.25		.03
Pipelayers	6.13	.28	.25		.03
Rock drillers	5.88	.28	.25		.03
Tunnel:					
Brakeman, bull gang, dumper, trackmen, concrete man	6.415	.28	.25		.03
Chuck tender, powder in prime house, form setters and movers, nippers, cable-men, hosemen, grout men, bell or signal men, top or bottom, vibrator operator, caulkers' helpers	6.715	.28	.25		.03
Miners, rodmen, re-bar under-ground, concrete or gunite nozzlemen, pwermen, timber-men and retimberman wood or steel including liner plate or any other support material, motorman, caulkers, diamond drill riggers, cement finishers (underground), welders and burners, shield driver	7.365	.28	.25		.03
Mucking machine operator (air)	7.615	.28	.25		.03

DECISION NO. DC77-3108

(DISTRICT OF COLUMBIA)

		Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
SEWER AND WATER LINES CONT'D						
COMPRESSED AIR: (All rates per day)						
Gauge Pressure Pounds	Work Period					
From 1 to 14	7 hours	72.74	a	b		.03
From 14 to 18	6 hours	76.08	a	b		.03
From 18 to 22	5½ hours	79.41	a	b		.03
From 22 to 26	5 hours	82.76	a	b		.03
From 26 to 32	4 hours	86.09	a	b		.03
From 32 to 38	3 hours	89.44	a	b		.03
From 38 to 44	2½ hours	92.77	a	b		.03
PILEDRIVERMEN		10.68	.80	.60		.05
PLUMBERS		11.12	1.00	1.00		.27
POWER EQUIPMENT OPERATORS:						
Backhoes, cable ways, cranes, draglines power shovels, tunnel shovels, tunnel mucking machines, derricks, 1 cu. yd. and over		8.19	.35	.35		.05
Backhoes, cableways, cranes derricks, dragline, tunnel shovels, tunnel mucking machines up to 1 cu. yd., boom cats, elevating graders, hoists, paving mixers, pile-driving engines, batch plants concrete pumps		7.94	.35	.35		.05
Trenching machines (above 8' 3")		7.74	.35	.35		.05
Backhoes (hydraulic, under ½ c.y.)		7.82	.35	.35		.05
Trenching machines (up to 8' 3"), boilers skeleton, well drilling machines		7.64	.35	.35		.05
Air compressors, tunnel		7.61	.35	.35		.05
Front end loaders (high lift), bulldozers		7.59	.35	.35		.05
Concrete mixers, power sheel scoops and scrapers, motor graders, tunnel motor men, blade graders, tunnel mechanics		7.49	.35	.35		.05

DECISION NO. DC77-3108

(DISTRICT OF COLUMBIA ONLY)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SEWER AND WATER LINES CONT'D					
Mechanics	7.47	.35	.35		.05
Bulldozer, hydraulic tampers	7.39	.35	.35		.05
Roller	7.29	.35	.35		.05
Air compressors, pump, welding machine well points	7.215	.35	.35		.05
Apprentice engineers:					
Firemen	6.75	.35	.35		.05
Truck crane oilers	6.60	.35	.35		.05
Oilers	6.55	.35	.35		.05
TRUCK DRIVERS:					
Dump trucks	6.10	.415	c		
Dump trucks over 8 wheels	6.20	.415	c		
Flat trucks	6.20	.415	c		
Trailers	6.45	.415	c		
Fuel and oil trucks	6.10	.415	c		
Euclids	6.60	.415	c		

FOOTNOTES:

a. Employer contributes $2.24 per day to Health and Welfare.

b. Employer contributes $2.00 per day to Pension.

c. $10.00 per week when employee has worked 90 days and work three days in any work week.

[FR Doc. 78-5387 Filed 3-2-78; 8:45 am]

federal register

FRIDAY, MARCH 3, 1978
PART IV

DEPARTMENT OF LABOR

Employment and Training Administration

■

VETERANS SERVICES

FY 1978 Veterans Preference Indicators of Compliance Levels

[4510-30]

Title 20—Employees' Benefits

CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION, DEPARTMENT OF LABOR

PART 653—SERVICES OF THE EMPLOYMENT SERVICE SYSTEM

Subpart C—Services for Veterans

FY 1978 VETERANS PREFERENCE INDICATORS OF COMPLIANCE LEVELS

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: These regulations are published to establish the FY 1978 levels for the veterans preference indicators of compliance, used by the Department of Labor to monitor State employment service agencies to insure that veteran applicants receive priority service.

EFFECTIVE DATE: March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Peter Rell, Director, Office of Program Review, U.S. Employment Service, Room 8324, 601 D Street NW., Washington, D.C. 20213, 202-376-6914.

SUPPLEMENTARY INFORMATION: The Department published proposed regulations for the FY 1978 compliance levels on August 26, 1977, at 42 FR 43201. Interested persons were advised to submit comments on the proposed levels until September 26, 1977. The Department received approximately twenty comments from components of the public employment service system and from veterans organizations. The most significant comments and the Department's responses thereto are listed below:

1. Several State employment service agencies commented that the proposed "enrollment in training" indicator was unfair because State agencies lack the authority and ability to enroll veterans in training. The Department has corrected this situation by substituting "referral to training" for "enrollment in training." However, no numerical levels are being set for FY 1978 because statistical data is not yet available to provide a basis for establishing levels for referrals to training. The Department plans to establish such levels for FY 1979.

2. Some commentors objected that the proposed placement floor levels were unfair, being too high for the high performing State agencies and too low for the low performing State agencies. The Department, however, believes that the proposed individualized placement floor levels are necessary to allow for differing economic conditions in different States. The Department anticipates that high performing State agencies will have little difficulty in meeting their assigned floor levels. It should also be remembered that failure to meet either the floor levels or the indicators does not automatically place a State agency into noncompliance with the standards of performance in the regulations, and that changed economic conditions may be taken into account when the Department determines whether or not a State agency is in compliance. Therefore, the placement floor levels have not been changed.

3. Three commentors contended that the proposed indicators were too complex, while one argued that they were too simple. The Department believes the indicators selected are the minimum number necessary to measure the adequacy of services to veterans. Although the Department has simplified the floor level formulas by dropping the mathematically unnecessary "×100 percent" from the left hand side of the equations, the Department has left the compliance indicator formulas unchanged because, as written, they yield easily compared percentages.

4. Some commentors objected to the exclusion of women and youth from the proposed statistical base of comparison for veterans services; that is, to the fact that the indicators compare rates of service to veterans only to rates of service to adult male nonveterans. These commentors expressed two reasons for their concern. First, they feared that State agencies will achieve their service levels on paper by maintaining current levels of service to women, youth, and veterans while decreasing service to adult male nonveterans. In this way, their level of services would measure well on the indicators despite the lack of any improvement in actual services to veterans. Second, even though women and youth do not always compete with veterans for the same jobs, they, like nonveteran men, do compete for staff time and services by the State agencies.

Although the Department believes that these arguments have some merit, two factors weigh against a change in the regulations at this time. First, because State agency funding levels depend in large part on total number of placements, the Department does not expect State agencies to risk funding cuts by lowering service levels to adult male nonveterans simply to meet the veterans preference indicators. Second, the Department believes that the evaluation of services to veterans and other target populations ought to be made on as statistically comparable a basis as possible, taking into account the significant differences in demographic characteristics among such persons and groups. It has long been recognized by evaluators that such characteristics are an important aspect of fair and equitable evaluation. A review of past characteristics of veterans and nonveterans served by the Employment Service shows age and sex to be the most important differences in the demographic characteristics of the two populations. As a result, we excluded youth and women from the nonveteran category to eliminate possible bias in the statistical comparison. In the future, the Department will review its data systems and evaluation methods to take advantage of more sophisticated methods and determine if future revisions are warranted.

5. Two commentors complained that the proposed preference indicators were unfair to those State agencies that provide all applicants, both veterans and nonveterans, with a high level of service. The Department disagrees. Although it is mathematically possible that a State agency providing a high level of service to veterans may measure poorly on the preference indicators while a low performing State agency does not, the purpose of the indicators is to encourage better service to veterans by all State agencies. It should be noted that currently only one high performing State agency does not meet the preference indicators.

6. Several commentors felt that various proposed indicators were either too high or too low. The Department drafted the proposed indicators for FY 1978 after analyzing actual performance data from FY 1976 and FY 1977. The intent was to set the indicators at a level which could be realistically achieved but which would encourage improvement by low performing State agencies. The value of this approach has been demonstrated by the fact that, over the past two years, the number of State agencies not meeting the indicators has dropped from 26 to 11. Furthermore, the Department intends to analyze this year's results carefully so that any appropriate adjustments may be made for FY 1979.

7. Several comments were made concerning the scope of reportable services with respect to the "inactivated with some reportable service" indicators. One comment pointed out that the term "reportable service" is not defined in the regulations. The Department has added a definition of this term to the regulations, based upon present practice under the Employment Service Automated Reporting System. The reference to certain call-ins as reportable services for purposes of review of veterans application files has been deleted because it is inconsistent with the definition used elsewhere in the regulations and the Automated Reporting System.

Some commentors stated that additional services should be reportable, such as registration for unemployment insurance (UI). It should be noted that many services are already reportable in the category "referral to supportive service," which shows up in the indicators as "inactivated with some reportable service." Because of the different nature of the employment service and unemployment insurance programs, however, the Department does not believe it would be appropriate to report UI registration as a service of State employment service agencies.

8. Two comments discussed the problems involved in the special preference for veterans of the Vietnam era. One comment suggested that the preference be treated as temporary and not made a permanent part of the regulations.

Another comment pointed out that the preference for the veteran of the Vietnam era will soon become nearly meaningless because of its definitional limitation to veterans submitting job applications within four years of their discharge from the military. As presently written, the special preference will soon assist only career military personnel who remained in the service both during and after the Vietnam era.

It has always been the position of the Department of Labor that Chapter 41 of Title 38, U.S. Code, contemplates a preference for veterans in employment service referrals to job and job-training opportunities. The preference for the veteran of the Vietnam era is statutory to the extent that it involves referrals to job openings which government contractors are required to list with the employment service under 38 U.S.C. 2012(a), so that any change with regard to such referrals will have to be made by Congress. With regard to the preference for veterans of the Vietnam era in other referrals, the Department has always held that it has the authority under Chapter 41 of Title 38, U.S. Code to establish reasonable preferences among different classes of veterans. Thus, for example, the Department has consistently provided for a preference for disabled over nondisabled veterans. The preference for veterans of the Vietnam era was adopted under this authority in order to implement the Congressional policy expressed in Chapter 42 of Title 38, U.S. Code, the Vietnam Era Veterans Readjustment Assistance Act of 1972. The Department does not believe it would be helpful to change this policy by administrative action at the present time. Accordingly, veterans of the Vietnam era will continue to receive preference over other veterans with respect to all job openings and training opportunities listed with the employment service.

The Department is re-printing the entire 20 CFR Part 653, Subpart C, in order to incorporate the regulatory changes made on December 28, 1976 at 41 FR 56306. In addition, a change has been made in the definition of Veterans Employment Service to indicate that the Veterans Employment Service is no longer a component of the United States Employment Service. Pub. L. 94-502, 38 U.S.C. 2002A, established within the Department of Labor the position of Deputy Assistant Secretary for Veterans' Employment. The Deputy Assistant Secretary has been located within the Employment and Training Administration. The regulations have also been changed to reflect the fact that the position of Director, Veterans Employment Service, has been abolished and the position of Deputy Assistant Secretary substituted. Pub. L. 94-502 designated the Veterans Employment Service as the staff of the Deputy Assistant Secretary. The United States Employment Service, however, retains full authority to enforce the requirements of this subpart with respect to State employment service agencies.

Finally, the definition of "disabled veteran" has been clarified to more clearly define the relationship between the terms "disabled veteran" and "special disabled veteran."

These regulations have been prepared under the direction and control of Peter Rell, Director, Office of Program Review, United States Employment Service.

Accordingly, 20 CFR Chapter V, Part 653, Subpart C, is revised to read as follows:

Subpart C—Services for Veterans

PURPOSE AND DEFINITIONS

AUTHORITY: 38 U.S.C. chapters 41 and 42; Wagner-Peyser Act, as amended, 29 U.S.C. 49 et seq.; sec. 104 of the Emergency Jobs and Unemployment Assistance Act of 1974 Pub. L. 93-567, 88 Stat. 1845.

Subpart C—Services for Veterans

PURPOSE AND DEFINITIONS

§ 653.200 Purpose and scope of subpart.

(a) This subpart contains the Department of labor's regulations for implementing 38 U.S.C. 2001-2008 (Chapter 41) which requires the Secretary of Labor to refer eligible veterans and eligible persons to employment and training opportunities through the public employment service system established pursuant to the Wagner-Peyser Act, as amended, 29 U.S.C. 49 et seq.

(b) This subpart reiterates the requirement contained in the Department of Labor's Office of Federal Contract Compliance Programs' regulation under 38 U.S.C. 2012(a) at 41 CFR 60-250.33. 41 CFR 60-250.33, paragraphs (a) and (b), require State employment service agencies to refer qualified disabled veterans and veterans of the Vietnam era on a priority basis to job openings listed with them by certain Federal contractors pursuant to 38 U.S.C. 2012(a). Section 653.221(a)(7)(i), moreover, goes beyond the requirement of 41 CFR 60-250.33 by requiring State agencies to give priority in referral to qualified disabled veterans and veterans of the Vietnam era with respect to all job openings listed with the State agency's local offices.

(c) This subpart references the Department of Labor's Office of Federal Contract Compliance Programs' regulations under 38 U.S.C. 2012(b) at 41 CFR 60-250.26. That regulaltions provides that disabled veterans and veterans of the Vietnam era may file with Local Veterans' Employment Representatives complaints alleging violations of 38 U.S.C. 2012 or of the Department's regulations at 41 CFR Part 60-250.41 CFR 60-250.26 also sets forth the procedures for handling such complaints.

(d)(1) This subpart partially implements section 104 of the Emergency Jobs and Unemployment Assistance

Act of 1974, Pub. L. 93-567, 88 Stat. 1845. Sec. 104 of that Act requires the Secretary of Labor, in consultation and cooperation with the Administrator of Veterans' Affairs and the Secretary of Health, Education, and Welfare, to provide for an outreach and public information program to produce jobs and training opportunities for all persons who were discharged from the Armed Forces within four years of the date they apply for such jobs or job training.

(2) The Department has also implemented section 104 of the Emergency Jobs and Unemployment Assistance Act of 1974 in the regulations under the Comprehensive Employment and Training Act (CETA) at 29 CFR Parts 94-99.

(3) The Secretary has also implemented section 104 of the Emergency Jobs and Unemployment Assistance Act of 1974 by Secretary's Order 17-76, which establishes within the Department of Labor a Secretary's Committee on Veterans' Affairs, and which assigns to the Committee the following functions:

(i) Serving as the principal advisory and coordinating group to the Secretary of Labor on matters affecting veterans;

(ii) Consulting with and providing guidance to the appropriate DOL Agencies and the DOL Program and Budget Review Committee (PBRC) [reconstituted as the Management Review Committee by Secretary's Order 3-77] on the formulation, implementation and redirection of departmental policies and programs as they affect veterans, especially in the areas of unemployment, job training, employment and reemployment;

(iii) Reviewing the operational effectiveness of departmental plans and programs affecting veterans;

(iv) Facilitating DOL executive-level communications on veterans' affairs within the Department and with other governmental agencies, veterans' organizations, labor, management, and the Congress;

(v) Reviewing and suggesting research essential to the implementation of effective departmental programs on behalf of veterans; and

(vi) Coordinating the preparation of any reports to the Congress concerning veterans' affairs which involve the activities of more than one DOL agency.

(e)(1) This subpart also implements 38 U.S.C. Chapter 42 in that:

(i) Title IV of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 amended 38 U.S.C. Chapter 41, section 2007 by adding a new subsection (b) which states:

> The Secretary of Labor shall establish definitive performance standards for determining compliance by State public employment agencies with the provisions of this chapter and chapter 42 of this title. A full report as to the extent and reasons for any noncompliance by any such State agency during any fiscal year, together with the agency's plan for corrective action during the succeeding year, shall be included in the annual report of the Secretary of Labor required by subsection (c) of this section; and

(ii) Title VI of the Veterans' Education and Employment Assistance Act of 1976 amended 38 U.S.C., Chapter 42, section 2012, by adding a new subsection (c) which states:

> The Secretary shall include as part of the annual report required by section 2007(c) of this title the number of complaints filed pursuant to subsection (b) of this section [2012], the actions taken thereon, and the resolutions thereof. Such report shall also include the number of contractors listing suitable employment openings, the nature, types, and number of positions listed and the number of veterans receiving priority pursuant to subsection (a)(2) of this section.

(2) Since section 2012 of 38 U.S.C. Chapter 42 places responsibilities on State employment service agencies, this subpart prescribes performance standards for such agencies. The Department has also prescribed regulatory standards under 38 U.S.C. 2012 for such agencies at 41 CFR Part 60-250.

(f) This subpart references section 205(c)(5) of the Comprehensive Employment and Training Act of 1973 (CETA), as amended, 29 U.S.C. 801 et seq. Section 205(c)(5) requires that applicants for public service employment funds under Title II of CETA must provide the Department of Labor with assurances that they will give special consideration to certain unemployed veterans who served in the Armed Forces in Indochina or Korea on or after August 5, 1964. (See 29 CFR 94.4(zz).)

§ 653.201 Definitions of terms used in subpart.

"Administrator, United States Employment Service (Administrator)" shall mean the chief official of the United States Employment Service (USES).

"Assistant Veterans' Employment Representative (AVER)" shall mean a Federal employee who is designated as an assistant to a State Veterans' Employment Representative (SVER).

"Deputy Assistant Secretary for Veterans Employment (DASVE)" shall mean the Department of Labor official who is the chief official of the Veterans Employment Service.

"Disabled Veteran" shall mean either: (1) a person entitled to disability compensation under laws administered by the Veterans Administration for a disability rated at less than 30 per centum, or (2) a person who is a "special disabled veteran" as defined in this section. (Note: special disabled veterans are a subcategory of disabled veterans. Persons who are special disabled veterans, therefore, are one kind of disabled veterans, but they shall be designated as special disabled veterans for application and referral purposes.)

"Eligible person" shall mean: (1) The spouse of any person who died of a service-connected disability; or (2) The spouse of any member of the armed forces serving on active duty who, at the time of application for assistance under this subpart, is listed, pursuant to 37 U.S.C. 556 and the regulations issued thereunder, by the Secretary concerned, in one or more of the following categories and has been so listed for a total of more than 90 days: (i) Missing in action, (ii) captured in line of duty by a hostile force, or (iii) forcibly detained or interned in line of duty by a foreign government or power; or

(3) The spouse of any person who has a total disability permanent in nature resulting from a service-connected disability or the spouse of a veteran who died while a disability so evaluated was in existence.

"Eligible veteran" shall mean a person who served in the active military, naval or air service and who was discharged or released therefrom with other than a dishonorable discharge.

"Local Veterans' Employment Representative (LVER)" shall mean an official in a local office of a State employment service agency, designated by the State Director to serve veterans and eligible persons pursuant to this subpart.

"Regional Administrator (RA)" shall mean the chief official of the Employment and Training Administration in each Department of Labor region.

"Regional Veterans' Employment Representative (RVER)" shall mean the Federal official designated by the DASVE, in each Department of Labor regional office who serves veterans and eligible persons pursuant to this subpart. The RVER shall report to, be responsible to, and be under the administrative direction of the DASVE. In addition, the RVER shall report to, be responsible to, and be under the operational direction of the RA.

"Reportable service" shall mean counseling, job development, referral to a job, referral to training, enrollment in training, referral to supportive services, testing, and placement.

"Special disabled veteran" shall mean a person entitled to disability compensation under laws administered by the Veterans Administration for a disability rated at 30 per centum or more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in line of duty.

"State Veterans' Employment Representative (SVER)" shall mean a Federal official, designated by the DASVE, who, under the RVER, serves

the employment needs of veterans and eligible persons in a particular State pursuant to this subpart.

"United States Employment Service (USES)" shall mean the component of the Employment and Training Administration of the Department of Labor, established under the Wagner-Peyser Act of 1933 to coordinate a national system of public employment service agencies.

"Veteran" shall mean "eligible veteran", "disabled veteran", "special disabled veteran", and "Veteran of the Vietnam era".

"Veteran of the Vietnam era" shall mean a person (1) who (i) served on active duty for a period of more than 180 days, any part of which occurred during the Vietnam era (August 5, 1964 through May 7, 1975) and was discharged or released therefrom with other than a dishonorable discharge, or (ii) was discharged or released from active duty for a service-connected disability if any part of such active duty was performed during the Vietnam era, and (2) who was so discharged or released within the 48 months preceding the person's application for employment under this subpart.

"Veterans Employment Service (VES)" shall mean the organizational component within the Employment and Training Administration which is concerned with policies and services relating to employment development on behalf of veterans and eligible persons.

FEDERAL ADMINISTRATION

§ 653.210 Role of the Administrator.

The Administrator, USES, shall have overall responsibility for administering this subpart and for monitoring, in coordination with other ETA components, State agency compliance with the regulations under this subpart.

§ 653.211 Role of the Veterans Employment Service (VES).

(a) The Deputy Assistant Secretary for Veterans Employment (DASVE) shall monitor and evaluate the performance of the State agencies under this subpart. The DASVE shall make every effort, in coordinaition with the Veterans Administration, Department of Health, Education, and Welfare, other Federal and State agencies, educational institutions, unions, veterans organizations, and community groups to produce job and training opportunities for veterans and eligible persons through Department of Labor administered programs relating to unemployment, job training, and employment.

(b) The DASVE shall have a VES field staff comprised of Regional Veterans' Employment Representatives (RVERs), State Veterans' Employment Representatives (SVERs), and assistants to the SVERs (AVERs) and their staffs. RVERs, SVERs and AVERs shall provide functional supervision, guidance and assistance to the State agencies pursuant to this subpart.

§ 653.212 Role of the Regional Administrator (RA).

Each RA shall have overall responsibility in the region for administering this subpart and for monitoring State agency compliance with the regulations under this subpart.

§ 653.213 Assignment and role of Regional Veterans' Employment Representatives (RVERs).

(a) The DASVE shall assign an RVER to each Employment and Training Administration (ETA) regional office. Every RVER shall be an eligible veteran, who shall be appointed pursuant to the provisions of 5 U.S.C. which govern appointments in the Federal competitive service, and who shall be paid pursuant to the provisions of 5 U.S.C. Chapter 51, and Chapter 53 of subchapter III.

(b) An RVER shall be stationed in each ETA regional office. The RVER shall be a member of the ETA regional executive staff.

(c) The RVER shall provide advice and expertise to the RA on matters relating to ETA services to veterans and eligible persons. The RVER shall also:

(1) Supervise the activities of all VES field staff within the region;

(2) Provide support for, and assist in the coordination of, all ETA policies and programs as they affect veterans, especially policies and programs relating to unemployment, job training, and employment by:

(i) Providing direction and support to SVERs and AVERs;

(ii) Reviewing SVER and other findings regarding State agency compliance with the regulations under this subpart and recommending appropriate corrective action to the RA;

(iii) Assisting other ETA regional office staff in the coordination of ETA employment and training programs as they affect veterans;

(iv) Coordinating within the region ETA activities relating to veterans' services with other agencies and organizations, such as the Department of Defense, the Veterans Administration, the U.S. Civil Service Commission, the President's Committee on Employment of the Handicapped, the Office of Vocational Rehabilitation and other Department of Health, Education, and Welfare agencies, labor unions, veterans organizations, employers and community organizations;

(v) Cooperating with the Employment Standards Administration of the Department of Labor in the resolution of complaints by veterans under the Department's regulations at 41 CFR Part 60-250; and

(vi) Monitoring and assessing unemployment, job training, employment and other services to veterans under ETA regulations.

(3) Monitor and evaluate State agency performance under this subpart by:

(i) Reviewing and analyzing monthly, quarterly and annual reports required by ETA data systems. RVERs shall compare actual services to veterans by each State agency by comparing the statistics generated by the veterans preference indicators of compliance set forth in § 653.230 against the performance standards set forth at § 653.221-26; and

(ii) With input from SVERs as appropriate, assisting the RA in conducting that portion of periodic and special reviews of State agency performance pertaining to the provision of services to veterans.

§ 653.214 Assignment and role of State Veterans' Employment Representatives (SVERs).

(a) A representative of the VES shall be assigned to each State agency to serve as the State Veterans' Employment Representative (SVER). One Assistant Veterans' Employment Representative (AVER) shall be assigned to each State agency per each 250,000 eligible veterans and eligible persons in the State population and additional AVERs shall be assigned whenever the data collected under this subpart indicates that additional AVERs are necessary.

(b) Each SVER and AVER shall be an eligible veteran, who, at the time of appointment, shall have been a bona fide resident of the State for at least 2 years, and shall be appointed pursuant to the provisions of 5 U.S.C. which govern appointments to the Federal competitive service, and who shall be paid pursuant to the provisions of 5 U.S.C. Chapter 51 and Chapter 53, subchapter III.

(c) The SVER, AVERs, and their VES Federal support staff shall be attached to the State office staff of the State agency to which they are assigned.

(d) Under the direction and supervision of the RVER, and in cooperation with the State agency staff and the staffs of other ETA funded employment and training programs in the State, the AVERs and SVER shall:

(1) Provide support and assist in coordination all ETA policies and all ETA funded programs in the State as they affect veterans and eligible persons, especially policies and programs relating to unemployment, job training, and employment.

(2) Functionally supervise services to veterans by the State agency. Functional supervision shall consist of assisting State agency personnel in carrying out services to veterans and eli-

gible persons and evaluating their performance. Functional supervision shall entail providing technical assistance, making suggestions for improvement of services, helping to plan programs and projects, checking for compliance with ETA regulations affecting veterans, helping to correct errors by working with local and State staffs, analyzing work as it affects veterans and eligible persons, training new State agency employees and providing refresher courses for State agency staff, bringing matters which require corrective action to the attention of those State agency personnel who have authority over policy, procedures and staff. Functional supervision does not authorize an SVER or AVER to hire, fire, discipline or issue directives to State agency employees. Nor does it authorize an SVER or AVER to make regulations, change procedures or establish policies for the State agency without specific authority from the State agency;

(3) Engage in job development and job advancement activities on behalf of veterans and eligible persons, including coordination with the Veterans Administration in its carrying out of the Veterans Outreach Services Program under subchapter IV of chapter 3 of 38 U.S.C., and including the conduct of job fairs, job marts and other special programs to match veterans and eligible persons with appropriate job and job-training opportunities;

(4) Assist in securing and maintaining current information on available employment and training opportunities, using, when feasible, electronic data processing and telecommunications systems, and in matching veteran and eligible persons applicants' qualifications with available jobs, training and apprenticeship opportunities;

(5) Promote the interest of employers and labor unions in employing and in conducting on-the-job training and apprenticeship programs for veterans and eligible persons;

(6) Maintain regular contact with employers, labor unions, training program sponsors and veterans organizations to keep them advised of veterans and eligible persons who are available for employment and training;

(7) Keep veterans and eligible persons advised of opportunities for employment and training; and

(8) Coordinate, in conjunction with the RVER as appropriate, ETA activities relating to veterans services within the State with the activities of other agencies and organizations such as the Veterans Administration, the Department of Defense, the U.S. Civil Service Commission, The Department of Health, Education, and Welfare, State agencies such as Vocational Rehabilitation agencies, Governors Committees on Employment of the Handicapped, and unions, veterans organizations, employer associations and other community groups.

(9) Monitor and evaluate State agency performance under this subpart using local office and State agency reports including:

(i) Monthly, quarterly and annual reports of actual activity levels generated by required data systems;

(ii) Reports generated by the State agency Self-Appraisal System; and

(iii) Internal reports prepared by State agency staffs such as field supervisory, technical assistance and research staffs.

(10) Compare actual services to veterans and eligible persons against the standards for State agency performance set forth at § 653.221–26.

(11) Conduct periodic onsite reviews of local offices to assess their performance under this subpart. Such reviews shall include detailed, comprehensive analyses of all local office activities related to serving veterans and eligible persons, and spot-checks of particular local offices to validate information the SVER has obtained through the State agency Self-Appraisal System, regular data systems, field supervisors, technical staff or otherwise. The SVER shall review the performance of large local offices at least once each fiscal year on a formal, comprehensive, in-depth basis, and shall periodically review smaller local offices which evidence problems in providing services to veterans and eligible persons pursuant to this subpart until the problems are resolved.

Standards of Performance Governing State Agency Services to Veterans and Eligible Persons

§ 653.220 Standards of performance.

Sections 653.221–226 set forth the standards of performance governing services to veterans and eligible persons which must be met by the State employment service agencies.

§ 653.221 Standards of performance governing State agency services.

(a) Each State agency shall assure that all of its local offices, using LVERs and other staff, offer the following services to all veterans and eligible persons:

(1) *Registration.* Local offices shall encourage all veterans and eligible persons to file complete applications for appropriate job or training opportunities by explaining the services they may expect to receive on the filing of a full application. Local offices, however, may take partial applications for veterans and eligible persons if they are job attached, or if they are on strike or layoff and expecting to return to work unless such applicants request the opportunity to file full applications. Local offices may also take partial applications on veteran and eligible person applicants who say they do not wish to file full applications after the benefits of filing a full application have been explained to them.

(2) *Interviewing.* As appropriate, local offices shall interview veterans and eligible persons on a priority basis to review and analyze the information on their application cards, to assure that all of the applicants' qualifications for employment are adequately presented, to determine any need for employment counseling, to evaluate the occupationally significant facts about the applicants, and to select suitable job choices and job-finding techniques.

(3) *Counseling.* As appropriate, qualified local office staff shall discuss with veteran and eligible person applicants on a priority basis their present and potential qualifications for work, alternative vocational choices, and occupational requirements to assist them in formulating a plan to achieve their occupational and/or training goals. As appropriate, the counselors shall also provide such applicants with assistance in solving problems relating to the obtaining or holding of jobs.

(4) *Testing.* As appropriate, qualified local office staff shall administer objective aptitude and proficiency tests to veteran and eligible person applicants on a priority basis.

(5) *Referral to supportive services.* As appropriate, local offices shall refer veteran and eligible person applicants on a priority basis to supportive services available in the community such as medical, legal aid, child care and transportation assistance, which are likely to assist them to obtain employment and/or training.

(6) *Job development.* As appropriate, local offices shall attempt to develop job openings for veteran and eligible person applicants on a priority basis through employer contacts and otherwise whenever suitable job openings are not available in local office files. Such efforts shall include attempts to foster the elimination of hiring requirements not related to job performance.

(7) *Job and training referral.* (i) Whenever there is more than one applicant qualified for a job opening, including a job opening listed under the mandatory listing requirement of 38 U.S.C. 2012, or for a training opportunity, local offices, except as provided in paragraph (a)(7)(ii) of this section, shall observe the following order of priority in making referrals to the job openings or training opportunity:

(A) Qualified special disabled veterans;

(B) Qualified veterans of the Vietnam era;

(C) Qualified disabled veterans other than special disabled veterans;

(D) All other qualified veterans and eligible persons;

(E) Qualified nonveterans.

(ii) Whenever a State agency or a local office is a subgrantee or contractor under the Comprehensive Employment and Training Act (CETA) or Title IV of the Social Security Act (Work Incentive (WIN) Program), the local office shall refer veterans to job and training opportunities under those programs in accordance with the CETA regulations at 29 CFR Parts 94–99 or the WIN regulations at 29 CFR Part 56.

(b) State agencies shall:

(1) Establish outreach programs designed to make veterans and eligible persons aware of the ES services available to them. Such programs shall include contact with veterans organizations, Veterans Administration facilities, military bases, military hospitals and other appropriate organizations. The State agency public information program shall develop and disseminate labor market information to assist veterans and eligible persons in job search activities, using public service announcements in the media as appropriate.

(2) Provide special designation, filing and retrieval procedures in each local office to readily identify veteran and eligible person applications and to monitor the provision of services to veteran and eligible person applicants on a priority basis. Separate special designation shall also be given to applications of disabled veterans.

(c) Local offices shall review veteran and eligible person applications each 30 calendar days and, if no reportable service has been recorded during the previous 30 calendar days, shall, if possible, determine each applicant's current status and desire for further ES assistance by telephone, visit, or mail. If further assistance is desired by the applicant, the local office shall initiate reportable services as appropriate. All reportable services given shall be noted on the applicant's application card.

(d) Local offices shall assure that the applications of veterans and eligible persons are not automatically inactivated in accordance with normal procedures without the following special review:

(1) Identification of the applications of veterans and eligible persons scheduled for inactivation;

(2) A file search for their records; and evidence that warrants inactivation such as placement in a job or training opportunity, an explicit request from an applicant to inactivate an application, notice that applicant has moved out of the local office jurisdiction, etc. If inactivation is scheduled but not warranted, appropriate reinstatement actions should be taken.

(e) Whenever feasible, local offices shall refer qualified veterans and eligible applicants within two working days after they file their applications to job opportunities developed under the mandatory listing requirement of the Department's regulations at 41 CFR Part 60–250, under the Comprehensive Employment and Training Act (CETA), or contained in Job Bank listings. If necessary, local office hours and staff working schedules shall be adjusted so that this requirement can be met.

§ 653.222 Performance standard on facilities for VES staff.

Each State agency shall provide adequate and appropriate facilities including office space, furniture, telephone, etc. to the SVER, AVERs and VES support staff attached to the State agency.

§ 653.223 Performance standards on reporting.

(a) State agencies shall provide RVERs, SVERs, and AVERs with access to regular and special internal State agency reports which relate in whole or in part with services to veterans and/or eligible persons.

(b) No special reporting requirements are established by this subpart. Existing reporting systems include information on services to veterans and eligible persons and shall be used by ETA and the State agencies to administer the provisions of this subpart. ETA, however, may require special reports from State agencies from time to time.

§ 653.224 Performance standards governing the assignment and role of Local Veterans' Employment Representatives (LVERs).

(a) At least one member of each State agency staff, preferably an eligible veteran, shall be assigned by the State Director as a full-time Local Veterans' Employment Representative (LVER) to every local office which:

(1) Has had 1,000 new and renewal applications from veterans and eligible persons during the last Federal fiscal year; or

(2) Has a total of 6,000 veterans and eligible persons in the local office administrative area population.

(b) The State Director may:

(1) Assign additional full-time LVERs to local offices described in paragraph (a) of this section based on the State Director's determination of need; and

(2) Assign less than full-time LVERs to local offices described in paragraph (a) of this section if a lack of need for a full-time LVER is documented to the satisfaction of the DASVE, as evidenced by the written approval of the DASVE.

(c) The State Director shall assign LVERs on a part-time basis to local offices other than those described in paragraph (a) of this section. State Directors shall assure that periodic evaluations are made to determine the adequacy of services provided to veterans and eligible persons, and if necessary, they shall reallocate the time devoted to serving veterans and eligible persons by, for example, assigning additional fulltime LVERs.

(d) Each LVER shall discharge, at the local office level, the duties prescribed for the SVER in paragraph (d) of § 653.214. The LVER may also be delegated line supervision over veterans units, assistant LVERs and veteran aides and may be assigned direct duties with respect to services for veterans and eligible persons by the local office manager.

(e) Each LVER shall be administratively responsible to the local office manager and shall provide functional supervision over all local office services to veterans and eligible persons. The term "functional supervision" as used in this paragraph shall mean evaluating local office personnel in their performance of services to veterans and eligible persons and assisting them to carry out these services more effectively.

(1) Functional supervision entails providing technical assistance, making suggestions for the improvement of services, helping to plan programs, initiating projects, checking for compliance with regulations, helping to correct errors by working with local office staff, analyzing work as it affects veterans and eligible persons, training new local office employees, providing refresher courses for other staff, and assisting all local office personnel to improve services to veterans and eligible persons. It also involves the bringing of matters which the LVER believes require corrective action to the attention of the local office manager and other officials who have line authority to set or change policy and procedure and to supervise staff.

(2) Functional supervision does not entail the right to hire, fire, or discipline any local office employee. Nor does it authorize an LVER to make regulations, change procedures or establish policies for the local office without specific authority from the local office manager.

§ 653.225 Standards of performance governing State agency cooperation and coordination with other agencies and organizations interested in the employment development of veterans and eligible persons.

(a) Each State agency shall establish cooperative working relationships with the Veterans Administration (VA) office serving the State to maximize the use of VA training programs for veterans and eligible persons, particularly on-the-job and other skill training. Such working relationships should provide for the exchange of informa-

tion on available training opportunities and on veterans and eligible persons available to be trained, the placing of job orders with the ES by employers who provide VA-approved on-the-job training, the referral of veterans and eligible persons to such job openings, and joint ES-VA programs to aid VA field staff in providing assistance to employers with VA programs. Each State agency should develop a written agreement with its VA counterpart covering areas of mutual concern and delineating each agency's areas of responsibility.

(b) Each State agency shall develop cooperative arrangements with public agencies and other organizations who are sponsors of programs under the Comprehensive Employment and Training Act of 1973 (CETA). State agencies shall make their staffs aware of the fact that, under section 205(c)(5) of the Comprehensive Employment and Training Act, sponsors of public service employment programs under Title II of that Act are required to make special efforts to acquaint veterans with the public service jobs available under Title II of CETA and to coordinate their efforts on behalf of veterans with ES activities under this subpart.

§ 653.226 Standards of performance governing complaints of veterans and eligible persons.

(a) Any veteran or eligible person may file a complaint with the LVER. The LVER shall handle the complaint in accordance with the provisions of Subpart E of Part 658 of this chapter except that, if the complaint relates to the responsibilities of an employer under 38 U.S.C. 2012, the LVER shall follow the Department's complaint procedures set forth at 41 CFR Parts 60-250.

(b) Each local office shall have information on the complaint system available to veterans and eligible persons at all times, and shall display a poster which advises applicants about the system.

FEDERAL MONITORING OF STATE AGENCY COMPLIANCE

§ 653.230 Veterans preference indicators of compliance.

(a) To help in determining whether the standards of performance set forth in §§ 653.221-226 are being met, the ETA shall use the floor levels and the veterans preference indicators of compliance set forth in this section to compare the level of services provided to veterans and eligible persons with the level of services provided to nonveterans.

(b) The term "applicants" as used in this section shall mean individuals who filed or renewed job applications during the fiscal year. To improve statistical comparability, the term "nonveteran" as used in this section shall not include women and persons 19 years of age or younger. The term "veteran" as used in this section, shall include eligible persons. The term "disabled veteran", as used in this section, shall include "special disabled veteran".

(c) To prevent State agencies, which are actually performing at low levels of accomplishment, from mathematically appearing, according to the veterans preference indicators of compliance, to be doing well, the ETA shall establish a floor (minimum) level of expected accomplishment for each State for each reportable service for each Federal fiscal year. Each year ETA shall consider each State agency's past year's accomplishments as a major factor in establishing the floor level of accomplishment for the next Federal fiscal year. Computation of the floor levels shall also be based on external and other appropriate factors.

(1) The floor levels shall be stated as the ratio of veteran individuals served to the number of veterans applying for service, rather than the number of veterans served, to avoid the difficulties associated with establishing absolute numbers under varying conditions, time periods, and locations. The floor levels of accomplishment for FY 1978 shall be as follows:

(i) A minimum of 6 percent of those veterans applying for service shall be counseled.

Veterans Counseled/Veteran Applicants=6 percent.

(ii) A minimum of 1.5 percent of all veteran applicants shall be referred to in training.

Veterans Referred to Training/Veteran Applicants=1.5 percent.

(iii) A minimum of 7.5 percent of all veteran applicants shall be provided job development.

Veteran Job Development Contacts/Veteran Applicants=7.5 percent.

(iv) A minimum of (individual State values) percent of all veteran applicants shall be placed in jobs.

Veteran Applicants Placed/Veteran Applicants=(see list below for State values).

(v) A minimum of (individual State values) percent of all veteran applicants shall be inactivated with some reportable service.

Veteran Applicants Inactivated With Some Service/Veteran Applicants=(see list below for State values).

	(iv) Percent	(v) Percent
Reg. I (Boston):		
Connecticut	9	36
Maine	23	50
Massachusetts	11	30
New Hampshire	20	39
Rhode Island	14	38
Vermont	20	45
Reg. II (New York):		
New Jersey	14	39
New York	14	40
Puerto Rico	8	34
Reg. III (Philadelphia):		
Delaware	8	29
District of Columbia	12	26
Maryland	10	26
Pennsylvania	14	26
Virginia	17	39
West Virginia	19	39
Reg. IV (Atlanta):		
Alabama	23	37
Florida	23	49
Georgia	20	40
Kentucky	23	42
Mississippi	23	51
North Carolina	22	41
South Carolina	18	42
Tennessee	19	40
Reg. V (Chicago):		
Illinois	14	31
Indiana	15	37
Michigan	12	26
Minnesota	17	29
Ohio	12	34
Wisconsin	18	34
Reg. VI (Dallas):		
Arkansas	23	44
Louisiana	23	42
New Mexico	23	46
Oklahoma	23	51
Texas	23	51
Reg. VII (Kansas City):		
Iowa	23	51
Kansas	23	51
Missouri	20	33
Nebraska	23	51
Reg. VIII (Denver):		
Colorado	17	49
Montana	23	51
North Dakota	23	51
South Dakota	23	51
Utah	20	42
Wyoming	23	51
Reg. IX (San Francisco):		
Arizona	20	40
California	16	39
Hawaii	15	24
Nevada	18	32
Reg. X (Seattle):		
Alaska	23	39
Idaho	23	50
Oregon	22	39
Washington	17	38

(2) Only after a State agency meets three of its five expected levels of accomplishment—one of which must be the floor level for placement—shall the veterans' indicators be applied.

(d) The ETA shall compare the level of State agency services for veterans versus that for nonveterans by examining rates of service rather than the numbers of persons served to compensate for the differing sizes of comparison groups and to avoid the difficulties associated with establishing absolute numbers under varying conditions, time periods and locations. In addition, the two groups, veterans and nonveterans, shall be compared after adjustments for demographic and other appropriate characteristics to make them as comparable as possible within the limitations of available data systems.

(e) ETA shall establish numerical values for the veterans preference indicators of compliance for each Federal fiscal year for:

(1) Veterans versus nonveterans;

(2) Veterans of the Vietnam era versus nonveterans; and

(3) Disabled veterans versus nonveterans.

(f) Veterans preference indicators of compliance for service to all veterans shall be stated as follows:

(1) The ratio of veteran applicants counseled to the total number of veteran applicants shall exceed the ratio of nonveteran applicants counseled to the total number of nonveteran applicants by at least 25 percent.

Veteran's counseled/Veteran applicants÷Nonveterans counseled/Nonveteran applicants−1.00=25 percent.

(2) The ratio of veteran applicants referred to training to the total number of veteran applicants shall exceed the ratio of nonveteran applicants referred to training to the total number of nonveteran applicants by at least 5 percent.

Veterans referred to training/Veteran applicants÷Nonveterans referred to training/Nonveteran applicants−1.00=5 percent.

(3) The ratio of job development contacts made for veterans to the total number of veteran applicants shall exceed the ratio of job development contacts made for nonveterans to the total number of nonveteran applicants by at least 50 percent.

Job development contacts for veterans/Veteran applicants÷Job development contacts for nonveterans/Nonveteran applicants−1.00=50 percent.

(4) The ratio of veteran applicants placed in jobs to the total number of veteran applicants shall exceed the ratio of nonveteran applicants placed in jobs to the total number of nonveteran applicants by at least 10 percent.

Veterans placed/Veteran applicants÷Nonveterans placed/Nonveteran applicants−1.00=10 percent.

(5) The ratio of veteran applicants inactivated with some service to the total number of veteran applicants shall be more than the ratio of nonveteran applicants inactivated with some service to the total number of nonveteran applicants by at least 15 percent.

Veterans inactivated with some service/Veteran applicants÷Nonveterans inactivated with some service/Nonveteran applicants−1.00=15 percent.

(g) Veterans preference indicators of compliance for service to veterans of the Vietnam era are as follows:

(1) The ratio of Vietnam-era veteran applicants counseled to the total number of Vietnam-era applicants shall exceed the ratio of nonveteran applicants counseled to the total number of nonveteran applicants by at least 35 percent.

Vietnam-era veterans counseled/Vietnam-era veteran applicants÷Nonveterans counseled/Nonveteran applicants−1.00=35 percent.

(2) The ratio of Vietnam-era veteran applicants referred to training to the total number of Vietnam-era veteran applicants shall exceed the ratio of nonveteran applicants referred to training to the total number of nonveteran applicants by at least 10 percent.

Veternam-era veterans referred to training/Vietnam-era veteran applicants÷ Nonveterans referred to training/Nonveteran applicants−1.00=10 percent.

(3) The ratio of job development contacts made for Vietnam-era veterans to the total number of Vietnam-era veteran applicants shall exceed the ratio of job development contacts made for nonveterans to the total number of nonveteran applicants by at least 60 percent.

Job development contacts for Vietnam-era veterans/Vietnam-era veteran applicants÷Job development contacts for nonveterans/Nonveteran applicants−1.00=60 percent.

(4) The ratio of Vietnam-era veteran applicants placed in jobs to the total number of Vietnam-era veteran applicants shall exceed the ratio of nonveteran applicants placed in jobs to the total number of nonveteran applicants by at least 15 percent.

Vietnam-era veterans placed/Vietnam-era veteran applicants÷Nonveterans placed/Nonveteran applicants−1.00=15 percent.

(5) The ratio of Vietnam-era veteran applicants inactivated with some service to the total number of Vietnam-era veteran applicants shall be more than the ratio of non-veteran applicants inactivated with some service to the total number of nonveteran applicants by at least 20 percent.

Vietnam-era veterans inactivated with some service/Vietnam-era veteran applicants÷Nonveterans inactivated with some service/Nonveteran applicants−1.00=20 percent.

(h) Veterans preference indicators of compliance for service to disabled veterans are as follows:

(1) The ratio of disabled veteran applicants counseled to the total number of disabled veteran applicants shall exceed the ratio of nonveteran applicants counseled to the total number of nonveteran applicants by at least 100 percent.

Disabled veterans counseled/Disabled veteran applicants÷Nonveterans counseled/Nonveteran applicants−1.00=100 percent.

(2) The ratio of disabled veteran applicants referred to training to the total number of disabled veteran applicants shall exceed the ratio of nonveteran applicants enrolled in training to the total number of nonveteran applicants by at least 15 percent.

Disabled veterans referred to training/Disabled veteran applicants÷Nonveterans referred to training/Nonveteran applicants−1.00=15 percent.

(3) The ratio of job development made for disabled veterans to the total number of disabled veteran applicants shall exceed the ratio of job development contacts made for nonveterans to the total number of nonveteran applicants by at least 75 percent.

Job development contacts for disabled veterans/Disabled veteran applicants÷Job development nonveterans/Nonveteran applicants−1.00=75 percent.

(4) The ratio of disabled veteran applicants placed in jobs to the total number of disabled veteran applicants shall exceed the ratio of nonveteran applicants placed in jobs to the total number of nonveteran applicants by at least 20 percent.

Disabled veterans placed/Disabled veteran applicants ÷ Nonveterans placed/Nonveteran applicants −1.00=20 percent.

(5) The ratio of disabled veteran applicants inactivated with some service to the total number of disabled veteran applicants shall exceed the ratio of nonveterans inactivated with some service to the total number of nonveteran applicants by at least 25 percent.

Disabled veterans inactivated with some service/Disabled veteran applicants ÷ Nonveterans inactivated with some service/Nonveterans applicants −1.00=25 percent.

(i) The veterans preference indicator of compliance for State agency action under the mandatory job listing requirements of 38 U.S.C. 2012 shall be: The ratio of the total number of veterans of the Vietnam era and special disabled veterans placed in mandatory listing job openings to total number of individuals placed in manadatory listing job openings shall exceed 7 percent.

(j) Following analysis of the past fiscal year's accomplishments, the numerical value for each of the veterans preference compliance indicators for the next fiscal year will be published in the FEDERAL REGISTER as amendments to paragraphs (f)-(i) of this section.

(k) State agency performance under this subpart shall be reviewed on a quarterly basis by the ETA regional offices during the conduct of regular Operational Planning and Review System (OPRS) reviews. In addition, State agency performance under this subpart shall be formally reviewed by the ETA national office on an annual basis using the floor levels of accomplishment and the veterans preference indicators of compliance. The full results of these reviews shall be incorporated into the Secretary's annual report to the Congress. In order to meet the indicators of compliance, a State agency must:

(1) Meet the placement and any two of the remaining four floor levels of accomplishment at paragraph (c) of this section; and

(2) Meet 10 of the 19 veterans preference indicators of compliance at paragraphs (f)-(i) of this section, giving each of the three placement indicators double weight. ETA shall con-

sider failure to meet either of these conditions as evidence that the State agency is not complying with the performance standards at § 653.221–226. Such State agencies shall be required to provide documentary evidence to the ETA that their failure is based on good cause. If good cause is not shown, the ETA, pursuant to Subpart H of Part 658 of this chapter, shall formally designate the State agency as out of compliance, shall require it to submit a corrective action plan for the following Federal fiscal year, and may take other action against the State agency pursuant to Subpart H of Part 658 of this chapter.

(1) Even though a State agency veterans' services statistics, including the floor levels of accomplishment and the veterans preference indicators of compliance, indicate adequate services to veterans, the ETA may take corrective action against a State agency pursuant to Subpart H of Part 658 of this chapter if other information comes to the attention of the ETA which indicates that a State agency is not complying with the requirements of this subpart.

§ 653.231 Secretary's annual report to Congress.

(a) The Secretary shall report, after the end of each Federal fiscal year, on the success of the Department and the State agencies in carrying out the provisions of this subpart. The report shall include, by State:

(1) The number of recently discharged or released eligible veterans, disabled veterans, other eligible veterans and eligible persons who requested assistance through the State agency; and

(2) Of the categories set forth in paragraph (a)(1) of this section, the number placed in employment, placed in job-training opportunities, or otherwise assisted.

(b) The report shall include any determinations that:

(1) A State agency demonstrated a lack of need for assigning a full-time LVER in accordance with § 653.224(b)(2); and

(2) Funds made available under the prior year's appropriations Act were not needed for carrying out the purposes of this subpart.

(c) The report shall include a designation of State agencies which ETA formally designated as out of compliance pursuant to § 653.230(k) with the standards of performance set forth in this subpart along with those agencies' plans for corrective action during the succeeding Federal fiscal year.

Signed at Washington, D.C., this 23rd day of February 1978.

F. RAY MARSHALL,
Secretary of Labor.

[FR Doc. 78-5397 Filed 3-2-78; 8:45 am]

federal register

FRIDAY, MARCH 3, 1978
PART V

DEPARTMENT OF LABOR

Employment and Training Administration

■

Preference in Federal Procurement Under Defense Manpower Policy DMP–4A and Executive Order

[4510-30]

Title 20—Employees' Benefits

CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION, DEPARTMENT OF LABOR

PREFERENCE IN FEDERAL PROCUREMENT UNDER DEFENSE MANPOWER POLICY DMP-4A AND EXECUTIVE ORDER 10582

New Criteria for Classifying Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: These regulations establish new criteria for classifying labor surplus areas, published by the Department of Labor for the use of all Federal agencies in directing procurement activity and locating new plants or facilities. Firms which agree to perform most of the work in labor surplus areas are eligible for preference in the award of procurement contracts and grants and the execution of agreements.

EFFECTIVE DATE: Effective March 3, 1978. Comments by May 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Davis A. Portner, Office of Policy and Planning, 601 D Street NW., Room 9420, Washington, D.C. 20213, 202-376-6274.

SUPPLEMENTARY INFORMATION: The Department published proposed regulations on DMP-4A and Executive Order 10582 on December 16, 1977, at 42 FR 63428. Interested persons were invited to submit comments on the proposed regulations until December 31, 1977. In response to these comments, a number of substantive and editorial changes have been made to the proposed rules. The most significant comments and the Department's responses thereto are listed below:

1. A commentor requested that the Department more clearly delineate the responsibilities assigned to the Bureau of Labor Statistics (BLS) under the provisions for classifying labor surplus areas resulting from exceptional circumstances. § 654.4(c). Under the proposed classification scheme, BLS was assigned responsibility for determining affected areas' unemployment rates, without regard to the usual 12-month reference period. Since the State employment security agencies bear the responsibility for collecting the required unemployment data, inclusion of BLS in the determination process is unnecessary; the State agencies can forward data directly to the Employment and Training Administration for evaluation by the Assistant Secretary. This provision has therefore been revised accordingly.

2. A commentor suggested that, due to their limited resources, the Department eliminate responsibilities assigned to the State employment service agencies for identifying occupations and skills which are in "surplus supply" within labor surplus areas and those which are needed by new or expanding industries. § 654.2(d) (3) and (4). These responsibilities were carried over from the former DMP-4 program and assigned to the Secretary of Labor under the revised DMP-4A. Therefore, these activities must still be performed. Since these are ongoing activities, the State agencies should have already established methods for gathering the required information. The final regulations therefore retain the requirement that these responsibilities be carried out by the State agencies. § 654.7 (b), (c), and (d).

In contrast to these ongoing responsibilities assigned to the State agencies, § 654.7(f) of the proposed regulations called for unprecedented evaluations of the numbers and characteristics of unemployed individuals who become employed in firms establishing or expanding plants or facilities in labor surplus areas. The Department has concluded that such evaluations exceed the current capabilities of the State agencies and would require the development of additional data collection procedures for which resources are unavailable. Given these fiscal constraints, and the fact that these evaluations are not required under DMP-4A, these requirements have been dropped from the final regulations.

3. A commentor suggested that the Department clarify the provisions of the proposed regulations relating to Executive Order 10582 to avoid confusion regarding its purpose. In response to this comment, Subpart B of Part 654 has been expanded to include a description of the statutory provisions pursuant to which Executive Order 10582 was promulgated. Against this statutory backdrop, the purpose of the Executive order appears more clearly.

4. Three commentors suggested that the Department utilize broader indicators of economic distress or hardship than the proposed 12-month average unemployment rate as the basic criterion for classifying labor surplus areas to take into consideration the overall economic health of a region. Recommendations included using, in addition to the unemployment rate, such factors as economic growth rates, concentration of elderly, out-migration patterns, and unemployment rates over a 24-month (as opposed to a 12-month) reference period.

While due consideration was given to these proposals, it is apparent from the preambles of both the predecessor DMP-4 and the revised DMP-4A regulations that these programs are concerned primarily with unemployment as opposed to the more general condition of economic distress:

> A primary aim of Federal manpower policy is to encourage full utilization of existing production facilities and workers in preference to creating new plants or moving workers, thus assisting the maintenance of economic balance and employment stability. When large numbers of workers move to already tight areas, heavy burdens are placed on community facilities—schools, hospitals, housing, transportation, utilities, etc. On the other hand, when unemployment develops in certain areas, unemployment compensation costs increase the total cost to the Government, and plants, tools, and workers' skills remain idle and unable to contribute to our national security program.

In view of the clear intention to focus attention on surplus labor, and in view of the fact that other measures of economic distress are not uniformly and consistently available among all labor market areas, the 12-month average unemployment rate has been retained as the sole criterion for classifying labor surplus areas.

Similarly, with respect to the reference period for examining unemployment levels, the 12-month framework was retained. A 12-month reference period indicates relatively current unemployment rates while encompassing a sufficient interval to discount seasonal factors. Conversely, the 24-month reference period suggested by one commentor may tend to mask current unemployment rates and, in a changing economy, obscure the location and identification of available workers and facilities.

5. Several commentors recommended that the Department reduce the required unemployment rate for eligibility from a rate 25 percent above the national average unemployment rate to a rate 20 percent above the national average in order to ensure competitive bidding from firms in labor surplus areas. Substitution of the 1.20 factor results in the inclusion of approximately 83 additional labor market areas in the first quarter classifications for 1978, a change from 371 labor market areas (using the 1.25 factor) to 454 labor market areas (using the 1.20 factor). The Department found that adoption of the 1.20 factor would result in a reasonable number of qualifying areas so as to meet the goal of targeting procurement activity while ensuring that offers of contract performance will be obtained from a sufficient number of eligible concerns so that awards will be made at reasonable prices. Accordingly, § 654.4(a) has been modified to conform to these recommendations.

6. One comment concerned the classification of multi-jurisdictional labor market areas as labor surplus areas.

Under the proposed regulations, an entire labor market area, which as a whole did not meet the qualifying unemployment rate, nevertheless could have qualified as a labor surplus area if the area-wide unemployment rate was at least 6 percent, provided that a component political jurisdiction which in itself met the basic criteria had a population of at least 50,000 and accounted for at least 25 percent of the total unemployment for the labor market area. § 654.4(b). The commentor suggested that this classification scheme failed to guarantee that procurement activity would be directed to those component jurisdictions which were responsible for triggering the classification of the labor market area as a labor surplus area. Given the exodus of business and manufacturing from the central cities, this commentor estimated that procurement activity too would be directed away from areas of high unemployment in the inner cities.

Procurement activity directed into any section of a labor market will usually affect surrounding areas, and may be beneficial to the entire area, since labor market areas are defined on the basis of commuting patterns. In view of this fact, the final regulations retain the proposed area-wide classification scheme. The Department is requesting further comments with respect to this provision.

7. Two comments were directed at the provisions at § 654.5 for terminating classifications of labor surplus areas. One commentor recommended that the termination provisions be tied to a 24-month reference period in order to avoid a "yo-yo effect" wherein an area is eligible during one quarter and not the next. As noted in paragraph 4 above concerning the basic classification methodology, the Department has selected a 12-month reference period to reflect relatively current unemployment rates while accounting for seasonal variations in unemployment. The rationale for utilizing a 12-month reference period applies with equal force to the termination provisions.

A second comment concerned the provisions at § 654.5(b) for terminating classifications of labor market areas which qualify as a result of exceptional circumstances. Specifically, the commentor questioned the advisability of declassifying an area following a single quarter for which the unemployment level fell below 6.0 percent.

The Department recognizes that such an inflexible standard could result in declassification during one quarter even though, due to exceptional circumstances, the labor market area is expected to experience qualifying unemployment levels in the next quarter. The 6.0 percent standard has therefore been stricken and this subsection has been reworded to provide for periodic review using the same criteria applied to initially classify labor market areas resulting from exceptional circumstances.

8. One commentor recommended that the Department include a special appeals procedure to enable State employment security agency officials to challenge determinations made pursuant to these regulations. The Department already has an appeals procedure which is applicable to this program at 20 CFR § 658.420–423.

After considering all of the comments, the proposed regulations, as modified, are adopted. In accordance with the provisions of the Administrative Procedure Act (5 U.S.C. § 553(d)) the Secretary of Labor has determined that it is in the public interest for these regulations to become final upon publication. Since these regulations directly affect competitive bidding on Federal government contracts, it is important that they become effective immediately to prevent disruption of the procurement process.

The regulations are final. However, in view of the shortened period for comment on the proposed regulations, additional written comments will be accepted for a period of 60 days after their effective date. All written material received will be considered before taking action on any revision or amendments to these regulations.

Accordingly, Parts 603, 651, 654 and 658, Chapter V, Title 20 of the Code of Federal Regulations are amended as follows:

PART 603—STATE PROGRAM BUDGET PLANS UNDER THE WAGNER-PEYSER ACT

§ 603.3 [Amended]

1. In § 603.3 the comma and the words "and at 29 CFR Part 8" are deleted.

PART 651—GENERAL PROVISIONS GOVERNING THE FEDERAL-STATE EMPLOYMENT SERVICE SYSTEM

§ 651.5 [Amended]

2. In paragraph (d) of § 651.5, the comma and the words "when published, will set forth" are changed to "contains".

§ 651.6 [Amended]

3. In § 651.6, the entry for "Part 654—Special Responsibilities of the Employment Service System," is amended by deleting the word "[Reserved]" and adding the following table of contents:

Subpart A—Responsibilities Under Defense Manpower Policy No. 4A (32A CFR Part 134)

Sec.
654.1 Purpose of subpart.
654.2 Description of DMP–4A.
654.3 Definitions.
654.4 Classification of labor surplus areas.
654.5 Termination of classification.
654.6 Publication of area classifications.
654.7 Services to firms and individuals in labor surplus areas.
654.8 Filing of employment service-related complaints.

Subpart B—Responsibilities Under Executive Order 10582

Sec.
654.11 Purpose of subpart.
654.12 Description of Executive Order 10582.
654.13 Determination of areas of substantial unemployment.
654.14 Filing of employment service-related complaints.

§ 651.7 [Amended]

4. In § 651.7 the definition of the term "ES regulations" is amended by deleting the numeral "8" and the comma which follows it from the citation "29 CFR Parts 8, 26 and 75."

PART 654—SPECIAL RESPONSIBILITIES OF THE EMPLOYMENT SERVICE SYSTEM

5. Part 654 is amended by deleting the word "[Reserved]" and adding a new Part 654 as follows:

Subpart A—Responsibilities Under Defense Manpower Policy No. 4A (32A CFR Part 134)

Sec.
654.1 Purpose of subpart.
654.2 Description of DMP–4A.
654.3 Definitions.
654.4 Classification of labor surplus areas.
654.5 Termination of classification.
654.6 Publication of area classifications.
654.7 Services to firms and individuals in labor surplus areas.
654.8 Filing of employment service-related complaints.

Subpart B—Responsibilities Under Executive Order 10582

Sec.
654.11 Purpose of subpart.
654.12 Description of Executive Order 10582.
654.13 Determination of areas of substantial unemployment.
654.14 Filing of employment service-related complaints.

AUTHORITY: Pub. L. 95–89; 50 U.S.C. App. 2061, et seq.; 41 U.S.C. 10a et seq.; 29 U.S.C. 49 et seq.; E.O. 11725; E.O. 11051, as amended; E.O. 10582; E.O. 10480; 32A CFR Part 134.

§ 654.1 Purpose of subpart.

This subpart implements the responsibilities of the Secretary of Labor in classifying labor surplus areas in accordance with Defense Manpower Policy No. 4A of the Federal Preparedness Agency, General Services Administration (32A CFR Part 134—Preservation of the Mobilization Base

Through the Placement of Procurement and Facilities in Labor Surplus Areas (DMP-4A)). The Secretary of Labor has delegated responsibilities to the Assistant Secretary, Employment and Training Administration.

§ 654.2 Description of DMP-4A.

(a) Defense Manpower Policy No. 4A (DMP-4A) consists of the federal regulations at 32A CFR Part 134—Preservation of the Mobilization Base Through the Placement of Procurement and Facilities in Labor Surplus Areas.

(b) The DMP-4A regulations were issued pursuant to Pub. L. 95-89; Executive Order 10480; Executive Order 11051, as amended; and Executive Order 11725. Implementation of the regulations is the responsibility of the Federal Preparedness Agency of the General Services Administration.

(c) The purpose of DMP-4A is to encourage the purchase of goods and services by the Federal Government and the placement of Federal facilities in areas of labor surplus.

(d) Under DMP-4A, the Secretary of Labor is required to:

(1) Classify labor surplus areas and disseminate this information on a timely basis to Federal departments and agencies.

(2) In cooperation with State and local authorities and the Secretary of Commerce, provide labor-market data and related economic information in efforts to assist in the initiation of industrial expansion programs in labor surplus areas.

(3) Identify occupations and skills which are in surplus supply within labor surplus areas and make this information available to firms requiring such occupations and skills and interested in establishing new plants and facilities.

(4) Identify occupations and skills for which labor will be needed by new or expanding industries and industries that expand during a mobilization; and, in collaboration with other Government agencies, make assistance available to labor surplus area institutions and users in developing on-the-job, apprentice, or other training programs for developing skills of the work force.

(5) Through the affiliated State employment services, receive job openings on a voluntary basis and/or under the mandatory listing program provided for by section 2012 of Title 38 of the United States Code and by Executive Order 11701, and refer qualified unemployed workers to concerns in labor surplus areas.

(e) Under DMP-4A, all Federal agencies are required to:

(1) Use their best efforts to award all procurement contracts and grants, and execute agreements, greater than $2,500 to concerns that will perform a substantial proportion of the manufacturing, production, or appropriate services on those contracts within labor surplus areas, to the extent that procurement objectives will permit.

(2) Ensure that firms in labor surplus areas that are on appropriate bidders mailing lists are given the opportunity to submit offers on all procurements for which they are qualified. Whenever the number of firms on a bidders mailing list is excessive in relation to size and type of procurement, a representative number of firms from labor surplus areas shall be given the opportunity to submit offers.

(3) Establish programs to encourage prime contractors to award subcontracts to firms that agree to perform a substantial proportion of the production, manufacturing or appropriate services on those subcontracts in labor surplus areas.

(4) Cooperate with other Federal departments and agencies in achieving the objectives of this policy.

(f) Under DMP-4A, the Secretary of Commerce is required to:

(1) In cooperation with State economic development agencies, the Secretary of Defense, the Administrator of General Services, and the Administrator of the Small Business Administration, assist concerns which have agreed to perform contracts in labor surplus areas in obtaining Government procurement business by: (A) Providing such concerns with timely information on proposed Government procurements; and (B) maintaining current information on the manufacturing capabilities of such concerns with respect to Government procurement and disseminating such information to Federal departments and agencies.

(2) Urge concerns planning new production facilities to consider the advantages of locating in labor surplus areas.

(3) Provide technical advice and counsel to groups and organizations in labor surplus areas on planned industrial parks, industrial development organizations, expanding tourist business, and available Federal aids.

(g) Under DMP-4A, the Administrator of the Small Business Administration is required to make available to small business concerns in labor surplus areas all of its services, endeavor to ensure opportunity for maximum participation by such concerns in Government procurement, and give consideration to the needs of these concerns in the making of joint small business set asides with Government procurement agencies.

(h) Under DMP-4A, there is continued in operation within the Federal Preparedness Agency the Surplus Manpower Committee. The Committee is chaired by the Director of the Federal Preparedness Agency or the Director's designee. The Committee includes representation from the Office of Federal Procurement Policy; Department of Defense; Department of Commerce; Department of Labor; General Services Administration; Small Business Administration; Department of Health, Education, and Welfare; Department of Housing and Urban Development; Department of Energy; and other interested departments and agencies. The Committee advises the Director, Federal Preparedness Agency, on policies, procedures, and activities in existence or needed to carry out the purpose of DMP-4A.

(i) When an entire industry that sells a significant portion of its production to the Government is generally depressed or has a significant proportion of its production units located in a labor surplus area, the Committee may make appropriate recommendations relative to that industry in lieu of recommendations relative to specific geographical areas. In such cases, after notice to and hearing of interested parties, the Director, Federal Preparedness Agency, gives consideration to appropriate measures applicable to the entire industry.

(j) Under DMP-4A, all Federal agencies are required to give consideration to labor surplus areas in the selection of sites for Government-financed facilities, including expansion, to the extent that such selection is consistent with existing law and essential economic and strategic factors that must also be taken into account.

§ 654.3 Definitions.

(a) "Assistant Secretary" shall mean Assistant Secretary for Employment and Training, U.S. Department of Labor.

(b) "Labor market area" shall mean a geographic area as determined by the State employment security agencies and approved by the Assistant Secretary, in which there is a concentration of economic activity or labor demand, and in which workers can generally change jobs without changing their residences.

(c) "Labor surplus area" shall mean a labor market area that, in accordance with the criteria specified in § 654.4, has been classified as a labor surplus area for purposes of Defense Manpower Policy No. 4A.

(d) "Reference period" shall mean the 12-month period ending three (3) months prior to the date of quarterly classifications of labor surplus areas; for example, for classifications effective for the eligibility quarter beginning July 1 of a given year, the reference period shall include data for the 12-month period from April 1 of the prior year through March 31 of the given year.

§ 654.4 Classification of labor surplus areas.

(a) *Basic criteria.* The Assistant Secretary shall classify a labor market area as a labor surplus area whenever, as determined by the Bureau of Labor Statistics, the average unemployment rate for the civilian labor force in the labor market area for the reference period is (1) 120 percent of the national average unemployment rate or higher for the reference period as determined by the Bureau of Labor Statistics, or (2) 10 percent or higher: *Provided, however,* That no labor market area shall be classified as a labor surplus area if the average unemployment rate for the reference period is less than 6.0 percent.

(b) *Criteria for component jurisdictions.* The assistant Secretary shall

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classify a labor market area as a labor surplus area if the Assistant Secretary determines that the area-wide average unemployment rate for the civilian labor force is at least 6.0 percent and the average unemployment rate for the civilian labor force in one or more of the component political jurisdictions meets the criteria specified in § 654.4(a), subject to the following limitations: (1) Such qualifying component jurisdiction—city, county, or county-equivalent—has a population of not less than 50,000 persons on the basis of the most satisfactory current data available to the Assistant Secretary; and (2) the number of unemployed individuals resident in such qualifying component jurisdictions, either singly or in combination, accounts for at least 25 percent of the total number of unemployed individuals resident in the labor market area.

(c) *Criteria for exceptional circumstances.* The Assistant Secretary, upon petition submitted by the appropriate state employment security agency, may classify a labor market area as a labor surplus area without regard to the reference period, whenever the labor market area meets or is expected to meet the unemployment tests established under § 654.4(a) or (b) as a result of exceptional circumstances. For purposes of this paragraph, "exceptional circumstances" shall mean catastrophic events such as natural disasters, plant closings, and contract cancellations expected to have a long-term impact on labor market area conditions, discounting temporary or seasonal factors.

§ 654.5 Termination of classification.

(a) *Basic procedure.* The Assistant Secretary shall terminate the classification of a labor market area as a labor surplus area after any quarter in which the Assistant Secretary determines that the criteria established under § 654.4(a) and (b) are no longer met.

(b) *Procedure for exceptional circumstances.* The Assistant Secretary shall terminate the classification of a labor market area classified as a labor surplus area pursuant to the provisions of § 654.4(c) after any quarter in which the Assistant Secretary determines that the exceptional circumstances criteria of that paragraph are no longer met, and in any event after one year from the date of classification unless the labor market area meets the criteria established under § 654.4(a) or (b).

§ 654.6 Publication of area classifications.

The Assistant Secretary shall publish quarterly a list of labor surplus areas together with geographic descriptions thereof.

§ 654.7 Services to firms and individuals in labor surplus areas.

To carry out the purposes and policy objectives of Defense Manpower Policy No. 4A and Executive Order 10582, the Assistant Secretary shall cooperate with and assist the state employment service agencies and the Secretary of Commerce, as appropriate, to:

(a) Provide relevant labor market data and related economic information to assist in the initiation of industrial expansion programs in labor surplus areas;

(b) Identify upon request the skills and numbers of unemployed persons available for work in labor surplus areas, providing such information to firms interested in establishing new plants and facilities of expanding existing plants and facilities in such areas;

(c) Identify the occupational composition and skill requirements of industries contemplating locating in labor surplus areas and make such information available to training and apprenticeship agencies and resources in the community for purposes of appropriate training and skill development;

(d) Identify unemployed individuals in need of, and having the potential for, training in occupations and skills required by new or expanding industries and refer such individuals to appropriate training opportunities;

(e) Receive job openings on a voluntary basis and/or under the mandatory listing program provided by 38 U.S.C. 2012 and Executive Order 11701 and refer qualified unemployed workers to such openings, making appropriate efforts to refer to such openings qualified individuals who reside in the labor surplus area.

§ 654.8 Filing of employment service-related complaints.

Employment service-related compliants arising under Subpart A of this Part may be filed directly with the appropriate Department of Labor regional office in accordance with the provisions at 20 CFR § 658.420–423. For purpose of § 658.421, a complainant filing a complaint under this subsection shall be deemed to have exhausted the State agency administrative remedies set forth at 20 CFR § 658.410–416.

Subpart B—Responsibilities Under Executive Order 10562

§ 654.11 Purpose of subpart.

This subpart implements the responsibilities of the Secretary of Labor in determining areas of substantial unemployment in accordance with Executive Order 10582 issued pursuant to the Buy American Act, 41 U.S.C. 10a et seq.

§ 654.12 Description of Executive Order 10582.

(a) Under the Buy American Act, heads of executive agencies are required to determine, as a condition precedent to the purchase by their agencies of materials of foreign origin for public use within the United States, (1) that the price of like materials of domestic origin is unreasonable, or (2) that the purchase of like materials of domestic origin is inconsistent with the public interest.

(b) Section 3(c) of Executive Order 10582 issued pursuant to the Buy American Act permits executive agencies to reject a bid or offer to furnish materials of foreign origin in any situation in which the domestic supplier, offering the lowest price for furnishing the desired materials, undertakes to produce substantially all of the materials in areas of substantial unemployment, as determined by the Secretary of Labor.

§ 654.13 Determination of areas of substantial unemployment.

An area of substantial unemployment, for purposes of Executive Order 10582, shall be any area classified as a labor surplus area at § 654.4 of this Part pursuant to the procedures set forth at Subpart A of this Part.

§ 654.14 Filing of employment service-related compliants.

Employment service-related complaints arising under Subpart B of this Part may be filed directly with the appropriate Department of Labor regional office in accordance with the provisions at 20 CFR § 658.420–423. For purposes of § 658.421, a complainant filing a complaint under this subsection shall be deemed to have exhausted the State agency administrative remedies set forth at 20 CFR § 658.410–416.

PART 658—ADMINISTRATIVE PROVISIONS GOVERNING THE EMPLOYMENT SERVICE SYSTEM

§ 658.600 [Amended]

6. In § 658.600 the words "and 29 CFR Part 8" are deleted.

§ 658.701 [Amended]

7. In § 658.701 the words "and at 29 CFR Part 8" are deleted.

Signed at Washington, D.C. this 27th day of February, 1978.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 78-5529 Filed 3-2-78; 8:45 am]

federal register

FRIDAY, MARCH 3, 1978
PART VI

DEPARTMENT OF LABOR

Office of the Secretary

■

FEDERAL MINE SAFETY AND HEALTH ACT OF 1977

Representative of Miners; Notification of Legal Identity; Processing Hazardous Conditions Complaints Procedures; Petitions for Modification of Mandatory Safety Standards and Civil Penalties for Violations

[4310-68]

DEPARTMENT OF LABOR

Office of the Secretary

[30 CFR Parts 40, 81]

REPRESENTATIVE OF MINERS

Proposed Rule

AGENCY: Department of Labor.

ACTION: Proposed rule.

SUMMARY: The Secretary of Labor proposes to promulgate a rule governing the identification of representatives of miners and setting forth certain requirements related to the functions of such representatives. The proposed rule will apply to representatives of coal, metal, and nonmetallic miners. At the present time 30 CFR Part 81—Procedures for Identification of Representatives of Miners at Mines, governs identification of coal miners' representatives, but there is no rule respecting identification of metal/nonmetallic miners' representatives. Interested persons may participate in the rulemaking process by submitting written data, views, or arguments.

DATE: Comments must be received by April 3, 1978.

ADDRESS: Send comments to the Department of Labor Mine Safety and Health Task Force, Room 613, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203.

FOR FURTHER INFORMATION CONTACT:

Frank A. White, Room 613, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, 703-235-1385.

SUPPLEMENTARY INFORMATION:

I. Analysis

The Federal Mine Safety and Health Act of 1977 (Mine Act), Pub. L. 91-173 as amended by Pub. L. 95-164, applies to coal, metal and nonmetal mines. Pub. L. 95-164, the Federal Mine Safety and Health Amendments Act of 1977, amended the Federal Coal Mine Health and Safety Act of 1969, Pub. L. 91-173, and repealed the Federal Metal and Nonmetallic Mine Safety Act, Pub. L. 89-577. The Mine Act requires the Secretary of Labor to exercise many of his duties under the Act in cooperation with miners' representatives. The Mine Act also establishes miners' rights which must be exercised through a representative. This proposed rule contains procedures which a person or organization must follow in order to be identified by the Secretary as a representative of miners.

The Mine Act does not define the term "representative of miners." The proposed rule defines the term, and also incorporates into the definition similar terms used throughout the Mine Act. The proposed rule contains requirements respecting filing of specified identification data, requirements respecting designation of persons or organizations to exercise the functions of a representative under provisions of the Mine Act, a limitation on designation of a representative to participate in a mine inspection, a requirement that identification data be posted at each mine, and a provision respecting termination of representative status.

II. Effect on Existing Rule

This proposed rule will apply to coal, metal, and nonmetal mines and miners. The Secretary proposes to establish a new Part 40 containing this proposed rule, to establish a new Subchapter G of Chapter I of Title 30 CFR containing this new Part 40, and to revoke 30 CFR Part 81. There is no regulation in Title 30 concerning identification of metal and nonmetal miners' representatives, and therefore the proposal involves no revocation of any regulation applicable to the metal and nonmetal mining industry.

III. Rulemaking Procedure

This rulemaking procedure is governed by 5 U.S.C. 553. Interested persons may participate by submitting data, views, or arguments.

Drafting Information

The principal persons responsible for the drafting of this proposed rule are: Robert G. Peluso, Deputy Assistant Administrator—Technical Support, Mining Enforcement and Safety Administration; and Donald R. Tindal, Assistant Solicitor—Metal and Nonmetallic Mine Health and Safety, Division of Mine Health and Safety, Office of the Solicitor, Department of the Interior.

Impact Statement

Note.—It has been determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: February 27, 1978.

Ray Marshall,
Secretary of Labor.

1. It is proposed to add a new Subchapter G to Chapter I of Title 30 CFR, and a new Part 40 to Subchapter G, as set forth below:

SUBCHAPTER G—FILING AND OTHER ADMINISTRATIVE REQUIREMENTS

PART 40—REPRESENTATIVE OF MINERS

Sec.
40.1 Definitions
40.2 Requirements.
40.3 Filing procedures.
40.4 Posting at mine.
40.5 Termination of designation as representative of miners.

Authority: Secs. 5(f), 101(c), 101(e), 103(c), 103(f), 103(g), 104(c), 105(a), 105(b)(1), 105(c), 105(d), 107(b)(1), 107(e)(1), 109(b), 115(a)(1)(2), 302(a), 305(b), 312(b), 505 and 508 of the Federal Mine Safety and Health Act of 1977 (Pub. L. 91-173, as amended by Pub. L. 95-164) and section 307 of the Federal Mine Safety and Health Amendments Act of 1977 (Pub. L. 95-164).

§ 40.1 Definitions.

As used in this Part 40:

(a) "Act" means the Federal Mine Safety and Health Act of 1977.

(b) "Representative of miners" means:

(1) Any person or organization which represents two or more miners at a coal or other mine for purposes of the Act, and

(2) "Representatives authorized by the miners", "miners or their representatives", "authorized miner representative", and other similar terms as they appear in the Act.

§ 40.2 Requirements.

(a) A representative of miners shall file with the Mine Safety and Health Administration District Managers for the district in which the mine is located the information required by § 40.3.

(b) Miners or their representative organizations may appoint or designate different persons to represent them under the various sections of the Act relating to representatives of miners.

(c) The representative of miners for the purpose of accompanying an inspector on an inspection must be at the mine at the time of the inspection.

(d) Where the presence of multiple representatives of miners at an inspection may impair the performance of the enforcement responsibilities of the Mine Safety and Health Administration, the representatives may be required to designate a single representative to accompany the inspector.

(e) No inspection shall be delayed awaiting the arrival or designation of a representative of miners and the failure of a representative to accompany an inspector shall have no effect upon the enforcement authority and responsibility of the inspector.

(f) All information filed pursuant to this part shall be maintained by the appropriate Mine Safety and Health Administration district office and shall be made available for public inspection.

§ 40.3 Filing procedures.

(a) The following information shall be filed by a representative of miners with the appropraite District Manager, with copies to the operators of the affected mines:

(1) The name, address, and telephone number of the representative of

miners. If the representative is an organization, the name, address, and telephone number of the organization and the title of the official or position, who is to serve as the representative and his/her address and telephone number.

(2) The name and address of the operator of the mine where the represented miners work and the name, address, and Mine Safety and Health Administration identification number, if known, of the mine.

(3) A copy of the document evidencing the designation of the representative of miners.

(4) A statement that the person or position named as the representative of miners is the representative for all purposes of the Act; or if the representative's authority is limited, a statement of the limitation.

(5) The names, addresses, and telephone numbers of any delegates of the representative to serve in his absence.

(6) A statement that copies of all information filed pursuant to this section have been served upon the operator of the affected mine.

(7) A statement certifying that all information filed is true and correct followed by the signature of the representative of miners or an official of the organization representing the miners.

(b) The representative of miners shall be responsible for ensuring that the appropriate District Manager has received all of the information required by this part and informing such District Manager of any subsequent changes in the information.

§ 40.4 Posting at mine.

A copy of all information provided the operator pursuant to § 40.3 above shall be posted immediately upon receipt by the operator on the mine bulletin board and maintained in a current status.

§ 40.5 Termination of designation as representative of miners.

(a) A representative of the miners who becomes unable to comply with the requirements of this part shall file a statement with the appropriate District Manager terminating his/her designation and shall serve a copy upon the mine operator.

(b) The Mine Safety and Health Administration shall terminate and remove from its files all designations of representatives of miners which have been terminated pursuant to paragraph (a) of this section or which are not in compliance with the requirements of this part. Appropriate notifications of such terminations shall be made by the Mine Safety and Health Administration.

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 81—PROCEDURES FOR INDENTIFICATION OF REPRESENTATIVES OF MINERS AT MINES [REVOKED]

1. It is proposed to revoke Part 81.

[FR Doc. 78-5592 Filed 3-2-78; 8:45 am]

[4310-68]

[30 CFR Parts 41, 82]

NOTIFICATION OF LEGAL IDENTITY

AGENCY: Department of Labor.

ACTION: Proposed Rule.

SUMMARY: The Secretary of Labor proposes to promulgate a rule requiring an operator of a coal or other mine (metal and nonmetal) to notify the Secretary of the operator's legal identity, including an address for service of documents upon an operator. At the present time, 30 CFR Part 82 governs notification of the legal identity of a coal mine operator, but there is no rule respecting legal identity of metal and nonmetal mine operators.

DATES: Comments must be received on or before April 3, 1978.

ADDRESS: Send comments to the Department of Labor Mine Safety and Health Task Force, Room 613, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203.

FOR FURTHER INFORMATION CONTACT:

Frank A. White, Room 613, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, 703-235-1385.

SUPPLEMENTARY INFORMATION:

I. Analysis

The Federal Mine Safety and Health Act of 1977 (Mine Act), Pub. L. 91-173 as amended by Pub. L. 95-164, applies to coal, metal, and nonmetal mnines, Pub. L. 95-164, the Federal Mine Safety and Health Amendments Act of 1977, amended the Federal Coal Mine Health and Safety Act of 1969, Pub. L. 91-173, and repealed the Federal Metal and Nonmetallic Mine Safety Act, Pub. L. 89-577. The Mine Act requires the Secretary to carry out many of his duties under the Act in cooperation with mine operators. In addition, the Mine Act imposes many requirements upon operators. In order for the Mine Act to be administered and enforced effectively, it is essential that the Secretary know the legal identity of the operator of each coal, metal, and nonmetal mine.

The term "operator" is defined in section 3(d) of the Mine Act, and in § 41.1 of this proposed rule. The proposed rule requires each operator to file specified information respecting its status as a corporation, partnership, sole proprietorship, or other entity. Under the proposed rule, operators must use Form No. 2000-7 in complying with the part. A copy of the form is printed below. Failure to comply with the proposed rule may subject the operator to a civil penalty, and falsification of a report may subject an individual to civil and criminal penalties, under § 110 of the Mine Act.

II. Effect on Existing Rule

This proposed rule will apply to coal, metal, and nonmetal mines and mine operators. The Secretary proposes to establish a new Part 41, containing this proposed rule, to be contained in a new Subchapter G of Chapter I of Title 30 CFR, and to revoke 30 CFR Part 82. There is no rule in Title 30 concerning legal identity of metal and nonmetal mine operators, and therefore the proposal involves no revocation of any rule applicable to the metal and nonmetal mining industry.

III. Rulemaking Procedure

This rulemaking proceeding is subject to 5 U.S.C. 553. Interested persons may participate by submitting written data, views, or arguments.

Drafting Information

The principal persons responsible for the drafting of this proposed rule are: Robert G. Peluso, Deputy Assistant Administrator—Technical Support, Mining Enforcement and Safety Administration, Department of the Interior, and Donald R. Tindal, Assistant Solicitor—Metal and Nonmetallic Mine Health and Safety, Division of Mine Health and Safety, Office of the Solicitor, Department of the Interior.

Impact Statement

Note: It has been determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: February 27, 1978.

Ray Marshall,
Secretary of Labor.

1. It is proposed to add a new Part 41 and Subchapter G of Chapter I, Title 30, Code of Federal Regulations as set forth below:

SUBCHAPTER G—FILING AND OTHER ADMINISTRATIVE REQUIREMENTS

PART 41—NOTIFICATION OF LEGAL IDENTITY

Subpart A—Definitions

Subpart B—Notification of Legal Identity

Sec.
41.11 Notification by operator.
41.12 Changes; notification by operator.
41.13 Failure to notify.

Subpart C—Operator's Report to the Mine Safety and Health Administration

41.20 Legal Identity Report.
41.30 Addresses of Record.

AUTHORITY: Secs. 103(h), 109(d) and 508 of the Federal Mine Safety and Health Act of 1977 (Pub. L. 91-173, as amended by Pub. L. 95-164), and under section 307(h) of the Federal Mine Safety and Health Amendments Act of 1977 (Pub. L. 95-164).

Subpart A—Definitions

§ 41.1 Definitions.

As used in this part:

(a) "Operator" means any owner, lessee, or other person who operates, controls, or supervises a coal or other mine or any designated independent contractor performing services or construction at such mine.

(b) "Person" means any individual, sole proprietor, partnership, association, corporation, firm, subsidiary of a corporation, or other organization.

(c) "Coal or other mine" means (a) an area of land from which minerals are extracted in nonliquid form or, if in liquid form, are extracted with workers underground, (b) private ways and roads appurtenant to such area, and (c) lands, excavations, underground passageways, shafts, slopes, tunnels and workings, structures, facilities, equipment, machines, tools, or other property including impoundments, retention dams, and tailings ponds, on the surface or underground, used in, or to be used in, or resulting from, the work of extracting such minerals from their natural deposits in nonliquid form, or if in liquid form, with workers underground, or used in, or to be used in, the milling of such minerals, or the work of preparing coal or other minerals, and includes custom coal preparation facilities. In making a determination of what constitutes mineral milling for purposes of this Act, the Secretary shall give due consideration to the convenience of administration resulting from the delegation to one Assistant Secretary of all authority with respect to the health and safety of miners employed at one physical establishment.

Subpart B—Notification of Legal Identity

§ 41.10 Scope.

Section 109(d) of the Federal Mine Safety and Health Act of 1977 (Pub. L. 91-173, as amended by Pub. L. 95-164), requires each operator of a coal or other mine to file with the Secretary of Labor the name and address of such mine, the name and address of the person who controls or operates the mine, and any revisions in such names and addresses. Section 103(h) of the Act requires the operator of a coal or other mine to provide such information as the Secretary of Labor may reasonably require from time to time to enable the Secretary to perform his functions under the Act. The regulations in this Subpart B provide for the notification to the Mine Safety and Health Administration of the legal identity of the operator of a coal or other mine and the reporting of all changes in the legal identity of the operator as they occur. The submission of the properly completed legal identity report Form No. 2000-7 required under Subpart C of this part will constitute adequate notification of legal identity to the Mine Safety and Health Administration.

§ 41.11 Notification by operator.

(a) Not later than 30 days after (1) the effective date of this part, and (2) the opening of a new mine thereafter, the operator of a coal or other mine shall, in writing, notify the appropriate district manager of the Mine Safety and Health Administration in the district in which the mine is located of the legal identity of the operator in accordance with the applicable provisions of paragraphs (b), (c), (d), or (e) of this section.

(b) If the operator is a sole proprietorship, the operator shall state: (1) His full name and address; (2) the name and address of the mine and the Federal mine identification number; (3) the Federal mine identification numbers of all other mines in which the sole proprietor has any ownership interest, stating the percent the sole proprietor owns; (4) the full name, the address of record, and trade name if any, of the proprietorship; and (5) a telephone number where the proprietor can be reached during normal working hours.

(c) If the operator is a partnership, the operator shall state: (1) The name and address of the mine and the Federal mine identification number; (2) the Federal mine identification numbers of all other mines in which the partnership has any ownership interest, stating the percent the partnership owns; (3) the full name and address of all partners; (4) the trade name, if any, and the address of record of the partnership; (5) a telephone number or numbers, if any, where the partners can be reached during normal working hours; and (6) the Federal mine identification numbers of all other mines in which any partner has any ownership interest.

(d) If the operator is a corporation, the operator shall state: (1) The name and address of the mine and the Federal mine identification number; (2) the Federal mine identification numbers of all other mines in which the corporation has an ownership interest, stating the percent the corporation owns; (3) the full name and address of record of the corporation and the State of incorporation; (4) the full name and address of each officer and director of the corporation; (5) whether such corporation is a domestic or foreign corporation in the State in which the mine is located; (6) the full name and address of the registered or resident agent(s) for service of process pursuant to State law for the mine, if any; (7) if the corporation is a subsidiary corporation, the operator shall state the full name, address, and State of incorporation of the parent corporation; (8) a telephone number or numbers, if any, where the agent can be reached during normal working hours; and (9) the Federal mine identification numbers of all other mines in which any corporate officer has any ownership interest.

(e) If the operator is any organization other than a sole proprietorship, partnership, or corporation, the operator shall state: (1) The nature and type, or legal identity of the organization; (2) the name and address of the mine(s) and the federal mine identification number(s); (3) the Federal identification numbers of all other mines in which the organization has any ownership interest, stating the percent of each such additional mine owned; (4) the name and address of each individual who has an ownership interest in the organization; (5) the name and the address of record of the responsible official(s) of the organization to act as the agent for service of process; (6) the name and address of the principal officials or members; and (7) the Federal mine identification numbers of all other mines in which any official or member has any ownership interest.

§ 41.12 Changes; notification by operator.

Within 30 days after the occurrence of any change in the information required by § 41.11, the operator of a coal or other mine shall, in writing, notify the appropriate district manager of the Mine Safety and Health Administration in the district in which the mine is located of such change.

§ 41.13 Failure to notify.

Failure of the operator to notify the Mine Safety and Health Administration in writing of the legal identity of the operator or any changes thereof within the time required under this part will be considered to be a violation of section 109(d) of the Act and shall be subject to penalties as provided in section 110 of the Act.

Subpart C—Operator's Report to the Mine Safety and Health Administration

§ 41.20 Legal Identity Report.

Each operator of a coal or other mine shall file notification of the legal

identity and every change thereof with the appropriate district manager of the Mine Safety and Health Administration by properly completing, mailing, or otherwise delivering Form No. 2000-7 "Legal Identity Report" which shall be provided by the Mine Safety and Health Administration for this purpose. If additional space is required, the operator may use a separate sheet or sheets.

§ 41.30 Address of record.

The address of record required under this part shall be considered the operator's official address for purposes of the Act. Service of documents upon the operator may be proved by a post office return receipt showing that the documents could not be delivered to such operator at the address of record because the operator had moved without leaving a forwarding address or because delivery was not accepted at that address, or because no such address existed. However, operators may request service by delivery to another appropriate address provided by the operator.

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 82—NOTIFICATION OF LEGAL IDENTITY [REVOKED]

1. It is proposed to revoke Part 82.

Form No. 2000-7
(Jan. 1978)

UNITED STATES
DEPARTMENT OF LABOR
Mine Safety and Health Administration

Form approved.
O.M.B. No.

Legal Identity Report

☐ Initial Notice ☐ Change Notice (If more space is required, in any section below, please use a separate sheet.)

Mine ID No. _____ Name of Mine _____ Commodity _____

Nearest town _____ County _____ Name of operator _____

Office address(No. & St.) _____ City _____ State _____ Zip _____

Please check the appropriate box and complete the applicable section below

☐ Sole Proprietorship ☐ Partnership ☐ Corporation ☐ Other

List affiliated Mine ID No. as required/defined by 30 CFR 41. Separate legal identity report required for each mine.

_____ _____ _____ _____ _____

_____ _____ _____ _____ _____

1. Sole Proprietorship

Trade Name _____ Proprietor _____ Phone No. _____

Address(No. & St.) _____ City _____ State _____ Zip _____

2. Partnership

Trade Name _____ Phone No. _____

Partnership Address (No. & St.) _____ City _____ State _____ Zip _____

Please list below the name and address of each partner

Name	Number and Street	City	State	Zip	Percent of Ownership

3. Corporation

Name _____ State of Incorporation _____

Corp. Address (No. & St.) _____ City _____ State _____ Zip _____

Agent for Service of Process _____ Phone No. _____ Title _____

Agent's Address (No. & St.) _____ City _____ State _____ Zip _____

Is Corporation a Subsidiary ☐ Yes ☐ No If "Yes," give Name and Address of Parent Corporation

Name _____ No. & Street _____ City _____ State _____ Zip _____

Please list below the name, title, and address of each Corporation Officer and Director

Name	Title	Number and Street	City	State	Zip

4. Other

Type of Legal Entity _____ Name of Organization _____

Address (No. & St.) _____ City _____ State _____ Zip _____

Responsible Official to act as Agent for Service of Process: Name _____ Phone No. _____

Title _____ No. & Street _____ City _____ State _____ Zip _____

Please list below the name, title, if any, and address of principal company officials and each individual who has an ownership interest in the company.

Name	Title	Number and Street	City	State	Zip

5. Address of Record (Service of process upon the operator will be considered completed by mailing the documents to this address - see 30 CFR 41.30).

Name	Title	Number and Street	City	State	Zip

All changes should be reported within 30 days to the Mine Safety and Health District Manager of the Mine Safety and Health Administration (MSHA) in the District in which the mine is located. Please return the original and first two copies to MSHA. This report is required by law under the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 41. Failure to report can result in imposition of a civil penalty, and knowingly making a false statement can result in imposition of civil and criminal penalties, under §110 of the Act.

Signature _____ Title _____ Date _____

[FR Doc. 78-5593 Filed 3-2-78; 8:45 am]

[4310-68]

[30 CFR Part 43]

PROCEDURES FOR PROCESSING HAZARDOUS CONDITIONS COMPLAINTS

Proposed Rule

AGENCY: Department of Labor.

ACTION: Proposed rule.

SUMMARY: Section 103(g) of the Federal Mine Safety and Health Act of 1977 provides that the representative of the miners, or any miner at a mine where there is no such representative, shall have the right to an immediate inspection under certain circumstances. The right to an immediate inspection exists if the Secretary or his authorized representative is notified, in writing, that the complaining party has reasonable grounds to believe that there is a violation or an imminent danger. The proposed regulations are designed to provide procedures for requesting such an inspection, and the accompanying procedures for responding to such a request.

DATE: Written comments must be received by April 3, 1978.

ADDRESS: Written comments should be sent to the Department of Labor Mine Safety and Health Task Force, Room 613, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203.

FOR FURTHER INFORMATION CONTACT:

William Sutherland, Mining Enforcement and Safety Administration, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, 703-235-1358; or Michael V. Durkin, Trial Attorney, Office of the Solicitor, Division of Mine Health and Safety, at the same address, 703-235-1177.

SUPPLEMENTARY INFORMATION: The Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, applies to coal, metal and nonmetal mines. Pub. L. 95-164, the Federal Mine Safety and Health Amendments Act of 1977, amended the Federal Coal Mine Health and Safety Act of 1969, Pub. L. 91-173, and repealed the Federal Metal and Nonmetallic Mine Safety Act, Pub. L. 89-577. The name Mining Enforcement and Safety Administration is changed by the new Act to the Mine Safety and Health Administration (MSHA). Interested persons may participate in the rulemaking process by submitting written data, views, or arguments.

While section 103(g)(2) requires the Secretary to provide informal review procedures by regulation and this proposed rule is a response to that instruction, it should be emphasized that MSHA, as a matter of policy, will take appropriate action on all complaints of hazardous conditions regardless of whether the proposed procedure for notifying the Secretary or his authorized representative is followed. However, in a case where the section 103(g) notice of complaint procedure proposed in these regulations is not followed, MSHA is not required to issue a notice of no action taken, nor is it required to provide informal review.

Proposed § 43.2 sets forth the procedures for notifying the Secretary or his authorized representative if the representative of the miners, or any miner at a mine where there is no such representative, has reasonable grounds to believe that there is a violation or imminent danger. The proposed rule also imposes the positive duty on the Secretary or his authorized representative to make an immediate inspection once such a complaint is received.

Proposed § 43.3 provides the procedure for giving notice to the complaining party if upon the facts alleged there is clearly no basis for conducting an inspection or when it is determined, after an inspection, that the alleged imminent danger or violation is not supported by the evidence. This notice is designated as a "notice of no action taken."

Proposed § 43.4 provides the procedure for informal review of the determination on which the notice of no action taken was based. The proposed rule requires the district manager to review this determination, and to provide a written response to the complaining party.

DRAFTING INFORMATION

The principal persons responsible for preparation of this notice are William Sutherland, Mining Enforcement and Safety Administration, and Michael V. Durkin, Trial Attorney, Office of the Solicitor.

IMPACT STATEMENT

NOTE.—It has been determined that this document does not contain a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: February 27, 1978.

RAY MARSHALL,
Secretary of Labor.

1. It is proposed to add a new Subchapter G to Chapter I of Title 30, CFR, and a new Part 43 to new Subchapter G, as set forth below:

SUBCHAPTER G—FILING AND OTHER ADMINISTRATIVE REQUIREMENTS

PART 43—PROCEDURES FOR PROCESSING HAZARDOUS CONDITIONS COMPLAINTS

Sec.
43.1 Definitions.
43.2 Notice of complaint.
43.3 Notice of no action taken.
43.4 Informal review.

AUTHORITY.—Secs. 103(g) and 508 of the Federal Mine Safety and Health Act of 1977 (Pub. L. 91-173, as amended by 95-164), and sec. 307 of the Federal Mine Safety and Health Amendments Act of 1977 (Pub. L. 95-164).

§ 43.1 Definitions.

(a) As used in this part the term:

(1) "Act" means the Federal Mine Safety and Health Act of 1977; and

(2) "Secretary" means the Secretary of Labor or his delegate.

§ 43.2 Notice of complaint.

(a) Any representative of the miners, or any miner in the case of a coal or other mine where there is no such representative, who has reasonable grounds to believe that a violation of the Act or a mandatory health or safety standard exists, or that an imminent danger exists, shall have a right to obtain an immediate inspection by giving notice to the Secretary or his authorized representative of such violation or danger.

(b) Any such notice shall be in writing, shall set forth the alleged violation or imminent danger and the location of such violation or imminent danger, and shall be signed by the miner or representative of the miners submitting it.

(c) A copy shall be provided to the operator or his agent by the Secretary or his authorized representative no later than the time of the inspection, except that the operator or his agent shall be notified forthwith if the notice of complaint indicates that an imminent danger exists. The name of the person giving such notice and the names of the individual miners referred to therein shall not appear in such copy or notification. This paragraph (c) is applicable only to section 103(g)(1) notices of complaint.

(d) Upon receipt of such notice, the Secretary or an authorized representative of the Secretary shall make a special inspection as soon as possible to determine if a citation or a withdrawal order is appropriate unless on the face of the complaint, the condition complained of, even if it were found to exist, would clearly not constitute a violation or imminent danger.

(e) Where the Secretary or his authorized representative makes an inspection pursuant to notice under this section and finds a violation or imminent danger, he shall issue a citation or withdrawal order, as appropriate.

§ 43.3 Notice of no action taken.

(a) If it is determined that an inspection if not warranted pursuant to § 43.2(d), a notice of no action taken shall be issued.

(b) After an inspection is completed in response to a notice of complaint, if it is determined that neither a citation nor a withdrawal order is appropriate for the alleged violation or imminent danger, a notice of no action taken shall be issued.

(c) A notice of no action taken shall be in writing and it shall be issued as soon as possible.

§ 43.4 Informal review.

(a) If a notice of no action taken is issued, the complaining party shall have the right to informal review of the determination on which such notice was based.

(b) The complaining party shall initiate the right to informal review by notifying the district manager either orally or in writing of this request for informal review together with any supporting information within 30 days of issuance of the notice of no action taken.

(c) After the receipt of a request for informal review, the district manager or his agent may hold, at the district manager's discretion, an informal conference where the complaining party may present his views.

(d) After review of all the written and oral statements submitted by the complaining party, the district manager shall affirm, modify, or reverse the determination on which the notice of no action was based, and he shall furnish the complaining party with a written statement of the reasons for his final disposition of the request for informal review as soon as possible. The district manager's determination in the matter shall be final.

(e) This Part 43 is applicable only when a notice of complaint is submitted in writing, and, unless otherwise provided, is equally applicable to both section 103(g)(1) and section 103(g)(2) of the Act.

[FR Doc. 78-5594 Filed 3-2-78; 8:45 am]

[4310-68]

[30 CFR Part 44]

MANDATORY SAFETY STANDARDS

Rules of Practice for Petitions for Modification

AGENCY: Department of Labor.

ACTION: Proposed Rule.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, authorizes the Secretary of Labor to modify the application of any mandatory mine safety standard to a coal or other mine, upon petition by the operator or the representative of miners at the mine, if the Secretary determines that the result of the modification will meet certain criteria. The Secretary proposes the rule below to govern the petition and determination procedure, and solicits comments respecting the proposed rule.

DATES: Comments must be received on or before April 3, 1978.

ADDRESS: Send comments to the Department of Labor Mine Safety and Health Task Force, Room 613, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203.

FOR FURTHER INFORMATION CONTACT:

Frank A. White, Room 613, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington Va. 22203, 703-235-1385.

SUPPLEMENTARY INFORMATION:

I. Discussion of Proposed Rule

Under this proposed rule, operators of coal, metal, and nonmetal mines, and representatives of miners at these mines, may petition the Assistant Secretary for Mine Safety and Health to modify the application of a mandatory mine safety standard to one or more mines. The petition may be granted if it is determined that a proposed alternative to a standard will provide equal protection to miners, or that application of the standard results in a diminution of safety to the miners. Upon receipt of a petition, notice that a petition has been filed will be published in the Federal Register and the appropriate Assistant Administrator for Mine Safety and Health will investigate the merits of the petition and issue a proposed decision. A proposed decision will become final within 20 days of its service unless a hearing is requested on the decision.

If a hearing is requested, the matter will be referred to the Chief Administrative Law Judge, Department of labor. An administrative law judge of the Department of Labor will preside over any hearing, which will be subject to 5 U.S.C. 554, 556, and 557. The administrative law judge will issue an initial decision on the merits of the petition, which will become final unless appealed to the Assistant Secretary within 20 days of service. Only a decision of the Assistant Secretary is a final agency action for the purposes of judicial review under 5 U.S.C. 701-706.

This proposed rule will also apply to petitions for modification of safety standards pending before the Office of Hearings and Appeals, U.S. Department of the Interior, as of March 9, 1978.

Under this rule, a petition to revoke a granted petition for modification on the grounds that the bases for the grant no longer exist will be filed with the Chief Administrative Law Judge and will be subject to the same hearing and appeal procedures as a petition for modification.

II. Applicability

This proposed rule applies only to petitions for modification of mandatory safety standards. The Federal Mine Safety and Health Act of 1977 does not authorize the Secretary to modify the applicability of any mandatory health standard.

III. Replacement and Revocation of Existing Rules; Validity of Granted Modifications and Variances

This proposed rule will replace the provisions of 43 CFR 4.550, 4.551, and 4.552 which now govern petitions for modification of mandatory coal mine safety standards, and revoke section .24, 30 CFR Parts 55 and 56, and sections .24 and .25 of 30 CFR Part 57, which govern variances from mandatory metal and nonmetal mine standards.

Section 301(c)(2) of the Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95-164, states that all orders, decisions, and determinations granted in the exercise of functions transferred to the Secretary of Labor which are in effect on March 9, 1978, remain effective unless modified or revoked as set forth in section 301(c)(2). Therefore, any petition for modification of the applicability of any mandatory safety standard to a coal mine, and any variance from a mandatory safety standard, granted by the Secretary of the Interior, the Mining Enforcement and Safety Administration (MESA), Department of the Interior, or granted, with MESA's concurrence, by the mine safety and health agency of a State which was a party to a State Plan Agreement under section 16 of the Federal Metal and Nonmetallic Mine Safety Act, Pub. L. 89-577, will remain effective according to its terms unless modified or revoked.

IV. Rulemaking Procedure

This proposed rule is not subject to the procedures in 5 U.S.C. 553 because the proposed rule pertains to agency procedures and is therefore exempt under 5 U.S.C. 553(b)(A). However, the Secretary wishes to afford interested persons the opportunity to comment upon the proposed rule, Therefore, interested persons may participate in the rulemaking process by submitting written data, views, or arguments.

Drafting Information

The principal persons responsible for drafting this proposed rule are: Robert G. Peluso, Deputy Assistant Administrator—Technical Support,

Mining Enforcement and Safety Administration, Department of the Interior, and Thomas A. Mascolino, Assistant Solicitor—Administrative Litigation, Division of Mine Health and Safety, Office of the Solicitor, Department of the Interior.

IMPACT STATEMENT

NOTE.—It has been determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: February 17, 1978.

RAY MARSHALL,
Secretary of Labor.

1. It is proposed to add a new Subchapter G to Chapter I of Title 30 CFR, and a new Part 44 to Subchapter G, as set forth below:

SUBCHAPTER G—FILING AND OTHER ADMINISTRATIVE REQUIREMENTS

PART 44—RULES OF PRACTICE FOR PETITIONS FOR MODIFICATION OF MANDATORY SAFETY STANDARDS

Subpart A—General

Sec.

Subpart B—Initial Filing of Petitions for Modification

Subpart C—Hearings

Subpart D—Summary Decisions

Subpart E—Effect of Initial Decision

AUTHORITY: Secs. 101(c) and 508 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173, as amended by Pub. L. 95-164; and under sec. 301(c)(3) of the Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95-164.

Subpart A—General

§ 44.1 Scope and construction.

(a) The procedures and rules of practice set forth in this part shall govern petitions for modification of the application of mandatory safety standards filed under section 101(c) of the Act and, to the extent applicable, pending petitions for modification initially filed with the Office of Hearings and Appeals of the Department of the Interior.

(b) These rules shall be liberally construed to carry out the purpose of the Act by assuring adequate protection of miners, and to secure the just and prompt determination of all proceedings consistent with adequate consideration of the issues involved.

§ 44.2 Definitions.

As used in this part, unless the context clearly requires otherwise, the term—

(a) "Act" means the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173, as amended by Pub. L. 95-164.

(b) "Secretary", "operator", "person", "agent", "miner" and "coal or other mine", have the meanings set forth in section 3 of the Act.

(c) "Assistant Secretary" means the Assistant Secretary of Labor for Mine Safety and Health.

(d) "Administrative law judge" means an administrative law judge of the Department of Labor appointed under section 3105 of Title 5 of the United States Code.

(e) "Representative of miners" means a person or organization designated by two or more miners to act as their representative for purposes of the Act, and who is in compliance with 30 CFR Part 40.

(f) "Pending petitions for modification" means those proceedings initially filed with the Department of the Interior under section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, prior to March 9, 1978, and in which there had not been a final departmental decision as of March 9, 1978.

§ 44.3 Parties.

Parties to proceedings under this part shall include the Mine Safety and Health Administration, the operator of the mine, and any representative of the miners in the affected mine. Any other person claiming a right of participation as an interested party in a proceeding may become a party upon application to the Assistant Secretary and the granting of such application. Subsequent to the referral of a petition to the Chief Administrative Law Judge, all such applications seeking status as a party shall be made to the Chief Administrative Law Judge for his disposition.

§ 44.4 Effect of petitions granted.

All petitions for modification granted pursuant to this part shall have only future effect. Orders granting petitions for modification may contain special terms and conditions for the purpose of assuring adequate protection to miners. The modification, together with any conditions, shall have the same force and effect as a mandatory safety standard.

§ 44.5 Notice of a granted petition for modification.

(a) Every final action granting a petition for modification under this part shall be published in the FEDERAL REGISTER. Every such final action published shall specify the statutory grounds upon which the modification is based and a summary of the facts which warranted the modification.

(b) Every final action or a summary thereof granting a petition for modification under this part shall be posted by the operator on the mine bulletin board at the affected mine and shall remain posted as long as the modification is effective. If a summary of the final action is posted on the mine bulletin board, a copy of the full decision shall be kept at the affected mine office and made available to the miners.

§ 44.6 Manner of service.

(a) Copies of all documents filed in any proceeding described in this part and copies of all notices pertinent to such proceeding shall be served by the filing party on all other persons made parties to the proceeding under § 44.3. If a request for hearing has been filed by any party, a copy of all subsequent documents filed shall be served upon the Mine Safety and Health Administration through its representative, the Office of the Solicitor, Department of Labor.

(b) Provisions for service of the initial petition are included under § 44.10. All other documents filed subsequent to a request for hearing by any party may be served personally or by first-class mail to the last known address of the party.

(c) Whenever a party is represented by an attorney who has signed any document filed on behalf of such party or otherwise entered an appear-

ance on behalf of such party, service thereafter shall be made upon the attorney.

(d) Any party filing a petition for modification under these rules shall file proof of service in the form of a return receipt where service is by registered or certified mail, or an acknowledgment by the party served or a verified return where service is made personally. A certificate of service shall accompany all other documents filed by a party under these rules.

§ 44.7 Transfer of pending petitions for modification.

(a) On March 9, 1978, all petitions pending before the Office of Hearings and Appeals of the Department of the Interior are transferred to the Department of Labor as provided herein. All transferred cases shall be subject to the regulation of this part, as applicable.

(b) Where an investigation report and amended answer have been filed the case is transferred to the docket of the Chief Administrative Law Judge, Department of Labor for further proceedings.

(c) Where an investigation report has not been filed the case is transferred to the appropriate Assistant Administrator, Mine Safety and Health Administration, for a proposed decision and order pursuant to these regulations.

Subpart B—Initial Filing of Petitions for Modification

§ 44.10 Who may file.

A petition under section 101(c) of the Act for modification of the application of mandatory safety standard may be filed only by the operator of the affected mine or any representative of the miners at such mine. All petitions must be in writing and must be filed with the Assistant Secretary of Labor for Mine Safety and Health, U.S. Department of Labor, 4015 Wilson Boulevard, Arlington, Va. 22203. If the petition is filed by a mine operator, a copy of the petition shall be served by the mine operator upon a representative of miners at the affected mine. If the petition is filed by a representative of the miners, a copy of the petition shall be served by the representative of miners upon the mine operator. Service shall be accomplished personally or by registered or certified mail, return receipt requested.

§ 44.11 Contents of petition.

(a) A petition for modification filed pursuant to § 44.10 shall contain:

(1) The name and address of the petitioner.

(2) The mailing address and mine identification number of the mine or mines affected.

(3) The mandatory safety standard to which the petition is directed.

(4) A concise statement of the modification requested, and whether the petitioner (i) proposes to establish an alternate method in lieu of the mandatory safety standard, or (ii) alleges that the application of the standard will result in a diminution of safety to the miners affected, or (iii) requests relief based on both paragraphs (a)(4)(i) and (ii) of this section.

(5) A detailed statement of the facts the petitioner would show to establish the grounds upon which it is claimed a modification is warranted.

(6) Identification of any representative of the miners at the affected mine, if the petitioner is a mine operator.

(b) A petition for modification shall not include a request for modification of the application of more than one mandatory safety standard. A petition for modification shall not request relief for more than one operator. However, an operator may file a petition for modification pertaining to more than one mine where it can be shown that identical issues of law and fact exist as to the petition for each mine.

§ 44.12 Procedure for public notice of petition received.

(a) Promptly upon receipt of a petition for modification, the Mine Safety and Health Administration will give notice of the petition to each known representative of miners or the operator of the affected mine as appropriate, and shall publish notice of the petition in the FEDERAL REGISTER.

(b) The FEDERAL REGISTER notice shall contain a statement that the petition has been filed, shall identify the petitioner and the mine or mines to which the petition relates, shall cite the mandatory safety standard for which modification of application is sought, shall describe the requested relief, and shall summarize the facts claimed by petitioner to warrant the requested modification.

(c) All such notices shall advise interested parties that they may within 30 days from the date of publication in the FEDERAL REGISTER, in writing, comment upon or provide information relative to the proposed modification.

§ 44.13 Proposed decision.

Upon receipt of a petition for modification, the Mine Safety and Health Administration shall cause an investigation to be made as to the merits of such petition. Within a reasonable time thereafter, the appropriate Assistant Administrator shall make a proposed decision and order based upon all available information, including the results of the investigation. The proposed decision and order shall be served on all parties to the proceeding. The proposed decision shall become final upon the 20th day after service thereof, unless a request for hearing has been filed with the appropriate Assistant Administrator as provided in § 44.14. Service of the proposed decision is complete upon mailing.

§ 44.14 Request for hearing.

A request for hearing filed in accordance with § 44.13 must be filed within 20 days after service of the proposed decision and shall include:

(a) A concise summary of position on the issues of fact or law desired to be raised by the party requesting the hearing, including specific objections to the proposed decision. A party other than petitioner who has requested a hearing shall also comment upon all issues of fact or law presented in the petition, and

(b) An indication of a desired hearing site.

§ 44.15 Referral to Chief Administrative Law Judge.

Upon receipt of a request for hearing as provided in § 44.14 or upon his own initiataive, the appropriate Assistant Administrator shall refer to the Chief Administrative Law Judge the original petition, the proposed decision and order, all information upon which the proposed decision was based, any written request for a hearing on the petition filed, and any other written comments or information received and considered in making the proposed decision.

Subpart C—Hearings

§ 44.20 Designation of administrative law judge.

Upon receipt of a request for hearing in a petition for modification proceeding, the Chief Administrative Law Judge shall designate an administrative law judge appointed under section 3105 of Title 5 of the United States Code to preside over the hearing.

§ 44.21 Filing and form of documents.

(a) *Where to file.* After a petition has been referred to the Office of the Chief Administrative Law Judge, the parties will be notified of the name and address of the administrative law judge assigned to the case when such assignment is made. All further documents shall be filed with the administrative law judge at the address designated or with the Chief Administrative Law Judge if the assignment has not been made. While the petition is before the Assistant Secretary at any stage of the proceeding, all documents should be filed with the Assistant Secretary of Labor for Mine Safety and Health, 4015 Wilson Boulevard, Arlington, Va. 22203.

(b) *Caption, title and signature.* (1) The documents filed in any proceeding

under this part shall be captioned in the name of the operator of the mine to which the proceeding relates and in the name of the mine or mines affected. After a docket number has been assigned to the proceeding by the Office of the Chief Administrative Law Judge, the caption shall contain such docket number.

(2) After the caption each such document shall contain a title which shall be descriptive of the document and which shall identify the party by whom the document is submitted.

(3) The original of all documents filed shall be signed at the end by the party submitting the document or, if the party is represented by an attorney, by such attorney. The address of the party or the attorney shall appear beneath the signature.

§ 44.22 Administrative law judges; powers and duties.

(a) *Powers.* An administrative law judge designated to preside over a hearing shall have all powers necessary or appropriate to conduct a fair, full, and impartial hearing, including the following:

(1) To administer oaths and affirmations;

(2) Issue subpoenas authorized by law;

(3) To rule upon offers of proof and receive relevant evidence;

(4) Take depositions or have depositions taken when the ends of justice would be served;

(5) To provide for discovery and to determine its scope;

(6) To regulate the course of the hearing and the conduct of the parties and their counsel therein;

(7) To consider and rule upon procedural requests;

(8) To hold conferences for the settlement or simplification of the issues by consent of the parties;

(9) To make decisions in accordance with the Act, this part, and section 557 of Title 5 of the United States Code; and

(10) To take any other appropriate action authorized by this part, by section 556 of Title 5 of the United States Code, or by the Act.

(b) *Private consultation.* Except to the extent required for the disposition of ex parte matters, an administrative law judge may not consult a person or a party on any fact at issue, unless upon notice and opportunity for all parties to participate.

(c) *Disqualification.* (1) When an administrative law judge deems himself disqualified to preside over a particular hearing, he shall withdraw therefrom by notice on the record directed to the Chief Administrative Law Judge.

(2) Any party who deems an administrative law judge for any reason to be disqualified to preside, or to continue to preside, over a particular hearing, may file with the Chief Administrative Law Judge of the Department of Labor a motion to be supported by affidavits setting forth the alleged grounds for disqualification. The Chief Administrative Law Judge shall rule upon the motion.

(d) *Contumacious conduct; failure or refusal to appear or obey the rulings of a presiding administrative law judge.* (1) Contumacious conduct at any hearing before the administrative law judge shall be ground for exclusion from the hearing.

(2) If a witness or a party refuses to answer a question after being directed to do so, or refuses to obey an order to provide or permit discovery, the administrative law judge may make such orders with regard to the refusal as are just and appropriate, including an order denying the application of a petitioner or regulating the contents of the record of the hearing.

(e) *Referral to Federal Rules of Civil Procedure and Evidence.* On any procedural question not regulated by this part, the Act, or the Administrative Procedure Act, an administrative law judge shall be guided to the extent practicable by any pertinent provisions of the Federal Rules of Civil Procedure or Federal Rules of Evidence, as appropriate.

§ 44.23 Prehearing conference.

(a) *Convening a conference.* Upon his own motion or the motion of a party, the administrative law judge may direct the parties or their counsel to meet with him for a conference to consider:

(1) Simplification of the issues;

(2) Necessity or desirability of amendments to documents for purposes of clarification, simplification, or limitation;

(3) Stipulations, admissions of fact, and of contents and authenticity of documents;

(4) Limitation of the number of parties and of expert witnesses; and

(5) Such other matters as may tend to expedite the disposition of the proceeding, and to assure a just conclusion thereof.

(b) *Record of conference.* The administrative law judge shall issue an order which recites the action taken at the conference, the amendments allowed to any documents which have been filed, and the agreements made between the parties as to any of the matters considered, and which limits the issues for hearing to those not disposed of by admissions or agreements; and such order when entered controls the subsequent course of the hearing, unless modified at the hearing, to prevent manifest injustice.

§ 44.24 Discovery.

Whenever appropriate to a just disposition of any issue in a hearing, the Chief Administrative Law Judge or the presiding administrative law judge, as appropriate, may allow discovery by any appropriate procedure, such as deposition, written interrogatories, or production of documents by a party. The Chief Administrative Law Judge or the presiding administrative law judge, as appropriate, may order a party to produce and permit inspection and copying or photographing of designated documents relevant to the proceeding.

§ 44.25 Depositions.

(a) *Purpose.* For reasons of unavailability or for purpose of discovery, the testimony of any witness may be taken by deposition.

(b) *Filing of Motion.* Any party desiring to take the deposition of a witness shall file a written motion to the Chief Administrative Law Judge or presiding administrative law judge, as appropriate, setting forth: (1) The reasons why such deposition should be taken; (2) the time when, the place where, and the name and post office address of the person before whom the deposition is to be taken; (3) the name and address of each witness; and (4) the subject matter concerning which each witness is expected to testify.

(c) *Form.* Depositions may be taken before any person having the power to administer oaths. Each witness testifying upon deposition shall be sworn, and the parties not calling him shall have the right to cross-examine him. The questions propounded and the answers thereto, together with all objections made, shall be reduced to writing, read to the witness, subscribed by him, and certified by the officer before whom the deposition is taken, with two copies thereof, in an envelope and mail the same by registered mail to the Chief Administrative Law Judge or the presiding administrative law judge.

(d) *Use of Deposition.* (1) Subject to such objections to the questions and answers as were noted at the time of taking the deposition and would be valid were the witness personally present and testifying, such deposition may be read and offered in evidence by the party taking it as against any party who was present, represented at the taking of the deposition, or who had due notice thereof.

(2) No part of a deposition shall be admitted in evidence unless there is a showing that the reasons for the taking of the deposition in the first instance exist at the time of hearing.

§ 44.26 Subpoenas; witness fees.

(a) On written application of a party or on his own motion, the Chief Administrative Law Judge or the presiding administrative law judge, as appropriate, may issue subpoenas requiring

the attendance of witnesses and the production of relevant papers, books, and documents in their possession and under their control. A subpoena may be served by any person who is not a party and is not less than 18 years of age, and the original subpoena bearing a certificate of service shall be filed with the administrative law judge. A witness may be required to attend a deposition or hearing at a place not more than 100 miles from the place of service.

(b) Witnesses subpoenaed by any party shall be paid the same fees and mileage as are paid for like attendance in the District Courts of the United States. The witness fee and mileage shall be paid by the party at whose instance the witness appears.

§ 44.27 Consent findings and rules or orders.

(a) *General.* At any time before the reception of evidence in any hearing, or during any hearing a reasonable opportunity may be afforded to permit negotiation by the parties of an agreement containing consent findings and a rule or order disposing of the whole or any part of the proceedings. The allowance of such opportunity and the duration thereof shall be in the discretion of the Chief Administrative Law Judge if no administrative law judge has been assigned or of the presiding administrative law judge, after consideration of the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of an agreement which will result in a just disposition of the issues involved.

(b) *Contents.* Any agreement containing consent findings and rule or order disposing of a proceeding shall also provide:

(1) That the rule or order shall have the same force and effect as if made after a full hearing;

(2) That the entire record on which any rule or order may be based shall consist solely of the petition and the agreement;

(3) A waiver of any further procedural steps before the administrative law judge and the Assistant Secretary; and

(4) A waiver of any right to challenge or contest the validity of the findings and of the rule or order made in accordance with the agreement.

(c) *Submission.* On or before the expiration of the time granted for negotiations, the parties or their counsel may:

(1) Submit the proposed agreement to the Chief Administrative Law Judge or presiding administrative law judge as appropriate for his consideration; or

(2) Inform the Chief Administrative Law Judge or the presiding administrative law judge, as appropriate, that agreement cannot be reached.

(d) *Disposition.* In the event an agreement containing consent findings and rule or order is submitted within the time allowed therefor, the Chief Administrative Law Judge or the presiding administrative law judge, as appropriate, may accept such agreement by issuing his decision based upon the agreed findings.

§ 44.28 Notice of hearing.

(a) The administrative law judge shall fix a place and date for the hearing and notify all parties at least 30 days in advance of the date set, unless at least one party requests and all parties consent to an earlier date. The notice shall include:

(1) The time, place, and nature of the hearing;

(2) The legal authority under which the hearing is to be held; and

(3) A specification of issues of fact and law.

(b) In accordance with the provisions of section 554 of Title 5 of the United States Code, a party may move for a transfer of a place of hearing on the basis of convenience to parties and witnesses. Such motion should be filed with the administrative law judge assigned to the case.

§ 44.29 Motions.

Each motion filed shall be in writing and shall contain a short and plain statement of the grounds upon which it is based. A statement in opposition to the motion may be filed by any party within 10 days after the date of the service. The administrative law judge may permit oral motions during the course of proceedings.

§ 44.30 Hearing procedures.

(a) *Order of proceeding.* Except as may be ordered otherwise by the administrative law judge, the petitioner shall proceed first at a hearing.

(b) *Burden of proof.* The petitioner shall have the burden of proof.

(c) *Evidence*—(1) *Admissibility.* A party shall be entitled to present its case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such crossexamination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received, but the administrative law judge shall exclude evidence which is irrelevant, immaterial, or unduly repetitious.

(2) *Testimony of witnesses.* The testimony of a witness shall be upon oath or affirmation administered by the administrative law judge.

(3) *Objections.* If a party objects to the admission or rejection of any evidence, or to the limitation of the scope of any examination or cross-examination, or to the failure to limit such scope, he shall state briefly the grounds for such objection. Rulings on such objections shall appear in the record.

(4) *Exceptions.* Formal exception to an adverse ruling is not required.

(d) *Official notice.* Official notice may be taken of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice or concerning which the Department of Labor by reason of its functions is presumed to be expert; provided that the parties shall be given adequate notice, at the hearing or by reference in the presiding administrative law judge's decision, of the matters so noticed, and shall be given adequate opportunity to show the contrary.

(e) *Transcript.* Copies of the transcript of the hearing may be obtained by the parties upon written application filed with the reporter, and upon the payment of fees at the rate provided in the agreement with the reporter.

§ 44.31 Proposed findings of fact, conclusions and orders.

After consultation with the parties, the administrative law judge may prescribe a time not less than 20 days within which each party may file proposed findings of fact, conclusions of law, and rule or order, together with a supporting brief expressing the reasons for such proposals. Such proposals and brief shall be served on all other parties, and shall refer to all portions of the record and to all authorities relied upon in support of each proposal.

§ 44.32 Initial decision.

As soon as practicable after the time allowed for the filing of proposed findings of fact and conclusions of law, the administrative law judge shall make and serve upon each party his decision, which shall become final upon the 20th day after service thereof, unless an appeal is filed thereto, as provided in § 44.33. The decision of the administrative law judge shall include:

(1) A statement of numbered findings of fact and conclusions of law, with reasons and bases therefor, upon each material issue of fact, law, or discretion presented on the record, and

(2) The appropriate rule, order, relief, or denial thereof. The decision of the administrative law judge shall be based upon a consideration of the whole record and shall state all facts officially noticed and relied upon. It shall be made on the basis of a preponderance of reliable and probative evidence.

§ 44.33 Departmental review.

(a) *Notice of appeal.* Any party may appeal from the initial decision of the administrative law judge by filing with the Assistant Secretary a notice of appeal within 20 days after service of

the initial decision. The Assistant Secretary may consolidate related appeals. Copies of a notice of appeal shall be served on all parties to the proceeding in accordance with § 44.6.

(b) *State of objections.* Within 20 days after filing the notice of appeal, the appellant shall file his statement of objections to the decision of the administrative law judge and serve copies on all other parties to the proceeding. Such statement shall refer to the specific findings of fact, conclusions of law, or terms of the order objected to in the initial decision. Where any objection is based upon evidence of record, such objection need not be considered by the Assistant Secretary if specific record citations to the pertinent evidence are not contained in the statement of objections.

(c) *Responding statements.* Within 20 days after service of the statement of objections, any other party to the proceeding may file a statement in response thereto.

(d) *Existing appeals of pending petitions.* The entire record of each pending petition or appeal within the Department of the Interior shall be transferred to the Assistant Secretary for decision in accordance with the provisions of § 44.35.

§ 44.34 Transmission of record.

If an appeal is filed, the administrative law judge shall transmit the record of the proceeding to the Assistant Secretary for review. The record shall include: the application, any request for hearing thereon, motions and requests filed in written form, rulings thereon, the transcript of the testimony taken at the hearing, together with the exhibits admitted in evidence, any documents or papers filed in connection with prehearing conferences, such proposed findings of fact, conclusions of law, rules or orders, and supporting reasons, as may have been filed, and the administrative law judge's decision.

§ 44.35 Decision of the Assistant Secretary.

Appeals from a decision rendered pursuant to § 44.32 or appeals pursuant to § 44.33(d) shall be decided by the Assistant Secretary upon consideration of the entire record of the proceedings transmitted, together with the statements submitted by the parties. The decision may affirm, modify, or set aside, in whole or part, the findings, conclusions, and the rule or order contained in the decision of the presiding administrative law judge, and shall include a statement of reasons or bases for the action taken.

Subpart D—Summary Decisions

§ 44.40 Motion for summary decision.

(a) Any party may, at least 20 days before the date fixed for any hearing under Subpart C of this part, move with or without supporting affidavits for a summary decision in his favor on all or any part of the proceeding. Any other party may, within 10 days after service of the motion, serve opposing affidavits or countermove for summary decision. The administrative law judge may set the matter for argument and call for the submission of briefs.

(b) The filing of any documents under paragraph (a) of this section shall be with the administrative law judge, and copies of any such documents shall be served in accordance with § 44.26.

(c) Any affidavits submitted with the motion shall set forth such facts as would be admissible in evidence in a proceeding subject to 5 U.S.C. 556 and 557 and shall show affirmatively that the affiant is competent to testify to the matters stated therein. When a motion for summary decision is made and supported as provided in this section, a party opposing the motion may not rest upon the mere allegations or denials of such pleading, such response must set forth specific facts showing that there is a genuine issue of fact for the hearing.

(d) The administrative law judge may grant such motion if the pleadings, affidavits, material obtained by discovery or otherwise obtained, or matters officially noticed show that there is no genuine issue as to any material fact and that a party is entitled to summary decision. The administrative law judge may deny such motion whenever the moving party denies access to information by means of discovery to a party opposing the motion.

(e) The denial of all or any part of a motion for summary decision by the administrative law judge shall not be subject to interlocutory appeal to the Assistant Secretary unless the administrative law judge certifies in writing: (1) That the ruling involves an important question of law or policy as to which there is substantial ground for differences of opinion; and (2) that an immediate appeal from the ruling may materially advance the ultimate termination of the proceeding. The allowance of such an interlocutory appeal shall not stay the proceeding before the administrative law judge unless the Assistant Secretary shall so order.

§ 44.41 Summary decision.

(a) *No genuine issue of material fact.* (1) Where no genuine issue of a material fact is found to have been raised, the administrative law judge may issue an initial decision to become final 20 days after service thereof, unless, within such period of time any party has filed an appeal with the Assistant Secretary. Thereafter, the Assistant Secretary, after consideration of the entire record may issue a final decision.

(2) An initial decision and a final decision made under this paragraph shall include a statement of—

(i) Findings and conclusions, and the reasons or bases therefor, on all issues presented; and

(ii) Any terms and conditions of the rule or order made.

(3) A copy of an initial decision and a final decision under this paragraph shall be served on each party.

(b) *Hearings on issues of fact.* Where a genuine material question of fact is raised, the administrative law judge shall, and in any other case he may, set the case for an evidentiary hearing in accordance with Subpart C of this part.

Subpart E—Effect of Initial Decision

§ 44.50 Effect of appeal on an administrative law judge's decision.

The decision of the administrative law judge under this part shall not be operative during the pendency of appeal to the Assistant Secretary under § 44.33.

§ 44.51 Finality for purposes of judicial review.

Only a decision by the Assistant Secretary shall be deemed final agency action for purposes of judicial review. A decision by an administrative law judge which becomes final for lack of appeal is not deemed final agency action for purposes of 5 U.S.C. 704.

§ 44.52 Revocation of modification.

Any party to a proceeding under this part in which a petition for modification of a mandatory safety standard was granted may petition that the relief granted be revoked due to a change in circumstances because findings which justified the relief are no longer valid. Such petition to revoke shall be filed with the Chief Administrative Law Judge for his disposition and shall be subject to all procedures of Subpart C as if it were a petition filed under § 44.10.

SUBCHAPTER N—METAL AND NONMETALLIC MINE SAFETY

PART 55—HEALTH AND SAFETY STANDARDS—METAL AND NONMETALLIC OPEN PIT MINES

§ 55.24 [Revoked]

1. It is proposed to revoke § 55.24 of Part 55.

PART 56—HEALTH AND SAFETY STANDARDS—SAND, GRAVEL AND CRUSHED STONE OPERATIONS

§ 56.24 [Revoked]

2. It is proposed to revoke § 56.24 of Part 56.

PART 57—HEALTH AND SAFETY STANDARDS—METAL AND NONMETALLIC UNDERGROUND MINES

§§ 57.24 and 57.25 [Revoked]

3. It is proposed to revoke §§ 57.24 and 57.25 of Part 57.

[FR Doc. 78-5596 Filed 3-2-78; 8:45 am]

[4310-68]

[30 CFR Part 100]

FEDERAL MINE SAFETY AND HEALTH ACT OF 1977

Civil Penalties for Violations

AGENCY: Department of Labor.

ACTION: Proposed Rule.

SUMMARY: The Secretary of Labor proposes to promulgate rules governing the assessment of civil penalties against operators of coal or other mines (metal and nonmetal) under the Federal Mine Safety and Health Act of 1977 (Mine Act), Pub. L. 91-173, as amended by Pub. L. 95-164. Since the Mine Act makes civil penalty assessments applicable to metal and nonmetal mines for the first time, this proposed rule will apply to metal and nonmetal mine operators. The proposed rule will also speed up the penalty assessment process and generally raise the penalty assessment amounts.

DATES: Comments must be received on or before April 3, 1978.

ADDRESS: Comments should be sent to: Department of Labor Mine Safety and Health Task Force, Room 613, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203.

FOR FURTHER INFORMATION CONTACT:

Madison McCulloch, Chief, Office of Assessments, Mining Enforcement and Safety Administration, Room 914, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, 703-235-1484.

SUPPLEMENTARY INFORMATION:

I. Discussion

The current 30 CFR Part 100 sets forth a detailed formula for the determination of an appropriate civil penalty in cases arising under the Federal Coal Mine Health and Safety Act (Coal Act). In addition, it sets forth the procedures to be followed to pay a penalty or to request either an informal conference or a formal hearing with respect to any case. As the result of the enactment of the Mine Act and experience under the current regulations, changes in the rules are necessary.

The most fundamental change in the rules required by the Mine Act is the application of the civil penalty system for violations under the Coal Act not only to coal but to other mining operations. In virtually every respect, the proposed penalty formula for other mines is identical to the formula for coal mines. The only distinction is with respect to that part of the formula which takes into account the size of the operator's business. Where the formula for coal violations has traditionally used annual mine tonnage as the basis for computing size, tonnage is not generally an appropriate measure of production in other mines. Accordingly, the formula under § 100.3(b) relies on annual hours worked for other mines. The formula continues to rely upon annual tonnage for coal mines.

With respect to the annual tonnage schedule applicable to coal mines, a change is proposed which would result in a more equitable distribution of penalty points among all operators. It was found that 25 percent of all violations cited at coal mines were assigned zero penalty points for size. To make more precise and equitable the distinction between the levels of the smaller coal mine operators, three new size categories have been added at the low end of the scale. Also, slight changes have been made in the size categories at the high end of the scale. This proposed change would have the effect of preventing undue hardship on the truly small coal mine operator while recognizing significant size differences in relatively low-production mines. It is also intended to create a greater degree of comparability with the new metal and nonmetal mine size schedule.

The proposed revisions of § 100.3(d) change the penalty point allocation for the negligence category. The current schedule assesses from 1 to 12 points for "ordinary" negligence and from 13 to 25 points for "gross" negligence. The proposed formula would give the assessment office greater flexibility in assigning penalty points where there is a finding of ordinary negligence. Under the proposed formula, from 1 to 20 points could be assigned for ordinary negligence, depending upon the findings. When a finding of gross negligence is made, 21 to 25 points could be assigned. Presently, a finding of sufficient points to constitute gross negligence occurs in only six percent of the total number of cases, whereas ordinary negligence is found in nearly 94 percent of the cases. This change serves to place greater emphasis on the seriousness of a finding of ordinary negligence.

Another important proposed change is in the penalty conversion table contained in § 100.3(g). This is the table which converts penalty points to dollar amounts. The changes in this table can be summarized as follows: First, the proposed table would make no change in assessments based upon 20 or less penalty points. There would then be a steady increase beginning at 21 penalty points. From 47 to 64 penalty points the increase remains just a little over twice the current assessment. At 65 points, the increase begins to lessen until the statutory maximum penalty of $10,000 is reached at 100 penalty points. There are several reasons for these proposed changes. There was a general belief in Congress in considering amendments to the Coal Act that penalties were too low. S. Rep. No. 95-181, 95th Cong., 1st Sess., at p. 41 (May 16, 1977). An effective enforcement system is in part dependent upon a system which imposes penalties of sufficient magnitude to promote future compliance. In general, there is a correlation between the proposed increase in the amount of each point on the conversion table and the number of violations assessed at that point.

Significant changes are also proposed in the procedures for contesting a penalty in order to speed up the process, in accordance with the congressional mandate, without sacrificing the opportunity for reaching a suitable resolution of legitimate issues at an informal level. The informal conference procedure embodied in the current rules has proven to be a successful method of resolving issues and cases without resorting to a more time-consuming and costly formal proceeding. It is proposed that this procedure be retained but modified to expedite the process in view of congressional concerns. To this end, it is proposed that the Office of Assessments make an initial review of the violation(s) and notify the operator charged of the results. The operator will then have seven days to request a conference, rather than the 30 days currently permitted. To further expedite the procedures, a conference must be held within 30 days of the notification of the results of the initial review unless special circumstances are shown. The Office of Assessments has the discretion to deny a request for conference if it does not believe a conference may be fruitful. The nature of the conference is also in the discretion of the Office. In view of the short time frames, a conference by telephone may often be deemed sufficient.

Following the conference, the Office of Assessments will issue a notice of

proposed penalty, which under section 105(a) of the Mine Act begins the 30-day period within which the party charged may contest the proposed penalty. Failure to contest will result in the proposed penalty becoming a final order of the Federal Mine Safety and Health Review Commission. The Office of Assessments will also issue a notice of proposed penalty: (1) If the party charged with a violation fails to request a conference (or to request permission to submit information) within 7 days of notification of the results of the initial review; or (2) if a conference cannot be held within the required 30-day period.

II. Effect on Existing Rule

This proposed rule will apply to operators of coal and other mines. The Secretary proposes to establish a new Subchapter P of Chapter I, 30 CFR containing this proposed rule, and to revise and transfer Part 100 of Subchapter O to Subchapter P. There is no regulation in 30 CFR respecting assessment of civil penalties against the operators of other (metal and nonmetal) mines and the proposed regulation therefore involves no revocation of any regulation applicable to the metal and nonmetal mining industry.

III. Rulemaking Procedure

This rulemaking procedure is governed by 5 U.S.C. 553. Interested persons may participate by submitting written data, views, or arguments.

Drafting Information

The principal persons involved in drafting this proposal are: Madison McCulloch, Chief, Office of Assessments, Mining Enforcement and Safety Administration, Department of the Interior, and Frank A. White, Department of Labor, Mine Safety and Health Task Force.

Impact Statement

Note: It has been determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated February 27, 1978.

Ray Marshall,
Secretary of Labor.

1. It is proposed to revise the table of contents of Chapter I of 30 CFR by removing Part 100 from Subchapter O to a new Subchapter P as follows:

SUBCHAPTER P—CIVIL PENALTIES FOR VIOLATIONS OF THE FEDERAL MINE SAFETY AND HEALTH ACT OF 1977

Part
100 Civil penalties for violations of the Federal Mine Safety and Health Act of 1977.

2. It is proposed to remove Part 100 from Subchapter O and transfer it to a new Subchapter P, and to revise Part 100 as set forth below:

PART 100—CIVIL PENALTIES FOR VIOLATIONS OF THE FEDERAL MINE SAFETY AND HEALTH ACT OF 1977

Sec.
100.1 Scope and purpose.
100.2 Applicability.
100.3 Determination of penalty; regular assessment.
100.4 Determination of penalty amount; special assessment.
100.5 Procedures for assessment of civil penalties; initial review and conferences.
100.6 Issuance of notice of proposed penalty; notice of contest.
100.7 Service.

Authority.—Secs. 105, 110 of Federal Mine Safety and Health Act of 1977 (Pub. L. 91-173, as amended by Pub. L. 95-164), and sec. 307 of the Federal Mine Safety and Health Amendments Act of 1977 (Pub. L. 95-164).

§ 100.1 Scope and purpose.

This part sets forth the criteria and procedures for the assessment of civil penalties under sections 105 and 110 of the Federal Mine Safety and Health Act of 1977. It is the purpose of these rules to provide for the prompt and efficient assessment and collection of penalties in order to insure maximum compliance by the coal and metal/nonmetal mining industries with the requirements of the Act and the standards and regulations promulgated pursuant to the Act.

§ 100.2 Applicability.

The criteria and procedures contained in this part are applicable with respect to all initial reviews and proposed assessments issued on or after the effective date of these regulations. The Office of Assessments, Mine Safety and Health Administration, United States Department of Labor, shall review each citation and order and shall make determinations with respect to the liability of the operator or miner for a civil penalty pursuant to this part.

§ 100.3 Determination of penalty amount: regular assessment.

(a) *Generally.* The amount of the civil penalty imposed in a regular case shall be based upon the formula set forth in this section. The formula is based on the general criteria described in sections 105(b) and 110(i) of the Act. These criteria are as follows:

(1) The appropriateness of the penalty to the size of the business of the operator charged,

(2) The operator's history of previous violations,

(3) Whether the operator was negligent,

(4) The gravity of the violation,

(5) The demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of a violation, and

(6) The effect of the penalty on the operator's ability to continue in business. (See § 100.3(h).)

The penalty amount in a regular case shall be determined by first assigning the appropriate number of penalty points to the violation for each of the criteria by utilizing the schedules set forth in paragraphs (b) through (f) of this section. The number of penalty points assigned for all criteria will then be totalled. This total point accumulation will be converted into a penalty amount by using the penalty conversion table in paragraph (g) of this section.

(b) *The appropriateness of the penalty to the size of the operator's business.* The appropriateness of the penalty to the size of the operator's business is calculated on both the size of the mine cited and the size of the controlling company of which the mine is a part and may account for a maximum of 15 penalty points. The size of the mine is taken into account by selecting the appropriate number of penalty points from the table contained in subparagraph (1)(i) in the case of a coal mine or (1)(ii) in the case of a non-coal mine. The size of the controlling company is taken into account by selecting the appropriate number of penalty points from the table contained in subparagraph (2)(i) in the case of a coal mine or (2)(ii) in the case of a non-coal mine.

(1)(i) Size of coal mine.

Annual tonnage of mine:	*Penalty points*
Under 15,000	0
Over 15,000 to 30,000	1
Over 30,000 to 50,000	2
Over 50,000 to 100,000	3
Over 100,000 to 200,000	4
Over 200,000 to 300,000	5
Over 300,000 to 500,000	6
Over 500,000 to 800,000	7
Over 800,000 to 1.1 million	8
Over 1.1 million to 2 million	9
Over 2 million	10

(1)(ii) Size of non-coal mine.

Annual hours worked at mine:	*Penalty points*
Under 10,000	0
Over 10,000 to 20,000	1
Over 20,000 to 30,000	2
Over 30,000 to 60,000	3
Over 60,000 to 100,00	4
Over 100,000 to 200,000	5
Over 200,000 to 300,000	6
Over 300,000 to 500,000	7
Over 500,000 to 700,000	8
Over 700,000 to 1 million	9
Over 1 million	10

(2)(i) Size of controlling company—coal mine.

Annual tonnage of controlling company—coal mine:	*Penalty points*
Under 100,000	0
Over 100,000 to 700,000	1
Over 700,000 to 1.5 million	2
Over 1.5 million to 5 million	3
Over 5 million to 10 million	4
Over 10 million	5

(2)(ii) Size of controlling company—non-coal mine:

Annual hours worked—controlling company—non-coal mines:	Penalty points
Under 60,000	0
Over 60,000 to 400,000	1
Over 400,000 to 900,000	2
Over 900,000 to 3 million	3
Over 3 million to 6 million	4
Over 6 million	5

As used in subparagraphs (1) and (2) of this paragraph the terms "annual tonnage" and "annual hours worked" means tonnage produced and hours worked in the previous calendar year or in the case of a mine opened or owned less than one full calendar year the tonnage and hours worked converted to an annual basis.

(c) *History of previous violations.* The history of previous violations of the Act may account for a maximum of 20 penalty points, which are derived from the following schedules:

(1) Average number of violations assessed per year in the preceding 24 months:

Number of violations:	Penalty points
1 to 10	0
11 to 20	1
21 to 30	2
31 to 40	3
41 to 50	4
Over 50	5

(2) Average number of violations assessed per inspection day in the preceding 24 months:

Violations per inspection day:	Penalty points
Under 0.3	0
Over 0.3 to 0.4	1
Over 0.4 to 0.5	2
Over 0.5 to 0.6	3
Over 0.6 to 0.7	4
Over 0.7 to 0.8	5
Over 0.8 to 0.9	6
Over 0.9 to 1.0	7
Over 1.0 to 1.1	8
Over 1.1 to 1.2	9
Over 1.2 to 1.3	10
Over 1.3 to 1.4	11
Over 1.4 to 1.5	12
Over 1.5 to 1.6	13
Over 1.6 to 1.7	14
Over 1.7	15

Previous History means all violations presently assessed that have not been vacated or dismissed.

(d) *Negligence.* Negligence generally means committed or omitted conduct which falls below a standard of care established by law to protect persons against the risks of harm. The standard of care established under the Act is that the operator of a mine owes a high degree of care to the miners employed in that mine. A mine operator is required to be on the alert for conditions and hazards in the mine which affect the safety or health of the employees and to take the steps necessary to correct or prevent such conditions or practices. For purposes of assessing a penalty under this part, failure to do so is negligence on the part of the operator. This criterion may account for a maximum of 25 penalty points and the violation will be categorized as involving either no negligence, ordinary negligence, or gross negligence. A violation which occurs through no negligence of the operator will be assigned no penalty points for negligence. A violation which occurs through ordinary negligence of the operator will be assigned from 1 to 20 points depending of the specific facts involved. A violation which occurs through gross negligence of the operator will be assigned 21 through 25 penalty points depending on the specific facts involved. In determining the degree of negligence involved in a violation and the amount of penalty points to be assessed, the following definitions apply:

(1) "No Negligence" means that the opeator could not reasonably have known of the violation or under the circumstances the operator had taken reaonable precautions to prevent the violation.

(2) "Ordinary Negligence" means the operator failed to exercise reasonable care either to prevent or to correct the conditions or practices which caused the violation and which were known or should have been known to exist.

(3) "Gross Negligence" means an opeator either caused the condition or practice which occasioned the violation by exercising reckless disregard of mandatory health and safety standards or recklessly or deliberately failed to correct an unsafe condition or practice which was known to exist.

(e) *Gravity.* This criterion may contribute a maximum of 30 penalty points. The points will be derived from the following schedules:

(1) Probability of the occurrence of the event against which a standard is directed may account for a mixiumum total of 10 penalty points using the listed definitions and schedules.

Probability of occurrence:	Penalty points
Improbable	0
Probable	3
Imminent	7
Occurred	10

As used in this paragraph the following terms have the following meanings:

Improbable: Unlikely to happen.
Probable: That which is likely to occur.
Imminent: That which is likely to occur before the violation can be abated.

(2) Gravity of injury if it occurred or were to occur, using the listed definitions and the following schedule, may account for a maximum of 10 penalty points:

Gravity of injury or illness normally expected:	Penalty points
No lost work days	0
Lost work days or restricted duty	3
Permanent disabling	7
Fatal	10

Types of injury or illness expected if the event caused or could cause injury or illness are defined as follows:

No lost work days: All occupational injuries and illnesses as defined in 30 CFR Part 50 except those listed below.

Lost work days: Any injury or illness which would cause the injured or ill person to lose one full day of work or more after the day of the injury or illness, or which would cause one full day or more of restricted duty.

Permanent disabling: Any injury or illness which results in the total or partial loss of use of any member or function of the body.

Fatal: Any work-related injury or illness resulting in death, or which has a reasonable potential to cause death.

(3) Number of personnel affected if event occured or were to occur.

Number of persons affected:	Penalty points
0	0
1	1
2	2
3	4
4 to 5	6
6 to 9	8
More than 9	10

(f) *Demonstrated good faith of the operator charged in attempting to achieve rapid compliance.* This criterion awards negative points for a manifestly conscientious effort to achieve rapid compliance, and can contribute a maximum of 10 points as indicated in the following schedule and definitions:

Degree of good faith:	Penalty points
Rapid	10
Normal	0
Lack of good faith	+10

In determining the operator's good faith in attempting to achieve rapid compliance, the following definitions apply:

"Rapid Compliance" means there is demonstrated evidence that the operator has taken extraordinary measures to insure abatement of the violation within the time given for abatement either originally or as extended.

"Normal Compliance" means the operator has abated the viclation within the time given for abatement either originally or as extended, pursuant to Section 104(a) of the Act.

"Lack of Good Faith" means the operator has been untimely and has not shown diligence and effort in attempting to abate the violation.

(g) *Penalty conversion table:* The penalty conversion table shall be used to convert the accumulation of penal-

ty points to the appropriate assessment.

PENALTY CONVERSION TABLE

Points	Penalty
1	$2
2	4
3	6
4	8
5	10
6	12
7	14
8	16
9	18
10	20
11	22
12	24
13	26
14	28
15	30
16	32
17	34
18	36
19	38
20	40
21	44
22	48
23	52
24	56
25	60
26	66
27	72
28	78
29	84
30	90
31	98
32	106
33	114
34	122
35	130
36	140
37	150
38	160
39	170
40	180
41	195
42	210
43	225
44	240
45	255
46	275
47	295
48	305
49	325
50	345
51	370
52	395
53	420
54	445
55	470
56	500
57	530
58	560
59	590
60	620
61	655
62	690
63	725
64	760
65	800
66	840
67	880
68	920
69	960
70	1,000
71	1,050
72	1,100
73	1,150
74	1,200
75	1,250
76	1,300
77	1,400
78	1,500
79	1,600
80	1,700
81	1,900
82	2,100
83	2,300
84	2,500
85	2,700
86	3,000

PENALTY CONVERSION TABLE—Continued

Points	Penalty
87	3,400
88	3,800
89	4,200
90	4,600
91	5,000
92	5,500
93	6,000
94	6,500
95	7,000
96	7,500
97	8,000
98	8,500
99	9,000
100	10,000

(h) *The effect on the operator's ability to continue in business.* It is initially presumed that the operator's ability to continue in business will not be affected by the proposed assessment. The operator may submit information to the Office of Assessments concerning his financial status to show that payment of the proposed assessment will affect his ability to continue in business. If the information provided by the operator indicates that the proposed assessment will adversely affect his ability to continue in business, the Office of Assessments may reduce the penalty.

§ 100.4 Determination of penalty amount: Special assessment.

The Office of Assessments may elect to waive in whole or in part the use of the assessment formula contained in § 100.3 if it determines that conditions surrounding the violation warrant such a waiver. Although an effective penalty can generally be derived from the formula in the usual case, some types of violations may be of such a nature or seriousness that it is not possible to arrive at an appropriate penalty by resorting only to the formula. Accordingly, it may be appropriate in certain types of cases, such as fatalities and serious injuries, unwarrantable failures to comply with mandatory health and safety standards or patterns of violations under section 104 of the Act, the operation of a mine in the face of a closure order, the failure to permit an authorized representative of the Secretary of Labor to perform an inspection or investigation, and in other appropriate cases, to make a special assessment without resort to the formula contained in this part. Such special assessments shall take into account the six criteria enumerated in § 100.3(a) and all findings shall be in narrative form.

§ 100.5 Procedures for assessment of civil penalties: Initial review and conferences.

(a) All citations which have been abated and all closure orders, regardless of termination or abatement, will be promptly referred by MSHA to the Office of Assessments for a determination of the fact of the violation and the amount, if any, of the penalty to be proposed.

(b) The Office of Assessments shall make an initial review of the citation or order and shall immediately serve, by regular mail, a copy of the results of the initial review, including the formula computations made by the Office, upon the party to be charged and the miners or their representatives at the mine.

(c) Upon receipt of the results of the initial review, all parties shall have seven (7) days within which to either request a conference or to submit additional evidence for consideration. The Office of Assessments shall provide a return mailing card with the results of the initial review which will permit the party charged to indicate his desire for a conference or a desire to submit additional facts. In requesting a conference, a party must either make reference on the card or immediately contact the appropriate assessment office concerning the date and time proposed for the requested conference. All conferences shall be held at the appropriate assessment field office unless that office agrees to another location.

(d) It is within the sole discretion of the Office of Assessments to conduct a conference or deny a request for a conference and, if a conference is to be conducted, to determine the nature of the conference.

(e) All conferences shall be conducted within 30 days of the service of the results of the initial review by the Office of Assessments unless it is not feasible to conduct a conference within that period and the party requesting a conference demonstrates to the Office a substantial likelihood that a conference will result in a suitable resolution of the issues involved in the case. However, under no circumstances may a conference be conducted or evidence considered later than 30 days after the issuance of a proposed penalty under § 100.6(a) or after the date the Office of Assessments receives a timely notice of contest under § 100.6(b).

(f) (1) The Office of Assessments will consider all relevant information, submitted in a timely manner, presented by all the parties with respect to the alleged violation. When the facts warrant a finding that no violation occurred, a penalty will not be proposed.

(2) If a conference is conducted, the parties may submit any additional relevant information relating to the alleged violation, either prior to or at the conference. To expedite the conference, the official assigned to the case may contact the parties to discuss the issues involved prior to the conference.

(g) With respect to those issues which are resolved either as the result

of a conference or based upon information submitted to the Office of Assessments, payment of any amount agreed upon must be received by the Office within 20 days from the date of receipt of the proposed penalty by the party charged under § 100.6(a). Acceptance by the Office of Assessments of payment tendered by the party charged will close the case.

§ 100.6 Issuance of notice of proposed penalty; notice of contest.

(a) A notice of proposed penalty will be issued and served by certified mail upon the parties under the following circumstances:

(1) Upon the failure of any party to file a timely response to the results of the initial review;

(2) Upon the completion of a conference or upon review of timely submitted information for review by the Office of Assessments;

(3) Upon the expiration of 30 days from the service of the results of the initial review in a case in which no conference can be held within such 30 day period.

(b) Upon receipt of the notice of proposed penalty, the party charged shall have 30 days to notify the Office of Assessments that he wishes to contest the proposed assessment. The Office shall provide a return mailing card with each notice of proposed penalty to allow the person charged to request a hearing before the Federal Mine Safety and Health Review Commission under section 113 of the Act. Such a request should be sent to the field assessment office listed on such notification. When the Office of Assessments receives the notice of contest, it shall immediately forward the case to the Office of the Solicitor, and shall immediately advise the commission of such notice. No proposed penalty which has been contested before the Commission shall be compromised, mitigated or settled except with the approval of the commission.

(c) The failure to contest the proposed penalty within 30 days of receipt of notice thereof shall result in the proposed penalty becoming a final order of the Commission.

§ 100.7 Service.

(a) All operators are required by 30 CFR 41.11 to file with the Mine Safety and Health Administration the name and address of record of the operator. All representatives of the miners are required by 30 CFR Part 40 to file with the Mine Safety and Health Administration the mailing address of the person or organization acting in a representative capacity. Initial findings and proposed penalty assessments delivered to those addresses shall constitute service.

(b) If any of the parties choose to have these documents mailed to a different address, the Office of Assessments must be notified in writing of the new address. Delivery to this address shall constitute service.

[FR Doc. 78-5595 Filed 3-2-78; 8:45 am]

federal register

FRIDAY, MARCH 3, 1978
PART VII

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

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DISCRIMINATION BECAUSE OF RELIGION: WORK SCHEDULE AND EMPLOYEE RELIGIOUS NEEDS

Informational Hearing

EQUAL EMPLOYMENT
OPPORTUNITY
COMMISSION

DISCRIMINATION
BECAUSE OF RELIGION:
WORK SCHEDULE AND
EMPLOYEE RELIGIOUS
NEEDS

Informational Hearing

[6570-06]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISCRIMINATION BECAUSE OF RELIGION: WORK SCHEDULING AND EMPLOYEE RELIGIOUS NEEDS

Informational Hearing

Notice is hereby given that the Equal Employment Opportunity Commission has scheduled public hearings to gather information concerning the religious needs of employees as they relate to scheduling of work. The Commission seeks this information in order to develop policy regarding the accommodation of religious needs in the workplace as they relate to Title VII of the Civil Rights Act of 1964, as amended.

The hearings are scheduled as follows:

April 6, 1978, New York, New York.
April 18, 1978, Los Angeles, California.
May 1, 1978, Location to be announced.

Information is sought from interested persons who have experience in this area. Specifically, the Commission is soliciting information from members and/or representatives of religious groups who have had experience with the conflict of work schedules and religious needs. For example, Saturday Sabbath observances, religious holidays, religious assemblies et cetera.

Further the Commission desires information from the business and labor communities regarding their experiences in this matter. The Commission is interested in learning about the broadest range of alternatives that have been developed by business and labor for accommodating employee religious needs related to work scheduling as it relates to the effective operation of business. The Commission also is interested in learning about the difficulties experienced by employers in this regard.

Persons wishing to testify before the Commission should submit a request to the Executive Secretariat, at the address shown below.

The request should include a written summary of the testimony to be offered and should specify the hearing at which the person wishes to testify. Individuals who wish to testify on April 6 should submit a request no later than March 17. Individuals who wish to testify in Los Angeles should submit a request no later than March 27.

Because of time limitations not all interested persons may be allowed to testify. The Commission will inform persons who have requested an opportunity to testify whether they are scheduled to testify not later than one week prior to the scheduled hearing date. Individuals not able to testify because of time limitations will be given the opportunity to submit a written statement. Individuals wishing to provide information to the Commission but not wishing to testify are encouraged to submit a written statement to the Commission. Such statement must be submitted no later than May 15, 1978, to the Executive Secretariat at the address shown below.

Any information provided the Commission, either by oral testimony or in writing shall be used only for informational purposes by the Commission.

All statements received by the Commission in connection with these public hearings may be reviewed by members of the public in the Equal Employment Opportunity Commission Reading Room between 9:30 a.m. and 4:30 p.m. Monday through Friday, Library, Room 2303, Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C. 20506.

All hearings will be open to the public. Specific locations will be announced in the FEDERAL REGISTER prior to each hearing.

For further information contact: Peter C. Robertson, (Acting) Director, Office of Policy Implementation, Room 4002, 2401 E Street NW., Washington, D.C. 20506, telephone: 202-634-7060 or 202-254-7489, between the hours of 9 a.m. and 5 p.m. eastern standard time.

Requests to testify and written statements should be addressed to: Executive Secretariat, Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C. 20506.

All correspondence submitted in connection with this announcement should be marked "Religious Discrimination Hearings" at the lower left hand corner of the envelope. Signed this 28th day of February 1978.

For the Commission.

ELEANOR HOLMES NORTON,
Chair, Equal Employment Opportunity Commission.

[FR Doc. 78-5718 Filed 3-2-78; 8:45 am]

federal register

FRIDAY, MARCH 3, 1978
PART VIII

CIVIL SERVICE COMMISSION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DEPARTMENT OF JUSTICE

DEPARTMENT OF LABOR

■

UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES

Notice of Public Hearing and Meeting on Proposed Rulemaking

[6570-06]

CIVIL SERVICE COMMISSION

[5 CFR Part 300]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

[29 CFR Part 1607]

DEPARTMENT OF JUSTICE

[28 CFR Part 50]

DEPARTMENT OF LABOR

[41 CFR Part 60-3]

PROPOSED UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES

Notice of Public Hearing and Meeting

AGENCIES: Civil Service Commission, Equal Employment Opportunity Commission, Department of Justice, Department of Labor.

ACTION: Public Hearing and Meeting on Proposed Uniform Guidelines on Employee Selection Produres.

SUMMARY: This document provides notice of a public hearing on the proposed record keeping obligations of the proposed uniform guidelines on employee selection procedures for the EEOC pursuant to section 709 of Title VII of the Civil Rights Act of 1964, as amended, and EEOC record keeping regulations. A public meeting will be held by all four agencies on the uniform guidelines on employee selection procedures as announced by the notice of proposed rulemaking in the FEDERAL REGISTER, December 30, 1977 (42 FR 65542).

DATE: The public hearing and meeting will be held on April 10, 1978 beginning at 10 a.m.

ADDRESS: The public hearing and meeting will be held in the Auditorium, General Services Administration Building, 18th and F Streets NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Peter C. Robertson, Director, Office of Policy Implementation, Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C. 20506, 202-634-7060 or 202-634-7058.

David L. Rose, Chief, Employment Section, Civil Rights Division, Department of Justice, Washington, D.C. 20530, 202-739-3831.

William A. Gorham, Director, Personnel Research and Development Center, Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415, 202-632-5440.

H. Patrick Swygert, General Counsel, Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415, 202-632-4632.

Donald J. Schwartz, Staff Psychologist, OFCCP, Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, 202-523-9426.

SUPPLEMENTARY INFORMATION: Notice is hereby given that a public hearing and meeting will be held on April 10, 1978, commencing at 10 a.m. in the General Services Administration (GSA) Auditorium, 18th and F Streets NW., Washington, D.C., with respect to the proposed adoption of the Uniform Guidelines on Employee Selection Procedures (42 FR 65543 et seq.). The hearing will cover the proposed record keeping obligations of the proposed guidelines for the Equal Employment Opportunity Commission pursuant to section 709 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-8, and EEOC record keeping regulations (29 CFR Part 1602). This proceeding will also constitute the public meeting on the uniform guidelines on employee selection procedures by all four agencies in the notice of proposed rulemaking (42 FR 65542, December 30, 1977). Not later than March 21, 1978, the four agencies will publish a notice indicating those issues raised by the proposed uniform guidelines on which oral testimony would be most helpful.

Persons wishing to present their views orally should notify the agencies of their desire to do so in writing, no later than March 31, 1978, by a request to:

Executive Secretariat, Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C. 20506.

The phrase "Meeting, Uniform Guidelines on Employee Selection Procedures" should be written at the lower left-hand corner of the envelope.

The request should include a written summary of the remarks to be offered. Because of time limitations, it may not be possible to accommodate all interested individuals. The agencies will inform persons who have requested an opportunity to present views whether they are scheduled to do so prior to the scheduled hearing date. Individuals should include their telephone numbers in their letters. Individuals not able to testify because of time limitations will be given the opportunity to submit a written statement. Any individual who desires to submit a written statement in lieu of testimony should submit that statement to the above address prior to the date of the meeting.

Signed this 28th day of February 1978.

E. NORTON,
(For the Equal Employment Opportunity Commission).

WELDON J. ROUGEAU,
(For the Department of Labor).

DREW S. DAYS III,
(For the Department of Justice).

JULE SUGARMAN,
(For the U.S. Civil Service Commission).

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